

**DOCKETED**

<b>Docket Number:</b>	22-ALT-01
<b>Project Title:</b>	2022-2023 Investment Plan Update for the Clean Transportation Program
<b>TN #:</b>	242325
<b>Document Title:</b>	CEC Clean Transportation Program Advisory Committee Roles and Responsibilities - March 2022
<b>Description:</b>	N/A
<b>Filer:</b>	Spencer Kelley
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	3/15/2022 9:45:40 AM
<b>Docketed Date:</b>	3/15/2022

# California Energy Commission Clean Transportation Program

## Advisory Committee Roles and Responsibilities<sup>1</sup>

### I. Background and Purpose

Assembly Bill (AB) 118 (Núñez, Chapter 750, Statutes of 2007) created the Clean Transportation Program (formerly known as the Alternative and Renewable Fuel and Vehicle Technology Program). Health and Safety Code section 44272(a) authorizes the California Energy Commission (CEC) to develop and deploy alternative and renewable fuels and innovative transportation technologies to help attain the state's climate change policies. AB 8 (Perea, Chapter 401, Statutes of 2013) re-authorizes the Clean Transportation Program to January 1, 2024. The Clean Transportation Program provides financial and technical support for various projects including those that:

- Reduce criteria and toxic air pollutant emissions from vehicles.
- Reduce the use of and dependence on petroleum transportation fuels, and increase the use of alternative and renewable fuels and advanced vehicle technologies.
- Produce sustainable alternative and renewable low-carbon fuels in California.
- Expand alternative fueling infrastructure and fueling stations available to the public, existing fleets, public transit, and transportation corridors.
- Improve the efficiency, performance, and market viability of alternative light-, medium-, and heavy-duty vehicle technologies.
- Retrofit medium- and heavy-duty on-road fleet and nonroad freight vehicles to alternative technologies or fuel use.
- Offer incentives for the purchase of alternative fuel vehicles.
- Establish workforce training programs and conduct public outreach on the benefits of alternative transportation fuels and vehicle technologies.
- Support local and regional planning for zero-emission vehicle and fueling infrastructure deployment.

Health and Safety Code section 44272.5(a) requires the CEC to annually update an investment plan that communicates the CEC's strategic vision and priorities with respect to the development of alternative and renewable fuel and vehicle technologies, and that provides an analytical rationale for all proposed expenditures that aligns with the CEC's broader strategic goals for the Clean Transportation Program (Investment Plan). The Investment Plan also highlights and explains the

---

<sup>1</sup> Issued March 2022. This document replaces the 2019 previously issued "California Energy Commission Clean Transportation Program Advisory Committee Roles & Responsibilities" in its entirety.

rationale for any year-to-year changes to the Clean Transportation Program strategy and priorities, particularly with respect to specific technologies or policy initiatives. Health and Safety Code section 44272(b) specifies that projects receiving over \$75,000 in funds from the Clean Transportation Program must be consistent with the priorities established in the Investment Plan. The Investment Plan and any updates to the Investment Plan are referred to in this document as the Investment Plan.

Health and Safety Code section 44272.5(a) directs the CEC to create and consult with an advisory body (Advisory Committee) as the CEC develops the Investment Plan.

Also, Title 20, California Code of Regulations, section 3104 specifies that the CEC shall assign a policy committee to establish and maintain the Advisory Committee (Policy Committee). The CEC has ordered that the sole and presiding member of the Policy Committee is Commissioner Patricia Monahan.

## **II. Advisory Committee Membership**

By law, Advisory Committee membership must include, but is not limited to, representatives of the following interest groups:

- fuel and vehicle technology entities,
- labor organizations,
- environmental organizations,
- community-based justice and public health organizations,
- recreational boaters,
- consumer advocates,
- academic institutions,
- workforce training groups, and
- private industry.

The Advisory Committee shall also include representatives from the Resources Agency, the Transportation Agency, the Labor and Workforce Development Agency, and the California Environmental Protection Agency.

The Policy Committee shall appoint persons to the Advisory Committee following the selection procedures provided in Title 20, California Code of Regulations, section 3106. Representatives of the four State agencies specified in California Health and Safety Code section 44272.5(b) shall represent their respective agencies. All other members shall serve in their individual capacity and as a representative of their designated interest group.

Although membership representation requirements are described in the context of interest groups, membership on the Advisory Committee is in an individual capacity (except for those representing agencies) and any reference to “member” in this document is a reference to the *individual* member (except for agencies).

- a. *Advisory Committee members may not attempt to influence certain CEC decisions if they are being paid to communicate on behalf of another entity.*

Government Code section 87104 prohibits a member of an advisory body from making any formal or informal appearance before, or any oral or written communication to, the member's state agency on behalf of any other entity for compensation, if intended to influence the state agency's decision on a contract, grant, loan, license, permit, or other entitlement for use.

The CEC is sensitive to the perception that, by serving on the Advisory Committee, members could unfairly influence funding decisions to benefit the entity they work for or own. To avoid any violation of Government Code section 87104 or the perception of unfair influence, Advisory Committee members may not make any formal or informal appearances before the CEC on behalf of another entity for compensation for the purpose of influencing a decision on a contract, grant, loan, or other entitlement. This prohibition includes oral or written communications to CEC Commissioners or staff to attempt to influence a funding decision on a contract, grant, loan, or other entitlement.

It is important to ensure that the Advisory Committee includes the expertise of the interest groups identified in Health and Safety Code section 44272.5(b). To balance the need for such expertise with the need to avoid any violation of Government Code section 87104 or perception of unfair influence, Advisory Committee members are advised that:

- No Advisory Committee member may attempt to influence a CEC decision on a specific contract, grant, loan, license, permit, or other entitlement for use by appearing before or communicating with a CEC Commissioner or staff on behalf of any entity from which they are compensated, while serving as an Advisory Committee member. The following specific prohibitions apply to Advisory Committee members who appear before or communicate to the CEC on behalf of another entity for compensation:
  - An Advisory Committee member may not sign or be named in an application, agreement or related document submitted to the CEC for review or approval.
  - An Advisory Committee member may not advocate through letters, emails, phone calls, meetings, or any other form of oral or written communication, either in or outside of public Advisory Committee meetings, with a CEC Commissioner or staff to promote the entity they work for or own as a candidate for CEC funding.
- It is a misdemeanor if an Advisory Committee member knowingly or willfully violates Government Code section 87104.
- The following acts are not prohibited:
  - An Advisory Committee member may communicate with CEC Commissioners or staff to discuss general policies or programs, including Clean Transportation Program funding allocations related

- to the interest group they are appointed to represent, so long as the communication is not an attempt to influence a specific CEC decision on any contract, grant, loan, license, permit or other entitlement.
- An Advisory Committee member's employing entity or client may apply for CEC funding opportunities, so long as the Advisory Committee member is not named in the application or agreement documents.
  - Other employees or contractors of an Advisory Committee member's employing entity or client may communicate with the CEC about a decision on a contract, grant, loan, license, permit or other entitlement so long as an Advisory Committee member is not named in the communication.
  - An Advisory Committee member who represents a state, local, or federal government agency may engage in communications on behalf of their public employer in an appearance before, or communication to, the Advisory Committee, even if the communication is intended to advocate for the member's agency on a CEC contract, grant, loan, license, permit or other entitlement decision.

b. *The Advisory Committee is subject to the Bagley-Keene Open Meeting Act.*

All Advisory Committee meetings will be held and conducted in accordance with the Bagley-Keene Open Meeting Act (Bagley-Keene) and any applicable health and safety requirements. Bagley-Keene is a law that requires that meetings of public agencies be conducted openly, with opportunity for public participation. Two key aspects of the law are what constitutes a meeting and how meetings must be noticed.

First, a meeting is defined by the law as any congregation of a majority of Advisory Committee members at the same time and place to hear, discuss, or deliberate on any item within the Advisory Committee's subject area, which is usually the Clean Transportation Program Investment Plan. All meetings must be open and publicly accessible, including to members of the public who have a disability. Meetings can occur by a majority of Advisory Committee members being physically present and discussing Clean Transportation Program business, or they can be serial, such as occurring through a series or intermediaries or electronic means. For example, if an e-mail is sent to the entire Advisory Committee, members should not reply all because doing so could create an unnoticed serial meeting of a majority of the Advisory Committee members via e-mail.

The second key aspect of the law is that meetings must be noticed. The law generally requires CEC staff to publish the notice, including a specific agenda and the time and place of the meeting, at least 10 days in advance of the meeting

date. Advisory Committee members are required to review and follow all meeting notice and attendance requirements, including any remote attendance notification requirements, to ensure meetings are held in accordance with all applicable requirements.

Any Advisory Committee member who attends a meeting of the Clean Transportation Program Advisory Committee in violation of Bagley-Keene requirements, and where the member intends to deprive the public of information to which the public is entitled, may be guilty of a misdemeanor.

*c. Frequency of meetings and attendance*

The Advisory Committee will meet at least twice per year, or more often as determined by the Policy Committee.

Regular attendance and participation at Advisory Committee meetings is essential. Each Advisory Committee member is responsible for attending and actively participating in meetings, including soliciting and sharing input, and reviewing and being familiar with materials provided before meetings. By accepting an invitation to serve on the Advisory Committee, the Advisory Committee member agrees to fulfill these responsibilities to the best of their ability.

*d. Term of appointment*

Advisory Committee members serve at the pleasure of the Policy Committee. Members shall serve until January 1, 2024, or until their term is otherwise ended by the Policy Committee, whichever is shorter.

### **III. Advisory Committee Role and Responsibilities**

The Advisory Committee is composed of individuals from a wide range of interests that can provide advice and guidance to the CEC on matters relative to their respective interests. As the CEC develops the Investment Plan it will seek input on priorities and opportunities for the Clean Transportation Program in accordance with Health and Safety Code section 44272.5. All Clean Transportation Program decision-making rests with the CEC, including the determination of priorities and opportunities, solicitations, funding awards, contracts, grants, and loans.

Advice and guidance from the Advisory Committee shall be provided in public meetings of the Advisory Committee or via written comments submitted to the public CEC docket identified in the meeting notice. Please see the section above on the Bagley-Keene Open Meeting Act. The Advisory Committee may provide input on the following topics as related to the Investment Plan:

- Public and private sources of funding, availability and applicability of these sources for the purposes of the Clean Transportation Program, and contact information;
- Financial tools that can be used to support the objectives of the Clean Transportation Program, and the most effective application of grants, loans and other appropriate measures to advance the market penetration of the myriad alternative, renewable and other innovative fuel and vehicle technology options;
- State of technological development of alternative, renewable and other innovative fuel and vehicle technologies, current level of research, development and demonstration support for these technologies, and need for support to move these technologies into the market place;
- The effectiveness and magnitude of individual alternative, renewable and other innovative fuel and vehicle technologies to reduce petroleum use, improve air quality and lower greenhouse gas emissions;
- Market applications for alternative, renewable and other innovative fuel and vehicle technologies that can simultaneously maximize petroleum reduction, air quality improvement, and greenhouse gas reduction;
- Market niche applications for alternative, renewable and other innovative fuel and vehicle technologies;
- Coordination with other states or the federal government to increase the synergy of reducing petroleum use, expanding the use of alternative fuels, improving air quality and lowering greenhouse gas emissions;
- The state of commercial use of alternative, renewable and other innovative fuel and vehicle technologies and the need for support to expand their use;
- Analytical and other technical support that will be needed to more clearly delineate the issues and opportunities associated with alternative, renewable and other innovative fuel and vehicle technologies;
- Community needs and benefits related to clean transportation and the Clean Transportation Program;
- Job skills needed to support an expanding poly-fuel transportation market and current availability of training for these skills; and
- Public and private sources of funding available for job training, applicability to the objectives of the Clean Transportation Program, contact information, and the need for support to help expand the skilled job pool needed for the future transportation market.

The CEC may seek input from the Advisory Committee on other topics related to the Investment Plan.

#### **IV. CEC Responsibilities**

The Policy Committee will chair the meetings of the Advisory Committee. The CEC will provide notice and an agenda for all Advisory Committee meetings, distribute meeting materials to Advisory Committee members, and ensure that stakeholders and the public have an opportunity to comment at all Advisory Committee meetings. The CEC will make a record of each Advisory Committee meeting, which will be made available to the public.

The CEC shall establish a public docket for the Investment Plan where meeting notices, documents, and recordings will be docketed. The CEC will provide logistical support related to attendance at Advisory Committee meetings and assist the Advisory Committee to better understand existing policies and programs. The CEC will consider input from the Advisory Committee, stakeholders and public to develop the draft Investment Plan. The CEC will also provide an opportunity for comment on the draft Investment Plan including by the Advisory Committee, stakeholders, and public before it is adopted by the CEC.

This document and an accompanying Frequently Asked Questions document will be docketed. Clean Transportation Program Investment Plan Project Manager Patrick Brecht ([Patrick.Brecht@energy.ca.gov](mailto:Patrick.Brecht@energy.ca.gov)) may also be contacted with any questions.

#### **V. Applicability of the Political Reform Act**

The disclosure requirements of the Political Reform Act apply only to public officials serving as employees or members of state or local government agencies, or consultants thereto. The Advisory Committee is not a state agency or local government agency as defined in the Political Reform Act. Additionally, its members are not considered "consultants" under the Political Reform Act, as that term is defined in regulation, because:

- They are not authorized to make decisions, enter into contracts, negotiate, or otherwise act on behalf of the CEC;
- They are not serving in the capacity of CEC staff; and
- They are not performing the duties of an individual who is holding a position that is designated in the CEC's conflict of interest code. They are, specifically, members of an advisory body created by statute for the discrete task of providing input to the CEC in the development of an Investment Plan.

Therefore, members of the Advisory Committee are not subject to the Political Reform Act's requirement to file an annual economic interest statement.