D R A F T
California Energy Commission
Docket No. 08-OIR-1
For September 9, 2008 Workshop
Including Comments from August 11 Workshop on
Draft Regulations for the Administration of the
Alternative and Renewable Fuel and Vehicle Technology Program

PROPOSED DRAFT REGULATORY LANGUAGE

CHAPTER XXXX Alternative and Renewable Fuel and Vehicle Technology Program Regulations

Section XXXX Advanced Vehicle Technology

Projects that produce or manufacture vehicles and components as described in Health and Safety Code Section 44272 (c) shall be eligible for funding.

NOTE: Authority cited: Sections 25211, 25213, Public Resources Code. Section 44272 (a), Health and Safety Code. Reference: Public Resources Code; Section 44272 (a), (b), (c), Health and Safety Code.

Section XXXX Sustainability Goals

(a) The sustainability goals described in this section shall guide this program to ensure that projects funded to promote alternative and renewable fuels and vehicles do not adversely affect the state's natural resources, including state and federal lands. Each investment plan or document prepared for solicitation of project proposals may specify additional characteristics, objectives, criteria, and any other relevant factors to notify and inform project proponents of the kinds of projects considered to have the best potential to achieve one or more of the sustainability goals.

(1) The first sustainability goal shall be the substantial reduction of greenhouse gas emissions to help meet California's 2020 and 2050 targets as defined in Section 38550 of the Health and Safety Code and the Governor's Executive Order S-03-05. Towards that end, the Energy Commission or its assigned policy committee shall identify and support fuel and technology options with the best potential for meaningful reductions in transportation-related greenhouse gas emissions.The second sustainability goal shall be to protect the environment,

including all natural resources, from the environmental effects of alternative and renewable fuel development and promote the superior environmental performance of alternative and renewable fuel infrastructure and vehicle technologies. Towards that end, the Energy Commission or its assigned policy committee shall do the following:

(a) Recognize, support, and encourage production of alternative and renewable fuels and vehicle technologies that are more environmentally efficient and less environmentally damaging than current standard practices for the production of petroleum fuels, production of basic agricultural commodities, and extraction of natural resources when measured on a life-cycle basis.

(b) Recognize and support production practices for alternative and renewable fuels that respect the physical carrying capacity limits of natural systems at the local, regional and global scale.

(3) The third sustainability goal shall be to support certified sustainable production of alternative fuels. Towards that end, the Energy Commission or its assigned policy committee shall do the following:

(a) Identify and promote practices and programs that support certified, sustainable production of alternative and renewable fuels to provide California markets with low greenhouse gas emission fuels while providing economic benefits to the areas in which production occurs.

(b) Consult with the Air Resources Board and stakeholders through the Advisory Committee to identify internationally recognized sustainability certification programs.

(4)The fourth sustainability goal shall be to minimize or avoid the risk of alternative and renewable fuel production causing unanticipated consequences. The Energy Commission or its assigned policy committee shall use adaptive management, continuous research, use of full-fuel-cycle modeling tools, and establishment of a database for post-project environmental and economic monitoring of projects funded under this program to ensure that unanticipated consequences to the environment, food supplies, and social welfare will not occur.

(b) Section XXXX – For purposes of section XXXX, the following definitions shall apply:

(1) “State’s natural resources” include forest lands, range lands, waters and watersheds, biodiversity resources (fish, wildlife, and flora) and their prime habitats, coastal lands and waters, minerals, and prime agricultural lands.

(2) “State and federal lands” include surface and subsurface (water bottoms and tidal zones) lands owned wholly or in part by any branch or division of the state or the federal government.

(3) “Environmental performance” denotes the relative environmental efficiency and levels of environmental impacts from industrial facilities, agricultural operations or natural resource extraction activities. Facilities with high levels of environmental performance use fewer natural resource and energy inputs per unit of fuel output, and have lower environmental impacts, than low environmentally performing facilities.

(4) “Carrying capacity” is the ability of an air basin, watershed, ecosystem, or landscape area to withstand resource extraction or absorb pollution loading until its basic functions are impaired.

NOTE: Authority cited: Sections 25211, 25213, Public Resources Code. Section 44271 (a)(1), (2), Health and Safety Code. Reference: Section 44271 (a)(1), (2), 44272 (a), (b), (c), Health and Safety Code.

Section XXXX Funding Restrictions

A project shall not be eligible for funding if it is mandated by any local, regional, state, or federal law, rule, regulation, or order or is otherwise required by a legally enforceable document. To the extent a project exceeds what is required for compliance with a legally enforceable requirement; it may receive funding for that part of the project that the applicant demonstrates is not mandated to meet the requirement. For purposes of this section, a legally enforceable requirement refers to any requirement enforceable by a local, regional, state, or federal agency for the purpose of reducing the emission of one or more criteria pollutants, toxic air contaminants, or any greenhouse gas.

NOTE: Authority cited: Sections 25211, 25213, Public Resources Code. Reference: Section 44271 (c), Health and Safety Code.

Section XXXX Advisory Body.

The commission shall assign an appropriate policy committee to establish and maintain, as needed, an advisory committee for the Alternative and Renewable Fuel and Vehicle Technology Program. The advisory committee shall function as the advisory body required under Section 44271.5 of the Health and Safety Code.

NOTE: Authority cited: Sections 25211, 25213 and 25214, Public Resources Code. Section 44271.5(a), (b), Health and Safety Code. Reference: Section 44271.5(a), (b), Health and Safety Code.

Section XXXX Designation of Advisory Committee Presiding Member.

The presiding member of the assigned policy committee shall serve as the presiding member of the advisory committee and shall preside over its public meetings.

NOTE: Authority cited: Sections 25211, 25213 and 25214, Public Resources Code. Section 44271.5(a), (b), Health and Safety Code. Reference: Section 44271.5(a), (b), Health and Safety Code

Section XXXX Selection of Advisory Committee Members.

(a) The assigned policy committee shall solicit applications from persons who wish to serve as a representative from one of the interest groups or agencies identified in Section 44271.5 of the Health and Safety Code, and may solicit applications from other persons who wish to represent interest groups beyond those listed in Section 44271.5 of the Health and Safety Code.

(b) Anyone wishing to serve on the advisory committee by representing an interest group not identified in Section 44271.5 of the Health and Safety Code may apply to the assigned policy committee during any solicitation for applications. The assigned policy committee shall have the discretion to allow for one or more additional interest groups to be represented on the advisory committee. Such a determination shall consider whether representation of an additional interest group serves to diversify input from the advisory committee and whether the applicant has particular knowledge or expertise that would benefit public discussions and recommendations.

(c) The assigned policy committee shall notify interested persons at least 14 days in advance of any opportunity to serve as a representative on the advisory committee. The notice shall describe the process for selecting representatives, any criteria that will be used to choose between two or more persons wishing to represent the same interest group, and the number of representatives to be selected. Those selected to serve on the advisory committee shall serve at the pleasure of the assigned policy committee, except that the policy committee shall ensure that each interest group identified in Section 44271.5 of the Health and Safety Code is represented on the advisory committee.

NOTE: Authority cited: 25211 and 25213, Public Resources Code. Section 44271.5(a), (b), Health and Safety Code. Reference: Section 44271.5(a), (b), Health and Safety Code.

Section XXXX Advisory Committee Duties.

(a) The advisory committee shall meet at least twice a year to assist in the development of an investment plan and its updates. The presiding member, in consultation with advisory committee members, shall decide when to hold advisory committee meetings and whether additional meetings are needed.

(b) The role of the advisory committee shall be to participate in one or more public discussions and arrive at public recommendations, whether by consensus or otherwise, regarding one or more elements of the investment plan. All public discussions and recommendations shall serve to inform and advise the assigned policy committee in the drafting of a proposed investment plan. The assigned policy committee shall annually propose an investment plan, its update, or the lack of need for an update to the commission for approval.

(c) Each advisory committee meeting shall be open to the public. No less than 10 calendar days prior to each meeting, notice of the meeting shall be posted on the commission's website and mailed or otherwise sent to interested persons. The commission shall establish a list of persons who request notice in writing.

NOTE: Authority cited: Sections 25211, 25213 and 25214, Public Resources Code. Section 44271.5(a), (b), Health and Safety Code. Reference: Sections 44271.5(a), (b), Health and Safety Code.

Section XXXX Purpose of Investment Plan

(a) The investment plan shall be subject to commission approval and, as approved, shall determine priorities and opportunities for funding under the program for the ultimate purpose of transforming the state's fuels and vehicles to help attain the state's climate change policies and achieve the other goals specified in Health and Safety Code, Section 44271 et seq.

(b) The assigned policy committee shall be responsible for the preparation and publication of a draft investment plan or update, taking into consideration recommendations and input from public meetings with the advisory committee.

The draft investment plan or update shall be available for public review and comment no less than 30 days prior to the meeting at which the commission considers approving the proposed investment plan or update. During the period of public review, the assigned policy committee shall hold at least one public workshop on the draft investment plan or update. The assigned policy committee may revise the draft investment plan based on comments received during the public review period. At least 14 days prior to the business meeting at which the investment plan will be considered for approval, the assigned policy committee shall publish a proposed investment plan.

(c) All funding decisions made by the commission shall be consistent with the investment plan, which shall be updated as needed annually. The investment plan shall serve to give public notice as to the types of projects that would be eligible to receive funding under the program and to specify the categories of funding allocations.

NOTE: Authority cited: Sections 25211, 25213, Public Resources Code. Sections 44271.5(a), Health and Safety Code. Reference: Sections 44271.5(a), 44272 (a), (b), (c) Health and Safety Code.