

DOCKETED

Docket Number:	15-OIR-02
Project Title:	Modification of Alternative and Renewable Fuel and Vehicle Technology Program Funding Restrictions
TN #:	206413
Document Title:	Notice of Approval of Certificate of Compliance
Description:	N/A
Filer:	Patty Paul
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/22/2015 10:58:46 AM
Docketed Date:	10/22/2015

**State of California
Office of Administrative Law**

In re:
California Energy Commission

Regulatory Action:

Title 20, California Code of Regulations

Adopt sections:

Amend sections: 3103

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Sections 11349.1 and
11349.6(d)**

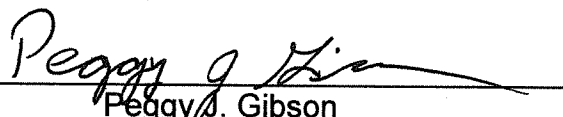
OAL Matter Number: 2015-0911-01

**OAL Matter Type: Certificate of Compliance
(C)**

This Certificate of Compliance by the California Energy Commission makes permanent the prior emergency regulatory action (OAL file no. 2015-0826-01EE) that amended section 3103 of Title 20 of the California Code of Regulations to modify existing regulatory text establishing funding restrictions for the Alternative and Renewable Fuel and Vehicle Technology Program. This action removes the requirement 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 programs for the purpose of participating in the program's credit market. This change would allow these program participants to receive the full value of any emission credits the funded projects create.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: October 20, 2015


Peggy J. Gibson
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Robert P. Oglesby
Copy: Samantha Arens

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

For use by Secretary of State only

400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2015-0911-01C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT 20 2015

1:49 PM

2015 SEP 11 P 4: 10
OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY

AGENCY FILE NUMBER (if any)

Cal. Energy Commission

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2015, 242	PUBLICATION DATE 6/12/15

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Alternative and Renewable Fuel and Vehicle Technology Program		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-0305-02E, 2015-0826-01EE
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)		
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT per agency request	
	AMEND Cal. Code Regs., tit. 20, sect. 3103, "Funding Restrictions"	
TITLE(S)	REPEAL	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)		<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify) _____	

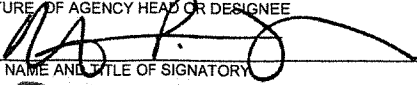
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Samantha Arens	TELEPHONE NUMBER (916) 651 - 9410	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) samantha.arenas@energy.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 9-8-15
TYPED NAME AND TITLE OF SIGNATORY Rob Oglesby, Executive Director	
per agency request	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 20 2015

Office of Administrative Law

California Code of Regulations, Title 20, Section 3103
Final Regulation Text

- a) A project shall not be eligible for funding if it is mandated by any local, regional, state, or federal law, rule, or regulation.
- b) If a project is one that helps the applicant meet a performance requirement mandated by local, regional, state, or federal law, rule, or regulation, the project shall not be eligible for funding.
- c) 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. Credits generated by the excess, however, may not be used or sold by the applicant to offset a legally enforceable requirement, ~~except to the extent allowed by subsection (d).~~
- d) 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. ~~For purposes of this section, the following are not subject to the restrictions contained in subdivisions (a) (c):~~
 - ~~1. A project that produces opt-in fuels under the Low Carbon Fuel Standard (California Code of Regulations, title 17, section 95480.1, subdivision (b));~~
 - ~~2. A project that produces fuel that meets or falls below the average carbon intensity requirements set forth in the Low Carbon Fuel Standard (California Code of Regulations, title 17, section 95482, subdivisions (b) and (c)) for the year in which the credits are generated;~~
 - ~~3. A project under which the applicant has voluntarily opted-in to an emission reduction credit generating program for the purpose of participating in the program's credit market; or~~
 - ~~4. A project that had been awarded funding under Health and Safety Code section 44272 prior to the effective date of this section as amended and also satisfies at least one of the requirements listed in subdivisions (d)(1) (3).~~
- e) For purposes of this section, the following are not subject to the restrictions contained in subdivisions (a) and (c):
 - 1. A project that produces opt-in fuels under the Low Carbon Fuel Standard (California Code of Regulations, title 17, section 95480.1, subdivision (b));
 - 2. A project that produces biofuel that meets or falls below the average carbon intensity requirements set forth in the Low Carbon Fuel Standard (California Code of Regulations, title 17, section 95482, subdivisions (b) and (c)) for the year in which the credits are generated;
 - 3. A project under which the applicant has voluntarily opted-in to an emission reduction credit generating program for the purpose of participating in the program's credit market; and

4. A project that had been awarded funding under Health and Safety Code section 44272 prior to the effective date of this section as amended and also satisfies at least one of the requirements listed in subdivisions (e)(1)-(3).

Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 44272(a), Health and Safety Code . Reference: Sections 44271-44272, Health and Safety Code.