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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to  
Implement Senate Bill 1014-the  
California Clean Miles Standard  
Program.

Rulemaking 21-11-014

**ADMINISTRATIVE LAW JUDGE'S RULING  
REQUESTING COMMENTS ON PHASE 1 STAFF PROPOSAL**

This ruling invites parties to file opening comments on the Clean Miles Standard Phase 1 staff proposal by January 5, 2023 and file reply comments by February 2, 2023.

**1. Background**

On September 13, 2018, Governor Newsom signed Senate Bill (SB) 1014 (Skinner, 2018) to enact the California Clean Miles Standard and Incentive Program (Clean Miles Standard or CMS). SB 1014 added Section 5450 to the Public Utilities (Pub. Util.) Code to require the California Air Resources Board (CARB) to adopt, and the Commission to implement, annual targets to reduce greenhouse gas emissions by transportation providers regulated by the Commission that provide prearranged transportation services for compensation using an online-enabled application or platform to connect passengers.

CARB submitted the Clean Miles Standard Final Regulation Order to the Office of Administrative Law for approval on March 8, 2022. The Office of Administrative Law approved CARB's final regulation order on October 1, 2022.

On November 18, 2021, the Commission opened this proceeding to implement the Clean Miles Standard. On April 8, 2022, the Commission issued a scoping memo and ruling (scoping memo) to establish the issues in scope and procedural schedule for Phase 1 of this proceeding.

## **2. Questions for Party Comments**

This ruling invites parties to comment on the Phase 1 Clean Miles Standard staff proposal (Staff Proposal) attached to this ruling. Parties should answer the following questions about the Staff Proposal (Attachment A) in the order set forth below. Parties should review the Staff Proposal Summary (Attachment B) when responding to these questions.

### **1. Definition of CMS Regulated Entities.**

- (a) Do you support the proposed definition of CMS Regulated Entities in Attachment B? Why or why not?
- (b) What are the potential impacts of waiting until Phase 2 to define the additional types of entities covered by CMS implementation, if any?

### **2. CARB Annual Targets, Regulatory Framework, and Timeline.**

- (a) What is the current status of the CMS Regulated Entities' progress toward CARB's 2023 annual targets?
- (b) Should the Commission hold CMS Regulated Entities accountable for meeting the CARB annual targets for 2023 based on the expected timing of the Commission's Phase 1 and/or Phase 2 decision in this proceeding and the expected timing for launching the Drivers Assistance Program?
- (c) If not, how should the Commission capture the CMS Regulated Entities' implementation of the CARB annual targets through GHG Reduction Plans and/or enforcement of the CARB annual targets for 2023?
- (d) How should the Commission capture the CMS Regulated Entities' implementation of the CARB annual targets

through GHG Reduction Plans and/or enforcement of the CARB annual targets for 2024?

- (e) Given the CMS rulemaking timeline, should the Commission require filing of the first proposed GHG Plan within 90 days of the final Phase 1 decision, with another Tier 3 Advice Letter to propose additional elements of the GHG Plan addressed in Phase 2 within 90 days of the final Phase 2 decision?

### **3. Low- and Moderate-Income Drivers.**

- (a) Are the proposed income thresholds suitable for ensuring minimal negative impact on low- and moderate-income drivers?
- (b) What are the potential consequences of focusing negative impact analysis on drivers' financial impacts of the transition to zero-emission vehicles (ZEV)?
- (c) Are the proposed methods for ensuring minimal negative impact on low- and moderate-income drivers reasonable and achievable?
- (d) How should the Commission establish the value for the ZEV affordability requirement for a ZEV incentive? Do you support one of the options described in the proposal (match CVRP, assess affordability individually, or assess eligibility affordably)?
- (e) How should the Commission establish the appropriate value for the vehicle charging related incentive? Do you support one of the options described in the proposal (match CVRP, new estimate, or flexible incentive)?
- (f) Should the Commission consider drivers as individuals when accounting for driver income for potential incentives, even if they come from a multi-person household?
- (g) Should a driver's full income be considered or just the income they make from driving when establishing eligibility requirements for CMS incentives?

- (h) Are these proposed driver engagement activities, Driver Working Group and Annual Survey, adequate for obtaining meaningful feedback from drivers?
- (i) Is the staff recommendation for developing the Annual Low- and Moderate-Income Driver Impact Report (Section 5.6 of the Staff Proposal) sufficient to assess impact on low- and moderate-income drivers?

**4. Drivers Assistance Program.**

- (a) Does the proposed third-party Program Administrator for the Drivers Assistance Program address concerns with having the CMS Regulated Entities manage a Drivers Assistance Program?
- (b) Are there concerns with allowing CMS Regulated Entities to propose the CMS regulatory fee amount and program budget to fund the Drivers Assistance Program? If so, what alternative approach would you recommend for setting the CMS regulatory fee amount and program budget?
- (c) Is the proposed method for procuring a Program Administrator through a CMS Regulated Entity's Request for Proposal process, with CPED Staff oversight and input in selection, appropriate for ensuring that the Program Administrator will be an independent entity with sufficient experience to successfully implement the program?
- (d) Are the proposed selection criteria for the Program Administrator reasonable?
- (e) What is the appropriate level of funding that CMS Regulated Entities should contribute to the Drivers Assistance Program before the Program Administrator is selected?
- (f) Are the proposed budget caps for program administration adequate for the proposed purposes?

- (g) How should the costs of the Drivers Assistance Program (including administrative costs) be split among CMS Regulated Entities?
- (h) Is 90 days sufficient time for the Program Administrator to develop an Implementation Plan and Handbook?
- (i) Does the proposed content for the Implementation Plan adequately cover the topics that the Program Administrator should implement? If not, what else should be included?
- (j) Does the proposed content for the Handbook adequately cover the topics relevant to ongoing rules for operating the Drivers Assistance Program that can be used as a reference for drivers or other stakeholders? If not, what else should be included?
- (k) Is the proposed process (Tier 2 Advice Letter) and timing (at least annually) for changing or updating the Implementation Plan appropriate for the purpose of the document? If not, what would be better?
- (l) Is the proposed process (Tier 2 Advice Letter) and timing (at least annually) for changing or updating the Handbook appropriate for the purpose of the document? If not, what would be better?
- (m) Are there other documents or data that the Commission should require from the Drivers Assistance Program?
- (n) Should drivers be able to verify income eligibility through participation in other programs that require proof of income?
- (o) Are the proposed roles and responsibilities for the Program Administrator, contracting agent, and the CMS Regulated Entities relating to the Drivers Assistance Program in Table 1 of the Staff Proposal appropriate?
- (p) Are there any roles or responsibilities missing or not clearly defined in the Staff Proposal?

**5. Programmatic Evaluation and Financial Audit.**

- (a) Is the proposed timing for the Evaluation Contractor procurement and assessment appropriate for the overall CMS timeline?
- (b) Is the proposed budget reasonable to cover at least two programmatic evaluations?
- (c) Are the recommended evaluation review questions for the Evaluation Contractor in Section 7.5 of the Staff Proposal sufficient for the goals of the programmatic evaluation?
- (d) Is the proposed timing for the Financial Auditor procurement and assessment appropriate for the overall CMS timeline?
- (e) Is the proposed budget reasonable to cover at least two financial audits?
- (f) Are the proposed financial auditor questions in Section 7.6 of the Proposal a sufficient starting point for establishing the financial audit approach?

**6. GHG Emissions Reduction Plans.**

- (a) Is the advice letter process and workshop described in the Staff Proposal Summary appropriate for review of the GHG Plans? Why or why not?
- (b) Should the Commission require a Partial GHG Plan ahead of a decision on Phase 2 issues? If not, what alternative process do you propose?
- (c) Are the proposed GHG Plan requirements for a Narrative Plan and Supplemental Calculations sufficient to capture the CMS Regulated Entities plans for meeting the annual targets and other CMS requirements?
- (d) Are the proposed criteria and scorecard process for review of GHG Plans sufficient for ensuring CMS Regulated Entities have implementable plans for meeting the CMS targets and other CMS requirements?

- (e) Do you support the proposed categorization of GHG Plan implementation deviations that are significant and would require filing a Tier 1 or Tier 2 advice letter for approval?
- (f) Is the workshop a sufficient venue for informing stakeholders about the CMS Regulated Entities' proposed GHG Plans?
- (g) Are there other types of programs or actions, to be specified by CMS Regulated Entities in their GHG Plans, that could be appropriately funded through the regulatory fee outside of what is already described as part of the Drivers Assistance Program? (e.g., charging infrastructure, partnerships, etc.)

**7. Compliance and Enforcement Approach.**

- (a) Did the Staff Proposal fail to include any aspects of CMS Regulated Entities' performance that should be subject to compliance and enforcement approaches?

**8. Clean Mobility.**

- (a) Should the proposed definitions of advancing the goals of clean mobility include additional aspects of clean mobility that the Commission could further support through CMS implementation? If so, what data should be collected and who should collect this data to track progress toward these goals?
- (b) Should the Commission consider a broader definition for low- and moderate-income communities, such as the definition used for the Transportation Electrification Framework?
- (c) Do you recommend a different approach to identifying low- and moderate-income drivers or communities? If so, what data should be collected and who should collect this data?
- (d) Is the biennial Unanticipated Barriers and Progress Report an appropriate method for monitoring and evaluating the advancement of clean mobility goals? If not, what process do you recommend?

**9. Outreach and Engagement.**

- (a) Are the proposed engagement activities sufficient for obtaining adequate CMS input from drivers and community-based organizations?
- (b) Are there other issues the Implementation Working Group should be engaged with in relation to CMS? Are there any participants missing?
- (c) Is the Implementation Working Group a sufficient venue for community-based organizations or other non-parties to engage with the proceeding?
- (d) Beyond translation and compensation for participation (noted in Low- and Moderate-income Drivers section), what other strategies are available to ensure robust engagement from drivers and community-based organizations in the CMS decision-making process?

**10. Data Issues.**

- (a) Are there additional data requirements the Commission should consider besides those included in Appendix B of the Staff Proposal? If so, what data requirements should be added and what purpose would the additional data requirements serve?
- (b) Do the overlapping data fields with the TNC Annual Reports create efficiencies in reporting?
- (c) Is the proposed data verification method sufficient to ensure the compliance data received is consistent, complete, and accurate? If not, how could it be improved?
- (d) Should the Commission require CMS Regulated Entities to provide public versions of their CMS reports with appropriate redactions according to the confidentiality rules set forth by the Commission using a template provided by staff?
- (e) How should public versions of CMS data be shared with the public (e.g., through the Commission website or Drivers Assistance Program website)?



**11. Coordination with Transportation Electrification Efforts.**

- (a) Are the proposed coordination activities sufficient to support the coordination of state transportation electrification efforts with CMS?
- (b) Are there other entities CPED should coordinate with to further the coordination of state transportation electrification efforts with CMS?

**12. Environmental and Social Justice.**

- (a) Is the proposed definition of low- and moderate-income drivers and are the proposed methods for ensuring minimal negative impact on low- and moderate-income drivers reasonably consistent with the goals of the Commission's ESJ Action Item 3.1.2?
- (b) Is the proposed definition of low- and moderate-income communities and is the proposed method for tracking improving access to charging infrastructure reasonably consistent with the goals of the Commission's ESJ Action Item 2.5.5?
- (c) Is data tracking and evaluation of progress on ESJ goals as part of the biennial Unanticipated Barriers and Progress Report sufficient for measurement and evaluation of impact on ESJ communities?

**13. Exemptions.**

- (a) Are the proposed adjustments to CARB's proposed exemptions appropriate for CMS implementation? Are there other adjustments that the Commission should consider?
- (b) Are the requirements for the small CMS Regulated Entities exemption sufficient for evaluating exemption status?
- (c) Are the data requirements and evaluation proposal sufficient for tracking impacts of the exemptions on ESJ communities?

**14. Unanticipated Barriers and Progress Report.**

- (a) Should the unanticipated barriers review be combined with the other program evaluations in this report as proposed? Why or why not?
- (b) Is a biennial review of the topics in the proposed Unanticipated Barriers and Progress Report sufficient to ensure advancement of program goals?

**IT IS SO RULED.**

Dated November 17, 2022, at San Francisco, California.

/s/ STEPHANIE WANG

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Stephanie Wang  
Administrative Law Judge

## **ATTACHMENT A**

## **ATTACHMENT B**