PROPOSED DRAFT REGULATORY LANGUAGE

ALTERNATIVE AND RENEWABLE FUELS AND VEHICLE TECHNOLOGY PROGRAM

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Program Goal

The goal of the Alternative and Renewable Fuel and Vehicle Technology Program is to *"…develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies."*

Health and Safety Code Section 44272(a)

Rulemaking

- Develop and adopt regulations to clarify ambiguities in statute.
- Create certainty in administering the Program.
- Two phases

Informal: Develop regulatory concepts and draft regulations for public review.

Formal: Begins when proposed regulations are submitted to the Office of Administrative Law (OAL).

Rulemaking Timeline

Sept. 9	**Public workshop to review draft sustainability regulations**
Sept. 19	Written comments due on draft sustainability regulations
Oct. 7	Draft regulations submitted to OAL
Oct. 17	Notice of Proposed Action (NOPA) published
Dec. 1*	45 day public comment & review period ends
Dec. 8	Materials due to Contracts Office for Business Meeting
Jan. 14*	Business meeting: If approved, then Final Statement of Reasons written and final package goes to OAL
Mar. 2	End of 30 working day review period for OAL
	Earliest possible date for OAL to approve and publish Regulations with the Secretary of State
Apr. 2	Earliest possible date for Regulations to take effect

* Assumes that public comment/Commission review will not result in changes to regulatory language that would require an additional 15 day public review period.

Regulatory Areas with Proposed Language Changes

from August11 Workshop

- Advanced Vehicle Technology
- Funding Restrictions
- Advisory Committee
- Investment Plan

Advanced Vehicle Technology

Original Language: “Projects that produce or manufacture advanced vehicles and vehicle components in California for the life of the project shall be eligible for funding under the program. Such projects include, but are not limited to, technologies that provide any of the following: improved fuel efficiency, lower greenhouse gas emissions, alternative fuel usage, fuel cell technology, plug-in hybrid technology, electrified components, energy storage, vehicle retrofit and battery recycling.”

Advanced Vehicle Technology

Comments:

- Reference the section in statute that lists technologies rather than restating the list of technologies to which the guideline applies.
- Include language in the Advanced Vehicle Technology section that references the investment plan.
- Projects eligible for funding should extend beyond California if there are significant environmental benefits for California.

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

Funding Restrictions

Original Language: "A project that is mandated by any state or federal law, rule, or regulation, or by an air district rule or regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate, shall not be eligible for funding. Neither shall a project be eligible for funding if it is necessary to achieve compliance with an applicable state or federal law, rule, or regulation or with an air district rule or regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate. To the extent a project exceeds what is required to comply with an applicable state or federal law, rule, or regulation, or with an air district rule or regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate, it may receive funding for that part of the project that the applicant demonstrates is not mandated or integral to meeting a mandate. For purposes of this section, a mandate refers to any requirement enforceable by a state or federal agency or by an air district for the purpose of reducing the emission of one or more criteria pollutants, toxic air contaminants, or any greenhouse gas."

Funding Restrictions

Comments:

- Make distinction between “entity” and “project”
- Simplify listing of legal documents to language below.
- Projects eligible for funding should extend beyond California if there are significant environmental benefits for California.

Revised Language: “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.”

Funding Restrictions

Additional revision based on a comment received after the latest proposed language was posted.

Original Language: "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."

Funding Restrictions

Comment :

- Revise wording. Some regulations require performance standards, so a specific project may not be “mandated,” but still may be used to comply with a regulation, and consequently, should not be eligible for funding.

Revised Language: "A project shall not be eligible for funding if it is **used for compliance with** any local, regional, state, or federal law, rule, regulation, or order or is otherwise required by a legally enforceable document."

Advisory Committee

No material changes made to the language proposed at the August 11 Committee Workshop.

Investment Plan

Original Language: “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 not identify specific projects or technologies for funding, but 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.”

Investment Plan

Comments:

- Investment Plan should identify certain baskets of technologies to avoid confusion and give clear direction to the advisory committee.

Revised Language: "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."