

FINDING OF EMERGENCY

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

Title 4, Division 13, Article 2

Finding of Emergency

Pursuant to Public Resources Code Section 26009, the regulations being readopted by the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) as emergency regulations (the “Emergency Regulations”) are expressly deemed in statute to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Authority and Reference

Authority: Public Resources Code Section 26011.8. Section 26011.8 of the Public Resources Code authorizes CAEATFA to approve a project for financial assistance in the form of the sales and use tax exclusion established in Section 6010.8 of the Revenue and Taxation Code.

Reference: Public Resources Code Section 26011.8; Revenue and Taxation Code Section 6010.8. This regulation will implement and make specific Section 26011.8 of the Public Resources Code.

Incorporation by Reference

The following documents are incorporated by reference in this rulemaking:

- Legal Status Questionnaire (as revised on August 14, 2018)
- Part 121.201 of Title 13 of the Code of Federal Regulations (1-1-20 Edition)

Informative Digest

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) and requires CAEATFA to establish programs to provide financial assistance to participating parties for projects related to alternative energy sources and advanced transportation projects.

Existing law authorizes CAEATFA to provide a sales and use tax exclusion (“STE”) to certain types of manufacturers and recyclers to promote the creation of California-based manufacturing, California-based jobs, and advanced manufacturing and the reduction of greenhouse gas emissions, air and water pollution, or energy consumption. Existing law specifies the criteria by which CAEATFA is required to evaluate STE applications, including, among others, the extent to which a project will create new, permanent full-time jobs in California; the extent of unemployment in the area in which the project is proposed to be located; and any other factors CAEATFA deems appropriate.

Existing law also limits to \$100 million the amount of STE CAEATFA is authorized to grant for each calendar year.

Existing STE program regulations establish eligibility and evaluation criteria by which applications are reviewed. Existing STE program regulations specify that CAEATFA will accept applications on a rolling, first-come-first-serve basis until the program becomes oversubscribed, and that the CAEATFA Board may limit the number of meetings at which applications will be considered. As part of the application, existing STE program regulations require applicants to submit information on the applicant’s business, the proposed project, and the product to be manufactured.

Previous STE program regulations limited applicants to receiving \$20 million in STE per calendar year based on the average statewide sales and use tax rate at the time of application. If any STE from the \$100 million cap was available at the end of the calendar year after all applications submitted for that calendar year had been considered, capped applicants were able to submit a revised application for consideration by CAEATFA to seek additional STE. Previous STE program regulations required that any STE remaining from the \$100 million cap be split evenly among applicants CAEATFA approved to receive additional STE.

Now, existing STE program regulations establish a competitive process whereby applications are ranked based on specific criteria to determine the order of priority for consideration by CAEATFA if the program becomes oversubscribed in a given month.

Existing STE program regulations require approved applicants to execute a Regulatory Agreement with CAEATFA that sets out the terms of using the award. Previous STE program regulations required approved applicants to purchase at least 15% of the total qualified property amount approved within one year of approval and did not provide the CAEATFA Board the ability to waive or extend this requirement.

Existing STE program regulations require applicants to pay fees to cover the cost of reviewing applications and administering the program. Previous regulations required applicants to pay a \$500 fee for requests for the CAEATFA Board to modify the Regulatory Agreement or authorizing resolution.

For the first time in STE program history, CAEATFA exhausted the \$100 million STE cap by the July 2019 Board meeting rather than the December CAEATFA Board meeting. Also for the first time, the program’s competitive criteria were used to determine which applicants would be considered. Given the limited resources and recent competitive nature of the STE program, the CAEATFA Board requested that Staff re-evaluate program goals and priorities to determine how

best to effectuate the purpose of the program. Additionally, Staff had been identifying lessons learned throughout program implementation.

At the November 19, 2019, CAEATFA Board meeting, Staff presented proposed amended regulations reflecting feedback from the CAEATFA Board and Staff's stakeholder outreach. The modified regulations made incremental changes to address more immediate STE program priorities at the time, while reserving some of the more complex issues for when Staff could take more time to solicit input and thoughtfully consider the issues and policy trade-offs.

After the initial emergency regulations were approved by the Office of Administrative Law and became effective on December 16, 2019, CAEATFA began accepting STE applications for the 2020 calendar year. By the first application deadline, the STE program was oversubscribed for the 2020 calendar year. In March 2020, the CAEATFA Board approved 18 applications, fully awarding the \$100 million in STE. Six applicants requesting approximately \$10 million in STE remained on the waitlist.

Subsequently, the COVID-19 pandemic spread throughout the world, affecting purchase timeframes, financing, feedstock supply, revenue, construction, and operations for previously approved applicants. However, the ultimate market impact of the COVID-19 pandemic remains unknown.

Given the significant STE program and market changes since the December 2019 emergency regulations first took effect, CAEATFA conducted additional stakeholder outreach and discussions to determine what lessons learned could be applied to the regulations going forward. Proposed amended regulations reflecting feedback from the CAEATFA Board and Staff's stakeholder outreach were presented and approved by the CAEATFA Board at the September 15, 2020, CAEATFA Board meeting. The December 2019 emergency regulations expired on October 15, 2020.

The September 2020 proposed Emergency Regulations addressed the STE program's oversubscription for the last three years, addressed the unprecedented economic impact of the COVID-19 pandemic, and incorporated the lessons learned from program implementation.

After the September 2020 Emergency Regulations took effect on November 4, 2020, CAEATFA began accepting applications for consideration in calendar year 2021. CAEATFA received 31 applications by the first deadline of November 20, 2020, for consideration in January 2021, requesting over \$102 million in STE. Given the number of applications received and the time needed to implement the different pools of STE and the competitive process, the first applications were considered at the March 2021 CAEATFA Board meeting.

At the March 2021 CAEATFA Board meeting, the CAEATFA Board approved 29 Applications, leaving an estimated STE value of \$7,020,745 in the STE program's general pool. The applications considered in March resulted in an oversubscription of the \$20 million in STE set-aside for small projects requesting \$2 million or less in STE and a competitive process for that particular pool. The general pool of STE was not oversubscribed based on the complete applications received by the deadline for consideration, and, therefore, all applications under that pool were brought before the CAEATFA Board in order of receipt. Subsequently, one of the applicants approved in March

2021 did not move forward with a Regulatory Agreement with CAEATFA, restoring \$433,011 in STE to the small-project set-aside.

After the March 2021 CAEATFA Board meeting, CAEATFA had eight Applications in the queue for the remaining 2021 calendar year STE. The remaining STE was awarded to three applicants at the May 2021 CAEATFA Board meeting. Based on the amount of STE available in both the small-project set-aside and the general pool, the two complete applications received by the December 2020 application deadline were considered in order of receipt, with one of the applicants receiving the remaining STE from the small-project set-aside. The two applications received by the January 2021 application deadline were ranked based on the competitive criteria, and the application with the greater point-score was the third and final application considered at the May 2021 CAEATFA Board meeting. CAEATFA has continued to accept applications for the 2021 calendar year waiting list, which currently has 15 applications requesting approximately \$56 million in STE. CAEATFA Staff is assessing the benefits and challenges of the regulations modifications to determine how to further improve and streamline the STE program administration.

These proposed Emergency Regulations will allow CAEATFA to continue to offer financial assistance to alternative source, advanced transportation, advanced manufacturing, and recycling projects. By promoting these types of projects, CAEATFA promotes California-based manufacturing, California-based jobs, the reduction of greenhouse gas emissions, and the reduction of air and water pollution and energy consumption.

Government Code Section 11346.5(a)(3)(D) requires that the notice of emergency rulemaking include, “[an] evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” CAEATFA’s Staff reviewed the California Code of Regulations and found no existing regulations dealing with this issue. Therefore, CAEATFA believes that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

Section 10031. Definitions.

This section includes definitions of terms commonly used throughout the regulations and STE program documents. This section is amended to add further specificity and clarity, update definitions to include advanced manufacturing and recycling projects, and update section references.

Necessity

Section 10031(a) is amended to specify that the administrative fee is payable upon the execution of the Regulatory Agreement and at the time of submitting semi-annual reports. The proposed amendment is necessary to clarify an administrative fee is not just due with the submission of semi-annual reports but also upon the execution of the Regulatory Agreement, consistent with regulation Section 10036(b).

Section 10031(p) is amended to update the definition of “Facility or “Facilities” to include advanced manufacturing and recycling projects. The proposed amendment is necessary to include advanced manufacturing and recycling projects, which were statutorily added to the STE Program by SB 1128 (Chapter 677, Statutes of 2012) and AB 199 (Chapter 768, Statutes of 2015).

Section 10031(v) is amended to update the statutory reference for the definition of “Project” to Public Resources Code Section 26011.8(b)(1), as amended by AB 199 (Chapter 768, Statutes of 2015).

Section 10031(w) is amended to update the definition of “Qualified Product” to include products produced by recycling projects, which were statutorily added to the STE program by AB 199 (Chapter 768, Statutes of 2015).

Section 10032(a). Application Requirements. Timing of Application submissions.

This subsection is amended to streamline the application process, adjust the annual per-applicant cap from \$20 million in STE to \$10 million in STE, provide a \$20 million set-aside for applications requesting \$2 million or less in STE and a \$15 million set-aside at the first CAEATFA Board meeting of the year for applications requesting up to \$20 million in STE, change the methodology by which additional STE is allocated to capped applicants if any of the \$100 million statutory cap remains at the end of the year, update the competitive criteria by which applicants are ranked in the event the STE program is oversubscribed, and make technical and clarifying changes.

Necessity

Section 10032(a)(1) is amended to include reference to subparagraph (9), which is an exception to allowing applications to be submitted for consideration at any time. This section is also amended to reflect the renumbering of referenced subparagraphs (9) and (10), which have been renumbered due to the addition of subparagraph (4). This amendment is necessary to make clear the instances in which applications will not be accepted.

Section 10032(a)(2) is amended to require only an electronic version of the application. Previous regulations required applicants to provide both an electronic version and a hard copy of the application. CAEATFA has determined that a hard copy of the application is not necessary; therefore, this amendment is necessary to streamline the application process and remove the requirement of providing a hard copy application.

Section 10032(a)(4) is amended to establish a set-aside of \$20 million in STE for applications requesting \$2 million or less in STE. These modifications are necessary to balance CAEATFA’s ability to ensure a broad distribution of STE and assist larger, scalable projects.

The proposed regulations set aside \$20 million in STE annually for applicants requesting \$2 million or less in STE. This \$20 million would be set aside through September, ensuring availability for smaller projects throughout the year, and if any remains after the September CAEATFA Board meeting, that amount would be made available to award to all applicants beginning in October. If CAEATFA receives more than \$20 million in requests for awards of \$2 million or less, the order in which the applicants will be considered for award from the \$20 million set-aside will be based on competitive criteria. If the last applicant considered requests more than what is available from the remaining \$20 million set-aside, the applicant will be made

whole from the general pool of STE allocation, if any remains. (The general pool of STE allocation will be \$65 million, after the \$20 million set-aside described here and the \$15 million set-aside for larger projects described in proposed Section 10032(a)(5)(B) is deducted from the \$100 million statutory cap.) Any application requesting \$2 million or less in STE that is not awarded from the \$20 million in STE set-aside will be considered for an award from the general pool of STE allocation, if any remains.

Historical data shows that since the STE program began, approximately 71% of applications have been for projects of \$2 million or less in STE. While \$2 million in STE represents a small percentage of the total \$100 million in STE allocation, this project size also accommodates more than a majority of applicants. Additionally, historical data since the beginning of the STE program show the average of total amount of STE awarded to applicants requesting \$2 million or less in STE in one calendar year is \$11,052,087. Since 2015, when the Legislature authorized CAEATFA to award STE to applicants that process or utilize recycled feedstock, the average total amount of STE awarded to applicants requesting \$2 million or less in a calendar year is \$13,399,348. Setting aside \$20 million will ensure that the historical number of smaller projects are guaranteed to receive STE and allow room for growth in the number of smaller projects awarded. The largest total amount of STE awarded to applicants requesting \$2 million or less in a single calendar year was \$26,295,395 in 2017. Even if the number of smaller projects again reaches or surpasses the height of 2017, the \$20 million set aside will ensure that the majority of those applicants will receive STE, while allowing the remainder of applicants requesting \$2 million or less to qualify for STE from the general pool.

The proposed regulations are necessary to ensure both a broad distribution of awards and the ability to assist large, scalable projects. By setting aside \$20 million for applicants requesting \$2 million or less in STE, the CAEATFA Board will be able to ensure that a broad number of smaller projects will be able to receive STE in the full amount requested. Under previous regulations, applicants seeking larger amounts in STE could take the majority of the STE available during the calendar year, and, thus, leave less STE for smaller projects. This proposed amendment guarantees that at least 20% of available STE will be awarded to applicants seeking financial assistance for a variety of smaller projects. The \$20 million set-aside for applicants requesting \$2 million or less in STE works in conjunction with the \$15 million set-aside for applicants seeking up to \$20 million in STE, as detailed in proposed Section 10032(a)(5)(B). With both of these proposed changes, CAEATFA will have the flexibility it needs to support smaller projects and larger, scalable projects.

Section 10032(a)(5) is amended to lower the per-applicant cap from \$20 million in STE to \$10 million in STE. Previous regulations limited the amount of STE that an applicant could receive to \$20 million per calendar year and provided applicants the opportunity to receive additional STE at the end of the year if any of the \$100 million cap remained.

The \$20 million in STE cap amount was originally chosen in 2016 based on historical data at the time, and was determined to most effectively balance the competing needs to (1) ensure a broad distribution of awards and (2) incentivize large, transformational projects that may have correspondingly large benefits to the state. Given the increased participation and competition in the STE program, the \$20 million cap no longer effectively balances the need to ensure a broad

distribution of awards. Based on award amounts to date, over 90% of approved applications have requested \$10 million or less in STE. Lowering the cap is necessary to maximize the number of eligible applicants receiving an award, but still enable the vast majority of applications to be fully awarded with a sizable award (ability to purchase over \$119 million in equipment and machinery). Applicants with larger projects may still receive additional STE if any remains at the end of the calendar year or by coming back to the CAEATFA Board for consideration in subsequent calendar years, effectively limiting the project to spending about \$119 million in a calendar year but not capping the overall project size. Additionally, applicants seeking up to \$20 million in STE may apply for up to \$10 million over the \$10 million cap from a \$15 million set-aside, as described in proposed Section 10032(a)(5)(B).

Proposed subparagraph (5) is renumbered from (4) to (5), necessary due to the addition of proposed subparagraph (4).

Reference is added to new subparagraph (5)(B), which, along with existing subparagraph (A), is an exception to the \$10 million per-applicant cap in STE.

The “STE” abbreviation is deleted due to the prior establishment in proposed subparagraph (a)(4) above.

Section 10032(a)(5)(A) is amended to change the order in which applicants will be assessed for additional STE if any STE is available at the last CAEATFA Board meeting of the calendar year. Previous regulations provided that if there was STE available at the end of the calendar year, capped applicants could submit an updated application, or a new application, for consideration at the December CAEATFA Board meeting to receive additional STE. Previous regulations also provided that the additional STE would be allocated proportionally based on the applicants’ competitive criteria scores.

These amendments are necessary to allow the CAEATFA Board flexibility to consider applicants that sought more than the \$10 million per-applicant cap, but were not awarded additional STE from the set-aside for larger projects (as detailed in proposed Section 10032(a)(B)(5)). These amendments will give the CAEATFA Board the ability to award any STE remaining at the end of the year to those projects that will benefit most from receiving STE over the \$10 million per-applicant cap.

The proposed regulations specify that if there is additional STE available at the last CAEATFA Board meeting of the calendar year, that STE will first be made available to the last applicant considered for additional STE above the \$10 million cap if that applicant did not receive its full request, to provide more certainty to that applicant, then to any additional applicants wishing to exceed the \$10 million cap that did not receive an award at the first CAEATFA Board meeting of the calendar year on a competitive basis. If there is still additional STE available, then applicants wishing to exceed \$20 million in STE will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on competitive criteria. Award amounts will not be proportional based on the competitive criteria scores but rather based on the full amount requested, as is done under the general competitive criteria process, to provide applicants more certainty and to invest the STE awards more strategically to better promote STE program policy

goals. The applicants still will be required to update their applications if any of the information has changed.

Reference to the \$20 million per-applicant cap in STE is amended to reflect the proposed \$10 million per-applicant cap in STE.

The amendment also establishes that the Executive Director, rather than the CAEATFA Board, will announce the end-of-the-year availability of STE, which is necessary to streamline program administration. Generally, CAEATFA does not know if STE will remain at the end of the year until after the October CAEATFA Board meeting, which means that the CAEATFA Board does not vote to announce the availability of STE until the November CAEATFA Board meeting, leaving a very short amount of time between the vote to open up the additional STE to capped applicants and the December CAEATFA Board meeting, during which time Staff must receive and review an updated application, prepare a summary of the revised application, and calculate the amount of STE that would be allocated to each applicant. Given that the CAEATFA Board will still retain authority to consider each individual request for additional STE at the December CAEATFA Board meeting, the proposed amendments streamline the process and allow the Executive Director to announce the availability of additional STE as soon as this is known rather than waiting until a CAEATFA Board vote.

Section 10032(a)(5)(B) is added to allow Applicants with larger Projects to seek additional STE from a set-aside of \$15 million in STE, which will be used in addition to the \$10 million per-applicant cap from the general pool of STE, to award up to \$20 million in STE per applicant.

At the first CAEATFA Board meeting of the year, \$15 million in STE will be available to award on a competitive basis in addition to the \$10 million in STE from the general pool, up to \$20 million per applicant. If the amount requested in the last application considered exceeds the STE available from the \$15 million in STE, the applicant would be limited to only receiving the amount remaining from the \$15 million in STE. If any of the \$15 million is not awarded, that amount would be released to the general pool to be made available to all applicants. The \$15 million set-aside will provide flexibility to support larger projects and continued business investment in California but also ensures that larger awards do not inadvertently absorb all of the STE allocation. Under previous regulations, any Applicant could seek up to \$20 million in STE, and, thus, providing for the possibility that as few as five larger projects could take all of the available STE, leaving no STE for smaller projects.

These proposed regulations are necessary to ensure both a broad distribution of awards and the ability to assist large, scalable projects. Setting aside \$15 million in STE for the CAEATFA Board to award to applicants seeking more than the general per-applicant cap of \$10 million allows for a smaller but significant amount of STE to be awarded to applicants seeking to establish larger, scalable projects in California. Historically, since the STE program began, an average of two to three applicants have received awards over \$10 million in STE in a calendar year. With \$15 million to award above \$10 million, up to \$20 million per applicant, CAEATFA can award up to one \$20 million project, and one or more projects requesting \$15 million or under in STE. By awarding the \$15 million on a competitive basis, CAEATFA can strategically invest the STE to meet STE program policy goals. The \$15 million set-aside for applicants seeking up to \$20 million in STE

works in conjunction with the \$20 million set-aside for applicants requesting \$2 million or less in STE, as detailed in proposed Section 10032(a)(4). With both of these proposed amendments, CAEATFA will have the flexibility needed to support both smaller projects and larger, scalable projects.

Section 10032(a)(6) is amended so that the waiting list for applicants that were not awarded any STE due to an oversubscription to the program will sunset at the end of the calendar year. This section also establishes a process for awarding applicants STE if any additional STE becomes available during the calendar year.

Existing regulations provide that applications received but not awarded STE due to an oversubscription will be put on a waiting list. Previous regulations stated that applications that were on the waiting list would be considered in the subsequent calendar year.

The proposed regulations specify that the waiting list will terminate at the end of the calendar year, which, given the competitive nature of the STE program, is necessary to prevent applicants from applying too early in order to get in line for consideration in the following calendar year.

Previous regulations specified that if additional STE became available, applications on the waiting list would be reviewed and considered in the order in which they were ranked based on competitive criteria. Because the proposed regulations do not specify that the last Applicant considered will always be made whole from the next calendar year's STE allocation (see Section 10032(a)(8)(A)), the proposed regulations instead specify that if additional STE becomes available during the calendar year, that amount will first be awarded to the last applicant considered, if it did not receive its full STE request, to provide more certainty and make that applicant's request whole. Then if there is still STE available, applicants on the waiting list will be considered in the order in which they are ranked based on competitive criteria.

This section is also renumbered from subparagraph (5) to (6), which is necessary due to the addition of proposed subparagraph (4).

Section 10032(a)(7) is renumbered from subparagraph (6) to (7) and is amended to update the reference to subparagraph (7) to (8). These changes are necessary due to the addition of proposed subparagraph (4).

Section 10032(a)(8) is amended to clarify that only applications submitted for consideration at the CAEATFA Board meeting at which the STE program becomes oversubscribed will be ranked based on the competitive criteria. This amendment is necessary to clarify that only those applications, and not applications already submitted and under review for consideration at earlier CAEATFA Board meetings, will be ranked based on competitive criteria.

This section is also renumbered from subparagraph (7) to (8), which is necessary due to the addition of proposed subparagraph (4).

Section 10032(a)(8)(A) is amended to reflect that the proposed amended competitive criteria are not worth between 1 and 5 points.

Previous regulations specified that if the amount requested by the last applicant considered exceeds the STE available in the calendar year, CAEATFA would be required to award the remaining STE request using STE from the following calendar year. The proposed regulations cap the amount awarded to the applicant from the following calendar year to \$2 million in STE. This is necessary to limit the amount of STE taken from the subsequent year given the competitive nature of the STE program, while still providing enough STE to try to make the applicant as whole as possible to provide the applicant more certainty. Since the STE program began, over 71% of applications have been for \$2 million or less in STE.

Section 10032(a)(8)(B) is amended to update the competitive criteria by which applicants are ranked in the event the STE program is oversubscribed. The proposed amendments modify the competitive criteria to include: (1) the Total Pollution Benefits (“TPB”) score; (2) the unemployment rate of the county where the project is located; (3) the amount of STE per job created; (4) if the project is to rebuild or relocate the facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application; (5) if the applicant has a California corporate headquarters; and (6) if the applicant is not eligible to use any of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, available through the California Department of Tax and Fee Administration (“CDTFA”).

Although the previous competitive criteria were adopted by the CAEATFA Board in July 2016 and became effective in August 2016, the STE program did not become oversubscribed until 2019, and therefore, were not implemented until the July 2019 CAEATFA Board meeting, at which time Staff and the CAEATFA Board recognized the competitive criteria did not best reflect current STE program goals and priorities.

The proposed amendments award 100 points to projects with an TPB points greater than zero as calculated pursuant to Section 10033(c)(4) to prioritize projects with quantifiable environmental benefits, consistent with the STE program’s statutory purpose to promote the reduction of greenhouse gas emissions or reductions in air and water pollution or energy consumption, as well as the statutory requirement that CAEATFA evaluate applications based on, to the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of greenhouse gas emissions, a reduction in air and water pollution, an increase in energy efficiency, or a reduction in energy consumption.

The proposed amendments maintain the competitive criterion that looks at the unemployment rate of the county in which the project will be located, but imports the calculation and scoring from regulation Section 10033(c)(5)(A) to simplify the process and scale the points consistent with the other competitive criteria. This criterion is necessary to prioritize projects that will be located in areas with higher than average unemployment, helping to create jobs in these areas. Applicants typically hire both temporary construction and permanent employees for their projects. These new jobs are especially valuable in areas with higher than average unemployment, which is why the unemployment rate criterion is used to rank applications in the event of STE program oversubscription. Moreover, the inclusion of unemployment rate criteria is consistent with the

evaluation criteria set forth in the authorizing statute, Public Resources Code Section 26011.8(d)(5).

The proposed amendments award up to 75 points to projects based on the amount of STE per job created, as calculated pursuant to regulation Section 10033(c)(5)(B). This amendment is necessary to prioritize projects that create jobs in California, consistent with the STE program's statutory purpose to promote the creation of California-based jobs and Public Resources Code Section 26011.8(d)(3), which requires CAEATFA to evaluate projects based on the extent to which the project will create new, permanent jobs in California. This amendment also enables CAEATFA to help both small businesses and larger businesses, recognizing the need to assist both small projects and larger, scaling projects to meet the STE program's goals.

The proposed amendments maintain the criterion for projects rebuilding or relocating due to specific natural disasters and to recognize the public benefit of assisting and retaining manufacturers affected by these large-scale emergency disasters. The amendments increase the number of points awarded from 5 points to 50 points to scale the points consistent with the other competitive criteria and priorities. The amendments are necessary to recognize the public benefit of assisting and retaining manufacturers affected by these large-scale emergency disasters. Because a state of emergency may be proclaimed for various reasons that would not directly affect the operability of a manufacturing facility, such as a vaccine shortage, it is necessary to limit the proposed regulation to physical disasters. The proposed regulations limit eligibility for the competitive criterion to states of emergency proclaimed within two years of the time of application to give manufacturers sufficient time to develop a proposed project while also prioritizing applicants that seek to quickly and efficiently restart operations.

The proposed amendments maintain the criterion for applicants with a California corporate headquarters. This amendment is necessary to prioritize applicants that have their corporate headquarters located in California. The presence of a corporate headquarters in California brings jobs for California residents and tax revenue that can be reinvested back into the state. The amendments increase the number of points awarded from 1 point to 15 points to scale the points consistent with the other competitive criteria and priorities.

The proposed amendments award 50 points in the competitive criteria to projects that do not qualify for the CDTFA partial sales and use tax exemption. This amendment acknowledges the difference between the STE program and the exemptions available under Revenue and Taxation Code Section 6377.1 administered by CDTFA, which can offset the applicant's costs of not receiving a CAEATFA STE award. The proposed regulations specify that Staff will consult with CDTFA regarding questions of eligibility for the exemptions available under Revenue and Taxation Code Section 6377.1. This amendment is necessary to provide projects that cannot receive a partial tax exemption a balanced opportunity to receive tax relief under the STE program.

The proposed amendments remove the competitive criterion for new applicants to prioritize the specific benefits of individual projects consistent with the STE program's purpose and goals.

Section 10032(a)(9) is renumbered from subparagraph (8) to (9). This is necessary due to the addition of proposed subparagraph (4).

Section 10032(a)(10) is renumbered from subparagraph (9) to (10). This is necessary due to the addition of proposed subparagraph (4).

Section 10032(b). Application Requirements. Application.

Sections 10032(b)(4) and (5) are amended to reflect that a hard copy of the application will no longer be required as well as to fix a regulation section reference.

Necessity

Because the proposed amendments will require only an electronic version of the application, the application fee must be submitted to the CAEATFA office separately. Therefore, the proposed amendments specify the application is required to be received within five business days of the submission of the application, consistent with the previous requirement that the hard copy application and application were required to be received within five business days under the previous version of regulation Section 10032(a)(2). Section 10032(b)(5) is removed because the proposed amendments no longer require a hard copy application.

Section 10032(c). Application Requirements. Documentation.

This section is amended to update the Legal Status Questionnaire version date; include additional applicant and project information necessary to determine eligibility for points in the event the STE program is oversubscribed or if the applicant seeks additional STE above \$10 million, as well as information necessary to better evaluate STE program impact and reach; open up the additional points available to advanced manufacturers for certain criteria to all eligibility pathways; and add clarifying language and fix a technical error.

Additionally, this section has been amended to include additional application information necessary to align the regulations with the passage of AB 176 (Chapter 672, Statutes of 2019), which required CAEATFA to include in the application evaluation criteria the extent to which a project will result in a loss of permanent, full-time jobs in California, including the average and minimum wage of each classification of full-time employees proposed to be hired or not retained.

Necessity

Section 10032(c)(2) is amended to update the Legal Status Questionnaire version and is necessary to incorporate the most current version of the Legal Status Questionnaire. The Legal Status Questionnaire is updated to include matters related to employment conditions, including, but not limited to, wage claims, discrimination, or harassment, to more fully ascertain the legal integrity of the applicant. The Legal Status Questionnaire is also revised to fix grammatical errors and add more specificity to what an applicant is required to disclose.

Section 10032(c)(4)(A)(vii) is added to request the applicant's corporate headquarters address in the application and is necessary to verify if the applicant has a corporate headquarters in California in the event the STE program is oversubscribed or the applicant will seek additional STE above \$10 million.

Section 10032(c)(4)(A)(viii) is added to request documentation demonstrating the project is to relocate or rebuild the applicant's facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, if applicable. This documentation is necessary to verify if the applicant will qualify for the 50 points awarded to projects relocating or rebuilding due to specified natural disasters in the event the STE program is oversubscribed or if the applicant will seek additional STE above \$10 million.

Section 10032(c)(4)(A)(ix) is added to include in the application information requested from applicants whether the applicant is a small business to better understand and evaluate the STE program's impact and reach. The proposed regulations define small business to accommodate the various types of small business models. The first two options—100 or fewer employees and annual revenue of less than \$15 million, including affiliates—are consistent with existing commercial underwriting practices and reflect simplified similar requirements of the California Department of General Services Certification Eligibility Requirements for state solicitation and contracting purposes. The third option enables an applicant to use the U.S. Small Business Administration standards directly, which is also consistent with existing commercial underwriting practices.

Section 10032(c)(4)(A)(x) is added to request information from the applicant about how it learned about the STE program. This information is necessary to better understand and evaluate the STE program's impact and reach.

Section 10032(c)(4)(B)(i)e is added to clarify that the description of the sources of financing necessary for facility completion should include any state incentives or state financing the applicant has applied for or received. This information is necessary to get a more complete picture of the project's financial status.

Section 10032(c)(4)(B)(i)k is added to request the projected average number of employees at the facility, in full-time equivalents, assuming the qualified property is not utilized. AB 176 (Chapter 672, Statutes of 2019) required CAEATFA to include in the application evaluation criteria the extent to which a project will result in a loss of permanent, full-time jobs in California. Using the estimated number of employees assuming the qualified property is utilized, which is already provided in the application in full-time equivalents, and new information on the projected number of employees assuming the qualified property is not utilized, the proposed regulations will determine if the project will result in a loss in jobs.

Section 10032(c)(4)(B)(i)l is added to request documentation on the minimum and average wage of full-time employees proposed to be hired or not retained. AB 176 (Chapter 672, Statutes of 2019) added to the application evaluation criteria the average and minimum wage of full-time employees proposed to be hired or not retained. The proposed regulations ask for the minimum and average wage of each classification of full-time employees proposed to be hired or not retained using the following wage categories: up to \$20,000; \$20,001–\$30,000; \$30,001–\$40,000; \$40,001–\$50,000; \$50,001–60,000; \$60,001–\$70,000; \$70,001–\$80,000; \$80,001–\$90,000; \$90,001–100,000; \$100,001–\$110,000; \$110,001–\$120,000; and over \$120,000. The wages are requested in \$10,000 incremental bands based on stakeholder feedback and concerns over keeping data anonymized for employee confidentiality concerns and company trade secret concerns. Because some forms of compensation are provisional and amounts may be uncertain, particularly

for new companies, wages include monetary compensation paid to the employee each year, not including tips, commissions, bonuses, stock options, overtime, or other compensation of any kind.

Section 10032(c)(4)(B)(i)k is added to request that applicants provide an explanation for why a classification is being eliminated and if any existing employees in the classification will be retrained or reclassified. This information is requested based on stakeholder feedback and is necessary to provide a complete picture of why a classification of employee is being eliminated, such as for the overall health, safety, or environmental impact of the facility, and whether the elimination of a classification does not mean a loss in employment for affected employees.

Section 10032(c)(4)(F) is amended to remove the provision that the optional supplemental information will not be used to adjust an applicant's score if it already exceeds the established points threshold. This section is also amended to remove the limitation that only advanced manufacturing applicants may receive points for performing research and development in California, partnering with educational institutions, being part of an industry cluster, and providing benefits and fringe benefits to employees as the currently proposed factor. The proposed amendments also specify that eligible training opportunities include those for workers from disadvantaged communities. This section is also amended to request information on whether the applicant provides benefits and fringe benefits to its employees. This section is also amended to fix a numbering error.

Existing regulations provide that advanced manufacturing applicants can receive points for having a facility that performs research and development in California, partnering with educational institutions to train employees or potential future workers, and being part of an industry cluster. The proposed amendments are necessary to recognize the economic growth benefits of these factors and that they may apply to all types of applicants, not just advanced manufacturers. Additionally, the proposed amendments in Section 10032(c)(4)(F)(ii) add more specificity to the types of training opportunities that qualify for the workforce partnership points to clarify that they include training opportunities for workers from disadvantaged communities, including women, racial minorities, formerly incarcerated, and veterans. The proposed amendments also remove the caveat that CAEATFA will not use these points to adjust an applicant's score if it already exceeds the points-threshold requirement so that the CAEATFA Board has a full scope of the benefits of a project when reviewing an application.

Section 10033(c)(5)(E)(i)d of the proposed regulations provides additional points to applicants that provide benefits and fringe benefits to employees to recognize the economic benefits of providing jobs that include additional benefits to employees in the application review; therefore, Section 10032(c)(4)(F)(ii)d is added so that applicants may provide information on the benefits and fringe benefits provided to employees. The proposed regulations specify benefits include medical, health, dental, and vision premiums paid by the applicant on behalf of an employee, an employee's spouse or an employee's dependents, and fringe benefits include, but are not limited to, bonuses, pension plans, retirement contributions, profit-sharing programs, dependent care and assistance reimbursement, transportation subsidies, education reimbursements, gym subsidies, employee discounts, and paid leave. These categories of benefits and fringe benefits provide examples and clarity on the types of benefits and fringe benefits eligible for points, and is consistent with other state incentives that consider benefits and fringe benefits provided to employees.

Section 10032(c)(4)(F)(iii) is amended to renumber (iv) to (iii) due to a previous numbering error.

Section 10033. Eligibility Requirements and Application Evaluation.

This section is amended to add a new eligibility requirement; specify that all types of applicants can receive additional points for research and development, workforce partnerships, being part of an industry cluster, and providing benefits and fringe benefits to employees; award additional points to applicants that provide benefits and fringe benefits to their employees; incorporate the provisions of AB 176 (Chapter 672, Statutes of 2019) by subtracting points if the project will result in a net loss in jobs; and make clarifying and technical changes.

Necessity

Section 10033(b) is amended to require that an applicant's Legal Status Questionnaire disclosures not include a finding of guilty of a willful violation by the Occupational Safety and Health Administration or a case under the Occupational Safety and Health Administration's Severe Violator Enforcement Program to be eligible for an STE award. The proposed amendment is necessary to reflect that the severity of a willful violation and a case under the Occupational Safety and Health Administration's Severe Violator Enforcement Program run counter to the STE program's purpose of promoting the creation of California-based manufacturing and jobs by making these applicants ineligible for an STE award.

This section is also amended to reflect that the proposed amendments add another eligibility requirement that applies to the applicant and not necessarily the facility.

Section 10033(c)(1)(A)(iii) is amended to update the reference from the State Board of Equalization to the California Department of Tax and Fee Administration due to a change in statute.

Section 10033(c)(1)(G)(i)a is amended to update the reference to the State Board of Equalization to the California Department of Tax and Fee Administration due to a change in statute.

Section 10033(c)(1)(G)(i)d.i is amended to update the reference to the State Board of Equalization to the California Department of Tax and Fee Administration due to a change in statute.

Section 10033(c)(4) is amended to remove the reference to TPB points with regard to advanced manufacturing applicants. The proposed amendment is necessary to clarify that unlike alternative source, advanced transportation, and recycled feedstock applications, advanced manufacturing applications do not receive a TPB dollar amount calculation pursuant to Sections 10033(c)(3)(C) and (E). Instead, consistent with Section 10033(c)(3)(D), the environmental benefits calculation for advanced manufacturing projects is based on points assigned for having an environmental sustainability plan, and for reductions in energy use, waste generation, water use, or emissions of air pollutions in the manufacturing process relative to the baseline identified in the application.

This section is also amended to correct the regulation section reference from Section 10033(c)(2)(D) to 10033(c)(3)(D).

Section 10033(c)(5)(A)(ii) is amended to correct the parentheses used in the formula.

Section 10033(c)(5)(B) is amended to implement AB 176 (Chapter 672, Statutes of 2019), which requires CAEATFA to consider the extent to which a project will result in the loss of permanent, full-time jobs in California.

Existing statute requires CAEATFA to consider the extent to which a project will create new, permanent jobs in California. To determine the extent to which the project will create new, permanent jobs in California in the STE program's evaluation criteria, existing STE program regulations ask for the estimated average number of production-related employees (in annual full-time equivalents) employed each year, averaged over the estimated useful lifespan of the qualified property, taking into account any ramp-up periods, as well as the estimated average number of construction employees (in annual full-time equivalents). The application also asks for the estimated per-unit labor costs, assuming the qualified property is used. The STE program's existing evaluation criteria in regulation uses this information (as well as other application inputs) to calculate the estimated marginal increase in jobs (in full-time equivalents) as a result of the STE, and quantify the resulting estimated fiscal benefits as part of the fiscal benefits score. Applicants also earn points (in both competitive and regular scoring) based on the number of full-time equivalent jobs per dollar of STE.

The additional text in Section 10033(c)(5)(B)(i) is to help differentiate between points awarded as a result of creating new production-related jobs (New Jobs Score) and points deducted for a net loss in jobs due to the STE (Lost Jobs Points).

Newly proposed Section 10033(c)(5)(B)(ii) determines if there would be a net loss in jobs as a result of the project, using the estimated number of employees assuming the project is implemented, which is already provided in the application, as well as the estimated number of employees assuming the project is not implemented, as provided in the newly proposed Section 10032(c)(4)(B)(i)k. If there is a net loss in jobs, the proposed regulations provide that the applicant will receive a New Jobs Score of zero and will lose points in the application scoring (Lost Jobs Points). The Lost Jobs Points will be calculated based on the percent reduction in jobs as a result of the project by (a) subtracting the total facility employment assuming the qualified property is not used from the total facility employment assuming the qualified property is used, (b) dividing the result by the total facility employment assuming the qualified property is used, and (c) multiplying the result by 100.

Section 10033(c)(5)(D) is amended to update the regulation section reference from (j) to (m).

Section 10033(c)(5)(E) is amended to remove the limitation that only advanced manufacturing applicants may receive points for performing research and development in California, partnering with educational institutions, being part of an industry cluster, and providing benefits and fringe benefits to employees as the newly proposed factor. The proposed amendments also add more specificity with regard to the types of training opportunities eligible for additional points. Existing regulations provide that advanced manufacturing applicants can receive 25 points for having a facility that performs research and development in California, 25 points for partnerships with educational institutions to train employees or potential future workers, and 25 points for being part of an industry cluster. The proposed amendments are necessary to recognize the economic growth benefits of these factors and that they may apply to all types of applicants, not just advanced manufacturers.

Section 10033(c)(5)(E)(i)d is added to award points to applicants that provide benefits and fringe benefits. Applicants will receive 5 points for each type of benefit or fringe benefit provided, up to 25 points, to recognize the benefits of providing additional benefits to employees in the application review, while recognizing that the STE program supports diverse industries, labor markets, and regional economies. Each benefit and fringe benefit provided is worth 5 points to award more points to applicants that provide more benefits and fringe benefits, and the points are capped at a total of 25 to scale the points consistent with the other facility characteristics for which applicants can earn additional points.

Section 10033(c)(5)(F) is amended to renumber (G) to (F) due to a previous numbering error.

Section 10034. Approval of Applications by CAEATFA.

This section is amended to update the statutory reference for the definition of “Project” as provided in Public Resources Code Section 26011.8(b)(1), as amended by AB 199 (Chapter 768, Statutes of 2015).

Section 10035. Regulatory Agreement and Compliance.

This section is amended to increase the term of the Regulatory Agreement by an equal amount of time if an applicant is granted an initial term extension, extend the timeframe to purchase 15% of Qualified Property from 1 year to 18 months from approval, include the execution of purchase orders as counting toward the 15%, allow the CAEATFA Board to extend or waive the 15% purchase requirement timeframe upon a finding of extraordinary circumstances, and update references from the State Board of Equalization to the Department of Tax and Fee Administration.

Necessity

Section 10035(a)(2) is amended to extend the term of Regulatory Agreement if the applicant is granted an extension of the initial term to make qualified property purchases pursuant to Section 10035(b)(1)(B).

Existing regulations require applicants to use the STE award within three years, unless this term is extended by the CAEATFA Board upon a finding that it is in the public interest and advances the purposes of the STE program. Additionally, applicants must execute a Regulatory Agreement with CAEATFA that requires the applicant to comply with the requirements set forth in the STE program regulations, including providing annual reports on the status of the approved project. Previous regulations provided that the term of the Regulatory Agreement was equal to the longer of (a) three years or (b) one-half of the estimated useful lifespan of the longest-lived item of qualified property identified in the application. However, previous regulations did not provide for extending the term of the Regulatory Agreement in the event the initial term to use the STE award was extended. This reduces the amount of time an applicant that receives an initial term extension reports annually on how the project actually performs once complete and the equipment is in use, which is used to evaluate STE program performance and effectiveness, and has occasionally resulted in Regulatory Agreement terms that are shorter than the initial term to use the STE award.

Therefore, the proposed regulation provides that if an applicant is granted an extension of the initial term to make qualified property purchases, the term of the Regulatory Agreement would be required to be extended for an equal amount of time.

Section 10035(b)(1) is amended to extend the 15% purchase requirement timeframe from 12 months to 18 months, allow execution of purchase orders to count towards the 15%, and enable the CAEATFA Board to extend or waive the requirement upon a finding of extraordinary circumstances and that it is in the public interest and advances the purposes of the STE program. Since implementing the 15% purchase requirement in October 2016, when the first applications under the new regulations were considered, CAEATFA has learned that many projects have significant lead-times for equipment purchases, with equipment sometimes not arriving and being paid for until six months to a year or more after a purchase order has been executed. The purpose of the 15% purchase requirement is to help maximize the STE program's benefit to the state by encouraging applicants to apply when they have more certainty of the project's feasibility and likelihood of moving forward. Providing a standard 18-month timeframe and allowing purchase orders to count toward the 15% helps accommodate projects with equipment purchases with long lead times while still encouraging applicants not to apply too soon. Additionally, the execution of a purchase order also demonstrates an applicant's intent and readiness to move forward and does not go against the purpose of the purchase requirement, which is to avoid applicants from being approved but not moving forward with the project.

The proposed regulations allow the CAEATFA Board to waive or extend the 15% purchase requirement upon a finding of extraordinary circumstances, which may include unforeseen permitting issues, and that doing so is in the public interest and advances the purposes of the STE program. In 2019, two approved projects for a total of \$21 million in STE were from previously approved applicants that did not meet the 15% purchase requirement. Additionally, CAEATFA has seen the current COVID-19 pandemic affect purchase timeframes, financing, feedstock supply, revenue, construction, and operations for previously approved applicants. To help provide some additional flexibility for unforeseen circumstances, such as permitting delays and the unprecedented market impact of the COVID-19 pandemic, the proposed regulations give the CAEATFA Board the ability to consider requests for an extension of the timeframe. However, to help maintain the requirement's purpose of discouraging applicants from applying before they are ready, the ability to waive is limited to extraordinary circumstances.

This section is also amended to renumber the previous Section 10035(b)(1)(A) to Section 10035(b)(1)(B) given the proposed new Section 10035(b)(1)(A).

Section 10035(b)(6) is amended to update the reference from the State Board of Equalization to the California Department of Tax and Fee Administration due to a change in statute.

Section 10036. Fees.

This section is amended to reflect that a hard copy of the application will no longer be required and specify the application fee must be received by CAEATFA within five business days of the application submission. This section is also amended to clarify how the administrative fee is

calculated and paid with each semi-annual report, and to increase the fee required for requests to extend the initial term and 15% purchase requirement timeframe.

Necessity

Section 10036(a)(3) is amended to remove the requirement that hard copy applications be submitted with the application by mail. Because the proposed amendments will require only an electronic version of the application, the application fee must be submitted to the CAEATFA office separately. Therefore, the proposed amendment to Section 10036(a)(3) specifies the application fee must be received within five business days of the submission of the application, consistent with the previous requirement that the hard copy application and application fee must be received within five business days under the previous version of regulation Section 10032(a)(2).

Section 10036 (b)(5) is amended to clarify how administrative fees paid to CAEATFA on a semi-annual basis are applied. Existing regulations provide that the total amount of the administrative fee paid by approved Applicants is .004 of the total amount of qualified property actually purchased during the term of the award, with a minimum of \$15,000 and maximum of \$350,000. Pursuant to regulation Section 10036(b)(4), the minimum \$15,000 administrative fee is due upon the execution of the Regulatory Agreement, and pursuant to Section 10036(b)(6), this initial administrative fee is credited at the back-end. The amendment to Section 10036(b)(5) is necessary to clarify the administrative fee due with each semi-annual report is calculated based on the qualified property amount purchased during the reporting period until the total administrative fee has been paid, consistent with the rest of the provisions of Section 10036(b).

Section 10036(b)(5)(A) is amended to fix the unnecessary capitalization of the word “fee” as it has not been defined.

Section 10036(c)(1) is amended to increase the fee required for requests to extend the initial term and 15% purchase requirement timeframe. Previous regulations required Applicants to pay a \$500 fee for modifications to awards (e.g., name changes, award transfers, and extensions of the initial term to purchase all qualified property). However, since implementing the fee, CAEATFA has determined that the fee does not accurately reflect the reasonable number of Staff hours spent processing requests to extend the initial term or the 15% purchase timeframe and does not account for the reasonable number of Staff hours associated with the additional years of reporting and administration of the award. Therefore, the proposed regulations increase the fee to \$1,500 for requests to extend the 15% purchase requirement timeframe and to \$2,000 for requests to extend the three-year initial term for applicants to use the STE award.

Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters are prescribed by statute applicable to CAEATFA or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulation or to CAEATFA.

Mandate on Local Agencies or School Districts

The Executive Director of CAEATFA has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts (pursuant to Government Code Section 11346.5(a)(5)).

Substantial Progress with Complying with Government Code Section 11346.1(e)

CAEATFA has made substantial progress and has proceeded with diligence to comply with Government Code Section 11346.1(e).

Now that CAEATFA has had the opportunity to implement the modifications, including the \$20 million in STE small-project set-aside and the \$15 million in STE for larger projects, Staff has been assessing the benefits and challenges of the modifications. CAEATFA Staff is drafting its initial statement of reasons and working with stakeholders to determine what lessons learned can be applied to the regulations going forward. In particular, CAEATFA has received initial stakeholder feedback on the amount of time it took to determine the order of review and consideration for applications and the need for additional clarity on the implementation of the different award pools of STE. CAEATFA discussed how the modified regulations impacted the 2021 STE Program applications at its August 17, 2021, CAEATFA Board meeting.

At the October 19, 2021 meeting, the CAEATFA Board passed resolutions authorizing CAEATFA staff to proceed with a second readoption and a regular rulemaking action for the Emergency Regulations. The CAEATFA Board also passed a resolution approving the development of a new emergency rulemaking package to further improve and streamline the administration of the STE program, which CAEATFA staff is currently drafting to file and become effective in time for the 2022 STE program application process.

CAEATFA is planning to file and notice a regular rulemaking action in November 2021 for the certificate of compliance for these Emergency Regulations. Staff anticipates that the certificate of compliance will be completed in Q1 of 2022 after additional public comment.

Fiscal Impact

The Executive Director of CAEATFA has determined that the Emergency Regulations do not impose any additional mandated cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, or any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

The proposed regulations increase program administrative fees to help cover the reasonable costs of ongoing program operations and maintenance. Previous regulations required an Applicant to pay a \$500 fee for any modification made to an existing award (e.g. name changes, award transfers, extension of the timeframe to meet the 15% purchase requirement, and extension of the three-year initial term to purchase all Qualified Property). To better reflect the amount of Staff time spent reviewing and processing requests for extensions and CAEATFA Board consideration, and to account for the additional years of required reporting and administration as part of the Regulatory Agreement, the proposed emergency regulations increase the fee to \$1,500 for applicant requests to extend the 15% purchase requirement timeframe and to \$2,000 for applicant requests to extend the three-year initial term to use the STE award.

Aside from certain savings for CAEATFA, there are no other costs or savings to any other state agency.

Assumptions:

Initial Term Extension Requests			
	FY2021-22	FY2022-23	FY2023-24
Number of Initial Terms Expiring (no previous extension)	36	25	31
Number of Initial Terms Expiring (previous extension granted)	11	8	6
30% Request First Extension (Rounded) <i>Based on historical average</i>	11	8	9
13% Request Second Extension (Rounded) <i>Based on historical average</i>	1	1	1
Total Number of Initial Term Extension Requests	12	9	10
Total Fees Received	\$24,000	\$18,000	\$20,000
Minus Fees Based on Previous Fee Amount	-\$6,000	-\$4,500	-\$5,000
Total Net Increase in Fee Revenue	\$18,000	\$13,500	\$15,000

15% Purchase Requirement Extension Requests			
	FY2021-22	FY2022-23	FY2023-24
Number of 15% Purchase Timeframes Expiring	24	32	32
Extensions Granted (based on actual requests)	3		
15% Request Extension (Rounded) (FY 22-23) <i>Assume below historical average given ability to plan around COVID-19 pandemic and extension of timeframe to meet requirement</i>		5	5
Total Fees Received	\$4,500	\$7,500	\$7,500
Minus Fees Based on Previous Fee Amount	-\$1,500	-\$2,500	-\$2,500
Total Net Increase in Fee Revenue	\$3,000	\$5,000	\$5,000

Fiscal Year Impact:

- Current FY2021-22: \$21,000
- FY2022-23: \$18,500
- FY2023-24: \$20,000

Pursuant to the State Administrative Manual Sections 6601-6616, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as this is a proposed emergency rulemaking.