

Notice of Public Availability of Modified Text

Clean Miles Standard

Public Hearing Date: May 20, 2021
Public Availability Date: September 14, 2021
Deadline for Public Comment: September 29, 2021

At its May 20, 2021, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed section 2490, Title 13 California Code of Regulations, which establishes targets for increasing electrification and decreasing greenhouse gas emissions from transportation network companies (TNC) that provide ride-hailing services.

The Board directed the Executive Officer to determine if any modifications to the regulation would be appropriate to clarify the roles and responsibilities of CARB and the California Public Utilities Commission (CPUC) and to clarify any provisions of the proposed regulation consistent with Senate Bill (SB) 1014 (Skinner, Stats. 2018, ch. 369). The Board also directed that proposed modified regulatory language should be made available for public comment, with any supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications.

The resolution and all other regulatory documents for this rulemaking are available online at the CARB [Clean Miles Standard Rulemaking webpage](#).

The text of the modified regulatory language is shown in Attachment A. New deletions and additions to the original proposed language that are made public with this notice are shown in ~~striketrough~~ and underline format, respectively.

The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Staff will only address comments received during this 15-day comment period that are responsive to this notice or the changes detailed in Attachment A. In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors or changes in numbering or formatting, nor does it include all the non-substantive revisions made to improve clarity.

1. In subsection 2490(a)(3), language was added to state that the California Public Utilities Commission (CPUC) has authority to adopt or enforce additional requirements related to implementing the Clean Miles Standard. This avoids confusion regarding CPUC's authority to add requirements as needed during their proceedings that pertain to the implementation of the regulation.
2. In subsection 2490(b), the term "integrated fare payment" has been deleted, as this term is no longer used in the text of the proposed regulation. The CO₂ credit provision for TNC connected trips to transit has been expanded to allow for additional methods of verifying that a TNC trip was connected to transit. For the TNC to earn credit, the transit portion of the connected trip does not necessarily need to be paid through the TNC app or a third-party app, but another form of proof that the connection occurred must be provided.
3. In subsections 2490.1(d)(1) and 2490.1(d)(4), language was revised to indicate that the CPUC, not CARB, will be issuing any over-compliance credits earned by a TNC. CPUC indicated to CARB that they wished to take on this role as part of implementing the regulation.
4. In subsection 2490.2(c), "minus eVMT_{P1,P2,P3}" was added back into the description of equation terms since it was inadvertently removed in the 45-day notice version of the proposed regulation. Additionally, the subscript "All" was stricken from the equation term VMT_{P3, All} to remove any confusion on what data should be included in this part of the equation and to define the term more clearly.
5. In subsection 2490.2(d), the term "project life" was added in parentheses to further define and clarify what is meant by the year the project is operational. The parenthetical was also added to subsection 2490.3(b)(7) for the same reason.
6. In subsection 2490.2(d)(5), language was added to clarify that credits may only be earned beginning in the year the project becomes operational and can only be applied during the project life. This modification is necessary to provide clarity on when the regulated party may request the optional bikeway and sidewalk infrastructure investment credit.
7. In subsection 2490.2(e), language was modified to expand the options that are used to demonstrate that a ride-hailing trip was connected to a transit trip, and no longer requires use of an integrated fare payment system alone. This

modification provides that credits can be earned from transit-connected trips that are booked with an integrated fare payment system, or booked within the TNC app, or where other methods of verification are submitted to demonstrate the transit connection. This modification includes changes to the definition of terms for Equation 5 to be consistent with the expansion of the provision to allow other methods of verification.

8. In subsection 2490.2(f), language is added to provide that the CPUC may develop its own optional CO₂ credit programs, in addition to those included in this regulation. These credits can only be applied in the greenhouse gas equation and be used to meet the greenhouse gas target. This modification avoids confusion concerning the extent of CPUC's authority in the implementation of the regulation as it pertains to optional credits.
9. In renumbered subsection 2490.2(g), a modification was added to state that the TNC may apply for CO₂ credits from the CPUC and that the CPUC shall issue credits upon finding that the TNC has submitted all required information as described in Sections 2490.2(b) and 2490.2(c). This modification is made to clarify that to obtain credits, TNCs must request it from the CPUC, not CARB, and that the CPUC will determine eligibility of the credits based on the required information submitted.
10. In section 2490.3(a)(3), a reference to the new Attachment 2, containing additional required data fields, is added. The new Attachment 2 adds field that include driver information and links driver IDs to the trip data in Attachment 1. This modification is made to gather more information about the driver and can be used later to evaluate impacts on TNC drivers as directed by the Board.
11. In section 2490.3, the biennial compliance plan requirement was removed entirely. Although this reporting requirement is a statutory requirement of Senate Bill 1014, it will be left out of this regulation and instead be included in the CPUC's rulemaking proceedings as a component of CPUC's implementation.
12. In renumbered subsection 2490.3(b)(4), "CARB" is replaced with "CPUC" to reflect that the agency issuing over-compliance credits that the TNC must report in its Annual Compliance Report is CPUC, not CARB. This modification was made to be consistent with section 2490.1(d) of the regulation, which identifies CPUC as the agency tasked with approving and issuing over-compliance credits during the implementation of this regulation.
13. In subsection 2490.3(b)(5), "CARB" is replaced with "CPUC" to reflect that the agency issuing optional CO₂ credits that the TNC must report in its Annual Compliance Report is CPUC, not CARB. This modification was made to be consistent with the language provided in subsection 2490.2(g), which identifies

CPUC as the agency tasked with approving and issuing optional CO₂ credits during the implementation of this regulation.

14. In subsection 2490.3(b)(8), the term “integrated fare payment” was removed to be consistent with the CO₂ credit provision as described in section 2490.2. Also in this subsection, the requirement of submitting the length of Period 3 trips connected to transit was added as renumbered subsection 2490.3(b)(8)(v), as this is necessary to determine the amount of CO₂ credit that may be earned. The former subsection 2490.3(b)(8)(vi) requiring the name of the integrated fare operator and contact information was removed. The word “stop” was added in renumbered 2490.3(b)(8)(vii) to further clarify the type of transit location information that should be submitted for requesting the optional CO₂ credit. In 2490.3(b)(8)(viii) “amount paid for transit trip” was replaced with “verification of payment for TNC trip connected to transit trip,” in order to allow other information to serve as verification of payment for the connected transit trip, not limited to the amount paid for the transit trip.
15. In subsection 2490.4(b), “CPUC” was added to be consistent with subsections 2490.1(d) and 2490.2(g), which identify CPUC as the agency that would approve and issue credits.
16. In Attachment 1, the data fields “Total amount paid” and “Tip” have been added. This modification was made to capture additional data related to potential TNC driver impacts. The justification column was deleted for the data fields since the justification is provided in the Initial Statement of Reasons (ISOR).
17. Attachment 2 was added, and referenced in section 2490.3(a)(3), in response to the Board’s concern regarding the proposed regulation’s impacts to drivers. New driver-related data fields that TNCs are required to report were added in Attachment 2 to include trip revenue and total revenue, ZEV subsidies given to the driver, total engaged time that the driver spends in Periods 2 and 3, and total annual miles.

These data will be used to evaluate revenue impacts to TNC drivers during the period of the regulation including on an annual basis, on a per-mile basis, and on the basis of time spent in different trip periods on the platform.

In addition to the modifications described above, additional modifications correcting grammar, punctuation, spelling, numbering, and formatting have been made throughout the proposed changes. These changes are non-substantive.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Gloria Pak, Air Resources Engineer, Low Emission Vehicle Regulations Section at (951) 542-3339 or (designated back-up contact) Shobna Sahni, Air Resources Supervisor, Low Emission Vehicle Regulations Section at (951) 542-3369.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

[Electronic submittal](https://www.arb.ca.gov/lispub/comm/bclist.php): <https://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

To be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

Copies of the 15-Day Notice and modified regulatory language, in underline and strikeout format to allow for comparison with the 45-Day regulation text, may be accessed at the CARB [Clean Miles Standard Rulemaking webpage](#). Please contact Chris Hopkins, Regulations Coordinator, at chris.hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, between the hours of 9:00am to 4:00pm, Monday through Friday (excluding holidays).

If you need this document in an alternate format or another language, please contact the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

California Air Resources Board



Richard W. Corey
Executive Officer

Date: September 14, 2021

Attachment

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.arb.ca.gov) (www.arb.ca.gov).