

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Clean Fleet Enterprise Board

REGULATION 1 – CLEAN FLEET ENTERPRISE FEES

6 CCR 1018-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.1 Authority

The Clean Fleet Enterprise is authorized to promulgate rules to set the clean fleet per ride fee and the clean fleet retail delivery fee at or below the amounts delineated in statute, Section 25-7.5-103(6)(h), (7) and (8), C.R.S.

1.2 Definitions

- 1.2.1 "Carshare ride" has the same meaning as set forth in Section 25-7.5-102(3), C.R.S.
- 1.2.2 "Electric Motor Vehicle" has the same meaning as set forth in Section 25-7.5-102(8), C.R.S.
- 1.2.3 "Inflation" has the same meaning as set forth in Section 25-7.5-102(13), C.R.S.
- 1.2.4 "Prearranged ride" has the same meaning as set forth in Section 40-10.1-602(2), C.R.S.
- 1.2.5 "Retail delivery" has the same meaning as set forth in Section 25-7.5-102(21), C.R.S.
- 1.2.6 "Rider" has the same meaning as set forth in Section 40-10.1-602(5), C.R.S.
- 1.2.7 "Tangible personal property" has the same meaning as set forth in Section 39-26-102(15), C.R.S.
- 1.2.8 "Transportation network company" has the same meaning as set forth in Section 40-10.1-602(3), C.R.S.
- 1.2.9 "Transportation network company driver" has the same meaning as set forth in Section 40-10.1-602(4), C.R.S.
- 1.2.10 "Zero emissions motor vehicle" or "ZEV" has the same meaning as set forth in Section 25-7.5-102(29), C.R.S.

1.3 Fees

1.3.1 Fees Effective July 1, 2022 through June 30, 2023

- 1.3.1.1 Effective July 1, 2022, the clean fleet per ride fee is three and three-quarters cents for each prearranged ride that is a carshare ride or for which the transportation network company driver transports the rider in a zero emissions motor vehicle.
- 1.3.1.2 Effective July 1, 2022, the clean fleet per ride fee is seven and one-half cents for every other prearranged ride that is a carshare ride or for which the transportation network company driver transports the rider.

- 1.3.1.3 Effective July 1, 2022, the clean fleet retail delivery fee is five and three-tenths cents for retail deliveries of purchased tangible personal property.
- 1.3.2 Fees Effective July 1, 2023
 - 1.3.2.1 Effective July 1, 2023, the clean fleet per ride fee is four cents for each prearranged ride that is a carshare ride or for which the transportation network company driver transports the rider in a zero emissions motor vehicle.
 - 1.3.2.2 Effective July 1, 2023, the clean fleet per ride fee is seven and three-quarters cents for every other prearranged ride that is a carshare ride or for which the transportation network company driver transports the rider.
 - 1.3.2.3 Effective July 1, 2023, the clean fleet retail delivery fee is five and one-half cents for retail deliveries of purchased tangible personal property.
- 1.3.3 Starting in 2024, for fees effective July 1, 2024, or thereafter, fees will be imposed at the maximum amount that is the maximum amount for the prior state fiscal year adjusted for inflation consistent with Section 25-7.5-103(7)(c), C.R.S., for the clean fleet per ride fees and Section 25-7.5-103(8)(c), C.R.S., for the clean fleet retail delivery fee.
- 1.3.4 The Clean Fleet Enterprise will notify the Colorado Department of Revenue of the amount of the fees no later than March 15 of the calendar year in which the state fiscal year begins.

2.1 Statements of Basis, Specific Statutory Authority and Purpose

2.1.1 Adopted February 24, 2022

Basis and Purpose

Senate Bill 21-260 (SB21-260) Sustainability of the Transportation System created new sources of dedicated funding and new state enterprises. The intent of the legislation was to preserve, improve and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of electric motor vehicles, and mitigate environmental and health impacts of the transportation system use.

To accomplish these goals, the legislation established a Clean Fleet Enterprise (CFE) governed by a nine (9) member board. The CFE is an enterprise and government owned business within the Colorado Department of Public Health and Environment (CDPHE) for the purpose of collecting fee revenue and using the fees to incentivize support and accelerate the adoption of electric motor vehicles in motor vehicle fleets as well as other specified activities. The CFE is a Type 1 transfer agency and as such the Legislature specifically vested the CFE with the authority to promulgate rules for the sole purpose of setting the amounts of fees called for in the legislation in addition to other activities. The fees the enterprise is required to impose include the clean fleet per ride fee and the clean fleet retail delivery fee. Per statute, for the clean fleet per ride fee, the board can set a maximum fee of \$0.0375 cents for any prearranged ride in a zero emission vehicle (ZEV) and \$0.075 cents per prearranged ride in a non-ZEV vehicle. The maximum fee that the board can set for the clean fleet retail delivery fee is \$0.053 cents. The fees delineated in the rule mirror the fee amounts set in statute.

The CFE shall notify the Department of Revenue (DOR) of the amount of the clean fleet per ride fee to be collected for rides requested and accepted during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins. The CFE shall also notify DOR of the amount of the clean fleet retail delivery fee to be collected for retail deliveries of tangible personal property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins.

Stakeholder engagement began in December 2021 and continued up to the date of the rulemaking hearing, February 24, 2022. The Division met with stakeholders one-on-one and at a public meeting in this timeframe.

Specific Statutory Authority

The Clean Fleet Enterprise is authorized to promulgate rules to set the clean fleet per ride fee and the clean fleet retail delivery fee at or below the amounts delineated in statute, Section 25-7.5-103(6)(h), (7) and (8), C.R.S.

2.1.2 Adopted March 9, 2023

Basis and Purpose

Statute directs “the enterprise to impose the clean fleet per ride fee in a maximum amount that is the applicable maximum amount of the prior state fiscal year adjusted for inflation,” Sections 25-7.5-103(7)(c) and (8)(c), C.R.S. The purpose of this rulemaking is to implement the inflationary increase provided in these statutes.

When establishing any inflationary increase, Section 25-7.5-103(7)(c)(ii), C.R.S., predicates the adjustment to the fees on inflation being positive and cumulative inflation from the last adjustment of the fee, when applied to the sum of the current clean fleet per ride fee and the current air pollution mitigation per ride fee and rounded to the nearest whole cent, results in an increase of at least one whole cent in the total amount of the clean fleet per ride fee and the air pollution mitigation per ride fee. The statute also indicates that the amount of cumulative inflation to be applied is the lesser of actual cumulative inflation or five percent.

Inflationary increases to the clean fleet retail delivery fee occur “only if the department of revenue adjusts the amount of the retail delivery fee imposed by Section 43-4-218(3), C.R.S., for retail deliveries of tangible personal property purchased during the state fiscal year,” Section 25-7.5-103(8)(c), C.R.S.

When evaluating the inflationary increase, it is anticipated that staff providing services to the Clean Fleet Enterprise will consult with the Department of Revenue to determine the maximum fee amount that may be imposed, and that the Clean Fleet Enterprise board will receive a presentation on any adjustments to the fees prior to notifying the Department of Revenue of the final amounts authorized under rule 1.3.3 and Sections 25-7.5-103(7)(c) and (8)(c), C.R.S. Though statute requires that the fee amounts be posted on the Department of Revenue website by April 15 of each year, it is also expected that the Clean Fleet Enterprise website will include the information or link to the Department of Revenue website as a courtesy.

Specific Statutory Authority

The Clean Fleet Enterprise is authorized to promulgate rules to set the clean fleet per ride fee and the clean fleet retail delivery fee at or below the amounts delineated in statute, Section 25-7.5-103(6)(h), (7) and (8), C.R.S. The inflationary increase adjustment is added to implement Section 25-7.5-103(3), C.R.S. by setting the fees to be imposed.

Editor’s Notes

History

New rule eff. 04/14/2022.

Entire rule eff. 04/30/2023.