

Proposed

State of California
Air Resources Board

Clean Miles Standard

Resolution 21-10

May 20, 2021

Agenda Item No.: 21-4-1

Whereas, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

Whereas, in section 43000 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the State, and sections 39002 and 39003 of the Health and Safety Code charge the Board with the responsibility of air pollution control from motor vehicles;

Whereas, despite its significant progress, California continues to suffer from some of the worst air pollution in the nation, with the only two areas designated as extreme nonattainment with the National Ambient Air Quality Standards for ground-level ozone;

Whereas, criteria emissions from the combustion and distribution of the fossil fuels that power motor vehicles and other mobile sources are the largest contributors to the formation of ground-level ozone in California;

Whereas, section 43018(a) of the Health and Safety Code directs the Board to endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources to attain the state ambient air quality standards at the earliest practicable date;

Whereas, section 38510 of the Health and Safety Code designates CARB as the State agency charged with monitoring and regulating sources of greenhouse gas (GHG) emissions that cause global warming in order to reduce such emissions;

Whereas, section 38560 of the Health and Safety Code directs the Board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources or categories of sources;

Whereas, Senate Bill (SB) 32 (Pavley, Stats. 2016, ch. 249) – the California Global Warming Solutions Act as amended in 2016 – provides the Legislature’s findings that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and thus sets forth a statewide GHG reduction goal of 40 percent below the 1990 level by 2030;

Whereas, the transportation sector accounts for almost 50 percent of GHG emissions in California when accounting for fuel production, and light-duty vehicle emissions makes up 70 percent of the transportation sector’s direct emissions;

Whereas, the 2018 SB 375 Progress Report shows that although California has met the 2020 climate target ahead of schedule due to strong performance in the energy sector, meeting future targets will require greater emphasis on transportation sector emission reductions;

Whereas, Governor Jerry Brown enacted Executive Order B-55-18 to achieve carbon neutrality as soon as possible and no later than 2045;

Whereas, in December 2017, the Board adopted California’s 2017 Climate Change Scoping Plan, which recommends a transition to zero-emission vehicles in the transportation sector as a measure to meet the State’s GHG emissions and air quality goals and enable long-term de-carbonization of the transportation sector;

Whereas, in an effort to dramatically reduce carbon emissions from transportation, Governor Jerry Brown enacted Executive Order B-48-18, ordering State entities to take actions to put at least 5 million zero-emission vehicles on California roads by 2030;

Whereas, in an effort to put transportation on the path to carbon neutrality, Governor Gavin Newsom enacted Executive Order N-79-20, to ensure that 100 percent of new passenger vehicle sales are zero-emission by 2035 and compel providers of refueling infrastructure and electric utilities to support the increasing consumer demand for electric vehicles.

Whereas, SB 350 (De León, Stats. 2015, ch. 547), directed the California Public Utilities Commission (CPUC) to take actions to support widespread transportation electrification;

Whereas, the transportation sector has evolved to include more on-demand ride services offered through online platforms that connect passengers with drivers or provide access to other mobility devices;

Whereas, the use of transportation network company (TNC) services has been on a rapid growth trajectory in California since their inception in 2012;

Whereas, TNCs are well-poised to boost electric vehicle adoption in their own business as well as by their riders by increasing exposure to the technology as each TNC electric vehicle (EV) may serve numerous riders per day;

Whereas, SB 1014 (Skinner, Stats. 2018, ch. 369), requires CARB to adopt and the CPUC to implement annual GHG reduction targets for TNCs, which include increasing the portion of passenger miles traveled by zero-emission means;

Whereas, in response to SB 1014, staff has proposed the Clean Miles Standard regulation, as set forth in Appendix A to the Initial Statement of Reasons (ISOR or Staff Report) released to the public on March 30, 2021;

Whereas, SB 1014 requires CARB to establish a GHG emissions inventory on a per-passenger mile basis for the TNC sector using 2018 as the base year, which was completed in December 2019 and presented to the Board in January 2020;

Whereas, in developing the Clean Miles Standard regulation, CARB staff conducted a thorough cost analysis, with conservative assumptions that aim to ensure the regulation sets targets designed to be economically feasible for TNC drivers. Staff conservatively assumed drivers would only switch to a ZEV with a one-year payback period for drivers from fuel and maintenance savings to offset the EV purchase, drivers in future years would only have access to some of the current incentives for purchasing a new or used ZEV, and drivers would purchase a ZEV of a similar age as their conventional vehicle, recognizing many drivers cannot afford new vehicles;

Whereas, in developing the Clean Miles Standard regulation, CARB staff identified a range of existing clean vehicle and fuel incentives available to TNC drivers who are considering purchasing a ZEV as their next vehicle. Examples of available incentives for drivers include the Clean Fuels Reward for new electric vehicle purchases, the Clean Vehicle Rebate Project for new electric vehicle purchases, and the Clean Cars 4 All for used electric vehicle purchases;

Whereas, in developing the Clean Miles Standard regulation, CARB staff considered options to encourage active transportation through TNC investments in sidewalks and bike lanes and to encourage connections to transit by providing optional credits for transit trips booked through an integrated fare payment system with the TNC services;

Whereas, in developing the Clean Miles Standard regulation, CARB staff have consulted with CPUC staff to coordinate regulatory efforts between the two agencies;

Whereas, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

Whereas, staff has determined that the proposed Clean Miles Standard regulation is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter VII of the Staff Report;

Whereas, staff has determined the proposed Clean Miles Standard regulation is also exempt from CEQA under California Code of Regulations, title 14, section 15308 ("Class 8" exemption: Actions Taken by Regulatory Agencies for Protection of the Environment) because the record evidence shows that the Clean Miles Standard regulation will enhance the environment by better protecting the public from health impacts associated with exposure to vehicle tailpipe NO_x, PM_{2.5} and GHG emissions, the regulatory process involves procedures for protection of the environment, and the Clean Miles Standard regulation will not result in any significant adverse environmental impacts as described in Chapter VII of the Staff Report;

Whereas, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

Whereas, the Board finds that:

The proposed regulation meets the statutory requirement to adopt GHG emission reduction and electrification targets for TNCs as identified in SB 1014 (Skinner, Stats. 2018, ch. 369);

The proposed regulation was developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue;

No reasonable alternatives to the regulation considered to date, or that have otherwise been identified and brought to the attention of CARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;

The proposed regulation is consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, income, or national origin;

The proposed regulation is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment; and

The proposed regulation is exempt from CEQA under California Code of Regulations, title 14, section 15308 because substantial evidence in the record shows that it will enhance the environment by better protecting the public from health impacts associated with exposure to vehicle tailpipe NO_x, PM_{2.5}, and GHG emissions, the regulatory process involves procedures for protection of the environment, and the proposal will not result in any significant adverse environmental impacts.

Now, therefore, be it resolved that the Board hereby approves for adoption section 2490, Title 13 California Code of Regulations, as set forth in Appendix A of the Initial Statement of Reasons released to the public on March 30, 2021.

Be it further resolved that if there is a possibility that any modifications to the regulation made available for one or more 15-day public comment periods may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by CARB's regulations at title 17, CCR, section 60004.

Be it further resolved that the Board directs the Executive Officer to develop conforming modifications to the regulation, after consultation with the California Public Utilities Commission (CPUC). Once the Executive Officer has considered conforming modifications as appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Appendix A of the Initial Statement of Reasons released to the public on March 30, 2021, along with any conforming modifications. The modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall 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. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.

Be it further resolved that the Board directs the Executive Officer to work with CPUC, following the adoption of the regulation, to establish a public resource and engagement tool for TNC drivers to learn about incentives available to purchase and use ZEVs for TNC services, and for drivers to provide feedback about the design and implementation of the regulation; CARB staff are to continue monitoring the TNC market regarding cost impacts to lower income drivers and riders, and challenges that occur in purchasing and operating ZEVs for TNC services.