

DOCKETED

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CALIFORNIA ENERGY COMMISSION

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

In the matter of:

Modification of Alternative and Renewable
Fuel and Vehicle Technology Program
Funding Restrictions

Docket No. 15-OIR-2

[PROPOSED] Resolution Adopting
Emergency Regulations and
Finding of Emergency

WHEREAS, on February 13, 2015, the Commission published the agenda for the February 25, 2015 Business Meeting notifying interested persons that the Commission would be considering adoption of emergency regulations and a finding of emergency to modify Alternative and Renewable Fuel and Vehicle Technology Program funding restrictions; and

WHEREAS, on February 19, 2015, the Commission published a Notice of Consideration and Possible Adoption of Emergency Regulations to Modify Alternative and Renewable Fuel and Vehicle Technology Program Funding Restrictions and Finding of Emergency Pursuant to Government Code Section 11346.1 (Notice), the proposed Express Terms, the Finding of Emergency, and staff's paper entitled Documentation to Support Revisions to Section 3103 Regulations; and

WHEREAS, these documents were provided to every person on the Energy Commission's Bioenergy Action Plan, AB 118 Alternative Fuels, Transportation (General), Energy Policy (IEPR), Opportunity (RFPs, Solicitations), Energy RD&D/PIER, Climate Change, and Business Meeting Agenda list servers and to every person who had requested notice of such matters, and was posted to the Commission's website; and

WHEREAS, the Notice designated February 25, 2015, as the date for the hearing to consider adoption of the proposed emergency regulations and finding of emergency and on this date the Commission held a public hearing to receive comments on the proposed emergency regulations and to consider their adoption;

THE CALIFORNIA ENERGY COMMISSION FINDS:

The California Energy Commission has considered the application of the California Environmental Quality Act (CEQA) to the proposed emergency regulations and concluded that its adoption is not a “project” under CEQA, but that in the event that adoption were determined to be a project, that it would nonetheless be exempt from CEQA requirements pursuant to the “common sense” exemption (CEQA Guidelines, § 15061, subd. (b)(3)) because there is no possibility that the proposed regulations may have a significant effect on the environment, (i.e., in addition to not having any direct or indirect significant effect on the environment, the proposed regulations do not in of themselves authorize or fund any projects; the Commission separately considers each project funded under the ARFVTP, including its potential effect on the environment and compliance with CEQA), and nothing in the record suggests otherwise; and

The proposed emergency regulations amend Title 20, California Code of Regulations, section 3103 to eliminate the requirement for projects receiving ARFVTP funding to discount the value of any emission credits received in an amount commensurate with the level of funding obtained from the Energy Commission for those that voluntarily opt-in to emission reduction credit generating programs for the purpose of participating in the program’s credit market; and

The emergency regulatory action is necessary to address a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare and there is substantial evidence to support this determination; and

There is insufficient time to make the above changes through a standard rulemaking; and

There is substantial evidence that the emergency regulations are needed to effectuate the statute being implemented, interpreted, or made specific; and

The proposed regulations will impose no direct or indirect requirements or costs on state or local agencies or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of the Government Code; and

The proposed regulations will result in no costs or savings in federal funding to the State; and

The proposed emergency rulemaking is consistent and compatible with existing state regulations and there are no comparable federal regulations or statutes that address the specific provision proposed to be changed.

THEREFORE BE IT RESOLVED, after considering all comments received and staff's responses, and based on the entire record of this proceeding, the California Energy Commission hereby adopts the proposed Express Terms, attached hereto as Exhibit A, and adopts the Finding of Emergency, attached hereto as Exhibit B. We take this action under the authority of, and to implement, interpret, and make specific, sections 25213 and 25218(e) of the Public Resources Code, and sections 44271 and 44272 of the Health and Safety Code.

The Energy Commission delegates the authority and directs Commission staff to take, on behalf of the Commission, all actions reasonably necessary to have the adopted regulations go into effect, including but not limited to incorporating any changes approved at the Business Meeting into the final Express Terms submitted to the Office of Administrative Law (OAL); making any appropriate non-substantive changes required by OAL; publishing the Notice of Emergency Rulemaking Action; preparing and filing all appropriate documents with OAL; and preparing and filing the Notice of Exemption with the Governor's Office of Planning and Research.

It is so Ordered.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the California Energy Commission held on February 25, 2015.

AYE:

NAY:

ABSENT:

ABSTAIN:

Harriet Kallemeyn
Secretariat
California Energy Commission

Dated: February 25, 2015