

ATTACHMENT A

Modifications to the Proposed Regulation Order

For the Proposed Zero-Emission Airport Shuttle Regulation



**California Air Resources Board
1001 I Street
Sacramento, California, 95814**

Date of Release:

May 9, 2019

MODIFICATIONS TO THE PROPOSED REGULATION ORDER ZERO-EMISSION AIRPORT SHUTTLE REGULATION

Adopt new sections 95690.1, 95690.2, 95690.3, 95690.4, 95690.5, 95690.6, 95690.7, and 95690.8, Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 14, California Code of Regulations, to read as follows:

(Note: The originally proposed regulatory language is shown in ~~strike through~~ to indicate deletions and underline to indicate additions. New deletions and additions to the proposed language that are made public with this notice are shown in ~~double strike through~~ and double underline format, respectively.)

§ 95690.1 Purpose.

The purpose of this subarticle is to reduce emissions of oxides of nitrogen (NOx), other criteria pollutants, toxic air contaminants, and greenhouse gases (GHG) from airport shuttles.

NOTE: Authority cited: Sections 38501, 38505, 38566, 38510, 38560, 39002, 39003, 39500, 39516, 39600, 39601, 39602, 39602.5, 39650, 39658, 39659, 39667, 43013, 43018, 43100, 43101, 43102, 43104, 43105, and 43106, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 39650, 39658, 39659, 39667, 42410, 43000, 43000.5, 43009, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5, and 43600, Health and Safety Code.

§ 95690.2 Definitions.

(a) For purposes of this subarticle, the following definitions apply:

“Airport Shuttle” means a commercial vehicle with a Gross Vehicle Weight Rating of 8,501 pounds or greater that transports passengers, in a fixed destination route, to or from a regulated airport.

“CARB” means the California Air Resources Board.

“Depot” means a place where airport shuttles are housed and from which they are dispatched for service.

“Emergency” means any sudden, unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate the loss of, or damage to, life, health, property or essential public services.

“Executive Officer” means the Executive Officer of the California Air Resources Board or his or her designee.

“Fixed destination route” is a ~~predetermined~~ route that transports passengers between the same locations, although the number of stops along the route may vary.

“Fleet” means one or more airport shuttle(s) that are subject to this regulation and are under common ownership.

“Fleet Owner” means the person, business, or government agency registered as the owner of the vehicle by the California Department of Motor Vehicles or is the owner as defined in California Vehicle Code section 460.

“General Aviation Airport” is the same as defined in section 47102 of title 49 of the United States Code.

“Gross Vehicle Weight Rating” or “GVWR” means the Gross Vehicle Weight Rating as defined in the California Vehicle Code section 350.

“Internal Combustion Engine” means an engine that generates motive power by the burning of gasoline, oil, or other fuel with air inside the engine.

“Nonhub Airport” is the same as defined in section 40102 of title 49 of the United States Code.

“Operator” means the person responsible for the overall operation of the fleet.

“Regulated Airport” means a large, medium, or small hub airport as those terms are defined in section 40102 of title 49 of the United States Code. Regulated Airport does not include “Nonhub Airport” or “General Aviation Airport” as defined in section 47102 of title 49 of the United States Code.

“Reserve Airport Shuttle” means an airport shuttle used to increase flexibility during peak service times or to provide backup service when other airport shuttles are not in operation.

“State of Emergency” is the condition when an emergency exists and is so declared by the Governor or federal government and includes instances of fire, epidemic, flood, earthquake or other soil or geologic movements, as well as such occurrences as civil unrest, accident, or sabotage.

“State of War Emergency” is the condition which exists immediately with or without a proclamation thereof by the Governor or the President of the United States, whenever this nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

“TRUCRS” means Truck Regulation Upload, Compliance, and Reporting System.

“Zero-Emission Airport Shuttle” or “ZEAS” means a battery electric or fuel cell airport shuttle that is certified or approved for sale in California, as required in section 95690.5.

NOTE: Authority cited: Sections 38501, 38505, 38566, 38510, 38560, 39002, 39003, 39500, 39516, 39600, 39601, 39602, 39602.5, 39650, 39658, 39659, 39667, 43013, 43018, 43100, 43101, 43102, 43104, 43105, and 43106, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 39650, 39658, 39659, 39667, 42410, 43000, 43000.5, 43009, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5, and 43600, Health and Safety Code.

§ 95690.3 Applicability.

(a) Except as provided in section 95690.6, this subarticle shall apply to the following fleet owners or operators that own or operate an airport shuttle on a fixed destination route:

- (1) Regulated airports;
- (2) Fleet owners, or operators, that have an airport shuttle depot location within a 15-mile radius of a regulated airport; and
- (3) Fleet owners, or operators, that operate an airport shuttle on a fixed destination route equal to or less than 30 miles ~~from a regulated airport~~ that includes stops at a regulated airport.

(b) As provided in section 95690.5, this subarticle shall also apply to regulated airports that contract, lease, or permit airport shuttle service, on regulated airport property.

NOTE: Authority cited: Sections 38501, 38505, 38566, 38510, 38560, 39002, 39003, 39500, 39516, 39600, 39601, 39602, 39602.5, 39650, 39658, 39659, 39667, 43013, 43018, 43100, 43101, 43102, 43104, 43105, and 43106, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 39650, 39658, 39659, 39667, 42410, 43000, 43000.5, 43009, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5, and 43600, Health and Safety Code.

§ 95690.4 Fleet Reporting and Recordkeeping Requirements.

(a) Reporting Requirements for Airport Shuttle Fleets. Reporting is required for each vehicle in the fleet. All fleet owners must use TRUCRS to report. All fleet owners must create a user identification number for TRUCRS. The following information specified in this subsection must be reported to CARB no later than March 1, 2022:

- (1) The current fleet owner, contact and business information:
 - (A) The entity’s name and address, as registered with the California Department of Motor Vehicles;

- (B) The name, title, phone number, and email address of the current fleet owner;
- (C) The name, title, phone number, and email address of the responsible officer contact information;
- (D) The address of airport shuttle fleet depot (if different than fleet owners address); and
- (E) Confirmation that the airport shuttle fleet depot location is within 15-mile radius of the regulated airport.

(2) A list of every vehicle subject to this subarticle that is in their fleet on December 31, 2021, along with the following information:

- (A) License plate number;
- (B) Vehicle Model Year;
- (C) Vehicle Identification Number;
- (D) Gross Vehicle Weight Rating;
- (E) Body type;
- (F) Class Size;
- (G) Odometer or hubodometer reading and date of reading;
- (H) Identify whether the vehicle is a reserve airport shuttle (if applicable); and
- (I) Identify whether the vehicle is exempt due to extension (if applicable).

(3) For each airport shuttle that has an internal combustion engine, the following engine information shall be submitted:

- (A) Manufacturer;
- (B) Model number;
- (C) Model year;
- (D) Engine family name;
- (E) Fuel Type; and
- (F) Date of engine repower/replacement (if applicable).

(4) For each ~~ZE~~ Zero-Emission Airport Shuttle, the following motor information shall be submitted:

- (A) Identify whether the vehicle is battery electric powered, fuel cell powered, or uses other technology;
- (B) Manufacturer;
- (C) Model number;
- (D) Model year;
- (E) Vehicle family names (if applicable);
- (F) Purchase date (and retired date, if applicable); and
- (G) Identify whether the vehicle was purchased utilizing grants, grant program, and the grant agreement or contract term (if applicable).

(b) Annual Reporting. Beginning on March 1, 2023, and ending on March 1, 2036, all fleet owners must review and update the information submitted in subsection (a) annually by March 1 of each subsequent reporting year through TRUCRS. Fleet owners must report information regarding each vehicle as it was on December 31 of

the year prior to the reporting year. (For example, by March 1, 2023, fleet owners must report each vehicle as it was at the end of the day on December 31, 2022). If a vehicle reported previously pursuant to subsection (a) was retired, sold or scrapped, fleet owner shall report the date the vehicle was retired, sold, or scrapped.

(c) *New Fleets.* New fleet owners must comply with the requirements in this subarticle, immediately upon purchasing vehicles subject to the regulation or upon bringing such vehicles into the State. All new fleet owners must report vehicles subject to the regulation to CARB within 30 days of purchasing or bringing such vehicles into the State, in accordance with the requirements in this section.

(d) *Changes Since Last Reporting Period.* Except for the information submitted pursuant to subsection(a)(2)(G), if any of the other information reported per subsection (a) has changed since either the initial or last annual report filed with CARB, the fleet owner must report the change within 30 days of when the change occurs, or if the change occurs within 30 days of the reporting date in section 95690.4(b), the annual reporting may serve as the notification to CARB. Such changes include changes in owner information, changes in fleet composition, and changes in exempt status. If there are no changes, the fleet owner shall indicate that there have been no changes since the last report.

(e) *Responsible Officer Affirmation of Reporting.* All fleet owners shall submit to CARB a written affirmation by a responsible official or a designee thereof that indicates the information reported is accurate and that the fleet is in compliance with this subarticle. The affirmation shall recite that it is certified or declared by the responsible officer or a designee to be true under penalty of perjury, states the date and place of execution, and that it is so certified or declared under the laws of the State of California, pursuant to California Code of Civil Procedure section 2015.5.

(f) *Request for Extension.* A fleet owner may request an extension to the reporting deadline specified in 95690.4(a) or 95690.4(b) due to unforeseen, temporary, or extenuating circumstances outside of the fleet owner's control. A request for extension from the reporting requirement deadline must be submitted in writing to the Executive Officer, at least 14 days prior to the reporting date. The written request must include the reason for requesting the extension from the final reporting date.

(g) *CARB Certificate of Reported Compliance.* After receipt of required annual reporting, a fleet owner that is in compliance with the requirements of this subarticle will be issued a Certificate of Reported Compliance with the Regulation for Zero-Emission Airport Shuttle by CARB. This certificate indicates that the applicable fleet is in compliance with this subarticle as reported by the responsible official.

(h) *Records Retention.* Each fleet owner shall maintain records demonstrating compliance with this subarticle, including, but not limited to, copies of the information reported under subsection 95690.4(a), purchase invoices, records of contracts, leases, or permits for airport shuttle service, and any Certificate of Reported

Compliance issued by CARB, for each vehicle subject to this subarticle for 36 months from date of submission to CARB or as long as the owner has a fleet, whichever is shorter. Upon request, the fleet owner shall provide these records to an agent or employee of CARB within five business days of receipt of the request.

NOTE: Authority cited: Sections 38501, 38505, 38566, 38510, 38560, 39002, 39003, 39500, 39516, 39600, 39601, 39602, 39602.5, 39650, 39658, 39659, 39667, 43013, 43018, 43100, 43101, 43102, 43104, 43105, and 43106, Health and Safety Code.
Reference: Sections 38501, 38505, 38510, 38560, 39650, 39658, 39659, 39667, 42410, 43000, 43000.5, 43009, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5, and 43600, Health and Safety Code.

§ 95690.5 Airport Shuttle Fleet Requirements.

(a) Zero-Emission Airport Shuttle Fleet Requirements. All fleet owners shall comply with the schedule in Table 1- Compliance Schedule for Airport Shuttles for the specified percentage of airport shuttles by each applicable deadline.

Table 1 - Compliance Schedule for Airport Shuttles

<u>Compliance Schedule for Airport Shuttles</u>	
<u>Compliance Deadline</u>	<u>Percent of total fleet that must be ZEAS</u>
<u>December 31, 2027</u>	<u>33%</u>
<u>December 31, 2031</u>	<u>66%</u>
<u>December 31, 2035</u>	<u>100%</u>

(1) Calculating Number of Zero-Emission Airport Shuttles required for Compliance. The total number of airport shuttles required to be in compliance by the compliance deadline in Table 1 is calculated by multiplying "Percentage of total fleet that must be ZEAS" (0.%ZEAS) by the total the number of airport shuttles within a fleet (not including exempt airport shuttles). If the calculated total number of shuttles within a fleet required to be ZEAS does not result in a whole number, the number shall be round up to a whole number when the decimal part of the number of vehicles is equal or greater than 0.5 and round down if less than 0.5.

(A) Fleets with 1 vehicle will be required to transition to a ZEAS by 2035:

(B) Fleets with 2 vehicles will be required to transition 1 vehicle to a ZEAS by 2031.

(2) Battery electric or fuel cell airport shuttles certified for sale in California prior to model year 2026 may be counted as ZEAS when calculating the total fleet percentage.

(b) Purchase Replacement Requirements for Zero-Emission Airport Shuttles: If a fleet owner is replacing a ZEAS on or after January 1, 2023, the fleet owner must replace that vehicle with a ZEAS.

(c) Certification Requirements for Heavy-Duty Zero-Emission Airport Shuttles:

(1) 2026 and later model year heavy-duty vehicles (GVWR of greater than or equal to 14,001 pounds) must be certified and approved for sale in California pursuant to the Enhanced Electric and Fuel-Cell Vehicle Certification Procedures contained in section 95663, of title 17 of the California Code of Regulations, incorporated by reference therein, in order to be counted as a ZEAS when calculating the total fleet percentage.

(d) On or after January 1, 2036, no fleet owner shall operate an airport shuttle at a regulated airport unless it is a ZEAS or an exempt airport shuttle.

(e) Regulated airports that contract, lease, or permit airport shuttle service on their property, on or after January 1, 2022, shall comply with the following requirements:

(1) The regulated airport shall include language requiring that the fleet be in compliance with all applicable air pollution control laws, including, but not limited to this subarticle, in any new contract, lease, or permit that has an effective date as of December 31, 2021 or later;

(2) The regulated airport shall verify compliance with the regulation by either obtaining Certificates of Reported Compliance from the fleet owner or reviewing the compliance status of each fleet on the TRUCRS website and maintain these records for a minimum of three years from date of receipt from the fleet owner; and

(3) The regulated airport shall maintain records demonstrating compliance with this subsection (a), including, but not limited to, records of contracts, leases, or permits for airport shuttle service. The regulated airport shall provide these records to an agent or employee of CARB within five business days upon receipt of written request.

NOTE: Authority cited: Sections 38501, 38505, 38566, 38510, 38560, 39002, 39003, 39500, 39516, 39600, 39601, 39602, 39602.5, 39650, 39658, 39659, 39667, 43013, 43018, 43100, 43101, 43102, 43104, 43105, and 43106, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 39650, 39658, 39659, 39667, 42410, 43000, 43000.5, 43009, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5, and 43600, Health and Safety Code.

§ 95690.6 Exemptions and Extensions.

(a) Reserve Airport Shuttle Exemption. The requirements of section 95690.5 do not apply to reserve airport shuttle(s) if all of the following conditions are met:

- (1) The reserve airport shuttle is in use less than 3,000 miles per calendar year;
- (2) The reserve airport shuttle is identified and designated as a reserve airport shuttle in the annual report submitted pursuant to section 95690.4;
- (3) On or after January 1, 2026, the fleet owner submits annual reporting information on the reserve airport shuttle as part of its compliance with reporting requirements in section 95690.4, including but not limited to:
 - (A) Identifying the reserve airport shuttle as "reserve" for as long as the fleet owns the vehicle;
 - (B) Reporting the mileage reading from a properly functioning odometer or hubodometer taken on ~~January 1 and~~ December 31 of the compliance year.
- (4) The fleet owner owned the airport shuttle prior to designation as "reserve airport shuttle."

(b) Transit Agency Exemption. The requirements of this subarticle do not apply to vehicles subject to the fleet rule for public transit agencies commencing with section 2023 of title 13 of the California Code of Regulations.

(c) Emergency Exemption. The requirements of this subarticle do not apply to the operation of a vehicle during an emergency, state of emergency, state of war emergency, grid outages of over 4 hours, and any unplanned occurrence where the electrical system at an airport cannot provide electrical power to its rail system.

- (1) On or after January 1, 2026, as part of compliance with the reporting requirements in section 95690.4, fleet owners should report the use of the Emergency Exemption, including documentation that supports the finding of a circumstance as requiring exempted use.

§ 95690.7 Extensions

(a) Infrastructure Facility Extension. The Executive Officer may grant a fleet owner a one-time extension of not more than two years to the compliance deadline specified in section 95690.5(a) or purchase replacement requirement in section 95690.5(b) for a fleet that is domiciled in a facility with site limitations that prevent adequate zero-emission charging infrastructure from being installed or would not allow for safe ingress and egress at the facility. The fleet owner shall submit an application for extension per subsection (c) ~~apply~~ to the Executive Officer at least 90 days prior to the compliance deadline. ~~The written request must include the reason for requesting the extension and provide supporting documentation verifying site limitations. Fleet owners approved under this exemption, must comply with reporting requirements in section 95690.4.~~

(b) Compliance Extension. The Executive Officer may grant a fleet owner an extension to a compliance deadline specified in section 95690.5(a) or purchase

~~replacement requirement in section 95690.5(b) due to unforeseen, temporary, or extenuating circumstances outside of the fleet owner's control. The fleet owner shall submit an application for extension per subsection (c) apply to the Executive Officer at least 90 days prior to the compliance deadline. The written request must include the reason for the extension and provide supporting documentation. Fleet owners approved under this exemption, must comply with reporting requirements in section 95690.4.~~

(c) Application for Extensions. A fleet owner applying for an extension under this provision must obtain Executive Officer approval of the extension application.

(1) A completed extension application must include:

(A) The reporting information specified in subsection 95690.4(a);

(B) Start and end dates of extension use;

(C) Documentation that supports the finding of a circumstance as requiring extension use; and

(D) Efforts taken to mitigate future need for the extension.

(2) 30-Day Public Comment Period. After an application has been received, the Executive Officer shall provide a 30-day public comment period to receive comments on any element of the application and whether the Executive Officer should approve or disapprove the application based on the contents and merits of the application. The Executive Officer shall notify all interested parties of the following:

(A) The applicant;

(B) The start and end dates for the 30-day comment period; and

(C) The website address where the application is posted.

(3) Final Action. Within 15 days after the public comment period ends, the Executive Officer shall take final action to approve or deny the application and shall notify the applicant accordingly. If the application is denied or modified, the Executive Officer shall state the reasons for the denial or modification in the notification. The notification to the applicant and approved plan, if applicable, shall be made available to the public on the CARB Zero-Emission Airport Shuttle website. In addition, the Executive Officer shall consider and address comments received during the public comment period.

NOTE: Authority cited: Sections 38501, 38505, 38566, 38510, 38560, 39002, 39003, 39500, 39516, 39600, 39601, 39602, 39602.5, 39650, 39658, 39659, 39667, 43013, 43018, 43100, 43101, 43102, 43104, 43105, and 43106, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 39650, 39658, 39659, 39667, 42410, 43000, 43000.5, 43009, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5, and 43600, Health and Safety Code.

§ 95690.78 Enforcement of Fleet Requirements.

(a) Right of Entry.

For the purpose of inspecting airport shuttle fleet subject to this subarticle and their records to determine compliance with these regulations, an agent or employee of CARB, upon presentation of proper credentials, has the right to enter any facility (with necessary safety clearances) where an airport shuttle fleet is located or records are kept.

(b) Audit of Records.

The fleet owner or operator must make records available to CARB at its request for audit to verify the accuracy of the records. In the event the records are not made available within 30 days of the request, CARB may assess penalties for noncompliance. Submitting false information to CARB is a violation of this regulation and violators will be subject to penalty.

(c) Noncompliance and Penalties.

(1) Failure to meet any provision, criteria, or requirement of this regulation including airport shuttle fleet purchase, recordkeeping and reporting requirements shall constitute a single separate violation for each airport shuttle for each day until the requirement has been met;

(2) Any person who submits any false statement or representation in any report, statement, or other document filed, maintained, or used for the purposes of compliance with this regulation may be subject to civil or criminal penalties; and

(3) In assessing penalties, the Executive Officer will consider relevant circumstances as specified in state law including, but not limited to, the circumstances specified in section 43024 of the Health and Safety Code.

NOTE: Authority cited: Sections 38501, 38505, 38566, 38510, 38560, 39002, 39003, 39500, 39516, 39600, 39601, 39602, 39602.5, 39650, 39658, 39659, 39667, 43013, 43018, 43100, 43101, 43102, 43104, 43105, and 43106, Health and Safety Code.

Reference: Sections 38501, 38505, 38510, 38560, 39650, 39658, 39659, 39667, 42410, 43000, 43000.5, 43009, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5, and 43600, Health and Safety Code.