

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**
Meeting Date: February 22, 2011

***Request to Authorize Staff to Request an Extension of the SB 71 Regulations Promulgated
Under the Emergency Rulemaking Process and Begin the Regular Rulemaking Process***

Prepared By: *Heather Williams*

Summary. At the September 22, 2010 California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA” or “Authority”) Board meeting, the CAEATFA Board approved emergency regulations for CAEATFA’s Advanced Transportation and Alternative Source Manufacturing Sales and Use Tax Exclusion Program (“SB 71 Program”). CAEATFA staff (“Staff”) is requesting Board approval to extend these Program regulations promulgated under the emergency rulemaking process as Staff navigates the regular rulemaking process for the Program.

Background. Senate Bill (SB) 71 (Padilla), signed into law on March 24, 2010, authorized the CAEATFA to approve Projects¹ for sales and use tax exclusions (“STE”) on Qualified Property utilized for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components or systems. Pursuant to this legislative mandate, Staff proposed and the CAEATFA Board adopted emergency Program regulations at the September 22, 2010 CAEATFA Board meeting. The Office of Administrative Law (“OAL”) approved the emergency regulations on October 4, 2010, putting them into affect for 180 days until April 5, 2011. CAEATFA began accepting applications October 5, 2010 and has continued with Program implementation as outlined in existing Program regulations.

Staff has begun the process of refining the regulations for the Program in anticipation of adopting them via the regular rulemaking process; however, Staff does not anticipate that these regulations will be in effect prior to the expiration of the existing regulations on April 5, 2011. Therefore, Staff is requesting up to two 90 day extensions of the regulations if necessary.

All modifications to the regulations will take place in the regular rulemaking process. The final proposed regulations will be brought back to the Board for consideration and approval prior to final submittal to OAL. At this time, Staff does not anticipate that changes to the regulations will result in substantial changes to the Program structure; rather they will clarify the process and further refine the net benefits evaluation of each applicant.

¹ All capitalized terms not defined here are defined in the Program’s statute and emergency regulations.

Tentative Timeline. All of the dates below are tentative and subject to change at any time.

Emergency Rulemaking Process

March 15	CAEATFA submits request for extension of emergency regulations
March 25	OAL decision deadline to extend emergency regulations. If approved by OAL, first extension of emergency regulations begins and is in place for 90 days
April 5	Initial emergency regulations expire
June 7	If necessary, CAEATFA submits request for 2 nd extension of emergency regulations
June 17	OAL decision deadline to extend emergency regulations for the second time. If approved by OAL, second extension of emergency regulations begins and is in place for 90 days
June 23	1 st extension of emergency regulations expire
July 25	Approved permanent regulations become effective
September 15	2 nd extension of emergency regulations expire

Regular Rulemaking Process

February 22	Submit Notice of Publication and Initial Statement of Reasons to OAL
March 4	45 calendar day public comment period begins
March/April	Public hearing for text of proposed regulations
April 18	45 calendar day public comment period ends, Staff will review and respond to any public comments
May 3	Additional 15 calendar day public comment period begins if necessary
May 18	Additional 15 calendar day public comment period ends if necessary
May 24	CAEATFA Board reviews/approves proposed regulations
May 25	Proposed regulations are submitted to OAL

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June 24 OAL decision deadline, approved regulations are filed with the Secretary of State

July 25 Approved regulations become effective

Recommendation. Staff recommends approval of the resolution to authorize CAEATFA Staff to request any necessary extension of the SB 71 Regulations promulgated under the emergency rulemaking process and begin the regular rulemaking process.

RESOLUTION TO AUTHORIZE STAFF TO REQUEST AN EXTENSION OF THE SB 71 REGULATIONS PROMULGATED UNDER THE EMERGENCY RULEMAKING PROCESS AND BEGIN THE PERMANENT RULEMAKING PROCESS AND OTHER ACTIONS RELATED THERETO, INCLUDING THE PUBLIC NOTICE AND COMMENT PROCEDURES

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") is authorized by California Public Resources Code Sections 26009, and 26011.8 to adopt regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority has determined that amendments to the Authority's regulations relating to its implementation of the SB 71 Advanced Transportation and Alternative Source Manufacturing Sales and Use Tax Exclusion Program ("SB 71 Program"), as authorized in Section 26011.8 of the Public Resources Code, are necessary to be adopted at this time to continue implementation of the SB 71 Program.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The Chair, Executive Director and Deputy Executive Director are hereby authorized to request up to two 90 day extensions of the SB 71 Program regulations promulgated under the emergency rulemaking process and begin the regular rulemaking process for the SB 71 Program.

Section 2. The Chair, Executive Director and Deputy Executive Director are hereby authorized to proceed with the public notice and comment procedures required by California Administrative Procedure Act prior to submitting regulations to the Office of Administrative Law.

Section 3. The Chair, Executive Director and Deputy Executive Director of the Authority are hereby authorized to take necessary actions, including making any necessary changes to the regulations to secure approval by the Office of Administrative Law, and to execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its approval and remain in full force and effect thereafter.