

M e m o r a n d u m

To: Chair Weisenmiller
Commissioner Scott
Commissioner Douglas
Commissioner Hochschild
Commissioner McAllister

Date: September 28, 2018

From: Allan L. Ward, II
Assistant Chief Counsel, Transaction Unit
Chief Counsel's Office

Subject: Proposed California Environmental Quality Act Compliance
Regarding the Proposed Funding Modifications to the *2018-2019 Investment Plan Update* for the Alternative and Renewable Fuel and Vehicle Technology Program

At the October 3, 2018 Commission business meeting, staff from the Commission's Alternative and Renewable Fuel and Vehicle Technology Program ("ARFVTP") plan to propose funding modifications to the *2018-2019 Investment Plan Update* ("Modified Investment Plan") for the Commission's consideration and approval.

For purposes of complying with the California Environmental Quality Act ("CEQA," Public Resources Code § 21000 et seq.), I recommend the Commission find that approving this Modified Investment Plan is not a "project" for purposes of CEQA.

Under CEQA, a "project" means "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment..." (Pub. Resources Code § 21065.) The definition of "project" does not include:

The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. [14 Cal. Code of Regulations § 15378.]

This Modified Investment Plan meets this exception to the definition of a "project" under CEQA because it only proposes funding for categories of activities. Decisions to fund specific projects will be made in the future through competitive solicitations or other selection mechanisms. Because no commitment to any specific project is made in this Modified Investment Plan, approving it will not cause a direct or reasonably foreseeable indirect change in the environment.

**STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION AND
DEVELOPMENT COMMISSION**

In the Matter of:)	
)	Docket No. 17-ALT-01
<i>2018-2019 INVESTMENT PLAN</i>)	Resolution No. 181003-1d.
<i>UPDATE FOR THE ALTERNATIVE AND</i>)	
<i>RENEWABLE FUEL AND VEHICLE</i>)	Modifications to the 2018-2019
<i>TECHNOLOGY PROGRAM</i>)	Investment Plan Update
_____)	

**RESOLUTION OF THE ENERGY COMMISSION ADOPTING CEQA FINDINGS AND
FUNDING MODIFICATIONS TO THE 2018-2019 INVESTMENT PLAN UPDATE FOR
THE ALTERNATIVE AND RENEWABLE FUEL AND VEHICLE TECHNOLOGY
PROGRAM**

WHEREAS, Assembly Bill 118 (Núñez, Chapter 750, Statutes of 2007) established the Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) to be administered by the Energy Commission, with a goal 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 §44272(a)). The same law also required the Energy Commission to develop and annually update an investment plan that will determine priorities and opportunities for the ARFVTP (Health and Safety Code §44272.5); and

WHEREAS, Assembly Bill 1314 (Wieckowski, Chapter 487, Statutes of 2011) subsequently requires the Energy Commission to prepare and submit an annual investment plan update to the Legislature “each May concurrent with the submittal of the Governor’s May Revision to the budget” (Health and Safety Code §44272.7(b)); and

WHEREAS, Assembly Bill 8 (Perea, Chapter 401, Statutes of 2013) extended the collection of fees supporting the ARFVTP through January 1, 2024; and

WHEREAS, the development of the *2018-2019 Investment Plan Update for the Alternative and Renewable Fuel and Vehicle Technology Program (2018-2019 Investment Plan Update)* has benefitted from two Advisory Committee meetings and public workshops, as well as comments submitted to public docket; and

WHEREAS, the *2018-2019 Investment Plan Update* was adopted by the Energy Commission at the May 9, 2018 business meeting and published on May 11, 2018; and

WHEREAS, the Energy Commission approved the *2018-2019 Investment Plan Update* with the expectation that \$277.5 million would be available for funding allocations; and

WHEREAS, the enacted California budget for fiscal year 2018-19 provides the Energy Commission with \$165.2 million in funding for projects that will be administered through the ARFVTP, made up of \$12.5 million from the Greenhouse Gas Reduction Fund (GGRF) specifically for low-carbon fuel production projects and \$152.7 million from the Alternative and Renewable Fuel and Vehicle Technology Fund (ARFVT Fund); and

WHEREAS, the Energy Commission is required to allocate \$20 million per year toward publicly available hydrogen refueling stations, not to exceed 20 percent of appropriated ARFVTP funds (Health and Safety Code §43018.9); and

WHEREAS, adhering to all statutory requirements and after considering all materials and comments received during the development of the *2018-2019 Investment Plan Update*, the proposed funding modifications are designed to advance the goals of the ARFVTP; and

WHEREAS, the California Energy Commission staff will develop solicitations, grants, and other types of agreements in the ensuing fiscal years to implement these funding allocations; and

WHEREAS, the California Energy Commission considered the application of the California Environmental Quality Act (CEQA) to the adoption of the *2018-2019 Investment Plan Update*, and concluded that the *2018-2019 Investment Plan Update* was not a “project” for purposes under CEQA because it fits within activities excluded from the definition of “projects” under CEQA, including the “creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment” (14 California Code of Regulations Section 15378(b)(4))

WHEREAS, the California Energy Commission has considered, based on the record before it, the application of the California Environmental Quality Act (CEQA) to the adoption of the proposed funding modifications to the *2018-2019 Investment Plan Update* proposes funding for categories of activities, and concludes the proposed modifications are not a “project” for purposes under CEQA because they fit within activities excluded from the definition of “projects” under CEQA, including the “creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment” (14 California Code of Regulations Section 15378(b)(4)), and decisions to fund specific projects will be made in the future through competitive solicitations or other selection mechanisms.

THEREFORE BE IT RESOLVED, the California Energy Commission hereby finds the proposed funding modifications to the *2018-2019 Investment Plan Update* to not be a project under CEQA; and

THEREFORE BE IT ALSO RESOLVED, the California Energy Commission hereby adopts the following funding modifications to the *2018-2019 Investment Plan Update*:

1. Funding for the Electric Vehicle Charging Infrastructure allocation is reduced from \$134.5 million to \$94.2 million;
2. Funding for the Hydrogen Refueling Infrastructure allocation is reduced from \$92 million to \$20 million;
3. Funding for the ZEV-infrastructure Manufacturing and Workforce Development allocation remains the same at \$8.5 million;
4. Funding for the Advanced Freight and Fleet Technologies allocation remains the same at \$17.5 million;
5. Funding for the Low-Carbon Fuel Production and Supply allocation remains the same at \$25 million; however, the allocation will be funded with \$12.5 million from the GGRF and \$12.5 million from the ARFVT Fund.

THEREFORE BE IT ALSO RESOLVED, the California Energy Commission hereby directs Commission staff to notify the Legislature of the funding modifications pursuant to Health and Safety Code section 44272.7, and to make the funding modifications further available to the public.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the California Energy Commission held on October 3, 2018.

AYE:

NAY:

ABSENT:

ABSTAIN:

Secretariat
California Energy Commission