

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

**NOTICE OF PROPOSED ACTION**

**Adoption of Regulations
to
Define the Administration of the
Alternative and Renewable Fuel and Vehicle Technology Program**

Docket No.: 08-OIR-1

The California Energy Commission (Energy Commission) proposes to adopt new regulations to define the administration of the Alternative and Renewable Fuel and Vehicle Technology Program in accordance with the Energy Commission's authority under Health and Safety Code section 44270 et seq. The regulations would implement, interpret, and make specific Health and Safety Code sections 44270-44274, which were added in 2007 (Assembly Bill 118, Núñez, Chapter 750, Statutes of 2007). The proposed action is authorized under Public Resources Code sections 25213 and 25218(e) and Health and Safety Code sections 44271 and 44271.5.

NOTICE THAT PUBLIC HEARING IS SCHEDULED:

The date set for the adoption of regulations at a public hearing is:

Commission Business Meeting
WEDNESDAY, February 25, 2009
Beginning 10 a.m.
California Energy Commission
First Floor, Hearing Room A
1516 Ninth Street
Sacramento, California
(Wheelchair Accessible)

Note: Audio from this meeting will be broadcast over the Internet.
Please see information at: [www.energy.ca.gov/webcast/]

ORAL AND WRITTEN STATEMENTS

Interested persons wishing to comment on the proposed regulations must submit their comments in writing to the Energy Commission by February 16, 2009. All comments must be identified with “**Docket No. 08-OIR-1**” and may be submitted in one of three ways:

- 1) Mailing them to:

California Energy Commission
Dockets Unit
Docket No. 08-OIR-1
1516 9th Street, MS-4
Sacramento, CA 95814-5512

- 2) E-mailing them to: [DOCKET@energy.state.ca.us], or

- 3) Faxing them to Dockets at (916) 654-4365

COPIES OF THE INITIAL STATEMENT OF REASONS AND THE TEXT

The Energy Commission has prepared an initial statement of reasons for the proposed regulations. To obtain a copy of the initial statement of reasons or the express terms of the proposed regulations, please visit the Energy Commission’s website at [www.energy.ca.gov/ab118/index.html] or contact Aleecia Macias at (916) 654-4526 or by e-mail at [amacias@energy.state.ca.us]. The Energy Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address.

INTERNET ACCESS

The Energy Commission maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the Energy Commission for this rulemaking, including this notice of proposed action, the text of the proposed regulations, the initial statement of reasons, and the economic and fiscal impact statement, as well as any other document in the rulemaking file, have been posted at [www.energy.ca.gov/ab118/index.html].

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the final statement of reasons once it has been prepared by visiting the Energy Commission’s website at [www.energy.ca.gov/ab118/index.html] or contacting Aleecia Macias at (916) 654-4526 or by e-mail at [amacias@energy.state.ca.us].

POSSIBLE CHANGES

Changes to the proposed regulations may result from public comments, staff recommendations, or recommendations from Commissioners. Changes may also result if they improve the clarity or effectiveness of the regulations. If the Energy Commission considers changes, they will be nonsubstantial or grammatical in nature or sufficiently related to the original text as allowed by Government Code Section 11346.8. In addition a full copy of the text with all proposed changes will be available for review at least 15 days prior to the date on which the Energy Commission adopts the proposed regulations.

PUBLIC ADVISER

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission activities. If you want information on how to participate in this forum, please contact the Public Adviser's Office at (916) 654-4489 or toll free at (800) 822-6228, by FAX at (916) 654-4493, or by e-mail at [PublicAdviser@energy.state.ca.us]. If you have a disability and require assistance to participate, please contact Lou Quiroz at (916) 654-5146 at least five days in advance.

CONTACT PERSON

Inquiries concerning all aspects of the rulemaking process, including the substance of the proposed regulations, should be directed to Aleecia Macias at (916) 654-4526 or by e-mail at [amacias@energy.state.ca.us]. The alternate contact person is Tobias Muench who can be reached at (916) 654-4831 or by e-mail at [tmuench@energy.state.ca.us].

INFORMATIVE DIGEST

The proposed regulations would make specific the process for implementing the California Energy Commission's new authority to administer the *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007* (Act). The Energy Commission's authority stems from AB 118, which was enacted in October 2007. AB 118 added sections 44270 to 44274, to the Health and Safety Code. The objective of the Act is to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change goals. In addition the Act establishes the goal of diversifying California's transportation fuels while benefiting the state's economy. The proposed regulations provide the guidance and rules for which funding, established by the Act, can be distributed for appropriate projects to best meet the Act's objectives.

The Act requires the Energy Commission to perform a number of tasks including defining terms, establishing sustainability goals based on full fuel-cycle assessments, ensuring funds are not provided for projects required by law, creating an advisory body, drafting an investment plan, and screening and selecting projects.

The regulations provide clarification and details regarding the following areas: Advanced Vehicle Technology, Sustainability Goals, Funding Restrictions, Advisory Body, and the Investment Plan. The regulations are necessary to provide potential applicants with guidance on the types of projects that will be eligible for funding and to provide staff with a clear means to evaluate applications and fund those projects consistent with the goals and objectives of the Act.

INCORPORATION BY REFERENCE

The proposed regulations would not incorporate any documents by reference.

SMALL BUSINESS IMPACTS

The proposed regulations would not directly affect small businesses. No small business would be legally required to comply with the regulations nor would any small business necessarily derive a benefit or incur a detriment as a result of these regulations being adopted. The statute, coupled with the proposed regulations, creates a funding program which is voluntary. Under the proposed regulations no entity is required to apply for funding. For those businesses that do apply, there will potentially be costs associated with the application process and any reporting requirements during the life of the project.

BUSINESS AND REPRESENTATIVE PRIVATE PERSON COST IMPACTS

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

LOCAL MANDATE DETERMINATION

If adopted, the proposed regulations would not impose a mandate on local agencies or school districts.

COST/SAVINGS ESTIMATE

There would be no cost or savings to any state agency as a result of the regulations being adopted. Nor would there be any cost to local agencies or school districts as a result of the regulations being adopted and, thus, no cost that is required to be reimbursed under Government Code section 17500 et seq. There would be no cost or savings in federal funding to the state if the regulations are adopted and implemented. Further, there would be no nondiscretionary costs or savings imposed upon local agencies. Under the proposed regulations no entity is required to apply for funding.

INITIAL DETERMINATION – STATEWIDE ECONOMIC IMPACT ON BUSINESSES

Adoption of the proposed regulations would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based upon the following facts (1) the proposed regulations are part of a funding program that would apply only if an entity voluntarily chooses to submit a project proposal to participate in the program; (2) the proposed regulations have no provisions that would require, mandate, or impose anything directly affecting business in the state; and (3) The potential administrative costs incurred for voluntarily applying for funding is minimal compared to the amount of funding that could be received and would only impact entities applying for funding.

Although the specific costs to a small business applicant for funding is unknown at this time, it is assumed that successful applicants will incur costs of preparing an application, monitoring, and reporting as required by a funding agreement, complying with sustainability requirements, and, where applicable, obtaining a permit for a project subject to the California Environmental Quality Act.

ASSESSMENT REGARDING JOBS AND BUSINESSES

The proposed regulations would specify rules for a funding program which can award funds to applicants who voluntarily apply for funding. If selected, the applicant would receive funds for a specific transportation based project, which could have a positive effect on maintaining or creating California jobs or maintaining, expanding, or creating a business within the state. Funded projects may also produce significant indirect or long term benefits including: (1) fuel cost savings; (2) reduction in the state's cost of petroleum dependence; (3) greenhouse gas emissions reduction; and (4) development of new industries with associated job creation.

IMPACT ON HOUSING COSTS

The regulations proposed for adoption will have no effect on housing costs.

CONSIDERATION OF ALTERNATIVE PROPOSALS

Before adopting the proposed amendments, the Energy Commission must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to the Energy Commission's attention would be more effective in carrying out the purpose for which the adoption is proposed or would be as effective as and less burdensome to affected private persons than the proposed adoption. To date, the Energy Commission is not aware of any alternative that would be more effective or less burdensome than the proposed regulations, given the statutory requirements and objectives of the funding program. In addition, the regulations are narrowly tailored to provide clarification and details in a limited fashion to implement the program fairly and in accordance with the statute.