

Draft Regulation Order

Adopt new sections 2490, 2490.1, 2490.2, 2490.3, 2490.4, 2490.5, and 2490.6 in new Chapter 11 of Division 3, Title 13, California Code of Regulations, to read as follows:

§ 2490. Clean Miles Standard Regulations Applicability and Scope.

(a) Applicability and Exemptions

- (1) Except as provided in Section 2490(a)(2), these Clean Miles Standard regulations, Title 13, Article 1, Section 2490, California Code of Regulations apply to transportation network companies (TNCs) operating in California.
- (2) A TNC with annual VMT less than 5 million in a given calendar year is exempt from the requirements in Sections 2490.1, 2490.2, 2490.3(b) and 2490.3(c) for that year.

(b) Definitions

- (1) "Autonomous vehicle" has the meaning provided in section 38750 of the California Vehicle Code.
- (2) "Battery electric vehicle" or "BEV" has the meaning provided in section 1962 of the California Code of Regulations.
- (3) "Charter-party carrier" has the meaning provided in section 5360 of the California Public Utilities Code.
- (4) "eVMT" means electric vehicle miles traveled by a BEV or fuel cell electric vehicle.
- (5) "Fuel cell electric vehicle" or "FCEV" has the meaning provided in section 1962.2 of the California Code of Regulations.
- (6) "Hybrid Electric Vehicle" or "HEV" means any vehicle that can draw propulsion energy from both of the following on-vehicle sources of stored energy: 1) a consumable fuel and 2) an energy storage device such as a battery, capacitor, or flywheel.
- (7) "Internal combustion engine vehicle" or "ICEV" means any vehicle that draws propulsion energy only from gasoline, diesel, or compressed natural gas.

- (8) "Integrated payment" means a payment transaction that occurs on one system or application for multiple modes of transport.
- (9) "Passenger mile traveled" or "PMT" has the meaning provided in section 2490.1 of this regulation.
- (10) "Personal vehicle" has the meaning provided in section 5431(b) of the Public Utilities Code.
- (11) "Plug-in hybrid electric vehicle" or "PHEV" has the meaning provided in section 1961.3 in title 13, Code of Regulations.
- (12) "Pool-matched trip" means a TNC ride where the TNC matched two or more parties who requested pooled service, such that each matched party shared a portion of the trip with at least one other matched party.
- (13) "Pool-requested trip" means a TNC ride where one or more passengers requested pooled service on the TNC app, regardless of whether the requester was in fact matched with another party that requested pooled service.
- (14) "Round" means the number shall be rounded, unless otherwise specified, up to the nearest whole number for numbers with 5 or higher in the tenths digit, or rounded down to the nearest whole number otherwise.
- (15) "TNC application" or "app" is the internet-based transportation service platform accessed using a mobile device or computer.
- (16) "Transportation network company" or "TNC" has the meaning provided in section 5431 of the Public Utilities Code and further applies to the entities listed in section 5450(a)(3) of the Public Utilities Code.
- (17) "TNC vehicle" means a vehicle or an autonomous vehicle used to transport passengers in connection with the TNC's online-enabled application or platform.
- (18) "Trip" is travel from an origin to destination by vehicle or mass transit that the TNC app captures.
- (19) "Vehicle miles traveled" or "VMT" means the distance traveled by a TNC vehicle. For purposes of this regulation, VMT includes all miles traveled within the state of California for trips wholly within the border of

California. In addition, VMT shall include all miles for trips that originate within California.

- (20) "Year," unless otherwise specified, refers to a calendar year beginning January 1 and ending December 31, inclusive.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code; Section 5450, Public Utilities Code. Reference: Section 44274.4, Health and Safety Code; Sections 5360 and 5431, Public Utilities Code; Sections 27908 and 38750, Vehicle Code; 1961; Sections 1961.3, 1962, and 1962.2, Title 13, Code of Regulations.

§ 2490.1 Clean Miles Standard Requirements.

- a) Starting with calendar year 2023, and each calendar year thereafter, each TNC must meet the requirements of this section.
- b) Definitions. The following definitions apply to this section:
- (1) TNC Periods. "Period 1" are those miles traveled by a TNC vehicle when a TNC vehicle driver or operator is logged onto the app and waiting for a ride match. "Period 2" are those miles traveled by a TNC vehicle when a TNC vehicle driver or operator has accepted a ride request and is en route to the passenger. "Period 3" are those miles traveled by a TNC vehicle when the passenger, or passengers, are in the TNC vehicle and en route to their destination until the passenger exits the vehicle. If a TNC vehicle driver or operator is logged onto more than one TNC app at the same time, there will be an overlap in miles. This definition is meant to be consistent with the CPUC Commission Decision 14-11-043 that established Periods 1, 2, and 3.
 - (2) Passenger Miles Traveled. "Passenger Miles Traveled" or "PMT" means the miles traveled by a passenger, or miles traveled by each passenger if there are multiple passengers recorded in the app for a trip, in a TNC vehicle or other transport mode provided by the TNC.
- c) Greenhouse Gas Targets.
- (1) A TNC passenger service fleet shall not exceed the annual greenhouse gas (GHG) targets shown in [Table 1](#).

Table 1. Annual GHG Targets

Calendar Year	GHG Target (grams CO ₂ /PMT)
2023	252
2024	237
2025	207
2026	161
2027	110
2028	69
2029	30
2030+	0

- (2) A TNC shall calculate its greenhouse gas emissions per passenger mile annually using Equation 1. Unless otherwise specified, all calculations are for all vehicle trips summed over the calendar year. The numerator of Equation 1 is calculated by multiplying the CO₂ emissions factor with the VMT for each trip to arrive at a grams CO₂ value per trip. Summing the grams CO₂ per trip values for all trips yields total grams of CO₂ for the fleet of TNC vehicles for the year. The denominator of Equation 1 is calculated by multiplying a compliance occupancy value with the Period 3 VMT of each trip to arrive at PMT per trip. Taking the sum of PMT per trip values for all trips yields total PMT for the fleet of TNC vehicles for the year. A trip shall be included in a calendar year calculation if that trip starts in that calendar year.
- (3) Exemptions. Trips on TNC apps that are requested and fulfilled as wheelchair-accessible vehicle trips shall not be included in the calculation of Equation 1.
- (4) Equation 1.

$$\frac{\text{Grams CO}_2}{\text{PMT}} = \frac{\sum(\text{VMT}_{P1,P2,P3} \times \text{CO}_2 \text{ factor})_{\text{Trip}}}{\sum(\text{VMT}_{P3,\text{all}} \times \text{occupancy})_{\text{Trip}}}$$

Where,

VMT_{P1,P2,P3} equals VMT in miles (sum of Periods 1, 2 and 3) of trips for all vehicles minus eVMT (sum of Periods 1, 2, and 3) by BEVs and FCEVs

CO₂ factor equals the CO₂ emission factor in grams CO₂ per mile as provided in [Table 2](#) and [Table 3](#)

Occupancy equals the compliance occupancy value in the unit of passengers determined by [Table 4](#)

- (5) Tables 2 and 3 - CO₂ Emission Factor Look-up Table. For each TNC trip calculated using Equation 1, the CO₂ factor shall be set to the value in grams CO₂ per mile (g CO₂/mi) in Table 2 and Table 3 that corresponds to the vehicle model year, vehicle category, and vehicle propulsion system for the associated TNC vehicle.
- (i) If any of the parameters are not known for a TNC vehicle, the worst case (largest) grams CO₂/mi value shall be used. For example, if only the vehicle model year is known but not the vehicle propulsion system or vehicle category, the largest value in that model year shall be used. If vehicle propulsion system is known but not the vehicle model year, the largest value for that vehicle propulsion system shall be used.
 - (ii) Flex fuel vehicles (FFVs) should use the gasoline passenger car (PC) or gasoline light truck (LT) CO₂ emission factor values.
 - (iii) The light truck vehicle category (Table 3) shall be used if the TNC vehicle falls into one of the following sub-categories: light-duty trucks with gross vehicle weight rating (GVWR) < 6,000 pounds (lbs.) and estimated total weight (ETW) ≤ 3750 lbs.; light-duty trucks with GVWR < 6,000 lbs. and ETW between 3751 and 5750 lbs.; and medium-duty trucks with GVWR between 6,000 and 8,500 lbs.
 - (iv) All TNC vehicles that do not fall into the light truck vehicle category shall use the passenger car category (Table 2).
 - (v) Model year means the model year of the vehicle as reported by the TNC driver in their driver profile. If this information is not complete, it is the value as determined by the TNC or regulating agencies using the vehicle identification number (VIN).

Table 2. CO₂ factors for the passenger car (PC) vehicle category in g CO₂/mile

Model Year	Diesel PC	Gasoline PC	HEV PC	PHEV PC	CNG PC
2008	324	365	181		251
2009	318	357	177		251
2010	302	339	168		251
2011	312	351	174	184	251
2012	286	321	159	168	227
2013	278	312	155	163	218
2014	279	313	155	163	218
2015	274	307	152	160	218
2016	266	298	148	156	218
2017	258	290	144	151	218
2018	251	281	139	147	218
2019	243	272	135	142	218
2020	235	263	130	137	218
2021	227	254	126	133	218
2022	218	245	121	128	218
2023	210	236	117	123	218
2024	202	226	112	118	218
2025	194	217	108	113	218
2026	194	217	108	114	218
2027	194	217	108	114	218
2028	194	217	108	114	218
2029	194	217	108	114	218
2030	195	217	108	114	218
2031+	194	217	108	114	218

Table 3. CO₂ factors for the light truck (LT) vehicle category in g CO₂/mile

Model Year	Diesel LT	Gasoline LT	HEV LT	PHEV LT	CNG PC
2008	634	505	468	--	251
2009	593	477	442	--	251
2010	589	469	435	--	251
2011	574	458	424	--	251
2012	556	442	410	--	227
2013	534	427	396	241	218
2014	529	425	394	237	218
2015	518	414	384	231	218
2016	497	398	369	225	218
2017	477	383	355	239	218
2018	454	367	340	229	218
2019	434	351	325	219	218
2020	413	335	310	209	218
2021	392	319	296	198	218
2022	377	307	285	191	218
2023	362	295	273	183	218
2024	346	282	262	175	218
2025	330	270	251	168	218
2026	330	270	251	168	218
2027	331	271	251	168	218
2028	331	270	251	169	218
2029	327	271	251	169	218
2030	322	271	251	169	218
2031+	304	271	251	169	218

- (6) Compliance occupancy values. For each TNC trip calculated using Equation 1, the compliance occupancy shall be set to the value in [Table 4](#) for that type of trip. If the type of trip is unknown, the trip shall be assumed to be "Non-pooled."
- (i) "Non-pooled" means a trip where the party requesting the TNC ride requests a non-sharing service.
 - (ii) "Pool-requested, unmatched" means a trip where a party requested a shared ride but no other parties requesting shared rides were matched during the duration of the trip.

- (iii) "Pool-matched" means multiple parties requesting shared rides were matched with the same vehicle for a portion of their respective trips.

Table 4. Compliance occupancy values to use in Equation 1

	Compliance Occupancy
Non-pooled	1.5
Pool-requested, unmatched	1.5
Pool-matched	2.5

- (7) If the total calculated grams CO₂/PMT as set forth in section 2490.1(b)(2) for a given calendar year does not result in a whole number, the number shall be rounded up to the nearest whole number if the tenths digit contains a 5 or higher, or rounded down to the nearest whole number otherwise.
- d) Over-Compliance Credits for Greenhouse Gas Emissions per Passenger Mile Traveled.
- (1) If a TNC's annual grams CO₂/PMT emissions are less than the requirement shown in [Table 1](#) for that year, CARB shall issue to the TNC over-compliance credits equal to the difference.
- (2) A TNC may use over-compliance credits towards compliance with their grams CO₂/PMT requirement in any of the subsequent three calendar years. Unused credits expire after the three-year period. Credits may not be used to comply with prior calendar years.
- (3) Credits are in the unit of grams CO₂/PMT. If the calculated grams CO₂/PMT set forth in § 2490.1(c) in a given calendar year does not result in a whole number, the number must be rounded to the nearest whole number. If the rounding results in a difference of 0, then no credits shall be issued for that calendar year.
- (4) [Table 5](#) provides an example of using over-compliance credits. The example TNC over-complies by 11 grams CO₂/PMT in 2027 and CARB issues 11 credits. The TNC may use those 11 credits in 2028, 2029, or 2030, and in this example, chooses to use them in 2029 and 2030. The TNC then over-complies by 2 grams CO₂/PMT in 2028 and CARB issues 2

credits. The TNC may use those 2 credits in 2029, 2030, or 2031, and in this example, chooses to use them in 2031.

Table 5. Example of carrying forward over-compliance credits

Year	Target (grams CO ₂ /PMT)	TNC emissions (grams CO ₂ /PMT)	Deficit	Over-compliance Credit	Credits available	Credits Applied
2027	110	90	--	20	20	--
2028	69	60	--	9	29	--
2029	30	34	4	--	29	4
2030	0	6	6	--	25	6
2031	0	2	2	--	9	2

e) Electric Vehicle Miles Traveled Requirements.

- (1) For each calendar year, a TNC shall meet or exceed the percent eVMT targets shown in
- (2) [Table 6](#).

Table 6. Annual Electric Vehicle Miles Traveled Targets

Calendar Year	eVMT
2023	2%
2024	4%
2025	13%
2026	30%
2027	50%
2028	65%
2029	80%
2030+	90%

- (3) The percent eVMT shall be calculated using Equation 2.

Equation 2.

$$\% eVMT = \frac{\sum VMT_{BEV+FCEV}}{\sum VMT_{All\ vehicles}} \times 100\%$$

Where,

$VMT_{BEV+FCEV}$ equals VMT by TNC BEVs and FCEVs for Period 3.

$VMT_{All\ vehicles}$ equals VMT by all TNC vehicles for Period 3.

The numerator and the denominator, respectively, shall be summed over all TNC vehicle trips in which Period 3 miles begin within the relevant calendar year.

- (4) If the total calculated percent eVMT as set forth in section 2490.1(e)(2) for a given calendar year does not result in a whole number, the number shall be rounded to the nearest whole number.

NOTE: Authority cited: Sections 38530, 39600, 39601, and 43000.5, Health and Safety Code; Section 5450, Public Utilities Code. Reference: Section 44274.4, Health and Safety Code; Section 5431, Public Utilities Code.

§ 2490.2 Optional Credits

- (a) In any given calendar year starting with 2023, TNCs subject to the requirements in § 2490.1(b) may use optional CO₂ credits or VMT scalar as defined in this section for compliance with the annual GHG targets. Credits earned in this section must be used in the same year they are earned and cannot be banked for use in future years.
- (b) Optional credits, upon being issued, may be incorporated into the GHG compliance equation as shown in Equation 3.

Equation 3.

$$\frac{\text{Grams CO}_2}{\text{PMT}} = \frac{\sum(\text{VMT}_{P1,P2,P3} \times \text{CO}_2 \text{ factor})_{\text{Trip}} - \text{CO}_2 \text{ credit}}{\sum(\text{VMT}_{P3,\text{All}} \times \text{occupancy})_{\text{Trip}}}$$

Where,

PMT is passenger miles traveled

$VMT_{P1,P2,P3}$ equals VMT in miles (Periods 1, 2 and 3) of trips for all vehicles minus eVMT (Periods 1, 2, and 3 by BEVs and FCEVs)

CO_2 factor equals the CO_2 emission factor in grams CO_2 per mile as provided in [Table 2](#) and [Table 3](#)

CO_2 credits are earned from options as described in § 2490.2(c) and (d)

$VMT_{P3, All}$ equals period 3 VMT in miles driven by all drivers using any vehicle type

Occupancy equals the compliance occupancy value in the unit of passengers determined by [Table 4](#)

- (c) CO_2 deductions from investment in bikeway and sidewalk infrastructure projects. TNCs may request optional CO_2 deductions as calculated in Equation 3 through investments in bicycle and sidewalk infrastructure. Deductions may be requested for the number of years the project is operational and if the projects meet the following requirements:
- (1) For bikeway infrastructure projects, the investment funds a Class I bikeway, Class II bikeway, or Class IV bikeway, as defined in California Streets and Highways Code Section 890.4.
 - (2) For sidewalk infrastructure projects, the investment funds construction or repair of a sidewalk. "Sidewalk" means a path along the side of the roadway separated from motor vehicles by a curb dedicated to use by pedestrians in a public area. "Sidewalk" does not include other related infrastructure, such as a pedestrian overpass, bus bay, or street furniture.
 - (3) Projects that are identified in General Plans per Government Code, section 65301, Bicycle Master Plans per California Streets and Highways Code section 891.2, or Regional Transportation Plans per Government Code section 65080, in 2016 or later.
 - (4) The investment used to qualify for CO_2 credits shall not be used to also fulfill any financial or other obligation of the TNC, including civil or criminal penalty agreements.
 - (5) The TNC shall submit all information required under Section 2490.2(d).
 - (6) The CO_2 deduction to be applied shall be calculated using Equation 4.
Equation 4.

$$CO_2 \text{ credit (g } CO_2) = \frac{\text{Dollars invested (\$)} \times 907,185 \left(\frac{g}{ton}\right)}{\$128 \text{ per ton} \times \text{Project Life (years)}}$$

Where,

Dollars invested is the amount the TNC invests in the local agency that leads the bikeway or sidewalk improvement project

Project life is the operational period of the bikeway or sidewalk in years

(d) CO₂ credits from mass transit-connected trips. TNCs may obtain CO₂ credits from a mass transit trip where the payment transaction was made using an integrated fare payment system from which trip data can be collected and submitted. TNCs may request optional CO₂ credit for a mass transit-connected trip if the trip meets the following requirements:

- (1) The TNC passenger purchases a chained trip, which includes a TNC vehicle trip to or from a mass transit trip, through an integrated fare payment system.
- (2) The total CO₂ credit for the trip shall be calculated using Equation 5.

Equation 5.

$$CO_2 \text{ credit (g } CO_2) = \sum VMT_{T,P3} \times CO_2 \text{ factor}$$

Where,

VMT_{T,P3} is the total distance of either the first- or last-mile TNC vehicle trip, whichever is greater, that is purchased as a chained trip with a mass transit component on an integrated fare payment system

CO₂ factor equals the CO₂ emission rate provided in Tables 2 and 3

- (3) The TNC shall submit all information required under Section 2490.2(e).

(e) Reserved.

(f) CARB shall issue CO₂ credits to the TNC upon finding that the TNC has submitted all required information for the credit option as described in Sections 2490.2(b) and 2490.2(c), that any supplemental information specifically

requested by CARB or CPUC was submitted, that all information and data submitted are adequate for determining the amount of credit, and all other compliance requirements as described in section 2490.3 have been met.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code; Section 5450, Public Utilities Code. Reference: Section 44274.4, Health and Safety Code; Section 5431, Public Utilities Code.

§ 2490.3 Compliance and Reporting

- (a) Each TNC shall comply with data submittal requirements as defined by section 2490.3 of this regulation for purposes of demonstrating compliance with this regulation and the requirements of section 5450(b)(2) of the Public Utilities Code.
 - (1) Upon request, a TNC shall provide to CARB any information submitted to the CPUC under this Clean Miles Standard Regulation.
 - (2) Unless otherwise specified, TNCs shall submit all information required under this chapter to the CPUC.
 - (3) The TNC shall submit data according to the data categories listed in Attachment 1 of this regulation.
- (b) Biennial Compliance Plan.
 - (1) Biennial Compliance Plan. The TNC shall submit the Biennial Compliance Plan on January 1 every other year beginning January 1, 2022. The Biennial Compliance Plan is a forward-looking plan that shall describe the TNC's plan to comply with targets in the subsequent two years. For example, the Biennial Compliance Plan due January 1, 2022 shall cover compliance years 2023 and 2024.
 - (2) Small TNC flexibility. A TNC that does not exceed 5 million VMT in a reporting year is exempt from this requirement. If a small TNC exceeds 5 million VMT by the last day of a reporting year, the TNC must submit a Biennial Compliance Plan approximately one year later on the next January 1st deadline. For example, if a TNC exceeds 5 million VMT by December 31, 2025, they must submit a Biennial Compliance Plan by January 1, 2027 outlining their strategies for GHG and electrification compliance in 2028 and 2029. A TNC that falls below 5 million VMT in a subsequent year must submit a written request to no longer submit a

Biennial Compliance Plan if they anticipate staying below 5 million VMT in future years.

- (3) The Biennial Compliance Plan shall summarize strategies with which the TNC will meet the GHG and electrification targets. The Biennial Compliance Plan shall include, at a minimum:

Current and two-year projected:

- Annual fleet population (number of vehicles)
- Annual fleet average GHG emissions in g CO₂/mi
- Annual average vehicle occupancy
- P1 + P2 proportion of total VMT (deadhead miles)
- Total annual VMT
- Grams CO₂/PMT
- BEV and FCEV proportion of fleet population
- Percent eVMT
- Any incentives planned for drivers
- Planned driver outreach activities to increase BEV or FCEV usage
- zPMT miles only if these optional credits are planned for compliance with the GHG Target (refer to section 2490.2)

(c) Annual Compliance Report.

- (1) Applicability. Any TNC that exceeds 5 million VMT in a single year of operation shall submit an Annual Compliance Report for that calendar year.
- (2) Small TNC exemption. A TNC that does not exceed 5 million VMT in a single reporting year of operation is not required to submit an Annual Compliance Report for that calendar year. Upon request, an exempt TNC shall provide CARB with any data that would otherwise be required to be submitted under this chapter in order for CARB to verify the applicability of this exemption for the TNC.
- (3) A TNC shall submit an Annual Compliance Report on March 1 of each calendar year, beginning on March 1, 2024, covering the prior calendar year (from January 1st through December 31st) of TNC operation. The TNC shall report its annual GHG emissions (in g CO₂/PMT) and percent electric vehicle miles traveled (%eVMT) for the preceding compliance year. For example, the Annual Compliance Report due March 1, 2024 shall provide the g CO₂/PMT and %eVMT for calendar year 2023.

- (4) Over-compliance credits. If the TNC chooses to use any over-compliance credits issued to it by CARB for its compliance, as described in Section 2490.1(c), the TNC shall report any such credits used in its Annual Compliance Report.
- (5) Optional CO₂ credits. If the TNC chooses to use CO₂ credits issued to it by CARB from the options described in Section 2490.3, the TNC shall report any such credits used in its Annual Compliance Report.
- (6) In the Annual Compliance Report that summarizes each reporting period, the TNC shall report, at a minimum:
 - Total fleetwide vehicle population
 - Total fleetwide GHG (grams CO₂)
 - Total fleetwide VMT
 - Average compliance occupancy
 - Average actual vehicle occupancy (based on real data or survey)
 - Total compliance of GHG target (grams CO₂/PMT)
 - Number of BEVs and FCEVs in fleet population
 - Number of PHEVs in fleet population
 - Number of HEVs in fleet population
 - Total compliance % eVMT
 - CO₂ credits being requested and from which credit option
- (7) If the TNC chooses to request optional CO₂ credits as described in §2490.2(b) for a given calendar year, the TNC shall submit:
 - A signed letter from the CEQA lead agency for the bikeway or sidewalk infrastructure project which contains the reference in the General Plan, Bicycle Master Plan or Regional Transportation Plan
 - The number of years the project will be operational
 - Dollar amount invested
 - Type of bikeway and sidewalk infrastructure (e.g., Class 1, Class II, Class IV facilities)
 - Street names and cities where the projects will be located
- (8) For optional CO₂ credits for integrated fare payment mass transit-connected trips in § 2490.2(c), the TNC shall submit the following:
 - Date and time of vehicle trip start
 - Latitude/longitude of vehicle trip start
 - Zip code of vehicle trip start

- Date and time of vehicle trip end
- Latitude/longitude of vehicle trip end
- Zip code of vehicle trip end
- Name of transit agency
- Name of integrated fare operator, contact information
- Transit station at start of transit trip
- Transit station at end of transit trip
- Amount paid for transit trip
- Distance of transit trip

(d) For any report submitted to the CPUC or CARB under this chapter, the TNC shall include an attestation as follows: "I certify under penalty of **perjury** under the laws of the State of California that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. I certify under penalty of **perjury** of the laws of the State of California that the statement of information submitted is true, accurate, and complete."

(e) For any data submitted to the CPUC or CARB under this chapter, the TNC shall include an attestation as follows: "I certify under penalty of **perjury** under the laws of the State of California that the data submitted is true, accurate, and complete."

NOTE: Authority cited: Sections 38530, 39600, 39601, 39607, and 43000.5, Health and Safety Code; Section 5450, Public Utilities Code. Reference: Section 44274.4, Health and Safety Code; Section 5431, Public Utilities Code.

§ 2490.4

Reserved.

§ 2490.5 Penalties

(a) Failure to meet the GHG Targets, as defined in section 2490.1(c), and the Electric Vehicle Miles Traveled Targets, as defined in section 2490.1(e), may result in a penalty, as determined by the CPUC.

- (1) Non-compliance by an amount up to, and including, 2% of either of the targets shall be considered by CARB to be a minor infraction.

- (2) Non-compliance by an amount above 2%, up to and including 4% of either of the targets shall be considered by CARB to be a moderate infraction.
 - (3) Non-compliance by an amount above 4% of either of the targets shall be considered by CARB to be a severe infraction.
- (b) Failure to submit a complete Annual Compliance Report or Biennial Compliance Plan, per sections 2490.3(b) and 2490.3(c), may result in a penalty, as determined by the CPUC.
- (1) Failure to submit the Annual Compliance Report or Biennial Compliance Plan by the required date, or with inaccuracies that are corrected in a short time period, shall be considered by CARB to be a minor infraction.
 - (2) Inaccurate use of, or incomplete documentation of, credits in the Annual Compliance Report, shall be considered by CARB to be a moderate infraction.
 - (3) Reporting false information in the Annual Compliance Report that a TNC reasonably should have known is false shall be considered by CARB to be a severe infraction.
- (c) Exemptions from penalties for non-compliance due to market conditions or other circumstances outside the control of the TNCs shall be determined by the CPUC.
- (d) Failure to comply with section 2490.3(d) or 2490.3(e), regardless of which agency originally received the submittal, shall be considered a violation of a CARB regulation subject to potential civil and criminal penalties.

NOTE: Authority cited: Sections 39600, 39601, 39607, Health and Safety Code; Section 5450, Public Utilities Code. Reference: Section 38580, 43016, 44274.4, Health and Safety Code; Section 5431, Public Utilities Code.

§ 2490.6 Severability and Use of Compliance Credits

- (a) Each provision of this chapter shall be deemed severable, and in the event that any provision of this chapter is held to be invalid, the remainder of this chapter shall continue in full force and effect.
- (b) Credit value. No provision of this article may be construed to limit the authority of the Executive Officer to terminate or limit use of any compliance or over-compliance

credit issued under this chapter. Any credit issued by CARB does not constitute property or a property right and has no monetary value. Credits shall not be traded and are not exchangeable other than as specified in this section. Credits shall only be used for the purposes expressly set forth in this chapter.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code; Section 5450, Public Utilities Code. Reference: Section 44274.4, Health and Safety Code; Section 5431, Public Utilities Code.

DRAFT