State of California | **California Natural Resources Agency**

M e m o r a n d u m

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

Date: May 1, 2018

From: Kathryn Colson, Attorney
Office of the Chief Counsel

Subject: Proposed California Environmental Quality Act Compliance
Regarding Adoption of the Food Production Investment Program Guidelines

At the May 9, 2018 Commission business meeting, staff from the Commission's Energy Research and Development Division ("ERDD") plan to propose the *Food Production Investment Program Guidelines* ("Guidelines") for the Commission's consideration and approval*.*

Based on a review of California Environmental Quality Act ("CEQA," Public Resources Code § 21000 et seq.) and the pertinent legal authority, I recommend the Commission find that approving the *Guidelines* is exempt from CEQA under California Code of Regulations, title 14, section 15308 for actions taken by regulatory agencies for the protection of the environment and the common sense exemption.

Background

The Food Production Investment Program is a Greenhouse Gas Reduction Fund (GGRF) program created by AB 109 (Ting, Chapter 249, Statutes of 2017). All GGRF-funded programs must advance AB 32 (Nunez, Chapter 488, Statutes of 2006) as the primary program goal and each project must provide real and quantifiable greenhouse gas emission reductions. The Food Production Investment Program will provide grants to California's food processing industry to reduce greenhouse gas emissions by adopting advanced energy efficiency and renewable energy technologies at California food processing plants.

Adoption of Guidelines

Actions taken by regulatory agencies, as authorized by state law, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment are categorically exempt from CEQA. (14 Cal. Code of Regulations, § 15308). The Energy Commission is acting pursuant to AB109 and Public Resources Code section 25218(e) (Warren-Alquist Act) to adopt the proposed *Guidelines*. The adoption of the *Guidelines* involves procedures for the protection of the environment by setting out the program design, project selection criteria, and administrative requirements for the

Food Production Investment Program that requires the reduction of greenhouse gas emissions.

California food producers are large users of energy (7,000 million kWh and 500 million therms in 2015) and emit over 3.3 million metric tons of carbon dioxide equivalent emission each year. The Food Production Investment Program will assure maintenance, enhancement and protection of the environment because all projects funded by this program must reduce greenhouse gas emissions in food processing plants in California. The program will fund replacing existing equipment with energy efficient equipment or renewable energy technologies which will directly and indirectly reduce greenhouse gas emissions. The adoption of the *Guidelines* does not include any relaxing of standards allowing environmental degradation or construction activities. No unusual circumstances are reasonably expected to cause significant effects on the environment related to the adoption of the *Guidelines*.

In addition, the *Guidelines* adoption falls within the “common sense” exemption (14 Cal. Code of Regulations, § 15061(b)(3)). This exemption indicates that CEQA only applies to projects which have the potential for causing a significant effect on the environment. A significant effect on the environment is defined as substantial, or potentially substantial, adverse change in the environment. (Pub. Resources Code, § 21068; 14 Cal. Code of Regulations, § 15382). The *Guidelines* will not create an adverse change to the environment because they simply establish eligibility criteria and administrative rules for a grant program to fund energy efficiency equipment. Specific projects will be proposed as part of future solicitations. Those specific projects will be considered by the California Energy Commission at a future business meeting along with any potential environmental impacts of the specific project. Adoption of the *Guidelines* does not commit the Energy Commission to any definite course of action. Additionally, there is no binding commitment to spend funds in a particular manner or enough specific information about future projects to warrant environmental review at this time. It can therefore be seen with certainty that there is no possibility that adoption of the *Guidelines* may have a significant effect on the environment. Consequently, the adoption of the *Guidelines* is exempt from CEQA.

Energy Research and Development Division

DRAFT STAFF REPORT

Food Production Investment Program DRAFT Guidelines

Version 2

California Energy Commission

Edmund G. Brown Jr., Governor

May 2018 | CEC-500-2018-007-SD2

California Energy Commission

Donald Kazama, P.E.
Primary Author

Cyrus Ghandi
Project Manager

Virginia Lew
Manager
ENERGY EFFICIENCY RESEARCH OFFICE

Laurie ten Hope
Deputy Director
RESEARCH AND DEVELOPMENT DIVISION

Drew Bohan
Executive Director

Governor Brown signed Assembly Bill 109 which directed the California Energy Commission to create the Food Production Investment Program. The Energy Commission adopted these Guidelines at its business meeting on May 9, 2018.

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Agricultural Council of California
Emily Rooney

California Air Resources Board
Richard Corey, David Allgood,
Mary Jane Coombs, Emily Wimberger

California Department of Food and Agriculture
Secretary Karen Ross, Ravneet Behla,
Carolyn Cook, Michelle Lehn,
Jenny Lester Moffitt, Carol Tate

California Energy Commission
Commissioner Andrew McAllister,
Drew Bohan, Dave Ashuckian,
Laurie ten Hope

California Public Utilities Commission
Commissioner Carla Peterman,
Melicia Charles, Robert Strauss

California Cotton Ginners and Growers Association
Roger Isom

California Diaries
Darren Monteiro, Rob Vandenheuvel

California League of Food Producers
John Larrea, Rob Neenan

California Polytechnic State University, San Luis Obispo
Stephanie Jung, Peter Livingston

Campbell Soup Supply Company
Thomas Maulhardt

Foster Farms
Tom Bower, David Duke, Kimberly Treanor,
Bob Wolf, David Duke

Gallo
Chris Savage

Governor's Office
Panorea Avdis, Diane Banchero,
Saul Gomez, Michael Maguire,
Alice Reynolds

Hilmar Cheese
Burt Fleischer

JG Boswell
Treanor Tristao, Dennis Tristao

Land O Lakes
John D'Atri, Peter Garbani

Lawrence Berkeley National Laboratory
Peter Therkelsen

Modesto Irrigation District
Gary Soiseth

Morning Star Company
Gerald Harter

Pacific Coast Producers
Erick Watkins, Mona Shulman

Pacific Gas and Electric
Carolyn Weiner

San Joaquin Valley Air Pollution Control District
Samir Sheikh

Sempra Utilities
Julia Benskin

Southern California Edison
Rod Brewer, Jarred Ross

Southern California Gas Company
Darren Hanway

Turlock Irrigation District
Dan Severson, Michelle Reimers

Stanislaus Food Products Company
Rick Vargas

University of California, Davis
Bryan Jenkins

West Coast Advisors
Michael Boccadoro

Wonderful
Melissa Poole

Other Contributors to the Guidelines include the following from the California Energy Commission: Mark Kootstra, Bethany Brown, Kathryn Colson, Elizabeth Flores, Benson Gilbert, Anish Gautam, P.E., Erik Stokes, Felix Villanueva and from the California Air Resources Board: Jessica Bede and James Tipton.

ABSTRACT

The Food Production Investment Program Guidelines explains how the California Energy Commission's program will be administered and outlines terms and definitions.

Keywords: Awardee, funding award, food production, food processing, greenhouse gas reduction, recipient, industrial

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CHAPTER 1: Introduction

California's food processing industries face stiff out-of-state and international competition. Providing support for updating and improving the food production facilities with energy efficient and/or renewable energy technologies will reduce operating costs and greenhouse gas (GHG) emissions. This could help ensure California's food processing industries remain competitive and operational, and the jobs associated with food production remain in California.

The Food Production Investment Program (FPIP), funded by Assembly Bill (AB) 109 (Ting, Chapter 249, Statutes of 2017), provides grants to California's food processing industry to reduce GHG emissions associated with energy use, and furthers the purposes of AB 32 (Nunez, Chapter 488, Statutes of 2006) and Senate Bill (SB) 32 (Pavley, Chapter 249, Statutes of 2016). This program and these Guidelines were informed by the following resources:

- Food Processing Task Force (Task Force) consisting of representatives from industry, trade organizations, government agencies, and utilities
- Public comments received from workshops on February 16 and March 1, 2018
- Public comments received by April 6, 2018 on the FPIP docket from stakeholders (Docket URL: https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-MISC-01)

The goals of the program are to accelerate the adoption of advanced energy efficiency and renewable energy technologies at California food processing plants, demonstrate their reliability and effectiveness and help California food processors work towards a low-carbon future. The technologies to be funded will help reduce energy costs, maintain product quantity and quality, and reduce GHG emissions associated with food production. The FPIP is open to California food processors. **All projects funded under the FPIP must reduce GHG emissions and further the purposes of AB 32 and SB 32**.

These Food Production Investment Program Draft Guidelines (Guidelines) provide potential applicants with the information on how the program will be structured, who and what technologies are eligible and on what criteria the applications will be scored. In conjunction with these Guidelines, the California Energy Commission (Energy Commission) will release periodic grant solicitations that will provide detailed instructions on how to submit a funding proposal to the program.

A. Background

The FPIP is funded by the Greenhouse Gas Reduction Fund (GGRF). All GGRF-funded programs must advance AB 32 and SB 32 as the primary program goal and each project must provide real and quantifiable GHG emission reductions. The FPIP will accelerate the adoption of advanced energy efficiency and renewable energy technologies that support achieving the State's long-term GHG emissions reduction goals, while maximizing other co-benefits. The Energy Commission, in alignment with GGRF principles, will prioritize investing the funds in projects that achieve the highest GHG reductions, maximize benefits to disadvantaged communities, and are necessary to meet the state's climate goals.

Specific state legislation governing the FPIP includes the following:

AB 32, the Global Warming Solutions Act of 2006

AB 32 created a comprehensive program mandating a reduction in California GHG emissions to 1990 levels by 2020. In implementing AB 32, the California Air Resources Board (CARB) developed a Scoping Plan that describes the approach California will take to reduce GHG emissions, including the Cap-and-Trade Program. CARB must update the plan every five years. Additional information can be found at: http://www.arb.ca.gov/cc/ab32/ab32.htm.

AB 1550

AB 1550 (Gomez, Chapter 369, Statutes of 2016) amends existing SB 535 (DeLeon, Chapter 830, Statutes of 2012) to set investment minimums for GGRF projects in and benefiting disadvantaged communities and low-income communities and includes the following requirements:

- A minimum of 25% of the proceeds to be invested in projects located within and benefitting individuals living in disadvantaged communities;
- An additional minimum of 5% be invested in projects located within and benefitting individuals living in low-income communities or benefitting low-income communities statewide; and
- An additional minimum of 5% be invested in projects that are located within and benefitting individuals living in low-income communities, or benefitting low-income households that are within one-half mile of a disadvantaged community.

AB 109

This legislation establishes a food processing program at the Energy Commission funded by GGRF and provides grants, loans, or other financial incentives to food processors to implement projects that reduce GHG emissions. This bill authorized $60 million from the GGRF to fund installation of equipment and systems that reduce GHG emissions through reduced energy use.

AB 1532

AB 1532 (Perez, Chapter 807, Statutes of 2012) requires that Cap-and-Trade auction proceeds be used to facilitate achievement of GHG emission reductions. To the extent feasible, also shows how activities maximize economic, environmental, and public health benefits to the State; fosters job creation; complements efforts to improve air quality; direct investments toward disadvantaged communities; provide opportunities for businesses, public agencies, non-profit organizations, and other community institutions to participate in and benefit from statewide efforts to reduce GHG emissions; and lessen impacts of climate change on the State's communities, economy, and environment.

SB 32

Requires the CARB to adopt rules and regulations to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 levels by 2030.

SB 535

Requires the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities and requires CARB to provide guidance on maximizing benefits to these communities. In 2016, AB 1550 amended the investment minimums for disadvantaged communities and established new investment minimums for low-income communities and low-income households.

SB 1018

SB 1018 (Budget and Fiscal Review Committee, Chapter 39, Statutes of 2012) establishes GGRF as the account to receive Cap-and-Trade auction proceeds and established accountability requirements to help ensure that GGRF expenditures achieve GHG reductions and further the purposes of AB 32. SB 1018 also requires each state agency appropriating monies from the GGRF to prepare an Expenditure Record showing how the monies will be used, how the expenditure will further the regulatory purposes of AB 32, how the expenditure contributes to achieving and maintaining GHG emission reductions, how other non-GHG reduction objectives were considered, and how the results achieved from the expenditure will be documented.

SB 862

SB 862 (Leno, Chapter 25, Statutes of 2014) provides funding appropriations from the GGRF to multiple agencies which reduce GHG emissions and provide investments in, and for the benefit of disadvantaged communities. SB 862 also requires CARB to develop guidance on quantification methodologies for estimating GHG emission reductions and co-benefits.

B. Keywords/Terms

Table 1 identifies the key words or terms used in the FPIP Guidelines.

Table 1: Key Words and Terms

Word/Term	Definition
AB	Assembly Bill
CAM	Commission Agreement Manager
Capped Entity	These are facilities that annually emit more than 25,000 metric tons of CO2e. For recent list, refer to Cap-and-Trade Program, Vintage Allowance Allocation.
CARB	California Air Resources Board
CCI	California Climate Investments: An umbrella term and associated logo developed for the purpose of communication with funding recipients and the general public to identify programs or projects funded in whole or in part by the GGRF. For additional information, please refer to: www.caclimateinvestments.ca.gov.
CO_2e	Carbon dioxide equivalent
Disadvantaged Communities	Areas that are disproportionately affected by multiple types of pollution and areas with vulnerable populations. Per SB 535, CalEPA is responsible for identifying disadvantaged communities for the purposes of California Climate Investments. For additional information, please refer to: http://www.calepa.ca.gov/EnvJustice/GHGInvest
Energy Commission	California Energy Commission
FPIP	Food Production Investment Program
Fuel Switching	Involves shifting from fossil fuels to a lower carbon alternative
GFO	Grant Funding Opportunity
GGRF	Greenhouse Gas Reduction Fund
GHG	Greenhouse gas

Word/Term	Definition
Grant recipient	Those that receive an award under the FPIP
Guidelines	Food Production Investment Program Guidelines
M&V	Measurement and verification
Mandatory Reporting	Reporting of GHG emissions by major sources is required by the California Global Warming Solutions Act of 2006 (AB 32). The Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR) is applicable to electricity generators, industrial facilities, fuel suppliers, and electricity importers. The MRR program requires annual reporting of GHGs from sources that emit greater than 10,000 metric tons of CO2e. For more information, please refer to: https://ww2.arb.ca.gov/mrr-data
NAICS	North American Industry Classification
NOPA	Notice of Proposed Award
Priority Populations	Priority populations include residents of: (1) census tracts identified as disadvantaged by California Environmental Protection Agency per SB 535; (2) census tracts identified as low-income per AB 1550; or (3) a low-income household per AB 1550.
Project	A technology or a portfolio of technologies installed in a food processing facility that is contained in a grant application
SB	Senate Bill
Solicitation	The document that requests grant applications from interested parties and includes all attachments, exhibits, any addendum and written notices and questions and answers. Solicitation may be used interchangeably with Grant Funding Opportunity.
Task Force	Food Processors Task Force

CHAPTER 2: Program Design

A. Quantification Methodology

CARB has a statutory role under SB 862 to develop guidance on a quantification methodology to estimate GHG emission reductions and other co-benefits from the FPIP projects. Adoption of energy efficient and/or on-site renewable energy technologies will reduce demand for electricity and natural gas. Reduction of natural gas demand will reduce criteria pollutants which could improve local air quality in communities near the food processing facility.

The CARB quantification methodology is under development. If not available at the time of the Energy Commission's release of the Grant Funding Opportunity (GFO), the Energy Commission's prescribed method to estimate GHG reductions stated in the Measurement and Verification Section will be used by applicants. Once the CARB quantification methodology is developed it will be used to calculate GHG emission reductions and other co-benefits for all awarded projects.

The CARB quantification methodology will be developed based on a review of the available science, in close coordination with the Energy Commission, as well as academic consultants and other experts as needed. Once developed, the CARB quantification methodology will be available for public comment and will be posted at: www.arb.ca.gov/cci-quantification. Once the quantification methodology is final, all projects funded through the FPIP by the GGRF must use this methodology.

CARB is also developing co-benefit assessment methodologies for use in evaluating project co-benefits. These methodologies will be available at: www.arb.ca.gov/cci-cobenefits.

CARB may review and update quantification methodologies periodically, based on new information or public input, to make them more robust, user-friendly, and ensure that they are appropriate for the projects being quantified.

Measurement and Verification (M&V)

The FPIP requires GHG emission reductions be quantified as follows:

- **Initial baseline and estimated GHG emission reductions**. An applicant must first develop an energy baseline for its project based on specific characteristics of the targeted equipment to be retrofitted or replaced, operating conditions at the food processing plant, and other factors. These estimates of baseline energy consumption can be derived from an energy assessment conducted by applicant's facility staff, private consultants, equipment vendors, and others. There are a number of ways in which to conduct an energy assessment of the targeted equipment and the choice of the specific assessment protocol used is left to the applicant, but all assumptions and calculation methodologies to justify baseline energy and GHG emissions must be submitted with the application. All targeted equipment and systems for retrofits must reduce GHG emissions through on-site reductions in electricity and/or natural gas use or through the use of low global warming refrigerants. The Energy Commission will evaluate the estimates and assumptions of GHG emissions reductions and energy savings provided by the applicant in scoring proposals submitted for funding. The scoring criteria will favor those projects having the most potential to cost-effectively reduce GHG emissions along with other factors such as project cost share and benefits to priority populations. Estimates of GHG emission reductions must use the statewide emission factors from the CARB website at: www.arb.ca.gov/cci-quantification.

- **Post-project determination**. Projects awarded funding will be required to monitor and verify post-retrofit energy performance to verify the GHG emissions and energy reductions attained by the equipment installations. Applicants may choose to contract with independent third parties, use in-house staff, or others. Self-certification is acceptable. The Energy Commission or its agents reserves the right to conduct an audit of a sample of the projects to verify assumptions and estimates of energy savings and GHG emission reductions.

B. Project Selection Requirements

Program Objectives

The FPIP will assist California food producers to achieve the following in their facilities:

- **Modernization:** Support adoption of commercially available energy efficient equipment that is a drop-in replacement or addition to existing equipment or processes and provide greater GHG emission reductions than current best practices or industry standard equipment.
- **Driving the Future:** Support adoption and demonstration of cutting-edge emerging technologies to achieve major GHG emission reductions necessary to accelerate the food processing industry into a low-carbon future.

Eligibility Requirements

To be eligible for funding, applicants to the FPIP are limited to food processing facilities located in California and must meet all the following requirements:

1. Applicant must own or operate one or more food processing facilities that is the site for the proposed project.
2. Applicant must be a food processing facility as defined by North American Industry Classification System (NAICS) codes 311 (Food Manufacturing) or 3121 (Beverage Manufacturing).
3. Proposed project must reduce GHG emissions through energy efficiency, use of renewable energy, or other activities, as defined in the grant solicitation.

Funding

Funding for the FPIP will be awarded through a competitive grant solicitation process as described in these Guidelines. Grant solicitations for Tier I and/or Tier II will identify any minimum and maximum grant funds for projects, as well as any limitations on maximum award amounts for individual organizations or project sites. Up to 5 percent of FPIP funds will be retained by the Energy Commission for administrative expenses.

A two-tiered system will be used to categorize awards as indicated in Table 2.

Table 2: Funding Tiers

Tier	Percent of FPIP Funds Available for Awards	Award Size	Minimum Match Requirement
I	Up to 100%	$100,000 to $3 Million	35% of Eligible Costs
II	Up to 50%	$2 Million to $8 Million	15% of Eligible Costs

Tier I is open to all food processing facilities defined by NAICS codes 311 or 3121 subject to limitations specified in the grant solicitation. The focus of Tier I is installation of commercially available energy efficient equipment that are drop-in replacements or additions to current systems and that can result in greater GHG emission reductions and higher efficiency than current best practices or industry standard equipment. Projects must be upgrades/replacements of existing equipment, or additions to existing equipment, that will result in GHG emission reduction projects. Under Tier I, eligible costs for grant funding are limited to the cost of equipment that will result in reductions of GHG emissions and the cost of any M&V required for validation of GHG emissions reduction. Tier I grants can be for up to 65 percent of the eligible costs and require a 35 percent match of eligible costs. Match can come from internal or other funds. If the applicant is leveraging or pursuing funding from multiple sources of the GGRF, the applicant must describe all existing or potential GGRF sources in their application materials. A letter of commitment, as described in the grant solicitation, will be required from all sources providing match funds.

Tier II is open to all food processors defined by NAICS codes 311 or 3121 subject to limitations specified in the grant solicitation. The focus of Tier II is to fund and demonstrate cutting edge technologies that are emerging and not widely used in California but have been proven elsewhere to reduce GHG emissions. These projects are not drop-in ready replacements for existing equipment. Eligible costs under Tier II include equipment, required M&V, and engineering/design. Tier II grants can be for up to 85 percent of the eligible costs and require a 15 percent match of eligible costs. Match can come from internal or other funds. If the applicant is leveraging or pursuing funding from multiple sources of the GGRF, the applicant must describe all existing or potential GGRF sources in their application materials. A letter of commitment, as described in the solicitation, will be required from all sources providing match funds.

Please refer to the grant solicitation for any restrictions on match funds. It is the responsibility of the applicant to review the grant solicitation requirements.

Eligible technologies for Tier I projects are:

- Compressor controls and system optimization
- Machine Drive controls and upgrades
- Mechanical dewatering
- Advanced motors and controls including variable frequency drives
- Refrigeration optimization
- Drying equipment
- Process equipment insulation

- Boilers, economizers
- Steam traps, condensate return, heat recovery
- Evaporators
- Alternatives to natural gas
- Internal metering and software to manage and control electricity and natural gas use if part of a larger project that reduces energy usage
- Other types of controls, such as compressed air, automatic blow down for boilers and system optimization
- Other technologies not specifically listed above that meet all of the following criteria:
    1) Commercially available technology
    2) Energy efficient equipment that is a drop-in replacement or addition to current systems
    3) Result in greater GHG emission reductions than current best practices or industry standard equipment.

Eligible technologies for Tier II projects are:

- Solar thermal
- Renewable energy generation, such as biogas production
- Microgrids
- Fuel switching
- Other technologies not specifically listed above that meet all of the following criteria:
    1) Cutting-edge and emerging technology
    2) Technology is not widely used in California
    3) Not drop-in ready equipment replacement or addition
    4) Proven elsewhere to reduce greenhouse gas emissions

Technologies eligible for Tier I are not eligible for Tier II, and vice versa.

Bundling of technologies and sites will be allowed under the following conditions:

- Tier I:
    - Bundling of technologies within the same facility is allowed
    - Bundling of multiple facilities within the same company is allowed

- Tier II:
    - Bundling of technologies within the same facility is allowed
    - Bundling of multiple facilities **is not** allowed

The Energy Commission reserves the right to do any of the following:

- Solicit proposals/applications for each tier separately or together in a solicitation
- Allocate the funds in phases
- Limit the number/amount of awards per entity
- Limit the number of applications per organization for each grant solicitation or for each tier.
- Narrow the specific pool of eligible technologies for a particular solicitation.
- Restrict applicant eligibility to provide heavier emphasis on food processer facilities that are subject to Cap-and-Trade emissions limits, such as those that emit more than 25,000 metric tons of CO_2e annually and/or to food processor facilities that provide direct benefits to priority populations as identified in AB 1550.

If any of these occur, they will be described in each grant solicitation.

Key Funding Deadlines

The Energy Commission has two years to encumber funds from the budget authorization date and grant recipients have up to four years to spend the funds. The following are encumbrance and liquidation dates:

- All funds allocated in FY 17/18 budget cycle must be encumbered in grant awards no later than June 30, 2019 (this means approval of a grant award by the Energy Commission).
- All awarded funds from FY budget cycle 17/18 must be spent by the grant recipient no later than June 30, 2023.

If future funds are allocated to FPIP, similar funding encumbrance and liquidation requirements will be delineated in future grant solicitations.

Solicitation Procedures

A grant solicitation will be posted on the Energy Commission's website at: http://www.energy.ca.gov/contracts/. Subsequent solicitations, if any, will also be posted on this website.

All information necessary to submit an application will be contained in the grant solicitation and will be consistent with these Guidelines. The grant solicitation will include solicitation objectives, eligibility requirements, schedule, scoring criteria, application form, and other required templates along with the terms and conditions.

Energy Commission staff will hold a pre-application workshop to review the solicitation with potential applicants. Workshop attendance can be in-person or via remote access. Participation is optional but strongly encouraged. The workshop will provide an opportunity for potential applicants to ask questions on the solicitation and the application process. There will also be an opportunity for interested parties to submit written questions about the solicitation. The staff's responses to all questions will be posted on the Energy Commission's website as indicated in the solicitation. Any revisions, corrections, and clarifications on the solicitation will also be posted on the Energy Commission's website and announced through the appropriate listserv(s), such as http://www.energy.ca.gov/research/fpip/. An estimation of the grant solicitation schedule and project timelines are shown in Table 3, with the option of a second or additional rounds if future funds are available. Exact dates will be stated in the solicitation.

Table 3: Estimated Solicitation and Project Timeline

Solicitation/Project Item	Approximate Timeline
Solicitation Release	May 2018
Pre-Application Workshop	June 2018
Deadline for Written Questions	June 2018
Post Questions, Answers and Addenda to Website	July 2018
Deadline to Submit Applications (First Round)	August 2018
Post Notice of Proposed Awards (First Round)	September 2018

Solicitation/Project Item	Approximate Timeline
Business Meeting Date (First Round)	November 2018
Agreement Start Date (First Round)	December 2018
Deadline to Submit Applications (Second Round, if needed)	December 2018
Project Reporting for All Rounds (Progress Reports, Final Report)	Monthly progress reports; Final report due 3 months prior to end of agreement
Agreement End Date (All rounds using FY 17/18 funds, please refer to Key Funding Deadlines in Section II.B.)	No later than 3/31/2023

Any additional rounds would follow a comparable timeline that would be specified in the grant solicitation.

All applications will be scored according to a set of selection criteria. When scoring for the solicitations is complete, the applications will be ranked and a Notice of Proposed Award (NOPA) will be released showing the rank of each applicant based on overall score, as well as information including: applicant name, brief description of proposed project, funds requested and staff recommended funding amount, match funding amount, whether the project is expected to provide benefits to priority populations, and score status. Funding will first be awarded to the top ranked applicant with a passing score and then to the next ranked applicant with a passing score until all funds have been expended.

After the NOPA is released, all applicants will be notified of the results and an Energy Commission representative will begin working with the awardees to develop an agreement for the awarded project. In addition, the NOPA will be posted on the FPIP website at least 10 days before the Energy Commission makes a decision on the funding awards. Once the agreement is finalized it will be presented and voted on at an Energy Commission business meeting. After approval at an Energy Commission business meeting, the grant agreement will be signed by all parties and work may begin on the project.

Project Selection Criteria

Applications will be evaluated and scored based on responses to the information requested in the solicitation. To evaluate applications, the Energy Commission will organize an Evaluation Committee consisting of Energy Commission staff possessing applicable energy and/or food processing expertise. Subject matter experts from other agencies may also be invited to serve as scorers or technical reviewers. Proposals will be evaluated in two stages: application screening and technical scoring.

Application screening is a series of pass/fail administrative requirements (Table 4). Applications that do not pass all the administrative screening requirements are disqualified and will not move on to the scoring stage. The following administrative screening criteria will be used in the FPIP:

Table 4: Application Screening Criteria

SCREENING CRITERIA *The application must pass ALL criteria to progress to Stage Two.*
• The application is received by the due date and time specified in the solicitation.
• The application form is signed.
• The requested funding falls within the minimum and maximum range specified in the solicitation.
• The proposal includes one or more match funding commitment letters
• If the applicant has submitted more than one application, each application is for a distinct project

Proposals that pass the application screening process are then scored by an Evaluation Committee. The following are the technical scoring criteria that will be used for FPIP (Table 5):

Table 5: Technical Scoring Criteria

Technical Scoring Criteria
1. Technical Merit and Need a. **For Tier 1 Projects**: Justifies that the proposed project is commercially available, is drop-in replacement or addition to current systems, and will provide greater GHG emission reductions than current best practices or industry standard equipment. b. **For Tier 2 Projects Only**: Justifies why the proposed project is a cutting edge emerging technology, not widely used in California, not drop-in ready equipment replacement or addition, and proven elsewhere to reduce GHG emissions.
2. Technical Approach a. Describes the approach to performing the work. b. Identifies and discusses factors critical for success, such as risks, barriers, environmental permitting and CEQA, food processing scheduling and other limitations, and how these will be mitigated to successfully complete the project within the grant term. c. Describes how the knowledge gained will be shared with others.
3. Impacts and Benefits a. Provides justifiable and reasonable **quantitative estimates** of: 1) annual GHG emission reductions at the applicant's food processing facility(ies), and 2) other potential benefits for California including the following (*as applicable)*: direct and indirect annual electricity and thermal savings, (kilowatt-hour and therms), energy cost reductions, other air emission reductions (e.g., nitrogen oxides (NOx)), and any other co-benefits. b. Provides cost benefit analysis comparing Energy Commission funds requested relative to estimated GHG emission reductions (e.g., Energy Commission dollars requested/ton of GHG emissions reduced). c. States the timeframe, assumptions, and calculations for the estimated benefits, and explains their reasonableness. d. Identifies other market segments in California that can use the technology demonstrated, including size and penetration or deployment rates, with underlying assumptions e. Provides a clear and plausible M&V plan that describes how GHG emission reductions, energy savings, and other benefits (specified in item 3.a. of the technical scoring criteria) will be determined.

Technical Scoring Criteria
4. Capped and Uncapped Facilities Capped facilities are those that emit more than 25,000 metric tons of CO_2e annually and they must reduce emissions or purchase allowances in quarterly auctions. Uncapped facilities include those that: 1) emit more than 10,000 but less than 25,000 metric tons of CO_2e annually, or 2) those that emit less than 10,000 metric tons of CO_2e annually. Points for capped and uncapped facilities will be allocated as follows:

Description for Tier I Allocation	Percentage of Possible Points
Projects in a capped facility, along with any facility(ies) under the same ownership, can be bundled in one application	100
Projects in a facility that emits between 10,000 and 25,000 metric tons of CO_2e annually, along with any facility(ies) under the same ownership, can be bundled in one application	50
Projects in a facility that emit less than 10,000 metric tons of CO_2e annually	0

Description for Tier II Allocation	Percentage of Possible Points
Projects in a capped facility	100
Projects in a facility that emits between 10,000 and 25,000 metric tons of CO_2e annually	50
Projects in a facility that emit less than 10,000 metric tons of CO_2e annually	0

Preference Points (optional) Applicants must meet the minimum passing score, as defined in the grant solicitation, to be eligible for the preference points for the following:

Description of Preference Area	Percentage of Possible Points
Proposals that meet all the requirements of being located in and benefiting priority populations.	100

Description of Preference Area	Percentage of Possible Points
Equipment selected for installation is purchased from a California-based vendor.	100

Once the scoring process is complete a NOPA is created as described previously.

C. Project Implementation Requirements

If awarded funding, a project agreement is developed which establishes a business relationship between the Energy Commission and the recipient of the FPIP award. The grant agreement includes a Scope of Work, Project Budget, Project Schedule, and general Terms and Conditions. A Commission Agreement Manager (CAM) will be assigned to the project and will be responsible for coordinating with funding recipients to guide agreement development, provide project oversight, and serve as the Energy Commission's point of contact for stakeholders interested in receiving more information about the project.

All recipients will be required to participate in a kick-off meeting to establish deliverable expectations, roles and responsibilities, accounting procedures, and reporting requirements; submit periodic progress reports to ensure the recipient is complying with the task schedules specified in the grant agreement; and provide required deliverables as specified in the Scope of Work. All meetings will be held at the Energy Commission or the project site, as determined by the CAM.

Some FPIP projects could include one or more critical project review meetings at a pre-designated milestone(s) in which the CAM will review the progress to date and determine whether the progress to date justifies proceeding to the next phase of the project and/or make necessary corrections to ensure project success. For all projects, CAMs may call a critical project review at any time during the project, if the CAM believes there is a significant issue with the progress or administration of the project that needs to be discussed, and could result in a change to the project or its termination.

Periodic project progress reports are required which describe project progress to date. These reports are generally required quarterly. The Energy Commission CAM will identify the necessary reporting frequency. A final report will document total performance for the project and will be due about three months before the agreement end date.

D. Maximizing Benefits to Priority Populations

The Energy Commission anticipates a minimum of 10 percent of the funds will be allocated to projects located within and benefiting priority populations. These expenditures will result in the installation of energy efficiency technologies and/or renewable energy technologies, some of which will be installed in food processing plants located in disadvantaged and/or low-income communities, and could result in reduced criteria and toxic air pollutant emissions and other benefits.

All solicitations will provide preference points for projects located in and benefiting priority populations. Applicants must describe their efforts to determine and meaningfully address common needs of priority populations. Preference points will be awarded based on whether the project meets the requirements indicated in CARB guidance, available at: www.arb.ca.gov/cci-fundingguidelines.

Projects claiming to benefit priority populations must be designed to avoid substantial burdens (e.g., displacement of residents and businesses in priority populations, or increased exposure to toxics or other health risks).

The interactive mapping tool to identify disadvantaged and low-income communities is posted at: www.arb.ca.gov/cci-communityinvestments.

CHAPTER 3: Administrative Requirements During Project Implementation

A. Invoicing

- Recipients may bill the Energy Commission for non-match portions of eligible incurred costs that appear in the approved budget (i.e. paid invoice to a supplier, vendor, outside contractor) during the project. No monies shall be advanced to the recipient for any goods or services related to the project. Additional information on invoicing requirements can be found in the solicitation and the terms and conditions.
- Retention of Grant Funds. The Energy Commission shall retain 10% of the grant award amount for release at the satisfactory conclusion of the project.

Prevailing Wage

- Projects that receive an award of public funds from the Energy Commission often involve construction, alteration, demolition, installation, repair or maintenance work over $1,000. For this reason, projects that receive an award of public funds from the Energy Commission are likely to be considered public works under the California Labor Code. See Chapter 1 of Part 7 of Division 2 of the California Labor Code, commencing with Section 1720 and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000. Public works projects require the payment of prevailing wages. Prevailing wage rates can be significantly higher than non-prevailing wage rates. If the recipient does not believe the project is a public works project, the recipient is responsible for obtaining a legally binding determination from the California Department of Industrial Relations or a court of competent jurisdiction before work begins on the project. The recipient is fully responsible for complying with all California public works requirements, including but not limited to payment of prevailing wage.
- If outside contractor labor is utilized, they shall be paid at the prevailing wage for their particular trade as established by the California Department of Industrial Relations. Projects must comply with any applicable laws pertaining to prevailing wage and labor compliance.

Audits and Access to Facilities

- Upon written request from the Energy Commission, recipients must provide all project documents, including detailed documentation of all planned and paid expenses, allow the Energy Commission or its designee access to project facilities and records, and allow the Energy Commission or its designee to collect project-related data including the data required to measure and verify natural gas, electricity, and GHG emission reductions. Further, if requested, the recipient must provide the Energy Commission or its designee associated data from a period before the start of the project, as necessary, to establish baseline data, such as energy use and GHG emissions. Audits or program reviews may occur at any time during program implementation or after projects are completed.

- All GGRF administering agencies including the Energy Commission are subject to Legislative and oversight, including audits by the California State Auditor, Finance, other state oversight agencies, or a third-party auditor.

Records Retention

- Recipients must retain all project records (including financial records, progress reports, payment requests, and electricity and fuel use reduction documentation) for a minimum of three years from the date of the final payment. Recipients must include the above audit, record retention, and access rights in any subcontract or subgrant.

B. Use and Disclosure of Information and Records and Confidentiality

Information received by the Commission in response to a solicitation shall be kept confidential before the posting of the NOPA. However, with very few exceptions, all project documents submitted to the Energy Commission or its technical consultant(s), including as part of any audit, are considered public records subject to disclosure under the Public Records Act. The Energy Commission or other state agencies may also use any of these documents or information for any purpose, including to determine eligibility and compliance with the FPIP, applicable law, or a particular solicitation document, to evaluate related or relevant programs or program elements, or to prepare reports. These documents and information include, but are not limited to: applications for funding, the agreement itself, invoices and any documentation submitted in support of applications, all agreement deliverables, final project report and documents prepared for other reporting requirements, and materials and documents developed as part of technology transfer activities.

If the Energy Commission requires an applicant or a recipient to provide copies of records that the recipient believes contain confidential/proprietary information entitled to protection under the California Public Records Act or other law, the applicant or recipient may request that such records be designated confidential according to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

Applicants or recipients considering requesting confidentiality should note that GGRF funds are subject to information disclosure requirements to ensure transparency. Information concerning the identity of recipients and the grant amount are public information, and will be disclosed according to the California Public Records Act. This information, as well as other public information, may also be disclosed through the Energy Commission's website, another State of California agency website, or through other means.

Please note that the Energy Commission can disclose confidential information and records to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes.

C. Enforcement

The Energy Commission can take any and all actions necessary to enforce the Energy Commission rights.

Recovery of Overpayment or Misuse of Funds

The Energy Commission may direct the Energy Commission's Office of Chief Counsel to commence formal legal action against any applicant, former applicant or recipient to recover any portion of a payment under a grant agreement that the Executive Director determines the applicant or former applicant was not otherwise entitled to receive.

Fraud and Misrepresentation

The Executive Director may initiate an investigation of any applicant that the Executive Director has reason to believe may have misstated, falsified, or misrepresented information in submitting a reservation application, payment claim, or reporting any information required by these Guidelines. Based on the results of the investigation, the Executive Director may take any action deemed appropriate, including, but not limited to, cancellation of the agreement, recovery of any overpayment, and, with the concurrence of the Energy Commission, recommending the Attorney General initiate an investigation and prosecution under Government Code Section 12650, et seq., or other provisions of law.

Noncompliance with Agreement

The Energy Commission may seek remedies for noncompliance with agreement terms, work scope, project milestones, and estimated GHG reductions including without limitation stop work, termination, recovery of funds, or any other administrative or civil action.

D. FPIP Guideline Authority

These FPIP Guidelines are adopted pursuant to Assembly Bill (AB) 109 (Stats. 2017, Chapter 249, section 32) and Public Resources Code section 25218(e). In AB 109, section 32, the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code) does not apply to guidelines or other standards adopted and used by a state agency in administering an allocation of moneys from the GGRF.

If future budget cycles allocate additional funds to FPIP, these guidelines will apply, unless amended or replaced at an Energy Commission business meeting.

The latest CARB guidance is available at: www.arb.ca.gov/cci-fundingguidelines.

E. FPIP Guideline Interpretation

Nothing in these FPIP Guidelines is construed to abridge the powers or authority of the Energy Commission.

F. Effective Date of the FPIP Guidelines

These FPIP Guidelines are not effective until adopted by the Energy Commission at a publicly-noticed Business Meeting. The Energy Commission will post the adopted Guidelines on its website: http://www.energy.ca.gov/research/fpip/.

Applicants may also obtain the FPIP Guidelines by contacting:

California Energy Commission
Food Production Investment Program
1516 Ninth Street, MS-51
Sacramento, CA 95814

cyrus.ghandi@energy.ca.gov

G. Substantive Changes to the FPIP Guidelines

The Energy Commission can make changes to this FPIP Guidelines from time to time. Changes will take effect after adoption by the Energy Commission at a publicly-noticed business meeting. Substantive changes to the FPIP, policy or design include but are not limited to:

- Changes in evaluation criteria.
- Changes in funding criteria for determining award amount to conform to statutory changes.
- Changes in eligibility.

Non-substantive Changes to the FPIP Guidelines

If the final FPIP Guidelines requires non-substantive changes, the Energy Commission will provide a notice of the changes to the FPIP email listserv (Foodproduction listserv) and post the amended FPIP Guidelines on the FPIP Web page.

CHAPTER 4: Project Tracking and Metrics

The recipient must track and document detailed project-level information as it relates to energy savings, GHG emission reductions, and co-benefits throughout the term of the project. The format in which this information is to be tracked and reported will be developed with the CAM. This information is to be retained for a period of three years following completion of the project.

For further information, see the “Quantification Methodology” section in Chapter 2.

CHAPTER 5: Reporting

Recipients of GGRF funds must submit reports on expenditures, investment benefits, and project outcomes, per CARB guidance. Recipient shall provide quarterly report on all projects during the term of its agreement with the Energy Commission and for a period specified by CARB to meet project outcome reporting requirements. These requirements will be specified in the solicitation and could exceed the Energy Commission's grant term.

Reporting shall follow the format provided by the Energy Commission, consistent with the project-type specific reporting requirements in CARB guidance.

Information to be reported includes, but is not limited to:

- Recipient name;
- Project description;
- Project location;
- Census tract;
- Dates: project selected and completed;
- GGRF dollars allocated;
- Leveraged and/or match funds;
- Estimated/actual total project GHG emission reductions;
- Estimated/actual energy saved (kWh, therms, or other fuels) for energy efficiency projects;
- Estimated/actual energy generated (kWh or therm equivalents) for renewable energy projects;
- Other benefits or results; and
- Benefits to priority populations.

STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	)	**Docket No. 18-MISC-01**
	)	**Resolution No: 18-0509-5**
FOOD PRODUCTION INVESTMENT PROGRAM	)	**Food Production Investment Program Guidelines**

WHEREAS, the Food Production Investment Program, funded by Assembly Bill 109 (Statutes of 2017, Chapter 249) and administered by the California Energy Commission, provides grants to California's food processing industry to reduce greenhouse gas emissions by adopting advanced energy efficiency and renewable energy technologies at California food processing plants, and demonstrating the reliability and effectiveness of these technologies; and

WHEREAS, funding for the program comes from the California Climate Investments initiative (Greenhouse Gas Reduction Fund) and all funded projects must reduce greenhouse gas emissions and further the purposes of Assembly Bill 32 and related amendments; and

WHEREAS, the *Food Production Investment Program Guidelines (FPIP Guidelines)*, developed pursuant to Assembly Bill 109 and Public Resources Code section 25218(e), provides details on how the California Energy Commission will administer the program and include information on program design, project selection and administrative requirements; and

WHEREAS, the development of the *FPIP Guidelines* has benefitted from four public workshops, multiple meetings with the California Food Processor's Working Group, as well as, 26 written comments submitted to public docket; and

WHEREAS, after considering all the materials and comments received, the California Energy Commission staff, with guidance and input from Lead Commissioner for Research and Development Chair Weisenmiller, released the latest draft of the *FPIP Guidelines* on May 2, 2018. The *FPIP Guidelines* set forth the types of projects eligible for funding and administrative requirements; and

WHEREAS, the California Energy Commission staff will develop solicitations and grants in the ensuing fiscal years to implement the Food Production Investment Program consistent with the *FPIP Guidelines*; and

WHEREAS, the California Energy Commission has considered the application of the California Environmental Quality Act (CEQA) to the adoption of the *FPIP Guidelines*, and concludes that the *FPIP Guidelines* is exempt from CEQA, either because it fits within activities categorically exempt from CEQA as a "actions taken by regulatory agencies, as authorized by state law or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment" (14 California Code of Regulations section 15308)) or because the action is exempt under the "common sense" exception (14 California Code of Regulations section 15061(b)(3)). The *FPIP Guidelines* proposes funding for categories of activities and other administrative procedures, but decisions to fund specific projects will be made by California Energy Commission at a future date through a competitive solicitation process.

THEREFORE BE IT RESOLVED, the California Energy Commission hereby finds the adoption of the *FPIP Guidelines* to be exempt from CEQA, under categorical exemption California Code of Regulations, title 14, section 15308, actions by regulatory agencies for protection of the environment, and the common sense exemption, adopts *the FPIP Guidelines* with any errata approved at the May 9, 2018 Business Meeting, and authorizes the Executive Director or his designee to implement the Food Production Investment Program consistent with the *FPIP Guidelines*.

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 May 9, 2018.

AYE:
NAY:
ABSENT:
ABSTAIN:

Cody Goldthrite
Secretariat