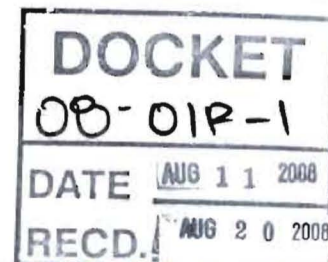




CALIFORNIA ENERGY COMMISSION



PROPOSED DRAFT REGULATORY LANGUAGE

ALTERNATIVE AND RENEWABLE FUELS AND VEHICLE TECHNOLOGY PROGRAM

Charles Mizutani, Manager
Emerging Fuels and Technologies Office
Fuels and Transportation Division

Committee Workshop
Sacramento, CA
August 11, 2008



Program Goal

The goal of the Alternative and Renewable Fuel and Vehicle Technology Program is 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 Section 44272(a)



Rulemaking

- Develop and adopt regulations to clarify ambiguities in statute.
- Create certainty in administering the Program.
- Two phases

Informal: Develop regulatory concepts and draft regulations for public review.

Formal: Begins when proposed regulations are submitted to the Office of Administrative Law (OAL).



Rulemaking Timeline

- | | |
|----------|--|
| Aug. 11 | Committee workshop on draft regulation language, except sustainability goals |
| Aug. 15 | Working group meeting on sustainability goals |
| Aug. 25 | Post draft sustainability regulations |
| Sept. 9 | Public workshop to review draft sustainability regulations |
| Sept. 19 | Written comments due on draft sustainability regulations |
| Oct. 7 | Draft regulations submitted to OAL |
| Oct. 17 | Notice of Proposed Action (NOPA) published |
| Dec. 1* | 45 day public comment & review period ends |
| Dec. 8 | Materials due to Contracts Office for Business Meeting |
| Jan. 14* | Business meeting: If approved, then Final Statement of Reasons written and final package goes to OAL |
| Mar. 2 | End of 30 working day review period for OAL
Earliest possible date for OAL to approve and publish Regulations with the Secretary of State |
| Apr. 2 | Earliest possible date for Regulations to take effect |

* Assumes that public comment/Commission review will not result in changes to regulatory language that would require an additional 15 day public review period.



Proposed Regulation Language Topics

- 1. Advanced Vehicle Technology**
- 2. Sustainability Goals**
- 3. Funding Restrictions**
- 4. Advisory Committee**
- 5. Investment Plan**



1. Advanced Vehicle Technology

(Formerly known as “Fuel and Technology Definitions”)

- Current definitions do not include vehicle or component manufacturing. Statute allows for the production of alternative and renewable fuels in California, but does not similarly identify vehicle production.
- Regulations are needed to define eligibility to include the production and manufacture of advanced vehicles and related technologies. Eligibility should extend to projects that would manufacture these technologies in-state.
- Proposed language would extend funding to include:
 - Advanced (in-state) vehicle manufacture
 - Vehicle component manufacture



1. Advanced Vehicle Technology

continued

Proposed Language: Projects that produce or manufacture advanced vehicles and vehicle components in California for the life of the project shall be eligible for funding under the program. Such projects include, but are not limited to, technologies that provide any of the following: improved fuel efficiency, lower greenhouse gas emissions, alternative fuel usage, fuel cell technology, plug-in hybrid technology, electrified components, energy storage, vehicle retrofit and battery recycling.

Discussion item: Are there other vehicle technology or vehicle component categories that should be identified for eligibility under manufacturing and production in California?



2. Sustainability Goals

- Separate workshop for draft regulatory language comment and discussion (September 9).
- Sustainability goals will be included in program regulations, while the sustainability characteristics will be presented in the Investment Plan and solicitations.
- Draft sustainability goals and characteristics will be discussed at the Sustainability Working Group Meeting (August 15).



3. Funding Restrictions

(Formerly called “Existing Laws, Rules, and Regulations”)

Regulatory language is needed to define and clarify the entity obligated to comply.

The regulatory language will address two points:

1. The Energy Commission cannot provide AB 118 funds to entities that: 1) are mandated to comply with an existing law, rule, and regulation; or 2) are necessary to achieve compliance.
2. The Energy Commission has latitude to fund both upstream (such as, alternative fuel producers) and downstream (for example alternative fuel consumers) of the entity obligated to comply.



3. Funding Restrictions (continued)

Proposed Language: A project that is mandated by any state or federal law, rule, or regulation, or by an air district rule or regulation, memorandum of agreement/ understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate, shall not be eligible for funding. Neither shall a project be eligible for funding if it is necessary to achieve compliance with an applicable state or federal law, rule, or regulation or with an air district rule or regulation, memorandum of agreement/ understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate. To the extent a project exceeds what is required to comply with an applicable state or federal law, rule, or regulation, or with an air district rule or regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate, it may receive funding for that part of the project that the applicant demonstrates is not mandated or integral to meeting a mandate. For purposes of this section, a mandate refers to any requirement enforceable by a state or federal agency or by an air district for the purpose of reducing the emission of one or more criteria pollutants, toxic air contaminants, or any greenhouse gas.



3. Funding Restrictions (continued)

- Discussion item: Should projects funded under the program be eligible to apply any surplus externality benefits, such as criteria pollutant benefits, as credit under a local, state, or federal air emissions averaging, banking or trading program?



4. Advisory Committee

Need for more specificity on the title and leadership of the advisory body and organizational and participatory aspects of the advisory body.

- A. Advisory body: Energy Commission will assign an appropriate policy committee to establish and maintain an advisory body required under statutes.

Proposed Language: The commission shall assign an appropriate policy committee to establish and maintain, as needed, an advisory committee for the Alternative and Renewable Fuel and Vehicle Technology Program. The advisory committee shall function as the advisory body required under Section 44271.5 of the Health and Safety Code.



4. Advisory Committee (continued)

- B. Designation of Advisory Committee Presiding Member:
Assigned policy committee presiding member role.

Proposed Language: The presiding member of the assigned policy committee shall serve as the presiding member of the advisory committee and shall preside over its public meetings.

- C. Selection of Advisory Committee Members: The assigned policy committee shall solicit applications from the interest groups and agencies identified in statutes and other interest groups. The assigned policy committee shall notify interested persons at least 14 days in advance of an opportunity to serve as a member.



4. Advisory Committee (continued)

C. Proposed Language: (a) The assigned policy committee shall solicit applications from persons who wish to serve as a representative from one of the interest groups or agencies identified in Section 44271.5 of the Health and Safety Code, and may solicit applications from other persons who wish to represent interest groups beyond those listed in Section 44271.5 of the Health and Safety Code.

(b) Anyone wishing to serve on the advisory committee by representing an interest group not identified in Section 44271.5 of the Health and Safety Code may apply to the assigned policy committee during any solicitation for applications. The assigned policy committee shall have the discretion to allow for one or more additional interest groups to be represented on the advisory committee. Such a determination shall consider whether representation of an additional interest group serves to diversify input from the advisory committee and whether the applicant has particular knowledge or expertise that would benefit public discussions and recommendations.

(c) The assigned policy committee shall notify interested persons at least 14 days in advance of any opportunity to serve as a representative on the advisory committee. The notice shall describe the process for selecting representatives, any criteria that will be used to choose between two or more persons wishing to represent the same interest group, and the number of representatives to be selected. Those selected to serve on the advisory committee shall serve at the pleasure of the assigned policy committee, except that the policy committee shall ensure that each interest group identified in Section 44271.5 of the Health and Safety Code is represented on the advisory committee.



4. Advisory Committee (continued)

- D. Advisory Committee Duties: The Advisory Committee shall meet at least twice a year to assist in the Investment Plan development or updates. The meetings shall be open to the public with 10 days notice. The presiding member decides about necessity and schedule.

Proposed Language: Each Advisory Committee shall hold one or more public discussions and arrive at public recommendations, which inform and advise the assign policy committee in the drafting of the Investment Plan.



4. Advisory Committee (continued)

D. Proposed Language:

- (a) The advisory committee shall meet at least twice a year to assist in the development of an investment plan and its updates. The presiding member, in consultation with advisory committee members shall decide when to hold advisory committee meetings and whether additional meetings are needed.
- (b) The role of the advisory committee shall be to hold one or more public discussions and arrive at public recommendations, whether by consensus or otherwise, regarding one or more elements of the investment plan. All public discussions and recommendations shall serve to inform and advise the assigned policy committee in the drafting of a proposed investment plan. The assigned policy committee shall annually propose an investment plan, its update, or the lack of need for an update to the commission for approval.
- (c) Each advisory committee meeting shall be open to the public. No less than 10 days prior to each meeting, notice of the meeting shall be posted on the commission's website and mailed or otherwise sent to interested persons. The commission shall establish a list of persons who request notice in writing.

Discussion item: How often should the Advisory Committee meet per year?



5. Investment Plan

- Regulations clarify the role of the Investment Plan in implementing the Program.
- Determines priorities and opportunities for funding to attain the program goals.
- Annual update; subject to Energy Commission approval.
- Policy committee is responsible for preparing the draft plan or update.
- Policy committee will consider public and advisory committee input.



5. Investment Plan (continued)

- Draft publication 30 days before Business Meeting approval.
- Publication of proposed investment plan 14 days prior to Business Meeting.
- All funding decisions must be consistent with the plan.
- Plan needs to identify types/categories of funded projects.



5. Investment Plan (continued)

Proposed language:

(a) The investment plan shall be subject to commission approval and, as approved, shall determine priorities and opportunities for funding under the program for the ultimate purpose of transforming the state's fuels and vehicles to help attain the state's climate change policies and achieve the other goals specified in Health and Safety Code, Section 44271 et seq.

(b) The assigned policy committee shall be responsible for the preparation and publication of a draft investment plan or update, taking into consideration recommendations and input from public meetings with the advisory committee.

The draft investment plan or update shall be available for public review and comment no less than 30 days prior to the meeting at which the commission considers approving the proposed investment plan or update. During the period of public review, the assigned policy committee shall hold at least one public workshop on the draft investment plan or update. The assigned policy committee may revise the draft investment plan based on comments received during the public review period. At least 14 days prior to the business meeting at which the investment plan will be considered for approval, the assigned policy committee shall publish a proposed investment plan.

(c) All funding decisions made by the commission shall be consistent with the investment plan, which shall be updated as needed annually. The investment plan shall not identify specific projects or technologies for funding, but shall serve to give public notice as to the types of projects that would be eligible to receive funding under the program and to specify the categories of funding allocations.