

State of California
AIR RESOURCES BOARD

PROPOSED ZERO-EMISSION AIRPORT SHUTTLE REGULATION

Resolution 19-8

February 21, 2019

Agenda Item No.: 19-2-6

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, sections 39002 and 39003 of the Health and Safety Code charge the Board with the responsibility for systematically attacking the serious air pollution problem caused by motor vehicles;

WHEREAS, sections 39012 and 39606 of the Health and Safety Code authorize the Board to adopt standards of ambient air quality for each air basin in consideration of the public health, safety, and welfare, including, but not limited to, health, illness, irritation to the senses, aesthetic value, interference with visibility, and effects on the economy;

WHEREAS, sections 39500 and 40000 of the Health and Safety Code designate CARB as the agency responsible for control of emissions from motor vehicles;

WHEREAS, section 39516 provides that any power, duty, purpose, function, or jurisdiction which the state Board may lawfully delegate shall be conclusively presumed to have been delegated to the executive officer unless it is shown that the state Board, by affirmative vote recorded in the minutes of the state Board, specifically has reserved the same for the state Board's own action; and the executive officer may re-delegate to his subordinates unless, by state Board rule or express provision of law, the executive officer is specifically required to act personally;

WHEREAS, in section 39650 of the Health and Safety Code, the Legislature declares that it is the public policy of the state that emissions of toxic air contaminants should be controlled to levels which prevent harm to the public health;

WHEREAS, sections 39655, 39658 and 39659 of the Health and Safety Code authorizes the Board to establish airborne toxic control measures for toxic air contaminants;

WHEREAS, section 39667 of the Health and Safety Code authorizes the Board to regulate emissions of toxic air contaminants from vehicular sources;

WHEREAS, in section 43000.5 of the Health and Safety Code, the Legislature declares that the burden for achieving needed reductions in vehicle emissions should be distributed equitably among various classes of vehicles, and the Board should take immediate action to implement both short- and long-range programs of across-the-board reductions in vehicle emissions and smoke;

WHEREAS, sections 43013, 43100, 43101, 43102, 43104, and 43806 of the Health and Safety Code authorize the Board to adopt emission standards, in-use performance standards, and test procedures to control air pollution caused by motor vehicles;

WHEREAS, section 43018 of the Health and Safety Code authorizes the Board to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state standards for ambient air quality at the earliest practicable date;

WHEREAS, section 43105 of the Health and Safety Code provides that no new motor vehicle or engine required under Part 5 of Division 26 of the Health and Safety Code to meet emission standards shall be sold to the ultimate purchaser, ordered or delivered for sale to the ultimate purchaser, or registered in this state, if the manufacturer has violated emission standards or test procedures and has failed to take corrective action, which may include recall of vehicles or engines, specified by the Board in accordance with its regulations; and provides that the Board shall establish procedures for determining, and the facts constituting, compliance or failure of compliance pursuant to section 43105;

WHEREAS, section 43106 of the Health and Safety Code provides that each new motor vehicle or engine required under Part 5 of Division 26 of the Health and Safety Code to meet the emission standards established pursuant to section 43101 shall be, in all material respects substantially the same in construction as the test motor vehicle or engine that has been certified by the Board in accordance with Article 1, Chapter 2, Part 5, Division 26 of the Health and Safety Code;

WHEREAS, section 43701, subdivision (b), of the Health and Safety Code directs the Board, in consultation with the State Energy Resources Conservation and Development Commission, and after a public hearing, to adopt regulations that require that heavy-duty diesel motor vehicles subject to subdivision (a) of section 43701 to utilize emission control equipment and alternative fuels;

WHEREAS, in section 43801 of the Health and Safety Code, the Legislature declares that emission of air pollutants from motor vehicles is a major contributor to air pollution within the State of California and, therefore, declares its policy to encourage the development and testing of various types of low-emission motor vehicles, which would

contribute substantially to achieving a pure and healthy atmosphere for the people of this state;

WHEREAS, the Legislature has enacted the California Global Warming Solutions Act of 2006 (Assembly Bill 32 (AB 32), stats. 2006, ch. 488, Health & Saf. Code § 38500, *et seq.*), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and requires a comprehensive multi-year program to reduce California's greenhouse gas (GHG);

WHEREAS, AB 32 added section 38501 to the Health and Safety Code, which expresses 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 the Legislature's intent that CARB coordinate with state agencies and consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing AB 32, and design emissions reduction measures to meet the statewide emissions limits for GHGs in a manner that minimizes costs and maximizes benefits for California's economy, maximizes additional environmental and economic co-benefits for California, and complements the State's efforts to improve air quality;

WHEREAS, section 38510 of the Health and Safety Code designates CARB as the State agency charged with monitoring and regulating sources of 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, section 38566 of the Health and Safety Code directs the Board to adopt rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions authorized by this division, the state Board shall ensure that statewide GHG emissions are reduced to at least 40 percent below the statewide GHG emissions limit no later than December 31, 2030;

WHEREAS, section 39602 of the Health and Safety Code provides that the Board is designated the air pollution control agency for all purposes set forth in federal law; and the Board is designated as the State agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 7401, *et seq.*); and, to this end, shall coordinate the activities of all districts necessary to comply with that act; and notwithstanding any other provision of this division, the state implementation plan shall only include those provisions necessary to meet the requirements of the Clean Air Act;

WHEREAS, section 39602.5 of the Health and Safety Code provides that the Board shall adopt rules and regulations pursuant to Section 43013 that, in conjunction with other measures adopted by the state Board, the districts, and the United States Environmental Protection Agency, will achieve ambient air quality standards required by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) in all areas of the state by the applicable attainment date, and to maintain these standards thereafter, the state Board shall adopt these measures if they are necessary, technologically feasible, and cost effective, consistent with Section 43013; and If necessary to carry out its duties under this section, the state Board shall adopt and enforce rules and regulations that anticipate the development of new technologies or the improvement of existing technologies. The rules and regulations shall require standards that the state Board finds and determines can likely be achieved by the compliance date set forth in the rule;

WHEREAS, Senate Bill 32 (SB 32, stats. 2016, ch. 249), was signed into law to expand upon the California Global Warming Solutions Act of 2006 to reduce GHG emissions to 40 percent below the 1990 level by 2030;

WHEREAS, in recognition of the devastating impacts of climate change emissions on California, Governor Arnold Schwarzenegger, in June 2005, signed Executive Order S-3-05, June 1, 2005, which established the following GHG emission targets:

- By 2010, reduce GHG emissions to 2000 levels;
- By 2020, reduce GHG emissions to 1990 levels; and
- By 2050, reduce GHG emission 80 percent below 1990 levels;

WHEREAS, Governor Edmund G. Brown Jr., in Executive Order B-16-12, March 23, 2012, reaffirmed a 2050 GHG emission reduction target for the transportation sector of 80 percent below 1990 levels;

WHEREAS, Governor Edmund G. Brown Jr., in Executive Order B-30-15, April 29, 2015, established a 2030 GHG emission reduction target of 40 percent below 1990 levels, in order to ensure California meets its target of reducing GHG emissions to 80 percent below 1990 levels by 2050;

WHEREAS, CARB's 2016 Mobile Source Strategy, May 16, 2016, identifies several potential technology advancing measures needed to achieve California's air quality and climate goals, including measures to accelerate the deployment of zero-emission shuttles and a low-NOx emission standard;

WHEREAS, In March 2017, the Board adopted the State Strategy for the State Implementation Plan, which identifies the deployment of zero-emission airport shuttles as a necessary component for California to achieve established near- and long- term air quality and climate mitigation targets;

WHEREAS, Governor Edmund G. Brown Jr., in Executive Order B-48-18, January 26, 2018, established a goal of at least 5 million zero-emission vehicles on California roads by 2030;

WHEREAS, Governor Edmund G. Brown Jr., in Executive Order B-55-15, September 10, 2018, established a new statewide goal to achieve carbon neutrality as soon as possible, and no later than 2045, and maintain net negative emissions thereafter;

WHEREAS, in collaboration with its partners, including the California Energy Commission and California Public Utilities Commission, CARB is working to accelerate development of zero-emission technology by continuing to invest in commercialization of various technologies, building on previous investments; and focusing on technology critical to meeting the state's 2030 climate and criteria emission goals; and input from stakeholders and industry is critical to developing a successful investment strategy and identify funding priorities;

WHEREAS, the Low Carbon Fuel Standard (LCFS) program allows entities using fuels with a lower-carbon intensity to generate LCFS credits, thereby creating an additional revenue stream for the transit agencies while stimulating the low carbon fuel market;

WHEREAS, the Alternative Certification Requirements and Test Procedures for Heavy-Duty Electric and Fuel-Cell Vehicles and Proposed Standards and Test Procedures for Zero-Emission Powertrains would help support the industry as the state continues to roll out its suite of heavy-duty zero-emission measures;

WHEREAS, in Resolution 18-21, May 25, 2018, CARB approved allocations for Volkswagen Environmental Trust Funds that included \$130 million for zero-emission transit, school, and shuttle replacements, with at least 50 percent of the allocation expected to benefit disadvantaged or low-income communities;

WHEREAS, airport shuttles serve to transport passengers to and from airports;

WHEREAS, several California airport shuttle operators are currently utilizing zero-emission shuttles as part of their normal daily operation;

WHEREAS, airport shuttles operate on fixed routes, at low speeds, and under frequent stop-and-go driving cycles, which are ideal applications for electric drivetrains with regenerative braking;

WHEREAS, the knowledge and experience gained from deploying zero-emission airport shuttle technologies is enabling market expansion into other zero-emission vehicle applications;

WHEREAS, the Initial Statement of Reasons (ISOR) prepared by staff in support of the proposed Zero-Emission Airport Shuttle regulation presents, among other things, the

rationale and basis for the proposed regulation set forth in Appendix A to the ISOR released to the public on December 31, 2018, and identifies the data, reports, and information relied upon for these proposed regulations;

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, CARB prepared a draft environmental analysis under its certified regulatory program and circulated it as *Draft Environmental Analysis Prepared for the Proposed Zero-Emission Airport Shuttle Regulation and Zero-Emission Powertrain Certification Regulation* (Draft EA), as Appendix B to the Staff report, for public comment 45 days from January 4, 2018, through February 19, 2019;

WHEREAS, the Draft EA concluded that implementation of the proposed Zero-Emission Airport Shuttle has the potential to result in the following short-term and long-term impacts: beneficial impacts on air quality, energy demand, and GHGs; less than significant impacts or no impacts, on energy, mineral resources, population employment, housing, public service, and recreation; and potentially significant impacts on aesthetics, agricultural and forest resources, short-term air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use planning, noise, mineral resources, transportation and traffic, and utilities and service systems and that the potentially significant adverse impacts are primarily related to short-term, construction-related activities. This explains why some resource areas are identified above as having both less-than-significant impacts and potentially significant impacts. Please refer to the Draft EA for further details;

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; and

WHEREAS, the Board finds that:

A viable zero-emission shuttle market has now developed with several shuttle owners beginning to electrify their fleets, several shuttle manufacturers announcing zero-emission shuttle production, and zero-emission shuttle production facilities moving to California;

The Zero-Emission Airport Shuttle regulation is crafted to ensure a successful and orderly transition to a zero-emission fleet by 2035;

The Zero-Emission Airport Shuttle regulation is referenced by the State Implementation Plan as a necessary program for meeting the State's goals and requirements to reduce GHG, criteria pollutant, and toxics emissions;

The Zero-Emission Airport Shuttle regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons;

No alternative considered to date, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than proposed regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law of the proposed amendments, upon considering, among other things, the standardized regulatory impact analysis of the proposed amendments and the specific benefits of the proposed amendments that were identified in the Notice of this action; and

The proposed amendments are consistent with the Board's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby directs the Executive Officer to take the following actions:

1. Make the modified regulatory language in Attachment B, and any additional conforming modifications that are appropriate, available for public comment, with any additional supporting documents and information, for a period of at least 15 days. 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;
2. 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 pursuant to California Code of Regulations, title 17, sections 60000-60007 and Government Code section 11346.9(a);
3. If appropriate, prepare and circulate any further environmental analysis to the extent required by CARB's regulations pursuant to California Code of Regulations, title 17, sections 60000-60007, and as necessary, consider all feasible mitigation or alternatives that could eliminate or substantially lessen any significant adverse environmental impacts identified;

4. Present to the Board, at a subsequently scheduled public hearing, staff's written responses to any comments raising significant environmental issues, along with the final environmental analysis, for consideration for approval; and
5. Present to the Board, at a subsequently scheduled public hearing, the Zero-Emission Airport Shuttle regulation for consideration for adoption.

I hereby certify that the above is a true and correct copy of Resolution 19-8 as adopted by the California Air Resources Board.

A handwritten signature in black ink, appearing to read "Cristina Granados", written over a horizontal line.

Cristina Granados, Clerk of the Board

Resolution 19-8

February 21, 2019

Identification of Attachments to the Board Resolution

- Attachment A*:** Proposed Zero-Emission Airport Shuttle Regulation sections California Code of Regulations 95690.1, 95690.2, 95690.3, 95690.4, 95690.5, 95690.6, and 95690.7, Title 17, as set forth in Appendix A to the Initial Statement of Reasons, released December 31, 2018.
- Attachment B:** Staff's Suggested Modifications to the Original Proposal (Distributed at the February 21, 2019, CARB hearing)

***Attachment A is NOT attached to the proposed resolution; it is simply described on this page.**

ATTACHMENT B

Staff's Suggested Modifications to the Proposed Zero-Emission Airport Shuttle Regulation (Distributed at the 02/21/2019 Board hearing)

This attachment shows the modifications to the originally proposed regulatory language. The originally proposed regulatory language is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The suggested modifications to the proposed regulation are shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions.

Shown below are only those portions of the originally proposed regulation that have been modified. Additional changes and modified regulatory language may be developed by staff, and the modified language will be made available to the public for a fifteen-day comment period prior to final adoption.

Zero-Emission Airport Shuttle Regulation

Amend section 95690.6, title 17, California Code of Regulations (CCR), to read as follows:

§ 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, ~~t~~he 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; and
 - (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."