

State of California
AIR RESOURCES BOARD

**Notice Of Public Availability Of Modified Text
And Availability Of Additional Documents And Information**

**PROPOSED AMENDMENTS TO THE ZERO-EMISSION AIRPORT SHUTTLE
REGULATION**

Public Hearing Date: February 21, 2019
Public Availability Date: May 9, 2019
Deadline for Public Comment: May 24, 2019

At its February 21, 2019, public hearing, the California Air Resources Board (CARB or Board) considered staff's proposed adoption of new sections 95690.1, 95690.2, 95690.3, 95690.4, 95690.5, 95690.6, and 95690.7, title 17 of the California Code of Regulations. These new sections comprise the Zero-Emission Airport Shuttle Regulation requirements. The Board did not take action on the proposal at the February 21, 2019, Board hearing.

At the hearing, staff presented modified regulatory language developed in response to comments received since the Initial Statement of Reasons (ISOR or Staff Report) was released to the public on December 31, 2018. This modification changed the date fleets need to report the use of reserve shuttles.

The Board then directed the Executive Officer to determine if additional conforming modifications to the regulation were appropriate and make the modified regulatory language, and any additional conforming modifications, available for public comment, with any additional 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. The Executive Officer was directed to evaluate all comments received during the public comment periods, including comments raising significant environmental issues, and prepare written responses to such comments as required by CARB's certified regulations at California Code of Regulations, title 17, sections 60000-60007 and Government Code section 11346.9(a). The Executive Officer was further directed to present to the Board, at a subsequently scheduled public hearing, staff's written responses to environmental comments and the final environmental analysis for consideration for approval, along with the finalized regulation and amendments for consideration for adoption.

The resolution and all other regulatory documents for this rulemaking are available online at the following CARB website: <https://ww2.arb.ca.gov/rulemaking/2019/asb19>
The text of the modified regulatory language is shown in Attachment A. The originally

proposed regulatory language is shown in ~~striketrough~~ 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-striketrough~~ and double underline format, respectively.

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

Summary of Proposed Modifications

In addition to the modification presented to the Board at the February 21, 2019 hearing, staff is now proposing additional modifications to the previously proposed adoption of new sections 95690.1, 95690.2, 95690.3, 95690.4, 95690.5, 95690.6, and 95690.7, Title 17 of the California Code of Regulations. These modifications are summarized below and are also attached to this notice.

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

A. Modification to Section 95690.2. Definitions.

In section 95690.2(a), staff proposes to add definitions for “Emergency,” “State of Emergency,” and “State of War Emergency,” and to delete “predetermined” from the definition of “Fixed Destination Route” because it lacked clarity. These modifications clarify which conditions would be included in subsection 95690.6(c) Emergency Exemption as well as which types of airport shuttle operations are included in section 95690.3(a).

B. Modification to Section 95690.3. Applicability.

In section 95690.3(a)(3), staff proposes to modify language indicating that the fixed destination route is to be 30 miles or less but not specifically “from a regulated airport.” The modification clarifies interpretation of the geographic applicability of the proposed regulation.

C. Modification to Section 95690.5. Airport Shuttle Fleet Requirements.

1. In section 95690.5(a)(1)(A), staff proposes to add language clarifying when fleets with 1 or 2 vehicles will be required to transition to zero emission vehicles. This provides more clarity to small fleet owners concerning the compliance schedule.

2. In section 95690.5(d), staff proposes to clarify that exempt airport shuttles would be allowed to operate on or after January 1, 2036.
3. In section 95690.5(e)(2), staff proposes to add language allowing regulated airports the option to verify compliance using CARB's TRUCRS website and remove language requiring regulated airports to maintain fleet compliance records for three years. These revisions add flexibility to the compliance verification process for airports.

D. Modification to Section 95690.6. Exemptions and Extensions.

1. In section 95690.6, staff proposes to bifurcate section 95690.6 Exemptions and Extensions into section 95690.6 Exemptions and section 95690.7 Extensions. The proposed Extensions section will encompass the infrastructure facility extension, the compliance extension, and include a public process for submitting and approving applications for extensions.
2. In section 95690.6(a)(3), staff proposes to clarify that the annual reporting requirement for reserve airport shuttles will start on January 1, 2026, and that mileage readings must be taken on December 31st of the compliance year.
3. In section 95690.6(c)&(c)(1), staff proposes to add language to exempt vehicle operation during emergency situations and require fleet owners to report information specified in subsection (c)(1). This was added in response to comments from stakeholders over concern for their ability to respond to an emergency situation while maintaining compliance with the regulation.
4. In newly renumbered sections 95690.7(a) and 95690.7(b), staff proposes to remove the language of what information must be submitted to the Executive Officer, as the necessary documentation is specified by the criteria set forth in section 95690.7(c).
5. In new section 95690.7(c)(1), staff proposes to add new language describing the information that the fleet owner must provide to the Executive Officer when applying for an extension. This consists of information that is required in section 95690.4(a) Reporting Requirements for Airport Shuttle Fleets, the projected start and end dates of the extension, supporting documentation that demonstrates the need for the requested extension, and a mitigation plan that would detail efforts made by the fleet owner to reduce or eliminate the future need for the extension.
6. In new section 95690.7(c)(2), staff is proposing to add a 30-Day public comment period to the extension application process. After fleet owners submit their extension application, CARB will make the application materials available to the public for comment for a total of 30 days. This addition

facilitates a transparent evaluation process and is responsive to Board comments received at the February 21, 2019, hearing.

7. In renumbered section 95690.7(c)(3), staff is proposing to add language clarifying the final actions that the Executive Officer will take on the extension application process and that the decision will be made available to the public within 15 days of the close of the public comment period.

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

Environmental Analysis

These proposed modifications do not change implementation of the regulation in any way that is anticipated to affect the conclusions of the environmental analysis included in the Staff Report because the modifications consist primarily of refinements and clarifications to the initial proposal. At this stage in this rulemaking process, CARB does not expect that any changes in compliance responses resulting from the modifications would result in any of the circumstances requiring recirculation of the analysis as set forth in section 15088.5 of the California Environmental Quality Act (CEQA) Guidelines.

Update to the Economic Impact Assessment in the Initial Statement of Reasons

Staff received a comment that the economic impact assessment did not include state and local taxes for electricity prices. Initially, staff had used a conservative statewide estimate of \$0.17 per kilowatt-hour (kWh). However, in response to the comment, staff conducted a more thorough analysis of electricity prices that uses a statewide weighted average kWh price and includes state and local taxes. Using the CARB Battery Electric Truck and Bus Charging Cost Calculator¹, staff determined kilowatt-hour (kWh) prices for public and private shuttle fleets. Each result was grouped according to utility provider and the average kWh price was calculated. The average rates for each utility provider were weighted according to how many shuttles are served relative to the total population. Combining the weighted kWh prices produced a weighted kWh price of \$0.15 per kWh. Staff then added an additional 12 percent tax to the weighted average price, as recommended by the commenter. This addition yielded \$0.17 per kWh, confirming the initial approach for electricity costs as provided in the staff report².

Additional Documents Added to the Record

In the interest of completeness, staff has also added to the rulemaking record and invites comments on the additional documents:

¹ See Additional Documents Added to the Record, #2.

² See Additional Documents Added to the Record, #1.

1. CARB, Zero-Emission Airport Shuttle Updated Electricity Price Calculation. May 2, 2019
2. CARB, Battery Electric Truck and Bus Charging Cost Calculator, Version 3.0 — Updated: 6/20/2017. This document is intended to replace reference #62 in the ISOR, and reference # 13 in the ISOR Appendix C: Economic Analysis for the Proposed Zero-Emission Airport Shuttle Regulation
3. CARB, Emissions Inventory Analysis for the Zero-Emission Airport Shuttle Regulation. Released December 31, 2019.
4. DWU Consulting, LLC, Airport Finance 101, March 14, 2017.
5. State Administrative Manual § 6606; Dept. of Finance v. Com. on State Mandates (2003) 30 Cal.4th 727, 735; see also Com. on State Mandates Test Claim No. 03-TC-01. May 26, 2011
6. CARB, Aggregated Vehicle Inventory Data from Survey, Research, and Data Extrapolation. Released December 31, 2018. This document is intended to replace reference #16 in the ISOR.
7. United States Environmental Protection Agency, Our Nation's Air. Accessed May 7, 2019. This document is intended to replace reference # 46 in the ISOR.
8. United States Environmental Protection Agency, 40 CFR Parts 50 and 58 Primary National Ambient Air Quality Standards for Nitrogen Dioxide; Final Rule. February 9, 2010. This document is intended to replace reference # 74 in the ISOR, Appendix B - Draft Environmental Analysis, Attachment A.

In addition to the additional documents added to the record listed above, the following corrections are needed to accurately cite documents listed as references:

1. ISOR reference # 13 – “(Aviation Caucus, 2015) Aviation Caucus – About Us, PricewaterhouseCoopers LLP, February 2015, <http://aviationcaucus.legislature.ca.gov/aboutus>.” The correct reference date is February 20, 2018.
2. ISOR Appendix B, Draft Environmental Analysis, #7 – “California Air Resources Board (CARB) (2008). Rulemaking to Consider Proposed Amendments to the Zero Emission Bus Regulation. Last reviewed June 3, 2008. Available: <https://www.arb.ca.gov/regact/zbus06/zbus06.htm>.” This is not a document relied upon; staff proposes removal from the rulemaking record.

3. ISOR Appendix B, Draft Environmental Analysis, Attachment A, # 8 – “Bureau of Labor Statistics (BLS) (2018b). Economy at a Glance: California. Data Extracted on July 20, 2018.” The correct title is “Databases, Tables & Calculators by Subject: Local Area Unemployment Statistics.”
4. ISOR Appendix B, Draft Environmental Analysis, Attachment A, # 58 – “Rolle, W. F. (1969). California A History. Thomas Y. Cronwell Company, Inc. U.S. pp. 74, 218-220, 352-253, 358-359. The correct author is Rolle, Andrew F.” and the correct pages are 74, 218-220, 352-353, 358-359.

These documents are available for inspection by contacting Bradley Bechtold, Regulations Coordinator, at (916) 322-6533.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Anthony Poggi, Air Pollution Specialist, Alternative Strategies Section, (916) 324-9424 or Femi Olaluwoye, Manager, Incentives Development Section, at (626) 459-4427.

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: Clerk of the Board, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

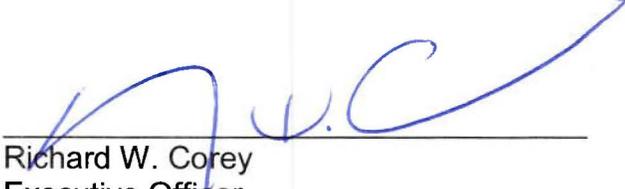
Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order 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 by 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.

If you need this document in an alternate format or another language, please contact the Clerk of the Board 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 alternativo 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: *May 9, 2014*

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 at www.CARB.ca.gov.