Decision 24-03-001 March 7, 2024

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

PHASE 1 DECISION TO IMPLEMENT THE CLEAN MILES STANDARD PROGRAM

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PHASE 1 DECISION TO IMPLEMENT THE CLEAN MILES STANDARD PROGRAM

Summary

This decision establishes the initial rules and regulations for implementing the Clean Miles Standard Program in accordance with Senate Bill 1014.

This decision defines regulated entities subject to Clean Miles Standard Program regulations as transportation network companies, charter-party carriers, and autonomous vehicle passenger companies. Transportation network companies with fewer than five million miles of vehicle miles traveled in a given calendar year are exempt from the requirements of this decision. The Commission will determine what rules to adopt for autonomous vehicle passenger companies and charter-party carriers that are not transportation network companies in Phase 2 of this proceeding.

This decision directs regulated entities to file plans to meet program goals, including the annual targets established by the California Air Resources Board to increase vehicle miles traveled by zero emissions vehicles to 90 percent and eliminate greenhouse gas emissions by 2030. Regulated entities must file a Tier 3 advice letter to propose an interim greenhouse gas emissions reduction plan within 120 days of the effective date of this decision. These entities will also be required to file an updated greenhouse gas emissions reduction plan after the Phase 2 decision and thereafter every two years.

This decision establishes a new Drivers Assistance Program that will be administered by a third-party administrator and funded by a per-trip regulatory fee collected by regulated entities. The Drivers Assistance Program will provide low- and moderate-income drivers of transportation network companies with incentives for making the transition to zero emissions vehicles and act as a

one-stop-shop for drivers to access other incentives for zero emissions vehicles and charging.

The Commission's staff will select a third-party program administrator for the Drivers' Assistance Program through a request for proposals process conducted by Uber Technologies, Inc. as the contracting agent. The Commission's staff will oversee the performance of the program administrator. The program administrator shall file a Tier 3 advice letter to propose an implementation plan and handbook for the Drivers Assistance Program within 150 days of entering into a contract to perform program services.

The Commission will set the Clean Miles Standard Regulatory Fee and Drivers Assistance Program budget through resolutions of Tier 3 advice letters filed by regulated entities subject to this decision.

This decision establishes the following structure for Drivers Assistance Program incentives: (a) an upfront incentive to purchase or lease a <u>new</u> zero emissions vehicle and offset initial charging costs; (b) an upfront incentive to purchase or lease a <u>used</u> zero emissions vehicle and offset initial charging costs; and (c) an annual grant for up to four years to offset ongoing charging costs. The program administrator will propose the initial incentive levels and adjustments to the incentive levels by advice letter.

This decision also addresses other key issues for commencing implementation of the Clean Miles Standard Program, including exempt entities and trips, data reporting and verification, advancing clean mobility, monitoring environmental and social justice impacts, outreach and engagement with drivers and community-based organizations, and coordinating with other state efforts to electrify transportation.

This decision resolves Phase 1 of this proceeding. This proceeding remains open to address Phase 2 issues, including program requirements for autonomous vehicle passenger companies and charter-party carriers, optional credit programs, sustainable land use objectives, clean vehicles requirements, and enforcement.

1. Background

1.1. Proceeding Background

On September 13, 2018, Governor Newsom signed Senate Bill (SB) 1014 (Skinner), Stats. 2018, ch. 369 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 California Public Utilities Commission (Commission) to implement, annual targets to reduce greenhouse gas (GHG) emissions by transportation network companies (TNCs) and certain other types of transportation providers.

CARB submitted the Clean Miles Standard Final Regulation Order (CARB CMS Order) to the Office of Administrative Law for approval on March 8, 2022. The Office of Administrative Law approved the CARB CMS Order on October 1, 2022.

On November 18, 2021, the Commission issued an Order Instituting Rulemaking (OIR) to open this proceeding to implement the Clean Miles Standard. The OIR noted that the purpose of this proceeding is to implement CARB's adopted CMS targets and goals, ensure minimal negative impact on low-income and moderate-income (LMI) drivers, support the goals of clean mobility for LMI individuals, and ensure that CMS complements and supports sustainable land-use objectives. The OIR asserted that the California Constitution provides broad authority for the Commission to regulate transportation companies, including TNCs.[1] The OIR stated that the Commission will establish a framework and a standard template for the GHG emissions reduction plans (GHG Plans), review proposed GHG Plans, collect data, verify compliance with approved GHG Plans, and enforce compliance with approved GHG Plans, including the targets established in the CARB CMS Order. The following parties filed opening comments on the OIR on January 7, 2022: AMPLY Power (AMPLY), Cruise, LLC (Cruise), FLO Services USA Inc. (FLO), HopSkipDrive, Inc. (HopSkipDrive), Lyft, Inc. (Lyft), Protect App-Based Drivers and Services (PADS), San Francisco Municipal Transportation Agency (SFMTA), San Francisco County Transportation Authority (SFCTA), San Francisco International Airport (SFIA, together with SFMTA and SFCTA, referred to as SF Parties), San Francisco Taxi Workers Alliance (SFTWA), Service Employees International Union, Local 1021 and Service Employees International Union, Local 721 (together, SEIUs), Uber Technologies, Inc. (Uber), Union of Concerned Scientists, Sierra Club, Rideshare Drivers United, and BlueGreen Alliance (together, Joint Parties), and Waymo LLC (Waymo). The following parties filed reply comments on the OIR on January 18, 2022: AMPLY, FLO, Lyft, SF Parties, SFTWA, Uber, and Waymo.

On February 11, 2022, the Commission held a prehearing conference to discuss procedural issues. By February 24, 2022, the following parties filed post-prehearing conference statements: Public Advocates Office at the California

[1] The OIR stated that Article XII, Section 4 of California Constitution provides broad authority for the Commission to regulate transportation companies like TNCs: "The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies…"

Public Utilities Commission (Cal Advocates), Cruise, Lyft, Joint Parties, SFTWA, Uber, and Waymo.

On April 8, 2022, the assigned Commissioner issued a scoping memo and ruling (Scoping Memo) to establish the issues in scope and procedural schedule for Phase 1 of this proceeding.

On March 8, 2022, the Commission's staff held a public workshop (March 2022 Workshop) to discuss funding and financing for zero-emission vehicles (ZEVs), LMI drivers and communities, regulatory frameworks, and GHG emissions reduction plans.

On April 21, 2022, the assigned Administrative Law Judge (ALJ) Wang issued a ruling (Post-Workshop Ruling) to request comments on questions relating to the March 2022 Workshop. On May 23, 2022, the following parties filed opening comments on the Post-Workshop Ruling: Cruise, Lyft, PADS, SEIU, SFTWA, Uber, and Waymo. On June 13, 2022, Cal Advocates and SFTWA filed reply comments on the Post-Workshop Ruling.

On November 17, 2022, ALJ Wang issued a ruling (Staff Proposal Ruling) to request comments on the Clean Miles Standard Phase 1 Staff Proposal (Staff Proposal). On December 7, 2022, the Commission's staff held a public workshop to discuss the Staff Proposal.

By January 30, 2023, the following parties filed opening comments on the Staff Proposal Ruling: Center for Sustainable Energy (CSE), Cruise, FLO, HopSkipDrive, Joint Parties, Lyft, PADS, SFCTA, SEIUs, Uber, and Waymo. On February 27, 2023, the following parties filed reply comments on the Staff Proposal Ruling: CSE, Lyft, PADS, SFMTA/SFCTA, SFTWA, and Uber.

On May 10, 2023, ALJ Wang issued a ruling (Supplemental Proposal Ruling) to request comments on the Clean Miles Standard Phase 1 Supplemental Staff Proposal (Supplemental Proposal).

On June 7, 2023, the following parties filed opening comments on the Supplemental Proposal Ruling: CSE, Cruise, HopSkipDrive, Lyft, Joint Parties, PADS, SFMTA/SFCTA, SEIUs, Uber, and Waymo. On June 26, 2023, CSE, Lyft, and Uber filed reply comments on the Supplemental Proposal Ruling.

1.2. Statutory Background

SB 1014 added Section 5450 to the Pub. Util. Code with the following requirements:

a. Required CARB to establish a baseline for GHG emissions on a per passenger-mile basis for vehicles used on behalf of TNCs by January 1, 2020.

b. Required CARB to establish annual targets and goals by January 1, 2021 for the reduction of GHG emissions under that baseline commencing in 2023. The targets and goals must include annual goals for increasing passenger-miles traveled using ZEVs. Additionally, the targets and goals shall be consistent with the ZEV Action Plan, be consistent with the stated goals detailed in Executive Order B-48-18, be technically and economically feasible, and be based upon data reported by the TNCs to the Commission.

c. Required TNCs to develop GHG emissions reduction plans by January 1, 2022 (and every two years thereafter) containing proposals to meet CARB's annual GHG emissions reduction targets and goals based on: increased proportion of participating drivers with ZEVs using TNCs; increased proportion of vehicle-miles completed by ZEVs relative to all vehicle miles; decreased gram-per-mile GHG emissions rates; and increased passenger-miles in proportion to overall vehicle-miles.

d. Required the Commission to implement the annual targets (adopted by CARB) for the reduction under the baseline of emissions of GHG per passenger-mile driven on behalf of a TNC.

e. Required the Commission to ensure that ongoing state planning efforts and funding programs that are intended to accelerate the adoption of ZEVs and charging infrastructure shall consider the goals of CMS, and to advance the goals of CMS in the review of transportation electrification applications.

f. Required the Commission to ensure minimal negative impact on LMI drivers; support the goals of clean mobility for LMI individuals; and ensure that the program complements and supports the sustainable land-use objectives contained in Section 65080 of the Government Code.

Section 5450(a)(3) provided that "[t]his section applies to transportation providers regulated by the commission that provide prearranged transportation services for compensation using an online-enabled application or platform to connect passengers, including autonomous vehicles, charter-party carriers (TCPs), and new modes of ridesharing technology that may arise through innovation and subsequent regulation."

1.3. Clean Miles Standard Annual Targets Background

CARB established the annual targets for the Clean Miles Standard (CMS Annual Targets) in accordance with Section 5450 of the Pub. Util. Code through a rulemaking process that included six public workshops, public written comments, and in-person comments. The rulemaking commenced in February 2019 and concluded when the Office of Administrative Law approved the CARB

CMS Order and filed it with the Secretary of State on August 19, 2022. The effective date for the CARB CMS Order was October 1, 2022.[2]

In the CARB CMS Order, CARB adopted two sets of targets for calendar year 2023 and beyond that together comprise the CMS Annual Targets: a GHG reduction target (GHG Target) and an electric vehicle miles traveled (eVMT) target (eVMT Target). The CARB CMS Order defined eVMT as electric vehicle miles traveled by a battery electric vehicle or a hydrogen fuel cell electric vehicle (hereafter referred to as ZEVs).

Table 1: CMS Annual Targets[3]

Calendar Year	GHG Target (grams CO_2/PMT)
2023	252
2024	237
2025	207
2026	161
2027	110
2028	69
2029	30
2030+	0

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

1.4. Submission Date

This matter was submitted on June 26, 2023, upon the filing of reply comments on the Supplemental Proposal Ruling.

2. Issues Before the Commission

The issues before the Commission are as follows:

a. **Entities and trips subject to CMS regulations**: Which types of entities should be subject to the CMS Annual

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[2] The CARB CMS Order is available at: https://ww2.arb.ca.gov/rulemaking/2021/cleanmilesstandard.

[3] The CARB CMS Order provided: "'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."

Targets and the regulations established in this decision? Should the Commission adopt exemptions for certain types of entities?

b. **Ensuring minimal negative impact on LMI drivers**: How should the Commission ensure minimal negative impact on LMI drivers? Should the Commission establish a Drivers Assistance Program funded by a regulatory fee, and if so, how should the program be administered?

c. **Clean mobility**: How should the Commission advance the goals of clean mobility for low- and moderate-income individuals and/or communities and evaluate progress toward these goals?

d. **Environmental and social justice (ESJ)**: How should the Commission measure or evaluate the impact of CMS implementation on ESJ communities and advancing the Commission's ESJ Action Plan 2.0 (ESJ Action Plan)?[4]

e. **GHG emissions reduction plans**: What directions should the Commission provide for entities to file plans to meet the CMS Annual Targets and CMS goals while ensuring minimal negative impact on LMI drivers? How and when should the Commission review these plans?

f. **Data requirements and sharing**: What data requirements should the Commission adopt to implement the Clean Miles Standard, including collection and verification rules? What data should be shared publicly and how should it be shared?

g. **Assessing progress, impacts, and barriers**. How should the Commission assess progress toward CMS goals and the impact of CMS on LMI drivers and barriers to transitioning to ZEVs? How and when should the Commission conduct the biennial review of "unanticipated barriers" to

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[4] The Commission's ESJ Action Plan is available at: https://www.cpuc.ca.gov/news-and-updates/newsroom/environmental-and-social-justice-action-plan.

expanding the usage of ZEVs required by Section 5450(b)(4) of the Pub. Util. Code?[5]

h. **Transportation electrification coordination**: How should the Commission coordinate with other proceedings and state agency activities to support the consideration of the Clean Miles Standard in the state's transportation electrification efforts, including the review of transportation electrification applications?

i. **Outreach and engagement**: How should the Commission and/or transportation providers engage with drivers and community stakeholders, including those that are not parties to this proceeding? What issues should this outreach and engagement address?

The Commission will address the following issues in Phase 2 of this proceeding:

j. **Enforcement**: How should the Commission enforce compliance with CMS requirements, including requirements to meet the CMS Annual Targets and ensure minimal negative impact on LMI drivers? What criteria and metrics should the Commission adopt for enforcement?[6]

k. **Sustainable land use**: How should CMS support sustainable land use objectives in Government (Gov.) Code Section 65080?

l. **Autonomous vehicles (AVs)**: How should the Commission apply CMS requirements to transportation

[5] The Scoping Memo indicated that the Commission would address the issue of the unanticipated barriers review in Phase 2 of this proceeding. However, it was necessary to consider how and when to conduct the unanticipated barriers review in Phase 1 due to the overlaps with the Phase 1 issues of how to ensure minimal negative impact on LMI drivers and how to assess barriers to transitioning to ZEVs.

[6] The Scoping Memo included the issue of approaches, criteria, and metrics for enforcement in Phase 1 of this proceeding. The Commission requires additional time to consider this issue and will address it in Phase 2.

providers who participate in the Commission's AV passenger service programs?

m. **Optional credits**: Should the Commission adopt any optional credit programs? Should the availability of optional credit programs be dependent on certain factors, such as meeting a GHG emissions reduction threshold or the outcome of an unanticipated barriers review?

3. Entities and Trips Subject to Clean Miles Standard Regulations

3.1. Clean Miles Standard Regulated Entities

Section 5450(a)(3) of the Pub. Util. Code states, "This section applies to transportation providers regulated by the Commission that provide prearranged transportation services for compensation using an online-enabled application or platform to connect passengers, including autonomous vehicles, charter-party carriers, and new modes of ridesharing technology that may arise through innovation and subsequent regulation."

The Commission regulates passenger carriers pursuant to Article XII of the California Constitution and the Passenger Charter-party Carriers' Act.[7] In 2013, the Commission adopted Decision (D.) 13-09-045, which established TNCs[8] as a new subtype of TCP utilizing drivers' personal vehicles for trips prearranged via online-enabled application or platform.

The Staff Proposal recommended defining entities subject to CMS regulations adopted by the Commission (CMS Regulated Entities) as TNCs and companies providing passenger service for compensation with AVs. The Staff

[7] Section 5351 of the Pub. Util. Code.

[8] D.13-09-045 defined a TNC as an organization whether a corporation, partnership, sole proprietor, or other form, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using their personal vehicles. (*See also* Section 5431(a) of the Pub. Util. Code.)

Proposal recommended that the Commission consider whether to include other types of regulated transportation carriers, such as transportation charter-party carriers (TCPs) that are not TNCs, in the definition of CMS Regulated Entities in Phase 2 of this proceeding.

Lyft and SEIUs supported the proposed definition of CMS Regulated Entities.[9]

Cruise argued that Section 5450 of the Pub. Util. Code only requires the Commission to implement CMS regulations for TNCs and does not refer to AVs.[10] However, we note that the plain language of the statute provided that Section 5450 applies to AV companies regulated by the Commission.

Uber argued that the definition of CMS Regulated Entities should include TCPs since this type of transportation provider is specifically included in Section 5450(a)(3) as subject to CMS regulations. Uber asserted that when the Commission considers application of CMS regulations to TCPs, the Commission should specifically exempt TCPs from CMS regulations, including TCPs that operate on TNC platforms.[11]

Lyft replied that TCPs, including those that operate on TNC platforms, should be excluded from the definition of CMS Regulated Entities, arguing that Section 5450 does not require the Commission to implement CMS regulations for TCPs.[12] However, we note that the plain language of the statute provided that Section 5450 applies to TCPs regulated by the Commission.

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[9] Lyft's and SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

[10] Cruise's opening comments on the Staff Proposal filed on January 30, 2023.

[11] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[12] Lyft's reply comments on the Staff Proposal filed on February 27, 2023.

It is reasonable to define CMS Regulated Entities as TNCs defined in Section 5431(a) of the Pub. Util. Code, TCPs regulated by the Commission, and companies providing passenger service for compensation with AVs. The Commission may consider whether to include other modes of ridesharing technology in the definition of CMS Regulated Entities in Phase 2 of this proceeding.

3.2. Exemption for Small Clean Miles Standard Regulated Entities

In Section 2490(a) of the CARB CMS Order, CARB included an exemption from compliance from certain requirements in the CARB CMS Order for "small" TNCs with an annual VMT less than or equal to five million in a given calendar year. Section 2490.3(b)(2) of the CARB CMS Order provided that an exempt small TNC is not required to submit an annual compliance report to CARB for that calendar year but shall provide CARB upon request with "any data that would otherwise be required to be submitted under this chapter" in order for CARB to verify the applicability of the exemption.

The Staff Proposal recommended that the Commission adopt an annual exemption from all CMS requirements for Small CMS Regulated Entities, defined as CMS Regulated Entities with less than five million miles of VMT in all periods of passenger service[13] (*i.e.*, Periods 1, 2, and 3) in a given calendar year. The Staff Proposal asserted that the proposed definition is consistent with the CARB exemption and Section 5450 of the Pub. Util. Code, which provided that CMS regulations will apply to certain transportation services for passengers.[14] The

[13] VMT in passenger service does not include VMT in other types of services, such as AV testing, goods delivery, or mapping.

[14] Staff Proposal at 72.

Staff Proposal recommended requiring each Small CMS Regulated Entity to file a Tier 2 advice letter by January 15th of each year to request exemption status for the current calendar year based on its total VMT for all periods in passenger service during the previous calendar year.

Waymo and Uber supported the proposed exemption for Small CMS Regulated Entities.[15] Waymo also supported the Tier 2 advice letter process and due date of January 15 for the Tier 2 advice letter.[16]

No party opposed the proposed exemption for Small CMS Regulated Entities, filing a Tier 2 advice letter to request exemption status, or the due date for the Tier 2 advice letter.

The Staff Proposal recommended exempting Small CMS Regulated Entities from all CMS requirements other than annual reporting on trips by location so that Staff may use the data to assess if trips by Small CMS Regulated Entities are disproportionately serving LMI communities. The Staff Proposal proposed this reporting requirement to address the ESJ Action Plan items 3.1.2 (regarding implementation of CMS and impact on ESJ communities) and 6.2.4 (analysis of potential redlining of ESJ communities by TNCs).

Waymo opposed the proposed data reporting requirements for Small CMS Regulated Entities, arguing that the AV companies such as Waymo are already required to provide reports on trips by location.[17] We agree that existing requirements for TNCs and AV companies to report on the location of trips are sufficient to support analyses of whether trips by Small CMS Regulated Entities are disproportionately serving LMI communities.

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[15] Waymo's and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[16] Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

[17] Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

We will separately address reporting requirements for AV companies in Section 3.3 below.

It is reasonable to exempt Small CMS Regulated Entities, defined as CMS Regulated Entities with less than five million miles of VMT in all periods of passenger service in a given calendar year, from the requirements of this decision. Each Small CMS Regulated Entity shall file a Tier 2 advice letter by January 15th of each year to request exemption status for the current calendar year based on its total VMT for all periods in passenger service during the previous calendar year.

3.3. Exemption for Autonomous Vehicle Companies and Charter-Party Carriers

In the Scoping Memo, the assigned Commissioner expressed an intention to consider how to apply CMS regulatory requirements to transportation providers who participate in the Commission's AV passenger service programs (AV Passenger Companies) in Phase 2 of this proceeding.

The Staff Proposal recommended that the Commission consider CMS requirements for AV Passenger Companies and TCPs that are not TNCs in Phase 2 of this proceeding.

Cruise and Waymo agreed that the Commission should wait until Phase 2 of this proceeding to determine whether AV Passenger Companies will be subject to any of the CMS regulations established in Phase 1 of this proceeding.[18] Cruise argued that AV Passenger Companies are very different from TNCs because AV companies own their own fleet of vehicles, and Cruise's fleet consists of electric vehicles.[19] Waymo asserted that it does not expect to exceed the VMT

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[18] Cruise's and Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

[19] Cruise's opening comments on the Staff Proposal filed on January 30, 2023.

threshold for Small CMS Regulated Entities in 2023 and that its light-duty AV TCP fleet currently consists of 100 percent electric vehicles powered by renewable energy.[20]

SFCTA/SFMTA agreed that CMS regulations for AV Passenger Companies should be addressed in Phase 2 in accordance with the Scoping Memo.[21] SFTWA also supported consideration of this issue in Phase 2, asserting the need for an in-depth look at whether CMS regulations for companies with drivers should apply to AV Passenger Companies.[22]

Cruise argued that the CMS Regulatory Fee to fund the Drivers Assistance Program, as proposed in the Staff Proposal, should not apply to AV Passenger Companies because these companies own their own fleets and do not have drivers to incentivize to transition to ZEVs or survey about barriers to the transition.[23] We will consider what CMS requirements to apply to AV Passenger Companies in Phase 2 of this proceeding.

Cruise and Waymo also urged the Commission to exempt AV Passenger Companies from CMS reporting requirements for Small CMS Regulated Entities, arguing that AV Passenger Companies already provide extensive reports to the Commission with duplicative information.[24]

We agree that it is not necessary to collect duplicative information. Further, it is not necessary to collect additional information from AV Passenger Companies or TCPs that are not TNCs at this time. The exemption for these types

[20] Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

[21] SFCTA/SFMTA's reply comments on the Staff Proposal filed on February 27, 2023.

[22] SFTWA's reply comments on the Staff Proposal filed on February 27, 2023.

[23] Cruise's opening comments on the Staff Proposal filed on January 30, 2023.

[24] Cruise's and Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

of CMS Regulated Entities is not dependent on vehicle miles traveled or other metrics that could be reported by these entities.

For the reasons above, it is reasonable to exempt AV Passenger Companies and TCPs that are not TNCs from all requirements of this decision. The Commission will consider CMS requirements for these types of entities in Phase 2 of this proceeding.

3.4. Exemption for Wheelchair Accessible Vehicles Trips

Section 2490.1(c)(7) of CARB's CMS Order provided that trips on CMS Regulated Entities' applications that are requested and fulfilled as wheelchair-accessible vehicle (WAV) trips will not be included in calculations of GHG Targets but will be included in calculations of eVMT Targets.

The Staff Proposal recommended that the Commission adopt CARB's WAV trip exemption. The Staff Proposal asserted that the exemption for WAV trips would prevent CMS implementation from unintentionally reducing the supply or availability of WAVs in the event that ZEV WAVs are less available on the vehicle market than other types of ZEVs. No party opposed the adoption of CARB's WAV trip exemption from GHG Targets.

The Staff Proposal also recommended requiring CMS Regulated Entities to report on WAV trips in CMS data reports to enable the Commission's staff to analyze whether the WAV-trip exemption results in disproportionate impacts on LMI communities or individuals. We will discuss data requirements in a separate section of this decision.

It is reasonable to exempt WAV trips from calculations of CMS Regulated Entities' compliance with the GHG Targets.

4. Ensuring Minimal Negative Impact on Low- and Moderate-Income Drivers

Section 5450(d)(1) of the Pub. Util. Code directed the Commission to "ensure minimal negative impact on low-income and moderate-income drivers" when implementing the CMS Program.

This section adopts the following CMS Program components to ensure minimal negative impacts to LMI drivers:

- Drivers Assistance Program administered by a third-party program administrator and funded by a regulatory fee;
- Drivers Working Group and Implementation Working Group convened by the Commission's staff; and
- Annual assessments of financial impacts of CMS on LMI drivers and barriers to transitioning to ZEVs.

The Staff Proposal and Supplemental Proposal also included recommendations for limiting when and how a CMS Regulated Entity may establish clean vehicle requirements or prioritize ZEVs. Lyft and Uber generally supported the Supplemental Proposal's recommendation to allow CMS Regulated Entities to propose clean vehicle requirements in their GHG Plans, although Uber expressed confusion about the Staff Proposal's recommendations for limiting prioritization of ZEVs.[25] Joint Parties, SEIUs, and SFCTA/SFMTA urged the Commission to adopt stronger protections than recommended by the Staff Proposal or the Supplemental Proposal to ensure minimal negative impacts for LMI drivers.[26] We agree that this issue requires additional consideration and will address it in Phase 2 of this proceeding.

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[25] Lyft's and Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[26] Joint Parties' and SEIUs' opening comments on the Staff Proposal filed on January 30, 2023, and Joint Parties' and SEIUs' opening comments on the Supplemental Proposal filed on June 7, 2023.

4.1. Defining Low-Income and Moderate-Income Drivers

The Staff Proposal recommended aligning the CMS definition of LMI drivers with existing state transportation electrification programs. The Staff Proposal identified two existing approaches to identifying LMI program participants:

- **Statewide Median Income**. The Commission's Transportation Electrification Framework relies on California Code, Health and Safety Code (HSC) Section 39713 to define LMI households based on statewide median income. Low-income households are defined as having incomes at or below 80 percent of statewide median income limits, and moderate-income households are defined as having incomes at or below 120 percent of statewide median income limits. In 2022, the moderate-income limit for a single-person household was $85,344 based on this definition.
- **Federal Poverty Level**. CARB's Clean Vehicle Rebate Program (CVRP) defines LMI households as those with household incomes at or below 400 percent of the federal poverty level. In 2022, the moderate-income limit for a single-person household was $54,360 and increased to $186,520 for an 8-person household based on this definition.

The Staff Proposal acknowledges that there is little data available to estimate what portion of drivers for CMS Regulated Entities would be defined as LMI drivers under either definition. The Staff Proposal cited a University of California, Los Angeles survey of Los Angeles-based drivers that on average 41 percent of income came from driving and found total annual household incomes between $35,000 and $50,000.[27] The California Legislative Analyst's Office estimated in its analysis of Proposition 22 on the November 3, 2020 ballot that TNC drivers "probably make between $10 and $16 per hour after accounting for waiting time and driving expenses." SEIUs similarly commented that "drivers often earn less than minimum wage."[28]

The Staff Proposal recommended defining LMI drivers as drivers with incomes at or below 120 percent statewide median income, counting only a driver's income from driving for a CMS Regulated Entity, and assuming a single-person household regardless of actual household size. The Staff Proposal asserted an expectation that most drivers would qualify under that definition.

Several parties commented on whether the definition should consider household income instead of only considering the driver's income from driving for a CMS Regulated Entity.

SEIUs were the only party that supported the Staff Proposal's definition, arguing that considering only a driver's income from driving minimizes the administrative burden of calculating a driver's income.[29]

SFCTA argued that not considering household income is not consistent with other ZEV programs and would be inequitable toward drivers who support a greater number of household dependents.[30] PADS, Uber, and Lyft also

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[27] D. Rajagopal and A. Yang, *Electric vehicles in ridehailing applications: Insights from a Fall 2019 survey of Lyft and Uber drivers in Los Angeles*, UCLA Institute of the Environment & Sustainability (2020).

[28] SEIUs' opening comments on post-workshop ruling filed on May 24, 2023.

[29] SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

[30] SFCTA's opening comments on the Staff Proposal filed on January 30, 2023.

supported consideration of household income.[31] Uber also commented that the definition of LMI driver should consider a driver's income from other sources because more than 50 percent of drivers on the Uber platform drive less than 30 hours per week and likely have supplemental income sources.[32]

CSE and FLO recommended that the Commission consider alignment with CARB's CVRP definition of LMI households to promote consistency across state ZEV incentive programs and to allow stacking of state incentives.[33] CSE noted that CARB uses definitions based on federal poverty level for CVRP, Clean Cars 4 All, and the Financing Assistance programs.[34]

SEIUs, PADS, and Uber also commented that drivers should be able to verify income for the CMS incentives based on participation in other income-qualified programs.[35] Alignment of the definition of LMI driver with existing state programs will make it easier to verify income based on participation in other income-qualified programs.

We agree with parties' arguments to align the definition of LMI driver with existing state programs, which define eligibility for LMI programs based on household income rather than an individual's income from a single source. The definition of LMI driver should match CARB's definition to promote consistency

[31] Uber's and PADS's opening comments on the Staff Proposal filed on or before January 30, 2023, and Lyft's reply comments on the Staff Proposal filed on February 27, 2023.

[32] Uber's opening comments on the Staff Proposal filed on January 30, 2023. PADS made a similar comment in opening comments on the Staff Proposal filed on January 27, 2023.

[33] CSE's and FLO's opening comments on the Staff Proposal filed on January 30, 2023.

[34] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

[35] SEIUs', PADS's, and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

across state ZEV incentive programs and enable more efficient stacking of incentives.

It is reasonable to define an LMI driver as a driver whose household income is at or below 400 percent of the federal poverty level.

4.2. Considering Negative Impacts on Drivers

The Staff Proposal recommended that the Commission interpret its statutory obligation to ensure minimal negative impacts of CMS implementation on LMI drivers as including consideration of any financial impacts that reduce an LMI driver's net earnings.

PADS and Uber urged the Commission to consider negative financial impacts of CMS implementation broadly, including the potential for CMS implementation to increase the costs of trips, which could result in fewer trips and lower earnings for drivers.[36]

On the other hand, Lyft argued that the Staff Proposal's interpretation of the statutory requirement was too broad and recommended defining negative impacts narrowly as "financial impacts that can be directly attributed to specific action taken by the [Commission or CMS Regulated Entities] in furtherance of CMS goals that significantly reduce low- and moderate-income drivers' overall net earnings." Lyft argued that the Commission should consider whether other factors, such as macroeconomic conditions, may have caused negative financial impacts to LMI drivers.[37]

No party argued that the Commission should consider non-financial impacts of CMS implementation on LMI drivers.

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[36] PADS's opening comments on the Staff Proposal filed on January 27, 2023, and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[37] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

Lyft's comments inherently acknowledged the potential for CMS implementation to indirectly cause negative impacts on LMI drivers. Lyft's argument about non-CMS implementation causes of negative financial impacts on LMI drivers does not justify disregarding indirect financial impacts of CMS implementation on a LMI driver's net earnings.

It is reasonable to interpret the Commission's statutory obligation to ensure minimal negative impacts on LMI drivers as requiring the Commission to consider any financial impacts that reduce a LMI driver's net earnings.

4.3. Drivers Assistance Program

4.3.1. Authorizing and Funding a Drivers Assistance Program

In comments on the OIR, the Joint Parties and SEIUs proposed a per-trip or per-mile regulatory fee to fund a program for assisting drivers with the transition to ZEVs, administered by the Commission. The Joint Parties and SEIUs proposed that the program would provide financial assistance for TNC drivers to purchase ZEVs, charge vehicles, and invest in home charging. SEIUs argued that without the Commission's intervention, the TNCs will shift the financial burden of transitioning to ZEVs onto TNC drivers and taxpayers.[38]

The Staff Proposal recommended creating a Drivers Assistance Program funded by a per-trip or per-mile regulatory fee paid by customers of CMS Regulated Entities, overseen by the Commission's staff, and implemented by a third-party program administrator to support drivers' transitions to ZEVs through financial support and education and outreach.

Joint Parties, SEIUs, SFTWA, and CSE supported the creation of a Drivers Assistance Program overseen by the Commission and funded by a per-trip or

[38] Joint Parties' and SEIUs' opening comments on the OIR filed on January 7, 2022.

per-mile regulatory fee paid by TNC customers.[39] The Joint Parties and SEIUs strongly supported the creation of a Drivers Assistance Program overseen by the Commission to ensure minimal negative impacts to LMI drivers rather than relying on CMS Regulated Entities to support LMI drivers' transitions to ZEVs. The Joint Parties did not object to a third-party administrator but opposed allowing CMS Regulated Entities to have a role in overseeing the third-party administrator.[40] SFTWA agreed with the Joint Parties and SEIUs in reply comments.[41]

Uber did not oppose the creation of a Drivers Assistance Program funded by a regulatory fee and implemented by a third-party program administrator but argued that the program should be overseen by an oversight board consisting of representatives from the TNCs, the state agencies, and driver advocacy groups. We will address the oversight structure for the Drivers Assistance Program in the next section of this decision.

Lyft argued that the Commission does not have authority to establish a Drivers Assistance Program or a CMS Regulatory Fee because these proposals exceed the authority granted to the Commission by the Legislature in SB 1014.[42]

We confirm that the Commission has the authority to establish a Drivers Assistance Program and a CMS Regulatory Fee. The Commission regulates passenger carriers pursuant to Article XII of the California Constitution and the

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[39] Joint Parties', SEIUs', and CSE's opening comments on the OIR filed on January 7, 2022. SFTWA's reply comments filed on February 27, 2023.

[40] Joint Parties' and SEIUs' opening comments on the OIR filed on January 7, 2022.

[41] SFTWA's reply comments on the Staff Proposal filed on February 27, 2023.

[42] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

Passenger Charter-party Carriers' Act.[43] The California Constitution provides broad authority for the Commission to regulate transportation companies: "The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies."[44] Section 701 of the Pub. Util. Code provides, "The commission may supervise and regulate every public utility in the State and may do all things … which are necessary and convenient in the exercise of such power and jurisdiction." Section 5381 of the Pub. Util. Code provides that the Commission "may supervise and regulate every charter-party carrier of passengers in the State and may do all things, whether specifically designated in this part, or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."

Lyft also argued that a Drivers Assistance Program would be duplicative of TNCs' efforts and expensive to administer. Lyft pointed to its existing offerings to encourage drivers to transition to ZEVs, including a weekly earnings incentive of $150 for drivers that give at least 50 rides in their electric vehicles, cashback on public electric vehicle charging with the Lyft Direct debit card, and charging discounts with partners. Lyft urged the Commission to assess the CMS Regulated Entities' efforts based on at least two years of data before authorizing a Drivers Assistance Program.[45] SFCTA similarly argued that TNCs should administer their own programs for transitioning drivers to ZEVs.[46]

We find that it is necessary to authorize a Drivers Assistance Program and a CMS Regulatory Fee to ensure minimal negative impacts of CMS

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[43] Section 5351 of the Pub. Util. Code.

[44] Article XII, Section 4 of the California Constitution.

[45] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

[46] SFCTA's opening comments on the Staff Proposal filed on January 30, 2023.

implementation on LMI drivers. Lyft's arguments do not provide a reasonable alternative approach for the Commission to ensure minimal negative impacts to LMI drivers. Unlike the Staff Proposal, Lyft's existing efforts do not reflect a public assessment of the financial impacts of transitioning to ZEVs or a transparent funding source for incentives. Further, Lyft's recommendation for the Commission to wait for two years of implementation data would greatly delay the launch of a Drivers Assistance Program. We will separately address the issue of administrative costs in the next section.

HopSkipDrive urged the Commission to exempt small CMS Regulated Entities with more than five million miles traveled from the Drivers Assistance Program and regulatory fee requirements.[47] Uber disagreed, arguing that the CARB CMS Order established an appropriate threshold for exempting Small CMS Regulated Entities from certain CMS requirements, and HopSkipDrive did not provide new information that would justify establishing different rules for CMS Regulated Entities above the five million miles threshold.[48]

No other party supported HopSkipDrive's argument that smaller TNCs that do not qualify for the Small CMS Regulated Entities exemption should be exempted from the Drivers Assistance Program or the CMS Regulatory Fee requirements. Further, the Commission has an obligation to ensure minimal negative impacts for LMI drivers of smaller TNCs that are required to meet the CMS Annual Targets. Accordingly, we will not adopt an exemption from these requirements for smaller TNCs that do not meet the threshold for the Small CMS Regulated Entities exemption.

[47] HopSkipDrive's opening comments on the Staff Proposal filed on January 30, 2023.

[48] Uber's reply comments on the Staff Proposal filed on February 27, 2023.

The Supplemental Proposal proposed a per-trip regulatory fee for the following reasons:

- Tracking fee accrual by trip will be simpler than tracking on a per mile basis as mileage accounting has presented challenges for other state programs;
- Understanding the impacts of the added cost to riders will be easier on a per trip basis;
- The Commission's Access for All program fee is applied to TNC trips on a per-trip basis.[49]

The Joint Parties strongly supported a per-trip fee, agreeing with the Supplemental Proposal that a per-trip fee would be easier to administer, easier to understand the impacts, and is similar to the Access for All program fee.[50]

Uber opposed the per-trip approach, arguing that the regulatory fee should be applied per mile (with a passenger in the car). Uber argued that a per-mile fee would impact demand and trip volume less than a per-trip fee because the percent increase to trip costs on short trips would be higher under a per-trip approach. Uber also argued that a per-mile fee is aligned with CMS Annual Targets.[51]

While a per-mile fee would reduce fees paid for short rides, it would increase the total amount of fees paid for longer rides. PADS expressed concerns that a regulatory fee could increase the prices of trips in certain markets or communities, including LMI communities.[52] A per-trip regulatory fee approach will prevent the inequitable payment of regulatory fees across communities. If

[49] Ordering Paragraph 1 of D.19-06-033.

[50] Joint Parties' opening comments on the Supplemental Proposal filed on June 7, 2023.

[51] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[52] PADS's opening comments on the Supplemental Proposal filed on June 7, 2023.

the Commission applied a per-mile approach for the CMS Regulatory Fee, customers in rural LMI communities who request longer trips would pay higher total regulatory fees than customers in higher-income urban communities with who request shorter trips.

Uber also recommended a sunset clause for the regulatory fee and Drivers Assistance Program.[53] We will consider when to conclude certain program requirements, including the regulatory fee and Drivers Assistance Program, in Phase 2 of this proceeding.

It is reasonable to establish a Drivers Assistance Program (a) funded by a per-trip CMS Regulatory Fee paid by customers of CMS Regulated Entities, (b) overseen by the Commission's staff, and (c) implemented by a third-party program administrator to support drivers' transitions to ZEVs through financial support and education and outreach.

4.3.2. Roles for Implementing the Drivers Assistance Program

The Staff Proposal recommended the following roles and responsibilities for implementing the Drivers Assistance Program, based on the Commission's Solar on Multifamily Affordable Housing Program (SOMAH):

- Commission's staff will review proposals and select the administrator of the Drivers Assistance Program (Program Administrator), review the proposed contract with the Program Administrator, review the Program Administrator's proposed Implementation Plan and Handbook for the Drivers Assistance Program, and review all program data reports and invoices.
- The Commission's staff will convene a Drivers Working Group and an Implementation Working Group. The

[53] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

Commission's staff will also conduct an annual survey of drivers.

- A CMS Regulated Entity selected by the Commission to act as the Contracting Agent will conduct a request for proposals for a Program Administrator based on criteria set in a Commission decision, file a Tier 2 advice letter to request Commission's staff approval of the contract with the Program Administrator, and manage Program Administrator invoices and payments. The Contracting Agent will obtain approval from the Commission's staff before issuing payments to the Program Administrator. The Contracting Agent will open an account to track its administrative costs and hold funds collected through the CMS Regulatory Fee by CMS Regulated Entities for the Drivers Assistance Program. The contracting agent will track each CMS Regulated Entities' contribution to the account and will provide quarterly reports to the Commission.
- The Program Administrator will prepare a Tier 3 advice letter for approval of the Drivers Assistance Program Implementation Plan and Handbook, compensate participants of the Drivers Working Group, verify eligibility of drivers for incentives, disburse incentive funds to drivers and track disbursements, conduct marketing, education and outreach (ME&O) to drivers, conduct coordination meetings with CMS Regulated Entities, and collect and report program data. The Program Administrator will invoice the contracting agent for the costs of the Drivers Assistance Program and will track administrative costs and incentive costs. The Program Administrator will hold one or more workshops to obtain input on the Implementation Plan and Handbook.
- The CMS Regulated Entities will collect the CMS regulatory fee from its customers and report quarterly on the amount raised through this fee. CMS Regulated Entities will contribute their Drivers Assistance Program fees to the

Contracting Agent's account at least once per month upon commencement of fee collection.

- The Drivers Working Group, consisting of 8-12 drivers, will provide feedback on CMS implementation to the Commission's staff, CARB's staff, and the Program Administrator.
- The Implementation Working Group will provide feedback on CMS implementation and coordinate on implementation issues such as barriers to vehicle adoption, goals of clean mobility, ESJ, and ZEV infrastructure. The Implementation Working Group will be convened and facilitated by the Commission's staff and may include CMS Regulated Entities, drivers, non-governmental organizations, community-based organizations, industry representatives (such as EV charging companies and vehicle manufacturers), governmental entities, and researchers.

The Joint Parties and SEIUs opposed allowing a CMS Regulated Entity to act as the Contracting Agent for the Program Administrator. The Joint Parties urged the Commission to take full control over selecting the Program Administrator, at minimum, rather than coordinating with or approving the Contracting Agent's selection of the Program Administrator.[54] SFTWA agreed with the Joint Parties in reply comments.[55] SFMTA/SFCTA also opposed the role of the Contracting Agent, claiming that it is a novel and untested approach.[56]

On the other hand, Uber recommended that the CMS Regulated Entities collectively have more control over the Program Administrator. Uber proposed an oversight board that would include the TNCs, state agencies, and argued that

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[54] Joint Parties' opening comments on Staff Proposal filed on January 30, 2023.

[55] SFTWA's reply comments on the Staff Proposal filed on February 27, 2023.

[56] SFMTA/SFCTA's opening comments on the Supplemental Proposal filed on June 7, 2023.

driver advocacy groups should be responsible for hiring, firing, reviewing, and giving guidance to the Program Administrator.[57] Uber argued that CMS is not like SOMAH because SOMAH provides solar incentives raised from the GHG Auction Proceeds without holding SOMAH participants to solar targets, while the Drivers Assistance Fund provides incentives raised by CMS Regulated Entities while the Commission holds CMS Regulated Entities to CMS Annual Targets. Finally, Uber expressed concern that a single CMS Regulated Entity, rather than all CMS Regulated Entities, would be responsible for selecting the Program Administrator.[58] Lyft supported involvement of CMS Regulated Entities in selecting, overseeing, and dismissing the Program Administrator but disagreed that an oversight board was necessary, arguing that it would add an unnecessary administrative layer.[59]

CSE supported the Staff Proposal and responded to Uber that the Drivers Assistance Program is similar enough to the SOMAH Program to use the same oversight structure. Like the proposed Drivers Assistance Program, the SOMAH Program uses public funding to provide incentives to low-income individuals for overcoming barriers to accessing clean energy technologies and making progress towards achieving the State's emissions reduction targets. CMS and SOMAH share uncertainty around the amount of incentive and administrative dollars that will be available for the entirety of each program.[60]

CSE responded to the Joint Parties and SEIUs that their concerns about the use of a contracting agent are unwarranted. CSE noted that the Staff Proposal

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[57] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[58] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[59] Lyft's reply comments on the Staff Proposal filed on February 27, 2023.

[60] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

explicitly provides for the Commission and its staff to select the Program Administrator and approve the contract with the Program Administrator.[61] CSE noted that the Commission has authorized the same approach for many programs besides SOMAH, including in D.22-11-040, which directed a regulated utility to act as the contracting agent for a behind-the-meter EV infrastructure incentive program.[62] CSE is correct in its assertion that the Commission has on numerous occasions directed regulated entities to act as a contracting agent to conduct a request for proposals, enter into a contract with a program administrator selected by and directed by the Commission's staff, and manage a program administrator's invoices at the direction of the Commission's staff.

The Supplemental Proposal recommended the following refinements relating to the Implementation Working Group and tracking fee accrual:

- The Implementation Working Group will also provide feedback to the Commission's staff on the proposed Drivers Assistance Program Implementation Plan and Handbook.
- The Implementation Working Group will meet at least twice per year.
- The Program Administrator will compensate individual drivers for participating in the Implementation Working Group.
- The Contracting Agent will track accrual of the CMS Regulatory Fee funds.

No party opposed the refinements above. Uber supported the increased role for the Implementation Working Group but argued that the Supplemental

[61] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

[62] CSE's opening comments on the Staff Proposal filed on January 30, 2023, citing Ordering Paragraph 5 of D.22-11-040.

Proposal did not go far enough in giving oversight responsibilities to the group.[63] No party supported Uber's argument in reply comments.

Uber requested clarification of why the Contracting Agent rather than the Program Administrator will track accrual of the CMS Regulatory Fee. We clarify that the Contracting Agent will track accrual of the CMS Regulatory Fee funds because CMS Regulated Entities will pay these funds to the Contracting Agent. The Contracting Agent will pay the Program Administrator upon the Commission's staff approval of the Program Administrator's quarterly invoices. The Program Administrator may receive an upfront payment of up to $500,000 to develop the Drivers Assistance Program.

In opening comments on the proposed decision, Uber suggested that the deadline for an initial payment to the Program Administrator should be extended if there are insufficient funds in the CMS Regulatory Fee Account. This decision was revised to clarify the Contracting Agent shall make an upfront payment to the Program Administrator, within 30 days of the Commission's approval of the Program Administrator's contract, of the lesser of: (a) the amount in the CMS Regulatory Fee Account, or (b) $500,000.

In opening comments on the proposed decision, Uber suggested the Program Administrator should collect the CMS Regulatory Fee and manage the CMS Regulatory Fee Account instead of the Contracting Agent. Uber argued that it was inefficient to transfer the regulatory fee twice and noted that it would receive fee information (it its role as the Contracting Agent) directly from their competitors. In opening comments on the proposed decision, Lyft also noted that Uber as the Contracting Agent would receive competitors' information and

[63] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

suggested the fee statements submitted with the transfer of the collected fee should be made public. This decision is revised to make the transfer of the CMS Regulatory Fee from the CMS Regulated Entities to the Contracting Agent a quarterly requirement (instead of monthly) and to require each CMS Regulated Entity to serve its quarterly fee statement to the service list of this proceeding.

For the reasons above, it is reasonable to adopt the roles and responsibilities for implementing the Drivers Assistance Program in Attachment A. Uber shall serve as the Contracting Agent for the CMS Program in accordance with Attachment A and the Ordering Paragraphs of this decision. Uber shall also open and manage a CMS Regulatory Fee Account in accordance with Attachment A and the Ordering Paragraphs of this decision.

4.3.3. Elements of the Drivers Assistance Program

The Staff Proposal recommended that the Drivers Assistance Program consist of the following elements:

- Provide CMS incentives to ensure minimal negative impacts for LMI drivers that transition to a ZEV;
- Conduct ME&O to drivers through CMS Regulated Entities and in partnership with community-based organizations or other entities that work closely with drivers;
- Help drivers assess the financial benefits and risks of purchasing or leasing and operating a ZEV; and
- Serve as a resource for drivers by providing information about how to access other available incentives for transitioning to a ZEV.

Joint Parties and SEIUs strongly supported the CMS incentive element of the Drivers Assistance Program and urged the Commission to direct the Program Administrator to also provide a "one-stop-shop" for both CMS incentives and non-CMS incentives.[64] CSE supported this recommendation, agreeing that the Drivers Assistance Program could assist drivers with identifying and applying for multiple ZEV incentives, while noting that the Drivers Assistance Program could not bypass the eligibility requirements or application processes of other state and federal incentive programs.[65] We agree that the Drivers Assistance Program should assist drivers with applying for other ZEV and charging incentives.

In opening comments on the proposed decision, CSE suggested that Attachment A include the additional roles and responsibilities of the Program Administrator described in this section. This decision was revised to include these roles and responsibilities for the Program Administrator in Attachment A.

It is reasonable for the Drivers Assistance Program to consist of the following elements:

a. Provide CMS incentives to ensure minimal negative impacts for LMI drivers that transition to a ZEV;
b. Conduct ME&O to drivers through CMS Regulated Entities and in partnership with community-based organizations or other entities that work closely with drivers;
c. Help drivers assess the financial benefits and risks of purchasing or leasing and operating a ZEV; and
d. Act as a "one-stop-shop" for ZEV incentives by assisting drivers with identifying and applying for other ZEV and charging incentives.

[64] Joint Parties' and SEIUs' opening comments on the Supplemental Proposal filed on June 7, 2023.

[65] CSE's reply comments on the Supplemental Proposal filed on June 26, 2023.

4.3.4. Clean Miles Standard Incentive Amounts

The Staff Proposal requested party comments on three potential approaches for setting CMS upfront ZEV incentive amounts:

- Match CARB's Clean Vehicle Rebate Program (CVRP) incentive amount for LMI households;
- Provide a custom incentive level for each driver to ensure that each driver spends no more than 15 percent of the driver's income on renting, leasing, or purchasing a ZEV; or
- Provide a standard incentive level for all drivers, based on assumptions about the LMI driver incomes and the costs of renting, leasing, or purchasing a ZEV.

Additionally, the Staff Proposal requested party comments on three potential approaches for setting CMS upfront charging incentives:

- Match CARB's CVRP charging card incentive to be paired with the ZEV incentive for LMI households;
- Estimate a new charging incentive amount based on CMS Regulated Entities' charging needs; or
- Allow LMI drivers to choose how they would like to use the charging incentive funds either towards public charging or to put the equivalent value towards the purchase and installation of at-home charging equipment.

The Staff Proposal recommended the incentives be additive to other existing incentives for ZEVs or charging-related (*i.e.*, CMS incentives are available to eligible drivers even if they receive other non-CMS incentives) and that incentives be delivered in a manner that minimizes barriers to access for LMI drivers.

Uber and Lyft each argued that the 15 percent of income affordability ratio is not relevant to TNC drivers because they use their vehicles for business purposes. Uber proposed to set incentives based on the difference in the total cost of ownership between an internal combustion engine (ICE) vehicle and a ZEV. Lyft similarly proposed to set incentives based on the difference in costs between an ICE and a ZEV.[66]

SEIUs supported establishing the initial CMS incentive at no less than the CVRP incentive level, with flexibility to adjust the incentive amount in future years. SEIUs envisioned that drivers could stack CMS incentives with other ZEV incentives. SEIUs also urged the Commission to consider not only the upfront costs of transitioning to ZEVs, but also the uncompensated time spent charging ZEVs.[67]

CSE supported the 15 percent affordability concept, but suggested matching the CVRP incentive amount at the start of the program for a simpler approach and assessing driver affordability in the future in a way that allows for changes to the incentive over time.[68] SFTWA opposed the 15 percent affordability concept, arguing that it could result in unnecessarily large incentives but expressed interest in using CARB's CVRP incentive as a basis for the CMS ZEV incentive.[69]

Joint Parties supported the stacking of CMS incentives with other ZEV incentives, and supported providing CMS incentives for leases, rentals, and purchases of vehicles.[70]

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[66] Uber's and Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

[67] SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

[68] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

[69] SFTWA's reply comments on the Staff Proposal filed on February 27, 2023.

[70] Joint Parties' opening comments on the Staff Proposal filed on January 30, 2023.

CSE, FLO, PADS, and SEIUs supported a charging related incentive that provided drivers with the flexibility to spend the incentive as needed, *e.g.*, residential charging installation, panel upgrades, or public charging.[71]

Uber and Lyft argued that the charging incentive should be based on the difference in costs between fueling an ICE vehicle and charging a ZEV, if any. Uber supported a charging incentive that could be applied as needed towards discounted access to kilowatt-hours for charging, charging equipment, or charging equipment installation.[72]

The Supplemental Proposal recommended calculating CMS incentives for LMI drivers through an assessment of the difference in cost between an ICE vehicle and a ZEV after existing incentives have been applied. The Staff Proposal asserted that this "closing the gap in costs" approach will ensure minimal negative impact for LMI drivers if they are able to access other existing ZEV incentives.

Given the variability in costs associated with switching to ZEVs, the Supplemental Proposal recommended that the Program Administrator propose ZEV incentives to close the cost gap between ICE vehicles and ZEVs based on the following categories of assumptions:

- The average new and used vehicle prices of the most common ICE vehicle among CMS Regulated Entities;
- The average new vehicle price of ZEVs in the CARB vehicle database that have prices at or below an affordable level (*e.g.*, $40,000) and a sufficient range (*e.g.*, at least 200 miles);

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[71] CSE's, FLO's, PADS's, and SEIUs' opening comments on the Staff Proposal filed on or before January 30, 2023.

[72] Uber's and Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

- The average used vehicle price of two commonly available models of used ZEVs;
- Estimates of the expected down payment amount, annual interest rate, loan period, sales tax, insurance, and maintenance costs; and
- LMI drivers would have access to $15,000 in federal and state incentives for new ZEVs and $8,000 in federal and state incentives for used ZEVs.[73]

The Supplemental Proposal also recommended that the Program Administrator propose charging incentives to close the gap in costs between refueling an ICE vehicle and charging a ZEV based on the following categories of assumptions:

- Annual vehicle miles traveled;
- Fuel consumption for the most common ICE vehicle and ZEVs used by drivers for CMS Regulated Entities;
- Cost of fuel in California using CARB's incentive analysis assumption and public and home charging rates from CARB and the United States (U.S.) Department of Energy's Alternative Fuels Data Center;
- Assumed time spent looking for refueling and charging opportunities and time spent charging;
- The estimated ratio of public charging to home charging by LMI drivers;
- Charging time assumptions based on public charge power and battery size from U.S. Department of Transportation; and

[73] The Supplemental Proposal considered the federal tax credit for ZEVs ($7,500 new, $4,000 used), CARB's CVRP incentive for LMI households ($7,500 new), CARB financing assistance for LMI households ($4,000 new or used, subject to location requirements), and the electric utility used ZEV rebate program ($4,000 used, in service territories of the Pacific Gas and Electric Company and Southern California Edison Company).

- The opportunity cost of charging based on the California minimum wage.

Based on these assumptions, the Supplemental Proposal recommended the following initial CMS incentive levels:

- **Upfront ZEV Incentive.** A **$3,000** incentive provided upfront in the form of a voucher or other documentation, like a certificate or check, to aid directly in the purchase, lease, or rental of a new or used ZEV.
- **Upfront Charging Incentive.** A **$500** incentive provided upfront in the form of either a "charging card" to be used for public EV charging, or a voucher/documentation to aid in the purchase of equipment and/or installation of at-home charging equipment.
- **Ongoing Transition Incentive.** An **$800** grant paid annually, after receiving the upfront incentive, once an LMI driver meets the set eligibility requirements for up to four years (total of $3,200) to cover the ongoing costs (public charging and vehicle payments) associated with transitioning to a ZEV.

The Supplemental Proposal recommended that the Program Administrator propose adjustments to the incentive amounts based on the analytical approach in Appendix A of the Supplemental Proposal. The Program Administrator would be responsible for filing a Tier 2 advice letter once per year to propose adjustments to the incentive amounts. The Program Administrator may propose to maintain the current incentive amounts for a given year by providing a rationale in a Tier 1 advice letter for why the incentive level should remain the same (*e.g.*, ZEV prices have remained the same).

Parties generally supported or did not oppose the approach of setting the incentives based on the gap between the costs of ZEVs and ICE vehicles. Uber strongly supported establishing incentives amounts on an annual basis based on an analysis of the incentive amounts needed to close the ZEV and ICE cost gap.[74] However, parties argued for adjustments to the assumptions that would result in substantially higher or lower CMS incentives.

Joint Parties did not oppose the approach of offsetting the difference between the costs of ZEVs and ICE vehicles but argued for substantially higher CMS incentives. Joint Parties argued that the Commission should assume that drivers would choose older models of used ICE vehicles, reducing the cost of a used ICE vehicle. Joint Parties argued that the financing interest rate assumptions were outdated and did not reflect inflation. Joint Parties argued that the Drivers Assistance Program should not just fill in the gaps left by existing ZEV incentives but should instead act as a "one-stop-shop" for assisting drivers with offsetting the full difference in costs between ZEVs and ICE vehicles.[75]

SEIUs similarly argued that the Commission should be "as conservative as possible" when assessing which federal and state incentives will be accessible to LMI drivers. SEIUs noted that many existing incentives are not provided upfront at the time of purchase, and that CARB's CVRP has run out of funding and generated waitlists in previous cycles).[76] Lyft responded that the Supplemental Proposal included appropriately conservative assumptions about what portion of state and federal incentives LMI drivers would be able to access.[77]

In this decision, we conclude that the Drivers Assistance Program should act as a "one-stop-shop" by assisting drivers with identifying and applying for other ZEV incentives.

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[74] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[75] Joint Parties' opening comments on the Supplemental Proposal filed on June 7, 2023.

[76] SEIUs' opening comments on the Supplemental Proposal filed on June 7, 2023.

[77] Lyft's reply comments on the Supplemental Proposal filed on June 26, 2023.

We acknowledge that most LMI drivers will not be able to take advantage of all federal and state incentives identified by the Program Administrator. Incentives change over time, may run out over the course of a given year, or may only be available for certain models of ZEVs.[78] Therefore, as set forth in Attachment B, we will initially include 50 percent of the value of available federal and state incentives in the CMS incentive calculations. The Program Administrator will be responsible for providing assumptions with justifications for which state and federal incentives it reasonably expects LMI drivers to be able to access during the applicable year. CSE supported the Supplemental Proposal, especially the assumptions regarding leveraging existing state incentives. CSE also recommended that the Commission establish different incentive amounts for new and used ZEVs. While it could increase complexity, CSE argued that this approach would help ensure that funds are spent efficiently.[79] Lyft and SFMTA/SFCTA also argued that ZEV incentives should be different for new and used vehicles.[80] Uber disagreed, arguing that setting a single incentive for new and used vehicles would provide drivers with more flexibility.[81]

We agree with CSE, Lyft, and SFMTA/SFCTA that the CMS Program should provide different incentive amounts for new and used vehicles. The

[78] Federal ZEV tax credits that will be available in 2024 will not be available to purchase or lease some models of ZEVs and for some ZEVs may be available at an amount below the $7,500 maximum amount. Starting in 2024, the federal tax credit can be made available by dealers at the time of purchase or lease. Incentives for CARB's CVRP have run out mid-year in the past.

[79] CSE's opening comments on the Supplemental Proposal filed on June 7, 2023.

[80] Lyft's opening comments on the Supplemental Proposal filed on June 7, 2023, and SFMTA/SFCTA's opening comments on the Supplemental Proposal filed on June 7, 2023.

[81] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

Supplemental Proposal showed that the difference in the cost gap for new and used vehicles may be substantial. Providing different incentive levels for new and used vehicles will ensure that LMI drivers will receive sufficient incentives for both types of vehicles without requiring the program to provide higher than necessary incentives for one type of vehicle.

Uber asserted that the total cost of ownership gap between ZEV and ICE vehicles for California high-mileage drivers over a five-year period is $4,000, which is $2,700 lower than the calculation in the Supplemental Proposal. Uber questioned the use of a hybrid vehicle as the ICE vehicle for the analysis, comparison of cars with different production years, and not addressing depreciation or the resale value of vehicles. Uber also questioned calculations of the opportunity cost of charging.[82]

Lyft argued for adjustments to the Supplemental Proposal's assumptions that would result in no upfront incentive for new ZEVs, only a $554 incentive for used ZEVs, and no ongoing transition incentive for charging. Like Uber, Lyft argued that the analysis should compare used ZEV and ICE vehicles from the same production years.[83]

For the purpose of the initial CMS incentive calculation, this decision maintains assumptions from the Staff Proposal regarding representative vehicles and model years for comparison to reflect the demonstrated preferences of drivers for CMS Regulated Entities. The incentive calculation should not include consideration of the projected resale value of ICE vehicles compared to ZEVs because LMI drivers cannot depend on the future resale value of a vehicle driven

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[82] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[83] Lyft's opening comments on the Supplemental Proposal filed on June 7, 2023.

for a CMS Regulated Entity at the time of purchase. We also note that all incentive calculation assumptions in the Staff Proposal, including the opportunity cost of charging, may be adjusted by the Program Administrator over time. The Program Administrator will be responsible for providing assumptions with justifications for vehicle models and model years used to calculate the proposed CMS incentive levels.

Uber supported the Supplemental Proposal's recommendation to provide the same incentive amount for purchases and leases, arguing that this approach would give drivers the most flexibility.[84] Lyft opposed providing incentives for leases or rentals, arguing that leases and rentals of ZEVs would not contribute to clean transportation goals for the long term.[85] CSE supported the Supplemental Proposal's recommendations on providing CMS incentives for purchases, leases, and rentals, but requested clarifications about how CMS incentives would apply to rentals due to differences in the financial considerations for rentals and purchases or leases.[86]

We agree with Uber and CSE that LMI drivers should have the option to apply the same CMS ZEV incentive to purchase or lease a ZEV. LMI drivers for CMS Regulated Entities should not be required to purchase a vehicle to receive CMS support for the transition to a ZEV. Providing the same ZEV incentive for purchases and leases would be consistent with CARB's CVRP, which provides the same ZEV incentive amount for purchases and leases.

However, the issue of whether to provide incentives for rentals requires further consideration. We will address this issue in Phase 2 of this proceeding.

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[84] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[85] Lyft's opening comments on the Supplemental Proposal filed on June 7, 2023.

[86] CSE's opening comments on the Supplemental Proposal filed on June 7, 2023.

Uber argued that only 50 percent of the incentive should be paid upfront and the rest should be paid out on a monthly basis to prevent ZEVs acquired with incentives from immediately leaving the platform without contributing to reduced GHG emissions.[87] Lyft similarly argued that all incentives should be paid monthly or weekly, rather than upfront, and should be tied to ongoing hours or miles on the platform.[88] Both Uber and Lyft raised concerns that LMI drivers would receive a CMS incentive and immediately stop driving for a CMS Regulated Entity after receiving a large upfront incentive.

Uber's and Lyft's approach would greatly reduce the amount of upfront assistance, which would require LMI drivers to fund a significant upfront cost gap. Nor are we persuaded that LMI drivers would intentionally drive the minimum number of hours required to be eligible for a CMS incentive, as discussed in the next section, for the sole purpose of obtaining a CMS incentive with no intention to continue to drive for a CMS Regulated Entity. Uber's and Lyft's recommendation would financially harm drivers who receive CMS incentives to offset the costs of transitioning to a ZEV and subsequently stop driving for the CMS Regulated Entities, whether by choice, health reasons, or for any other personal reason. It is not consistent with our statutory obligation to ensure minimal negative impact to require LMI drivers who receive a CMS incentive to continue to work a minimum number of hours for CMS Regulated Entities to avoid financial harms.

In opening comments on the proposed decision, Uber and Lyft commented that the Program Administrator should be allowed to propose adjustments to the

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[87] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[88] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

methodology for establishing CMS incentive amounts in Attachment B. CSE supported this approach in their reply comments on the proposed decision.

It is not appropriate to adjust the incentive methodology through an advice letter, but we clarify that the Program Administrator may propose adjustments to the assumptions in Attachment B. This decision was revised to clarify that the Program Administrator may propose to change the assumptions in Attachment B, including the assumed percentage of available federal and state incentives that LMI drivers can access (initially set at 50 percent), through a Tier 2 advice letter. The Program Administrator should include data to support the proposed changes to assumptions, such as recent survey data showing that drivers that used the Drivers Assistance Program successfully received a higher or lower percentage of federal or state incentives than assumed. When reviewing the Tier 2 advice letter, the Commission's staff will assess whether the proposed changes to assumptions are reasonable based on data that is current, relevant, and sufficient.

In opening comments on the proposed decision, Uber and Lyft also argued that the initial CMS incentive amounts were too high. Although we will not change the methodology for establishing CMS incentive amounts, we acknowledge that market conditions and the availability of state and federal incentives may change prior to the launch of the Drivers Assistance Program. This decision was revised to clarify that the Program Administrator will propose the initial incentive levels in the Tier 3 advice letter for approving the first Drivers Assistance Program Implementation Plan. It is reasonable to adopt the following CMS incentive structure based on the cost difference analysis in Attachment B:

a. **Upfront New ZEV Incentive.** An upfront incentive provided to offset costs of (a) the purchase or lease of a new ZEV, and (b) upfront home charging equipment and/or public charging costs.

b. **Upfront Used ZEV Incentive.** An upfront incentive provided to offset the costs of (a) the purchase or lease of a used ZEV, and (b) upfront home charging equipment and/or public charging costs.

c. **Ongoing Charging Incentive.** A grant paid annually to an eligible driver for up to four years to offset ongoing charging costs.

It is reasonable to adopt the following process for establishing the initial CMS incentive amounts and updating CMS incentive amounts:

a. The CMS Regulated Entities shall use the initial estimated CMS incentive amounts in Attachment B to inform the calculations in their first GHG Plans.

b. The Program Administrator shall propose initial CMS incentive amounts, using the cost gap analysis in Attachment B as the basis, in the Tier 3 advice letter for approval of the initial Drivers Assistance Program Implementation Plan.

c. The Program Administrator shall provide assumptions for the analysis of the difference between ZEV and ICE vehicle costs over a five-year period and a justification for each assumption.

d. Within 12 months after the date CMS incentives first become available and within every 12 months thereafter, the Program Administrator shall file a Tier 2 advice letter to propose adjustments to the CMS incentive amounts with an analysis using the cost gap analysis in Attachment B as the basis.

e. The Program Administrator may propose changes to assumptions in Attachment B through a Tier 2 advice letter with data to support the changes.

4.3.5. Eligibility for the Drivers Assistance Program and Clean Miles Standard Incentives

The Staff Proposal recommended that drivers that meet the LMI definition be eligible to receive CMS incentives. The Staff Proposal also recommended that the Program Administrator propose additional eligibility requirements for CMS incentives in the Drivers Assistance Program Implementation Plan and Handbook advice letter to prioritize drivers who spend the most time driving for CMS Regulated Entities and set a minimum threshold amount of time that a driver has driven for a CMS Regulated Entity.

SEIUs suggested that all drivers be considered LMI drivers for the first year to rapid transition drivers with fewer administrative burdens.[89] Uber strongly disagreed, raising concerns about potential abuse of the CMS incentive program.[90]

We agree with SEIUs that it is important to remove barriers to participation in the Drivers Assistance Program and acknowledge that LMI drivers may hesitate to share income verification information prior to learning more about the financial benefits and risks of transitioning to a ZEV. However, CMS incentives should be reserved for LMI drivers who are proven to meet eligibility requirements. It is reasonable for all drivers for CMS Regulated Entities to be eligible for the following services of the Drivers Assistance Program: (a) help with assessing the financial benefits and risks of purchasing or leasing and operating a ZEV, and (b) assistance with identifying and applying for ZEV incentives.

[89] SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

[90] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

Lyft, PADS, SFTWA, and Uber each expressed a need for additional eligibility requirements beyond income to receive CMS incentives to prevent drivers from receiving CMS incentives and immediately leaving the platforms. Uber recommended three types of eligibility criteria: (1) a minimum number of trips a driver must complete before gaining access to funds accrued; (2) a recency window; and (3) a maximum period during which a driver can claim funds accrued.[91]

The Supplemental Proposal provided the following additional recommendations for CMS incentive eligibility requirements beyond income-based eligibility:

- For the upfront incentive, drivers must meet a minimum driving threshold (hours or days of driving) across all CMS Regulated Entities over the course of the previous 365 days;
- For the ongoing incentive, drivers must meet a minimum driving threshold (hours or days of driving) across all CMS Regulated Entities and may receive the incentive as soon as the threshold is met, once every 365 days;
- Hours would include driving periods 1, 2, and 3;
- Each CMS Regulated Entity would propose the minimum driving threshold for CMS incentives in its GHG Plan;
- Each CMS Regulated Entities would be required to track and provide confidential driving-based eligibility data to the Program Administrator; and
- The Program Administrator would aggregate driver hours across platforms, verify driver eligibility, and maintain the confidentiality of driving-based eligibility data.

[91] Lyft's, PADS's, SFTWA's, and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

Uber recommended that CMS Regulated Entities propose a minimum driving threshold based on the number of trips over the course of the previous 12 months, rather than based on the number of hours or days driving. Uber argued that tracking trips is easier than tracking hours and avoids perverse incentives of tracking days or hours of driving.[92] We agree that trip-based minimum driving threshold is preferable to an hours-based minimum driving threshold for tracking eligibility across platforms. In addition, this approach is aligned with the adopted trip-based CMS Regulatory Fee.

Lyft noted that it will be challenging to identify drivers across platforms for the purposes of tracking eligibility based on the minimum driving threshold.[93] CSE agreed in reply, recommending coordination amongst the CMS Regulated Entities and the Program Administrator to develop streamlined processes for tracking and verifying driver eligibility in an automated and secure manner.[94] We agree that CMS Regulated Entities should support the Program Administrator's work on developing and implementing an efficient system for tracking and verifying driver eligibility across platforms.

Joint Parties and SEIUs urged the Commission to set consistent driver eligibility criteria that would apply to all CMS Regulated Entities.[95] Lyft supported allowing CMS Regulated Entities to propose the eligibility requirement but recommended that the Commission select the eligibility criteria

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[92] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[93] Lyft's opening comments on the Supplemental Proposal filed on June 7, 2023.

[94] CSE's reply comments on the Supplemental Proposal filed on June 26, 2023.

[95] Joint Parties' and SEIUs' opening comments on the Supplemental Proposal filed on June 7, 2023.

and apply the same criteria to all CMS Regulated Entities.[96] Uber replied in agreement with Lyft.[97] HopSkipDrive disagreed, arguing that CMS Regulated Entities should be allowed to set different eligibility criteria because many of its drivers may drive only one or two hours per day.[98]

Setting a single minimum driving threshold for all CMS Regulated Entities would prevent confusion for drivers who use more than one platform in varying proportions and would make driver education and implementation simpler for the Program Administrator.

PADS recommended limiting the number of times or frequency for drivers that drivers may receive the CMS incentives.[99] Lyft and Uber each suggested that drivers should only receive the CMS incentives once to limit the use of the incentive to reducing the costs of transitioning to a ZEV, rather than using the incentive to upgrade from one ZEV to another ZEV.[100]

In opening comments on the proposed decision, Uber and Lyft suggested the upfront CMS incentive should be a one-time benefit and not available for four years after receiving the upfront CMS incentive. Uber asserts allowing drivers to access the CMS incentive again for a different ZEV expends valuable resources without an increase in eVMT and is inconsistent with the CARB annual targets. Lyft asserts that allowing for additional CMS incentives could lead to gaming of the incentive system.

[96] Lyft's opening comments on the Supplemental Proposal filed on June 7, 2023.

[97] Uber's reply comments on the Supplemental Proposal filed on June 26, 2023.

[98] HopSkipDrive's opening comments on the Supplemental Proposal filed on June 7, 2023.

[99] PADS's opening comments on the Supplemental Proposal filed on June 7, 2023.

[100] Lyft's and Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

In Phase 2 of this proceeding, we will consider whether to authorize CMS incentives for rentals. It may be appropriate to provide an upfront incentive for an LMI driver to purchase a ZEV soon after providing an incentive to rent a ZEV. The issue of access to multiple upfront CMS incentives warrants more consideration in Phase 2 of this proceeding. This decision has been revised accordingly.

It is reasonable to adopt the following eligibility requirements for the CMS incentives:

a. An eligible driver has a household income at or below 400 percent of the federal poverty level; and

b. An eligible driver must meet the minimum driving threshold, measured by including trips for all CMS Regulated Entities over the previous 12 months.

It is reasonable to adopt the following processes relating to eligibility requirements for the CMS incentives:

a. Each CMS Regulated Entity shall propose the number of trips for the minimum driving threshold for CMS incentives in its GHG Plan;

b. The Commission's resolution of the GHG Plan advice letters will establish a single minimum driving threshold for all drivers;

c. Each CMS Regulated Entity shall track and provide confidential driving-based eligibility data to the Program Administrator;

d. Each CMS Regulated Entity shall support the efforts of the Program Administrator to develop and implement an efficient system to identify and track each driver's trips across all CMS Regulated Entities; and

e. The Program Administrator shall aggregate driver trips across platforms, verify driver eligibility, and maintain the confidentiality of driving-based eligibility data.

4.3.6. Budget for the Drivers Assistance Program

The Staff Proposal recommended establishing a budget for the Drivers Assistance Program with the following line items:

Table 2: Staff Proposal Drivers Assistance Program Budget

Item	**Budget**
CMS incentives	Established through GHG Plan process, $1.9 million for first year
Contracting Agent administrative costs	$100,000/year maximum
Program Administrator's administrative costs	Established through Implementation Plan process, $8 million/year maximum

The Staff Proposal also recommended that the initial program budget should provide for start-up costs of program administration before incentives are distributed and that program administration costs should be shared by the CMS Regulated Entities.

Lyft argued that the proposed budget for program administration was too large and inefficient compared with programs run by CMS Regulated Entities.[101] SFCTA and Uber agreed that the proposed administrative costs were excessive.[102] SFTWA agreed the budget was too high on administrative costs and low on incentives but disagreed that the CMS Regulated Entities should determine how to transition drivers on their own.[103] PADS also argued that the

[101] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

[102] Uber's reply comments on the Staff Proposal filed on February 27, 2023. SFCTA's opening comments on comments on the Staff Proposal filed on January 30, 2023.

[103] SFTWA's reply comments on comments on the Staff Proposal filed on February 27, 2023.

administrative costs were too high, which would reduce incentives available for LMI drivers.[104]

CSE recommended that the Commission cap the program administration budget at 10 percent of the total program, like the SOMAH Program, and give the Program Administrator the option to adjust the budget through a Tier 2 advice letter.[105] Lyft disagreed, arguing that a Program Administrator should be required to stick to their approved budget.[106]

SEIUs supported the Staff Proposal's recommendation that CMS Regulated Entities should cover the initial program costs.[107]

The Supplemental Proposal recommended establishing a budget for the Drivers Assistance Program with the following line items:

Table 3: **Supplemental Proposal Drivers Assistance Program Budget**

Item	**Budget**
CMS incentive costs	Established through the Implementation Plan and GHG Plan approval processes
Contracting Agent administrative costs	$100,000/year maximum
Program Administrator's administrative costs[108]	Established through Implementation Plan process. Up to 8% of the total program budget per year, with a minimum of $2 million/year, and a maximum of $7 million/year

104 PADS's opening comments on the Staff Proposal filed on January 27, 2023.

105 CSE's opening comments on the Staff Proposal filed on January 30, 2023.

106 Lyft's reply comments on the Staff Proposal filed on February 27, 2023.

107 SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

108 The Supplemental Proposal also proposed $6,500 for compensating drivers for participating in working groups.

The Supplemental Proposal recommended capping the Program Administrator's administrative costs budget at eight percent of the total Drivers Assistance Program budget per year rather than using a flat dollar amount to reduce the risk of over or under funding program administration costs. The Supplemental Proposal noted that CARB's CVRP capped administrative costs to seven percent of the program budget, and that the Commission generally caps administrative costs to between eight percent and 10 percent of the program budget. The Supplemental Proposal also included an annual minimum budget to ensure that there is sufficient program funding in the first year of the program, when the program is starting up and may distribute few incentives. The recommendations also included an annual maximum budget to avoid overfunding and account for economies of scale in later years where the total program budget may be very high.

SFMTA/SFCTA argued that there was insufficient justification in the Supplemental Proposal for the maximum program administration budget.[109] On the other hand, SEIUs asserted that CARB's CVRP budget was a useful reference point.[110] The Supplemental Proposal provided sufficient justifications for setting a maximum program administration budget based on the budget caps for other Commission programs and CARB's CVRP budget.

Uber supported setting a program administration budget cap based on the total program budget and also setting a maximum annual budget as a dollar amount, but Uber recommended removing the $2 million/year minimum budget. Uber argued that in later years of the program, the regulatory fee could

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[109] SFMTA/SFCTA opening comments on the Supplemental Proposal filed on June 7, 2023.

[110] SEIUs' opening comments on the Supplemental Proposal filed on June 7, 2023.

raise much less funding due to a prevalence of ZEVs on CMS Regulatory Entities' platforms.[111] Lyft also supported no minimum budget to encourage the Program Administrator to administer the program for less than $2 million per year.[112] We agree that a minimum budget may not be necessary in later years of the program after CMS Regulated Entities have hit the 2030 targets. However, we will assume that program administration costs for the first year of the program will be at least $2 million for purposes of informing CMS Regulated Entities' Partial GHG Plan filings. The actual negotiated budget for the first year of administration may be lower.

CSE supported the Supplemental Proposal's maximum and minimum budget for program administration but recommended flexibility for the Program Administrator to adjust the approved budget within these parameters. CSE noted that the budget of the Drivers Assistance Program will vary substantially over time and is uncertain.[113] We will address the process for proposing updates to the Drivers Assistance Program Implementation Plan, including the budget, in Section 4.3.8 below.

It is reasonable for the Drivers Assistance Program budget to include the following line items:

a. CMS incentive costs;
b. Up to $100,000 per year for administrative costs of the Contracting Agent; and

[111] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[112] Lyft's opening comments on the Supplemental Proposal filed on June 7, 2023.

[113] CSE's opening comments on the Supplemental Proposal filed on June 7, 2023.

c. Administrative costs of the Program Administrator,[114] up to a maximum of the lesser of eight percent of the total Drivers Assistance Program budget or $7 million per year and assumed to be at least $2 million for the first year of program administration.

4.3.7. Cost Attribution and Fee Collection for the Drivers Assistance Program

The Staff Proposal recommended requiring the Program Administrator to attribute CMS incentive costs, but not administrative costs, to individual CMS Regulated Entities when submitting invoices to the Contracting Agent.

The Supplemental Proposal included the following recommendations on cost attribution and upfront fee collection:

- **Cost attribution.** The Program Administrator will not attribute Drivers Assistance Program incentive disbursements or other program costs to individual CMS Regulated Entities. It would be too onerous to attribute incentives to specific CMS Regulated Entities based on how many hours a specific driver spends on each platform. All CMS Regulatory Fee funds collected will be available for the Drivers Assistance Program as a whole rather than dedicated to drivers of specific CMS Regulated Entities. The Program Administrator will track spending by budget category instead.
- **Upfront fee collection**. CMS Regulated Entities will pay upfront a portion of the CMS Regulatory Fee to be collected over the course of the first GHG Plan compliance period to provide sufficient funding to launch the Drivers Assistance Program. CMS Regulated Entities will pay at

[114] The Program Administrator's administrative costs shall include all costs of providing program services, *e.g.*, ME&O to drivers, providing resources on a website, coordinating with CMS Regulated Entities, assisting drivers with identifying and applying for non-CMS incentives, designing and processing CMS incentive applications, data reporting, and data security. The Program Administrator's administrative costs will include compensation to drivers for participating in working groups and surveys, but will not include the costs of evaluating or auditing the CMS Program.

least 12 percent of the estimated incentive budget for the two-year period upfront upon approval of the GHG Plans.

We agree that it would be too onerous and complicated for the Program Administrator to attribute incentives to specific CMS Regulated Entities based on how many hours a specific driver spends on each platform. It is reasonable for the Program Administrator to attribute Drivers Assistance Program costs to budget categories instead of specific CMS Regulated Entities.

Lyft argued that the requirement to pay at least 12 percent of the estimated incentive budget upfront would be burdensome and unnecessary. Lyft argued that sufficient funds to launch the program would be raised within two weeks assuming a per-trip fee of $0.10. We agree that the proposed upfront payment to fund the Drivers Assistance Program is not necessary if CMS Regulatory Fee funds are collected on a quarterly basis, however we do support providing the Program Administrator payment upon approval of their contract as discussed in Section 4.3.2. Each CMS Regulated Entity shall transfer to the CMS Regulatory Fee Account of the Contracting Agent all CMS Regulatory Fee amounts collected in a given quarter within 15 business days of the end of each quarter.

4.3.8. Process for Implementing the Drivers Assistance Program

The Staff Proposal recommended that the following process and timing for implementing the Drivers Assistance Program:

- Program Administrator will file a Tier 3 advice letter for Commission consideration of the Drivers Assistance Program Implementation Plan and Handbook within 90 days of selection.
- Program Administrator will hold one or more workshops to inform the Implementation Plan and Handbook.

The Staff Proposal recommended the following components for the Drivers Assistance Program Implementation Plan:

- Proposed incentive amounts;
- How the Program Administrator will deliver incentives to drivers;
- How drivers will apply for CMS incentives;
- How the Program Administrator will verify driver eligibility for CMS incentives;
- Staff training for program implementation;
- How the Program Administrator will track incentives received by drivers through the Drivers Assistance Program, including incentives received through other programs;
- Description of all program services and resources for drivers, including the plan to create the program website;
- Description of specific methods to minimize barriers for low- and moderate-income drivers to access incentives;
- How the Program Administrator will pay drivers to participate in working groups, surveys, and workshops;
- How the Program Administrator will engage with drivers and stakeholders and coordinate with CMS Regulated Entities to inform the program;
- The program budget;
- The program implementation timeline; and
- The data collection and reporting requirements for the program, including data security and privacy policies.

The Staff Proposal recommended the following components for the Handbook:

- Incentive guidelines;
- Drivers Assistance Program supportive services and resources;

- Reporting requirements and formats for the Program Administrator;
- Guidelines for coordination with CMS Regulated Entities and the Commission's staff; and
- Current incentive eligibility requirements.

The Staff Proposal recommended that the Program Administrator file a Tier 2 advice letter annually to update the Implementation Plan and Handbook, including the incentive amounts.

Parties did not dispute the need for an advice letter process to approve the initial Implementation Plan and Handbook and approve annual updates to the Implementation Plan and Handbook. The Drivers Assistance Program Implementation Plan and Handbook should be updated at least once per year to update incentive amounts, address approved GHG Plans, and reflect findings from CMS reports.

In opening comments on the proposed decision, CSE requested a clarification about how the Program Administrator may update its administrative budget. This decision was revised to clarify that the Program Administrator should include an updated proposed budget when it proposes updates to the Drivers Assistance Program Implementation Plan and Handbook.

Uber supported the deadline for the initial Tier 3 advice letter but noted that it may take additional time due to the depth and breadth of the Implementation Plan and Handbook.[115] SEIUs asserted that 90 days would not be enough time for the Program Administrator to develop an Implementation Plan and Handbook and solicit meaningful stakeholder feedback.[116] CSE similarly

[115] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[116] SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

argued that 90 days would be insufficient, noting that the Commission gave the SOMAH program administrator 150 days to complete a program implementation plan and handbook.[117] We will provide more time for the Program Administrator to file the Tier 3 advice letter.

It is reasonable to adopt the following process for proposing and updating the Drivers Assistance Program Implementation Plan and Handbook:

a. The Program Administrator shall file a Tier 3 advice letter to propose the Drivers Assistance Program Implementation Plan and Handbook within 150 days after entering into a contract to perform program administration services;

b. The Drivers Assistance Program Implementation Plan and Handbook shall include the required components listed in Attachment A;

c. The Program Administrator shall hold one or more workshops to inform the development of the first Implementation Plan and Handbook proposal; and

d. The Program Administrator shall file a Tier 2 advice letter at least once per calendar year to update the Implementation Plan, Handbook, and administration budget.

4.4. Evaluating and Auditing the Clean Miles Standard Program and Extending the Program Administrator Contract

The Staff Proposal recommended directing the Contracting Agent to conduct a request for proposals for an evaluation contractor and contract with an evaluation contractor selected by the Commission's staff (Evaluation Contractor). The Evaluation Contractor would assess the performance of the Program Administrator, Drivers Assistance Program, and the CMS Regulated Entities'

[117] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

activities outside of the Drivers Assistance Program in meeting the CMS Program goals (CMS Program Evaluation). The Staff Proposal recommended that each evaluation report address at minimum the questions listed in Attachment C of this decision.[118]

The Staff Proposal recommended a maximum budget for the Evaluation Contractor of $500,000 per evaluation, or $1 million for two evaluations, funded by the CMS Regulatory Fee. The Staff Proposal recommended two CMS Program Evaluations; the first evaluation could be conducted within the first 24 months of the creation of Drivers Assistance Program, and the second evaluation would be conducted within three years after the completion of the first evaluation. The Staff Proposal asserted that its recommendations are based on review of other Commission programs, including SOMAH and building decarbonization programs, with adjustments to reflect the complexity of the Drivers Assistance Program.

The Staff Proposal similarly recommended two independent financial audits of the CMS Regulated Entities; one audit within the first two years of the creation of the Drivers Assistance Program and one audit within three years of the completion of the first audit. The Staff Proposal recommended that each financial audit report address at minimum the questions listed in Attachment C of this decision. The Staff Proposal recommended that the costs of the financial audits will be funded by the CMS Regulatory Fee will not exceed $500,000 per audit.

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[118] The Staff Proposal also included additional questions relating to deactivation or deprioritization of drivers which have been removed. The Supplemental Proposal recommended considering limitations for clean vehicle requirements (instead of deactivation of drivers without ZEVs) and prioritization of ZEV trips (instead of deprioritization of drivers without ZEVs). As discussed above, we will consider this issue in Phase 2 of the proceeding.

The Staff Proposal recommended that the Contracting Agent conduct a request for proposals for the first evaluation one year after the Commission resolution of the first Drivers Assistance Program Implementation Plan and Handbook advice letter. The Staff Proposal recommended that the Commission's staff select an Evaluation Contractor with experience evaluating assistance programs based on direction from the Commission. The Commission's staff would approve key deliverables of the Evaluation Contractor, including the scope of work, the evaluation plan, the reporting metrics, and the evaluation report.

The Staff Proposal recommended that the Contracting Agent conduct a request for proposals for a financial audit contractor (Financial Auditor). The timing and process for the audits would match the timing and process for the Evaluation Contractor. The Staff Proposal recommended that the Commission authorize additional audits should either of the audit reports find issues that may require more frequent audits.

PADS expressed skepticism that the Drivers Assistance Program will efficiently support LMI drivers' transitions to ZEVs and supported "rigorous" programmatic and financial evaluations of the Program Administrator and Drivers Assistance Program.[119] Uber supported evaluating the Drivers Assistance Program within the first two years of implementation.[120]

We agree that program evaluations and financial audits are necessary to ensure that the Program Administrator is efficiently and effectively administering the program, CMS Regulatory Fee funds are collected and applied

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[119] PADS's opening comments on the Staff Proposal filed on January 27, 2023.

[120] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

correctly, and that the Drivers Assistance Program is designed well to support LMI drivers' transitions to ZEVs. This decision clarifies that the Program Administrator contract duration and extension periods will align with the proposed evaluation report and financial audit report deadlines to enable replacement of the Program Administrator based on evaluation results if needed. Further, the Program Administrator should address evaluation report results in proposed updates to the Implementation Plan and Handbook.

Uber suggested that requests for proposals could be conducted without a budget in place.[121] We clarify that the proposed budget amounts are the maximum allowable amount for evaluation and audit costs, but the actual approved budget will depend on the contract with the selected contractors.

Uber recommended not evaluating CMS Regulated Entities' performance to save on the costs of evaluation.[122] We do not expect the additional cost of evaluating the performance of the CMS Regulated Entities to be high enough to justify not evaluating the CMS Regulated Entities. Further, we will add requirements for CMS Regulated Entities and the Program Administrator to promptly comply with requests from the Evaluation Contractor to support an efficient evaluation. However, we will make the requirement for a second evaluation report dependent on whether the first evaluation report finds substantial concerns with the implementation of the Drivers Assistance Program or the implementation of CMS Regulated Entities' approved GHG Plans.

SEIUs expressed concern about the role of the Contracting Agent in selecting and supervising the Evaluation Contractor and Financial Auditor.[123] We

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[121] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[122] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[123] SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

clarify that the Commission's staff, not the Contracting Agent, will select and supervise the Evaluation Contractor and Financial Auditor.

In opening comments on the proposed decision, Uber suggested that the timelines for procuring an Evaluation Contractor and Financial Auditor should be extended. This decision was revised to extend the timeline for hiring an Evaluation Contractor by two months and extend the timeline for hiring a Financial Auditor by eight months.

It is reasonable to adopt the following provisions and timeline for two CMS Evaluations:

a. The Contracting Agent shall issue a request for proposals for an Evaluation Contractor within six months of the effective date of this decision;

b. An Evaluation Contractor shall have experience evaluating assistance programs based on direction from the Commission;

c. The Commission's staff shall select each Evaluation Contractor;

d. The costs of the Evaluation Contractor shall be funded by the CMS Regulatory Fee and shall not exceed $500,000 per evaluation;

e. The Contracting Agent shall file a Tier 2 advice letter for approval of the contract with the Evaluation Contractor within 60 days after the Commission's staff select the Evaluation Contractor;

f. The Contracting Agent shall enter into a contract with each Evaluation Contractor selected by the Commission's staff;

g. The Commission's staff shall approve the key deliverables of each Evaluation Contractor, including the scope of work, the evaluation plan, the reporting metrics, and the evaluation report;

h. Each evaluation report shall, at minimum, address the questions in Attachment C of this decision;

i. The first evaluation report shall be due within two years of the approval of the first Drivers Assistance Program Implementation Plan and Handbook;

j. The Contracting Agent shall file a Tier 2 advice letter to propose whether to issue a request for proposals for a second evaluation report within 90 days after the completion of the first evaluation report;

k. The Commission's staff will determine whether to require a second evaluation report based on whether the first evaluation report finds substantial concerns with the implementation of the Drivers Assistance Program or the implementation of CMS Regulated Entities' approved GHG Plans;

l. The Contracting Agent shall issue a request for proposals for an Evaluation Contractor for the second evaluation report within one year after the completion of the first evaluation report; and

m. If required, the second evaluation report shall be due within three years of the completion of the first evaluation report; and

n. The Program Administrator and each CMS Regulated Entity shall provide all information and documentation requested by the Evaluation Contractor within 10 business days of each request.

It is reasonable to adopt the following provisions and timeline for at least two financial audits:

a. The Contracting Agent shall issue a request for proposals for a Financial Auditor within 12 months of the effective date of this decision;

b. A Financial Auditor shall have experience conducting financial audits based on direction from the Commission;

c. The Commission's staff shall select each Financial Auditor;

d. The costs of the Financial Auditor shall be funded by the CMS Regulatory Fee and shall not exceed $1,000,000 for two or more audits;

e. The Contracting Agent shall file a Tier 2 advice letter for approval of the contract with a Financial Auditor within 60 days after the Commission's staff select the Financial Auditor;

f. The Contracting Agent shall enter into a contract with each Financial Auditor selected by the Commission's staff;

g. The Commission's staff shall approve the key deliverables of each Financial Auditor, including the scope of work, the financial audit plan, the reporting metrics, and the financial audit report;

h. Each financial audit report shall, at minimum, address the questions in Attachment C of this decision;

i. The first financial audit report shall be due within two years of the approval of the first Drivers Assistance Program Implementation Plan and Handbook;

j. The Contracting Agent shall issue a request for proposals for a Financial Auditor for the second financial audit report within one year after the completion of the first financial audit report;

k. If the first or second financial audit report recommends an additional audit, the Commission's staff may direct the Contracting Agent to issue a request for proposals for another financial audit; and

l. Each CMS Regulated Entity shall provide all information and documentation requested by the Financial Auditor within 10 business days of each request.

It is reasonable to adopt the following Program Administrator contract duration and extension provisions:

a. The Program Administrator contract shall have an initial duration of four years, followed by two options to extend the contract for an additional three years each;

b. If an evaluation report finds that the Program Administrator's contract should be renewed, the Contracting Agent shall exercise the option to extend the Program Administrator's contract for three years; and

c. If either evaluation report finds that the Program Administrator's contract should not be renewed, then the contracting agent shall issue a request for proposals for a new Program Administrator within 120 days of the completion of the evaluation report. The Commission's staff shall select the new Program Administrator and the Contracting Agent shall enter into a contract with the Program Administrator in accordance with the process described in Attachment A of this decision.

5. Clean Mobility

5.1. Definitions for Clean Mobility

Section 5450(d)(3) of the Pub. Util. Code provides that the Commission implement CMS in a way that supports the "goals of clean mobility for low- and moderate-income individuals."

The Staff Proposal recommended adopting the following definitions:

- Define LMI individuals as LMI drivers and LMI communities (grouping individuals into communities).
- Define supporting the goals of clean mobility for LMI individuals (Supporting Clean Mobility) as follows: (a) providing LMI drivers access to ZEVs through ZEV incentive programs, and (b) providing LMI communities access to rides in ZEVs through CMS Regulated Entities.
- Define low-income communities as census tracts with median household incomes at or below 80 percent of the statewide median income, and moderate-income communities as census tracts with median household incomes between 80 percent and 120 percent of the statewide median income, as defined by the California Department of Housing and Community Development's state income limits.

The Staff Proposal derived the proposed definitions for LMI communities from the ESJ Action Plan[124] and Transportation Electrification Framework.[125]

Lyft and Uber each supported the proposed definition of LMI communities due to its consistency with the definition in the Transportation Electrification Framework.[126]

SFCTA opposed defining LMI individuals as LMI drivers because it contradicts the plain language of the statute, which includes explicit references to drivers and states that the intent of the statute is to "increase access to clean mobility options for low- and moderate-income individuals, by increasing use of ride-hailing services that utilize zero-emission vehicles."[127] Lyft agreed in reply comments that LMI individuals should be defined as LMI riders.[128]

The Supplemental Proposal agreed that LMI individuals should be defined as individuals located in LMI communities who access rides through CMS Regulated Entities. The Supplemental Proposal noted that collecting income data on individual riders is not feasible, but individuals located in LMI communities can be identified through trip location data.

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[124] The Commission's ESJ Action Plan defines low-income census tracts as census tracts with household incomes less than 80 percent of area or state median income.

[125] D.22-11-040 defined low-income communities by reference to Section 39713 of Health and Safety Code, which defines low-income communities as "census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093."

[126] Lyft's and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[127] SFCTA's opening comments on the Staff Proposal filed on January 30, 2023.

[128] Lyft's reply comments on the Staff Proposal filed on February 27, 2023.

Lyft supported the definition and assessment method included in the Supplemental Proposal.[129] SFMTA/SFCTA expressed concern with the proposed definition of LMI individuals and suggested that the Program Administrator conduct passenger surveys that include questions on the extent to which LMI individuals are being served. We do not agree that passenger surveys are necessary. Individuals located in LMI communities are a reasonable proxy for LMI individuals for the purpose of assessing progress for Supporting Clean Mobility.

It is reasonable to adopt the following definitions relating to the statutory clean mobility requirements:

a. It is reasonable to define LMI individuals as individuals located in LMI communities who access rides through CMS Regulated Entities;
b. Supporting Clean Mobility should be defined as providing LMI individuals access to rides in ZEVs through CMS Regulated Entities; and
c. LMI communities should be defined as census tracts with median household incomes at or below 120 percent of the statewide median income, as defined by the California Department of Housing and Community Development's state income limits.

5.2. Advancing Clean Mobility

The Staff Proposal recommended Supporting Clean Mobility and evaluating progress toward this goal as follows:

- Require CMS Regulated Entities to address Supporting Clean Mobility in each GHG Plan;
- Collect census tract location data to support identification of LMI individuals; and

[129] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

- Include Supporting Clean Mobility progress in the Biennial Unanticipated Barriers and Progress Report.

Lyft agreed that including Supporting Clean Mobility in the Unanticipated Barriers and Progress Report would be an appropriate method for monitoring and evaluating the goals of clean mobility.[130]

Waymo recommended that the Commission consider (a) how to encourage riders to select ZEVs on CMS Regulated Entities' platforms, and (b) provide a rider trip incentive program to support access to trips in ZEVs.[131] CMS Regulated Entities may elect to include similar or different proposals for Supporting Clean Mobility in GHG Plan filings.

It is reasonable to advance Supporting Clean Mobility as follows:

a. Require each CMS Regulated Entity to describe how it will Support Clean Mobility in each GHG Plan; and
b. Include progress toward Supporting Clean Mobility in the Biennial Unanticipated Barriers and Progress Report.

We will address the data issues in the Data Reporting section below.

6. Environmental and Social Justice Communities and Environmental and Social Justice Action Plan

The Commission created the ESJ Action Plan to serve as both a commitment to furthering ESJ principles, as well as an operating framework with which to integrate ESJ considerations throughout the agency's work. The ESJ Action Plan acknowledges that some populations in California face higher barriers to access clean, safe, and affordable utility services. To fulfill its mission, the ESJ Action Plan acknowledges that the Commission must focus on communities that have been underserved.

[130] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

[131] Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

The ESJ Action Plan defines ESJ communities as "low-income or communities of color that have been underrepresented in the policy setting or decision-making process, are subject to a disproportionate impact from one or more environmental hazards, and likely to experience disparate implementation of environmental regulations and socio-economic investments in their communities."[132]

The Commission's ESJ Action Plan includes two action items that are specific to CMS implementation (CMS ESJ Action Items):

- Item 2.5.5 (Improving Access to EV Charging for ESJ Communities): Each CMS Regulated Entity should describe how its GHG Plan proposals may contribute to improving access to charging infrastructure for ESJ communities.
- Item 3.1.2 (CMS Implementation and Impact on Drivers from ESJ Communities): Each CMS Regulated Entity should describe how its GHG Plan proposals will impact drivers from ESJ communities, including financial support, education, outreach, and the performance measures and data they will collect and report to the Commission to track progress.

For CMS implementation, the Staff Proposal recommended defining ESJ communities as including LMI drivers and LMI communities. The Staff Proposal recommended (a) directing CMS Regulated Entities to document how they will advance the CMS ESJ Action Items in their GHG Plans, and (b) requiring CMS Regulated Entities to comply with data reporting requirements for ensuring minimal negative impact on LMI drivers.

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[132] The ESJ Action Plan states that ESJ communities include disadvantaged communities, all Tribal lands, low-income households, and low-income census tracts.

The Staff Proposal anticipated that the Commission's staff would seek feedback on progress toward the CMS ESJ Action Items through the Driver Working Group, the Implementation Working Group, and other stakeholder engagement and assess progress toward the action items in Biennial Unanticipated Barriers and Progress Report.

CSE supported the Staff Proposal's approach to addressing the CMS ESJ Action Items. CSE also suggested that the Commission consider ESJ goals in the Drivers Working Group twice per year, conduct targeted education and outreach, and compensate community-based organizations to assist in measuring and evaluating ESJ impacts.[133] We agree that the Drivers Working Group should consider progress toward the CMS ESJ Action Items.

It is reasonable to advance the CMS ESJ Action Items and measure ESJ progress as follows:

a. Define ESJ communities for the purposes of CMS implementation as LMI drivers and LMI communities as defined in this decision;

b. Direct CMS Regulated Entities to document how they will advance the CMS ESJ Action Items in their GHG Plans; and

c. Assess progress towards the CMS ESJ Action Items in the Biennial Unanticipated Barriers and Progress Report and through Drivers Working Group meetings.

We will address the data issues in the Data Reporting section below.

7. Greenhouse Gas Plans

7.1. Submission and Review of Plans

Section 5450(c) of the Pub. Util. Code provided that each TNC shall develop a "greenhouse gas emissions reduction plan" by January 1, 2022, and

[133] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

every two years thereafter. The CARB CMS Order established CMS Annual Targets beginning in calendar year 2023, ramping up through calendar year 2030, and continuing to apply each year thereafter.

Given that the Scoping Memo anticipated that Phase 1 of this proceeding would not address all components of the GHG Plans, the Staff Proposal recommended that each CMS Regulated Entity file a Tier 3 advice letter for approval of a partial GHG Plan that only includes components addressed in the Phase 1 decision (Interim GHG Plan) within 90 days of a Phase 1 decision. The Staff Proposal recommended that the Interim GHG Plan would cover the period between the submission of the advice letter and the end of calendar year 2025, and that each CMS Regulated Entity would file a full GHG Plan by January 1, 2026, and every two calendar years thereafter. The Staff Proposal also recommended that within 90 days of a decision on Phase 2 issues, the CMS Regulated Entities would file a Tier 3 advice letter to update their GHG Plans to comply with the Phase 2 decision. If the Phase 2 decision was filed between the beginning of April and December before a new GHG Plan is due, the CMS Regulated Entities would be allowed to wait to submit a full GHG Plan as part of the regular submission cycle.

The Staff Proposal recommended that the Commission's staff host a workshop shortly after the filing of Tier 3 advice letters to provide a forum for stakeholders to ask CMS Regulated Entities questions about their proposed GHG Plans.

The Staff Proposal recommended that the Commission's staff use a scorecard system to review GHG Plans based on the following criteria: completeness, feasibility, and accuracy. Each element would be scored as "exemplary", "sufficient", or "deficient." If the Commission issues a resolution of a Tier 3 advice letter that requires a CMS Regulated Entity to modify its GHG Plan, then the CMS Regulated Entity would file a conforming plan by Tier 1 advice letter.

In opening comments, Lyft requested 180 days to file a GHG Plan, asserting that 90 days is insufficient to develop a plan that a CMS Regulated Entity can commit to execute.

Uber opposed the requirement to file an Interim GHG Plan, arguing that submitting a partial plan prior to a Phase 2 decision would require CMS Regulated Entities to make detailed proposals without understanding essential aspects of the CMS program, including optional credits and enforcement details. Uber also recommended that the Commission require Tier 2 advice letters (rather than Tier 3) and forego workshops to expedite the approval of GHG Plans.[134]

The Joint Parties supported Commission review of the GHG Plans through the Tier 3 advice letter process and sufficient opportunities for stakeholder input.[135] We agree with the Joint Parties that a Tier 3 advice letter process and workshop requirement is appropriate for reviewing the GHG Plans.

Uber argued that the Commission should provide more detail about the criteria and scorecard process for review of GHG Plans. Lyft similarly argued that the scorecard should be subject to party comments.[136] It is not necessary to provide further details about the scoring criteria or the scorecard since the GHG Plans will be subject to approval by the Commission through a Tier 3 advice letter process rather than approved by the Commission's staff through a Tier 2 advice letter process.

[134] Lyft's and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[135] Joint Parties' opening comments on the Staff Proposal filed on January 30, 2023.

[136] Lyft's and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

The Supplemental Proposal recommended requiring each CMS Regulated Entity to (a) file an Interim GHG Plan within 120 days of a Phase 1 decision, and (b) file a Tier 3 advice letter to propose an updated GHG Plan covering Phase 2 issues within 90 days of a Phase 2 decision. The Supplemental Proposal recommended that CMS Regulated Entities not be required to submit a GHG Plan by January 1, 2026 if they submit an updated GHG Plan within 90 days of a Phase 2 decision.

In comments on the Supplemental Proposal, Lyft supported the updated deadline for filing an Interim GHG Plan.[137] Uber supported the deadline but continued to oppose any requirement to file a GHG Plan prior to a Phase 2 decision.[138]

As discussed above, SB 1014 established a statutory deadline of January 1, 2022 for each TNC to develop a first GHG Plan. The Scoping Memo created a plan for this proceeding to be addressed in two or more phases to allow the Commission to begin implementation as soon as Phase 1 issues were resolved. Section 2 of the Scoping Memo asserted that Phase 1 would address issues necessary to begin implementation of CMS. We agree that this Phase 1 decision addresses issues necessary to begin implementation of CMS, including the requirement of an Interim GHG Plan.

We will also move the deadlines for biennial GHG Plans from January 1 to January 15th of each year to avoid the winter holidays.

It is reasonable to adopt the following requirements and process for GHG Plans:

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[137] Lyft's opening comments on the Supplemental Proposal filed on June 7, 2023.

[138] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

a. Each CMS Regulated Entity shall file a Tier 3 advice letter to propose an Interim GHG Plan within 120 days of the effective date of this decision;

b. Each CMS Regulated Entity shall file a Tier 3 advice letter to propose a full GHG Plan within 90 days of the effective date of a Phase 2 decision in this proceeding;

c. Each CMS Regulated Entity shall file a Tier 3 advice letter to propose a GHG Plan by January 15, 2026, and by January 15th every two calendar years thereafter.

d. If a CMS Regulated Entity files an advice letter to propose a full GHG Plan within 90 days of the effective date of a Phase 2 decision in this proceeding, the entity shall not be required to file an additional GHG Plan proposal by January 15, 2026;

e. The Commission's staff will host a workshop to discuss GHG Plan proposals within 30 days after the filing of the advice letters to propose GHG Plans;

f. The Commission's staff will use a scorecard system to review GHG Plans based on the following criteria: completeness, feasibility, and accuracy. Each element will be scored as "exemplary", "sufficient", or "deficient"; and

g. If the Commission issues a resolution of a Tier 3 advice letter that requires a CMS Regulated Entity to modify its GHG Plan, then the CMS Regulated Entity shall file a conforming plan by Tier 1 advice letter within 30 days of the effective date of the resolution.

7.2. Contents of Plans

Section 5450(c) of the Pub. Util. Code provided the following guidelines for GHG Plans:

> A transportation network company greenhouse gas emissions reduction plan shall include proposals on how to meet the targets and goals for reducing emissions of greenhouse gases established pursuant to subdivision (b) based upon the following:

(1) Increased proportion of participating drivers with zero-emission vehicles using transportation network companies.

(2) Increased proportion of vehicle-miles completed by zero-emission vehicles relative to all vehicle-miles.

(3) Decreased gram-per-mile greenhouse gas emissions rates.

(4) Increased passenger-miles in proportion to overall vehicle-miles.

The Staff Proposal recommended that the Commission structure the GHG Plans as follows:

- The GHG Plans will be divided into a Narrative Plan and Supplemental Calculations, each in the format of the applicable template.
- The Narrative Plan will include the following elements: executive summary of the plan; description of how the plan was developed for achieving CMS Annual Targets; results of any analyses conducted to develop the plan; Action Plan; describe barriers to transitioning to ZEVs and proposals for minimizing barriers; description of submitted data; and document lessons learned from implementing previous GHG Plans.
- The Action Plan will include proposals for meeting the CMS Annual Targets and CMS goals of advancing clean mobility and ESJ while minimizing negative impacts on LMI drivers. After the Phase 2 decision, the Action Plan will also include sustainable land use and optional credit proposals.
- The Supplemental Calculations will include required quantitative elements describing how CMS Regulated Entities will meet the CMS Annual Targets and advance CMS goals.

The Staff Proposal recommended the following components for the Action Plan portion of the Narrative Plan:

- A target annual funding amount for all the Drivers Assistance Program activities in its GHG Plan for the time period covered by the GHG Plan.
- A mechanism to collect that funding (*e.g.*, a per-trip or per-mile regulatory fee).
- How funds should be spent by the Drivers Assistance Program, including estimated costs for each type of action.
- Actions that will contribute towards meeting the CMS Annual Targets (*e.g.*, education and outreach, changes to algorithms, partnerships), including an estimate of how much each action will contribute to the targets.
- How the CMS Regulated Entity will minimize the negative impact on drivers, including their proposed cap for the percentage of LMI drivers who may be deactivated or deprioritized.
- How the CMS Regulated Entity will advance the goals of clean mobility.
- How the GHG Plan will impact LMI drivers and its contribution to improving access to charging infrastructure in LMI communities.
- After the Phase 2 decision, the Action Plan will also describe how the GHG Plan supports sustainable land-use objectives in Section 65080 of the Government Code and actions that may generate optional credits.

The Joint Parties expressed concerns about giving CMS Regulated Entities too much discretion to propose the CMS Regulatory Fee or Drivers Assistance Program activities.[139] SEIUs similarly opposed allowing CMS Regulated Entities to propose the regulatory fee, arguing that this approach could result in underfunding the Drivers Assistance Program.[140]

[139] Joint Parties' opening comments on the Staff Proposal filed on January 30, 2023.

[140] SEIUs' opening comments filed on the Staff Proposal on January 30, 2023.

Uber supported the GHG Plan elements described in the Staff Proposal and requested clarifications on how CMS Regulated Entities will contribute proportionally to the Drivers Assistance Program.[141]

CSE supported including in GHG Plans how CMS Regulated Entities will improve access to charging infrastructure in LMI communities.[142]

Lyft opposed the proposed scope of the GHG Plans, arguing that Section 5450 describes the GHG Plans as limited to plans for meeting the CMS Annual Targets. Lyft argued that establishing a Drivers Assistance Program and any CMS Regulatory Fee exceeds the Commission's authority granted by SB 1014.[143] As discussed above, the Commission has the authority to establish a Drivers Assistance Program and a CMS Regulatory Fee.

In response to party comments, the Supplemental Proposal re-envisioned the Drivers Assistance Program as statewide program, funded by a uniform per-trip regulatory fee paid by customers of CMS Regulated Entities, that provides LMI drivers with uniform incentives to minimize potential negative impacts of the transition to ZEVs.

Instead of proposing activities for the Drivers Assistance Program and the appropriate annual budget and regulatory fee for Drivers Assistance Program activities, the Supplemental Proposal recommended that each CMS Regulated Entity include in their GHG Plans the assumptions and estimates that the Commission's staff will use to calculate the regulatory fee and Drivers Assistance Program budget. The Commission's staff will make these calculations based on information about the projected number of drivers who would receive incentives

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[141] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[142] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

[143] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

from the program, the estimated number of trips, estimated contracting agent costs, and the estimated administrative costs of the Drivers Assistance Program approved in this decision (*e.g.*, Program Administrator's administrative costs, evaluation costs, and financial audit costs). The Supplemental Proposal recommended using the inputs and process described in Attachment D to establish the regulatory fee.

The Supplemental Proposal also recommended that the Commission include the following additional elements in the GHG Plan templates:

- Marketing, Education, and Outreach (ME&O). The Action Plan will include a section on the CMS Regulated Entity's ME&O plan. The plan will include details on timing, special considerations for LMI drivers, and an ongoing strategy to inform new drivers about CMS as they join. The Narrative Plan will also include proposed language and methods for how the regulatory fee will be communicated to both drivers and riders including the methods for communication (*e.g.*, email, website, in application).
- Clean Vehicle Requirements and ZEV Prioritization. If a CMS Regulated Entity seeks to implement clean vehicle requirements or prioritize ZEV trips through their applications, the entity must include these proposals in the Action Plan.
- ZEV Charging. The Action Plan will include details of any ZEV charging-related initiatives (*e.g.*, partnerships with charging providers) and how the proposals increase access to charging in LMI communities or otherwise advance ESJ.
- Incentive Eligibility Tracking and Notification. The Action Plan section on the Drivers Assistance Program will explain how the CMS Regulated Entity will efficiently support the Program Administrator's verification of driver eligibility for incentives and provide notice to drivers when eligibility is met through their platform.

- Total Program Budget Review. If CMS program funds remain from previous years, the Narrative Plan will propose, with support from the contracting agent, how to use unspent funds or whether to adjust the CMS Regulatory Fee to account for unspent funds.

Several parties commented on the regulatory fee aspect of the Supplemental Proposal.

HopSkipDrive supported a consistent per-trip regulatory fee applicable to all CMS Regulated Entities compared to any other type of regulatory fee. It also expressed concern over how the per-trip fee would impact their riders.[144]

The Joint Parties strongly supported the proposal to establish a single, consistent per-trip fee across CMS Regulated Entities, asserting that this approach is necessary to protect drivers from negative impacts of the implementation of the CMS Annual Targets.

PADS expressed concerns that any regulatory fee approach could significantly increase the prices of trips in certain markets or communities, resulting in lower consumer demand and driver earnings. PADS raised concerns about these impacts on LMI drivers and customers.[145] However, the Supplemental Proposal's approach of establishing a single, consistent regulatory fee across CMS Regulated Entities will prevent scenarios where certain underserved markets or communities would be subject to a higher regulatory fee. Further, the per-trip regulatory fee approach, in contrast with a per-mile fee, will prevent LMI customers in rural communities who request longer trips from paying higher regulatory fees than customers in urban communities.

[144] HopSkipDrive's opening comments on the Supplemental Proposal filed on June 7, 2023.

[145] PADS's opening comments on the Supplemental Proposal filed on June 7, 2023.

Uber requested clarification of how the contracting agent will "support" GHG Plan proposals regarding how to use unspent funds or whether to adjust the CMS Regulatory Fee.[146] This decision clarifies that the role of the Contracting Agent will include calculating unspent funds and sharing these calculations with Staff quarterly as described in the Data Reporting section below or as requested by Staff to inform their review of the program funding and spending.

SFMTA/SFCTA commented that engaging a CMS Regulated Entity as a contracting agent for the Drivers Assistance Program is a "novel" and "untested" approach that should not be used for CMS.[147] This is incorrect. The Commission has directed regulated entities to act as a contracting agent for other large climate-related incentive programs, including the Solar on Multifamily Affordable Housing Program described in the Staff Proposal.

SFMTA/SFCTA also argued that the Staff Proposal and Supplemental Proposal did not include sufficient financial transparency and reporting requirements.[148] As discussed in the Evaluation and Audits section, this decision requires at least two financial audits, regular reporting by the Contracting Agent on funds received from CMS Regulated Entities, and approval by the Commission's staff of the Program Administrator's invoices.

In opening comments on the proposed decision, Lyft suggested that the CMS Regulated Entities should not be required to submit the projections listed as in Attachment D. Uber did not object to providing this information in their reply comments on the proposed decision. However, both Lyft and Uber both noted that they would only be able to base their projections on their own company's

[146] Uber's opening comments on the Supplemental Proposal filed on June 7, 2023.

[147] SFMTA/SFCTA comments on the Supplemental Proposal filed on June 7, 2023.

[148] SFMTA/SFCTA comments on the Supplemental Proposal filed on June 7, 2023.

information. Lyft noted that drivers projected to transition could be driving on multiple platforms and therefore counted twice. Lyft suggested double counting drivers could lead to setting too high a fee and over-collecting funds.

The requirements established in Attachment D are critical to the Commission's ability to set the CMS Regulatory Fee along with the data that the Commission already collects through the TNC Annual Reports. To support the Commission's ability to set an appropriate regulatory fee and avoid double-counting, this decision was revised to require CMS Regulated Entities to provide information about the CMS incentive trip eligibility threshold in Attachment D.

It is reasonable to adopt the following requirements and process for approving GHG Plans and establishing the CMS Regulatory Fee and Drivers Assistance Program budget:

a. Each GHG Plan shall include all of the information in Attachment E;
b. Each GHG Plan shall be in the format of the Narrative Plan and Supplemental Calculation templates provided by the Commission's staff;
c. The Commission's staff shall use the information from the GHG Plans to calculate a uniform statewide CMS Regulatory Fee and statewide Drivers Assistance Program budget in accordance with Attachment D; and
d. The CMS Regulatory Fee and Drivers Assistance Program budget for each GHG Plan compliance period shall be established by the Commission's resolution of the Tier 3 advice letters of the GHG Plans.

7.3. Modifying Approved Plans

The Staff Proposal recommended allowing CMS Regulated Entities to propose significant deviations from approved GHG Plans as follows:

- Tier 1 advice letters for proposed increases to the regulatory fee.
- Tier 2 advice letters for proposed decreases to the regulatory fee.
- Tier 3 advice letters for changes to the Drivers Assistance Program that could negatively impact LMI drivers; shifts in planned investments between action items that materially affect their scale, scope, or effectiveness; and any types of deviations from approved GHG Plans.

The Supplemental Proposal recommended that any changes to the regulatory fee made through the advice letter process would apply to all CMS Regulated Entities.

Lyft opposed Tier 2 or Tier 3 advice letters for deviations from the GHG Plans for the first two years of implementation, arguing that waiting for Commission approval, especially for Tier 3 advice letters, would prevent CMS Regulated Entities from moving quickly to address unforeseen factors in implementation.[149] In reply comments, Uber agreed that Commission approval of Tier 3 advice letters is too time consuming and supported delaying the requirement to use advice letters to modify GHG Plans until after the first two years of CMS reporting.[150]

The Commission may only delegate administrative decisions to the Commission's staff through Tier 1 or Tier 2 advice letters. Further, we have concerns about allowing individual CMS Regulated Entities to increase the regulatory fee, which would result in a higher regulatory fee for customers of all CMS Regulated Entities, or to make modifications to their GHG Plans that could

[149] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

[150] Uber's reply comments on the Staff Proposal filed on February 27, 2023.

result in negative impacts to LMI drivers through a Tier 1 advice letter. Accordingly, we adjusted the process for proposing modifications to GHG Plans.

It is reasonable for CMS Regulated Entities to propose modifications of approved GHG Plans as follows:

a. Tier 1 advice letters for minor modifications, so long as such modifications do not affect the regulatory fee or have the potential to negatively impact LMI drivers;

b. Tier 2 advice letters for proposed changes to the regulatory fee; and

c. Tier 3 advice letters for proposed changes that have the potential to negatively impact LMI drivers; proposed changes to action items that materially affect their scale, scope or effectiveness; and any other significant change to an approved GHG Plan.

It is reasonable for the Commission's staff to (a) approve increases to the CMS Regulatory Fee if necessary to timely collect the approved budget for the Drivers Assistance Program, or (b) approve reductions to the CMS Regulatory Fee after the Contracting Agent has reported to the Commission's staff that it has collected over 120 percent of the approved annual budget for the Drivers Assistance Program during a given 12-month period.

8. Data Reporting

8.1. Data Collection

The Staff Proposal recommended collection of each of the following categories of data. The Staff Proposal attached a comprehensive list of data fields for reporting on a quarterly and annual basis.

Table 4: Staff Proposal Data Reporting Categories

Type of Data	Responsible Entity	Description of Data
CMS Annual Targets	CMS Regulated Entities	Compliance data required by the CARB CMS Order plus additional data fields from the TNC Annual Reports (Requests Accepted, Requests Accepted Periods, Rides Requested and Not Accepted, and Suspended Drivers data fields) to assess progress toward CMS Annual Targets.
Drivers Assistance Program	CMS Regulated Entities and Program Administrator	Data on (a) CMS Regulatory Fee fund collection, (b) CMS regulatory fund expenditures, (c) how many drivers have accessed Drivers Assistance Program services and incentives, and (d) information about drivers.
Minimal Negative Impact on LMI Drivers	CMS Regulated Entities and Program Administrator	Data to ensure minimal negative impact of CMS implementation on LMI drivers.
Clean Mobility	CMS Regulated Entities and Program Administrator	Data related to Supporting Clean Mobility, including trip location data at the census tract level.
ESJ	CMS Regulated Entities and Program Administrator	Data related to advancing CMS ESJ Action Items, including reporting on the location of charging infrastructure installed through the CMS Program and charging events incentivized by the CMS Program.
Exemptions	CMS Regulated Entities	Data related to Supporting Clean Mobility.[151]

[151] This decision determined that no CMS-specific data reporting is required for exempt entities in the exemptions sections above.

Type of Data	Responsible Entity	Description of Data
Additional Issues	To be determined	Additional data may be required by the evaluation plan and/or a Phase 2 decision.

The Staff Proposal recommended that the Commission's staff provide a data dictionary and data reporting templates ahead of Commission-established data submission deadlines. The data reporting templates would resemble the format used for TNCs' annual data reports to the Commission.

Generally, Lyft argued that data reporting by CMS Regulated Entities should be limited to the data fields required by CARB in the CARB CMS Order to comply with Section 5450 of the Pub. Util. Code.[152]

The Staff Proposal appropriately includes data fields related to implementation of all CMS goals. As discussed in the background section of this decision, Section 5450 of the Pub. Util. Code directed CARB to establish the CMS Annual Targets and directed the Commission to implement the CMS Annual Targets and additional CMS goals, including ensuring minimal negative impact on LMI drivers and Supporting Clean Mobility. As discussed above with respect to our authority to establish a CMS Regulatory Fee and a Drivers Assistance Program, the Commission has the authority to require data reporting to assess progress toward the CMS ESJ Action Items under its general authority to regulate passenger carriers pursuant to Section 4 of Article XII of the California Constitution; and Sections 701 and 5381 of the Pub. Util. Code.

The Supplemental Proposal recommended measuring progress towards Supporting Clean Mobility at the LMI community level by analyzing trip

[152] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

location data for indications of whether individuals located in LMI communities are receiving equitable access to rides in ZEVs.

Several parties argued that the Staff Proposal's quarterly and annual reporting requirements are too onerous and should be streamlined for CMS Regulated Entities. Lyft, Uber, Cruise, and Waymo each argued that data fields that CMS Regulated Entities should not be required to include in CMS data reports any data fields that are already included in its reports to the Commission for other purposes, *e.g.*, TNC Annual Reports and AV Passenger Service Reports.[153]

We agree with parties that CMS data reporting requirements should be streamlined to avoid double-reporting of data fields in existing TNC Annual Reports. The revised CMS data requirements in Attachment F relies more heavily on data from TNC Annual Reports and reduces CMS reporting requirements. TNC Annual Reports are currently submitted by September 19 of each year for the previous September 1st through August 31st reporting period, which is inconsistent with the January through December calendar year reporting period for CMS under CARB's CMS Order. While the data submission and reporting timelines for CMS and TNC Annual Report remain misaligned, we will require supplemental TNC Annual Report submissions when CMS data is due to ensure staff have complete datasets.

Lyft requested that the Commission require less data reporting for the initial years of CMS implementation.[154] We will limit data reporting

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[153] Lyft's, Uber's, Cruise's, and Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

[154] Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

requirements for calendar year 2023 to data required under the CARB CMS Order due to the timing of the issuance of this decision.

Lyft, Uber, Cruise, and Waymo also argued that CMS data reports should be due on an annual basis rather than a quarterly basis to reduce administrative burdens.[155] SFMTA/SFCTA disagreed, arguing that data reporting should be quarterly to enable timely monitoring.[156] Uber recommended limiting the amount of data reported on a quarterly basis to the minimum amount necessary. For example, Uber asserted that data needed for biannual reports on ESJ impacts should be reported annually.[157]

We agree with Uber that not all data needs to be reported quarterly, while also agreeing with SFMTA/SFCTA that quarterly data reporting on some topics is necessary to enable timely monitoring. We will maintain some of the quarterly data reporting requirements, including data on the Compliance Summary, Fee Collection, Administration Spend Tracking, Drivers Assistance Program Summary, and Incentive Recipients.

Uber argued that the Staff Proposal's data fields were too burdensome because it included too many data fields for certain topics, such as approximately 30 fields for location data and 19 fields for payment data. Uber also argued that the Passenger Pickup Date Prescheduled and Service Type fields are not relevant to CMS implementation. [158] Lyft similarly objected to the following data fields for CMS reporting: Fare Factors, Surge Pricing, Service Type, Wheelchair Accessible

[155] Lyft's, Uber's, Cruise's, and Waymo's opening comments on the Staff Proposal filed on January 30, 2023.

[156] SFMTA/SFCTA's reply comments on the Staff Proposal filed on February 27, 2023.

[157] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[158] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

Vehicle (WAV) Requests, Prescheduled Requests, Requests Accepted Periods, Rides Requested and Not Accepted, and Driver Suspensions.

As discussed above, the data reporting requirements in Attachment F have been simplified to reduce duplication with TNC Annual Reports and reduce the number of data fields. In addition, the Commission's staff will provide a data dictionary and data template for CMS data reports that may include fewer data fields.

Uber and Lyft argued that CMS Regulated Entities do not collect the driver information data in the Staff Proposal, *e.g.*, driver incomes, driver home location, or vehicle occupancy. Each argued that this type of information, along with all Driver Assistance Program information, should be reported by the Program Administrator instead of CMS Regulated Entities.[159]

We have modified the data requirements in Attachment F of this decision to clarify that the Program Administrator will be responsible for reporting certain types of driver-specific data.

Several parties commented on the proposed ZEV charging data fields. CSE supported the required data fields in Appendix B of the Staff Proposal and recommended also requiring CMS Regulated Entities to share census tract level data on TNC driver locations throughout the day to support the understanding of charging location needs.[160] FLO similarly suggested adding a data field for common driver locations throughout the day at the census tract level to support understanding of charging location needs. FLO argued that this information is necessary to help utilities, charging companies, and local governments

[159] Uber and Lyft's opening comments on the Staff Proposal filed on January 30, 2023.

[160] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

strategically deploy chargers where needed to mitigate overnight charging access issues for drivers who do not have access to home charging.[161]

Uber opposed additional driver location data fields and argued that the existing driver location data fields for TNC Annual Reports fields which includes locations (latitude, longitude, ZIP Code, Census Tract, and Census Block) for when the driver app is turned on or last passenger dropped off, at the time of trip request, at the time when trip was accepted, where passenger is picked up, and where the passenger is dropped off are sufficient. Lyft also opposed additional driver location data fields.[162] We agree that the Commission collects sufficient driver location data through the TNC Annual Reports and will not create additional driver location data reporting requirements for CMS at this time.

FLO proposed additional data fields relating to equitable access to ZEV charging, including: (a) number of drivers who adopted a ZEV per activity iterated in the regulated entity's annual GHG Plan, (b) percentage of drivers served who are very low-income, low-income, or moderate-income, (c) number of chargers deployed per activity iterated in the regulated entity's annual GHG Plan, (d) type of charger deployed (*e.g.*, public or private, Level 2 or Direct Current fast charger), (e) number and type of residences served (*i.e.*, single-family or multi-family), and (f) percentage of total driver population addressed by each activity in a GHG Plan.

Uber opposed FLO's proposed data fields, arguing that TNCs do not have driver income data and the other information would be impossible for TNCs to

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[161] FLO's opening comments on the Staff Proposal filed on January 30, 2023.

[162] Lyft's reply comments on the Staff Proposal filed on February 27, 2023.

track.[163] Lyft also opposed the additional data fields, arguing that TNCs do not collect information on drivers' incomes or residence types and that FLO failed to demonstrate that this data is relevant to CMS implementation.[164]

The Staff Proposal included data fields that overlap with FLO's suggestions, including whether drivers are LMI, the type of charging incentive deployed, and the residence type of the driver as part of Drivers Assistance Program data reporting. We agree that these driver-related data should be tracked by the Program Administrator as data collected when drivers access the Drivers Assistance Program. It is not necessary to require additional reporting by CMS Regulated Entities on these types of data.

PADS suggested that the Program Administrator report on access to charging, charging downtime, and the cost of charging to understand CMS impacts on LMI drivers in underserved communities. The report should include regional disparities in accessing certain vehicle types, public charging infrastructure, and operational disadvantages of ZEVs in specific markets.[165]

We agree with PADS that it is important to understand the charging challenges that drivers are facing. Attachment F includes charging-related data reporting requirements.

SEIUs commented that the Commission should add data fields for driver compensation per trip, tolls, company commissions, and incentive bonuses in order to engage in a more rigorous assessment of whether minimal negative

[163] Uber's reply comments on the Staff Proposal filed on February 27, 2023.

[164] Lyft's reply comments on the Staff Proposal filed on February 27, 2023.

[165] PADS's opening comments on the Staff Proposal filed on January 30, 2023.

impact was achieved for LMI drivers.[166] Lyft disagreed, arguing that these proposed data fields are not related to CMS implementation.

We agree with the SEIUs that understanding driver compensation and rider fares is important to having a full picture of driver earnings, which may be useful for future analyses relating to ensuring that CMS implementation has a minimal negative impact on LMI drivers. However, TNCs currently provide sufficient information for such analyses in the TNC Annual Reports. For example, the TNC Annual Reports include "FareFactor" data fields and a narrative definition for each fare factor. Fare factors include, without limitation, base fare, cost per mile, cost per minute, maximum fare, minimum fare, cancel penalty, scheduled ride cancel penalty, schedule ride minimum fare, service fee, local fee, airport fee, surge pricing fee, prime time fee, applicable tolls, booking fee, and cancellation fee.

It is reasonable to adopt the following data reporting requirements:

a. Each CMS Regulated Entity and the Program Administrator shall provide quarterly and annual data reports that comply with the CMS data dictionary and CMS data reporting templates provided by the Commission's staff;

b. The Commission's staff may include all or a portion of the data fields in Attachment F of this decision in the CMS data dictionary and CMS data reporting templates;

c. Quarterly data reports shall be submitted to the Commission's staff within 30 days after the end of each calendar quarter;

d. Annual data reports shall be submitted to the Commission's staff within 30 days after the end of each calendar year; and

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166 SEIUs' opening comments on the Staff Proposal filed on January 30, 2023.

e. For 2023 calendar year data reporting only, CMS Regulated Entities shall only be required to submit one compliance report that includes only the data fields listed as Annual Compliance Report data, in Section 2490.3(b)(6) and Attachments 1 and 2 of the CARB CMS Order, with a narrative description of progress made toward the CMS Annual Targets; and

f. While the data reporting timelines for CMS and TNC Annual Report remain misaligned, CMS Regulated Entities should provide supplemental TNC Annual Report data within 30 days after the end of each calendar year.

8.2. Data Verification

The Staff Proposal recommended requiring CMS Regulated Entities to verify the accuracy and completeness of submitted data through an attestation[167] in accordance with CARB CMS Order, which stated that any report submitted to CARB or the Commission should include the following attestation, "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."

CSE and Uber supported the proposed data verification method.[168] We agree that the proposed data verification method is sufficient.

It is reasonable to adopt the following data verification requirements:

a. CMS Regulated Entities and the Program Administrator shall verify the accuracy and completeness of all data submitted to the Commission by providing the following

[167] The Commission requires a similar attestation for TNCs' Annual Data Reports and AV Passenger Companies' Quarterly Data Reports to the Commission.

[168] CSE's and Uber's opening comments on the Staff Proposal filed on January 30, 2023.

attestation with each data report: "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."; and

b. CMS Regulated Entities and the Program Administrator shall comply with data audits by the Commission's staff.

8.3. Confidential Data and External Data Sharing

The Staff Proposal recommended sharing all CMS data with the public except for personally identifiable information and confidential information. Personally identifiable information about drivers includes information such as names and addresses. Driver location data will be aggregated before the data is shared with the public. CMS Data will be shared through a public data portal similar to the TNC Data Portal.

The Staff Proposal recommended use of an existing data sharing agreement between CARB and the Commission to share CMS data with CARB for GHG emissions accounting purposes.

The Staff Proposal noted that CMS data reporting will be subject to the Commission's confidentiality rules set forth in General Order 66-D. All data submitted to the Commission not otherwise covered by existing privacy law is considered public by default; each CMS Regulated Entity and the Program Administrator that seeks confidential treatment of any or all of its data reports to the Commission must provide a sufficient legal justification for confidential treatment.

PADS agreed that the Commission should maintain the confidentiality of personally identifiable information of drivers.[169]

Lyft agreed with the Staff Proposal that all CMS reporting should be subject to the General Order 66-D process. We confirm that all CMS data reporting is subject to the Commission's confidentiality rules set forth in General Order 66-D.

CSE recommended using the Drivers Assistance Program website to share program data and findings publicly. CSE recommended including CMS program dashboards of aggregated data on the website like those used for CVRP and the California Electric Vehicle Infrastructure Project programs. Dashboards could include how much funding has been distributed and where it was distributed geographically.[170] We agree that CMS implementation data should be shared in an aggregated format on the Drivers Assistance Program website.

Uber suggested the Commission should not require CMS Regulated Entities to share public versions of CMS data with redactions as it will create an added burden.[171] On the other hand, SFMTA/SFCTA argued that data disclosures should be made public immediately to enable timely monitoring.[172] The Commission's staff plans to develop a public data portal for CMS to promptly share reported CMS data.

It is reasonable for the Commission or the Program Administrator to publish any CMS data that is not personally identifiable information or confidential under General Order 66-D. The Commission may publish CMS data

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[169] PADS's opening comments on the Staff Proposal filed on January 30, 2023.

[170] CSE's opening comments on the Staff Proposal filed on January 30, 2023.

[171] Uber's opening comments on the Staff Proposal filed on January 30, 2023.

[172] SFMTA/SFCTA's reply comments on the Staff Proposal filed on February 27, 2023.

through a public data portal. The Program Administrator shall publish CMS data it collects in a dashboard format on the website of the Drivers Assistance Program on a quarterly basis.

9. Reports on Low- and Moderate-Income Driver Impacts, Unanticipated Barriers, and Progress of the Clean Miles Standard Program

The Staff Proposal recommended that the Commission's staff prepare (a) an Annual LMI Driver Impact Report to assess the effectiveness of the CMS Program for ensuring minimal negative impact on LMI drivers and to review barriers to transitioning to ZEVs for LMI drivers, and (b) a Biennial Unanticipated Barriers Report to meet statutory obligations[173] and to assess progress made towards other CMS Program goals.

The Staff Proposal recommended the following elements for the Annual LMI Driver Impact Report:

- **LMI Driver Definition**. The definition of LMI driver with current income limits;
- **Negative Impact Assessment**. Assessments of each type of negative impact and if minimal negative impact was achieved for LMI drivers. Include both driver-specific and driver population level reviews, depending on the type of impact, and should include impacts related to vehicle charging;
- **Annual Driver Survey**. Results of the Annual Driver Survey conducted by the Commission's staff, which should include questions on perceived negative impacts and barriers to ZEV transition including related to charging. Focus on LMI driver impacts and barriers to ZEV adoption from a driver population level;

[173] Section 5450(b)(4) of the Pub. Util. Code requires the Commission to review at least once every two years the "unanticipated barriers" to expanding the usage of ZEVs by TNCs, including data on ZEV adoption rates and charging infrastructure utilization rates.

- **New Research Study Results**. Results of any outside research studies related to ZEV adoption by CMS Regulated Entities' drivers;
- **Barriers Assessment**. Assessment and analysis related to barriers to ZEV transition that drivers are facing, in particular LMI drivers. Consider whether the proposed methods for minimizing barriers to accessing incentives were successful. The barriers assessment should be based on driver-specific and driver population-level data; and
- **Recommendation**s. Policy recommendations for how CMS implementation could be improved to better achieve the requirement of ensuring minimal negative impact on LMI drivers.

The Staff Proposal recommended that the Biennial Unanticipated Barriers and Progress Report include the following elements:

- **Review of CMS Annual Targets.** Review of CMS Regulated Entities' compliance with CMS Annual Targets, including an assessment of compliance and enforcement activities;
- **LMI Driver Impact.** A summary of the Annual LMI Driver Impact Report;
- **Unanticipated Barriers Review.** Address the statutory requirement to assess unanticipated barriers to expanding the usage of ZEVs by TNCs, including data on ZEV adoption rates and charging infrastructure utilization rates;
- **Outreach and Engagement.** Incorporate feedback on CMS implementation gathered through outreach and engagement efforts including from the Driver Working Group, the Implementation Working Group, and the Transportation Electrification Workshops. Include records of outreach and engagement;
- **Advancement of Clean Mobility.** Assess progress towards the goals of Clean Mobility using data provided by the CMS Regulated Entities and Program Administrator. Include feedback from LMI individuals and communities

through the Driver Working Group and Implementation Working Group;

- **Advancement of ESJ Goals.** Assess progress towards the ESJ goals using the data provided by the CMS Regulated Entities and Program Administrator. Assessment should include seeking feedback from ESJ communities through the Driver Working Group and Implementation Working Group;
- **Sustainable Land Use.** Assess progress towards the sustainable land use goals as defined in Phase 2 of this proceeding; and
- **Optional Credits.** Assess the optional credits program if any optional credits are authorized in Phase 2 of this proceeding.

The Staff Proposal recommended the following process and schedule for the Annual LMI Driver Impact Report and Biennial Unanticipated Barriers and Progress Report:

- The first Annual LMI Driver Impact Report should be due after the first full calendar year of program implementation;
- Each Annual Report should be made public before the end of the calendar year when it is started;
- The Biennial Unanticipated Barriers and Progress Report should be conducted and completed on each even-numbered calendar year;
- The first Biennial Unanticipated Barriers and Progress Report should include assessment of the years prior to the first report, and subsequent reports should include the year prior to the current report;
- The Program Administrator of the Drivers Assistance Program and CMS Regulated Entities should support the Commission's staff by providing the data and information to support the creation of the reports.

The Supplemental Proposal recommended that the Commission's staff incorporate feedback and findings from the Implementation Working Group into the Annual LMI Driver Impact Report and the Biennial Unanticipated Barriers and Progress Report. The Supplemental Proposal also recommended that the Program Administrator conduct the Annual Driver Survey.

Lyft supported the contents and timing of the proposed annual report but argued that the statutory requirement for a biennial unanticipated barriers review should be prioritized and conducted as soon as possible. Lyft also argued that the unanticipated barriers review should consider external factors that could impact CMS implementation rather than limiting the review to ZEV-specific barriers. Lyft argued that the first report should cover base year 2018 through the year of the report, including COVID-19 impacts. Lyft opposed waiting until after a Phase 2 decision to conduct the first unanticipated barriers review, which could delay the first report until 2026.[174] Uber similarly requested an annual review of unanticipated barriers.[175]

CSE urged the Commission to assess LMI driver impacts more frequently through Driver Working Group meetings or other engagement with drivers.[176]

The Commission's staff may consider any factors that are relevant to CMS implementation when developing the Biennial Unanticipated Barriers and Progress Report. Conducting the unanticipated barriers review on a biennial basis is consistent with the statutory requirement. We agree that LMI driver impacts and barriers to transitioning to ZEVs should be monitored and considered more frequently through the Drivers Working Group and the

[174] Lyft's opening comments on the Staff Proposal dated January 30, 2023.

[175] Uber's opening comments on the Staff Proposal dated January 30, 2023.

[176] CSE's opening comments on the Staff Proposal dated January 30, 2023.

Implementation Working Group. However, it is not necessary for the Commission's staff to issue reports on LMI driver impacts or barriers more often than proposed by the Commission's staff.

PADS recommended that the biennial report include a review of areas of improvement for the Program Administrator and Drivers Assistance Program.[177] The Supplemental Proposal addressed this comment by recommending that the Implementation Working Group's findings and feedback be incorporated into both reports.

It is reasonable for the Commission's staff to prepare an Annual LMI Driver Impact Report to assess the impact of CMS implementation on LMI drivers and barriers to transitioning to ZEVs for LMI drivers with the following elements: LMI driver definition, LMI driver negative impact assessment, annual driver survey, new research study results, assessment of barriers to ZEV transition, and recommendations on ensuring minimal negative impacts on LMI drivers.

It is reasonable for the Commission's staff to prepare a Biennial Unanticipated Barriers Progress Report to assess unanticipated barriers to expanding the usage of ZEVs by TNCs and to assess progress made towards CMS Program goals with the following elements at minimum: review of compliance with CMS Annual Targets, LMI driver impact, assessment of unanticipated barriers to expanding the usage of ZEVs by TNCs, outreach and engagement feedback, Clean Mobility progress, ESJ goals progress, sustainable land use goals progress, optional credits, and exemptions.

[177] PADS's opening comments on the Staff Proposal dated January 27, 2023.

It is reasonable to adopt the following process and timing for the Annual LMI Driver Impact Report and Biennial Unanticipated Barriers Progress Report:

a. The first Annual LMI Driver Impact Report and the first Biennial Unanticipated Barriers and Progress Report should be published by December 31, 2026;

b. Each subsequent Annual LMI Driver Impact Report should be published by the end of a calendar year on the Commission's website and served to the service list of this proceeding;

c. Each subsequent Biennial Unanticipated Barriers and Progress Report should be published by the end of the calendar year on each even-numbered calendar year on the Commission's website and served to the service list of this proceeding;

d. The first Biennial Unanticipated Barriers and Progress Report should include assessment of the years prior to the first report, and subsequent reports should include the year prior to the current report; and

e. The Program Administrator and the CMS Regulated Entities shall support the Commission's staff by providing the data and information to support the creation of the reports.

10. Transportation Electrification Coordination

The Staff Proposal asserted that attainment of the CMS Annual Targets will require drivers to have access to and understand the most economically and time efficient solutions for charging their ZEVs.

The Staff Proposal recommended the following activities to coordinate with public and private entities that specialize in ZEV charging infrastructure and incentives:

- The Commission's staff will conduct CMS workshops on ZEV charging issues and solutions for drivers and incorporate findings in CMS reports;

- The Commission's staff will meet on a regular basis with the California Energy Commission (CEC) to identify and discuss programs to support ZEV charging by drivers;
- The Commission's staff working on CMS issues will coordinate with our agency's staff working on the Transportation Electrification Framework through regular meetings; and
- The Program Administrator will work with public and private organizations to identify subsidies for charging infrastructure for CMS drivers and include these subsidies in Drivers Assistance Program resources and services.

Uber supported the transportation electrification workshops and coordination on the Transportation Electrification Framework and suggested coordination on charging incentives with CARB.[178] CSE also suggested coordination on charging incentives with CARB.[179]

Lyft supported the transportation electrification workshops and recommended including a representative population of drivers in these workshops.[180]

It is reasonable to adopt the following activities to ensure that CMS implementation is coordinated with public and private entities that specialize in ZEV charging infrastructure and incentives:

a. The Commission's staff will conduct two or more CMS workshops on ZEV charging issues and solutions for drivers and incorporate findings in CMS reports;
b. The Commission's staff will meet at least twice per year with CEC staff and CARB staff to identify and discuss programs to support ZEV charging by drivers;

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178 Uber's opening comments on the Staff Proposal dated January 30, 2023.

179 CSE's opening comments on the Staff Proposal dated January 30, 2023.

180 Lyft's opening comments on the Staff Proposal dated January 30, 2023.

c. The Commission's staff working on CMS issues will meet at least four times per year with our agency's staff working on the Transportation Electrification Framework; and

d. The Program Administrator will work with public and private entities to identify subsidies for charging infrastructure for CMS drivers and include these subsidies in Drivers Assistance Program resources and services.

11. Outreach and Engagement

The Staff Proposal incorporated outreach and engagement with drivers and other stakeholders in several sections of its recommendations, including sections on ensuring minimal negative impacts on LMI drivers, the Drivers Assistance Program, and the GHG Plans. We adopted the proposed outreach and engagement efforts in the relevant sections above and assigned roles and responsibilities for these efforts in Section 4 above.

This decision includes the following methods for engaging with drivers and other stakeholders to inform CMS implementation:

- Facilitating a Driver Working Group with compensation for participating drivers;
- Conducting an Annual Driver Survey;
- Marketing, education, and outreach described by the Program Administrator in the Drivers Assistance Program Implementation Plan;
- Education and outreach efforts by CMS Regulated Entities described in their GHG Plans;
- Facilitating an Implementation Working Group to inform CMS implementation with compensation for participating drivers; and
- Hosting transportation electrification workshops.

The Staff Proposal recommended that the Commission's staff incorporate feedback and findings from these outreach and engagement efforts into the

Annual LMI Driver Impact Report and the Biannual Unanticipated Barriers and Progress Report. We agree that input from stakeholders should be incorporated into CMS reports by the Commission's staff.

It is reasonable for the Commission's staff to incorporate feedback and findings from the Driver Working Group, Annual Driver Survey, Implementation Working Group, and transportation electrification workshops into the Annual LMI Driver Impact Report and the Biannual Unanticipated Barriers and Progress Report.

SEIUs and the Joint Parties supported the proposed efforts to engage with drivers, especially the Drivers Working Group and compensation for driver participation. SEIUs and the Joint Parties also urged the Commission to make a robust effort to recruit drivers directly, rather than relying on recruiting drivers through CMS Regulated Entities. SEIUs and the Joint Parties recommended that the Commission invite driver advocacy and labor organization representatives into roles that facilitate or co-facilitate engagement from drivers, including the Driver Working Group, the Implementation Working Group, and the Annual Driver Survey.[181] PADS replied that the Commission should work with TNC driver organizations, and not just labor organizations.[182]

Lyft argued that the Driver Working Group should include a representative selection of drivers, including drivers from rural communities, drivers with other jobs, and drivers who drive different amounts per week.[183]

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[181] SEIUs' and Joint Parties' opening comments on the Staff Proposal dated January 30, 2023.

[182] PADS's reply comments on the Staff Proposal filed on February 27, 2023.

[183] Lyft's opening comments on the Staff Proposal dated January 30, 2023.

Uber recommended criteria for driver eligibility to participate in the Driver Working Group, including number of trips in the last 120 days, standing on the platform, and length of active time on the platform.

We agree with parties that the value of the Annual Driver Survey and the input from the Driver Working Group will depend on robust participation from a diverse selection of drivers. The Program Administrator and Commission's staff will seek to engage with a diverse selection of drivers when conducting the Annual Driver Survey and selecting participants for the Driver Working Group, respectively.

PADS noted that many drivers working with the CMS Regulated Entities speak English as a second language. PADS suggested that the Drivers Assistance Program provide interpretation and translation services when requested. We agree, and also find it important to provide all marketing, education and outreach materials in the most common languages spoken by drivers for CMS Regulated Entities.

It is reasonable to (a) require the Program Administrator and CMS Regulated Entities to provide all marketing, education, and outreach materials in the most common languages spoken by drivers for CMS Regulated Entities, and (b) require the Program Administrator to provide interpretation and translation services in the most common languages spoken by drivers for CMS Regulated Entities.

12. Issues for Phase 2

For the reasons above, the Commission should include the following issues in the scope of Phase 2 of this proceeding.

a. **Enforcement**: How should the Commission enforce compliance with CMS requirements, including requirements to meet the CMS Annual Targets and ensure minimal negative impact on LMI drivers? What criteria and metrics should the Commission adopt for enforcement?

b. **Sustainable land use**: How should CMS support sustainable land use objectives in Government (Gov.) Code Section 65080?

c. **Autonomous vehicles (AV)**: How should the Commission apply CMS requirements to AV Passenger Companies?

d. **Optional credits**: Should the Commission adopt any optional credit programs? Should the availability of optional credit programs be dependent on certain factors, such as meeting a GHG emissions reduction threshold or the outcome of an unanticipated barriers review?

e. **CMS vehicle requirements and prioritization of ZEVs**: Should the Commission allow a CMS Regulated Entity to require CMS drivers to provide rides in ZEVs or give ZEVs priority access to trips on their platforms? If so, when and how should this be permitted?

f. **CMS incentives for rentals**: Should the CMS Program provide incentives for ZEV rentals? If so, how should the incentives be designed?

g. **Concluding certain program requirements**: Should the Commission establish a date for concluding certain elements of the CMS Program, such as the collection of the CMS Regulatory Fee, the implementation of the Drivers Assistance Program, the Annual LMI Driver Impact Report, or the Unanticipated Barriers Report? If so, when and how should the Commission wind down certain program requirements?

h. **Multiple upfront incentives**. Should an LMI driver be able to access an upfront incentive to purchase, lease, or rent a ZEV more than once?

13. Summary of Public Comment

Rule 1.18 of the Rules of Practice and Procedure (Rules) allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. There are no relevant public comments on the Docket Card of this proceeding.

14. Comments on Proposed Decision

The proposed decision of Commissioner Genevieve Shiroma in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311 and comments were allowed under Rule 14.3. Comments were filed on February 14, 2024 by CSE, Lyft, SFMTA/SFCTA, SEIUs, Uber, and Waymo. Reply comments were filed on February 22, 2024 by CSE, Lyft, Joint Parties, SEIUs, and Uber.

On February 28, 2024, this decision was substantively revised to reflect party comments.

On March 4, 2024, this decision was revised to reflect the reassignment of this proceeding from Commissioner Genevieve Shiroma to Commissioner John Reynolds and to correct a typographical error. No substantive revisions were included in the second revision.

15. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Stephanie Wang is the assigned ALJ in this proceeding.

Findings of Fact

1. Existing requirements for TNCs and AV Passenger Companies to report on the location of trips are sufficient to support analyses of whether trips by Small CMS Regulated Entities are disproportionately serving LMI communities.

2. AV Passenger Companies are different from TNCs in part because AV Passenger Companies own their own fleet of vehicles and do not have drivers to incentivize to transition to ZEVs or survey about barriers to the transition.

3. The Commission requires additional time to consider CMS requirements for AV Passenger Companies and TCPs that are not TNCs.

4. Exempting WAV trips from calculations of GHG Targets will prevent CMS implementation from unintentionally reducing the supply or availability of WAVs to supply on-demand transportation.

5. Section 5450(d)(1) of the Pub. Util. Code directed the Commission to "ensure minimal negative impact on low-income and moderate-income drivers" when implementing the CMS Program.

6. The Commission requires additional time to consider rules for limiting when and how a CMS Regulated Entity may establish clean vehicle requirements or prioritize ZEV trips.

7. CARB's CVRP defines LMI households as those with household incomes at or below 400 percent of the federal poverty level.

8. Aligning the definition of LMI driver with existing state ZEV incentive programs, including CARB's CVRP promotes consistency across state ZEV incentive programs and enables an individual to combine state incentives.

9. A Drivers Assistance Program funded by a CMS Regulatory Fee is necessary to minimize negative impacts of CMS implementation on LMI drivers.

10. A per-trip regulatory fee approach is simpler to track than a per-mile fee, is consistent with the Commission's Access for All program fee, and prevents inequitable payment of regulatory fees by rural communities compared to a per-mile fee.

11. LMI drivers need assistance with assessing the financial benefits and risks of purchasing or leasing and operating a ZEV.

12. LMI drivers need assistance with identifying and applying for other ZEV and charging incentives.

13. Establishing CMS incentive levels based on the difference in the upfront vehicle costs or charging/refueling costs between an ICE vehicle and a ZEV is consistent with ensuring minimal negative impacts of CMS implementation on LMI drivers.

14. The gap between the upfront vehicle costs or charging/refueling costs for an ICE vehicle and a ZEV will change over time.

15. Individual LMI drivers will not be able to access all of the state and federal incentives that are available at the time that the Program Administrator proposes incentive levels for a given year.

16. The upfront vehicle cost gap for a used vehicle and a new vehicle may be substantially different in any given year.

17. Providing different incentive levels for new and used vehicles will ensure that LMI drivers will receive sufficient incentives for both types of vehicles without requiring the program to provide higher than necessary incentives for one type of vehicle.

18. LMI drivers need substantial upfront assistance to address the upfront vehicle cost gap between an ICE vehicle and a ZEV.

19. The Commission needs additional time to consider whether and how to provide CMS incentives for ZEV rentals.

20. LMI drivers may hesitate to share income verification information prior to learning more about the financial benefits and risks of transitioning to a ZEV.

21. Setting a single minimum driving threshold for all CMS Regulated Entities would prevent confusion for drivers who use more than one platform and would make driver education and implementation simpler for the Program Administrator.

22. CARB's CVRP caps administrative costs at seven percent of the program budget.

23. The Commission generally caps administrative costs of a program administrator to between eight percent and 10 percent of the program budget.

24. It would be too onerous to attribute CMS incentives to specific CMS Regulated Entities based on the number of trips conducted by a specific driver for each platform.

25. Program evaluations and financial audits are necessary to ensure that the Program Administrator is efficiently and effectively administering the program, CMS Regulatory Fee funds are collected and applied correctly, and that the Drivers Assistance Program is optimally designed to minimize negative impacts of LMI drivers transitioning to ZEVs.

26. Establishing a single, consistent regulatory fee across CMS Regulated Entities will prevent scenarios where certain underserved markets or communities would be subject to a higher regulatory fee.

27. There is significant overlap between data reported in TNC Annual Reports and data needed for monitoring and implementing CMS.

28. The value of the Annual Driver Survey and the input from the Driver Working Group will depend on robust participation from a diverse selection of drivers.

29. Many drivers for the CMS Regulated Entities speak English as a second language.

Conclusions of Law

1. It is reasonable to define CMS Regulated Entities as TNCs defined in Section 5431(a) of the Pub. Util. Code, TCPs regulated by the Commission, and AV Passenger Companies.
2. It is reasonable to exempt Small CMS Regulated Entities, defined as CMS Regulated Entities with less than five million miles of VMT in all periods of passenger service in a given calendar year, from the requirements of this decision.
3. Each Small CMS Regulated Entity should file a Tier 2 advice letter by January 15th of each year to request exemption status for the current calendar year based on its total VMT for all periods in passenger service during the previous calendar year.
4. It is reasonable to exempt AV Passenger Companies and TCPs that are not TNCs from all requirements of this decision at this time.
5. It is reasonable to exempt WAV trips from calculations of CMS Regulated Entities' compliance with the GHG Targets.
6. It is reasonable to define an LMI driver as a driver whose household income is at or below 400 percent of the federal poverty level.
7. It is reasonable to interpret the Commission's statutory obligation to ensure minimal negative impacts on LMI drivers as requiring the Commission to consider any financial impacts that reduce a LMI driver's net earnings.
8. It is reasonable to establish a Drivers Assistance Program (a) funded by a per-trip CMS Regulatory Fee paid by customers of CMS Regulated Entities, (b) overseen by the Commission's staff, and (c) implemented by a third-party program administrator to support drivers' transitions to ZEVs through financial support, education, and outreach.

9. It is reasonable to adopt the roles and responsibilities for implementing the Drivers Assistance Program in Attachment A.

10. Uber should serve as the Contracting Agent in accordance with Attachment A and the Ordering Paragraphs of this decision.

11. Uber should open and manage a CMS Regulatory Fee Account in accordance with Attachment A and the Ordering Paragraphs of this decision.

12. It is reasonable for the Drivers Assistance Program to consist of the following elements:

(a) Provide CMS incentives to ensure minimal negative impacts for LMI drivers that transition to a ZEV;

(b) Conduct ME&O to drivers through CMS Regulated Entities and in partnership with community-based organizations or other entities that work closely with drivers;

(c) Help drivers assess the financial benefits and risks of purchasing or leasing and operating a ZEV; and

(d) Act as a "one-stop-shop" for ZEV incentives by assisting drivers with identifying and applying for other ZEV and charging incentives.

13. It is reasonable to adopt the following CMS incentive structure based on the cost difference analysis in Attachment B:

(a) An upfront incentive provided to offset costs of (a) the purchase or lease of a new ZEV, and (b) upfront home charging equipment and/or public charging costs;

(b) An upfront incentive provided to offset the costs of (a) the purchase or lease of a used ZEV, and (b) upfront home charging equipment and/or public charging costs; and

(c) An annual grant to an eligible driver for up to four years to offset ongoing charging costs.

14. It is reasonable to adopt the following process for establishing the initial CMS incentive amounts and updating CMS incentive amounts:

(a) The CMS Regulated Entities shall use the initial estimated CMS incentive amounts in Attachment B to inform the calculations in their first GHG Plans.

(b) The Program Administrator shall propose the initial CMS incentive amounts, using the cost gap analysis in Attachment B as the basis, in the Tier 3 advice letter seeking approval of the initial Drivers Assistance Program Implementation Plan.

(c) The Program Administrator shall provide assumptions for the analysis of the difference between ZEV and ICE vehicle costs over a five-year period and a justification for each assumption.

(d) Within 12 months after the date CMS incentives first become available and within every 12 months thereafter, the Program Administrator shall file a Tier 2 advice letter to propose adjustments to the CMS incentive amounts with an analysis using the cost gap analysis in Attachment B as the basis.

(e) The Program Administrator may propose changes to assumptions in Attachment B through a Tier 2 advice letter with data to support the changes.

15. It is reasonable for all drivers for CMS Regulated Entities to be eligible for the following services of the Drivers Assistance Program: (a) help with assessing the financial benefits and risks of purchasing or leasing and operating a ZEV, and (b) assistance with identifying and applying for ZEV incentives.

16. It is reasonable to adopt the following eligibility requirements for the CMS incentives:

(a) An eligible driver has a household income at or below 400 percent of the federal poverty level; and

(b) An eligible driver must meet the minimum driving threshold, measured by including trips for all CMS Regulated Entities over the previous 12 months.

17. It is reasonable to adopt the following processes relating to eligibility requirements for the CMS incentives:

(a) Each CMS Regulated Entity shall propose the number of trips for the minimum driving threshold for CMS incentives in its GHG Plan;

(b) The Commission's resolution of the GHG Plan advice letters will establish a single minimum driving threshold for all drivers;

(c) Each CMS Regulated Entity shall track and provide confidential driving-based eligibility data to the Program Administrator;

(d) Each CMS Regulated Entity shall support the efforts of the Program Administrator to develop and implement an efficient system to identify and track each driver's trips across all CMS Regulated Entities; and

(e) The Program Administrator shall aggregate driver trips across platforms, verify driver eligibility, and maintain the confidentiality of driving-based eligibility data.

18. It is reasonable for the Drivers Assistance Program budget to include the following line items:

(a) CMS incentive costs;

(b) Up to $100,000 per year for administrative costs of the Contracting Agent; and

(c) Administrative costs of the Program Administrator, up to a maximum of the lesser of eight percent of the total Drivers Assistance Program budget or $7 million per year and assumed to be at least $2 million for the first year of program administration.

19. It is reasonable for the Program Administrator to attribute Drivers Assistance Program costs to budget categories instead of specific CMS Regulated Entities.

20. Each CMS Regulated Entity should transfer to the CMS Regulatory Fee Account of the Contracting Agent all CMS Regulatory Fee amounts collected in a given quarter within 15 business days of the end of each quarter.

21. The Drivers Assistance Program Implementation Plan and Handbook should be updated at least once per year to update incentive amounts, address approved GHG Plans, reflect findings from CMS reports, and update the budget for the Program Administrator's administrative costs.

22. It is reasonable to adopt the following process for proposing and updating the Drivers Assistance Program Implementation Plan and Handbook:

(a) The Program Administrator shall file a Tier 3 advice letter to propose the Drivers Assistance Program Implementation Plan and Handbook within 150 days after entering into a contract to perform program administration services;

(b) The Drivers Assistance Program Implementation Plan and Handbook shall include the required components listed in Attachment A;

(c) The Program Administrator shall hold one or more workshops to inform the development of the first Implementation Plan and Handbook proposal; and

(d) The Program Administrator shall file a Tier 2 advice letter at least once per calendar year to update the Implementation Plan and Handbook.

23. It is reasonable to adopt the following provisions and timeline for two CMS Evaluations:

(a) The Contracting Agent shall issue a request for proposals for an Evaluation Contractor within six months of the effective date of this decision;

(b) An Evaluation Contractor shall have experience evaluating assistance programs based on direction from the Commission;

(c) The Commission's staff shall select each Evaluation Contractor;

(d) The costs of the Evaluation Contractor shall be funded by the CMS Regulatory Fee and shall not exceed $500,000 per evaluation;

(e) The Contracting Agent shall file a Tier 2 advice letter for approval of the contract with the Evaluation Contractor within 60 days after the Commission's staff select the Evaluation Contractor;

(f) The Contracting Agent shall enter into a contract with each Evaluation Contractor selected by the Commission's staff;

(g) The Commission's staff shall approve the key deliverables of each Evaluation Contractor, including the scope of work, the evaluation plan, the reporting metrics, and the evaluation report;

(h) Each evaluation report shall, at minimum, address the questions in Attachment C of this decision;

(i) The first evaluation report shall be due within two years of the approval of the first Drivers Assistance Program Implementation Plan and Handbook;

(j) The Contracting Agent shall file a Tier 2 advice letter to propose whether to issue a request for proposals for a second evaluation report within 90 days after the completion of the first evaluation report;

(k) The Commission's staff will determine whether to require a second evaluation report based on whether the first evaluation report finds substantial concerns with the implementation of the Drivers Assistance Program or the implementation of CMS Regulated Entities' approved GHG Plans;

(l) The Contracting Agent shall issue a request for proposals for an Evaluation Contractor for the second evaluation report within one year after the completion of the first evaluation report; and

(m) If required, the second evaluation report shall be due within three years of the completion of the first evaluation report; and

(n) The Program Administrator and each CMS Regulated Entity shall provide all information and documentation requested by the Evaluation Contractor within 10 business days of each request.

24. It is reasonable to adopt the following provisions and timeline for at least two financial audits:

(a) The Contracting Agent shall issue a request for proposals for a Financial Auditor within 12 months of the effective date of this decision;

(b) A Financial Auditor shall have experience conducting financial audits based on direction from the Commission;

(c) The Commission's staff shall select each Financial Auditor;

(d) The costs of the Financial Auditor shall be funded by the CMS Regulatory Fee and shall not exceed $1,000,000 for two or more audits;

(e) The Contracting Agent shall file a Tier 2 advice letter for approval of the contract with a Financial Auditor within 60 days after the Commission's staff select the Financial Auditor;

(f) The Contracting Agent shall enter into a contract with each Financial Auditor selected by the Commission's staff;

(g) The Commission's staff shall approve the key deliverables of each Financial Auditor, including the scope of work, the financial audit plan, the reporting metrics, and the financial audit report;

(h) Each financial audit report shall, at minimum, address the questions in Attachment C of this decision;

(i) The first financial audit report shall be due within two years of the approval of the first Drivers Assistance Program Implementation Plan and Handbook;

(j) The Contracting Agent shall issue a request for proposals for a Financial Auditor for the second financial audit report within one year after the completion of the first financial audit report;

(k) If the first or second financial audit report recommends an additional audit, the Commission's staff may direct the Contracting Agent to issue a request for proposals for another financial audit; and

(l) Each CMS Regulated Entity shall provide all information and documentation requested by the Financial Auditor within 10 business days of each request.

25. It is reasonable to adopt the following Program Administrator contract duration and extension provisions:

(a) The Program Administrator contract shall have an initial duration of four years, followed by two options to extend the contract for an additional three years each;

(b) If an evaluation report finds that the Program Administrator's contract should be renewed, the Contracting Agent shall exercise the option to extend the Program Administrator's contract for three years; and

(c) If either evaluation report finds that the Program Administrator's contract should not be renewed, then the contracting agent shall issue a request for proposals for a new Program Administrator within 120 days of the completion of the evaluation report. The Commission's staff shall select the new Program Administrator and the Contracting Agent shall enter into a contract with the Program Administrator in accordance with the process described in Attachment A of this decision.

26. It is reasonable to adopt the following definitions relating to the statutory clean mobility requirements:

(a) LMI individuals should be defined as individuals located in LMI communities;

(b) Supporting Clean Mobility should be defined as providing LMI individuals access to rides in ZEVs through CMS Regulated Entities; and

(c) LMI communities should be defined as census tracts with median household incomes at or below 120 percent of the statewide median income, as defined by the California Department of Housing and Community Development's state income limits.

27. It is reasonable to advance Supporting Clean Mobility as follows:

(a) Require each CMS Regulated Entity to describe how it will Support Clean Mobility in each GHG Plan; and

(b) Include progress toward Supporting Clean Mobility in the Biennial Unanticipated Barriers and Progress Report.

28. It is reasonable to advance the CMS ESJ Action Items and measure ESJ progress as follows:

(a) Define ESJ communities for the purposes of CMS implementation as LMI drivers and LMI communities as defined in this decision;

(b) Direct CMS Regulated Entities to document how they will advance the CMS ESJ Action Items in their GHG Plans; and

(c) Assess progress towards the CMS ESJ Action Items in the Biennial Unanticipated Barriers and Progress Report and through Drivers Working Group meetings.

29. It is reasonable to adopt the following requirements and process for GHG Plans:

(a) Each CMS Regulated Entity shall file a Tier 3 advice letter to propose an Interim GHG Plan within 120 days of the effective date of this decision;

(b) Each CMS Regulated Entity shall file a Tier 3 advice letter to propose a full GHG Plan within 90 days of the effective date of a Phase 2 decision in this proceeding;

(c) Each CMS Regulated Entity shall file a Tier 3 advice letter to propose a GHG Plan by January 15, 2026, and by January 15th every two calendar years thereafter;

(d) If a CMS Regulated Entity files an advice letter to propose a full GHG Plan within 90 days of the effective date of a Phase 2 decision in this proceeding, the entity shall not be required to file an additional GHG Plan proposal by January 15, 2026;

(e) The Commission's staff will host a workshop to discuss GHG Plan proposals within 30 days after the filing of the advice letters to propose GHG Plans;

(f) The Commission's staff will use a scorecard system to review GHG Plans based on the following criteria: completeness, feasibility, and accuracy. Each element will be scored as "exemplary", "sufficient", or "deficient"; and

(g) If the Commission issues a resolution of a Tier 3 advice letter that requires a CMS Regulated Entity to modify its GHG Plan, then the CMS Regulated Entity shall file a conforming plan by Tier 1 advice letter within 30 days of the effective date of the resolution.

30. It is reasonable to adopt the following requirements and process for approving GHG Plans and establishing the CMS Regulatory Fee and Drivers Assistance Program budget:

(a) Each GHG Plan shall include all of the information in Attachment E;

(b) Each GHG Plan shall be in the format of the Narrative Plan and Supplemental Calculation templates provided by the Commission's staff;

(c) The Commission's staff shall use the information from the GHG Plans to calculate a uniform statewide CMS Regulatory Fee and statewide Drivers Assistance Program budget in accordance with Attachment D; and

(d) The CMS Regulatory Fee and Drivers Assistance Program budget for each GHG Plan compliance period shall be established by the Commission's resolution of the Tier 3 advice letters of the GHG Plans.

31. It is reasonable for CMS Regulated Entities to propose modifications of approved GHG Plans as follows:

(a) Tier 1 advice letters for minor modifications, so long as such modifications do not affect the regulatory fee or have the potential to negatively impact LMI drivers;

(b) Tier 2 advice letters for proposed changes to the regulatory fee; and

(c) Tier 3 advice letters for proposed changes that have the potential to negatively impact LMI drivers; proposed changes to action items that materially affect their scale, scope, or effectiveness; and any other significant change to an approved GHG Plan.

32. It is reasonable for the Commission's staff to (a) approve increases to the CMS Regulatory Fee if necessary to timely collect the approved budget for the Drivers Assistance Program, or (b) approve reductions to the CMS Regulatory Fee after the Contracting Agent has reported to the Commission's staff that it has collected over 120 percent of the approved annual budget for the Drivers Assistance Program during a given 12-month period.

33. It is reasonable to adopt the following data reporting requirements:

(a) Each CMS Regulated Entity and the Program Administrator shall provide quarterly and annual data reports that comply with the CMS data dictionary and CMS data reporting templates provided by the Commission's staff;

(b) The Commission's staff will develop data dictionaries and CMS data reporting templates for CMS Regulated Entities, the Program Administrator, and the Contracting Agent in accordance with Attachment F of this decision;

(c) Quarterly data reports shall be submitted to the Commission's staff within 30 days after the end of each calendar quarter;

(d) Annual data reports shall be submitted to the Commission's staff within 30 days after the end of each calendar year; and

(e) For 2023 calendar year data reporting only, CMS Regulated Entities shall only be required to submit one compliance report that includes only the data fields listed as Annual Compliance Report data, in Section 2490.3(b)(6) and Attachments 1 and 2 of the CARB CMS Order, with a description of progress made toward the CMS Annual Targets; and

(f) While the data reporting timelines for CMS and TNC Annual Report remain misaligned, CMS Regulated Entities should provide supplemental TNC Annual Report data within 30 days after the end of each calendar year.

34. It is reasonable to adopt the following data verification requirements:

(a) CMS Regulated Entities and the Program Administrator shall verify the accuracy and completeness of all data submitted to the Commission by providing the following attestation with each data report: "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."; and

(b) CMS Regulated Entities and the Program Administrator shall comply with data audits by the Commission's staff.

35. It is reasonable for the Commission or the Program Administrator to publish any CMS data that is not personally identifiable information or confidential under General Order 66-D or other Commission order.

36. It is reasonable for the Commission to publish CMS data through a public data portal.

37. It is reasonable for the Program Administrator to publish CMS data it collects in a dashboard format on the website of the Drivers Assistance Program on a quarterly basis.

38. It is reasonable for the Commission's staff to prepare an Annual LMI Driver Impact Report to assess the impact of CMS implementation on LMI drivers and barriers to transitioning to ZEVs for LMI drivers with the following elements: LMI driver definition, LMI driver negative impact assessment, annual driver survey, new research study results, assessment of barriers to ZEV transition, and recommendations on ensuring minimal negative impacts on LMI drivers.

39. It is reasonable for the Commission's staff to prepare a Biennial Unanticipated Barriers Progress Report to assess unanticipated barriers to expanding the usage of ZEVs by TNCs and to assess progress made towards CMS Program goals with the following elements at minimum: review of compliance with CMS Annual Targets, LMI driver impact, assessment of unanticipated barriers to expanding the usage of ZEVs by TNCs, outreach and engagement feedback, Supporting Clean Mobility progress, ESJ goals progress, sustainable land use goals progress, optional credits, and exemptions.

40. It is reasonable to adopt the following process and timing for the Annual LMI Driver Impact Report and Biennial Unanticipated Barriers Progress Report:

(a) The first Annual LMI Driver Impact Report and the first Biennial Unanticipated Barriers and Progress Report should be published by December 31, 2026;

(b) Each subsequent Annual LMI Driver Impact Report should be published by the end of a calendar year on the

Commission's website and served to the service list of this proceeding;

(c) Each subsequent Biennial Unanticipated Barriers and Progress Report should be published by the end of the calendar year on each even-numbered calendar year on the Commission's website and served to the service list of this proceeding;

(d) The first Biennial Unanticipated Barriers and Progress Report should include assessment of the years prior to the first report, and subsequent reports should include the year prior to the current report; and

(e) The Program Administrator and the CMS Regulated Entities shall support the Commission's staff by providing the data and information to support the creation of the reports.

41. It is reasonable to adopt the following activities to ensure that CMS implementation is coordinated with public and private entities that specialize in ZEV charging infrastructure and incentives:

(a) The Commission's staff will conduct two or more CMS workshops on ZEV charging issues and solutions for drivers and incorporate findings in CMS reports;

(b) The Commission's staff will meet at least twice per year with CEC staff and CARB staff to identify and discuss programs to support ZEV charging by drivers;

(c) The Commission's staff working on CMS issues will meet at least four times per year with our agency's staff working on the Transportation Electrification Framework; and

(d) The Program Administrator will work with public and private entities to identify subsidies for charging infrastructure for CMS drivers and include these subsidies in Drivers Assistance Program resources and services.

42. It is reasonable for the Commission's staff to incorporate feedback and findings from the Driver Working Group, Annual Driver Survey,

Implementation Working Group, and transportation electrification workshops into the Annual LMI Driver Impact Report and the Biannual Unanticipated Barriers and Progress Report.

43. The Program Administrator and Commission's staff should seek to engage with a diverse selection of drivers when conducting the Annual Driver Survey and selecting participants for the Driver Working Group, respectively.

44. It is reasonable to (a) require the Program Administrator and CMS Regulated Entities to provide all marketing, education, and outreach materials in the most common languages spoken by drivers for CMS Regulated Entities, and (b) require the Program Administrator to provide interpretation and translation services in the most common languages spoken by drivers for CMS Regulated Entities.

45. The Commission should include the following issues in the scope of Phase 2 of this proceeding.

(a) Enforcement: How should the Commission enforce compliance with CMS requirements, including requirements to meet the CMS Annual Targets and ensure minimal negative impact on LMI drivers? What criteria and metrics should the Commission adopt for enforcement?

(b) Sustainable land use: How should CMS support sustainable land use objectives in Government (Gov.) Code Section 65080?

(c) AVs: How should the Commission apply CMS requirements to AV Passenger Companies?

(d) Optional credits: Should the Commission adopt any optional credit programs? Should the availability of optional credit programs be dependent on certain factors, such as meeting a GHG emissions reduction threshold or the outcome of an unanticipated barriers review?

(e) CMS vehicle requirements and prioritization of ZEVs: Should the Commission allow a CMS Regulated Entity to require CMS drivers to provide rides in ZEVs or give ZEVs priority access to trips on their platforms? If so, when and how should this be permitted?

(f) CMS incentives for rentals: Should the CMS Program provide incentives for ZEV rentals? If so, how should the incentives be designed?

(g) Concluding the certain requirements: Should the Commission establish a date for concluding certain elements of the CMS Program, such as the collection of the CMS Regulatory Fee, the implementation of the Drivers Assistance Program, the Annual LMI Driver Impact Report, or the Unanticipated Barriers Report? If so, when and how should the Commission wind down certain program requirements?

(h) Multiple upfront incentives: Should an LMI driver be able to access an upfront incentive to purchase, lease, or rent a ZEV more than once?

46. It is reasonable for General Order 96-B to apply to the advice letters required under this decision, with the following modifications: (a) Rule 4.1 is modified such that "(2) adjacent Utilities (including, for purposes of this Industry Rule, publicly-owned utilities); and (3) other interested persons, such as parties of record in a related proceeding or persons having a specific interest in the advice letter" is replaced with "all parties to Rulemaking 21-11-014 or any successor proceeding"; (b) Rule 7.4.1 is modified such that "Any person (including individuals, groups, organizations)" is replaced with "Any person or party"; and (c) Rule 9 does not apply to the advice letters adopted in this decision.

O R D E R

IT IS ORDERED that:

1. Each transportation network company shall (a) file a Tier 3 advice letter to propose an interim Greenhouse Gas Emissions Reduction Plan within 120 days of the effective date of this decision, (b) file a Tier 3 advice letter to propose a full Greenhouse Gas Emissions Reduction Plan within 90 days of the effective date of a Phase 2 decision in this proceeding, and (c) file a Tier 3 advice letter to propose a new Greenhouse Gas Emissions Reduction Plan by January 15, 2026, and by January 15th every two calendar years thereafter. If a transportation network company files an advice letter to propose a full Greenhouse Gas Emissions Reduction Plan within 90 days of the effective date of a Phase 2 decision in this proceeding, the entity shall not be required to file an additional Greenhouse Gas Emissions Reduction Plan proposal by January 15, 2026.

2. Each transportation network company that seeks an exemption from requirements of this decision based on vehicle miles traveled shall file a Tier 2 advice letter by January 15th of each year to request exemption status for the current calendar year based on its total vehicle miles traveled for all periods in passenger service during the previous calendar year.

3. Uber Technologies, Inc. shall (a) serve as the contracting agent for the Clean Miles Standard program, (b) file a Tier 1 advice letter to confirm that it has opened a Clean Miles Standard Regulatory Fee Account within 90 days of the effective date of this decision, (c) issue a request for proposals for a program administrator for the Drivers Assistance Program within 120 days of the effective date of this decision, (d) file a Tier 2 advice letter to request approval of the contract with the program administrator within 30 days after the Commission's staff selects the program administrator, (e) pay invoices of the program

administrator, contracting agent, the evaluation contractor, and the financial auditor after approval by the Commission's staff, (f) file a Tier 2 advice letter to propose the form of the fee statement to be submitted with payments to the Clean Miles Standard Regulatory Fee Account within 90 days of the effective date of this decision, and (g) send a report on the contributions to and withdrawals from the Clean Miles Standard Regulatory Fee Account to the Commission's staff within 30 business days of the end of each calendar quarter.

4. Uber Technologies, Inc. shall (a) issue a request for proposals for an evaluation contractor within six months of the effective date of this decision, (b) file a Tier 2 advice letter to request approval of the contract with the evaluation contractor within 60 days after the Commission's staff selects the evaluation contractor, (c) file a Tier 2 advice letter to propose whether to issue a request for proposals for a second evaluation report within 90 days after the completion of the first evaluation report, and (d) if required, shall issue a request for proposals for an Evaluation Contractor for the second evaluation report within one year after the completion of the first evaluation report.

5. Uber Technologies, Inc. shall (a) issue a request for proposals for a financial auditor based on direction from the Commission's staff within 12 months of the effective date of this decision, (b) file a Tier 2 advice letter to request approval of the contract with the financial auditor within 60 days after the Commission's staff selects the financial auditor, (c) file a Tier 2 advice letter for approval of the contract with a financial auditor within 60 days after the Commission's staff select the financial auditor, and (d) issue a request for proposals for a Financial Auditor for the second financial audit report within one year after the completion of the first financial audit report.

6. Each transportation network company shall (a) commence collection of the Clean Miles Standard Regulatory Fee within 10 days of the Commission's resolution of the Tier 3 advice letters for the interim Greenhouse Gas Reduction Plans, (b) transfer to the Clean Miles Standard Regulatory Fee Account all Clean Miles Standard Regulatory Fee amounts collected in a given quarter within 15 business days of the end of each quarter, and (c) submit a fee statement to both the contracting agent and the Commission's staff and serve it to the service list of this proceeding when it submits the Clean Miles Standard Regulatory Fee amounts collected to the Clean Miles Standard Regulatory Fee Account, and (d) identify the regulatory fee authorized in this decision as the "Clean Miles Standard Regulatory Fee" wherever it presents surcharge information to customers.

7. Rulemaking 21-11-014 remains open.

This order is effective today.

Dated March 7, 2024, at San Francisco, California.

ALICE REYNOLDS
President
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration.

ATTACHMENT A

Attachment A – Drivers Assistance Program Roles and Responsibilities

Entity	**Roles and Responsibilities**
Commission Staff	- Select and oversee the Program Administrator. -Review Program Administrator's Implementation Plan and Handbook and advise on resolution of Implementation Plan and Handbook by the Commission. -Organize and maintain a Drivers Working Group and Implementation Working Group. -Review and approve all invoices from Program Administrator and Contracting Agent on a quarterly basis. - Attend regular monthly or quarterly coordination meetings with other CMS Regulated Entities and Program Administrator, to be determined by the Program Administrator. - Recommend the CMS Regulatory Fee and Drivers Assistance Program Budget based on advice letter filings for Commission approval.
CMS Regulated Entities	-Prepare and submit annual GHG Plan. -Provide data as required by the Commission and the Program Administrator. -Help to disseminate Drivers Assistance Program information to drivers, including but not limited to the Annual Driver Survey and material on the Drivers Assistance Program. -Support Drivers Assistance Program eligibility verification

	-Implement CMS activities described in GHG Plans, such as partnerships with public and other private entities to support driver transitions to ZEVs. -Through the Implementation Working Group, advise the Program Administrator and Commission Staff on developing the Drivers Assistance Program Implementation Plan and Handbook. -Attend and present GHG Plans at Commission workshops. -Collect the CMS Regulatory Fee and submit funds to the CMS Regulatory Fee Account. -Submit fee statements to the Contracting Agent and to the Commission's staff and serve it to the service list of this proceeding. -Identify the regulatory fee authorized in this decision as the "Clean Miles Standard Regulatory Fee" wherever it presents surcharge information to customers.
Contracting Agent	-Issue a RFP for a Program Administrator, based on directions of the Commission's staff, that is capable of fulfilling all of the roles and responsibilities described in this decision. A Program Administrator with the following experience is preferred: (a) administering incentives to increase adoption of zero emissions vehicles, (b) conducting marketing, education, and outreach about zero emissions vehicles, (c) conducting marketing, education, and outreach to low- and moderate-income individuals, (d) administering incentives for low- and moderate-income individuals, (e) data collection,

	data analysis, administering surveys, and working with confidential or personally identifiable information, and (f) reporting on program status, barriers, and lessons learned to state, federal, or local government agencies. - Track administrative costs of the Contracting Agent. - Open and manage a CMS Regulatory Fee Account. - Propose the form of a fee statement to be submitted by each CMS Regulated Entity with each submission of funds to the CMS Regulatory Fee Account. The fee statement will have a similar format and purpose as the fee statement submitted by TNCs with Access for All regulatory fees. - Track CMS Regulatory Fee funds received from CMS Regulated Entities. - Contract with the Program Administrator selected by the Commission's staff and manage the contract. -Make an upfront payment from the CMS Regulatory Fee Account of the lesser of: (a) the amount in the CMS Regulatory Fee Account, or (b) $500,000 to the Program Administrator to develop the Drivers Assistance Program within 30 days of the Commission's approval of the Program Administrator's contract. -Manage Program Administrator's quarterly invoicing and payment to the extent approved by the Commission's staff. -Report quarterly to the Commission's staff on the balance of the CMS Regulatory Fee Account and collection of the CMS Regulatory Fee funds.

Program Administrator	-Propose Drivers Assistance Program Implementation Plan and Handbook. -The Implementation Plan shall include at a minimum: (a) proposed incentive amounts, (b) how the Program Administrator will deliver incentives to drivers, (c) how drivers will apply for CMS incentives, (d) how the Program Administrator will verify driver eligibility for CMS incentives, (e) staff training for program implementation, (f) how the Program Administrator will track incentives received by drivers through the Drivers Assistance Program, including incentives received through other programs, (g) description of all program services and resources for drivers, including the plan to create the program website, (h) description of specific methods to minimize barriers for low- and moderate-income drivers to access incentives, (i) how the Program Administrator will pay drivers to participate in working groups, surveys, and workshops, (j) how the Program Administrator will engage with drivers and stakeholders and coordinate with CMS Regulated Entities to inform the program, (k) the program budget, (l) the program implementation timeline, and (m) the data collection and reporting requirements for the program, including data security and privacy policies. -The Handbook shall include at a minimum: (a) incentive guidelines, (b) Drivers Assistance Program supportive services and resources, (c) reporting requirements and formats for the

	Program Administrator, (d) guidelines for coordination with CMS Regulated Entities and the Commission's staff, and (e) current incentive eligibility requirements. -Update Implementation Plan and Handbook. -Hold one or more workshops to receive input on the first Implementation Plan and Handbook. -Implement the Drivers Assistance Program. -Disburse CMS incentives as appropriate and track amounts disbursed. -Assist all drivers as part of the Drivers Assistance Program by (a) assessing the financial benefits and risks of purchasing or leasing and operating a ZEV, and (b) acting as a "one stop shop" for ZEV incentives by assisting drivers with identifying and applying for other ZEV and charging incentives. -Develop and implement an efficient system for tracking and verifying driver eligibility across platforms. -Conduct driver marketing, education, and outreach (website and other services) including working with community-based organizations or other entities who work closely with drivers. -Conduct or contract with a third-party to conduct the Annual Driver Survey. -Collect and report CMS data as required by this decision. -Publish CMS data it collects in a dashboard format on the website of the Drivers Assistance Program on a quarterly basis.

	-Conduct regular monthly or quarterly coordination meetings with CMS Regulated Entities, to be determined by the Program Administrator.

(END OF ATTACHMENT A)

ATTACHMENT B

Attachment B – Calculating CMS Incentives

CMS ZEV Upfront Incentive Approach

The general approach is to close the gap in costs between an ICE vehicle and a ZEV. The cost gaps to be closed are the costs of the vehicle (including downpayment) and sales tax. Existing federal and state incentives are assumed to be used to close the gap in the overall cost of the vehicle. The steps for calculating the CMS ZEV incentive are as follows and utilize the assumptions in Table B1 and Table B2 are below.

This decision estimates an initial CMS ZEV Upfront Incentive based on the following calculations:

a. Assume the existing incentive amount is 50% of the value of all available federal and state incentives that LMI drivers are eligible. In Table B1 that would result in $7,500 for a new ZEV and $5,750 for a used ZEV.
b. Make assumptions for representative new and used ICE vehicle and ZEVs according to Table B2.
c. Determine Manufacturer's Suggested Retail Price (MSRP) for new vehicles and used vehicle prices according to Table B2.
d. Calculate downpayments and sales tax for new and used vehicles according to Table B2. <u>New ZEV sales tax</u> = $3,087, <u>Used ZEV sales tax</u> = $2,807, <u>Used ICE sales tax</u> = $1,609.
e. Sum the vehicle price and sales tax for each vehicle type. Assume existing incentives reduce the ZEV prices to estimate an adjusted total vehicle price. From Table B2, <u>New ZEV</u> price is $34,303 + $3,087 - $7,500

= $29,890, Used ZEV price is $31,187 + $2,807 - $5,750 = $28,244, Used ICE is $17,883 + $1,609 = $19,492.

f. Compare the adjusted total vehicle price of the new and used ZEVs to the used ICE vehicle price (with sales tax included). New ZEV – Used ICE = $29,890 - $19,492 = $10,398, Used ZEV – Used ICE = $28,244 - $19,492 = $8,752.

g. The difference between the costs is the incentive amount, rounded up. New ZEV Incentive = $10,400. Used ZEV Incentive = $8,800.

Table B1 – Existing ZEV Incentives

Existing Incentives*	**New ZEV**	**Used ZEV**	**Notes**
Federal Tax Credit	$7,500	$4,000	Credit received when taxes filed to be available upfront in 2024. Min. income for single filer: $12,950 New vehicle requirements.
CARB Financing Assistance	$7,500	$7,500	The max for LMI individuals that meet location and income qualifications. Available upfront.

*Included only federal and state incentives. Did not include CARB's Clean Vehicle Rebate Project as it has used all of its funding.

Table B2 – Vehicle Cost Difference Assumptions

	Gas ICE	**ZEV**	**Sources & Assumptions**

Vehicle Make/ Model	Toyota Prius	Various	ICE, TNC Annual Report: Toyota Prius is the most common vehicle. ZEV, CARB Vehicle Database: All ZEVs that have an MSRPs <= $40k and > 200 miles. Includes the Chevrolet Bolt EV and EUV, Fisker Ocean Crossover, Hyundai Kona, Nissan Leaf, and Volkswagen ID.4. The analysis also includes the Tesla Model 3 which is already one of the top EVs on the CMS Regulated Entities' platforms.
MSRP	$27,450	$34,303	ICE: 2023 Toyota Prius from Kelley Bluebook. ZEV: Average of ZEVs in analysis.
Used Vehicle Price	$17,883	$31,187	ICE: Average of 2010-22 Toyota Prius used vehicle

			estimates from Kelley Bluebook. ZEV: Average of 2017-2022 Used Chevrolet Bolt EV and Tesla Model 3 prices from Kelley Bluebook.
Down payment	10%		U.S Department of Energy Alternative Fuels Center Vehicle Calculator Assumptions
Sales Tax	9%		California sales tax + additional for local taxes

CMS Ongoing Charging Incentive Approach

Use the assumptions in Table B3 to estimate the annual cost of refueling versus charging a ZEV for a TNC driver. The CMS Ongoing Charging incentive should be calculated based on the difference in cost. The difference in annual cost for charging a ZEV compared to refueling a gasoline ICE vehicle is estimated to be $670 per year.

The difference in costs can vary depending on the assumptions and is assumed to be improving over time as charging stations are easier to find and the cost of charging decreases, whether through less expensive DCFC or because drivers gain access to at-home charging. The difference in price between gasoline and electricity also drives the differential, with higher gasoline prices resulting in relatively more-affordable EV charging.

This decision estimates an initial CMS Ongoing Charging Incentive based on the assumptions below.

Table B3 – Refueling and Charging Cost Difference Assumptions

	Gas ICE	**BEV**	**Sources & Assumptions**
Annual VMT	20,000		TNC Annual Data for top 25% of drivers
Fuel Consumption	50 miles per gallon	3.57 miles per kilowatt-hour (kwh)	ICE: Toyota Prius assuming used the vehicle maintains the same miles per gallon when used/over time. ZEV: www.fueleconomy.com for 2023 Chevrolet Bolt.
Fuel Cost	$5.00/gallon	Public: $0.40/kWh Home: $0.23/kWh	ICE: From CARB's Charging Incentive Amount analysis, updated for April 2023, from Appendix C: Updated Long-Term Plan for Light-Duty Electric Vehicle Market, Light-Duty Vehicle Purchase Incentives, Clean

			Mobility Investments, and Outreach ZEV: From CARB's Charging Incentive Amount analysis, for Public DCFC, from Appendix C: Updated Long-Term Plan for Light-Duty Electric Vehicle Market, Light-Duty Vehicle Purchase Incentives, Clean Mobility Investments, and Outreach & U.S. Department of Energy Alternative Fuels Data Center Vehicle Costs Calculator
Time spent refueling	10 mins	Estimated + 15 mins	10 mins for gasoline refueling, 15 mins for looking for charging. This time does not account for drivers using charging to serve as their regular break time.
Share of Public/Home Charging	-	Public: 90% Home: 10%	LMI drivers are primarily using public charging and mostly DCFC.[184]

[184] Rocky Mountain Institute's Electric Vehicle Charging for All report, available at: https://rmi.org/insight/ev charging for all/.

Public Charge Power	-	150 kW	Electric Vehicle Charging Speeds from the US Department of Transportation
Battery Size	-	60 kWh	Assume charged to 80%. Electric Vehicle Charging Speeds from the US Department of Transportation
Opportunity cost of charging time	-	$15.50/hour	2023 California minimum wage. Used to account for time spent looking for a charger and spent charging (less time assumed for typical gasoline refueling).

(END OF ATTACHMENT B)

ATTACHMENT C

Attachment C – CMS Evaluation and Financial Audit Questions

Minimum questions for each evaluation report:

a. How much did program administration cost as a percentage of the overall Drivers Assistance Program funding and how did this compare to the proposed fee and fund provided in the CMS Regulated Entities' GHG Plans? How did this compare to the allowable administrative expenses?

a. How many LMI drivers received CMS incentives? How does this compare to the estimates in the GHG Plans?

b. What was the total amount of financial support provided to drivers? What was the average per driver financial support amount for LMI drivers?

c. How many drivers received non-CMS incentives with assistance from the Drivers Assistance Program?

d. How many drivers received Drivers Assistance Program services other than CMS incentives?

e. How long did drivers have to wait between applying for and receiving financial support?

f. What outreach was conducted by the Program Administrator and CMS Regulated Entities? In what languages and through what channels? How many drivers were contacted?

g. How many drivers began the process to apply for incentive funds but, for whatever reason, did not complete the application? What are the reasons for drivers not completing the application?

h. Did the CMS Regulated Entities meet the goals for their programs (outside of the Drivers Assistance Program) as proposed in their GHG Plans?

i. Were Drivers Assistance Program funds spent as proposed in the Implementation Plan?

j. Was the data provided by the Program Administrator and CMS Regulated Entities consistent and accurate?

k. Should the Commission renew the Program Administrator's contract?

Minimum questions for each financial audit report:

a. Whether the approved CMS Regulatory Fee has been collected in accordance with the resolution of the applicable advice letter;
b. Whether all funds levied through the CMS Regulatory Fee were applied as directed by the Commission decision;
c. Whether driver pay was reduced to fund the CMS Program implementation;
d. Whether the Contracting Agent allocated funds and provided payment to the Program Administrator according to CMS Program requirements; and
e. Whether CMS Regulatory Fee funds have been spent on non-CMS Program purposes, such as advocacy efforts.

(END OF ATTACHMENT C)

ATTACHMENT D

Attachment D – CMS Regulatory Fee and Drivers Assistance Program Budget Calculations

The following describes the assumptions and estimates required to calculate the regulatory fee. The description includes an illustrative example of the calculations using data from 2022 and rounded from TNC Annual Reports and Commission determined assumptions. The assumptions used here are for illustrative purposes only. The actual regulatory fee will be established during the GHG Plan advice letter process and based on CMS Regulated Entities' latest data with projections made for the two-year GHG Plan period.

1. CMS Regulated Entities provided estimates/assumptions
   a. Number of drivers: <u>350,000</u>
   b. Number of Trips: <u>240,000,000</u>
   c. Estimated percentage of drivers transitioning to ZEV (a proportion of "1a") in a given year to meet CARB target: <u>1%</u>
   d. Estimated percentage of drivers transitioning to ZEV who will access upfront incentives (a proportion of "1a"): <u>75%</u> (or 1%*75% = 0.75% of the total drivers).
   e. Estimated percentage of drivers transitioning and receive the upfront incentives who will access ongoing incentives (a proportion of "1d"): <u>50%</u>
   f. Proposed driver trip eligibility threshold to receive the CMS incentive.
2. Commission determined assumptions
   a. Upfront incentive: Commission decision will provide the Program Administrator with the method for calculating the incentive to be updated annually. <u>$10,400 new ZEV</u> and <u>$8,800 used ZEV</u>.

b. Ongoing incentive: Commission decision will provide the Program Administrator with the method for calculating the incentive to be updated annually. $670.

c. Program Evaluation and Audit costs: assume $500,000 each with one evaluation and one audit to be accounted for to start.

d. Contracting agent annual costs: $100,000.

e. Program Administrator's annual budget: 8% of Total Program Budget with a $2 million minimum for the first year and $7 million maximum.

3. Subtotal estimates

a. Administrative evaluation, audit, and contracting agent costs are summed from the values set by Commission decision: $1,000,000 (one evaluation and one audit) + $100,000 = $1,100,000.

b. Upfront incentive is calculated using the assumptions on drivers and driver transitions provided by the CMS Regulated Entities and the incentive amounts: 350,000 drivers * 1% * 75% * $10,400 = $27,300,000. (assume all new ZEVs for this estimate)

c. Ongoing incentive is calculated using the assumptions on drivers and driver transitions provided by the CMS Regulated Entities and the incentive amount. $0 in first year.

d. Program Administrator's budget is calculated to be 8% of the Total Program Budget (administrative costs and total incentives): ($1,100,000 + $27,300,000 + $0) * 8% = $2,272,000.

4. Total estimates

a. Administrative Total is evaluation, audit, and contracting agent costs (subtotal 3a): $1,100,000

b. Program Administrator Total is 8% of the Total Program Budget, with a minimum of $2 million for the first year and a maximum of $7 million (subtotal 3d with minimum and maximum checks): $2,272,000.

c. Incentive Totals are upfront and ongoing incentives summed (subtotal 3b + subtotal 3c): $27,300,000 + $0 = $27,300,000.

5. Estimated Per-Trip Fee

a. Total Program Budget divided by the Total Number of Trips: ($1,100,000 + $2,272,000 + $27,300,000) = $30,672,000 / 240,000,000 trips = $0.13 / trip

(END OF ATTACHMENT D)

ATTACHMENT E

Attachment E – GHG Plan Narrative Plan Guidance and Supplemental Calculation Requirements

Narrative Plan Guidance

The following describes the minimum required sections of the Interim GHG Plan. CMS Regulated Entities may choose to provide additional information in their GHG Plans, but those sections will not be considered in the review of the GHG Plans.

1. **Cover Page**
2. **Executive Summary.** Provide an overview of the GHG Plan.
3. **Study/Plan Design for Achieving Targets.** Describe how the GHG Plan was developed and how the development relates to the GHG emissions and eVMT targets to be met for each target year of the GHG Plan.
4. **Action Plan.** Describe the actions being proposed to meet the targets while ensuring minimal negative impact on low- and moderate-income drivers. CMS Regulated Entities must address their GHG Plans to meet the targets and the goals of CMS.
    a. **Annual Targets.** Describe actions that CMS Regulated Entity will take to enable them to meet the targets, including an estimate or indication of how much each action contributes to the targets. These are actions that complement and support the Drivers Assistance Program but will be carried out by the CMS Regulated Entity directly. Examples: Education & outreach, changes to algorithms, partnerships not otherwise run by the Drivers Assistance Program, *etc.*

b. **LMI Drivers.** Describe how the CMS Regulated Entity will minimize the negative impact on LMI drivers.

c. **Clean Mobility.** Describe how the CMS Regulated Entity will advance the goals of clean mobility.

d. **ESJ Action Plan & Charging Infrastructure.** Describe how the CMS Regulated Entity's GHG Plan aligns with the Commission's ESJ goals. CMS Regulated Entity should describe how their proposed GHG Plan will impact the ESJ communities - *i.e.*, low- and moderate-income drivers and low- and moderate-income communities - and their contribution to improving access to charging infrastructure. CMS Regulated Entity shall include any proposed charging-related initiatives (*e.g.*, partnerships with charging providers) that may increase access to charging in LMI communities.

e. **Marketing, Education, and Outreach.** Describe the CMS Regulated Entity's planned marketing, education, and outreach. Include details on the timing of the approaches' special considerations for LMI drivers, and an ongoing strategy to inform new drivers of CMS and the requirements as they join. Include a general timeline for the proposed activities.

5. **Anticipated Barriers and Minimization Proposals.** Describe any anticipated barriers to transitioning drivers to ZEVs and the ways in which they will be minimized in the proposed actions.

6. **Supplemental Calculations.** Staff will provide a template and data dictionary for the Regulatory Fee Assumptions and GHG Plan Compliance

Estimate data fields to be submitted as supplemental calculations within the GHG Plans.

a. **Regulatory Fee Assumptions.** Provide the CMS Regulated Entity required data described in Attachment D. Include written and historical data as justification for each of the assumptions made for each year covered by the GHG Plan.

b. **GHG Plan Compliance Estimates.** Provide estimates for the Compliance Summary report data fields included in the template and data dictionary provided by the Commission's staff for the GHG Plan submission. These will be considered estimates and should be connected to the CMS Regulated Entity's proposed plans for achieving the annual targets.

c. **Analysis Results.** Describe the results of any analysis conducted or assumptions made to inform the GHG Plan, particularly related to how the CMS Regulated Entity's planned actions will result in meeting the CARB targets. No template is provided here, but the CMS Regulated Entity should provide any quantitative data to support their planned actions.

7. **Lessons Learned.** Document any suggested changes to the CMS implementation for consideration by the Commission. Explain how the change would facilitate the ability of the Commission and companies to achieve state policy goals. Provide assessments on the effectiveness of previous GHG Plan actions.

(END OF ATTACHMENT E)

ATTACHMENT F

Attachment F – CMS Data Requirements

Table F1 lists CMS quarterly and annual data requirements by topic. The Commission's staff will provide a separate data dictionary and a data template for CMS Regulated Entities, the Program Administrator, and the Contracting Agent. The data submissions will include narrative reports to support and provide explanation for the data reporting where required.

Table F1 – Data Topics Summary

CMS Data Topics	Responsible Entity / Submission Timing	Description of Data
TNC Annual Report	CMS Regulated Entities Annual	Existing required data reporting for TNCs, which will be leveraged to inform CMS compliance and tracking of goals including Clean Mobility, ESJ, and Exemptions. CMS Regulated Entities are not required to resubmit already submitted TNC Annual Reports but will submit new reports to complete the calendar year or reporting (Sept -Dec) until the submission dates and reporting periods for TNC Annual Reports and CMS data reporting are aligned. TNC Annual Reports significantly overlap with data fields with CARB CMS Order's Attachment 1, but data fields not captured in TNC Annual Reports are included in other CMS data reports below.
Compliance Summary	CMS Regulated Entities Quarterly and Annual	Compliance data required by the CARB CMS Order in Section 2490.3(b)(6) to assess progress toward CMS Annual Targets. These are summary data fields to be reported by each CMS Regulated Entity. They are

		required to be reported both quarterly and annually to enable Staff to track CMS Regulated Entities' progress towards meeting the annual targets throughout the year.
Qualifying Trips Key	CMS Regulated Entities Annual	Compliance data that will enable staff to identify the trips in the TNC Annual Reports that qualify to be included in the calculation of CMS annual targets.
Driver Summary	CMS Regulated Entities Annual	Driver summary data required in CARB's CMS Order Attachment 2 and includes data fields not already captured in TNC Annual Reports.
Charging	CMS Regulated Entities and Program Administrator Annual	Charging data to be provided by CMS Regulated Entities and the Program Administrator. This data will help with tracking goals including Clean Mobility and ESJ.
Fee Collection	Contracting Agent Quarterly	Data on the CMS fee collection from CMS Regulated Entities.
Admin Spend Tracking	Contracting Agent Quarterly	Data on the administrative spending of the Program Administrator, Evaluation Contractor, Financial Auditor, and Contracting Agent.
Drivers Assistance Program Summary	Program Administrator Quarterly	Data on the Drivers Assistance Program. Summary data to enable tracking progress of the incentive program. This data will help with tracking impacts on LMI drivers.
Incentive Recipients	Program Administrator Quarterly	Data on the Drivers Assistance Program. Incentive specific data that should be reported by driver/incentive provided. This data will help with tracking impacts on LMI drivers.

(END OF ATTACHMENT F)