

# Appendix E

## Purpose and Rationale for Each Regulatory Provision

### Proposed Zero-Emission Forklift Regulation

Date of Release: November 7, 2023

Date of Hearing: June 27, 2024

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## **A. Section 2433. Emission Standards and Test Procedures - Off-Road Large Spark-Ignition Engines**

### *Section 2433(b)(1)(A)*

Purpose: To amend this subsection to add zero-emission standards for new 2026 and subsequent model year (MY) large spark-ignition (LSI) engines used in forklifts. Specifically, the zero-emission standards would apply to LSI engines used in Class IV forklifts starting January 1, 2026, and LSI engines used in Class V forklifts with a rated capacity up to 12,000 pounds starting January 1, 2029.

Rationale: This section describes and sets forth the exhaust emission standards applicable to new off-road LSI engines manufactured for sale, sold, or offered for sale in California. The addition of zero-emission standards to this subsection would be necessary to effectuate the objective of the Proposed Regulation to transition forklifts equipped with LSI engines to zero-emission technology. Specifically, LSI engines used in Class IV forklifts manufactured for sale, sold, or offered for sale in California starting January 1, 2026, would be required to meet the proposed zero-emission standards, and LSI engines used in Class V forklifts with a rated capacity up to 12,000 pounds manufactured for sale, sold, or offered for sale in California starting January 1, 2029, would be required to meet the proposed zero-emission standards. The proposed amendment to this subsection would align with other provisions of the Proposed Regulation restricting fleets from acquiring and operating forklifts equipped with LSI engines that do not meet the proposed zero-emission standards. These limits would be necessary to reduce the cumulative emissions produced by LSI forklifts throughout the state over time.

## **B. Section 3000. Purpose, Applicability, Non-Compliance, and Severability**

Purpose: To identify the California Code of Regulation (CCR) sections under which the Proposed Regulation would be codified, describes the purpose of the Proposed Regulation, sets forth the applicability, sets forth provisions regarding penalties for non-compliance, and describes severability (i.e., what happens if any part of the Regulation is invalidated).

Rationale: This section makes clear the CCR sections under which the Proposed Regulation would be codified and the purpose of the Proposed Regulation to affected parties and identifies all regulated entities and forklifts subject to the Proposed Regulation, which would ensure consistent interpretation and application of the Proposed Regulation's requirements. It would let affected parties know the potential penalties if they do not comply, as well as

describes what would happen if any part of the Regulation is invalidated (for example, via legal challenge).

*Section 3000(a)*

Purpose: To identify the CCR sections under which the Proposed Regulation would be codified.

Rationale: This section makes clear the CCR sections under which the Proposed Regulation would be codified to affected parties to ensure consistent interpretation and application of the Proposed Regulation's requirements.

*Section 3000(b)*

Purpose: To describe the purpose of the Proposed Regulation, which is to transition forklifts to zero-emission technology throughout the state to reduce emissions of oxides of nitrogen (NOx), fine particulate matter (PM), other criteria pollutants, toxic air contaminants, and greenhouse gases (GHG).

Rationale: As discussed in detail in the Initial Statement of Reasons (ISOR), transitioning LSI forklifts to zero-emission technologies would substantially reduce their contribution to criteria-pollutant and greenhouse gas emissions, particularly in communities disproportionately impacted by mobile source emissions. This subsection ensures affected entities understand the purpose of the Proposed Regulation.

*Section 3000(c)*

Purpose: To describe the applicability of the Proposed Regulation. Specifically, the Proposed Regulation would apply to any entity that operates, allows the operation of, owns, leases, rents, offers for sale, offers for rent within California forklifts powered by an LSI engine (LSI forklift) or zero-emission forklifts. The Proposed Regulation would not apply to rough terrain forklifts, vehicle mounted forklifts, combat and tactical support equipment, pallet jacks, forklifts with permanently integrated telescoping booms, forklifts owned and operated by facilities subject to the Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards Regulation, set forth in Title 13, CCR, Section 2479, and forklifts owned and operated by an individual for personal, non-commercial, and non-governmental purposes.

Rationale: This subsection establishes the entities and forklifts subject to the Proposed Regulation and ensures consistent interpretation and application of the Proposed Regulation's requirements.

This subsection also describes the types of forklifts not included in the scope of the Proposed Regulation. As mentioned above, the Proposed Regulation would not apply to rough terrain forklifts or vehicle mounted forklifts because zero-emission technology is not yet widely available in such forklifts. In addition, the Proposed Regulation would not apply to combat and tactical support equipment, so as not to potentially hinder the military's ability to deploy and operate only the best-suited tactical equipment available, especially overseas. Pallet jacks would not be included because all motorized versions of which staff are aware are already utilizing zero-emission powertrains. Forklifts at facilities subject to the Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards Regulation, set forth in Title 13, CCR, Section 2479, would not be subject to this Proposed Regulation because such forklifts would be considered in a future regulatory effort specifically targeting those facilities. Lastly, forklifts owned and operated by an individual for personal, non-commercial, and non-governmental purposes would be excluded because forklifts are not commonly used for personal purposes.

Diesel-fueled forklifts are not included in the scope of the Proposed Regulation. Diesel-fueled forklifts are currently subject to the California Air Resources Board's (CARB) current In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3)), which bans older tier diesel-fueled equipment and which requires emissions from fleets with diesel forklifts to be reduced dramatically over time. The Off-road Diesel Regulation also provides compliance credit for replacing diesel forklifts with zero-emission forklifts.

#### *Section 3000(d)*

Purpose: To inform affected entities that any person who fails to comply with the requirements of the Proposed Regulation or who knowingly submits any false statement or representation in any application, request, report, statement, or other document filed, maintained, or used for the purposes of compliance with this Proposed Regulation would be subject to civil or criminal penalties.

Rationale: This subsection establishes that penalties could be imposed for failing to comply or submitting false information for the purposes of compliance. Such penalties would serve as a deterrent to noncompliance.

#### *Section 3000(e)*

Purpose: To explain that various portions of the Proposed Regulation are distinct, and staff intends that each portion may stand alone in the event that a portion of the rule was declared invalid.

Rationale: This subsection is important if, in a legal challenge to the Proposed Regulation, a court must decide whether to strike the entire regulation, just a portion, or just a portion as applied to a certain situation. The subsection may help protect remaining portions of the Proposed Regulation from being unnecessarily invalidated by a court in such a challenge.

## **C. Section 3001. Definitions**

### *Section 3001(a)*

Purpose: To define terms used in the Proposed Regulation.

Rationale: Defining the various terms used in the Proposed Regulation avoids misinterpretation of regulatory requirements.

#### *“Agricultural Crop Preparation Services”*

Purpose: To add a definition of “agricultural crop preparation services.”

Rationale: Staff chose to rely on the North American Industry Classification System (NAICS) to use in this definition because it is commonly used by industry and is also used in the existing LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2). Staff further modified that definition to explicitly include first processing activities. This modification is appropriate because it would result in a more refined definition of “agricultural crop preparation services” that takes into account the definition of the same term in both the LSI Fleet Regulation and the In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3).

#### *“Agricultural Crop Preparation Services Fleet”*

Purpose: To add a definition for “agricultural crop preparation services fleet.”

Rationale: Because fleets operated by agricultural crop preparation services are subject to different requirements than other fleets under the Proposed Regulation, defining the term avoids misinterpretation of the Proposed Regulation.

#### *“Class IV Forklift”*

Purpose: To add a definition for “Class IV forklift.”

Rationale: This definition and the definition for “Class V forklift” are based on the forklift classification system used by the Occupational Safety and Health Administration (OSHA) in

the application of the agency's safety standards.<sup>1</sup> This classification system is commonly understood by industry. Two types of tires are used on forklifts, cushion tires, which are solid tires designed for smooth surfaces, and pneumatic tires, which can be air-filled, foam-filled, or solid and are designed for terrain where more traction is needed. The primary difference between a Class IV and a Class V forklift is the type of tire the forklift is designed to use, cushion and pneumatic, respectively. That said, staff chose to define a "Class IV forklift" as a forklift that is "not designed to be operated with pneumatic tires" instead. This is because some forklifts are designed to use either cushion or pneumatic tires, and the proposed definition would eliminate regulatory ambiguity in those cases.

#### "Class IV LSI Forklift"

Purpose: To add a definition for "Class IV LSI forklift."

Rationale: The Proposed Regulation would apply to Class IV forklifts equipped with a large spark-ignition engine. The term would simplify the regulatory language and helps ensure consistent interpretation of the Proposed Regulation's requirements.

#### "Class V Forklift"

Purpose: To add a definition for "Class V forklift."

Rationale: This definition and the definition for "Class IV forklift" are based on the forklift classification system used by OSHA in the application of the agency's safety standards. This classification system is commonly understood by industry.

#### "Class V LSI Forklift"

Purpose: To add a definition for "Class V LSI forklift."

Rationale: The Proposed Regulation would apply to Class IV forklifts equipped with a large spark-ignition engine. The term would simplify the regulatory language and help ensure consistent interpretation of the Proposed Regulation's requirements.

#### "Combat and Tactical Support Equipment"

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<sup>1</sup> Occupational Safety and Health Administration, Powered Industrial Trucks (Forklift) eTool (web link: <https://www.osha.gov/etools/powered-industrial-trucks/types-fundamentals/types/classes#accordion-73224-collapse5>, last accessed August 2023).

Purpose: To add a definition for “combat and tactical support equipment.”

Rationale: The Proposed Regulation would exclude, similar to and consistent with other CARB regulations applicable to off-road equipment, specific forklifts used as combat and tactical support equipment. The Proposed Regulation would not apply to combat and tactical support equipment, so as not to potentially hinder the military’s ability to deploy and operate tactical equipment, especially overseas. The definition was chosen to align with other off-road fleet regulations to ensure consistency across CARB’s programs.

“Common Ownership or Control”

Purpose: To add a definition for “common ownership or control.”

Rationale: This term is used in the definition of “fleet.” This definition is necessary to define “common ownership or control” because industries subject to the Proposed Regulation include a wide range of business models and complex relationships. Forklifts that are owned or managed on a day-to-day basis by the same person or entity are effectively under the control of that entity. The controlling entity is therefore positioned to manage the composition of the whole fleet and should be responsible for compliance. This ensures that entities with a forklift ownership model are treated the same as entities that use a common ownership and control model. This approach maintains a level playing field for companies using different forklift ownership or control models and minimizes the potential for regulated parties to circumvent the rule requirements by changing their business model. The same reasoning applies to forklifts managed by the same directors, officers, managers, or corporations controlled by the same majority stockholders, necessitating inclusion of the language. Additionally, this clause prevents fleets in appropriately avoiding the applicability thresholds by separating into distinct legal entities while effectively providing the same services as a single fleet.

It is necessary to establish that federal forklifts are the responsibility of the governmental agency with day-to-day operational control of the forklifts; the same agency is responsible for reporting and compliance with the forklifts they manage. This makes it clear the responsibility lies with the individual agency and that the federal government is not burdened with a requirement to track every forklift in the State to determine compliance as a single entity when there would be no expected advantages to doing so.

It is necessary to establish that the definition includes relationships where the controlling party has the right to direct or control when, where, and how work is to be performed whether the right is exercised or not. Additionally, it is necessary to establish that the definition includes relationships where expenses for operating the forklift are shared as another method to show the vehicle operation is not independent and is under common



control. Fuel and maintenance are examples of expenses that are commonly shared and are clear indicators of a controlling relationship that is straight forward to determine and relatively simple to audit for enforcement purposes.

“Dealer”

Purpose: To add a definition for “dealer.”

Rationale: The Proposed Regulation would establish different requirements for different entity types. A dealer, as an entity that engages in the business of selling and leasing forklifts, would be one of the entities affected by the Proposed Regulation. The definition would be necessary to differentiate between the different entities.

“Declared Emergency Event”

Purpose: To add a definition for “declared emergency event.”

Rationale: This definition is necessary to establish a period of time during which LSI forklifts may be operated in emergency support operations as specified in the Proposed Regulation. It is necessary to specify that emergencies must be declared events by the U.S. President, a State Governor, or other local governing body because those are the entities that have authority to declare such events. The list of event types points to existing California Government Code definitions for various conditions of emergency for simplicity and to align with existing definitions. Events that occur routinely, or are scheduled maintenance activities to prevent potential emergencies, are not included because they are planned daily operations that are part of normal business practices or services, and forklifts should not be exempt due to foreseeable occurrences.

The duration of each declared emergency is unique and cannot be predicted in advance, and the period of time vehicles need to be used to respond to emergencies is established in the declaration or in supporting contracts in response to the declaration. The intent of provisions relying on this definition are to alleviate immediate threats to public safety while establishing a specific time period when the emergency operation has ended for each unique event.

“Dedicated Emergency Forklift”

Purpose: To add a definition for “dedicated emergency forklift.”

Rationale: As discussed below, the Proposed Regulation would establish an exemption for dedicated emergency forklifts. As such, the term and definition would be necessary to allow

LSI forklifts meeting this definition to operate without limit during emergencies so as not to potentially hinder forklift response during such events. The definition for emergency operations in the Proposed Regulation is limited to declared emergency events. Similar to other CARB regulations, the exemption would limit a dedicated emergency forklift to one owned and operated by a governmental agency or other entity operating under the authority of a governmental agency. This additional ownership requirement serves as an added safeguard to ensure that the exemption is used during extraordinary circumstances and not during times that lack the gravity of declared emergency events.

#### “Designated Official”

Purpose: To add a definition for “designated official.”

Rationale: The Proposed Regulation would allow a responsible official to designate another person (i.e., a designated official) to report compliance information on behalf of the responsible official and entity. As such, the definition for “designated official” provides fleets with flexibility to distribute the reporting and attestation responsibilities to another person while ensuring the reliability of information and documentation. Furthermore, the proposed term and definition align with the term and definition set forth in the current In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3).

#### “Diesel Forklift”

Purpose: To add a definition for “diesel forklift.”

Rationale: It was staff’s intent to exclude from the Proposed Regulation forklifts that use diesel engines, as defined in the In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3). As such, for the definition of “diesel forklift,” staff chose to rely on the existing definition for “diesel engine” set forth in the aforementioned regulatory section. This definition for “diesel engine” has been in effect since 2008 and should be well understood by fleets of off-road equipment.

#### “Emergency Operation”

Purpose: To add a definition for “emergency operation.”

Rationale: As discussed below, the Proposed Regulation would establish an exemption for dedicated emergency forklifts. The provisions for said exemption would allow such forklifts to operate without limit during declared emergency events. This term is used to describe operations that help alleviate an immediate threat to public health and safety in response to

a declared emergency event, which helps streamline the regulatory language and avoid misunderstanding of the regulatory provisions.

“Energized”

Purpose: To add a definition for “energized.”

Rationale: This definition would be needed so stakeholders can understand the Proposed Regulation’s requirements for locking out and tagging out non-compliant LSI forklifts awaiting sale, scrap, or relocation. The definition was chosen because it is an existing definition set forth in the Code of Federal Regulations and is commonly understood by industry.

“Energy Isolating Device”

Purpose: To add a definition for “energy isolating device.”

Rationale: This definition would be needed so stakeholders can understand the Proposed Regulation’s requirements for locking out and tagging out non-compliant LSI forklifts awaiting sale, scrap, or relocation. The definition was chosen because it is an existing definition set forth in the Code of Federal Regulations and is commonly understood by industry.

“Entity”

Purpose: To add a definition for “entity.”

Rationale: The Proposed Regulation would add this collective term of all those who would be subject to its requirements. The term is used to streamline the regulatory language and avoid misunderstanding of the regulatory requirements.

“Equipment Identification Number” or “EIN”

Purpose: To add a definition for “equipment identification number” or “EIN.”

Rationale: An existing CARB electronic reporting system would be used to collect reporting information submitted by affected entities pursuant to the Proposed Regulation. Any piece of equipment or vehicle reported in said reporting system is automatically issued a unique number referred to as the “equipment identification number,” or “EIN,” which provides a mechanism to consistently identify reported pieces of equipment or vehicles for reporting

and enforcement purposes. Staff chose these terms and definition because they align with existing in-use off-road regulations and are well understood by regulated fleets.

#### “Executive Officer”

Purpose: To add a definition for “Executive Officer.”

Rationale: The term is referenced throughout the Proposed Regulation. This definition would be necessary to specify that “Executive Officer” would refer to the Executive Officer of the CARB or his or her delegate. The Executive Officer would be granted by the Proposed Regulation the role and authority to receive and review submitted information and grant exemptions and extensions, as provided by the Proposed Regulation.

#### “Facility”

Purpose: To add a definition for “facility.”

Rationale: Various provisions of the Proposed Regulation refer to locations where forklifts subject to the Proposed Regulation would be located. This term, “facility,” is defined to refer to such locations. The use of the term streamlines the regulatory language and helps avoid misunderstanding of the proposed requirements.

#### “Fleet”

Purpose: To add a definition for “fleet.”

Rationale: Under the Proposed Regulation, the size of a fleet would determine the specific LSI forklift phase-out requirements that would apply. This definition is necessary to establish which forklifts are included when using the term “fleet” throughout the Proposed Regulation. Specifically, the term “fleet” includes all forklifts under common ownership and control. The rationale for the definition of “common ownership and control” is provided above.

#### “Fleet Operator”

Purpose: To add a definition for “fleet operator.”

Rationale: The Proposed Regulation would establish different requirements for different entity types. This definition is necessary to establish the party responsible for meeting the proposed requirements. A fleet operator, an entity that owns or operates one or more forklifts, would be one of the entities affected by the Proposed Regulation, as delineated

further in Section 3002. As such, the definition would be necessary to differentiate between the different entities.

### “Forklift”

Purpose: To add a definition for “forklift.”

Rationale: This definition would be necessary to clearly identify the types of equipment that would be subject to the Proposed Regulation. Staff chose this definition to reflect the form and function of a forklift with the intent to differentiate it from other equipment types. For example, a forklift is defined as an industrial truck whose primary purpose is, in part, to stack loads. This differentiates a forklift from other equipment types that are not intended to stack loads.

### “Forklift Capacity”

Purpose: To add a definition for “forklift capacity.”

Rationale: Lift capacity determinations are used in two ways in the forklift industry: to reflect the actual lift capacity of a particular forklift, and to reflect the maximum lift capacity of a forklift model in a default configuration. In the Proposed Regulation, the term “forklift capacity” refers to the former, and the term “rated capacity” refers to the latter. Under the Proposed Regulation, the rated capacity of an LSI forklift would be used to determine the actual requirements that would apply to said forklift. In situations where rated capacity (or the load center and load elevation used in its determination) would not be able to be verified, forklift capacity would be used instead. While rated capacity would provide a more consistent way to determine applicability of the Proposed Regulation, forklift capacity would be easily verified, as it is required by Occupational Safety and Health Administration regulations to be included on the forklift’s nameplate.

For determining regulatory applicability, the definition for “forklift capacity” specifies that the lowest lift capacity using a minimum load center of 24 inches (or 600 millimeters) shall be used. Staff chose this particular load center because a lift capacity rating at a load center of 24 inches (or 600 mm) would reflect the list capacity of a forklift when handling the most common pallet size, 48 inches.<sup>2</sup> The proposed definition would stipulate that the lowest lift capacity be used. This is to prevent manufacturers from providing artificially derived lift

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<sup>2</sup> Toyota Material Handling, Counter-Balanced Forklifts and The Forklift Load Center: A Consideration of Gravity, March 28, 2023 (web link: <https://www.toyotaforklift.com/resource-library/blog/toyota-products/the-forklift-load-center-a-consideration-of-gravity>).

capacities to help fleets circumvent regulatory requirements. For example, lift capacities could potentially be derived at very low lift elevations to inflate lift capacity values.

In the event that forklift capacity has not been derived using a 24-inch (or 600 millimeter) or greater load center, the lowest lift capacity inscribed on the nameplate would be used instead. While staff believes forklifts with only lift capacity values derived at load centers below 24-inches would be uncommon, this allowance would be necessary to address such situations if they are encountered.

#### “Large Fleet”

Purpose: To add a definition for “large fleet.”

Rationale: The size of a fleet would determine the specific LSI forklift phase-out requirements that would apply, as it is an indicator of a fleet’s ability to make the needed capital investments to transition to zero-emission forklifts. Twenty-six or more applicable forklifts signify a large fleet consistent with the existing LSI Fleet Regulation (Title 13, California Code of Regulation, Sections 2775, 2775.1, and 2775.2). The definition explicitly states that agricultural crop preparation services fleets are not considered large fleets (even if they have 26 or more forklifts) because fleets operated by agricultural crop preparation services are subject to the same requirements as small fleets under the Proposed Regulation.

#### “Large Spark-Ignition Engine,” or “LSI Engine”

Purpose: To add a definition for “large spark-ignition engine,” or “LSI engine.”

Rationale: The Proposed Regulation would affect forklifts that utilize LSI engines. Staff chose to rely on the existing definition of “off-road large spark-ignition engines” in the LSI Fleet Regulation (Title 13, California Code of Regulation, Sections 2775, 2775.1, and 2775.2) because it is commonly understood by regulated fleets and staff believes all spark-ignition engines used in forklifts would fall under that definition.

#### “Large Spark-Ignition Forklift,” or “LSI Forklift”

Purpose: To add a definition for “large spark-ignition forklift,” or “LSI forklift.”

Rationale: The Proposed Regulation would apply to forklifts that utilize LSI engines. The term helps streamline the regulatory language and avoid misunderstanding of the proposed requirements.

### “Lockout Device”

Purpose: To add a definition for “lockout device.”

Rationale: This definition would be needed so stakeholders can understand the Proposed Regulation’s requirements for locking out and tagging out non-compliant LSI forklifts awaiting sale, scrap, or relocation. The definition was chosen because it is an existing definition set forth in the Code of Federal Regulations and is commonly understood by industry.

### “Low-Use LSI Forklift”

Purpose: To add a definition for “low-use LSI forklift.”

Rationale: The Proposed Regulation would include an exemption for LSI forklifts that operate 200 or fewer hours per year. The term “low-use LSI forklift” is being used to refer to such forklifts and being added to simplify the language of the Proposed Regulation.

### “Microbusiness”

Purpose: To add a definition for “microbusiness.”

Rationale: The Proposed Regulation would provide additional flexibility for fleet operators that meet the definition of a microbusiness. Specifically, such fleet operators would be allowed to maintain a single low-use LSI forklift beyond 2030 when the allowance to maintain low-use LSI forklifts sunsets for all other fleet operators. This particular definition is being proposed because it is an existing definition already established in California’s Government Code and already used to specify extremely small businesses. The definition would be necessary to establish the entities eligible for the low-use LSI forklift allowance beyond 2030. The Proposed Regulation’s allowance for microbusinesses to continue use of one low-use forklift is justified because smaller businesses are generally more capital-constrained and the incremental cost of a zero-emission forklift would be difficult to recover in situations where a forklift operates no more than 200 hours per year.

### “Model Year” or “MY”

Purpose: To add a definition for “model year” or “MY.”

Rationale: The phase-out requirements that would be established by the Proposed Regulation would be based on the MY of the forklift’s engine. As such, staff chose to rely on the existing definition of “model year” set forth in the LSI Engine Regulation (Title 13, CCR,

Section 2431). The MY is inscribed on the engine label of LSI forklifts and would be available to an inspector checking the MY as a useful enforcement mechanism for the required phase-out schedule.

#### "New"

Purpose: To add a definition for "new."

Rationale: The term "new" requires a definition because it would be necessary to differentiate such forklifts from non-new (i.e., used) forklifts in the Proposed Regulation. As described below, the applicability of certain provisions of the Proposed Regulation would depend on whether a forklift is new or used. Staff chose this definition because it aligns with the equivalent definition set forth in the Off-Road Large Spark-Ignition Engines Regulation (Title 13, CCR, Sections 2430 through 2439).

#### "Non-Compliant LSI Forklift"

Purpose: To add a definition for "non-compliant LSI forklift."

Rationale: The term "non-compliant LSI forklift" is used to refer to forklifts that have been phased out pursuant to the Proposed Regulation. The term helps streamline the regulatory language and avoid misunderstanding of the proposed requirements. Under the Proposed Regulation, fleets generally must not operate non-compliant LSI forklifts; however, they may store them temporarily if certain conditions are met.

#### "Pallet Jack"

Purpose: To add a definition for "pallet jack."

Rationale: Pallet jacks would be explicitly excluded from the scope of the Proposed Regulation because staff believes they are all zero-emission already. The term and definition would be necessary to differentiate pallet jacks from forklifts. Characteristics that differentiate a pallet jack from a forklift are that they are not ridden by the operator and are pulled by hand. As such, that is how staff chose to define "pallet jack" in the Proposed Regulation.



## “Person”

Purpose: To add a definition for “person.”

Rationale: The definition of “person” is needed because “person” is used in defining the applicability of the Proposed Regulation, as well as in the definitions of “Common Ownership and Control,” “Entity,” “Responsible Official,” and in the requirements for who may conduct an infrastructure capacity evaluation. Staff chose this definition because it aligns with other CARB regulations, such as Commercial Harbor Craft Regulation (Title 17, CCR, Section 93118.5).

## “Phase Out”

Purpose: To add a definition for “phase out.”

Rationale: The Proposed Regulation includes requirements for fleets to remove LSI forklifts from California operation on a specific schedule. The term “phase out” is used to refer to such removal. Staff chose this definition as it appropriately conveys the intent of the Proposed Regulation and aligns with the In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3).

## “Pneumatic Tire”

Purpose: To add a definition for “pneumatic tire.”

Rationale: Under the Proposed Regulation, Class IV forklifts and Class V forklifts would be subject to different phase-out schedules. Whether a forklift is a Class IV forklift or Class V forklift would depend on the type of tire with which the forklift is designed. Specifically, a Class V forklift is designed to be operated with pneumatic tires and a Class IV forklift is not. In the forklift industry, pneumatic tires are not necessarily filled with air. They can also be filled with foam or be constructed as solid rubber. That said, the rim used for a pneumatic-tired forklift is designed to be able to hold air if an air-filled pneumatic tire is used. As such, staff chose to define “pneumatic tire” based on the rim design instead of the tire used as it ensures consistent interpretation of the regulatory provisions.

## “Rated Capacity”

Purpose: To define “rated capacity.”

Rationale: Lift capacity determinations are used in two ways in the forklift industry: to reflect the actual lift capacity of a particular forklift, and to reflect the maximum lift capacity of a

forklift model in a default configuration. In the Proposed Regulation, the term “forklift capacity” refers to the former, and the term “rated capacity” refers to the latter. Under the Proposed Regulation, the rated capacity of an LSI forklift would be used to determine the actual requirements that would apply to said forklift. In situations where rated capacity (or the load center and load elevation used in its determination) would not be able to be verified, forklift capacity would be used instead.

“Rated capacity” is defined as the maximum lift capacity of a forklift model determined by the manufacturer using a minimum load center of 24 inches (or 600 millimeters) and a minimum load elevation of 100 inches (or 2,540 millimeters). Based on discussions with stakeholders, the minimum load center and load elevation values being proposed align with current industry practice. Staff chose to specify load center and load elevation values to prevent manufacturers from potentially deriving artificial rated capacity values to allow fleets to circumvent the proposed requirements. For example, lift capacities could potentially be derived at very low lift elevations to inflate lift capacity values.

#### “Regulation” or “Zero-Emission Forklift Regulation”

Purpose: To add a definition for “Regulation” or “Zero-Emission Forklift Regulation.”

Rationale: The term “Regulation” is used to refer to the California Code of Regulation sections that would be established by this proposal. The term is being used to streamline the regulatory language.

#### “Rental Agency”

Purpose: To add a definition for “rental agency.”

Rationale: The Proposed Regulation would establish different requirements for different entity types. A rental agency, as an entity that engages in the business of providing forklifts for rent, is one of the entities that would be affected by the Proposed Regulation. The definition is necessary to differentiate between the different entities.

#### “Responsible Official”

Purpose: To add a definition for “responsible official.”

Rationale: The Proposed Regulation would require a responsible official to submit the information and documentation required by the Proposed Regulation and make the required attestations on behalf of the entity he or she represents. Staff chose this definition as it requires a person with broad authority over entity operations to be responsible for

reporting and compliance. Furthermore, the proposed term and definition align with the term and definition set forth in the current In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3).

#### "Revenue Fleet"

Purpose: To add a definition for "revenue fleet."

Rationale: The term "revenue fleet" is used in the Proposed Regulation to differentiate forklifts used in day-to-day operations from forklifts offered for sale, lease, or rent within rental agency fleets and dealer fleets. The distinction affects how the Proposed Regulation's requirements would apply. The use of the term streamlines the regulatory language and avoids misunderstanding of the proposed requirements.

#### "Rough Terrain Forklift"

Purpose: To add a definition for "rough terrain forklift."

Rationale: This definition would be necessary because rough terrain forklifts would be explicitly excluded from the Proposed Regulation. For this definition, staff chose to rely on an industry-accepted standard for classifying a forklift as a rough terrain forklift.

#### "Small Fleet"

Purpose: To add a definition for "small fleet."

Rationale: The size of a fleet would determine the specific LSI forklift phase-out requirements that would apply, as it is indicated of a fleet's ability to make the needed capital investments to transition to zero-emission forklifts. The proposed large fleet versus small fleet designations would align with the fleet-size designations in the LSI Fleet Regulation (Title 13, California Code of Regulation, Sections 2775, 2775.1, and 2775.2), except that medium fleets (4 to 25 pieces of equipment) in the LSI Fleet Regulation would be included in the small fleet designation of the Proposed Regulation, because the Proposed Regulation would not establish requirements specific to medium fleets. The definition explicitly excludes agricultural crop preparation services fleets because such fleets are subject to the same requirements as small fleets under the Proposed Regulation regardless of the number of forklifts they contain.

#### "Tagout Device"

Purpose: To add a definition for "tagout device."

Rationale: This definition would be needed so stakeholders can understand the Proposed Regulation's requirements for locking out and tagging out non-compliant LSI forklifts awaiting sale, scrap, or relocation. The definition was chosen because it is an existing definition set forth in the Code of Federal Regulations and is commonly understood by industry.

"Ultimate Purchaser"

Purpose: To add a definition for "ultimate purchaser."

Rationale: For this definition, staff chose to rely on the existing definition of "ultimate purchaser" set forth in the LSI Fleet Regulation (Title 13, CCR, Section 2775, 2775.1, and 2775.2), except that the proposed definition also includes entities that lease forklifts. Staff believes the modified definition is appropriate because for the intents and purposes of the Proposed Regulation, a forklift leased for operation is no different from a purchased forklift.

"Vehicle Mounted Forklift"

Purpose: To add a definition for "vehicle mounted forklift."

Rationale: This definition would be necessary because vehicle mounted forklifts would be explicitly excluded from the Proposed Regulation. For this definition, staff chose to rely on an industry-accepted standard for classifying a forklift as a vehicle mounted forklift.

"Zero-Emission Forklift" or "ZEF"

Purpose: To add a definition for "zero-emission forklift" or "ZEF."

Rationale: The Proposed Regulation would include provisions that account for zero-emission forklifts either deployed or ordered to replace LSI forklifts. The proposed definition is appropriate because it captures all existing (i.e., battery-electric and fuel-cell-electric) and future (i.e., other zero-emission powertrains that meet the proposed zero-emission standards) forklift powertrain types that do not produce direct propulsion- and work-related emissions.

## **D. Section 3002. Fleet Operator Requirements**

Purpose: To describe the requirements applicable to fleet operators with respect to the possession and use of LSI forklifts; the start date of January 1, 2026, for said restrictions; and the situations in which an LSI forklift would be allowed to be operated.

Rationale: This section communicates the proposed requirements applicable to fleet operators. January 1, 2026, is being proposed as the start date of the requirements applicable to fleet operators because staff believes it would be the soonest feasible date to start the requirements while still providing sufficient lead time for fleet operators to plan for the transition. That said, while the restriction to acquire LSI forklifts would begin on January 1, 2026, the first phase-outs of existing LSI forklifts would not be required until January 1, 2028. While staff expects many fleet operators would begin their phase-out of LSI forklifts before January 1, 2028, the structure of the Proposed Regulation would allow them to continue using all of their existing LSI forklift fleet, if needed, until the end of 2027. In addition, mechanisms are being proposed that would allow fleets to delay compliance due to unforeseen circumstances beyond the fleet operator's control, such as delays in the delivery of replacement zero-emission forklifts and delays in installing necessary infrastructure to support zero-emission forklifts.

The general approach of the Proposed Regulation is that after January 1, 2026, fleets would be prohibited from acquiring additional LSI forklifts, and as of January 1, 2028, would be required to begin phasing out their existing LSI forklifts. The intent of the phase-out is to encourage the transition from LSI forklifts to zero-emission forklifts. The purpose and rationale for the proposed fleet operator requirements are discussed in detail below.

The Proposed Regulation would also provide exemptions and extensions to the requirements in this section. These exemptions and extensions are set forth in Section 3007, and the purpose and rationale are provided in detail in a subsequent section of this appendix applicable to Section 3007 of the Proposed Regulation.

*Sections 3002(a) and 3002(a)(1) through 3002(a)(3)*

Purpose: To restrict the introduction of additional LSI forklifts into the California fleet starting January 1, 2026. Specifically, the subsection would prohibit fleet operators from acquiring or taking possession of an applicable 2026 or subsequent MY LSI forklift or an applicable new 2025 or previous MY LSI forklift at a California location starting January 1, 2026. The subsection would exclude from this proposed requirement 2026 through 2028 MY Class V Forklifts with a rated capacity up to 12,000 pounds rented from a rental agency for operation up until December 31, 2037; Class V LSI forklifts with a rated capacity greater than 12,000 pounds that the fleet operator has reported to the Executive Officer in accordance with Section 3009(h) of the Proposed Regulation; and forklifts exempted pursuant to Section 3007(a)(2).

Rationale: This subsection prevents fleet operators from continuing to acquire newer LSI forklifts to replace the ones they phase out starting January 1, 2026. In order to achieve the emission reductions projected for the Proposed Regulation, the population of LSI forklifts

would need to decrease over time. The intent of the Proposed Regulation is to encourage the transition from LSI forklifts to zero-emission forklifts and to achieve the associated emission reductions. If the acquisition of newer LSI forklifts is not limited, the population of LSI forklifts may not decrease or may not decrease at the rate necessary to achieve the projected emission reductions. Therefore, the intent of this subsection would be to restrict fleet operators from acquiring or taking possession of any applicable LSI forklift that was first sold to an ultimate purchaser after December 31, 2025. Such forklifts would include applicable 2026 and subsequent MY LSI forklifts and applicable 2025 and previous MY LSI forklifts first sold on or after January 1, 2026.

2026 through 2028 MY Class V LSI forklifts with a rated capacity up to 12,000 pounds rented from a rental agency for operation up until December 31, 2037, would be excluded from the restriction. As discussed in more detail below, fleet operators would be allowed to rent and operate such forklifts during the phase-out period to provide a temporary solution for fleet operators facing near-term challenges.

Furthermore, Class V LSI forklifts with a rated capacity greater than 12,000 pounds would also be excluded from the phase-out requirements. The penetration of zero-emission technology in pneumatic-tire applications is substantially lower than in cushion-tire applications today. As such, fleet hesitance would likely be stronger to transition such forklifts to zero emissions in the near term. Additionally, based on staff estimates, most forklifts with a rated capacity greater than 12,000 pounds are currently powered by diesel engines. Taking all into account, staff believes there is a greater chance fleets would opt to transition to diesel forklifts instead of zero-emission forklifts if such forklifts were included in the proposal. Therefore, staff did not include phase-out requirements for Class V LSI forklifts with a rated capacity greater than 12,000 pounds in the proposal. Reporting, however, would be required for such forklifts, which would allow staff to monitor the population and inform future regulatory measures.

Additionally, LSI forklifts exempted pursuant to Section 3007(a)(2), i.e., dedicated emergency forklifts, would be excluded from this restriction. The purpose and rationale specific to Section 3007(a)(2) are provided below.

#### *Section 3002(b)*

Purpose: To restrict a fleet operator from possessing, operating, or allowing the operation of LSI forklifts starting January 1, 2026, save for the exceptions specified in Sections 3002(b)(1) through 3002(b)(5).

Rationale: The subsection effectuates the phase-out requirements for existing LSI forklifts during the implementation of the Proposed Regulation.

### Section 3002(b)(1)

Purpose: To describe the first exception to Section 3002(b), which would allow fleet operators to continue operating LSI forklifts that have not yet been phased-out pursuant to the applicable phase-out schedule set forth in Section 3006.

Rationale: The phase-out requirements of the Proposed Regulation would be based on MY. The proposed MY phase-out schedules are set forth in Section 3006, and the purpose and rationale for that section is discussed in greater detail below. Since the Proposed Regulation sets limitations on the possession and operation of 2025 or earlier MY LSI forklifts for fleet operators, this subsection is necessary to clearly state that LSI forklifts of MYs that have not been phased out may be possessed and operated. The conditions for these limitations need to be clear and consistent for fleet considerations when making decisions regarding acquisitions and utilization of equipment.

### *Section 3002(b)(2)*

Purpose: While the Proposed Regulation would restrict fleet operators from purchasing or leasing 2026 and subsequent MY LSI forklifts, this subsection would create a specific exception that allows fleet operators, until December 31, 2037, to operate 2026, 2027, and 2028 MY Class V LSI forklifts rented from a rental agency.

Rationale: Because the penetration of zero-emission technology in applications typically served by Class V LSI forklifts is still relatively limited, the learnings and adjustments required to integrate the technology into such applications could require additional time for fleet operators to develop. As such, in addition to applicable 2025 and previous MY Class V LSI forklifts that have not yet been phased out, the Proposed Regulation would also allow fleet operators, until December 31, 2037, to operate applicable 2026, 2027, and 2028 MY Class V LSI forklifts rented from a rental agency. As discussed further below, complementary provisions that would allow rental agencies to acquire and offer such forklifts for rent are also included in the Proposed Regulation. In addition to providing a temporary solution for fleet operators facing near-term challenges, these provisions would allow rental agencies, who typically maintain newer fleets, to continue offering newer, more-reliable Class V LSI forklifts to their customers instead of extending the use of their older, dirtier forklifts to meet demand.

### *Section 3002(b)(3)*

Purpose: To allow fleet operators to operate Class V LSI forklifts with a rated capacity greater than 12,000 pounds as long as the forklift has been reported in accordance with Section 3009(h).

Rationale: As discussed above, Class V LSI forklifts with a rated capacity greater than 12,000 pounds would be allowed for fleet operators to operate as long as they are reported as required. This subsection informs regulated parties that fleet operators would be allowed to operate such forklifts and that reporting would be required. The purpose and rationale for the reporting requirements are discussed in greater detail below.

*Section 3002(b)(4)*

Purpose: To allow fleet operators to possess or operate LSI forklifts exempt pursuant to Section 3007(a)(1), 3007(a)(2), or 3007(a)(3).

Rationale: LSI forklifts exempted pursuant to Section 3007(a)(1), 3007(a)(2), or 3007(a)(3) would be excluded from this restriction. The purpose and rationale for specific exemptions set forth in Section 3007(a) are provided below.

*Section 3002(b)(5)*

Purpose: To allow fleet operators to operate LSI forklifts that are covered by an extension granted pursuant to Section 3007(b).

Rationale: LSI forklifts covered by an extension granted pursuant to Section 3007(b) would be excluded from this restriction. The purpose and rationale for specific extensions set forth in Section 3007(b) are provided below.

## **E. Section 3003. Dealer Requirements**

Purpose: To describe requirements applicable to dealers of LSI forklifts that complement and support the proposed requirements applicable to fleet operators and rental agencies in California.

Rationale: This section establishes regulatory responsibility for dealers that sell, lease, offer for sale, offer for lease, or deliver LSI forklifts that fleet operators and rental agencies are prohibited by the Proposed Regulation from purchasing or leasing and operating. As such, these proposed requirements would help ensure compliance, phase-out of LSI forklifts, and achievement of the emission reductions projected for the Proposed Regulation.

*Section 3003(a)*

Purpose: To identify the dealer inventory requirements, which provide limits on Dealer possession of Class IV and Class V LSI forklifts.



Rationale: This subsection prohibits Dealers from stocking LSI forklifts that are not allowed to be purchased or leased by fleet operators and rental agencies in California.

*Sections 3003(a)(1) and 3003(a)(1)(A) through 3003(a)(1)(D)*

Purpose: To prohibit dealers, starting January 1, 2026, from possessing 2026 and subsequent MY Class IV LSI forklifts, new Class IV LSI forklifts of any other MY, and 2025 and previous MY LSI forklifts that have already been phased out. Additionally, these subsections exclude from these restrictions new LSI forklifts that are exempt pursuant to Section 3007(a)(4) and Section 3007(a)(5), which pertain to LSI forklifts transported for delivery out-of-state and new LSI forklifts transported to be used as dedicated emergency forklifts, respectively.

Rationale: Because fleet operators and rental agencies would not be allowed to purchase the LSI forklifts specified in these subsections starting January 1, 2026, this subsection would complement those requirements and prohibit Dealers from possessing such forklifts in their inventory. LSI forklifts exempted pursuant to Section 3007(a)(4) and Section 3007(a)(5) would be excluded from this restriction. The purpose and rationale for the exemptions set forth in Section 3007(a)(4) and Section 3007(a)(5) are detailed below.

*Sections 3003(a)(2)*

Purpose: To prohibit dealers, starting January 1, 2029, from possessing in their inventory 2029 and subsequent MY Class V LSI forklifts with a rated capacity up to 12,000 pounds, except for LSI forklifts that would be exempt pursuant to Section 3007(a)(4) or 3007(a)(5).

Rationale: Fleet operators would not be allowed to purchase 2026 and subsequent MY Class V LSI forklifts with a rated capacity up to 12,000 pounds starting January 1, 2026. However, rental agencies would be allowed to purchase 2026, 2027, and 2028 MY Class V LSI forklifts with a rated capacity up to 12,000 pounds through December 31, 2028. As such, this subsection would allow Dealers to possess 2028 and previous MY Class V LSI forklift with a rated capacity up to 12,000 pounds in their inventory until rental agencies would no longer be allowed to purchase them. LSI forklifts exempted pursuant to Section 3007(a)(4) or Section 3007(a)(5) would be excluded from this restriction. The purpose and rationale for the exemptions set forth in Section 3007(a)(4) and Section 3007(a)(5) are detailed below.

*Sections 3003(a)(3)*

Purpose: To prohibit dealers, starting January 1, 2038, from possessing in their inventory Class IV LSI forklifts of any rated capacity and Class V LSI forklifts with a rated capacity up to

12,000 pounds of any MY, except for LSI forklifts that would be exempt pursuant to Section 3007(a)(4) or 3007(a)(5).

Rationale: Because fleet operators and rental agencies would no longer be allowed to purchase Class IV LSI forklifts of any rated capacity and Class V LSI forklifts with a rated capacity up to 12,000 pounds of any MY starting January 1, 2038, this subsection would complement those requirements and prohibit dealers from possessing such forklifts in their inventory. LSI forklifts exempted pursuant to Section 3007(a)(4) or Section 3007(a)(5) would be excluded from this restriction. The purpose and rationale for the exemptions set forth in Section 3007(a)(4) and Section 3007(a)(5) are detailed below.

### *Section 3003(b)*

Purpose: To identify dealer transaction requirements. Dealer transaction requirements provide limits on dealer sales and leases of Class IV and Class V LSI forklifts. Class V LSI forklifts with a rated capacity greater than 12,000 pounds would not be subject to this subsection.

Rationale: This subsection would set forth requirements that complement the proposed requirements applicable to fleet operators and rental agencies and is necessary to prohibit dealers from selling, leasing, offering for sale, offering for lease, and delivering LSI forklifts that are not allowed to be purchased or leased by fleet operators and rental agencies in California.

### *Sections 3003(b)(1) and 3003(b)(1)(A) through 3003(b)(1)(C)*

Purpose: To detail the dealer restrictions that would become effective on January 1, 2026, for transactions with fleet operators in California. Specifically, the subsection restricts Dealers from selling, leasing, offering for sale, offering for lease, and delivering 2026 and subsequent MY LSI forklifts, new LSI forklifts of any MY, and 2025 and previous MY LSI forklifts that have already been phased out according to the applicable phase-out schedule that would be established by the Proposed Regulation. With respect to 2025 and previous MY LSI forklifts, Section 3003(b)(1)(C) also clarifies which phase-out schedules would apply. Additionally, the subsections exclude from these restrictions LSI forklifts sold or leased to be operated as Dedicated Emergency Forklifts.

Rationale: This subsection specifies the LSI forklifts that Dealers would be prohibited from selling, leasing, offering for sale, offering for lease, or delivering to fleet operators in California starting January 1, 2026. Section 3003(b)(1)(C), in particular, is also necessary to

specify which phase-out schedules Dealers would use to determine which MYs would be included in the restriction each year. Of note, for Class IV LSI forklifts, Dealers would use the alternative MY phase-out schedules for small fleets and agricultural crop preparation services, which have later phase-out dates than large fleets. In other words, Dealers would be able to continue selling, leasing, offering for sale, offering for lease, and delivering LSI forklifts of a certain MY for as long as small fleets and agricultural crop preparation services are allowed to purchase, lease, or take delivery of said forklifts. This is necessary because it would allow Dealers to continue to sell and lease LSI forklifts to small fleets and agricultural crop preparation services even if such forklifts would no longer be allowed to be purchased or leased by a large fleet. As stated above, Dedicated Emergency Forklifts would be excluded from these restrictions. The purpose and rationale for the Dedicated Emergency Forklift Exemption set forth in Section 3007(a)(5) are detailed below.

*Section 3003(b)(2)*

Purpose: To detail the dealer restrictions on transactions with rental agencies in California.

Rationale: This subsection specifies the LSI forklifts that dealers would be prohibited from selling, leasing, offering for sale, offering for lease, or delivering to rental agencies.

*Sections 3003(b)(2)(A) and 3003(b)(2)(A)1 through 3003(b)(2)(A)4*

Purpose: To describe in detail the dealer restrictions applicable to LSI forklifts in transactions with rental agencies in California. These restrictions would become effective on January 1, 2026. Specifically, these subsections restrict dealers from selling, leasing, offering for sale, offering for lease, and delivering new Class IV LSI forklifts of any MY, 2026 and subsequent MY Class IV LSI forklifts, and 2025 and previous MY Class IV and Class V LSI forklifts that have already been phased out according to the applicable phase-out schedule that would be established by the Proposed Regulation. With respect to 2025 and previous MY Class IV LSI forklifts, Section 3003(b)(2)(A)3 also specifies that the alternative MY phase-out schedules for small fleets and agricultural crop preparation services would apply.

Rationale: These subsections prohibit dealers from selling, leasing, offering for sale, offering for lease, or delivering to rental agencies, LSI forklifts in California starting January 1, 2026. In addition, Section 3003(b)(2)(A)3, in particular, is necessary to specify for Class IV forklifts the phase-out schedule dealers would use to determine which MYs would be included in the restriction each year. Of note, dealers would use the alternative MY phase-out schedules for small fleets and agricultural crop preparation services, which have later phase-out dates than large fleets. In other words, dealers would be able to continue selling, leasing, offering for sale, offering for lease, and delivering Class IV LSI forklifts of a certain MY for as long as small fleets and agricultural crop preparation services would be allowed to purchase, lease,

or take delivery of said forklifts. This is necessary because it would allow dealers to continue to sell and lease Class IV LSI forklifts to small fleets and agricultural crop preparation services even if such forklifts would no longer be allowed to be purchased or leased by a large fleet.

*3003(b)(2)(B), 3003(b)(2)(B)1, and 3003(b)(2)(B)2*

Purpose: To describe in detail the specific dealer restrictions applicable to Class V LSI forklifts in transactions with rental agencies in California. These restrictions would become effective on January 1, 2029. Specifically, these subsections restrict dealers from selling, leasing, offering for sale, offering for lease, and delivering new Class V LSI forklifts of any MY and 2026 and subsequent MY Class V LSI forklifts.

Rationale: These subsections describe the Class V LSI forklifts that dealers would be prohibited from selling, leasing, offering for sale, offering for lease, or delivering to rental agencies in California starting January 1, 2029.

*Sections 3003(c), 3003(c)(1), 3003(c)(1)(A) through 3003(c)(1)(F), and 3003(c)(2)*

Purpose: To describe the information and documentation a dealer would be required to collect and maintain for each sale or lease transaction involving an LSI forklift and the time period over which said information and documentation would be required to be maintained (i.e., five years). In addition, this subsection also informs regulated parties that the information and documentation maintained must be provided to the Executive Officer within five business days upon request.

Rationale: These proposed requirements provide a mechanism by which the Executive Officer could obtain evidence of non-compliant purchases and leases for enforcement purposes. Staff believes the minimum five years of record retention would be a reasonable timeframe because it would allow for the assessment of a fleet's compliance status in previous years without creating a substantial additional recordkeeping burden on affected entities. Staff is proposing to allow five business days for a responsible official to provide information and documentation responding to a request by the Executive Officer. Staff believes the five-day timeframe would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. Additionally, the timeframe would align with response timeframes required in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

## **F. Section 3004. Rental Agency Requirements**

*Sections 3004(a), 3004(a)(1), 3004(a)(2), and 3004(b)*

Purpose: To describe requirements applicable to rental agencies in California and to specify the LSI forklifts that rental agencies would be allowed to or prohibited from renting out, offering for rent, delivering, and maintaining within its inventory starting January 1, 2026. Specifically, these subsections restrict rental agencies from renting out, offering for rent, and delivering LSI forklifts, except for 2025 and previous MY LSI forklifts that have not yet been phased out according to the applicable phase-out schedule established by the Proposed Regulation; until January 1, 2038, MY 2026, 2027, and 2028 Class V LSI forklifts acquired prior to January 1, 2029; and Class V LSI forklifts with a rated capacity greater than 12,000 pounds that the Rental agency has reported to the Executive Officer.

Rationale: This subsection establishes regulatory responsibility for rental agencies that rent out, offer for rent, deliver, or maintain within their inventory LSI forklifts that fleet operators are prohibited by the Proposed Regulation from operating. As such, these proposed requirements would help ensure compliance, the transition from LSI forklifts to zero-emission forklifts, and achievement of the emission reductions projected for the Proposed Regulation.

## **G. Section 3005. Spark-Ignited Forklift Manufacturer Requirements**

*Section 3005(a)*

Purpose: To describe production and sales requirements applicable to forklift manufacturers. Firstly, the subsection stipulates that, starting January 1, 2026, forklift manufacturers would not be allowed to produce for sale or offer for sale a Class IV LSI forklift in California unless the engine or powertrain meets the zero-emission standards established by the Proposed Regulation. Secondly, the subsection stipulates that, starting January 1, 2029, forklift manufacturers would not be allowed to produce for sale or offer for sale a Class V LSI forklift in California unless the engine or powertrain meets the zero-emission standards established by the Proposed Regulation.

Rationale: This section establishes regulatory responsibility for forklift manufacturers that produce or offer for sale LSI forklifts that fleet operators and rental agencies are prohibited by the Proposed Regulation from purchasing or leasing and operating. As such, these proposed requirements would help ensure compliance and achievement of the emission reductions projected for the Proposed Regulation.

### *Section 3005(b)*

Purpose: To impose production and sales reporting requirements on forklift manufacturers for LSI forklifts produced for sale and sold in California.

Rationale: The proposed requirement is necessary for enforcement purposes. Specifically, the proposed requirement provides the Executive Officer with information necessary to determine if forklift manufacturers are producing for sale or selling non-compliant LSI forklifts in California. In addition, the information allows the Executive Officer to monitor the production and sale of Class V LSI forklifts with a rated capacity greater than 12,000 pounds and will be used to inform future regulations.

## **H. Section 3006. Fleet Phase-Out Provisions for Fleet Operators and Rental Agencies**

Purpose: To describe the proposal's requirements applicable to the phase-out of LSI forklifts by fleet operators and rental agencies.

Rationale: This section describes the specific requirements and other provisions related to phasing out LSI forklifts with which fleet operators and rental agencies would be required to comply.

### *Section 3006(a)*

Purpose: To describe reporting requirements for fleet operators and rental agencies that have Class IV LSI forklifts of any rated capacity and/or Class V LSI forklifts with a rated capacity up to 12,000 pounds.

Rationale: This subsection requires applicable fleet operators and rental agencies to provide CARB staff the information necessary to ensure successful implementation of the phase-out provisions. Specifically, the required reporting allows the Executive Officer to verify that Fleets are utilizing the appropriate phase-out schedules and taking the steps necessary to initiate charging infrastructure project early. The required reporting also ensures the Executive Officer is provided with the most up-to-date contact information. In addition, the required reporting provides fleet operators and rental agencies with a means for self-policing and managing compliance with this Proposed Regulation as well as contribute to efficiencies associated with CARB inquiries and enforcement activities. Additional detail is provided below in the purpose and rationale for Section 3007.

### *Section 3006(b), 3006(b)(1)*

Purpose: To prohibit fleet operators from possessing, operating, or allowing the operation of LSI forklifts in California that have been phased out unless the forklift qualifies for one of the exemptions or extensions in Section 3007. The subsection also references the phase-out schedules with which the fleet operator would be required to comply.

Rationale: This subsection describes requirements applicable to fleet operators phasing out LSI forklifts subject to the Proposed Regulation. This required phase-out of LSI forklifts is needed to ensure the transition from LSI forklifts to zero-emission forklifts and achievement of the emission reductions projected for the Proposed Regulation.

*Sections 3006(b)(2), 3006(b)(2)(A), and 3006(b)(2)(B)*

Purpose: To phase out LSI forklifts in rental agency revenue fleets. Specifically, the subsections stipulate that rental agencies would be prohibited from renting out, offering for rent, or otherwise allowing the operation of LSI forklifts in California that have been phased out. The subsections also reference the phase-out schedules with which rental agencies would be required to comply. Lastly, the subsections set forth that 2026, 2027 and 2028 MY Class V LSI forklifts in a rental agency's revenue fleet would be required to be phased out by January 1, 2038.

Rationale: These subsections describe requirements applicable to rental agencies phasing out LSI forklifts subject to the Proposed Regulation. This required phase-out of LSI forklifts is needed to ensure the transition from LSI forklifts to zero-emission forklifts and achievement of the emission reductions projected for the Proposed Regulation.

*Sections 3006(c), 3006(c)(1), 3006(c)(2), and 3006(c)(2)(A) through 3006(c)(2)(D)*

Purpose: To require fleet operators and rental agencies that require additional electrical power to charge or fuel the zero-emission forklifts needed to replace their LSI forklift fleet to contact their applicable electric utility provider to initiate discussions regarding potential electrical-service installation or upgrades by March 31, 2026. Additionally, the subsection stipulate that another entity may contact the applicable electric utility provider on behalf of the fleet operator or rental agency, as applicable. Lastly, the subsection specifies the minimum information required to be provided to the electric utility provider at the time of contact.

Rationale: This subsection ensures fleet operators and rental agencies initiate electrical infrastructure projects early to reduce the risk that potential infrastructure issues delay the phase-out of LSI forklifts. The allowance for another entity to contact the applicable electric utility provider on behalf of the fleet operator or rental agency is necessary because the fleet operator or rental agency could be a tenant without the authority to request electrical-

service installation or upgrades for the location of operation. The information required to be provided is information electric utility providers have indicated would help them plan for grid infrastructure upgrades needed to fulfill the anticipated power demand for ZEF fleets subject to the Proposed Regulation.

*Sections 3006(d), 3006(d)(1), 3006(d)(2), and 3006(d)(3)*

Purpose: To provide the MY phase-out schedules for LSI forklifts subject to phase-out pursuant to the Proposed Regulation. Section 3006(d) is divided into three subsections:

- (1) Section 3006(d)(1) would set forth the phase-out schedule to Class IV LSI forklifts;
- (2) Section 3006(d)(2) would set forth the alternative phase-out schedule for Class IV LSI forklifts in small fleets and agricultural crop preparation services; and
- (3) Section 3006(d)(3) would set forth the phase-out schedule for Class V LSI forklifts.

Rationale: This subsection informs fleet operators and rental agencies of the dates by which applicable LSI forklifts would be required to be phased out. Three different phase-out schedules are proposed; which phase-out schedule would be applicable to a fleet would depend on the class of the forklifts and the size of the fleet.

The three phase-out schedules being proposed all have different start dates. For Class IV LSI forklifts, the start date would be January 1, 2028. For Class IV LSI forklifts in small fleets and agricultural crop preparation services, such entities could opt to use an alternative phase-out schedule with a start date of January 1, 2029, one year later. For applicable Class V LSI forklifts in any fleet, the start date would be January 1, 2030. Although restrictions on the acquisition of LSI forklifts would begin on January 1, 2026, the phase-out of existing LSI forklifts would begin two to four years later.

Generally, the start dates of the phase-out schedules provide lead time for fleets that may need the time to address near-term issues associated with operational-change planning and zero-emission forklift-charging and fueling infrastructure deployment. They also provide time between the adoption of the Proposed Regulation and the initial phase-out date to enable fleets to pursue incentive funding through programs like the Carl Moyer program, which only fund actions before or beyond required compliance. If the initial phase-out date had been earlier, access to such funding would be limited. With respect to infrastructure, staff expects some fleets would encounter issues, especially in the near term, which could for some fleets take years to resolve. The proposed start dates would be staggered by year and fleet size to reduce multiple compliance dates occurring within the same year and to account for the fact that small fleets are more likely to be small businesses, which will have more-limited access to working capital, and zero-emission technology penetration in



applications typically served by Class V forklifts is still relatively limited, so more “learning” would need to occur during the transition.

The staggered approach, which would extend through the entire phase-out, would also smooth out the demand for utility-side electrical upgrades, electrical contractors, zero-emission forklifts, and other related services. For instance, electric utility providers have expressed concerns about the resources needed to fulfill service requests in a timely manner if a large volume of requests are submitted over a short time period. In addition, supply chain issues continue to impact both the delivery of forklifts as well as the delivery of components needed to expand grid capacity. The staggered approach is also expected to limit the number of extension requests submitted to CARB in the first few years of the implementation. In addition, if a significant number of extension requests are submitted in a short period of time, CARB may not have the resources to adequately review the requests, which could result in incomplete and inadequate requests receiving approval.

Staff believes many fleets would take action early primarily to better manage the uncertainties associated with the supply chain, infrastructure, and potential operational changes that could be needed to transition to zero emissions. Furthermore, the Proposed Regulation would establish mechanisms to promote early action. For example, the Proposed Regulation would require fleets to contact their electrical utility provider by March 31, 2026, and order zero-emission forklifts at least two years before the applicable compliance date to be eligible for a Zero-Emission Forklift Delivery Delay Extension.

With respect to the MY-based approach, it is expected to improve the ease of enforcement of the Proposed Regulation relative to the fleet-average-based approach established in the existing LSI Fleet Regulation. In a fleet-average-based approach, to determine compliance, an inspector would need to verify the MY of every single forklift in a fleet. On the contrary, in the Proposed Regulation, an inspector could quickly and easily check compliance for any individual forklift encountered simply by verifying if the MY is one prohibited by the phase-out schedule. The MY-based approach would also ensure that the oldest, dirtiest LSI forklifts are removed from the fleet first. The MY approach would also simplify the application process for fleets that pursue scrap-and-replace incentives, such as the Carl Moyer Program, because, unlike a fleet-average approach, eligibility could simply be based on MY rather than the year a fleet intends to turn over a forklift, for instance. For Class IV LSI forklifts in large fleets, the phase-out would be structured such that all such Forklifts would be phased-out by January 1, 2035, in alignment with the target set forth in the Governor’s Executive Order N-79-20. For Class IV LSI forklifts being phased out in accordance with the alternative phase-out schedules for small fleets and applicable Class V Forklifts, the phase-out would be structured such that full implementation would not be achieved until January 1, 2038. Although this would be three years beyond the 2035 target set forth in the Governor’s Executive Order N-79-20, staff believes the 2038 date is justified given the potential

economic impact that a further accelerated turnover could have on small businesses and the additional challenges fleets could face while transitioning their Class V forklift fleet to zero emissions.

Further, “gap” years between compliance dates are being proposed to provide fleets with some limited flexibility on how they phase-out LSI forklifts. In other words, rather than having a compliance date each year, the compliance dates are spaced out. For example, for large fleets, the first compliance date is in 2028 and the next compliance date is in 2031. Staff spaced out the compliance dates in part due to stakeholder comments requesting flexibility, for example to enable a business to pause phase-out of LSI forklifts and purchase of new zero-emission forklifts if they have a bad year.

Some stakeholders have complained that the phase-out schedules would require fleets to retire LSI forklifts with remaining utility. According to CARB’s LSI Inventory Model, LSI forklifts, on average, operate approximately 1,800 hours per year. Based on conversations with industry stakeholders, an LSI forklift with 10,000 total hours is general considered at the end of its life. Given that the phase-out schedules being proposed would phase-out such forklifts between approximately 10 and 13 years of age, any LSI forklift still in a fleet at its applicable phase-out date would be considered past its age of utility based on that metric. That said, staff acknowledges that certain fleets, especially smaller fleets, operate their LSI forklifts for fewer hours per year and beyond the 10,000-hours threshold before replacing. In cases where the annual operating hours of an LSI forklift is 200 hours or less, the fleet could opt to maintain said forklift past its phase-out date as a low-use LSI forklift until 2031. Furthermore, microbusinesses would be able to continue to maintain one low-use LSI forklift indefinitely, after January 1, 2031. In addition, as mentioned above below, the alternative phase-out schedule for Class IV LSI forklifts in small fleets would provide such fleets with more time to extend the use of existing Class IV LSI forklifts. Lastly, to the extent an LSI forklift still has utility beyond its phase-out date, such forklifts could be sold or relocated to fleets outside of California.

The phase-out date applicable to a Class IV Forklift with a rated capacity greater than 12,000 pounds would be the final compliance date of the phase-out schedule applicable to the fleet. That is, for a large fleet, the phase-out date would be January 1, 2035, and for a small fleet utilizing the alternative phase-out schedules, the phase-out date would be January 1, 2038. Staff believes the proposed phase-out dates are appropriate because, generally, forklifts of this size are bespoke, which likely means they are more costly compared to more-commoditized off-road equipment and could require more time from manufacturers to design and produce.

The Proposed Regulation includes agricultural crop preparation services in the same phase-out schedule as small fleets. Given the seasonal nature of the industry and the limited

amount of additional electrical capacity in rural communities, agricultural crop preparation services may face unique infrastructure challenges that would require relatively more time and cost to resolve.

*Sections 3006(e), 3006(e)(1), and 3006(e)(2)*

Purpose: To describe the Class IV LSI forklift phase-out requirements that would apply to a fleet that has changed from a small fleet to a large fleet, or vice versa, after January 1, 2026. Specifically, Section 3006(e)(1) sets forth the length of time that a fleet would have before it would be required to comply with the Proposed Regulation's phase-out requirements applicable to large fleets once it becomes a large fleet. Section 3006(e)(2) sets forth that a large fleet that becomes a small fleet would be required to continue to comply with the phase-out schedule for large fleets.

Rationale: The subsections address fleet-size changes that could occur during the phase-out period of the Proposed Regulation. For small fleets utilizing the alternative phase-out schedules for Class IV LSI forklifts that become large fleets, the Proposed Regulation would stipulate that the fleet would have until January 1 two years subsequent to the year it became a large fleet to achieve compliance with the Class IV LSI forklift phase-out schedule applicable to large fleets. Staff believes two years would be reasonable given the planning and the actions (such as expanding infrastructure and ordering zero-emission forklifts) that would be necessary to *catch up* with the more-accelerated phase-out schedule applicable to large fleets. Additionally, if an applicable fleet encounters issues beyond their control that delays the installation of infrastructure or acquisition of zero-emission forklifts, the fleet could request the applicable extension set forth in Section 3007.

For a fleet that changes from a large fleet to a small fleet during the phase-out period, staff is proposing to require said fleet to continue complying with the large fleet phase-out. If a fleet would already be on a trajectory that complies with the Class IV LSI forklift phase-out for large fleets, staff does not believe it would be necessary to allow said fleet to further delay its transition. Furthermore, staff believes that allowing a fleet to alter their requirements by changing their fleet size without limit could result in a substantial administrative burden on CARB implementation resources without significant benefit and could increase the probability of fleet actions to delay requirements.

*Section 3006(f)*

Purpose: To establish a compliance credit for fleet operators and rental agencies that replace a Class V LSI forklift with a rated capacity of greater than 12,000 pounds with a zero-emission forklift of equal or greater a rated capacity. The compliance credit allows the fleet operator or Rental agency to delay the phase-out of one LSI forklift until January 1, 2038.

The additional time provided to phase-out said LSI forklift would not stack with other extensions granted pursuant to the Proposed Regulation.

Rationale: This subsection describes the opportunity and pathway to receive compliance credit for transitioning LSI forklifts that are beyond the scope of the proposed phase-out requirements to zero emissions. By encouraging fleets to replace LSI forklifts not captured by the Proposed Regulation with zero-emission forklifts, the compliance credit could spur innovation and help accelerate the achievement of California's long-term air-quality and climate goals.

*Sections 3006(f)(1), 3006(f)(1)(A) through 3006(f)(1)(D)*

Purpose: To identify eligibility criteria for earning a compliance credit for replacing a Class V LSI forklift with a rated capacity greater than 12,000 pounds with an equivalent zero-emission forklift. Section 3006(f)(1)(A) sets forth the eligibility criterion that the fleet operator has replaced a Class V LSI forklift with a rated capacity greater than 12,000 pounds with a zero-emission forklift of equal or greater rated capacity. Section 3006(f)(1)(B) sets forth the eligibility criterion that the zero-emission forklift acquired to replace the Class V LSI forklift with a rated capacity greater than 12,000 pounds was delivered on or after January 1, 2026. Section 3006(f)(1)(C) sets forth the eligibility criterion that the Class V LSI forklift with a rated capacity greater than 12,000 pounds was removed from the fleet within six months of the delivery of the replacement zero-emission forklift. Section 3006(f)(1)(D) sets forth the eligibility criterion that the forklift replaced had to have been reported by the fleet operator or rental agency to the Executive Officer, as required by the Proposed Regulation.

Rationale: These subsections describe the eligibility criteria that would apply to the Credit for Deployment of Heavy Zero-Emission Forklifts. The eligibility criteria are necessary to effectuate the primary objective of the proposed credit provisions, which would be to spur innovation and increase development and deployment of zero-emission technology in heavy forklifts (i.e., forklifts with a rated capacity greater than 12,000 pounds). Section 3006(f)(1)(A) would be necessary to ensure understanding that a Class V LSI forklift with a rated capacity greater than 12,000 pounds would be required to be replaced with a zero-emission forklift of equal or greater rated capacity in order to receive the credit. This would ensure the credit would only be provided for the zero-emission forklifts these provisions are intended to deploy. Section 3006(f)(1)(B) would stipulate that only replacements that occur on or after January 1, 2026, would be eligible for the compliance credit. The rationale for this criterion is that it would ensure that compliance credit is not granted for actions fleets have already taken prior to the start of the Proposed Regulation. Section 3006(f)(1)(C) would be necessary to ensure that the Class V LSI forklift is removed from the fleet, which would help ensure emission reductions would be achieved by way of the replacement. Section 3006(f)(1)(D) would set forth reporting requirements for Class V LSI forklifts with a rated

capacity greater than 12,000 pounds. This criterion would be necessary to help ensure that only fleets that are in compliance with the Proposed Regulation would be able to earn this compliance credit.

*Sections 3006(f)(2) and 3006(f)(2)(A) through 3006(f)(2)(D)*

Purpose: To describe the compliance credit for replacing Class V LSI forklifts with a rated capacity greater than 12,000 pounds with an equivalent zero-emission forklift. Specifically, the subsections describe the amount of credit earned by each replacement and how the credit can be used. Furthermore, Sections 3006(f)(2)(C) and 3006(f)(2)(D) stipulate that the credit would not be allowed to be sold or traded, are not property, and have no monetary value.

Rationale: These subsections describe the generation and application of the compliance credit so that the provisions would be implemented consistently and reliably. Section 3006(f)(2)(A) stipulates that one compliance credit would be generated for each replacement under these provisions, and Section 3006(f)(2)(B) stipulates that one compliance credit could be used to delay the phase-out date of one LSI forklift to January 1, 2038. To the extent fleets utilize the credit provisions, they would spur innovation and help accelerate achievement of California’s air-quality and climate goals.

Sections 3006(f)(2)(C) and 3006(f)(2)(D) stipulate that compliance credits are not allowed to be traded and sold, are not property, and have no monetary value. Allowing the transfer of credits could add a significant burden on CARB resources to track, and staff has not received any requests from stakeholders to allow for such transfers.

*Section 3006(f)(3)*

Purpose: To stipulate that compliance credit requests are required to include all information and documentation set forth in Section 3009(i) of the Proposed Regulation. In addition, the subsection specifies that such requests must be submitted to the Executive Officer at least 45 days prior to the phase-out date of the LSI forklift for which the compliance credit would be used to delay compliance.

Rationale: This subsection describes the minimum documentation and information requirements for compliance credit requests. The documentation and information is needed for CARB staff to verify the validity and appropriateness of any compliance credit requests. A more-detailed discussion on the purpose and rationale for Section 3009(i) is presented below. Staff is proposing to require the request to be submitted at least 45 days prior to the phase out date. The review timeframe of 45 calendar days provides the Executive Officer with adequate time to perform a detailed analysis of submitted

information prior to the phase-out date. The timeframe also allows time for follow-up discussions with the responsible official if the request is incomplete or if clarifications would be needed. Lastly, the timeframe would align with submittal timeframes set forth in other CARB fleet regulations, like the Advanced Clean Fleets Regulation (to be codified in Title 13, CCR, Sections 2015 and 2015.1 through 2015.6).

*Sections 3006(f)(4), 3006(f)(4)(A), and 3006(f)(4)(B)*

Purpose: To describe the Executive Officer review process of compliance credit requests submitted.

Rationale: These subsections tell the fleet operator or rental agency what criteria the Executive Officer will use to determine whether to approve compliance credit requests, as well as the review process for compliance credit requests. The Executive Officer will approve the request if and only if the fleet operator has submitted all information required in Section 3006(f)(3) and met all Eligibility Criteria in Section 3006(f)(1). Section 3006(f)(4)(A) stipulates that the Executive Officer may request additional information or clarification prior to a request being deemed complete. This would be necessary to ensure that compliance credits would be applied consistently and reliably. Section 3006(f)(4)(B) stipulates that if the Executive Officer does not respond to a compliance credit request within 45 days of submittal, then the request would be deemed approved. This allows fleets to continue to implement their phase-out strategy, even in situations where CARB staff is unable to respond to a compliance credit request in an expeditious manner.

## **I. Section 3007. Exemptions, Extensions**

Purpose: To exempt an entity from certain requirements in the Proposed Regulation or delay requirements under specific circumstances.

Rationale: As further detailed below, these exemptions and extensions are being proposed to account for situations in which exemptions or extensions of the phase-out requirements for LSI forklifts would be appropriate. This section helps ensure consistent interpretation and implementation of the Proposed Regulation's requirements.

*Section 3007(a)*

Purpose: To exempt an entity from certain requirements in the Proposed Regulation under specific circumstances, such as low-use, dedicated emergency forklifts, temporary storage of non-compliant LSI forklifts awaiting sale, LSI forklifts transported for delivery out-of-state, and delivery of dedicated emergency forklifts.

Rationale: As further detailed below, these exemptions are being proposed to account for situations in which the phase-out of LSI forklifts would be inappropriate or would create an undue burden. This section would help ensure consistent interpretation and implementation of the Proposed Regulation's requirements.

*Section 3007(a)(1)*

Purpose: To set forth the provisions for the Proposed Regulation's Low-Use LSI Forklift Exemption. This subsection, in particular, sets forth that Low-Use LSI forklifts would be exempt from Section 3002(b) phase-out requirements of the Proposed Regulation.

Rationale: This subsection, and subordinate subsections, inform responsible officials of fleet operators of the criteria and requirements established for the Low-Use LSI Forklift Exemption. As such, it would help ensure consistent interpretation and implementation of the Proposed Regulation's requirements. The Low-Use LSI Forklift Exemption is being proposed to allow fleet operators to continue operating LSI forklifts beyond their phase-out dates in situations where an LSI forklift is utilized less than 200 hours per calendar year. This exemption would align with equivalent exemptions in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

The primary intent of the Low-Use LSI Exemption is to provide temporary, near-term cost relief to fleet operators. As detailed in staff's cost analysis presented in Chapter IX of the ISOR, a zero-emission forklift has a higher upfront cost than a comparable LSI forklift. Additionally, the transition to zero-emission technology would require the acquisition and installation of charging or fueling infrastructure, which would entail additional fleet costs. That said, operational and maintenance cost savings associated with zero-emission forklifts would be generally expected to fully offset those upfront costs, and even provide net savings, over time. However, whether cost parity or savings would actually be achieved would depend on how much a forklift is operated. Generally, greater hours of operation would result in a quicker return on investment and greater potential savings.

For reference, forklift data in the LSI Emission Inventory, which is described in Appendix D of the ISOR, indicate that LSI forklifts operate, on average, roughly 1,800 hours per year. Considering that a low-use LSI forklift would operate less than 200 hours annually, achieving a return on investment on a zero-emission replacement would likely take much longer or may not occur at all. As such, the Low-Use LSI Exemption is being proposed to provide additional time for fleet operators in those situations to absorb the upfront capital of zero-emission forklifts. Staff believes fleet operators would ultimately phase out low-use LSI forklifts as such forklifts wear out and as more zero-emission options are offered on the secondary market.

*Sections 3007(a)(1)(A), 3007(a)(1)(A)1, and 3007(a)(1)(A)2*

Purpose: To establish an end date of December 31, 2030, for the Low-Use LSI Exemption for fleets other than microbusinesses. For microbusiness, the subsections stipulate they would be allowed to continue operating one low-use LSI forklift beyond December 31, 2030.

Rationale: The subsection informs responsible officials of fleet operators of the criteria and requirements applicable to the Low-Use LSI Forklift Exemption. As such, it helps ensure consistent interpretation and implementation of the Proposed Regulation's requirements. The Proposed Regulation sunsets the Low-Use LSI Forklift Exemption for fleets other than microbusinesses on December 31, 2030, as the intent of the exemption would be only to provide temporary flexibility to fleets as they transition to zero emissions. Sunsetting the exemption helps provide the emission reductions needed to meet the State SIP goals while still giving some flexibility to fleet operators early in the phase-out period. Microbusinesses would be allowed to operate a single low-use LSI forklift indefinitely because they are likely to be more capital-constrained and would be more likely to face undue burdens during the transition. As the secondary market of zero-emission forklifts grows, staff expects that, over time, microbusiness would transition to zero-emission forklifts in lower use operations as well.

*Section 3007(a)(1)(B)*

Purpose: To limit exemption eligibility to 2013 through 2025 MY LSI forklifts.

Rationale: The subsection informs responsible officials of fleet operators of the criteria and requirements applicable to the Low-Use LSI Forklift Exemption. As such, it helps ensure consistent interpretation and implementation of the Proposed Regulation's requirements. The exemption is limited to 2013 through 2025 MY LSI forklifts for the following reasons. First, it aligns with staff's expectation that any forklift a fleet designates as low-use would be a 2025 or previous MY forklift subject to phase-out. Second, the restriction on using 2012 and previous MY LSI forklifts ensures only forklifts that meet the most-stringent LSI emission standards, which took effect with MY 2013, would be operated as low-use LSI forklifts. Thirdly, the restriction on using 2026 and subsequent MY LSI forklifts prevents fleet operators, particularly microbusinesses (the only entities allowed to operate a low-use LSI forklift beyond December 31, 2030), from continuing to acquire and operate newer LSI forklifts as low-use.

*Section 3007(a)(1)(C)*

Purpose: To apply certain reporting requirements set forth in Section 3009(f) to fleet operators that designate a forklift as a Low-Use LSI forklift.



Rationale: This subsection informs responsible officials of fleet operators that they would be required to comply with certain reporting requirements for low-use LSI forklifts specified in section 3009(f). The entity, contact, and forklift information provided would allow the CARB staff to identify and contact the regulated entity for outreach, implementation, and enforcement purposes. Specifically, the required reporting allows CARB staff to identify and locate entities with low-use LSI forklifts and verify compliance with the conditions of the Low-Use LSI Forklift Exemption and other requirements of the Proposed Regulation, such as the phase-out requirements. The required reporting also provides fleet operators with a means for self-policing and managing compliance with this Proposed Regulation as well as contribute to efficiencies associated with CARB inquiries and enforcement activities. Additional detail is provided below in the purpose and rationale for Section 3009(f).

*Section 3007(a)(1)(D)*

Purpose: To limit annual maximum operational time to 200 hours for low-use LSI forklifts.

Rationale: The subsection establishes the annual operating hours limit of 200 for a low-use LSI forklift. The operating hour limit aligns with exemptions in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2). A forklift that operates less than 200 hours will have significantly less emissions than one operating closer to the average annual operating hours of roughly 1,800 hours per year. Achieving a return on investment on a zero-emission replacement for a forklift operating less than 200 hours would also take much longer than one that operates the average annual hours.

*Section 3007(a)(1)(E)*

Purpose: To impose requirements to monitor of forklift hours of operation to assist implementation of the Low-Use LSI Forklift Exemption.

Rationale: This section retains enforceability of the low-use exemption by ensuring fleets have the hour meter readings necessary to demonstrate that the equipment complies with the definition of low-use equipment.

*Section 3007(a)(1)(E)1*

Purpose: To require low-use LSI forklifts to be equipped with a non-resettable hour meter. In addition, the subsection stipulates that if the hour meter is replaced, the fleet operator would be required to record the date of replacement, the final hour-meter reading of the replaced hour meter, and the initial hour-meter reading of the newly installed hour meter. Lastly, the subsection requires that the information recorded be maintained for minimum of five years from the date of replacement.

Rationale: This subsection requires that a low-use LSI forklift have a non-resettable hour meter. This ensures hour-meter readings are reliable and enforceable. This subsection also identifies information required to be recorded when an hour meter is replaced, such that the actual hours of operation of the forklift are accurately tracked.

*Section 3007(a)(1)(E)2*

Purpose: To require a one hour-meter reading to be gathered within 30 days of January 1 of the year the forklift is first designated as a Low-Use LSI forklift. Additionally, the subsection requires that, for each year thereafter, for as long as the Forklift is designated as a Low-Use LSI forklift, the hour-meter reading must be gathered within 30 days of December 31 of the previous year.

Rationale: The subsection help ensure that hour-meter readings can be relied upon to verify forklift compliance with the operational limit (i.e., 200 annual hours) during implementation and enforcement activities.

*Section 3007(a)(1)(E)3*

Purpose: To require recording and maintaining hours-of-use records for the Low-Use LSI Forklift Exemption.

Rationale: The subsection ensures hour-meter readings are reliably gathered, maintained, and reported. The Executive Officer would use hour-meter readings to verify that fleet operators comply with the provisions of the Low-Use LSI Forklift Exemption. The requirement for a date-stamped photograph when taking a reading provides one additional level of assurance that the reading gathered is reliable. The subsection would also allow military operations to only utilize a written log if security protocols prohibit the use of a camera. This ensures the proposed provisions would not compromise the security of military operations. The requirement to maintain hour-meter readings for five years provides CARB staff the ability to access the information for implementation and enforcement purposes without creating substantial additional burden for the entity.

*Section 3007(a)(1)(E)4*

Purpose: To require hour-meter readings to be used to demonstrate compliance with the annual maximum operational time limit of 200 hours for low-use LSI forklifts. The subsection informs fleet operators that the hour-meter reading reported per requirements detailed in Section 3009(f) may not be 200 hours or more than the hour-meter reading reported the previous year. Additionally, the subsection also stipulates that operating hours accumulated

against the limit would not reset due to the sale or transfer of a low-use LSI forklift to another entity.

Rationale: The subsection establishes the annual operating hours limit of 200 for a low-use LSI forklift. In addition, the subsection clarifies that hour-meter readings be used strictly to demonstrate compliance with the operating hours limit. This ensures CARB staff has the ability to verify compliance with the operating hours limit. Restricting the reset of operating hours upon transfer is necessary to ensure low-use LSI forklifts are not operated beyond the 200-hour limit.

*Sections 3007(a)(1)(E)5 and 3007(a)(1)(E)5.a through 3007(a)(1)(E)5.c*

Purpose: To establish an option for microbusinesses to comply with a three-year rolling average instead meeting the 200-hour low-use limit each calendar year. Section 3007(a)(1)(E)5.a stipulates that the forklift must be operated in California for three consecutive years. Section 3007(a)(1)(E)5.b requires the forklift to be operated on average less than 200 hours per calendar year during the three-year period. Section 3007(a)(1)(E)5.c stipulates that operating hours would be required to be reported each year in accordance with 3007(a)(1)(C).

Rationale: These subsections establish the 200-hour three-year rolling average option for microbusinesses that operate low-Use LSI forklifts, which provides flexibility to such fleet operators to average operating hours over a three-year period. This flexibility is reasonable because it would maintain the low-hours limitation on these forklifts, which ensures the emission reductions of the regulation are achieved, but provides the fleets with some flexibility to continue their operations if they have forklifts that are used more sporadically. This option is only applicable to microbusinesses because only microbusinesses are permitted a low-use forklift beyond a three-year period under the Proposed Regulation. The option to operate a low-use LSI forklift would sunset for all other fleet operators on January 1, 2031. Section 3007(a)(1)(E)5.c would require reporting per Section 3007(a)(1)(C), for which the purpose and rationale is provided above.

*Section 3007(a)(1)(F)*

Purpose: To require labeling of low-use LSI forklifts for the purposes of the exemption. The subsection directs the fleet operator to Section 3010 for labeling requirements and specifications.

Rationale: The subsection notifies fleet operators that they must label their low-use LSI forklifts with an EIN if they are using the Low-Use LSI Exemption. The label provides CARB staff with a way to efficiently identify forklifts during implementation and enforcement

activities. In addition, the labeling requirement would be consistent with other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3007(a)(1)(G)*

Purpose: To set forth certain provisions that would apply to microbusinesses that operate a low-use LSI forklift beyond December 31, 2030.

Rationale: Microbusiness operating a low-use LSI forklift after December 31, 2030, are permitted certain exemptions and leniencies under the Proposed Regulation, and so operators of microbusinesses must provide certain evidence, detailed in this section, to qualify as such.

*Section 3007(a)(1)(G)1*

Purpose: To identify the necessary documentation and information a fleet operator is required to maintain to substantiate that it meets the definition of “microbusiness.” Specifically, this subsection requires fleet operators to maintain at the facility, as applicable, either tax returns for the previous three years (or the number of years the entity has been in business, if less than three), or, if the fleet operator is a manufacturer, copies of the Quarterly Contribution Return & Report of Wages Form DE 9C (Wage Report) for the four most recently completed quarters (or the number of quarters the entity has been in business, if less than four), if the fleet operator has employees. In lieu of the aforementioned documents, the Proposed Regulation allows a fleet operator to provide proof of certification as a microbusiness issued by the California Department of General Services (DGS).

Rationale: This subsection ensures the Executive Officer has access to documentation that substantiates a fleet operator’s claim that it is a microbusiness, which is important for implementation and enforcement purposes, because only microbusinesses can operate a low-use LSI forklift after December 31, 2030. Additionally, the documentation requirements align with an established methodology that DGS currently uses when qualifying private contractors as a microbusiness, which receive priority consideration for state contracts. As such, certification as a microbusiness by DGS would be allowed in lieu of the applicable documentation.

*Section 3007(a)(1)(G)2*

Purpose: To establish a 60-day deadline, from the filing of its tax return or Wage Report (whichever is applicable) for a fleet operator to phase out a low-use LSI forklift if the fleet

operator has exceeded the applicable threshold (annual gross receipts or number of employees) of a microbusiness.

Rationale: Because non-microbusiness fleet operators would no longer be allowed to operate low-use LSI forklifts starting January 1, 2031, the Proposed Regulation requires fleet operators using the Low-Use LSI Forklift Exemption as a microbusiness to discontinue using their low-use LSI forklift once their tax return or Wage Report filing, whichever applicable, indicates that said fleet operator no longer meets the definition of a microbusiness. However, the Proposed Regulation provides the fleet operator 60 days following the filing of the applicable tax return or Wage Report to phase out the forklift to provide sufficient time to acquire a replacement forklift.

*Section 3007(a)(1)(H)*

Purpose: To require operators to provide any information or documentation required to be maintained or reported in accordance with the Low-Use LSI Forklift Exemption to the Executive Officer within five business days of request.

Rationale: Staff is proposing to allow five business days for a fleet operator to provide information and documentation required to be maintained pursuant to the Low-Use LSI Forklift Exemption to the Executive Officer upon request. Staff believes the five-day timeframe ensures information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. Additionally, the timeframe aligns with response timeframes required in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3007(a)(2)*

Purpose: To describe the Proposed Regulation's Dedicated Emergency Forklift Exemption. This subsection in particular states that dedicated emergency forklifts are exempt from Section 3002(a) and Section 3002(b) of the Proposed Regulation, which ban the acquisition of new LSI forklifts and 2026 and subsequent MY LSI forklifts and require the phase-out of 2025 MY and older LSI forklifts.

Rationale: This subsection, and subordinate subsections, inform responsible officials of fleet operators of the criteria and requirements established for the Dedicated Emergency Forklift Exemption. As such, it helps ensure consistent interpretation and implementation of the Proposed Regulation's requirements. The Dedicated Emergency Forklift Exemption is being proposed to allow fleet operators to continue maintaining and operating LSI forklifts dedicated to supporting emergency operations. This provision acknowledges that

emergency operations can be in remote locations or locations where charging or fueling a zero-emission forklift may not be possible or fast enough to respond to the changing conditions of the emergency. However, operation for purposes other than supporting emergency operations would be allowed but limited to less than 200 hours per calendar year. This would allow dedicated emergency forklift fleets that would only require minimal use of forklifts outside of emergency response to operate said forklifts for those purposes instead of requiring such fleets to acquire, maintain, and store additional forklifts. This exemption aligns with the Proposed Regulation's Low-Use LSI Forklift Exemption and equivalent exemptions in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3007(a)(2)(A)*

Purpose: To describe eligibility provisions for the Dedicated Emergency Forklift Exemption.

Rationale: The purpose and rationale for each eligibility provision are provided below.

*Section 3007(a)(2)(A)1*

Purpose: To explain that only LSI forklifts maintained and operated by a government agency, or other entity operating under the authority of a government agency, for the purpose of supporting Emergency Operations would be eligible for the Dedicated Emergency Forklift Exemption.

Rationale: The subsection recognizes the role of government agencies, and entities operating under the authority of government agencies, in supporting emergency operations without creating unnecessary loopholes that could be exploited in attempts to circumvent the Proposed Regulation's requirements.

*Section 3007(a)(2)(A)2*

Purpose: To limit annual maximum operational time to 200 hours for dedicated emergency forklifts being used for purposes other than supporting Emergency Operations.

Rationale: The subsection establishes the annual operating hours limit of 200 for a dedicated emergency forklifts for purposes other than supporting Emergency Operations. The operating hour limit aligns with the Proposed Regulation's Low-Use LSI Forklift Exemption and exemptions in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3007(a)(2)(B)*

Purpose: To apply certain reporting requirements set forth in Section 3009(g) to fleet operators that designate a forklift as a dedicated emergency forklift.

Rationale: This subsection informs responsible officials of fleet operators that they would be required to comply with certain reporting requirements for dedicated emergency forklifts specified in section 3009(g). This subsection allows CARB staff to identify and contact the regulated entity for outreach, implementation, and enforcement purposes based on the entity, contact, and forklift information that would be provided. Specifically, the required reporting allows CARB staff to identify and locate entities with dedicated emergency forklifts and verify compliance with the conditions of the Dedicated Emergency Forklift Exemption and other requirements of the Proposed Regulation, such as the phase-out requirements. The required reporting also provide fleet operators with a means for self-policing and managing compliance with this Proposed Regulation as well as contribute to efficiencies associated with CARB inquiries and enforcement activities. Additional detail is provided below in the purpose and rationale for Section 3009(g).

*Section 3007(a)(2)(C)*

Purpose: To describe provisions applicable to the monitoring of forklift hours of operation for the purposes of the Dedicated Emergency Forklift Exemption.

Rationale: The purpose and rationale for each provision are provided below.

*Section 3007(a)(2)(C)1*

Purpose: To require dedicated emergency forklifts to be equipped with a non-resettable hour meter. In addition, the subsection stipulates that if the hour meter is replaced, the fleet operator would be required to record the date of replacement, the final hour-meter reading of the replaced hour meter, and the initial hour-meter reading of the newly installed hour meter. Lastly, the subsection requires that the information recorded be maintained for minimum of five years from the date of replacement.

Rationale: This subsection requires a dedicated emergency forklift must have a non-resettable hour meter to meet the requirements for the Dedicated Emergency Forklift Exemption. The non-resettable hour meter assists the operator with ensuring the forklift complies with the annual 200-hour limit on non-emergency operation and ensure hour-meter readings are reliable and enforceable. This subsection describes what information must be recorded when an hour meter is replaced such that the actual hours of operation of the forklift would be accurately accounted for.

*Section 3007(a)(2)(C)2*

Purpose: To require operators to obtain the one hour-meter reading within 30 days of January 1 of the year the forklift is first designated as a dedicated emergency forklift. For each year thereafter, for as long as the Forklift is designated as a dedicated emergency forklift, operators must obtain the one hour-meter reading within 30 days of December 31 of the previous year. In addition, the subsection would set forth that hour-meter readings would be required to be gathered at the commencement and completion of each emergency operation the forklift supported the previous year.

Rationale: The subsection helps ensure that hour-meter readings can be reliably relied upon to verify forklift compliance with the 200-hour non-emergency operational limit during implementation and enforcement activities.

*Section 3007(a)(2)(C)3*

Purpose: To describe requirements for recording and maintaining hours-of-use records for the Dedicated Emergency Forklift Exemption.

Rationale: The subsection ensures hour-meter readings are reliably gathered, maintained, and reported. CARB staff would use hour-meter readings to verify that fleet operators are in compliance with the provisions of the Dedicated Emergency Forklift Exemption. The requirement for a date-stamped photograph when taking a reading provides one additional level of assurance that the reading gathered is reliable. The subsection also allows military operations to only utilize a written log if security protocols prohibit the use of a camera. This ensures the proposed provisions would not compromise the security of military operations. The requirement to maintain hour-meter readings for five years provides the Executive Officer the ability to access the information for implementation and enforcement purposes without creating substantial additional burden for the entity.

*Section 3007(a)(2)(C)4*

Purpose: To require hour-meter readings be used to demonstrate compliance with the annual maximum non-emergency operational time limit of 200 hours for dedicated emergency forklift. The subsection informs fleet operators that annual operating hours accrued during the support of emergency operations, as determined through hour-meter readings gathered pursuant to Section 3007(a)(2)(C)2, may be subtracted from total annual operating hours when determining whether 200-hour limit has been met. Additionally, the subsection would also stipulate that operating hours accumulated against the limit would not reset due to the sale or transfer of a dedicated emergency forklift to another entity.

Rationale: The subsection establishes the annual operating hours limit of 200 for a dedicated emergency forklift. In addition, the subsection clarifies how to account for



operating hours associated with support of Emergency Operations. This ensures CARB staff has the ability to verify compliance with the operating hours limit. The provision that would restrict the reset of operating hours upon transfer would be necessary to ensure low-use LSI forklifts are not operated beyond the 200-hour limit.

Sections 3007(a)(2)(C)5, 3007(a)(2)(C)5.a, 3007(a)(2)(C)5.b, and 3007(a)(2)(C)5.c

Purpose: To establish an option for dedicated emergency forklift fleets to comply with a three-year rolling average instead meeting the 200-hour non-emergency use limit each calendar year. Section 3007(a)(2)(C)5.a stipulates that the forklift would be required to be operated in California for three consecutive years. Section 3007(a)(2)(C)5.b sets forth the condition that the forklift is operated on average less than 200 hours for purposes other than the support of emergency operations per calendar year during the three-year period. Section 3007(a)(2)(C)5.c stipulates that operating hours would be required to be reported each year in accordance with 3007(a)(2)(B).

Rationale: These subsections establish the 200-hour three-year rolling average option for dedicated emergency forklift fleets, which provides flexibility to such fleet operators to average operating hours over a three-year period. This flexibility would be reasonable because it would maintain the low-hours limitation on these forklifts, which would ensure the emission reductions of the regulation are achieved, but provide the fleets with some flexibility to continue their operations if they have forklifts that is used more sporadically. Section 3007(a)(2)(C)5.c would require reporting per Section 3007(a)(2)(B), for which the purpose and rationale is provided above.

#### *Section 3007(a)(2)(D)*

Purpose: To specify labeling requirements for a dedicated emergency forklift for the purposes of the exemption. The subsection would direct the fleet operator to Section 3010 for labeling requirements and specifications.

Rationale: The subsection notifies fleet operators that they must label their dedicated emergency forklifts with an EIN if they are using the Dedicated Emergency Forklift Exemption. The label provides CARB staff with a way to efficiently identify forklifts during implementation and enforcement activities. In addition, the labeling requirement would be consistent with other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

#### *Section 3007(a)(2)(E)*

Purpose: To require operators to maintain a copy of the emergency declaration and official directives to deploy dedicated emergency forklifts for each applicable declared emergency event for a minimum of five years from the date of the declared emergency event.

Rationale: This subsection ensures the Executive Officer would be able to obtain documentation and information necessary to verify hours of use during emergency operations, which would be needed during implementation and enforcement activities.

*Section 3007(a)(2)(F)*

Purpose: To require any information or documentation required to be maintained or reported in accordance with the Dedicated Emergency Forklift Exemption to be provided to the Executive Officer within five business days of request.

Rationale: Staff is proposing to allow five business days for a fleet operator to provide information and documentation required to be maintained pursuant to the Dedicated Emergency Forklift Exemption to the Executive Officer upon request. Staff believes the five-day timeframe would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. Additionally, the timeframe would align with response timeframes required in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Sections 3007(a)(3) and 3007(a)(3)(A) through 3007(a)(3)(C)*

Purpose: To establish an exemption for non-compliant forklifts temporarily stored at a facility as they await sale, scrap, or relocation. The exemption allows said forklifts to be stored onsite for up to six consecutive months. Section 3007(a)(3)(A) requires a non-compliant forklift awaiting sale, scrap, or relocation to have its battery removed or disconnected and be secured with a lockout device such that the forklift cannot be energized or operated. Section 3007(a)(3)(B) provides that in lieu of a lockout device, a tagout device could be used instead as long as the battery, work attachment, such as forks, and propane tank, if applicable, have been removed. Section 3007(a)(3)(C) sets forth that the non-compliant LSI forklift shall not be operated while awaiting removal from the facility except for the purposes of transporting the forklift off of the site.

Rationale: This exemption allows fleet operators to temporarily store phased-out forklifts while said forklifts await sale, scrap, or relocation. This exemption is appropriate because the timing of processes for selling, scrapping, or relocating heavy equipment, like forklifts, could be variable or on a schedule that does not align with the phase-out schedules of the Proposed Regulation. To help ensure non-compliant forklifts would not be operated while

awaiting sale, scrap, or relocation, Section 3007(a)(3)(C) would explicitly restrict their use except for the purpose of removing said forklift from the site. Furthermore, Sections 3007(a)(3)(A) and 3007(a)(3)(B) would establish requirements that would hinder attempts to operate said forklifts. Specifically, the subsections establish procedures that align with lockout/tagout requirements adopted by the Occupational Health and Safety Administration for disabling machinery or equipment to prevent the release of hazardous energy.<sup>3</sup>

*Sections 3007(a)(4) and 3007(a)(4)(A) through 3007(a)(4)(D)*

Purpose: To establish an exemption that allows dealers to possess new LSI forklifts that they are transporting to an out-of-state location. These subsections also set forth the following conditions: the bill of lading for the forklift must be provided to the Executive Officer upon request, the ultimate delivery address is located outside California, the LSI forklift is equipped with an operational, non-resettable hour meter showing no more than 10 hours of total operation, and the LSI forklift would not be allowed to remain in California for more than three months.

Rationale: These subsections allow California-based Dealers to continue to sell LSI forklifts to customers located out-of-state. Section 3007(a)(4)(A) ensures CARB staff is able to obtain documentation demonstrating compliance with the provisions of this exemption. Specifically, the bill of lading includes identifying information about the LSI forklift being transported, the delivery address of the shipment, and the date the shipment was picked up by the shipper, all of which is information CARB staff would need for enforcement purposes. Section 3007(a)(4)(B) is needed to verify that the LSI forklift is being shipped to an out-of-state location. Section 3007(a)(4)(C) ensures the LSI forklift is not operated for purposes other than its transportation to the purchaser in California while being transported, other than for the purpose of transporting the forklift and preparing it for delivery. Section 3007(a)(4)(D) ensures the LSI forklift is transported through California expeditiously.

*Sections 3007(a)(5), 3007(a)(5)(A) 3007(a)(5)(A)1, 3007(a)(5)(A)2, 3007(a)(5)(B), and 3007(a)(5)(C)*

Purpose: To establish an exemption allowing Dealers to possess new LSI forklifts that they are transporting to a Fleet Operator for use as Dedicated Emergency Forklifts.

Rationale: These subsections allow California-based Dealers to continue to sell LSI forklifts to be used as Dedicated Emergency Forklifts. Section 3007(a)(5)(A) ensures CARB staff is

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<sup>3</sup> Title 29, Code of Federal Regulations, Part 1910.147, last amended on July 25, 2011 (web link: <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XVII/part-1910/subpart-J/section-1910.147>).

able to obtain documentation demonstrating compliance with the provisions of this exemption. Specifically, the bill of lading would include identifying information about the LSI forklift being transported, information about the purchaser, and the date the shipment was picked up by the shipper, all of which is information CARB staff would need for enforcement purposes. Section 3007(a)(5)(B) ensures the LSI forklift is not operated for purposes other than its transportation to the purchaser, other than for the purpose of transporting the forklift and preparing it for delivery. Section 3007(a)(5)(C) ensures the LSI forklift is transported to the Fleet Operator expeditiously.

### *Section 3007(b)*

Purpose: To make available to fleet operators certain extensions to phase-out compliance dates for LSI forklifts to address delays caused by circumstances beyond their control. This subsection also stipulates that the Executive Officer would rely on the documentation and information submitted by the fleet operator and utilize good engineering judgement to determine whether the information meets the applicable criteria for each extension. Additionally, the subsection sets forth that an extension would not be transferable to another fleet.

Rationale: This subsection, and its subordinate subsections, establish how each extension provision would interact with the compliance requirements of the MY phase-out schedules. This subsection informs fleet operators that if there are circumstances that delay their ability to meet compliance deadlines set forth in Section 3006(d), they could request a compliance extension from the upcoming compliance date. The restriction on transferring an extension is appropriate because extensions are intended to be situation-specific. In other words, each situation must be evaluated on its own to determine if an extension is warranted. In addition, the transfer of an extension would likely involve the transfer of non-compliant forklifts, which is prohibited by the Proposed Regulation.

### *Section 3007(b)(1)*

Purpose: To provide the method for submitting a request and the process by which the Executive Officer would review and consider approval of said requests.

Rationale: The purpose and rationale for each provision are provided below.

### *Section 3007(b)(1)(A)*

Purpose: To inform fleet operators they would be required to comply with the requirements specified in Section 3008 when requesting a phase-out extension.

Rationale: This subsection establishes general provisions, such as the mailing address to send requests, applicable to information submittals to CARB. These requirements are set forth in Section 3008, the purpose and rationale for which are provided later in this document.

*Section 3007(b)(1)(B)*

Purpose: To allow the Executive Officer to review the submitted documentation and contact the applicant to gather more information before the extension application is deemed to be complete.

Rationale: The subsection describes the extension review process and lets the fleet operator know that the Executive Officer would make an effort to resolve extension requests that may otherwise be deemed insufficient.

*Section 3007(b)(1)(C)*

Purpose: To provide for a default approval of an extension application if the Executive Officer does not contact the fleet operator about the application within 45 days after the request is submitted to CARB.

Rationale: The subsection establishes the duration a fleet operator would be required to wait before they may assume an extension request is complete. This would allow a fleet operator to continue with compliance plans even if circumstances prevent the Executive Officer from reviewing a request within 45 days of its submittal.

*Section 3007(b)(2)*

Purpose: To permit a fleet operator to request an extension to an upcoming compliance date of the applicable phase-out schedule if the delivery of zero-emission forklifts is delayed due to circumstances beyond the fleet operator's control. The subsection also stipulates that the fleet operator must have ordered the zero-emission forklifts to replace LSI forklifts, meet all the eligibility criteria in Section 3007(b)(2)(A), label each affected LSI forklift per Section 3007(b)(2)(C), and submit all documentation and information described in Section 3007(b)(2)(D) within the timelines specified. In addition, the subsection provides that Section 3007(b)(2)(B) specifies the provisions of the extension. Lastly, the subsection stipulates that no Zero-Emission Forklift Delivery Delay Extensions would be granted for initial requests submitted on or after January 1, 2038.

Rationale: This subsection establishes a Zero-Emission Forklift Delivery Delay Extension, which would allow a fleet operator to extend an upcoming phase-out compliance date to a

later date in situations where zero-emission forklifts ordered to replace LSI forklifts to be phased out are delayed due to circumstances beyond the fleet operator's control. Staff is proposing the compliance extension in recognition that disruptions in supply chains, manufacturing, or services could result in temporary shortages of products and delay the delivery of zero-emission forklifts. The purpose and rationale for each subsection cited are provided below. Further, because January 1, 2038, would be the final compliance date in the Proposed Regulation, extensions would not be granted for initial requests submitted on or after such date.

*Section 3007(b)(2)(A)*

Purpose: To describe the fleet eligibility criteria for the Zero-Emission Forklift Delivery Delay Extension.

Rationale: The subsection informs fleet operators of the fleet eligibility criteria that must be met to qualify for a Zero-Emission Forklift Delivery Delay Extension.

*Section 3007(b)(2)(A)1*

Purpose: To describe the eligibility criterion that the estimated delivery date for the required zero-emission forklift occurs after the upcoming compliance date based on documentation from the forklift manufacturer, dealer, or shipper.

Rationale: The subsection informs fleet operators that one of the eligibility criteria for the Zero-Emission Forklift Delivery Delay Extension is that the documented delivery date of required zero-emission forklifts occurs after the next compliance date. The subsection also stipulates that the documented delivery date is required to be provided by the forklift manufacturer, dealer, or shipper. These requirements ensure there is documentation from the manufacturer, dealer, or shipper substantiating a fleet operator's need for the extension.

*Sections 3007(b)(2)(A)2 and 3007(b)(2)(A)2.a through 3007(b)(2)(A)2.c*

Purpose: To establish the eligibility criteria that the zero-emission forklift purchase or lease agreement is required to meet. Specifically, subsections set forth that the purchase or lease agreement is a written, signed, and dated legally binding contract; has not been modified by the fleet operator within one year of the upcoming compliance date; and identifies the make and model of the zero-emission forklift that the fleet operator committed to purchase or lease, an order date that is at least two years prior to the upcoming compliance date, and a delivery date that is at least 45 calendar days prior to the upcoming compliance date. The subsections also provide that letters of intent or other agreements that are not binding, or

that are contingent upon other decisions that remain unresolved within one year of the upcoming compliance date, are not sufficient to qualify for the extension.

Rationale: These subsections establish the purchase or lease agreement requirements needed to qualify a fleet operator for the Zero-Emission Forklift Delivery Delay Extension. The subsections require a legally binding contract to ensure that the fleet operator would be fully committed to purchasing the zero-emission forklifts and that all specific details and contingencies regarding the purchase have been resolved or confirmed. The language in Section 3007(b)(2)(A)2.a. prevents fleet operators from changing terms of the purchase or lease agreement within one year of the upcoming compliance date, which could otherwise be used to purposefully delay the delivery of zero-emission forklifts. The proposed eligibility criteria that the order for the zero-emission forklifts was placed two years before the upcoming compliance date ensures that the fleet operator has taken into account the lead-time required to obtain the zero-emission forklifts. Also, the delivery date of 45 calendar days before the next compliance date ensures that the fleet operator has accounted for potential minor delivery delays of the zero-emission forklifts. Furthermore, these criteria align with analogous extension criteria set forth in the recently adopted Advanced Clean Fleets Regulation (to be codified in Title 13, CCR, Sections 2015 and 2015.1 through 2015.6)

#### *Section 3007(b)(2)(A)3*

Purpose: To set forth the eligibility criteria establishing that the fleet operator has submitted the information specified in Section 3007(b)(2)(D)1 as part of its extension request.

Rationale: The subsection informs fleet operators that in order to be eligible for an extension, all of the information required to be included in their extension request, as set forth in Section 3007(b)(2)(D)1, would need to be submitted. The subsection is necessary to ensure the Executive Officer is provided with the information necessary to determine if an extension is warranted. The purpose and rationale for the information required to be submitted in the extension request is provided below.

#### *Section 3007(b)(2)(B)*

Purpose: To set forth the Extension Provisions for the Zero-Emission Forklift Delivery Delay Extension.

Rationale: The subsection, and its subordinate subsections, inform fleet operators of the extension provisions applicable to a Zero-Emission Forklift Delivery Delay Extension. This subsection, and its subordinate subsections ensure consistent interpretation and

implementation of the Proposed Regulation's requirements related to delivery delay extensions.

*Section 3007(b)(2)(B)1*

Purpose: To allow a granted extension to be valid for a one-year term from the applicable compliance date and allows the fleet operator to renew the request every year until the required zero-emission forklifts are received, except that no extension granted would be valid beyond December 1, 2039. Also, the subsection provides that each renewal extension would be valid for one-year from the extension renewal date.

Rationale: The subsection establishes the length of time a fleet operator would be granted a Zero-Emission Forklift Delivery Delay Extension and that no extension granted would be valid beyond December 31, 2039. The annual renewal requirement ensures the Executive Officer is provided with information on whether the extension would still be needed (i.e., information and documentation of any delivery date estimates). Additionally, staff believes the extension sunset date of December 31, 2039, is appropriate. While most, if not all, supply-chain issues addressed by this extension are expected to be resolved by December 31, 2039, the proposed end date would provide up to two additional years for a fleet to comply with the final phase-out date of the Proposed Regulation, January 1, 2038, in the rare situation that such issues do occur.

*Sections 3007(b)(2)(B)2*

Purpose: To describe the Purchase and Lease Agreement Cancellation Provisions for the Zero-Emission Forklift Delivery Delay Extension.

Rationale: The subsection, and its subordinate subsections, inform fleet operators of the Purchase and Lease Agreement Cancellation Provisions applicable to a Zero-Emission Forklift Delivery Delay Extension. This subsection, and its subordinate subsections ensures consistent interpretation and implementation of the Proposed Regulation's requirements related to delivery delay extensions.

*3007(b)(2)(B)2.a*

Purpose: To describe the steps a fleet operator is required to take to maintain an extension if a manufacturer cancels the purchase or lease agreement of a zero-emission forklift ordered to replace an LSI forklift subject to phase-out by the next compliance date. Specifically, the subsection sets forth that the fleet operator must order another zero-emission forklift with 180 days of the cancellation. Further, the subsection requires fleet operators to submit the manufacturer cancellation notice within 30 calendar days of the



cancellation and submit the new zero-emission forklift purchase or lease agreement within 30 calendar days of placing the order.

Rationale: The subsections address situations where a manufacturer could cancel a purchase or lease agreement for zero-emission forklifts a fleet operator would need in order to phase-out LSI forklifts. A fleet operator would be given 180 days to secure a new purchase order or lease agreement, which staff believes is sufficient time to evaluate zero-emission forklift replacement options and place a new order. Additionally, requiring the fleet operator to notify the Executive Officer within 30 calendar days of securing a new purchase agreement, lease agreement, or receiving the manufacturer's cancellation notice ensures the Executive Officer is provided with information needed for implementation and enforcement purposes in a timely manner. Furthermore, this provision would align with an analogous provision set forth in the recently adopted Advanced Clean Fleets Regulation (to be codified in Title 13, CCR, Sections 2015 and 2015.1 through 2015.6)

*Section 3007(b)(2)(B)2.b*

Purpose: To describe the consequences of a fleet operator cancelling a purchase or lease agreement for a zero-emission forklift that was ordered to replace an LSI forklift covered by a Zero-Emission Forklift Delivery Delay Extension. Specifically, should this occur, the extension would be deemed invalid.

Rationale: The subsection establishes that when a purchase or lease agreement for a zero-emission forklift ordered to replace an LSI forklift covered by a Zero-Emission Forklift Delivery Delay Extension is canceled by the fleet operator, the extension would be deemed invalid. Allowing such cancellations would otherwise provide fleet operators with a mechanism to circumvent the Proposed Regulation's requirements and delay compliance. Furthermore, this provision would align with an analogous provision set forth in the recently adopted Advanced Clean Fleets Regulation (to be codified in Title 13, CCR, Sections 2015 and 2015.1 through 2015.6)

*Section 3007(b)(2)(C)*

Purpose: To describe the specific requirements applicable to the labeling of LSI forklifts covered by a Zero-Emission Forklift Delivery Delay Extension. The subsection directs the fleet operator to Section 3010 for labeling requirements and specifications.

Rationale: The subsection notifies fleet operators that they would be required to label their LSI forklifts covered by a Zero-Emission Forklift Delivery Delay Extension with its an EIN. The label provides CARB staff with a way to efficiently identify forklifts during implementation and enforcement activities. In addition, the labeling requirement would be consistent with

other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3007(b)(2)(D)*

Purpose: To set forth the due dates for Zero-Emission Forklift Delivery Delay Extension requests and the information that would need to be included in the request.

Rationale: This subsection, and its subordinate subsections, ensure consistent interpretation and implementation of the Proposed Regulation's requirements related to delivery delay extension requests and renewals.

*Sections 3007(b)(2)(D)1, 3007(b)(2)(D)1.a, 3007(b)(2)(D)1.b, and 3007(b)(2)(D)1.b.i through 3007(b)(2)(D)1.b.iv*

Purpose: To describe the entity and forklift information that would be required to be provided to the Executive Officer when a fleet operator requests Zero-Emission Forklift Delivery Delay Extension. Specifically, the fleet operator must include the entity information specified in Section 3009(b)(1), and for each LSI forklift to be included in the extension request, forklift information as specified in Section 3009(b)(2); the primary operating location address; the signed purchase or lease agreement for the zero-emission forklift ordered to replace the LSI forklift that meets the criteria in Section 3007(b)(2)(A)2; and documentation from the manufacturer, dealer, or shipper, indicating that zero-emission forklift ordered to replace the LSI forklift is estimated to be delivered after the upcoming compliance date. Additionally, the subsection sets forth that the extension request would be required to be submitted to the Executive Officer within 45 to 90 calendar days before the next compliance date.

Rationale: The subsections ensure consistent interpretation and implementation of the Proposed Regulation's requirements related to delivery delay extension requests and renewals. Entity information identifies a contact person and to associate reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes. Forklift information and location information allow CARB staff to locate and identify forklifts covered by a Zero-Emission forklift Delivery Delay Extension during implementation and enforcement activities. The proposed purchase or lease agreement requirements specified in Section 3007(b)(2)(A)2 ensures the fleet operator has taken material actions to replace their LSI forklift with a zero-emission forklift before the upcoming compliance date. Additionally, requiring the fleet operator to order the required zero-emission forklift two years in advance of the applicable compliance date should reduce the possibility of delivery delays and the number of extension requests received by the Executive Officer. Documentation of the estimated delivery date for the zero-emission

forklift would be needed to substantiate that need for the extension. The subsections inform fleet operators that extension requests must be submitted to the Executive Officer between 45 and 90 calendar days before the next compliance date. This helps ensure that extension requests contain information that is timely and relevant, and the request submittal timeframe provides the time necessary for the Executive Officer to perform detailed analysis of the submitted information.

*Sections 3007(b)(2)(D)2, 3007(b)(2)(D)2.a, and 3007(b)(2)(D)2.b*

Purpose: To describe the information that would be required to be provided to the Executive Officer when a fleet operator requests a Zero-Emission Forklift Delivery Delay Extension renewal. Additionally, the subsections set forth that request must be submitted to the Executive Officer within a 45 to 90 calendar days before the expiration of the current extension term. The required information for the renewal includes an updated estimate of the zero-emission forklift delivery date and documentation from the zero-emission forklift manufacturer, dealer, or shipper reflecting the updated delivery date.

Rationale: These subsections identify the information and documentation required to be included as part of an extension renewal request. Specifically, the estimated delivery date for the zero-emission forklift and the documentation from the manufacturer, dealer, or shipper reflecting the updated delivery date substantiates that need for the extension renewal. The subsections inform fleet operators that extension renewal requests must be submitted to the Executive Officer between 45 and 90 calendar days before the expiration of the current extension. This helps ensure that extension renewal requests contain information that is timely and relevant, and the request submittal timeframe provides the time necessary for the Executive Officer to perform detailed analysis of the submitted information.

*Section 3007(b)(3)*

Purpose: To set forth the provisions for the Infrastructure Delay Extensions, which allows fleet operators to extend a phase-out compliance date to account for infrastructure delays caused by circumstances beyond the fleet operator's control. The subsections establish two different infrastructure delay extensions: one for construction delays experienced during charging or fueling infrastructure projects on the facility-side of the electrical meter (e.g., the installation of forklift chargers or fuel dispensers) and one for site electrification delays experienced by the electric utility provider within the energization process (e.g., installing new transformers at a substation).

Rationale: The purpose and rationale for each Infrastructure Delay Extension type are provided below.

### *Section 3007(b)(3)(A)*

Purpose: To allow a fleet operator to request an extension to an upcoming compliance date of the applicable phase-out schedule if said fleet operator experiences facility-side infrastructure construction delays due to circumstance beyond the fleet operator's control. For example, this extension would cover delays experienced during the installation of zero-emission forklift chargers or hydrogen-fueling infrastructure within the facility. The subsection also stipulates that the fleet operator must meet all the eligibility criteria in Section 3007(b)(3)(A)1 and submit all documentation and information described in Section 3007(b)(3)(A)4 within the timelines specified. Additionally, this subsection provides that only one extension request could be submitted per project. Lastly, the subsection stipulates that no Infrastructure Construction Delay Extension would be granted for initial requests submitted on or after January 1, 2038.

Rationale: This subsection establishes the Infrastructure Construction Delay Extension, which would allow a fleet operator to extend an upcoming phase-out compliance date to a later date in situations where facility-side charging or fueling infrastructure cannot be installed in time due to delays caused by circumstances beyond the fleet operator's control. This is because without adequate charging or fueling infrastructure, it would not be possible to deploy the zero-emission forklifts needed to replace the LSI forklifts that would be phased out. In addition, the subsection informs fleet operators that to qualify for this extension, Fleet Eligibility Criteria presented in Section 3007(b)(3)(A)1 must be met and the documentation specified in Section 3007(b)(3)(A)4 would be required to be submitted. The purpose and rationale for Sections 3007(b)(3)(A)1 and 3007(b)(3)(A)4 are provided below. Further, because January 1, 2038, is the final compliance date in the Proposed Regulation, extensions would not be granted for initial requests submitted on or after such date.

### *Sections 3007(b)(3)(A)1 and 3007(b)(3)(A)1.a through 3007(b)(3)(A)1.e*

Purpose: To describe fleet eligibility criteria for the Infrastructure Construction Delay Extension.

Rationale: These subsections establish the Fleet Eligibility Criteria for the Infrastructure Construction Delay Extension, which must be met by the fleet operator to be granted said extension.

Section *3007(b)(3)(A)1.a* sets forth the circumstances for which a fleet operator could request a Construction Delay Extension. The circumstances provided are those that could cause delays and be beyond the fleet operator's control. For example, a fleet operator could be eligible for a Construction Delay Extension if its general contractor pulls out of a project, the applicable electric utility provider experiences delays getting power to a facility,

or the project encounters unexpected safety issues. The information provided per Section 3007(b)(3)(A)1.a allows the Executive Officer to determine if a delay is due to circumstances beyond the fleet operator's control and to substantiate the need for the extension.

Section 3007(b)(3)(A)1.b ensures that the fleet operator obtained a construction permit and entered into a contract for the installation of charging or fueling infrastructure at least one year ahead of the compliance date or the Infrastructure Site Electrification Delay Extension expiration date. By including this as an eligibility criterion, it would likely reduce the overall probability of fleet operators requiring an Infrastructure Construction Delay Extension.

Section 3007(b)(3)(A)1.c requires fleet operators to deploy as many forklifts as the infrastructure is able to support, and Section 3007(b)(3)(A)1.d requires fleet operators with multiple sites to relocate forklifts as possible to maximize compliance, both of which help ensure emission reductions are achieved to the maximum extent possible given the circumstances.

Section 3007(b)(3)(A)1.e informs fleet operators that extension requests containing the information set forth in Section 3007(b)(3)(A)4 must be submitted to the Executive Officer.

Furthermore, this provision would align with analogous provisions set forth in the recently adopted Advanced Clean Fleets Regulation (to be codified in Title 13, CCR, Sections 2015 and 2015.1 through 2015.6).

#### *Section 3007(b)(3)(A)2*

Purpose: To set forth the Infrastructure Construction Delay Extension provisions for determining the number of LSI forklifts that could be included in an extension. In addition, the subsections set forth provisions applicable to the term of an Infrastructure Construction Delay Extension.

Rationale: The purpose and rationale for each provision are provided below.

#### *Section 3007(b)(3)(A)2.a*

Purpose: To allow a fleet operator to request an extension for any LSI forklift in their fleet with an upcoming compliance date provided the fleet operator successfully demonstrates that a replacement zero-emission forklift cannot be charged or fueled at the site before the next compliance date due to a construction delay. The subsection also requires that fleet operators deploy as many zero-emission forklifts each year that the facility can support until the fleet is in compliance with the Proposed Regulation. Lastly, the subsection stipulates that

only LSI forklifts at the site experiencing the delay may be included in an Infrastructure Construction Delay Extension.

Rationale: These subsections ensure that fleet operators phase out as many LSI forklifts as possible at the site experiencing the construction delay, which reduces emissions to the maximum extent possible given the circumstances.

*Section 3007(b)(3)(A)2.b.*

Purpose: To limit Infrastructure Construction Delay Extensions for a period of up to two years with no possibility of renewal.

Rationale: This subsection explains that the maximum term of an Infrastructure Construction Delay Extension is two years and that the extension cannot be renewed. Staff believes limiting the extension to two years allows for sufficient time for fleet operators to resolve their construction issues while still ensuring projects are completed in a timely manner.

*Section 3007(b)(3)(A)3*

Purpose: To provide operators with specific requirements applicable to the labeling of LSI forklifts covered by an Infrastructure Construction Delay Extension. The subsection directs the fleet operator to Section 3010 for labeling requirements and specifications.

Rationale: The subsection notifies fleet operators that they must label their LSI forklifts covered by an Infrastructure Construction Delay Extension with its EIN. The label provides CARB staff with a way to efficiently identify forklifts during implementation and enforcement activities. In addition, the labeling requirement would be consistent with other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Sections 3007(b)(3)(A)4*

Purpose: To provide the information that must be included in an Infrastructure Construction Delay Extension request. Additionally, the subsection sets forth that the extension request must be submitted to the Executive Officer within 45 to 90 calendar days before the next compliance date.

Rationale: This subsection, and its subordinate subsections, ensures consistent interpretation and implementation of the Proposed Regulation's requirements. This subsection informs fleet operators that extension requests must be submitted to the Executive Officer between 45 and 90 calendar days before the next compliance date. This

helps ensure that extension requests contain information that is timely and relevant, and the request submittal timeframe provides the time necessary for the Executive Officer to perform detailed analysis of the submitted information.

*Section 3007(b)(3)(A)4.a*

Purpose: To specify entity information required to be provided to the Executive Officer when a fleet operator requests an Infrastructure Construction Delay Extension. Specifically, the fleet operator must include the entity information specified in Section 3009(b)(1).

Rationale: Entity information identifies a contact person and to associate reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Sections 3007(b)(3)(A)4.b, 3007(b)(3)(A)4.b.i, and 3007(b)(3)(A)4.b.ii*

Purpose: To describe the forklift information that must be provided to the Executive Officer when a fleet operator requests an Infrastructure Construction Delay Extension. Specifically, the fleet operator must include the forklift information specified in Section 3009(b)(2) and the primary operating location address for each LSI forklift to be covered by the Infrastructure Construction Delay Extension.

Rationale: Forklift information and location information allows the Executive Officer to locate and identify forklifts covered by an Infrastructure Construction Delay Extension during implementation and enforcement activities.

*Section 3007(b)(3)(A)4.c*

Purpose: To identify documentation that must be included in the request for an Infrastructure Construction Delay Extension, showing the delay is a result of any of the circumstances provided in Section 3007(b)(3)(A)1.a.

Rationale: This documentation helps the Executive Officer determine whether the cause of the construction delay would fall into one of the eligible categories provided in Section 3007(b)(3)(A)1.a.

*Sections 3007(b)(3)(A)4.d, 3007(b)(3)(A)4.d.i, 3007(b)(3)(A)4.d.ii, and 3007(b)(3)(A)4.d.iii*

Purpose: To require, in the request for an Infrastructure Construction Delay Extension, a letter to the Executive Officer from the responsible official with the following: the reason for

the delay; the estimated completion date of the project; and documentation supporting the reason for the delay from the licensed contractor performing the work, related utility, building department, or other organization involved in the project.

Rationale: This letter informs the Executive Officer of the reason for the construction delay, so the Executive Officer could reliably verify that the fleet operator's circumstances warrant an Infrastructure Construction Delay Extension. The estimated completion date of the project determines the term of the extension granted. The documentation supporting the reason for the delay from the licensed contractor performing the work, related utility, building department, or other organization involved in the project helps further substantiate the need for the Infrastructure Construction Delay Extension.

*Section 3007(b)(3)(A)4.e*

Purpose: To require, in the request for an Infrastructure Construction Delay Extension, documentation showing the executed contract for the infrastructure installation with the necessary construction permit showing a permit-issue date that is at least one year prior to the upcoming compliance date or the Infrastructure Site Electrification Delay Extension expiration date.

Rationale: This documentation demonstrates that the eligibility criteria regarding the construction contract and permit have been met.

*Section 3007(b)(3)(A)4.f*

Purpose: For an extension requested for charging infrastructure construction delays, to require in the request for an Infrastructure Construction Delay Extension the fleet operator's plan for charging zero-emission forklifts, including information on the number of chargers to be installed per Forklift, the types of chargers to be installed, and the integration of charging into the operation's workflow.

Rationale: This documentation helps determine the maximum number of zero-emission forklifts that can be supported by existing infrastructure and substantiate the number of LSI forklifts to be covered by the Infrastructure Construction Delay Extension.

*Section 3007(b)(3)(A)4.g*

Purpose: In the request for an Infrastructure Construction Delay Extension, if the fleet operator has multiple sites where forklifts are operated, to require an analysis for each site demonstrating that additional zero-emission forklifts cannot be deployed at the Fleet



Operator's other locations to facilitate the relocation of compliant LSI forklifts to the location subject to the construction delay.

Rationale: This documentation helps determine conformance with the eligibility criterion that the fleet operator has relocated forklifts to the extent possible to maximize compliance across its sites.

#### Section 3007(b)(3)(A)4.h

Purpose: In the request for an Infrastructure Construction Delay Extension, to require copies of the executed zero-emission forklift purchase or lease agreements.

Rationale: The copies of the executed agreements demonstrate the fleet operator's good faith efforts to deploy zero-emission forklifts by the upcoming compliance date.

#### *Section 3007(b)(3)(B)*

Purpose: To allow a fleet operator to request an extension to an upcoming compliance date of the applicable phase-out schedule if the local electric utility provider determines it cannot provide, prior to said compliance date, the requested power to the site where zero-emission forklifts needed for compliance would be charged or fueled. The subsection also stipulates that the fleet operator must meet all the eligibility criteria in Section 3007(b)(3)(B)1 and submit all documentation and information described in Section 3007(b)(3)(B)4.a within the timelines specified.

Rationale: This subsection would be necessary to establish the Infrastructure Site Electrification Delay Extension, which allows a fleet operator to extend an upcoming phase-out compliance date to a later date in situations where the local electric utility provider is unable to fulfill a service installation or upgrade request necessary to charge, or to provide power to the infrastructure needed to fuel, zero-emission forklifts needed for fleet compliance. This is because without adequate charging or fueling infrastructure, it would not be possible to deploy the zero-emission forklifts needed to replace the LSI forklifts that would be phased out. In addition, the subsection informs fleet operators that to qualify for this extension, Fleet Eligibility Criteria presented in Section 3007(b)(3)(B)1 would need to be met and the documentation specified in Section 3007(b)(3)(B)4.a would be required to be submitted. The purpose and rationale for Sections 3007(b)(3)(B)1 and 3007(b)(3)(B)4 are provided below.

#### *Sections 3007(b)(3)(B)1 and 3007(b)(3)(B)1.a through 3007(b)(3)(B)1.e*

Purpose: To set forth the fleet eligibility criteria for the Infrastructure Site Electrification Delay Extension

Rationale: These subsections establish the fleet eligibility criteria for the Infrastructure Site Electrification Delay Extension, which must be met by the fleet operator in order to be granted said extension.

Section 3007(b)(3)(B)1.a allows only fleet operators that have initiated electrical infrastructure projects well ahead of the compliance deadline to request an Infrastructure Site Electrification Delay Extension. This subsection reduces the risk that potential infrastructure site electrification issues delay the phase-out of LSI forklifts because it gives more time to the electric utility provider to plan and fulfill site electrification requests. In addition to the requirement for Fleet Operators to initiate discussions with electric utility providers by March 31, 2026, the proposed extension provisions also set forth deadlines by which formal site electrification requests must be submitted. Specifically, for the first compliance date of January 1, 2028, the extension provisions require that the formal request to the electric utility provider be submitted by January 1, 2027, or one year in advance of the compliance date. This provides Fleet Operators with some lead time from the proposed start date of the Proposed Regulation to adequately plan and assess their power needs before submitting their formal request to the electric utility provider. For the January 1, 2029, compliance date through the January 1, 2036, compliance date, the extension provisions require that the formal request to the electric utility provider be submitted at least two years prior to the applicable compliance date. According to electric utility providers, most utility-side infrastructure projects can be completed within two years, so requiring Fleet Operators to submit their formal request two years in advance reduces the risk of the site electrification process impairing a Fleet Operator's ability to deploy needed ZEFs in a timely manner. For the January 1, 2038, compliance date, the extension provisions requires that the formal request to the electric utility provider be submitted by January 1, 2034. Staff believes that by January 1, 2034, Fleet Operators would have well-established ZEF deployment plans in place allowing them to make longer-term infrastructure commitments. Requiring Fleet Operators to submit their formal requests four years in advance minimizes the possibility of the site electrification process delaying the full implementation of the Proposed Regulation beyond January 1, 2038. The allowance for another entity to contact the applicable electric utility provider and request electrical-service installation or upgrades on behalf of the fleet operator is necessary because the fleet operator could be a tenant without the authority to request electrical-service installation or upgrades for the location of operation.

Section 3007(b)(3)(B)1.b is necessary because the notification from the electric utility provider regarding its inability to provide the requested power prior to the upcoming

compliance date helps substantiate the need for an Infrastructure Site Electrification Delay Extension.

Section 3007(b)(3)(B)1.c requires fleet operators to deploy as many forklifts as the infrastructure is able to support, and Section 3007(b)(3)(B)1.d requires fleet operators with multiple sites to relocate forklifts as possible to maximize compliance, both of which helps ensure emission reductions are achieved to the maximum extent possible given the circumstances.

Section 3007(b)(3)(B)1.e informs fleet operators that extension requests containing the information set forth in Section 3007(b)(3)(B)4.a must be submitted to the Executive Officer.

### *Section 3007(b)(3)(B)2*

Purpose: To describe the Infrastructure Site Electrification Delay Extension provisions for determining the number of LSI forklifts that could be included in an extension. In addition, the subsections set forth provisions applicable to the term of an Infrastructure Site Electrification Delay Extension.

Rationale: The purpose and rationale for each provision are provided below.

### *Section 3007(b)(3)(B)2.a*

Purpose: To allow a fleet operator to request an extension for any LSI forklift in their fleet with an upcoming compliance date provided the fleet operator successfully demonstrates that a replacement zero-emission forklift cannot be charged or fueled at the site before the next compliance date due to a site electrification delay. The subsection also requires that fleet operators deploy as many zero-emission forklifts each year that the electric utility provider can support through stepped increases in capacity until the fleet reaches compliance with the Proposed Regulation.

Rationale: These subsections ensures that fleet operators phase out as many LSI forklifts as possible at the site experiencing the site electrification delay, to reduce emissions to the maximum extent possible given the circumstances.

### *Section 3007(b)(3)(B)2.b.*

Purpose: To provide that any initial Infrastructure Site Electrification Delay Extensions granted would be valid for a period of up to three years based on the amount of time the utility determines it would need to supply the needed power. Additionally, the subsection explains that the first renewal, if granted, would be valid for period of up to two years if the

electric utility provider still cannot deliver the needed power by the end of the initial extension. The subsection also explains that any additional renewals, if granted, would be valid for a period of one year. Further, the subsection stipulates that renewals could be granted until the needed power is delivered or up to ten calendar years, whichever occurs first.

Rationale: The extension term and renewal structure (i.e., up to three years initially, then up to two years, then annually thereafter) reflects staff's understanding that most utility-side installations and upgrades would not be expected to take longer than three years to complete. However, for service installations or upgrades that do take longer than three years, the decreasing reporting interval would allow the Executive Officer to verify fleet operators are deploying the maximum number of zero-emission forklifts that can be supported by stepped increases in capacity each year. The more frequent renewal requests would also provide the Executive Officer with up-to-date information on infrastructure growth and issues. This extension could be renewed up to a maximum extension term of ten years, which staff expects should provide adequate time for all site electrification issues to be resolved.

*Section 3007(b)(3)(B)3*

Purpose: To establish specific requirements applicable to the labeling of LSI forklifts covered by an Infrastructure Site Electrification Delay Extension. The subsection directs the fleet operator to Section 3010 for labeling requirements and specifications.

Rationale: The subsection notifies fleet operators that they are required to label their LSI forklifts covered by an Infrastructure Site Electrification Delay Extension with an EIN. The label provides CARB staff with a way to efficiently identify forklifts during implementation and enforcement activities. In addition, the labeling requirement would be consistent with other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3007(b)(3)(B)4*

Purpose: To establish due dates for Infrastructure Site Electrification Delay Extension requests and renewal requests as well as the information that must be included in such requests.

Rationale: The purpose and rationale for each provision are provided below.

*Sections 3007(b)(3)(B)4.a*

Purpose: To describe the information that must be included in an Infrastructure Site Electrification Delay Extension request. Additionally, the subsection mandates that the extension request must be submitted to the Executive Officer within 45 to 90 calendar days before the next compliance date.

Rationale: This subsection informs fleet operators that extension requests must be submitted to the Executive Officer between 45 and 90 calendar days before the next compliance date. This helps ensure that extension requests contain information that is timely and relevant, and the request submittal timeframe provides the time necessary for the Executive Officer to perform detailed analysis of the submitted information.

*3007(b)(3)(B)4.a.i*

Purpose: To specify entity information that must be provided to the Executive Officer when a fleet operator requests an Infrastructure Site Electrification Delay Extension. Specifically, the fleet operator must include the entity information specified in Section 3009(b)(1).

Rationale: Entity information identifies a contact person and to associate reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Sections 3007(b)(3)(B)4.a.ii., 3007(b)(3)(B)4.a.ii.I, and 3007(b)(3)(B)4.a.ii.II*

Purpose: To describe the forklift information required to be provided to the Executive Officer when a fleet operator requests an Infrastructure Site Electrification Delay Extension. Specifically, the fleet operator must include the forklift information specified in Section 3009(b)(2) and the primary operating location address for each LSI forklift required to be phased out pursuant to Section 3006 during the term of the Infrastructure Site Electrification Delay Extension.

Rationale: Forklift information and location information allows CARB staff to locate and identify forklifts covered by an Infrastructure Site Electrification Delay Extension during implementation and enforcement activities.

*Section 3007(b)(3)(B)4.a.iii.*

Purpose: In the request for an Infrastructure Site Electrification Delay Extension, to require a copy of the application submitted to the electric utility provider requesting service installation or upgrades for sufficient power to charge, or to provide power for infrastructure necessary to fuel, zero-emission forklifts needed for fleet compliance each year for the duration of the extension.

Rationale: The subsection allows the Executive Officer to verify that the fleet operator initiated electrical infrastructure projects on the timeline required, which is one of the eligibility criteria for the Infrastructure Site Electrification Delay Extension.

*Sections 3007(b)(3)(B)4.a.iv and 3007(b)(3)(B)4.a.iv.I through 3007(b)(3)(B)4.a.iv.IV*

Purpose: In the request for an Infrastructure Site Electrification Delay Extension, to require documentation and correspondence from the electric utility provider.

Rationale: *Section 3007(b)(3)(B)4.a.iv.I* and *Section 3007(b)(3)(B)4.a.iv.II* substantiate to the Executive Officer that an Infrastructure Site Electrification Delay Extension is needed and provide needed information about infrastructure growth and related issues.

*Section 3007(b)(3)(B)4.a.iv.III* enable the Executive Officer to estimate the number of zero-emission forklifts that can be added to the fleet each year. The information would be used to verify that fleet operators are fulfilling their obligation to deploy the maximum number of zero-emission forklifts that can be supported by the electric utility provider each calendar year through the end of the extension period.

*Section 3007(b)(3)(B)4.a.iv.IV* enable the Executive Officer to estimate the number of years an extension would need to be valid.

*Section 3007(b)(3)(B)4.a.v*

Purpose: To require, in the request for an Infrastructure Site Electrification Delay Extension, facility billing statements that cover the previous 12 months.

Rationale: This subsection allows the Executive Officer to evaluate baseline energy use at the facility relative to total capacity, which helps determine if additional zero-emission forklifts could be deployed without additional electrical capacity.

*Sections 3007(b)(3)(B)4.a.vi, 3007(b)(3)(B)4.a.vi.I, and 3007(b)(3)(B)4.a.vi.II*

Purpose: To require, in the request for an Infrastructure Site Electrification Delay Extension, information about the zero-emission forklift charging or fueling infrastructure equipment that can be installed consistent with the electric utility provider's capacity estimate for each year of the requested extension and the associated number of zero-emission forklifts that can be supported by such equipment. For charging infrastructure, the required information includes the number, type, and rated power capacity for chargers in kilowatts. For hydrogen stations, the required information includes dispensing capacity in kilograms per day and the electrical demand in kilowatts.

Rationale: This information helps determine the maximum number of zero-emission forklifts that could be supported by the infrastructure each year of the extension period and to substantiate the need for an Infrastructure Site Electrification Delay Extension and the number of LSI forklifts to be covered by the extension.

*Section 3007(b)(3)(B)4.a.vii*

Purpose: If the fleet operator has multiple sites where forklifts are operated, to require, in the request for an Infrastructure Site Electrification Delay Extension, an analysis for each site demonstrating that additional zero-emission forklifts cannot be deployed at the Fleet Operator's other locations to facilitate the relocation of compliant LSI forklifts to the location subject to the construction delay.

Rationale: This documentation helps determine conformance with the eligibility criterion that the fleet operator has relocated forklifts to the extent possible to maximize compliance across its sites. To ensure its accuracy, the analysis must be conducted by a professional electrical engineer or other qualified person.

*Section 3007(b)(3)(B)4.a.viii*

Purpose: To require, in the request for an Infrastructure Site Electrification Delay Extension, the executed utility contract, or in lieu of the executed utility contract, the fleet operator's initial contract or application requesting site electrification from the utility and a signed attestation from the electric utility provider stating they will proceed with the project.

Rationale: The subsection provides the Executive Officer with evidence that the fleet operator is making a good faith effort to have the necessary service capacity installed at the site.

*Section 3007(b)(3)(B)4.b*

Purpose: To describe the information that must be provided to the Executive Officer when a fleet operator requests an Infrastructure Site Electrification Delay Extension renewal. Additionally, the subsections mandate that request be submitted to the Executive Officer within 45 to 90 calendar days before the expiration of the current extension term. Specifically, in the renewal, the fleet operator must provide, as applicable, updates to any information or documentation provided in the previous extension or renewal request.

Rationale: Extension renewal requests provide the Executive Officer with updated information by which to assess the facility's electrification status and outlook. All rationale provided for Section 3007(b)(3)(B)4.a, and its subordinate subsections, also apply to

renewal requests. The subsections also inform fleet operators that extension renewal requests must be submitted to the Executive Officer between 45 and 90 calendar days before the expiration of the current extension. This helps ensure that extension renewal requests contain information that is timely and relevant, and the request submittal timeframe provides the time necessary for the Executive Officer to perform detailed analysis of the submitted information.

*Section 3007(b)(4)*

Purpose: To allow a fleet operator to request an extension to an upcoming compliance date of the applicable phase-out schedule if there is no commercially available zero-emission forklift model that can meet the needs of an operation currently served by an LSI forklift required to be phased out. The subsection also stipulates that the fleet operator must have met all the eligibility criteria in Section 3007(b)(4)(A) and submit all documentation and information described in Section 3007(b)(4)(D)1 within the timelines specified. Additionally, the subsection stipulates that no Technical Infeasibility Extensions granted would be valid beyond December 31, 2037.

Rationale: This subsection establishes a Technical Infeasibility Extension, which allows a fleet operator to extend an upcoming phase-out compliance date to a later date in situations in which there is no zero-emission forklift model available that would be able to meet the operational needs fulfilled by the LSI forklift to be phased out. Although such situations would be rare because of the broad commercial availability of zero-emission forklifts, they may exist for some fleets, for example where LSI forklifts are currently used in novel ways such as for long-distance towing. However, no Technical Infeasibility Extensions granted would be valid beyond December 31, 2037; staff believes the proposed timeframe would provide Fleet Operators with sufficient opportunity to resolve all operational challenges. The purpose and rationale for each subsection cited are provided below.

*3007(b)(4)(A)*

Purpose: To describe fleet eligibility criteria for the Technical Infeasibility Extension.

Rationale: The subsection informs fleet operators of the fleet eligibility criteria to qualify for a Technical Infeasibility Extension.

*Sections 3007(b)(4)(A)1 and 3007(b)(4)(A)1.a through 3007(b)(4)(A)1.c*

Purpose: To describe the specific situations under which a fleet operator would be eligible for the Technical Infeasibility Extension. Specifically, the subsection requires the fleet operator to demonstrate through documentation and information provided pursuant to



Section 3007(b)(4)(D)1 that one of the stated circumstances apply in order to be eligible for a Technical Infeasibility Extension.

Rationale: These subsections establish limited situations under which fleet operators could request to delay the compliance date for an LSI forklift due to a feasibility issue. These subsections ensure businesses with operations that may not be suitable for current zero-emission forklift models due to performance or safety issues would be able to continue using their LSI forklift until a capable zero-emission model becomes available. Based on discussions with stakeholders, these types of operations would be uncommon, and staff expects that advancements in zero-emission forklifts would ultimately resolve all operational and safety issues that may exist today. Additionally, as mentioned earlier, all extension provisions sunset by January 1, 2038. These subsections also reference Section 3007(b)(4)(D)1, which contains provisions applicable to submittals of extension requests and renewals. This ensures that fleet operators provide the appropriate information within their requests that substantiates their need for a Technical Feasibility Extension.

*Section 3007(b)(4)(A)2*

Purpose: To require that the LSI forklift to be phased out by the upcoming compliance date is a 2013 or subsequent MY Forklift.

Rationale: The subsection ensures that only LSI forklifts with engines that meet the most-stringent LSI emission standards would qualify for a Technical Infeasibility Extension.

*Section 3007(b)(4)(A)3*

Purpose: To require that the LSI forklift is dedicated to the operation for which the fleet operator is requesting a Technical Feasibility Extension.

Rationale: The subsection helps minimize the number of LSI forklifts for which a fleet operator would seek a Technical Feasibility Extension.

*Section 3007(b)(4)(A)4*

Purpose: To require that the fleet operator has made a good faith effort to manage operations such that the need for Technical Infeasibility Extensions has been minimized.

Rationale: The intent of this subsection is to encourage fleet operators to structure operations such that they would minimize the number of LSI forklifts they maintain under a Technical Infeasibility Extension. In addition, this criterion could be used as a basis to request operational modifications during the review of extension requests.

### *Section 3007(b)(4)(A)5*

Purpose: To require that the fleet operator has submitted the information specified in Section 3007(b)(4)(D)1 to the Executive Officer.

Rationale: This subsection informs fleet operators that extension requests containing the information set forth in Section 3007(b)(4)(D)1 must be submitted to the Executive Officer.

The information provided to the Executive Officer, as specified in Section 3007(b)(4)(D)1, must be submitted within a 45-to-90-calendar day range. The 45 to 90 calendar day range before the next compliance date is necessary for the Executive Officer to perform detailed analysis of submitted information and ensures the Executive Officer has adequate time to assess the entirety of an applicant's complete submission. The time range allows for processing multiple applications that could be received and need to be processed at the same time and allow for the Executive Officer to communicate with applicants to clarify the information provided. Further, the 45 to 90 calendar-day range also provides a reasonably fast turnaround time for fleet operators that may need to make alternative plans to keep their company operating.

### *Section 3007(b)(4)(B)*

Purpose: To allow the initial Technical Infeasibility Extension and each renewal granted to be valid for a period of one year. Further, the subsection stipulates that renewals could be granted until a suitable zero-emission forklift model becomes available or until January 1, 2038, whichever occurs first.

Rationale: The subsection establishes the length of time a fleet operator would be granted a Technical Infeasibility Extension and that the extension could be renewed every year until January 1, 2038. The annual renewal requirement ensures the Executive Officer is provided with information on whether the extension would still be needed (i.e., information on the availability of new zero-emission forklift models). As mentioned above, staff is proposing a sunset date for all extensions of January 1, 2038, which aligns with the last compliance date of the Proposed Regulation, because staff expects that all operational and safety issues covered by the extensions would be resolved by that time.

### *Section 3007(b)(4)(C)*

Purpose: To require labeling for LSI forklifts covered by a Technical Infeasibility Extension. The subsection directs the fleet operator to Section 3010 for labeling requirements and specifications.

Rationale: The subsection notifies fleet operators that they are required to label their LSI forklifts covered by a Technical Infeasibility Extension with its EIN. The label provides the Executive Officer with a way to efficiently identify forklifts during implementation and enforcement activities. In addition, the labeling requirement would be consistent with other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3007(b)(4)(D)*

Purpose: To impose due dates for Technical Infeasibility Extension requests and require information that would need to be included in the request.

Rationale: The purpose and rationale for each provision are provided below.

*Section 3007(b)(4)(D)1*

Purpose: To describe information that must be included in a Technical Infeasibility Extension request. Additionally, the subsection requires an extension request to be submitted to the Executive Officer within 45 to 90 calendar days before the next compliance date. The subsection also stipulates that multiple LSI forklifts of the same equipment type, for which the extension justification provided is identical, may be included in the same request.

Rationale: This subsection informs fleet operators that extension requests must be submitted to the Executive Officer between 45 and 90 calendar days before the next compliance date. This helps ensure that extension requests contain timely and relevant information, and the request submittal timeframe would provide the time necessary for the Executive Officer to perform a detailed analysis of the submitted information. Lastly, the allowance for including multiple LSI forklifts in one request makes the request process more efficient for both the fleet operator and CARB staff.

*Section 3007(b)(4)(D)1.a*

Purpose: To specify entity information required to be provided to the Executive Officer when a fleet operator requests a Technical Infeasibility Extension. Specifically, the fleet operator must include the entity information specified in Section 3009(b)(1).

Rationale: Entity information identifies a contact person and to associate reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Section 3007(b)(4)(D)1.b, 3007(b)(4)(D)1.b.i, and 3007(b)(4)(D)1.b.ii*

Purpose: To describe the forklift information required to be provided to the Executive Officer when a fleet operator requests a Technical Infeasibility Extension. Specifically, the fleet operator must include the forklift information specified in Section 3009(b)(2) and the primary operating location address for each LSI forklift to be covered by the Technical Infeasibility Extension.

Rationale: Forklift information and location information allow CARB staff to locate and identify forklifts covered by a Technical Infeasibility Extension during implementation and enforcement activities.

*Section 3007(b)(4)(D)1.c*

Purpose: To require, in the request for a Technical Infeasibility Extension, a detailed description of the operation in which the applicable LSI forklifts operate, including site maps with operating areas, storage areas, and areas of concern identified; a description of the potential operational and safety issues; a description of the nature of the work or duty cycle; a description of the operating environment; and a detailed explanation of how the need for Technical Infeasibility Extensions has been minimized.

Rationale: The information required per this subsection, in conjunction with other information provided, would be used by the Executive Officer to determine if a Technical Infeasibility Extension is warranted and to determine if additional strategies could be employed to further reduce the need for applicable LSI forklifts. In addition, the information could be used to verify conformance with extension requirements and with information provided as part of the extension request, such as the fleet operator's plan to ensure applicable LSI forklifts are dedicated to operations covered by the Technical Feasibility Extension.

*Section 3007(b)(4)(D)1.d*

Purpose: To require, in the request for a Technical Infeasibility Extension, a detailed description of the required characteristics a forklift must have to perform the work effectively and safely.

Rationale: The subsection substantiates the need for a Technical Infeasibility Extension. For example, the information could be used by the Executive Officer to verify whether there would be zero-emission forklift models suitable for the operation covered by the Technical Infeasibility Extension. The information could also be used to inform discussions with forklift manufacturers on potential improvements to zero-emission options to address operational and safety concerns.

*Section 3007(b)(4)(D)1.e*

Purpose: To require, in the request for a Technical Infeasibility Extension, an explanation as to how the fleet operator will manage applicable LSI forklifts such that they only perform the operation covered by the Technical Feasibility Extension.

Rationale: This subsection allows the Executive Officer to review the fleet operator's plan on meeting the eligibility criterion that applicable LSI forklifts be dedicated to the operation covered by the Technical Infeasibility Extension.

*Section 3007(b)(4)(D)1.f*

Purpose: To require, in the request for a Technical Infeasibility Extension, a comprehensive market evaluation and determination using engineering judgement that demonstrates that no available Zero-Emission Forklift models of similar configuration as the LSI forklift to be phased out is capable of being as effective and/or safe as said LSI forklift. Additionally, the subsection requires that the evaluation be completed based on zero-emission forklift model availability within the six-month period immediately preceding the upcoming compliance date.

Rationale: The evaluation substantiates the need for a Technical Infeasibility Extension. The Executive Officer would analyze the submitted information and data to validate the fleet operator's assessment that there is no zero-emission forklift model available that is suitable to replace the applicable LSI forklift. The subsection requires the evaluation to be completed within the six-month period before the next compliance date to ensure that the latest model zero-emission forklifts have been reviewed by the fleet operator.

*Section 3007(b)(4)(D)1.g*

Purpose: To require, in the request for a Technical Infeasibility Extension, statements or information from applicable forklift manufacturers, dealers, insurance companies, and/or other entities substantiating the operational or safety issues cited in the extension request.

Rationale: The documentation provides additional evidence for the Executive Officer to consider when determining whether a fleet operator would need a Technical Infeasibility Extension.

*Section 3007(b)(4)(D)1.h*

Purpose: To require, in the request for a Technical Infeasibility Extension, forklift specification sheets, copies of warranty conditions, leasing criteria, and/or other documentation supporting Technical Infeasibility Extension request.

Rationale: The documentation provides additional evidence and information for the Executive Officer to consider when determining whether a fleet operator would need a Technical Infeasibility Extension.

*Section 3007(b)(4)(D)2.*

Purpose: To describe the information that must be provided to the Executive Officer when a fleet operator requests a Technical Infeasibility Extension renewal. Additionally, the subsections require the request to be submitted to the Executive Officer within a 45 to 90 calendar days before the expiration of the current extension term. A new market evaluation, as described in Section 3007(b)(4)(D)1.f, including updated documentation specified in Section 3007(b)(4)(D)1.g and Section 3007(b)(4)(D)1.h, must be submitted in order to renew the extension.

Rationale: These subsections identify the information and documentation that must be included as part of an extension renewal request. Specifically, a new market evaluation, as described in Section 3007(b)(4)(D)1.f, including updated documentation specified in Section 3007(b)(4)(D)1.g and Section 3007(b)(4)(D)1.h, substantiates that need for the extension renewal. The subsections are also necessary to inform fleet operators that extension renewal requests must be submitted to the Executive Officer between 45 and 90 calendar days before the expiration of the current extension. This helps ensure that extension renewal requests contain timely and relevant information. The 45 to 90 calendar day range before the next compliance date is necessary for the Executive Officer to perform detailed analysis of submitted information and ensures the Executive Officer has adequate time to assess the entirety of an applicant's complete submission. The time range allows for processing multiple applications that could be received and need to be processed at the same time and allow for the Executive Officer to communicate with applicants to clarify the information provided. Further, the 45 to 90 calendar-day range also provides a reasonably fast turnaround time for fleet operators that may need to make alternative plans to keep their company operating.

Finally, the evaluation must be completed within the six-month period before the next compliance date to assure that the latest model zero-emission forklifts have been reviewed by the fleet operator.

## **J. Section 3008. Submittals to CARB**

### *Sections 3008(a) and 3008(a)(1) through 3008(a)(2)*

Purpose: To specify that the responsible official must submit all documentation and information in English and that all information submitted must be true, accurate, and complete, signed under penalty of perjury by individual(s) with the authority to certify that the regulated party complies with applicable requirements of this section.

Rationale: These subsections ensure information submitted is received successfully and can be properly evaluated by the Executive Officer. In addition, the subsections help ensure the information submitted is accurate, true, and complete, which allows the Executive Officer to effectively carry out his or her outreach, implementation, and enforcement duties. The subsection serves as a reminder to the responsible official to review the requirements of the Proposed Regulation, which could result in higher levels of compliance.

### *Section 3008(b)*

Purpose: To identify the means by which reporting and documentation would be required to be submitted to the Executive Officer (i.e., via a CARB reporting system or by email).

Rationale: This subsection ensures information submitted is received successfully and can be properly evaluated by the Executive Officer.

### *Sections 3008(c) and 3008(c)(1) through 3008(c)(5)*

Purpose: To describe information required for the responsible official to identify a designated official to submit regulatory reporting on behalf of said responsible official.

Rationale: The subsection provides instructions to the responsible official on how to identify a designated official. The subsection provides the responsible official with the ability to delegate reporting duties to another person.

## **K. Section 3009. Reporting and Recordkeeping**

Purpose: To establish reporting and recordkeeping requirements.

Rationale: Reporting and recordkeeping are necessary for CARB to implement and enforce the Proposed Regulation more effectively. Fleets need to report their fleet information and request extensions.

*Section 3009(a)*

Purpose: To establish general reporting requirements applicable to all reports and all record maintenance related to reporting.

Rationale: Reporting is necessary for CARB to implement and enforce the Proposed Regulation more effectively. Fleets need to report their fleet information and request extensions. By providing these general requirements in a distinct subsection, stakeholders are able to easily reference it and staff avoid repeating this information throughout the reporting section.

*Section 3009(a)(1)*

Purpose: To require responsible officials to retain records of all information and documentation needed to demonstrate compliance for a minimum of five years after the information is collected or reported.

Rationale: The subsection allows the Executive Officer to access information and documentation needed to substantiate reported information and demonstrate compliance during implementation and enforcement activities. Staff believes the minimum five years of record retention is a reasonable timeframe because it allows for the assessment of a fleet's compliance status in previous years without creating a substantial additional recordkeeping burden on affected entities.

*Section 3009(a)(2)*

Purpose: To require responsible officials to provide information and documentation to the Executive Officer that demonstrate compliance with the Proposed Regulation within five business days of CARB's request for such information and documentation.

Rationale: The subsection notifies the responsible official of the timeframe allowed for providing requested information and documentation to the Executive Officer upon request. Staff is proposing to allow five business days for a responsible official to provide information and documentation responding to a request by the Executive Officer. Staff believes the five-day timeframe ensures information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. Additionally, the timeframe would align with response timeframes required in



other CARB fleet regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

*Section 3009(a)(3)*

Purpose: To establish the length of time the responsible official shall maintain the records for any LSI forklift or zero-emission forklift that is removed from operation in California.

Rationale: The subsection allows the Executive Officer to access information and documentation needed to substantiate reported information and demonstrate compliance during implementation and enforcement activities. Staff believes the minimum three years of record retention is a reasonable timeframe because it allows for the assessment of a fleet's compliance status in previous years without creating a substantial additional recordkeeping burden on affected entities.

*Section 3009(b)*

Purpose: To establish contact information requirements.

Rationale: Contact information is necessary for CARB to identify and contact the regulated entity for outreach, implementation, and enforcement purposes. By providing these general requirements in a distinct subsection, stakeholders are able to easily reference it and staff avoid repeating this information throughout the reporting section.

*Sections 3009(b)(1) and 3009(b)(1)(A) through 3009(b)(1)(I)*

Purpose: To describe entity information required to be included in reports, exemption requests, extension requests, and compliance credit requests. Specifically, these subsections require: entity name; corporate parent name (if applicable); entity address(es); contact name(s); contact phone number(s); contact email address(es); responsible official name; responsible official title; and whether the entity is a fleet operator, dealer, rental agency, or forklift manufacturer.

Rationale: These subsections allow the Executive Officer to identify and contact the regulated entity for outreach, implementation, and enforcement purposes. In addition, the information for a responsible official is necessary because the responsible official would ultimately be responsible for submitting reporting to the Executive Officer and for certifying the accuracy, truthfulness, and completeness of said reporting. Corporate parent name is necessary for determining where common ownership or control exists, which are needed to determine fleet size. Whether an entity is a fleet operator, dealer, rental agency, or forklift manufacturer allows the Executive Officer to determine the appropriate requirements that

would apply to the entity, which is necessary for outreach, implementation, and enforcement purposes.

*Sections 3009(b)(2), 3009(b)(2)(A) through 3009(b)(2)(G), and 3009(b)(2)(G)1 through 3009(b)(2)(G)4*

Purpose: To identify forklift information required to be included in reports, exemption requests, extension requests, and compliance credit requests. Specifically, the subsections require: forklift manufacturer; forklift model; forklift serial number; forklift class; rated capacity; and powertrain type (LSI, battery electric, or fuel-cell electric). For LSI forklifts, the following additional information would be required: engine MY, engine manufacturer, engine model, engine serial number, and fuel type.

Rationale: These subsections describe the forklift information required to be reported in reports, exemption requests, extension requests, and compliance credit requests. The information provided is necessary for implementation and enforcement purposes. Forklift manufacturer, model, and serial number are necessary for identifying specific forklifts. Forklift class, rated capacity, powertrain type, and engine information are necessary for determining the regulatory requirements that would apply. By providing these general requirements in a distinct subsection, stakeholders are able to easily reference it and staff avoid repeating this information throughout the reporting section.

*Section 3009(c)*

Purpose: To describe the reporting requirements for large fleets applicable to the Fleet Phase-Out Provisions, including deadlines and required information. Specifically, this subsection describes requirements for an initial report, annual reports, and a final report.

Rationale: The purpose and rationale for each provision are provided below.

*Section 3009(c)(1)*

Purpose: To require a responsible official of a large fleet subject to the Fleet Phase-Out Provisions to submit an initial report. The initial report of a large fleet must be submitted to CARB's Executive Officer by April 30, 2026.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Staff is proposing the submittal deadline of April 30, 2026, for large fleets as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines

of existing off-road regulations to minimize the need for additional CARB implementation resources.

*Section 3009(c)(1)(A)*

Purpose: To direct the responsible official creating the initial report to the provisions of the Proposed Regulation that set forth the entity information required to be included in the initial report.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Entity information identifies a contact person and associates reported fleet information to the specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Sections 3009(c)(1)(B) and 3009(c)(1)(C)*

Purpose: To require responsible officials of large fleets subject to one or more phase-out schedules to include in their initial report the total number of Class IV and Class V forklifts subject to phase-out requirements.

Rationale: These subsections are necessary for CARB and the fleets themselves to determine fleet size and the types of forklifts within a fleet, which would dictate which phase-out schedules would apply. The information would be used for implementation and enforcement purposes.

*Sections 3009(c)(1)(D), 3009(c)(1)(D)1 through 3009(c)(1)(D)3*

Purpose: To require responsible officials of large fleets to include in their initial report, for each separately metered building or operating location with LSI forklifts subject to the phase-out requirements, a copy of the information submitted to the applicable electric utility provider pursuant to Section 3006(c), a copy of the confirmation provided by the electric utility provider demonstrating the information has been received, and, if applicable, the date by which the existing panel capacity is expected to be insufficient to charge or fuel ZEFs necessary to comply with the phase out requirements.

Rationale: These subsections are needed to verify that responsible officials of large fleets have contacted their electric utility provider and provided the necessary information as required by Section 3006(c). In addition, the information regarding existing panel capacity would facilitate implementation efforts.

*Sections 3009(c)(2)*

Purpose: To require a Responsible Official of a large fleet subject to the Fleet Phase-Out Provisions to submit annual reports. The subsection also specifies that the annual reports must be submitted to CARB's Executive Officer between January 1 and April 30 of each calendar year starting in 2027.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Staff is proposing the submittal deadline of April 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources.

*Section 3009(c)(2)(A)*

Purpose: To require, in the annual report, updates to the information provided in the previously submitted report.

Rationale: This subsection helps ensure Responsible Officials understand that updates that are required to be provided in their annual reports. Updated information ensures the Executive Officer has the most current information when carrying out outreach, implementation, and enforcement activities.

*Sections 3009(c)(2)(B), 3009(c)(2)(B)1, and 3009(c)(2)(B)2*

Purpose: To require responsible officials of large fleets to include in their annual report, for each separately metered building or operating location with LSI forklifts subject to the phase-out requirements, information on whether the existing panel capacity is currently sufficient to charge or fuel ZEFs necessary to comply with the phase-out requirements and, if applicable, the date by which the existing panel capacity is expected to be insufficient to charge or fuel ZEFs necessary to comply with the phase out requirements..

Rationale: This subsection allows Executive Officer to identify facilities where utility service upgrades would be needed for the transition to zero-emission technology, which would facilitate implementation efforts and inform enforcement actions.

*Section 3009(c)(3)*

Purpose: To require the responsible official of a large fleet subject the Fleet Phase-Out Provisions to submit a final report confirming the completion of the phase-out of Class IV LSI forklifts no later than April 30, 2025, or April 30 of the final year of an applicable extension, whichever is later.

Rationale: The final report provides the Executive Officer with updated information on the progress made in complying with the Proposed Regulation. Staff is proposing the submittal deadline of April 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. In addition, the information may be used by the Executive Officer for enforcement purposes.

*Section 3009(c)(4)*

Purpose: To require the responsible official of a large fleet subject the Fleet Phase-Out Provisions to submit a final report confirming the completion of the phase-out of Class V LSI forklifts no later than April 30, 2038, or April of the final year of an applicable extension, whichever is later.

Rationale: The final report provides the Executive Officer with updated information on the progress made in complying with the Proposed Regulation. Staff is proposing the submittal deadline of April 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. In addition, the information may be used by the Executive Officer for enforcement purposes.

*Section 3009(d)*

Purpose: To describe the reporting requirements for small fleets applicable to the Fleet Phase-Out Provisions, including deadlines and required information. Specifically, this subsection describes requirements for an initial report, annual reports, and a final report.

Rationale: The purpose and rationale of each provision are provided below.

*Section 3009(d)(1)*

Purpose: To require a responsible official of any small fleet subject to the Fleet Phase-Out Provisions to submit an initial report. The initial report of a small fleet must be submitted to CARB's Executive Officer by September 30, 2026.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Staff is proposing the submittal deadline of September 30, 2026, for small fleets as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadlines are offset from reporting deadlines of existing off-road regulations as well as each other to minimize the need for additional CARB implementation resources. The later initial report date for small fleets also is appropriate given that their phase-out start date for Class IV forklifts is one year later than the start date for large fleets.

*Section 3009(d)(1)(A)*

Purpose: To direct the responsible official creating the initial report to the provisions of the Proposed Regulation that set forth the entity information required to be included in the initial report.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Entity information identifies a contact person and associates reported fleet information to the specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Sections 3009(d)(1)(B) and 3009(d)(1)(C)*

Purpose: To require responsible officials of small fleets subject to one or more phase-out schedules to include in their initial report the total number of Class IV and Class V forklifts subject to phase-out requirements.

Rationale: These subsections are necessary for CARB and the fleets themselves to determine fleet size and the types of forklifts within a fleet, which would dictate which phase-out schedules would apply. The information would be used for implementation and enforcement purposes.

*Sections 3009(d)(1)(D), 3009(d)(1)(D)1, and 3009(d)(1)(D)2*

Purpose: To require responsible officials of small fleets that opt to follow the alternative MY phase-out schedules for Class IV LSI forklifts to include in their initial report the forklift information listed in Section 3009(b)(2) for each LSI forklift and each zero-emission forklift in the fleet on January 1, 2026, as well as the primary operation location of each forklift.

Rationale: These subsections direct responsible officials of small fleets that use the alternative MY phase-out schedules for Class IV LSI forklifts to provide the forklift

information listed in Section 3009(b)(2) on their initial report. This information establishes fleet baseline data, which allows CARB to verify the eligibility of fleets to use the alternative phase-out schedules. In addition, the information would be used for implementation and enforcement purposes. These subsections also directs responsible officials of small fleets that use the alternative MY phase-out schedules for Class IV LSI forklifts to provide in their initial report the location of each forklift reported. The information may be used to locate reported forklifts during enforcement activities.

*Sections 3009(d)(1)(E), 3009(d)(1)(E)1 through 3009(d)(1)(E)3*

Purpose: To require responsible officials of small fleets to include in their initial report, for each separately metered building or operating location with LSI forklifts subject to the phase-out requirements, a copy of the information submitted to the applicable electric utility provider pursuant to Section 3006(c), a copy of the confirmation provided by the electric utility provider demonstrating the information has been received, and, if applicable, the date by which the existing panel capacity is expected to be insufficient to charge or fuel ZEFs necessary to comply with the phase out requirements.

Rationale: These subsections are needed to verify that responsible officials of small fleets have contacted their electric utility provider and provided the necessary information as required by Section 3006(c). In addition, the information regarding existing panel capacity would facilitate implementation efforts.

*Section 3009(d)(2)*

Purpose: To require responsible officials of small fleets subject to the Fleet Phase-Out Provisions to submit annual reports. The subsection also specifies that the annual reports must be submitted to CARB's Executive Officer by September 30 of each calendar year starting in 2027.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Staff is proposing the submittal deadline of September 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources.

*Section 3009(d)(2)(A)*

Purpose: To require, in the annual report, updates to the information provided in the previously submitted report.

Rationale: This subsection helps ensure responsible officials understand that updates are required to be provided in their annual reports. Updated information ensures the Executive Officer has the most current information when carrying out outreach, implementation, and enforcement activities.

*Sections 3009(d)(2)(B), 3009(d)(2)(B)1, and 3009(d)(2)(B)1.a through 3009(d)(2)(B)1.c*

Purpose: To require responsible officials of small fleets that use the alternative MY phase-out schedules for Class IV LSI forklifts to include in their annual reports the forklift information listed in Section 3009(b)(2) for each LSI forklift and each zero-emission forklift added to the fleet during the previous calendar year, as well as the date each forklift entered the fleet and the primary operation location of each forklift.

Rationale: This subsection notifies the responsible officials of small fleets that use the alternative MY phase-out schedules for Class IV LSI forklifts of the required information to include in its annual report for applicable forklifts added to the fleet in the previous calendar year. The annual report provides the Executive Officer with updated information to be used to determine whether the entity would continue to qualify for small fleet regulatory provisions and with information on the progress made in complying with the Proposed Regulation over the past year. In addition, the information would be used by the Executive Officer for implementation and enforcement purposes. For example, location information may be used to locate reported forklifts during enforcement activities.

*Sections 3009(d)(2)(B)2, 3009(d)(2)(B)2.a, and 3009(d)(2)(B)2.b*

Purpose: To require responsible officials of small fleets that use the alternative MY phase-out schedules for Class IV LSI forklifts to include in their annual reports the EINs of forklifts removed from the fleet the previous calendar year and the date of removal.

Rationale: This subsection provides the Executive Officer with updated fleet information to be used to determine whether the entity would continue to qualify for small fleet regulatory provisions and with information on the progress made in complying with the Proposed Regulation over the past year.

*Section 3009(d)(2)(C), 3009(d)(2)(C)1, and 3009(d)(2)(C)2*

Purpose: To require responsible officials of small fleets to include in their annual report, for each separately metered building or operating location with LSI forklifts subject to the phase-out requirements, information on whether the existing panel capacity is currently sufficient to charge or fuel ZEFs necessary to comply with the phase-out requirements and, if



applicable, the date by which the existing panel capacity is expected to be insufficient to charge or fuel ZEFs necessary to comply with the phase out requirements.

Rationale: This subsection allows Executive Officer to identify facilities where utility service upgrades would be needed for the transition to zero-emission technology, which would facilitate implementation efforts and inform enforcement actions.

*Section 3009(d)(3)*

Purpose: To require the responsible official of a small fleet subject the Fleet Phase-Out Provisions to submit a final report confirming the completion of the phase-out of Class IV LSI forklifts no later than September 30 of the final year of the applicable phase-out schedule or September 30 of the final year of an applicable extension, whichever is later.

Rationale: The final report provides the Executive Officer with updated information on the progress made in complying with the Proposed Regulation. Staff is proposing the submittal deadline of September 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. In addition, the information may be used by the Executive Officer for enforcement purposes.

*Section 3009(d)(4)*

Purpose: To require the responsible official of a small fleet subject the Fleet Phase-Out Provisions to submit a final report confirming the completion of the phase-out of Class V LSI forklifts no later than September 30, 2038, or September 30 of the final year of an applicable extension, whichever is later.

Rationale: The final report provides the Executive Officer with updated information on the progress made in complying with the Proposed Regulation. Staff is proposing the submittal deadline of September 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. In addition, the information may be used by the Executive Officer for enforcement purposes.

*Section 3009(e)*

Purpose: To describe the reporting requirements for agricultural crop preparation services applicable to the Fleet Phase-Out Provisions, including deadlines and required information. Specifically, this subsection describes requirements for an initial report, annual reports, and a final report.

Rationale: The purpose and rationale for each provision is provided below.

*Section 3009(e)(1)*

Purpose: To require a responsible official of agricultural crop preparation services subject to the Fleet Phase-Out Provisions to submit an initial report. The initial report must be submitted to CARB's Executive Officer by September 30, 2026.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Staff is proposing the submittal deadline of September 30, 2026, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadlines are offset from reporting deadlines of existing off-road regulations as well as each other to minimize the need for additional CARB implementation resources. The later initial report date for agricultural crop preparation services also is appropriate given that their phase-out start date for Class IV forklifts is one year later than the start date for large fleets.

*Section 3009(e)(1)(A)*

Purpose: To direct the responsible official creating the initial report to the provisions of the Proposed Regulation that set forth the entity information required to be included in the initial report.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Entity information identifies a contact person and associates reported fleet information to the specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Sections 3009(e)(1)(B) and 3009(e)(1)(C)*

Purpose: To require agricultural crop preparation services subject to one or more phase-out schedules to include in their initial report the total number of Class IV and Class V forklifts subject to phase-out requirements.

Rationale: These subsections are necessary for CARB and the fleets themselves to determine fleet size and the types of forklifts within a fleet, which would dictate which phase-out schedules would apply. The information would be used for implementation and enforcement purposes.

*Sections 3009(e)(1)(D), 3009(e)(1)(D)1 through 3009(e)(1)(D)3*

Purpose: To require agricultural crop preparation services to include in their initial report, for each separately metered building or operating location with LSI forklifts subject to the phase-out requirements, a copy of the information submitted to the applicable electric utility provider pursuant to Section 3006(c), a copy of the confirmation provided by the electric utility provider demonstrating the information has been received, and, if applicable, the date by which the existing panel capacity is expected to be insufficient to charge or fuel ZEFs necessary to comply with the phase out requirements.

Rationale: These subsections are needed to verify that agricultural crop preparation services have contacted their electric utility provider and provided the necessary information as required by Section 3006(c). In addition, the information regarding existing panel capacity would facilitate implementation efforts.

*Sections 3009(e)(2)*

Purpose: To require a Responsible Official of agricultural crop preparation services subject to the Fleet Phase-Out Provisions to submit annual reports. The subsection also specifies that the annual reports must be submitted to CARB's Executive Officer by September 30 of each calendar year starting in 2027.

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Staff is proposing the submittal deadline of September 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources.

*Section 3009(e)(2)(A)*

Purpose: To require, in the annual report, updates to the information provided in the previously submitted report.

Rationale: This subsection helps ensure responsible officials understand that updates are required to be provided in their annual reports. Updated information ensures the Executive

Officer has the most current information when carrying out outreach, implementation, and enforcement activities.

*Section 3009(e)(2)(B), 3009(e)(2)(B)1, and 3009(e)(2)(B)2*

Purpose: To require responsible officials of agricultural crop preparation services to include in their annual report, for each separately metered building or operating location with LSI forklifts subject to the phase-out requirements, information on whether the existing panel capacity is currently sufficient to charge or fuel ZEFs necessary to comply with the phase-out requirements and, if applicable, the date by which the existing panel capacity is expected to be insufficient to charge or fuel ZEFs necessary to comply with the phase out requirements.

Rationale: This subsection allows Executive Officer to identify facilities where utility service upgrades would be needed for the transition to zero-emission technology, which would facilitate implementation efforts and inform enforcement actions.

*Section 3009(e)(3)*

Purpose: To require the Responsible Official of agricultural crop preparation services subject the Fleet Phase-Out Provisions to submit a final report confirming the completion of the phase-out of Class IV LSI forklifts no later than September 30 of the final year of the applicable phase-out schedule, or September 30 of the final year of an applicable extension, whichever is later.

Rationale: The final report provides the Executive Officer with updated information on the progress made in complying with the Proposed Regulation. Staff is proposing the submittal deadline of September 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. In addition, the information may be used by the Executive Officer for enforcement purposes.

*Section 3009(e)(4)*

Purpose: To require the responsible official of agricultural crop preparation services subject the Fleet Phase-Out Provisions to submit a final report confirming the completion of the phase-out of Class V LSI forklifts no later than September 30, 2038, or September 30 of the final year of an applicable extension, whichever is later.

Rationale: The final report provides the Executive Officer with updated information on the progress made in complying with the Proposed Regulation. Staff is proposing the submittal deadline of September 30, as it would ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. In addition, the information may be used by the Executive Officer for enforcement purposes.

### *Sections 3009(f)*

Purpose: To set forth the reporting requirements associated with the Proposed Regulation's Low-Use LSI Forklift Exemption. This subsection also stipulates that the reporting requirements would apply through April 30, 2038.

Rationale: Until January 1, 2031, the Proposed Regulation would allow fleet operators to continue operating phased-out LSI forklifts so long as the forklifts are operated less than 200 hours per year and the fleet operator complies with all applicable exemption conditions. This provides near-term flexibility to fleet operators as they address potential operational challenges during the early phases of their transition to zero emissions. Microbusinesses could keep a single low-use LSI forklift indefinitely beyond December 31, 2030. This is in recognition that smaller businesses would likely have more difficulty managing the potential capital cost burden associated with the transition to zero emissions especially if forklift operating hours would be low. However, over time, as more secondhand forklifts reach the market, staff expects that these smaller businesses would naturally transition to zero-emission technology.

This subsection, and its subordinate subsections, ensures consistent interpretation and application of the Low-Use LSI Forklift Exemption. In addition, as discussed in more detail below, the information provided would be used by the Executive Officer for outreach, implementation, and enforcement purposes. Under the Proposed Regulation, reporting requirements for low-use LSI forklifts are in effect through April 30, 2038. The information provided allows the Executive Officer to differentiate between low-use LSI forklifts and LSI forklifts subject to the Proposed Regulation's phase-out requirements during implementation and enforcement activities. After non-exempt LSI forklifts are fully phased out on January 1, 2038, all LSI forklifts operating in California on or after such date would be assumed to be either exempt or not subject to the Proposed Regulation. As such, staff is proposing to end low-use LSI forklift reporting after April 30, 2038, which would coincide with the deadline to submit all low-use LSI forklift reporting for operating hours accrued in

2037. Fleet operators would still be required to gather annual hour meter readings and maintain records of such readings after such date as well as make such records available to the Executive Officer upon request if needed for CARB purposes.

*Sections 3009(f)(1), 3009(f)(1)(A), 3009(f)(1)(B), and 3009(f)(1)(B)1 through 3009(f)(1)(B)4*

Purpose: To set forth the information a responsible official must include in an initial report submitted to the Executive Officer to operate a low-use LSI forklift. Section 3009(f)(1)(A) requires that the entity information set forth in Section 3009(b)(1) be included in the initial report. Section 3009(f)(1)(B) sets forth forklift information required to be included in the initial report. Specifically, Section 3009(f)(1)(B)1 requires forklift information set forth in Section 3009(b)(2), Section 3009(f)(1)(B)2 requires the forklift's primary operating address, Section 3009(f)(1)(B)3 requires an hour-meter reading, and Section 3009(f)(1)(B)4 requires the date of the hour-meter reading to be included in the initial report.

Rationale: These subsections notify the responsible official of a fleet opting to use the Low-Use LSI Forklift Exemption of the information that must be included in the initial report submitted to the Executive Officer. Entity information identifies a contact person and to associate reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes. Forklift information and location information allows the Executive Officer to locate and identify forklifts using the Low-Use LSI Forklift Exemption during implementation and enforcement activities. The hour-meter reading and reading date provides baseline information about the forklift that would allow the Executive Officer to verify forklift compliance with the operational limit established for the Low-Use LSI Forklift Exemption during enforcement activities.

*Sections 3009(f)(1)(C), 3009(f)(1)(C)1 through 3009(f)(1)(C)3*

Purpose: To describe the attestations that the responsible official of a microbusiness must include in the initial report, if submitted on or after January 1, 2031. For entities that are not manufacturers, Section 3009(f)(1)(C)1 requires an attestation by the responsible official that the entity has average gross annual receipts of \$5,000,000 or less over the previous three years (or the number of years the entity has been in business, if less than three). For entities that are manufacturers, Section 3009(f)(1)(C)2 requires an attestation by the responsible official that the entity has had 25 or fewer employees over the four most recent quarters (or the number of quarters the entity has been in business, if less than four). 3009(f)(1)(C)3 requires an attestation by the responsible official that tax returns or Quarterly Contribution Return & Report of Wages (Continuation) Form DE 9Cs, as applicable, would be maintained onsite.

Rationale: These subsections inform microbusinesses of the attestations that a responsible official must include in the initial report, if submitted on or after January 1, 2031. Attestations by the responsible official regarding average gross annual receipts and employee count are necessary to verify the fleet operator meets the criteria for a microbusiness. Lastly, an attestation by the responsible official to maintain the documentation necessary to substantiate that the entity meets the criteria for a microbusiness helps ensure the Executive Officer has access to such documentation during enforcement activities.

*Sections 3009(f)(2), 3009(f)(2)(A) through 3009(f)(2)(D)*

Purpose: To require the responsible to include specific information in annual reports submitted to the Executive Officer to continue operating a low-use LSI forklift. Section 3009(f)(2) specifies that annual reports must be submitted between January 1 and April 30 of each year subsequent to the initial report. Section 3009(f)(2)(A) requires hour-meter readings, Section 3009(f)(2)(B) would require the date of the hour-meter readings, Section 3009(f)(2)(C) requires the total calculated hours of operation, and Section 3009(f)(2)(D) requires microbusiness attestations, if submitted on or after January 1, 2031, to be included in annual reports.

Rationale: These subsections inform the responsible official that annual reports must be submitted to continue operating a low-use LSI forklift and specify the specific information that must be included. Staff is proposing to require annual reports to be submitted between January 1 and April 30, to ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations so as to minimize the need for additional CARB implementation resources. The hour-meter reading, reading date, total calculated hours of operation provides information that would allow the Executive Officer to verify forklift compliance with the operational limit (i.e., 200 annual hours) established for the Low-Use LSI Forklift Exemption during enforcement activities. The microbusiness attestations are necessary to help the Executive Officer verify that the fleet operator meets the criteria for a microbusiness. In addition, the attestation to maintain documentation necessary to substantiate that the entity meets the criteria for a microbusiness helps ensure the Executive Officer has access to such documentation during enforcement activities.

*Section 3009(g)*

Purpose: To describe the reporting requirements for the Proposed Regulation's Dedicated Emergency Forklift Exemption. This subsection also stipulates that the reporting requirements apply through April 30, 2038.

Rationale: As noted above, the Proposed Regulation includes dedicated emergency forklift provisions because emergency operations can be in remote locations or locations where charging or fueling a zero-emission forklift may not be possible or fast enough to respond to the changing conditions of the emergency. As discussed in more detail below, the information provided would be used by the Executive Officer for outreach, implementation, and enforcement purposes. Under the Proposed Regulation, reporting requirements for dedicated emergency forklifts would be in effect through April 30, 2038. The information provided allows the Executive Officer to differentiate between dedicated emergency forklifts and LSI forklifts subject to the Proposed Regulation's phase-out requirements during implementation and enforcement activities. After non-exempt LSI forklifts are fully phased out on January 1, 2038, all LSI forklifts operating in California on or after such date would be assumed to be either exempt or not subject to the Proposed Regulation. As such, staff is proposing to end dedicated emergency forklift reporting after April 30, 2038, which coincides with the deadline to submit dedicated emergency forklift reporting for operating hours accrued in 2037. Fleet operators would still be required to gather annual hour-meter readings and maintain records of such readings after such date as well as make such records available to the Executive Officer upon request if needed for CARB purposes.

*Sections 3009(g)(1), 3009(g)(1)(A), 3009(g)(1)(B), and 3009(g)(1)(B)1 through 3009(g)(1)(B)4*

Purpose: To describe information a responsible official must include in an initial report submitted to the Executive Officer to operate a dedicated emergency forklift. Section 3009(g)(1)(A) requires that the entity information set forth in Section 3009(b)(1) be included in the initial report. Section 3009(g)(1)(B) sets forth forklift information that must be included in the initial report. Specifically, Section 3009(g)(1)(B)1 requires forklift information set forth in Section 3009(b)(2), Section 3009(g)(1)(B)2 requires the forklift's primary operating address, Section 3009(g)(1)(B)3 requires an hour-meter reading, and Section 3009(g)(1)(B)4 requires the date of the hour-meter reading to be included in the initial report.

Rationale: These subsections notify the responsible official of a fleet opting to use the Dedicated Emergency Forklift Exemption of the information that must be included in the initial report submitted to the Executive Officer. Entity information is necessary to identify a contact person and to associate reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes. Forklift information and location information allows the Executive Officer to locate and identify forklifts using the Dedicated Emergency Forklift Exemption during implementation and enforcement activities. The hour-meter reading and reading date provides baseline information about the forklift that would allow the Executive Officer to verify forklift compliance with the operational limit established for the Dedicated Emergency Forklift Exemption during enforcement activities.



*Sections 3009(g)(1)(C), 3009(g)(1)(C)1, 3009(g)(1)(C)2, and 3009(g)(1)(C)2.a through 3009(g)(1)(C)2.e*

Purpose: To describe information a responsible official must include in annual reports submitted to the Executive Officer to continue operating a dedicated emergency forklift. Section 3009(g)(1)(C) specifies that annual reports must be submitted between January 1 and April 30 of each year after the initial report. Section 3009(g)(1)(C)1 requires dates of emergency operations that occurred during the previous calendar year. For each dedicated emergency forklift, Section 3009(g)(1)(C)2.a requires hour-meter readings observed at the commencement and completion of each emergency operation, Section 3009(g)(1)(C)2.b requires the hour-meter reading observed within 30 days of December 31 of the previous calendar year, Section 3009(g)(1)(C)2.c requires the date of each hour-meter reading, Section 3009(g)(1)(C)2.d requires the total calculated hours of emergency operation, and Section 3009(g)(1)(C)2.e requires the total calculated hours of operation to be included in each annual report.

Rationale: These subsections inform the responsible official that annual reports must be submitted to continue operating a dedicated emergency forklift and specify the specific information that required to be included. Staff is proposing to require annual reports to be submitted between January 1 and April 30, to ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. Because the Dedicated Emergency Forklift Exemption limits the operation of dedicated emergency forklifts outside of emergency operations, the dates of emergency operations, the hour-meter readings observed at the commencement and completion of each emergency operation, the hour-meter reading observed at the end of the previous year, the date of each hour-meter reading, the total calculated hours of emergency operation, and the total calculated hours of operation provides information that allows the Executive Officer to verify forklift compliance with the operational limit established for the Dedicated Emergency Forklift Exemption during enforcement activities.

*Section 3009(h)*

Purpose: To set forth the reporting requirements for Class V LSI forklifts with a rated capacity greater than 12,000 pounds. This subsection also stipulates that the reporting requirements would apply through September, 2038.

Rationale: This subsection, and its subordinate subsections, ensure consistent interpretation and application of the Proposed Regulation's requirements. While Class V LSI forklifts with a rated capacity greater than 12,000 pounds (heavy Class V LSI forklift) would not be subject

to the proposed phase-out requirements, the Proposed Regulation establishes reporting requirements applicable to said forklifts. Under the Proposed Regulation, reporting requirements for heavy Class V LSI forklifts are in effect through September 30, 2038. The reporting is intended to allow the Executive Officer to monitor the population and growth of heavy Class V LSI forklifts as other LSI forklifts are phased out of the California fleet. Staff believes it is possible that some fleets could choose to replace the LSI forklifts they phase out with heavy Class V LSI forklifts instead of zero-emission forklifts. As such, the reporting allows the Executive Officer to monitor any potential population growth of such forklifts during the phase-out timeframe, which would be used to assess the effectiveness of the Proposed Regulation and help inform policy decisions on future regulatory efforts. After non-exempt LSI forklifts are fully phased out on January 1, 2038, staff expects that the population of heavy Class V LSI forklifts would stabilize. As such, staff is proposing to end heavy Class V LSI forklift reporting after September 30, 2038, which coincides with the small fleet deadline to submit such reporting for operation in 2037.

*Sections 3009(h)(1), 3009(h)(A) through 3007(D)*

Purpose: To set forth the information a responsible official must include in an initial report submitted to the Executive Officer for Class V LSI forklifts with a rated capacity greater than 12,000 pounds. Section 3009(h)(1) requires the responsible official of a large fleet to submit the initial report to the Executive Officer by April 30, 2026, or within 30 days of when the forklift enters the fleet, whichever is later. Additionally, Section 3009(h)(1) requires the responsible official of a small fleet or agricultural crop preparation services fleet to submit the initial report to the Executive Officer by September 30, 2026, or within 30 days of when the forklift enters the fleet, whichever is later. Section 3009(h)(1)(A) requires that the entity information set forth in Section 3009(b)(1) be included in the initial report. Section 3009(h)(1)(B) requires forklift information set forth in Section 3009(b)(2), Section 3009(h)(1)(C) requires the date the forklift entered the fleet, and Section 3009(h)(1)(D) requires the forklift's primary operating address to be included in the initial report.

Rationale: These subsections notify responsible officials of the information that must be included in the initial report submitted to the Executive Officer for Class V LSI forklifts with a rated capacity greater than 12,000 pounds. These subsections provide at least 30 days for a responsible official to report an applicable forklift after it enters the fleet. This timeframe ensures information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, this timeframe is consistent with provisions of other CARB fleet regulations applicable to the addition of new equipment and vehicles. Entity information would be necessary to identify a contact person and to associate reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes. Forklift information and location information allows the Executive Officer to locate

and identify such forklifts during implementation and enforcement activities. The date on which such forklifts enter the fleet in combination with other information reported pursuant to these sections may be used to inform future zero-emission regulations. The Proposed Regulation includes special reporting requirements for Class V LSI forklifts with a rated capacity greater than 12,000 pounds because such forklifts are excluded from the phase-out requirements of the Proposed Regulation, and the information may be used to inform future zero-emission regulations.

*Sections 3009(h)(2)*

Purpose: To require the responsible official of a fleet with one or more Class V LSI forklifts with a rated capacity greater than 12,000 pounds to annually update the information that was provided in the previous report. These subsections require that such updates be submitted to the Executive Officer between January 1 and April 30 of each year subsequent to the submittal of the initial report for a large fleet, and by September 30 of each year subsequent to the initial report for a small fleet or agricultural crop preparation services fleet.

Rationale: These subsections set forth the annual reporting requirements for fleets with Class V LSI forklifts with a rated capacity greater than 12,000 pounds. Staff is proposing to require annual reports be submitted between January 1 and April 30 or by September 30 for large fleets and small fleets/agricultural crop preparations services, respectively, to ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline would be offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. Updates to entity information would be necessary to identify the current contact person and to associate reported information to the appropriate entity, which would be used for outreach, implementation, and enforcement purposes. Updates to forklift information and location information would allow the Executive Officer to locate and identify such forklifts during implementation and enforcement activities. Staff does not expect updates to the dates on which applicable forklifts enter the fleet.

*Section 3009(i)*

Purpose: To describe the reporting required by the responsible official of a fleet requesting compliance credit for replacing a Class V LSI forklift with a rated capacity greater than 12,000 pounds with a zero-emission forklift.

Rationale: The subsection notifies the responsible official that a compliance credit request must be submitted to the Executive Officer at least 45 days prior to the phase-out date of the LSI forklift for which the fleet would be seeking the compliance delay.

*Section 3009(i)(1)*

Purpose: To require entity information as specified in Section 3009(b)(1) to be included in a compliance credit request for replacing a Class V LSI forklift with a rated capacity greater than 12,000 pounds with a zero-emission forklift.

Rationale: The subsection directs the responsible official to the section of the Proposed Regulation where the entity information that would be required to be included as part of the credit request is listed. This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Entity information identifies a contact person and to associate reported information to a specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Section 3009(i)(2)*

Purpose: To require operators to provide the primary operation location address of each forklift (i.e., the LSI forklift replaced, the zero-emission forklift that has been deployed to replace said LSI forklift, and the LSI forklift for which compliance would be delayed) in a compliance credit request for replacing a Class V LSI forklift with a rated capacity greater than 12,000 pounds with a zero-emission forklift.

Rationale: The subsection informs the responsible official that the primary operating location of each forklift associated with the compliance credit request must be included as part of the request submittal. This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Location information would allow the Executive Officer to identify and locate forklifts associated with the compliance credit request during implementation and enforcement activities. In addition, the information, in combination with other information provided in the request submittal, could be used by the Executive Officer to validate the request and verify that the replacement of the Class V LSI forklift with a rated capacity greater than 12,000 pounds has actually occurred.

*Sections 3009(i)(3) and 3009(i)(3)(A) through 3007(i)(3)(B)*

Purpose: To describe information that the responsible official would need to include in the request submittal regarding the Class V LSI forklift with a rated capacity greater than 12,000 pounds that has been replaced. Section 3009(i)(3)(A) requires the EIN for said forklift.

Section 3009(i)(3)(B) requires documentation demonstrating that said forklift has been removed from the fleet.

Rationale: These subsections inform the responsible official what must be included in a compliance credit request for a Class V forklift with a rated capacity greater than 12,000 pounds that has been replaced with a zero-emission forklift. As discussed above, the Proposed Regulation requires Class V forklifts with a rated capacity greater than 12,000 to be reported. The EIN required by Section 3009(i)(3)(A) links the compliance credit request to information already reported, which would allow the Executive Officer to identify and locate forklifts associated with the compliance credit request during implementation and enforcement activities. Documentation demonstrating that the Class V LSI forklift has been removed provides the Executive Officer with written confirmation that the Class V LSI forklift has been removed. In addition, the information cited here, in combination with other information provided in the request submittal, could be used by the Executive Officer to validate the request and verify that the replacement of the Class V LSI forklift with a rated capacity greater than 12,000 pounds has actually occurred.

*Section 3009(i)(4) and 3009(i)(4)(A) through 3009(i)(4)(D)*

Purpose: To describe information that the responsible official must include in the request submittal regarding the zero-emission forklift that has replaced the Class V LSI forklift with a rated capacity greater than 12,000 pounds. Section 3009(i)(4)(A) requires the forklift information set forth in Section 3009(b)(2) or the EIN. Section 3009(i)(4)(B) requires the date of deployment. Section 3009(i)(4)(C) would require documentation for the purchase or lease and delivery of the zero-emission forklift. Section 3009(i)(4)(D) requires documentation showing the specifications, including rated capacity, of the zero-emission forklift.

Rationale: These subsections inform the responsible official of the information that must be included in a compliance credit request for a zero-emission forklift that has replaced a Class V forklift with a rated capacity greater than 12,000 pounds. Forklift information would allow the Executive Officer to identify said forklift during implementation and enforcement activities. If the forklift has already been reported, the responsible official must provide the EIN of said forklift instead, which would link the compliance credit request to information already reported about the forklift. The date of deployment is necessary to verify that the replacement took place on or after January 1, 2026, as required to receive the compliance credit. Documentation of the purchase or lease and delivery provides the Executive Officer with written verification that that zero-emission forklift has been acquired. Documentation showing the specifications of the zero-emission forklift provides the Executive Officer with written evidence that the zero-emission forklift can replace the Class V LSI forklift. In addition, the information cited here, in combination with other information provided in the request submittal, could be used by the Executive Officer to validate the request, and verify

that the replacement of the Class V LSI forklift with a rated capacity greater than 12,000 pounds has actually occurred.

*Section 3009(i)(5)*

Purpose: To describe the information that the responsible official must include in the request submittal regarding the LSI forklift for which compliance would be delayed. Specifically, this subsection requires the forklift information set forth in Section 3009(b)(2) or the EIN.

Rationale: This subsection informs the responsible official of the information required to be included in a compliance credit request for the LSI forklift for which compliance would be delayed. This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Forklift information would allow the Executive Officer to identify said forklift during implementation and enforcement activities. If the forklift has already been reported, the responsible official must provide the EIN of said forklift instead, which would link the compliance credit request to information already reported about the forklift.

*Section 3009(j)*

Purpose: To set forth the information and documentation that must be submitted by a fleet operator or rental agency to substantiate that a diesel-fueled forklift added to the fleet would not operate as a replacement for an LSI forklift to be phased out or designated as a low-use LSI forklift. The subsection also stipulates that the requirement to provide such information and documentation is in effect until January 1, 2038.

Rationale: The Proposed Regulation prohibits fleet operators and rental agencies from replacing an LSI forklift they phase out or designate as a low-use LSI forklift with a diesel forklift. This subsection ensures the Executive Officer has the information and documentation needed to verify whether or not a diesel-fueled forklift added to a fleet would be a replacement for an LSI forklift to be phased out or designated as a low-use LSI forklift. Staff is proposing to end this requirement starting January 1, 2038, because non-exempt LSI forklifts would be fully phased-out by then.

*Section 3009(j)(1)*

Purpose: To require that the entity information set forth in Section 3009(b)(1) be included when submitting information to the Executive Officer for the purposes of Section 3009(j).

Rationale: This subsection ensures consistent interpretation and application of the Proposed Regulation's requirements. Entity information identifies a contact person and to associate

reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes.

*Sections 3009(j)(2) and 3009(j)(2)(A) through 3009(j)(2)(C)*

Purpose: For the diesel-fueled forklift added to the fleet, to require the EIN, primary operating location, and rated capacity of said forklift to be included in the submittal to the Executive Officer.

Rationale: The EIN links the information and documentation provided pursuant to Section 3009(j) with the information reported by the fleet operator or rental agency, as applicable, pursuant to the In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3). The reported information allows the Executive Officer to identify the diesel-fueled forklift for implementation and enforcement purposes as well as determine when the forklift was added to the fleet. The location and rated capacity information could be used to support the determination of whether a diesel-fueled forklift was acquired to replace an LSI forklift.

*Sections 3009(j)(3), 3009(j)(3)(A), and 3009(j)(3)(B)*

Purpose: To describe the circumstances under which an added diesel forklift would not be considered a replacement for an LSI forklift to be phased out or designated as a low-use LSI forklift. Under the Proposed Regulation, fleet operators and rental agencies must demonstrate that a diesel forklift being added is being deployed under the circumstances provided. Specifically, Section 3009(j)(3)(A) allows the addition of a diesel forklift if an LSI Forklift is not capable or suitable for the operation to be served by the diesel forklift based on forklift specifications. Additionally, Section 3009(j)(3)(B) allows the addition of a diesel forklift if no forklifts currently in operation at the operating location use propane, gasoline, or other fuel formulated for LSI engines.

Rationale: The subsections define the circumstances under which a diesel forklift added to the fleet would not be considered a replacement for an LSI forklift to be phased out or designated as a low-use LSI forklift. These subsections provide a mechanism by which the Executive Officer could prevent fleet operators and rental agencies from replacing LSI forklifts with diesel forklifts.

*Sections 3009(k) and 3009(k)(1) through 3009(k)(3)*

Purpose: To identify the production and sales information that the responsible official for an LSI forklift manufacturer must report each year to the Executive Officer starting in 2027. Section 3009(k) requires the production and sales reporting to be submitted between

January 1 and April 30 of each year. Section 3009(k)(1) requires the entity information set forth in Section 3009(b)(1), Section 3009(k)(2) requires forklift information set forth in Section 3009(b)(2) for each LSI forklift sold in California or produced for California sale the previous calendar year, and Section 3009(k)(3) requires the total number of LSI forklifts sold in California or produced for California sale the previous calendar year be included in the sales and production reporting.

Rationale: These subsections establish the annual reporting requirements for LSI forklift manufacturers. Staff is proposing annual reports must be submitted between January 1 and April 30, to ensure information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. In addition, the proposed deadline is offset from reporting deadlines of existing off-road regulations to minimize the need for additional CARB implementation resources. Entity information identifies a contact person and associates reported forklift information to a specific entity, which would be used for outreach, implementation, and enforcement purposes. Forklift information and the total number of LSI forklifts sold in California or produced for California sale would be necessary to verify compliance with the Proposed Regulation as well as monitor the sales volume of Class V LSI forklifts with a rated capacity greater than 12,000 pounds, which would not be subject to the proposed phase-out requirements. The information on Class V LSI forklifts with a rated capacity greater than 12,000 pounds, in particular, may be used to inform future zero-emission regulations.

## **L. Section 3010. Labeling**

Purpose: To describe the Proposed Regulation's requirements and specifications applicable to forklift labels.

Rationale: Labels are needed for CARB enforcement staff to identify specific forklifts. Further purpose and rationale for each subsection are described below.

### *Sections 3010(a) and 3010(a)(1) through 3010(a)(4)*

Purpose: To describe EIN labeling requirements applicable to the responsible official of a fleet operator. Specifically, these subsections require the responsible official to report all applicable entity and forklift information to the Executive Officer; to affix at least one EIN label to each applicable forklift within 30 days of receiving the EIN; to maintain all labels so that they remain permanently affixed and meet the legibility and visibility criteria set forth in Section 3010(b); and to maintain records of the forklift purchase date or the date the forklift



enters the fleet for forklifts that are subject to the labeling requirements but have not yet been labeled.

Rationale: These subsections provide instructions and direction on the EIN labeling process. Section 3010(a)(1) directs responsible officials to report forklift information as required by the Proposed Regulation. This is necessary because EINs would be generated at the time the reporting has been received. Section 3010(a)(2) is necessary to inform the responsible official that at least one EIN label would be required to be affixed to each applicable forklift, and that EIN labels would be required to be affixed within 30 days of receiving the EINs. These proposed requirements align with the labeling requirements of the current LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2). Section 3010(a)(3) is necessary to ensure labels are readable at all times, which facilitates identification of such forklifts during implementation and enforcement activities. Section 3010(a)(4) allows the Executive Officer to verify that labels are applied within 30 days of receipt of the EINs, as required by the Proposed Regulation.

*Sections 3010(b) and 3010(b)(1) through 3010(b)(6)*

Purpose: To establish and standardize requirements for the EIN label that must be affixed to applicable forklifts subject to the Proposed Regulation. Specifically, Section 3010(b)(1) requires that each label contain the assigned EIN, Section 3010(b)(2) requires that each label be permanently affixed to the forklift and applied as a decal or painted on, Section 3010(b)(3) requires the EIN to be in white on a red background, Section 3010(b)(4) requires that the EIN be displayed approximately two feet above the ground and in clear view, 3010(b)(5) requires each character of the EIN to be three inches in height and 1.5 inches in width, and Section 3010(b)(6) requires that each EIN remain legible for the entire life of the forklift.

Rationale: The subsection provides instructions to the responsible official on the standardized labeling requirements for forklifts subject to the Proposed Regulation. Section 3010(b)(1) ensures it is clear each forklift must be labeled with the EIN assigned to said forklift. Sections 3010(b)(2) and 3010(b)(6) ensures the label is permanently affixed and durable, so that the utility of the label is maintained for the life of the forklift. Sections 3010(b)(3), 3010(b)(4), and 3010(b)(5) ensure the EIN of the forklift is easily readable even from distance. The labels facilitate CARB staff's identification of forklifts in the field, which ultimately improves regulatory enforceability.

## **M. Section 3011. General Requirements**

*Sections 3011(a), 3011(a)(1), and 3011(a)(2)*

Purpose: To prohibit, starting January 1, 2026, the acquisition and operation of a diesel forklift, as defined by the Proposed Regulation, to replace a Class IV LSI forklift of any rated capacity or a Class V LSI forklift of a rated capacity up to 12,000 pounds. The subsection also stipulates that a diesel forklift added to a fleet on or after January 1, 2026, would be considered a replacement of an applicable LSI forklift unless an existing diesel forklift in the fleet is phased out within 30 days of the addition or, alternatively, the fleet operator or rental agency would be able to successfully demonstrate that the operation in which the forklift has been deployed cannot be served by an LSI Forklift without undue burden or is one exclusively served by existing diesel forklifts in the fleet.

Rationale: These subsections help prevent the replacement of Class IV LSI forklifts of any rated capacity and Class V LSI forklifts of a rated capacity of up to 12,000 pounds with diesel forklifts once the fleet begins to phase out said LSI forklifts. While staff believes such replacements would be unlikely because of the flexibilities the Proposed Regulation would provide and operational considerations, such as indoor air quality, it is possible that some fleets could choose diesel forklifts over zero-emission forklifts. To the extent those replacements occur, the emission benefits of the Proposed Regulation would be reduced. Therefore, staff is proposing this restriction to prevent such replacements. Sections 3011(a)(1) and 3011(a)(2) add specific allowances for the acquisition and operation of diesel forklifts in situations where the diesel forklift would not be replacing an LSI forklift. Section 3011(a)(1) stipulates that an existing diesel forklift would need to be removed from the fleet within 30 days upon receipt of the newly acquired diesel forklift. The 30-day timeframe would align with other CARB regulations, like the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2). CARB staff would be able to track addition of diesel forklifts because such forklifts are already required to be reported per CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation (Title 13, CCR, Sections 2449, 2449.1, 2449.2, and 2449.3). Section 3011(a)(2) stipulate that the fleet operator or rental agency could also demonstrate that the operation in which the forklift has been deployed cannot be served by an LSI Forklift without undue burden or is one exclusively served by existing diesel forklifts in the fleet. This provides fleet operators and rental agencies with a mechanism to justify the addition of a diesel forklift under certain circumstances without the need to remove another diesel forklift from the fleet.

#### *Section 3011(b)*

Purpose: Starting January 1, 2026, to require entities subject to the Proposed Regulation to maintain specified information and documentation for LSI forklifts within their fleets. Specifically, the subsection requires: forklift information set forth in Section 3009(b)(2); operating location; documentation of the forklift's purchase or lease; and documentation of the forklift's phase out. The subsection also stipulates that such records must be maintained

for a minimum of five years and must be provided within five business days to the Executive Officer upon request.

Rationale: This subsection ensures the Executive Officer has a mechanism to obtain information and documentation used for implementation and enforcement purposes. Forklift information and operating location allows the Executive Officer to locate and identify applicable LSI forklifts. Forklift purchase and lease documentation allows the Executive Officer to verify compliance with the Proposed Regulations acquisition restrictions. Forklift phase-out documentation allows the Executive Officer to verify compliance with the Proposed Regulation's phase-out requirements. Staff believes the minimum five years of record retention is a reasonable timeframe because it allows for the assessment of a fleet's compliance status in previous years without creating a substantial additional recordkeeping burden on affected entities. Staff is proposing to allow five business days for a responsible official to provide information and documentation responding to a request by the Executive Officer. Staff believes the five-day timeframe ensures information is provided to the Executive Officer in a timely manner while still allowing sufficient time for affected entities to prepare the necessary information to report. Additionally, the timeframe would align with response timeframes required in other CARB regulations, such as the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2).

#### *Section 3011(c)*

Purpose: To require manufacturer information labels for each LSI forklift and its engine are intact and readable at all times.

Rationale: This subsection establishes that it is the responsibility of the regulated entity to maintain manufacturer labels that are attached to the LSI forklifts in their fleet. The manufacturer labels are necessary to determine the specific regulatory requirements that would apply. For example, the forklift model number indicated on the forklift label would be used to determine the rated capacity of the forklift. Furthermore, the MY specified on the engine label would be used to determine phase-out date.

## **N. Section 2775.1. Standards**

#### *Section 2775.1(d)(1)(C)*

Purpose: To amend the subsection to add language stating that operators utilizing the limited hours of use provisions need to maintain hours of use records in accordance with Section 2775.2(a)(4)(B)15 and Section 2775.2(a)(5)(D) for at least a five-year period and specify that the five-year period begins after the recording of the December 31 hour meter reading. This subsection currently sets forth that the operator is required to maintain hours

of use records for each piece of the equipment at a facility in order to qualify for a limited hours of use exemption.

Rationale: This proposed amendment retains enforceability of the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2) by ensuring fleets have the hour meter readings necessary to demonstrate that the equipment complies with the definition of limited hours of use equipment. Adding the reference to Section 2775.2(a)(4)(B)15 and Section 2775.2(a)(5)(D) is necessary for regulated entities to know what information needs to be maintained and where it should be maintained. Staff selected a minimum of five years to maintain records to be consistent with the existing requirements in Section 2775.2(a)(5)(C). Specifying that the five-year period begins after the recording of the December 31 hour meter reading is necessary for regulated entities to know the start date of the five-year period. Requiring that the records be maintained in accordance with 2775.2(a)(5)(D) is necessary to inform operators that maintain multiple facilities that they may aggregate the records at a centralized facility or headquarters, that records must be made available to CARB, and of the timeframe for which those records must be provided to CARB.

*Section 2775.1(d)(1)(D)*

Purpose: To amend the subsection to add language providing an end date of June 30, 2025 to the limited hours of use reporting. The subsection currently sets forth that beginning June 30, 2017, the operator must maintain records and report the equipment in accordance with Section 2775.2(a) in order to qualify for a limited hours of use exemption.

Rationale: This amendment eliminates potential duplicative reporting for operators with equipment subject to both the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2 and the Proposed Regulation. The change is expected to simplify compliance for affected operators by removing the need to report similar information for two separate regulations. Currently, the LSI Fleet Regulation only requires limited hours of use and specialty equipment to report indefinitely. Continued and indefinite reporting of annual hours is unnecessary to ensure emission reductions are retained because the standards established in Section 2775.1(a) remain unchanged and operators will need to retain records as established in Section 2775.1(d)(1)(C).

CARB staff is proposing June 30, 2025, as the end date for reporting because reporting requirements for the Proposed Regulation would begin January 1, 2026. CARB staff is proposing to remove the need to maintain records in Section 2775.1(d)(1)(D) because the requirement to maintain records is already established in Section 2775.1(d)(1)(C).

*Section 2775.1(d)(1)(E)*

Purpose: To amend the subsection to add language providing an end date of June 20, 2025 to the labeling requirements under the limited hours of use provision. The subsection currently sets forth that beginning June 30, 2017, the operator must label the equipment

with its EIN in accordance with Section 2775.2(b) in order to qualify for a limited hours of use exemption.

Rationale: This amendment is necessary because labeling of equipment is not needed and impractical if the equipment is not required to be reported. CARB generates the Equipment Identification Number (EIN), which is what the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2) requires to be labeled on the equipment, when the equipment is reported to CARB. The proposed amendment to Section 2775.1(d)(1)(D) sunsets the reporting requirements for limited hours of use equipment; therefore, no new EINs would be generated by CARB for this equipment. CARB selected June 30, 2025, as an end date for labeling because reporting requirements for limited hours of use equipment sunset on June 30, 2025.

*Section 2775.1(e)(1)(D)*

Purpose: To amend the subsection to add language providing an end date of June 20, 2025 to the specialty equipment exemption reporting. The subsection currently sets forth that beginning June 30, 2017, the operator must maintain records and report the equipment in accordance with Section 2775.2(a) in order to qualify for a specialty equipment exemption.

Rationale: This amendment eliminates potential duplicative reporting for operators with equipment subject to both the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2) and the Proposed Regulation. The change is expected to simplify compliance for affected operators by removing the need to report similar information for two separate regulations. Currently, the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2) only requires limited hours of use and specialty equipment to report indefinitely. Continued and indefinite reporting is unnecessary to ensure emission reductions are retained because the standards established in Section 2775.1(a) remain unchanged and operators will need to retain records as established in Section 2775.1(d)(1)(C). Section 2775.1(e)(1)(B) requires operators complying with the specialty equipment exemption to comply with Section 2775.1(d)(1)(C).

CARB selected June 30, 2025, as an end date for reporting because reporting requirements for the Proposed Regulation begin January 1, 2026. CARB removed the need to maintain records in Section 2775.1(e)(1)(D) because the requirement to maintain records is already established in Section 2775.1(d)(1)(C).

*Section 2775.1(e)(1)(E)*

Purpose: To amend the subsection to add language providing an end date of June 30, 2025 to the labeling requirements under the specialty equipment exemption. The subsection currently sets forth that beginning June 30, 2017, the operator must label the equipment with its EIN in accordance with Section 2775.2(b) in order to qualify for a specialty equipment exemption.

Rationale: This amendment is necessary because labeling of equipment is not needed and impractical if the equipment is not required to be reported. CARB generates the EIN, which is what the LSI Fleet Regulation (Title 13, CCR, Sections 2775, 2775.1, and 2775.2) requires to be labeled on the equipment, when the equipment is reported to CARB. The proposed amendment to Section 2775.1(e)(1)(D) sunsets the reporting requirements for the specialty equipment exemption; therefore, no new EINs would be generated by CARB for this equipment. CARB selected June 30, 2025, as an end date for labeling because reporting requirements for the specialty equipment exemption are being proposed to sunset on June 30, 2025.