

**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 EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

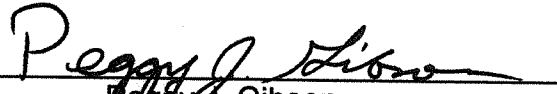
OAL File No. 2015-0305-02 E

The California Energy Commission is amending section 3103 of Title 20 of the California Code of Regulations in this emergency rulemaking action. The purpose of this action is to modify existing regulatory text establishing funding restrictions for the Alternative and Renewable Fuel and Vehicle Technology Program. This emergency 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 emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 3/12/2015 and will expire on 9/9/2015. The Certificate of Compliance for this action is due no later than 9/8/2015.

Date: 3/12/2015


Peggy J. Gibson
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Karen Douglas
Copy: Lisa DeCarlo

EMERGENCY

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2015-0305-02E
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For use by Office of Administrative Law (OAL) only

2015 MAR -5 PM 12: 23

OFFICE OF ADMINISTRATIVE LAW

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

MAR 12 2015
3:20 pm

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
State Energy Resources Conservation and Development Commission (California Energy Commission)

AGENCY FILE NUMBER (if any)
15-OIR-2

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 Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Modification to ARFVTP Funding Restrictions	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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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
	AMEND 3103
TITLE(S) 20	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input 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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

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 Lisa DeCarlo	TELEPHONE NUMBER 916-654-5195	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) lisa.decarlo@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 3-2-15
TYPED NAME AND TITLE OF SIGNATORY Rob Oglesby, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 12 2015

Office of Administrative Law

**Express Terms to Modify Alternative and Renewable Fuel and Vehicle Technology
Program Funding Restrictions**

California Code of Regulations

Title 20. Public Utilities and Energy

Division 2. State Energy Resources Conservation and Development Commission

**Chapter 12. Alternative and Renewable Fuel and Vehicle Technology Program
Regulations**

Article 1. General Provisions Regarding Project Funding

Section 3103

- 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 ~~proposing entity~~ 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 ~~proposing entity~~ applicant to offset a legally enforceable requirement, except to the extent allowed by subsection (b).
- 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 95840.1, 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 95842, 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).

~~(b) A project that generates credits that the applicant plans to claim based on the reduction of criteria pollutants, toxic air contaminants, or greenhouse gases may not be eligible for funding unless all of the following occur:~~

- ~~(1) the applicant seeks funding for only a portion of the project;~~
- ~~(2) the applicant agrees in the funding agreement to discount emission credits at least in proportion to the amount of funding received;~~
- ~~(3) the project satisfies one or more of the criteria in sections 3101 and 3101.5, as appropriate.~~

Note: Authority cited: Sections 25213, 25218(e), Public Resources Code; Sections 44271(e) and 44242(a) Section 44272(a), Health and Safety Code. Reference: Section 44271(e), Sections 44271-44272, Health and Safety Code.