

**CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING AUTHORITY**  
**Meeting Date: June 28, 2011**

***Request to Approve Regulations for the SB 71 Sales and Use Tax Exclusion Program***

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**Issue.** Senate Bill (SB) 71 (Padilla),<sup>1</sup> signed into law on March 24, 2010, authorized the California Alternative Energy and Advanced Transportation Financing Authority (“Authority” or “CAEATFA”) to approve Projects<sup>2</sup> 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.

CAEATFA approved the initial regulations through the emergency rulemaking process on September 16, 2010 which established the Advanced Transportation and Alternative Source Manufacturing Sales and Use Tax Exclusion Program (“Program” or “SB 71 Program”). The emergency regulations will expire in September 2011. In order to continue to operate the Program, CAEATFA must approve regulations promulgated through the regular rulemaking process (“regular regulations”). As the basis for the regular regulations, CAEATFA staff has made proposed modifications to the emergency regulation text and published a draft for public comment according to the regular rulemaking process.

**Request.** Pursuant to its legislative mandate, CAEATFA staff (“Staff”) recommends approving the proposed regulations through the regular rulemaking process.

**Sales and Use Tax Exclusion Program Development & Goals.**

1. Program Development.

In developing the SB 71 Sales and Use Tax Exclusion Program, Staff, with assistance from Blue Sky Consulting Group (Blue Sky), underwent a rapid initial implementation process. Following passage of SB 71 in March 2010, a series of public meetings was held, data from potential applicants was collected and analyzed, and emergency regulations were developed and approved in September 2010. Through this process, Staff gained a strong understanding of the Program’s mandate, California’s need for advanced transportation technology and alternative source manufacturing incentives, and Program structuring issues and concerns. During this period, CAEATFA conducted a rigorous public participation process, including numerous workshops and online access to the process. The enacted regulations balanced stakeholders’ comments with the statutory, legal and Program administration framework and requirements.

Subsequent to adoption of the emergency regulations, Staff and Blue Sky continued to work on modifications to the regulations to address the “lessons learned” from early implementation of the Program. CAEATFA staff published initial modification to the regulations on March 11,

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<sup>1</sup> See attachment E to review the text of Senate Bill 71.

<sup>2</sup> All capitalized terms not defined here are defined in the Program’s statute and proposed regular regulations.

2011, which began a 45-day public comment period. Staff and Blue Sky continued to review the regulations during the 45-day comment period, and publicly noticed additional modifications to the regulations on June 1, 2011 for a 15-day public comment period which ended on June 16, 2011.

## 2. Next Steps

Upon Board Approval of the modified regulation text, Staff will submit the regulation package to the Office of Administrative Law (“OAL”) for review. Once approved, OAL will submit the regulations to the Secretary of State for a 30-day review upon which the regulations will be enacted.

Attachment A provides a summary of the regulations and key policy issues addressed during the process.

## 3. Modifications to the Previously Enacted Regulations

As noted above, modifications were made to the regulations to further clarify and specify provisions, and address “lessons learned” from early implementation. For the full version of the modified regulation text see Attachment B; changes proposed during the 45-day public comment period are shown in black single underline text for additions and black single strikethrough text for deletions, and changes proposed during the 15-day public comment period are reflected in blue double underline text for additions and red double strikeout text for deletions. The following sections summarize the key changes proposed to the Program regulations (relative to the approved emergency regulations):

### **§10032. Application Requirements**

- Sources of Financing.  
The application now requires a description of funding sources for the project. Requesting this information will enable CAEATFA to assess the extent its financial assistance is leveraging dollars, other funding sources, and reinforcing State priorities. Attachments C & D contain the Program’s Application.

### **§10033. Eligibility Requirements and Application Evaluation**

- Substantial Use.  
Revisions were made to the Program’s “substantial use” threshold in an effort to better ensure that Qualified Property will be primarily used for eligible uses. The original regulations required that the equipment be used at least 75 percent of the time for the eligible uses under the Program.<sup>3</sup> The proposed modification requires that the Qualified Property is used at least 50 percent of the time in any given year and more than 75 percent of the time on average over the useful life of the Qualified Property.

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<sup>3</sup> The Qualified Property must be used for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems during the longer of (a) one year or (b) one-half of the weighted average Estimated Useful Lifespan of the Qualified Property.

- Parameter Assumptions for Evaluation Criteria.  
In order to evaluate the fiscal and environmental benefits of an Application, the evaluation criteria embodied in the regulations rely on a number of specific parameters or values for calculations embodied in the Program’s net benefit analysis. Examples of variables include the Statewide Average Sales Tax Rate (current Program value is 9.1%) and the Average State Income Tax Rate (current Program value is 4.61%). The modified regulations establish that the Executive Director will determine the value for each of the included variables upon consultation with relevant research literature or consultation with professional economists or other experts, whereas the previous version of the regulations in some cases required the Executive Director to obtain Board approval prior to adjusting a value. This will provide the program with flexibility if there is a sudden or drastic change in public, market or industry conditions.
- Scoring.  
The scoring of Applications was changed to more accurately reflect the capital intensity of an Applicant’s manufacturing process and the resulting response to the sales tax exclusion (STE). Under the emergency regulations, the estimated response to the incentive provided by the STE was equivalent across Applicants, regardless of the extent to which an Applicant’s production process relied upon capital equipment. Under the new version of the regulations, a modified estimate of the response to the STE has been incorporated, such that the estimated response to the STE is higher for Applicants that rely to a greater extent on capital equipment and lower for Applicants that rely to a lesser extent on capital equipment, consistent with economic theory.

**§10035. Regulatory Agreement and Compliance**

- Certification Letter and Compliance Report.  
Each year, during the term of the Regulatory Agreement the Applicant must submit an annual certification letter and a compliance report by January 31 with information reported for the previous calendar year. The certification letter must document that the Qualified Property purchased was used for the purposes specified in the Application since the time of the conveyance/reconveyance agreement. These proposed regulations include a specific list of information CAEATFA will request on an annual basis to assist it in determining the impact of the Program. The compliance report shall include the following data:
  - total payroll
  - number of jobs
  - annual product sales
  - units sold
  - anticipated corporate or personal income tax related to the production of approved technology
  - the amount spent on supplier purchases including those purchased from California Suppliers
  - total amount of Qualified Property purchased

- narrative description of the property status and consistency with timeline
- statement indicating the time that the Qualified Property has not been put to functional use
- other reasonably related information requested by the Executive Director
- Recovery of Financial Assistance.  
These proposed regulations include a provision that enables the recovery of financial assistance provided in situations under which an Applicant fails to meet the substantial use test or moves the equipment out of the State of California. The addition of this provision will enable CAEATFA to recapture funds if the project does not remain in compliance with Program requirements.

**§10036. Fees**

- Application Fee.  
The Authority increased the maximum application fee from \$5,000 to \$10,000. The Application Fee shall equal .0005 of the total amount of Qualified Property identified in the Application, with a minimum fee of \$250 and a maximum fee of \$10,000. This increase will assist CAEATFA in covering its expenses for reviewing the larger, more complex Applications while leaving the fee unchanged for smaller Applications.

**Regulatory Process.**

1. Emergency Regulations.

On September 22, 2010, the Authority approved the emergency regulations and an emergency rulemaking file was submitted to OAL. The emergency regulations were valid for six months (180 days) and expired on April 5, 2011.

Staff has submitted two emergency regulation re-adoptions with no changes to the regulation text, each extending the regulations for an additional 90 days. The most recent, and final, re-adoption is valid until September 22, 2011. The extensions provided staff with the necessary time to navigate through the regular rulemaking process.

2. Summary of the Regular Regulation Process.

As described briefly above, the CAEATFA board authorized staff to begin the regular rulemaking process for the SB 71 Program at its February 22, 2011 meeting. Staff and Blue Sky worked on modifications to the regulations to address the “lessons learned” from early implementation of the Program. CAEATFA staff publicly proposed initial modification to the regulations on March 11, 2011, which began a 45-day public comment period. Staff and Blue Sky continued to review the regulations during the 45-day comment period, and publically noticed additional modifications to the regulations on June 1, 2011 for a 15-day public comment period which ended on June 16, 2011.

Upon the Board’s approval, the complete rulemaking file will be submitted to OAL, and OAL has 30 business days to review the regulations for compliance with the Administrative Procedures Act and the Authority’s statute. Once OAL approves the regular regulations, they are filed with the Secretary of State and become effective 30 calendar days later.

3. Public Comment. CAEATFA received very few public comments throughout the regular rulemaking process. Staff believes this is due to the extensive public process CAEATFA underwent in the emergency rulemaking process.

*45-Day Public Comment Period.*

Staff received one public comment during the 45-day period, from the Inyo County Board of Supervisors which stated that SB 71 has an impact on local jurisdictions, and recommending that a) local jurisdictions be reimbursed for any loss in revenue and b) CAEATFA consider local financial impact when reviewing specific applications. CAEATFA maintains that quantifying the specific fiscal impact to any local entity at time of application is not feasible given that the fiscal impact is specific to where the equipment is purchased, not where a project is physically located. The CAEATFA regulations include a provision that enables it to report on the actual value of Qualified Property within each county and/or city (or aggregate this information if necessary).

*15-Day Public Comment Period.*

No comments were received during the 15-day public comment period.

**Tentative Timeline.**

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

June 28, 2011	Board Meeting, present final regular regulations to Board for Authority approval
June 29, 2011	Submit final text for the regular rulemaking process to OAL
July 29, 2011	OAL decision deadline for regular regulations, sent to Secretary of State office.
August 29, 2011	Secretary State time deadline, regulations enacted.
September 22, 2011	The re-adopted Emergency Regulations expire, or upon completion of the regular rulemaking process, whichever comes first.

**Recommendation.** Staff recommends adoption of a resolution to approve the proposed regulations for the SB 71 Advanced Transportation and Alternative Source Manufacturing Sales and Use Tax Exclusion Program.

Attachments:

- Attachment A – Summary of Program Regulations and Key Policy Issues
- Attachment B – Proposed Text of Modified Regulations
- Attachment C – Proposed Application
- Attachment D – Proposed Application Worksheet
- Attachment E – Text of Senate Bill 71

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED  
TRANSPORTATION FINANCING AUTHORITY APPROVING REGULATIONS AND  
OTHER ACTIONS RELATED THERETO**

June 28, 2011

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") is authorized by California Public Resources Code Section 26009, and 26011.8 to adopt regulations to further 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 implement the SB 71 Program.

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

Section 1. The proposed form of Regulations, on file with the Authority, is hereby approved. The Chair, Executive Director and Deputy Executive Director are hereby authorized to file the Regulations, with the supporting documentation required by law, with the Office of Administrative Law as regulations in the form currently on file with the Authority.

Section 2. 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 3. This resolution shall take effect immediately upon its approval.

**Attachment A**

**SUMMARY OF PROGRAM REGULATIONS  
AND POLICY ISSUES**

The regulations govern how the program operates within the broader context of the program statute. In addition, Project eligibility criteria is clearly described, as are Project evaluation criteria, which include a net benefits test consisting of several calculations to be carried out during the Application review process.

Following is a brief summary of each of the sections of the proposed regulations, the key elements of each section, and the issues, if any, underlying the section.

**Article 2. Advanced Transportation and Alternative Source Manufacturing Sales and Use Tax Exclusion Program**

**§10030. Purpose and Scope**

- This section states the Public Resources and the Revenue and Taxation Codes which provide CAEATFA the authority to grant sales and use tax exclusions (STE) to qualified Applicants who apply to the STE Program. The main reference is 26011.8 of the Public Resources Code.

**§10031. Definitions**

- This section clearly defines terms used in the Application and regulation documents, such as Applicant or Qualified Property.

**Issues:** As noted in previous staff reports regarding the Program, CAEATFA has determined, after a lengthy review of public comment and other data, that the definition of Project in relation to Alternative Source components does not include alternative source energy generation facilities.

**§10032. Application Requirements**

- This section discusses the timing of the Application process, such as how often Applications will be considered by the Authority and what type of documentation will be required for an Application to be considered complete. Typically Applications will be reviewed by Staff and presented to the Board at the first meeting occurring at least 60 calendar days after the receipt of a complete Application. However, the Authority may consider an Application earlier.

- Some of the information Applicants will be required to provide includes, but is not limited to, a brief description of the Facility and products to be produced, projected number of employees hired for the purposes of building the Facility or installing Qualified Property, estimated annual corporate or other personal income taxes paid by the company on its profits, economic value added by the company to its products, as well as environmental benefits associated with use of the product.
- Applicants claiming that without the STE the proposed Facility will not be located in California will be required to provide additional documentation proving this claim.

***Issues:*** Typically, recommendations made to the Authority will take at least 60 calendar days to prepare, after a complete Application is received in order for Staff to complete a thorough review of documentation provided by Applicants, including conducting an analysis of the net benefits to the State including environmental, fiscal and economic benefits of proposed Projects.

### **§10033. Eligibility Requirements and Application Evaluation**

#### ***Eligibility Criteria.***

To qualify, an Applicant must show that the property to be purchased subject to the STE will be used to design, manufacture, produce or assemble an Advanced Transportation Technology or Alternative Source product, component or system. This definition includes, for example, manufacturers of Alternative Source electricity generation equipment such as solar panels or wind turbines, but would exclude the purchase of that equipment for use in power generation.

- Eligible Qualified Property must be used more than 50 percent of the time during each year and more than 75 percent of the time on average over the useful lifespan of the Qualified Property for the manufacture, design, production or assembly of Advanced Transportation Technologies or Alternative Source products, components or systems.

#### ***Evaluation Criteria.***

Applications that meet the Project definition criteria will be evaluated based on criteria developed and specified in the proposed regulations. These evaluation criteria are designed to measure and quantify the fiscal and environmental benefits of the Project and to compare the result to the cost of the STE.

In order to specifically evaluate the fiscal and environmental results that stem directly from the STE, only the marginal additional production (and resulting fiscal and environmental benefits) associated with the STE are included for purposes of evaluating Applicants. The marginal additional production resulting directly from the STE will be determined based on an assumed increase in equipment purchases resulting from the STE. That is, because the STE in effect lowers the cost of purchasing capital equipment, Applicants are assumed to purchase more such equipment than would be the case in the absence of the STE. The increase in capital purchases

resulting from the STE is derived based on a calculation performed by Staff in the evaluation process pursuant to parameter assumptions determined by the Executive Director.

The resulting increase in output associated with the additional equipment purchases is subsequently calculated, and the fiscal and environmental effects associated with just this additional output is used for purposes of scoring the Application.

Evaluation criteria consist of three main categories for determining the Applicant's total point score and the net benefits realized from granting a STE: fiscal, environmental, and an optional supplemental information category.

- Fiscal benefits derive from the marginal increase in Qualified Property purchases that will result from the STE and the resulting increase in production of the Applicant's product. These increases, in turn, result in an increase in economic activity and tax revenue to the State and local governments. The fiscal benefits are divided into two types:
  - Direct fiscal benefits to the State and local governments include the increases in sales taxes, personal income taxes, corporate or other income taxes paid by the company on its profits and property taxes that result from the increase in sales resulting from the STE.
  - Indirect fiscal benefits to the State and local governments stem from the increased economic activity caused by additional purchases from in-state suppliers and increased employee wages spurred by the STE (i.e., the multiplier effect).
- Environmental benefits stem from the extent of pollution reductions an Advanced Transportation Technology or Alternative Source product, component or system will contribute to the environment due to the granted STE. Specifically, the evaluation criteria are designed to estimate the following: the amount of Alternative Source electricity that can be generated by use of products produced by the Applicant or the reduction in energy consumption that result from the use of the Applicant's product. Environmental benefits are calculated in two steps:
  - First, the total pollution benefit will take into account the net change in electricity generated from Alternative Sources, the net change in electricity generated from fossil fuel based sources, or the net change in energy consumed due to energy conservation or energy efficiency products. In the case of Advanced Transportation Technologies, the total pollution benefit will take into account the net change in consumption of fossil fuels due to increased used of Advanced Transportation Technologies.
  - Next, the value (in dollars) of the pollution benefit will be calculated based on available research, consultation with experts and other State agencies, and information provided by the Applicant.
- Additional points may be awarded to Applicants on the basis of job creation, a determination as to whether the Applicant's industry is an Emerging Green Industry, the extent to which an Applicant utilizes a manufacturing process that results in substantial

environmental improvements relative to directly comparable processes, or out-of-state environmental benefits.

- Projects that create jobs in high unemployment rate areas, sufficient permanent jobs relative to the amount of sales and use tax exclusion or construction and installation jobs relative to the amount of sales and use tax exclusion may receive additional points.
- Projects in which the Applicant's industry is in an Emerging Green Industry, which may be determined from time to time by the Executive Director, may receive additional points.
- Applicants with manufacturing processes that use less energy or water or result in less atmospheric emissions, waterborne wastes, industrial solid waste and post-consumer solid waste relative to comparable manufacturing processes may receive additional points. Substantial improvements must be evidenced by demonstrating improvements relative to third party certification guidelines or standards or State or federal regulations or guidelines.
- The Applicant may also gain points for demonstrating that its product will produce out-of-state environmental benefits, although these will carry less weight than in-state environmental benefits.

***Scoring.***

Applicants will receive scores in the areas of fiscal benefits and environmental benefits which will translate into a numerical score. In addition, Applicants may receive up to 200 points based on a review of optional supplemental information related to the economic and environmental benefits of the Project if the Applicant provides such data, the point threshold has not already been met, and the Applicant meets the scoring and eligibility criteria for these additional scoring categories.

- Applicants receiving a total score, which includes the total fiscal benefit, total environmental benefit, and any additional points of greater than or equal to 1,000 and a minimum total pollution benefit score of greater than or equal to 100 will be recommended for a sales and use tax exclusion.
- The Executive Director may recommend to the Authority that the 1,000 point threshold be adjusted if it is in the public interest and advances the purposes of the Program. Where a Applicant receives a total score of less than 1,000 points, the Executive Director may recommend it to the Authority for approval upon a statement articulating specific reasons why the approval is in the public interest and advances the purposes of the Program.

***Issues:*** The language of the statute requires that Applicants be evaluated based on “the extent to which the anticipated benefit to the State from the Application equals or exceeds the projected benefit to the Participating Party from the sales and use tax exclusion.” To implement a net benefits test requires first determining the extent of additional economic activity that occurs as a result of the STE. The marginal additional economic activity (increased company production capacity and sales) produces fiscal benefits in the form of increased personal income, corporation, sales, and property taxes. This additional, marginal

economic activity also stimulates economic activity on the part of suppliers to the Applicant and the Applicant's additional employees hired as a result of the STE.

The additional sales of Advanced Transportation Technologies or Alternative Source products, components or systems result in reductions in pollution relative to what would otherwise occur. The "net benefits" test devised estimates the extent of these effects and quantifies the "environmental benefits" in dollars.

Determining the extent of the fiscal and environmental benefits requires that Staff perform a series of calculations on data provided by the Applicant using input parameters determined by the Executive Director. These input parameters include items such as the percent increase in Qualified Property purchases that occur as a result of the STE, an appropriate discount rate, the relevant economic multiplier, and the dollar value of CO<sub>2</sub> and other pollutants.

In addition to the net benefits test, several economic and environmental factors are evaluated and scored based on optional supplemental information that Applicants may choose to provide. These supplemental scoring factors address more difficult to quantify aspects of an Application, such as the appropriate score to award for Projects located in high unemployment areas. In addition, these factors seek to give Applicants additional points for environmental benefits associated with their manufacturing processes, which are not directly evaluated in the net benefits test.

The regulations also provide flexibility to the Executive Director to adjust the overall 1,000 point threshold or to recommend to the Authority individual Projects for approval if they fall below the 1,000 point threshold. While CAEATFA evaluated numerous potential types of applications in developing the regulations, this provision will allow CAEATFA to more appropriately evaluate unique and innovative Applications which may not have been anticipated in the evaluation criteria established in the regulations.

**§10034. Approval of Applications by the Authority**

- This section describes the Application approval and appeal process.
- Applicants must deliver a completed Application no less than 60 calendar days prior to the CAEATFA Board meeting at which they wish to obtain a decision on the Application.
- In the event that Applicants do not receive a favorable Staff recommendation to receive a STE, the Applicant may appeal the Staff recommendation. Applicants wishing to appeal the recommendation must notify the Authority within five business days of receipt of the notice containing the staff recommendation.
- Applicants may not appeal the evaluation of another Applicant's Application.

***Issues:*** Applications may be submitted at any time for consideration and will be presented at the ***first meeting*** occurring at least 60 calendar days after the receipt of the complete

Application with some exceptions. This is to ensure that Staff has adequate time to fully analyze each Application before the Authority meeting. However, the Authority may consider an Application at a meeting occurring less than 60 calendar days.

**§10035. Master Regulatory and Title Conveyance Agreement and Compliance**

*Master Regulatory Agreement.*

A Master Regulatory Agreement will be executed between the approved Applicant (in statute the Participating Party) and the Authority. The Master Regulatory Agreement will require Applicants to comply with the requirements in the regulations, including a requirement of ongoing reporting and compliance for the term of the agreement. This agreement will last the longer of three years or one-half of the Estimated Useful Lifespan of the longest lived item of Qualified Property identified in the Application. CAEATFA will require that the Master Regulatory Agreement is executed shortly after the Authority's approval of an Application (30 days unless an extension is approved by the Executive Director).

*Conveyance/Reconveyance Agreement.*

In order to receive the STE, an approved Applicant must convey title of the Qualified Property to the Authority, who will then reconvey title back to the Applicant. This conveyance/reconveyance transaction may take place multiple times throughout the period during which the Applicant is making purchases of Qualified Property. The conveyance/reconveyance agreement will contain at a minimum:

- An agreement by the Participating Party to convey title of Qualified Property to CAEATFA.
- Representations that the Applicant has not put the Qualified Property to a functional use prior to the conveyance.
- A requirement that CAEATFA reconvey title within 10 days of the initial conveyance.
- An agreement that there will be no fees for the conveyance or reconveyance other than those set forth in the regulations.
- A requirement that the Applicant indemnify and hold harmless CAEATFA from claims connected with: 1) the Project, 2) the transactions associated with the Project, 3) any violation of law connected with the Project, and 4) any dispute or ruling regarding the ultimate taxability of the sale or use of the Qualified Property.
- A requirement that the Qualified Property be installed, maintained and operated within the State of California.
- Information about the Qualified Property purchased, including the acquisition date; conveyance date; purchase order number; vendor city, county, and country; actual cost; address where the Qualified Property will be located or installed; a description and explanation of the purpose of the Qualified Property; and any other information requested by the Executive Director that is reasonably related to the purposes of the Program.

Each conveyance/reconveyance agreement is subject to Administrative Fees identified in the regulations as described below.

Applicant Reporting.

Each year, during the term of the Regulatory Agreement the Applicant must submit an annual certification letter and a compliance report by January 31 with information reported for the previous calendar year. The certification letter must document that the Qualified Property purchased was used for the purposes specified in the Application since the time of the conveyance/reconveyance agreement. The compliance report shall also include the following data:

- total payroll
- number of jobs
- annual product sales
- units sold
- anticipated corporate or personal income tax related to the production of approved technology
- the amount spend on supplier purchases including those purchased from California Suppliers
- total amount of Qualified Property purchased, narrative description of the property status and consistency with timeline
- statement indicating the time that the Qualified Property has been used
- and other reasonably related information requested by the Executive Director.

The compliance report information will be available to the Legislative Analyst's Office to use in preparing a report to the Joint Legislative Budget Committee by January 1, 2019 on the effectiveness of the Program, as required by statute.

Recovery of Financial Assistance.

These proposed regulations include a provision that enables the recovery of financial assistance provided in situations under which an Applicant fails to meet the substantial use test or moves the equipment out of the State of California. The addition of this provision will enable CAEATFA to recapture funds if the project does not remain in compliance with Program requirements.

Effect of STE on Local Government Jurisdictions.

In an effort to monitor STE use throughout the State in local jurisdictions, the regulations enable CAEATFA to publish the actual total value of STEs by local jurisdiction. Staff recommends that CAEATFA collect data on STE use by jurisdiction and publish it in an aggregate form as needed to track STE use patterns within the State.

**Issues:** The Regulatory Agreement and subsequent conveyance and reconveyance of the Qualified Property provide the legal mechanism for excluding certain purchases from sales and use taxes and ensure ongoing compliance with the statute and regulations. Applicants must purchase the specified portion of the Qualified Property within three years (unless otherwise approved by the Board) to provide a more immediate stimulus to the California economy consistent with the legislative intent of the Program. The STE aims to support such job creation and manufacturing and thus all Qualified Property purchases must be made within three years of the Authority's approval. Requiring Applicants to utilize their STE within the specified timeframe also serves to prevent Applicants from applying for a STE in advance of the actual need for equipment purchases.

Also, regarding CAEATFA's Legislative reporting for the Program, per SB 71 statute the Authority is mandated to provide notice to the Legislature once the STE for Projects approved by the Authority exceeds \$100 million annually. The Authority will provide notice to the Legislature when \$100 million in exclusions has been spent each year, prior to making additional approvals (because Applicants are not required to immediately spend the entire amount of their exclusion, there may be a lag between the time an exclusion is granted and the time it is actually used to purchase Qualified Property). This report is not in the regulation text, as it is in statute.

**§10036. Fees**

- This section outlines how Application and Administrative Fees will be calculated for Applicants.
- The Application Fee shall equal .0005 of the total amount of Qualified Property identified in the Application. The minimum fee shall be \$250 and may not exceed \$10,000.
- The Administrative Fee shall equal .004 of the total amount of Qualified Property purchased. The minimum fee shall be \$15,000 and may not exceed \$350,000. The \$15,000 minimum fee shall be due upon execution of the Regulatory Agreement and the balance of the fee shall be assessed at the time of each subsequent conveyance/reconveyance agreement.

***Issues:*** The Application Fee is consistent with fee structures in other boards and authorities under the jurisdiction of the State Treasurer's Office. These Fees will assist CAEATFA with the costs of reviewing Applications. The Administrative Fees were established at a rate which would cover the costs of administering the Program, while still providing a substantial financial benefit to the Applicant, meaning that the ratio to the total fees to total STE savings is extremely low, in most cases less than 5 percent.

**§10037. Trade Secrets and Confidential Information**

- The Applicant may request an exemption from disclosure under the Public Records Act in the event the Application contains information the Applicant considers a trade secret, confidential or privileged. It will remain at the discretion of the Authority to determine whether or not this information is in fact confidential in the event there is a public records request for such indicated information.

***Issues:*** Although some of the information requested in the Application may be deemed confidential or a trade secret by Applicants, all of the information items are necessary for purposes of evaluating Applications pursuant to the "net benefits" test described in Section 10033. In addition, many of the pieces of information requested, specifically as it relates to value added calculations (which allow for estimating company gross margins), are substantially similar to information requested by the federal government as part of the IRS section 48C tax credit program.

**Attachment B**

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING  
AUTHORITY REGULATIONS IMPLEMENTING

ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND  
USE TAX EXCLUSION PROGRAM

~~September 16, 2010~~~~February 25, 2011~~[May 31, 2011](#)

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**Section 10030. Purpose and Scope**

These regulations establish procedures for granting sales and use tax exclusions to qualifying Applicants pursuant to Chapter 10, Statutes of 2010, which authorizes the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to award such sales and use tax exclusions.

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code.  
Reference: 26011.8, Public Resources Code.

**Section 10031. Definitions**

- a) “Administrative Fee” means the fee payable following approval of an Application at the time of conveyance/reconveyance of property to CAEATFA.
- b) “Advanced Transportation Technology” or “Advanced Transportation Technologies” is defined as stated in Section 26003(d) of the Public Resources Code.
- c) “Alternative Source” is defined as stated in Sections 26003(c) and 26011.8(b)(2) of the Public Resources Code.
- d) “Applicant(s)” means a natural person; business entity, whether organized for profit or not for profit; or public agency, acting individually or as a group, submitting an Application.
- e) “Application” means a completed formal request for sales and use tax exclusion as specified in Section 10032.
- f) “Application Fee” means the fee payable at the time of Application for a sales and use tax exclusion.
- g) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000 of the Public Resources Code).
- h) “California Supplier” means a business entity that manufactures, assembles, or produces its product or service in the state of California.
- i) “Emerging Green Industry” means an innovative industry, technology or product that may be identified by the Executive Director as having a potentially significant impact on the State’s environmental goals, the advancement of which is in the public interest, and which advances the purposes of the Program. The Executive Director may from time to time submit to the Authority a list of Emerging Green Industries which will be identified by North American Industry Classification System (NAICS) code (or its equivalent) or by description of the product or manufacturing process. Once approved by the Authority, the list of these industries will be publicly posted on the Authority’s website.
- j) “Estimated Useful Lifespan” means the length of time the Qualified Property or Advanced Transportation Technology or Alternative Source product, component, or system can reasonably be expected to last in a productive capacity, as identified in the Application or the Regulatory Agreement.
- k) “Executive Director” means the executive director of CAEATFA.
- l) “Facility” or “Facilities” mean a design, manufacturing, production, or assembly facility that includes or will include tangible personal property utilized for the design, manufacture, production, or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems.

- m) “Financial Assistance” means the granting of a sales and use tax exclusion by the Authority pursuant to Section 26011.8 (a) of the Public Resources Code.
- n) “Green Component” means the component or system within Advanced Transportation Technologies or Alternative Source products, components, or systems that is primarily responsible for or required to enable the increase in energy efficiency, Alternative Source generation, or pollution reduction.
- o) “Participating Party” is defined as stated in Section 26003(f) of the Public Resources Code.
- p) “Program” means the sales and use tax exclusion program created pursuant to Public Resources Code Section 26011.8.
- q) “Project” is defined as stated in Section 26003(g)(2) of the Public Resources Code. Project does not include machinery or equipment that utilizes or is designed to utilize an Alternative Source.
- r) “Qualified Property” means the tangible personal property identified in the Application or Regulatory Agreement necessary for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems to be purchased for use in the Facility. Qualified Property must be used for the purpose stated in the Application for a period equal to the longer of (a) one year or (b) one-half of the Estimated Useful Lifespan of the Qualified Property. The total value of Qualified Property necessary for the operation of the Facility and located on the same site as the Facility, but not directly used for the design, manufacture, production or assembly of advanced transportation technologies or alternative source products, components or systems shall not exceed one percent (1%) of the total value of all Qualified Property purchased by the Applicant.
- s) “Regulatory Agreement” means the agreement specified in Section 10035.

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code.  
Reference: 26011.8, Public Resources Code.

### **Section 10032. Application Requirements**

- a) Timing of Application submissions. 1) Except as otherwise provided by the Authority pursuant to subparagraph 2, Applications may be submitted for consideration at any time. Applications will be presented at the first meeting at which Applications will be considered occurring at least 60 calendar days after the receipt of the complete Application, except as noted in paragraphs 2, 3, and 4 below. 2) The Authority may limit the number of meetings each year at which Applications will be considered. 3) Upon a recommendation of the Executive Director, the Authority may consider an Application at a meeting occurring less than 60 calendar days after the receipt of the complete Application.

- 4) The Authority may, upon a finding that it is in the public interest and advances the purposes of the Program, at any time announce that it is not accepting further Applications.
- b) Application. Applicants shall submit to the Authority the information required by this section. 1) Applications not meeting all requirements shall be considered incomplete. An Applicant shall be notified by the Authority should its Application be deemed incomplete and may correct any deficiency and resubmit the Application. Resubmitted Applications will be reviewed for completeness and, if complete, will be further reviewed by staff and presented to the Authority pursuant to the regular review and evaluation process and timeline. 2) Determination of completeness, compliance with all requirements, and the scoring of the Application shall be based entirely on the documents contained in the Application as of the date on which the Application was submitted. Any additional documents pertaining to the requirements or scoring categories that the Applicant chooses to submit shall be accepted after the Application-filing date only with the understanding that, for purposes of calculating the 60 calendar days to determine the earliest meeting at which the Application will be heard, the date the additional documentation is received shall be the date of receipt of the Application. In the event the Authority asks an Applicant for additional information or requests clarification or correction of errors, Applicants shall be given up to ~~five~~ three (3) business days from the date of receipt of staff notification to submit said documents to complete the Application. A timely response shall not cause a redetermination of the date of receipt. The Authority may request additional clarifying information from third party sources, such as local government entities, other state agencies, or subject matter experts. To the extent that third party information is received that contradicts or otherwise calls into question information provided in the Application or otherwise may result in a reduction in the score that an Application would receive, the Applicant will be notified and will be given three (3) business days to respond to the third party information received. 3) An Application may not be changed, nor may any additional information with respect to scoring be submitted subsequent to the Application filing date, except as noted above. 4) Applications not submitted with the Application Fee will be considered incomplete. 5) To be considered complete, a paper copy of the filled-out Application and any supporting documentation, including original signatures as required on part A of the Application form, must be received at the Authority's Sacramento office.
- c) Documentation. The following documentation relevant to the proposed Facility is required to be submitted with all Applications: 1) Applicant Certification. A signed statement certifying the responsibility of the Applicant to: A) provide Application-related documentation to the Authority upon request; B) be familiar with and comply with Program statutes and regulations; C) hold the Authority and its employees and consultants harmless from any and all issues arising from the Applicant's participation in the Program; D) agree to comply with and remain in compliance with all applicable laws and regulations during the term of the Regulatory Agreement;

## Agenda Item-4.B.

- E) acknowledge that the Authority has recommended the Applicant seek tax advice; F) acknowledge that the Application will be evaluated according to Authority regulations;
  - G) acknowledge that continued compliance with Program requirements, including ongoing reporting requirements and any costs associated with such requirements for the term of the Regulatory Agreement, is the responsibility of the Applicant;
  - H) acknowledge that information submitted to the Authority may be subject to disclosure pursuant to the Public Records Act (Government Code Sections 6250, et seq.); I) agree to enter with the Authority into a Regulatory Agreement if the Application is approved; and,
  - J) acknowledge, under penalty of perjury, that all information provided to the Authority is true and correct, and that the Applicant has an affirmative duty to notify the Authority of any material changes to the information submitted in the Application during the Application process and the term of the Regulatory Agreement.
- 2) Legal Information. Applicants shall complete the Legal Status Questionnaire (as revised on October 1, 2010).
- 3) Designated Contacts ~~Person~~. The Application must identify ~~a~~-designated contacts ~~person~~ who can respond to questions from the Authority or provide additional information if requested. If the designated contacts ~~person is~~ are not directly employed by Applicant, the Application must include appropriate documentation signifying the contact's ~~person's~~ authority to represent and act on behalf of the Applicant with respect to the Application.
- 4) Applicant and Facility Information. Applicants are responsible for providing all requested information, which shall include: A) Applicant Information.
- (i) Name, phone number, email address, mailing address, and taxpayer identification number of Applicant,
  - (ii) Applicant organization type (e.g., corporation, LLC, partnership, etc.),
  - (iii) Name, phone number, email address, and mailing address of ~~designated a primary and~~ secondary contact person
  - (iv) Contact~~s'~~ s' titles or relationships to Applicant,
  - (v) The name(s) of the owners of the Applicant's business entity.
    - (a) If the Applicant is a corporation, include the names of the officers of the corporation, major shareholders (10.0% or greater), and date and place of incorporation.
    - (b) If the Applicant is a sole proprietorship, include the name of the proprietor and the date and place of establishment.
    - (c) If the Applicant is another type of legal entity, identify the name(s) of the owners and each owner's share of ownership (the totals of the reported shares of ownership should equal 100%).
    - (d) For all types of business entities, other than publicly traded corporations, private equity firms or sole proprietorships, that are owned by another business entity with an ownership share greater than or equal to 10 percent, identify any individuals or businesses with an ownership share in the parent entity of 10 percent or more.
    - (vi) Brief description of the Applicant's business, including product(s) produced, facility locations, years in business, and any unique technological or

environmental characteristics of the business or products. B) Facility

Information

(i) Brief description of Facility and product(s) to be produced, including the following:

(a) Physical location of the Facility

(b) A description of the Facility, including the design, manufacturing, or assembly process to be employed, the product to be produced, and the intended or likely customers.

(c) Identification of the Advanced Transportation Technology or Alternative Source product, component or system to be produced. In the case of a Facility producing property or products that, after further manufacture, will become the Green Component of an Advanced Transportation Technology or Alternative Source product or system, the Applicant must describe both the property or product produced by the Facility and the Green Component of the Advanced Transportation Technology or Alternative Source product or system for which the product produced will be used.

(d) Current Facility status and a schedule indicating the estimated Facility construction start date through the placed-in-service date for the Qualified Property identified in the Application, including the expected date of any needed permits.

~~(d)~~(e) ~~or additional~~ Description of the sources of financing necessary for Facility completion.

~~(e)~~(f) Total value of the capital stock used to produce the product, including the anticipated Qualified Property purchases. The value is not the cost of the capital stock, but the depreciated value of the capital stock excluding buildings and land.

~~(f)~~(g) Projected average number of employees at the Facility, measured in full time equivalents, assuming Qualified Property is utilized. ~~(g)~~(h) Projected number of employees employed for purposes of constructing the Facility or installing Qualified Property, measured in full time equivalents. ~~(h)~~(i) Estimated annual corporate or other income taxes paid by the company on its profits.

C) Qualified Property Information. Completed provisional Qualified Property list to include the following information for each piece of property to be subject to the sales and use tax exclusion. Good faith estimates are acceptable if specific property characteristics are not available at the time of Application.

Individual items of Qualified Property valued at less than \$10,000 can be grouped together provided that (a) the total value of the group of items does not exceed \$100,000 and (b) the individual items are reasonably related, such as items that will be used together to construct or assemble a larger piece of machinery or equipment that will be used to design, manufacture, produce or assemble Advanced Transportation Technologies or Alternative Source products, components, or systems.

(i) Brief description of Qualified Property to be purchased and its use in the manufacturing, production, assembly, or design process.

(ii) Estimated cost of the Qualified Property to be purchased

(iii) Average Estimated Useful Lifespan of the Qualified Property, weighted by cost.

- (iv) Estimated percent of time Qualified Property will be used to make Advanced Transportation Technologies or Alternative Source products, components, or systems.
- D) Product information (all information must relate solely to the Facility or product to be produced with Qualified Property if the Applicant produces other goods or services):
  - (i) Brief description and name of the product to be produced with Qualified Property and within California, including the six-digit (NAICS) code.
  - (ii) Estimated average annual number of Advanced Transportation Technologies or Alternative Source products, components, or systems to be sold or shipped
  - (iii) Estimated per unit sales price.
  - (iv) Estimated total Facility sales in dollars.
  - (v) Estimated per unit production-related purchases from suppliers, assuming Qualified Property is utilized or installed.
  - (vi) Estimated percent of production costs from California ~~Suppliers, defined as suppliers that manufacture, assemble, or produce the product or service supplied in the state of California.~~
  - (vii) Estimated per unit labor costs, assuming Qualified Property is utilized or installed.
  - (viii) Estimated Useful Lifespan of product, component, or system.
  - (ix) Estimated percent of total Advanced Transportation Technology or Alternative Source products, components, or systems to be sold in California.
  - (x) Statement as to whether the technology, product, component, or system is a subcomponent of an Advanced Transportation Technology or Alternative Source end-of-supply-chain product.
  - (xi) Total value of the end-of-supply-chain Green Component.
- E) Environmental Benefit Information.
  - (i) For Facilities producing the Green Component of Alternative Source products, components or systems:
    - (a) Annual ~~MWh energy generation capacity or energy content generated~~ per unit.
    - (b) Lbs. of CO<sub>2</sub> (or equivalent) emitted per MWh or equivalent.
    - (c) Lbs. of SO<sub>2</sub> emitted per MWh or equivalent.
    - (d) Lbs. of NO<sub>x</sub> emitted per MWh or equivalent.
    - (e) Amount of other pollutants emitted per MWh or equivalent.
    - (f) Pollution cost of other pollutants emitted per MWh or equivalent.
  - (ii) For Facilities producing the Green Component of Alternative Source energy efficiency products, components or systems
    - (a) Type and units of energy conserved
    - (b) Annual baseline system consumption of energy per unit
    - (c) Annual improved system consumption of energy per unit
  - (iii) For Facilities producing the Green Component of Advanced Transportation Technology products, components, or systems
    - (a) Annual baseline system consumption of energy per unit
    - (b) Annual improved system consumption of energy per unit
    - (c) Annual consumption of any offsetting energy required to achieve improved system performance

(iv) For Facilities producing the Green Component of Alternative Source or Advanced Transportation Technology products, components, or systems that do not fall within the above categories of products, the Applicant shall explain and quantify the following:

(a) Description of environmental benefits.

~~(a)~~(b) Annual value of Eenvironmental benefits associated with use of the product.

~~(b)~~(c) Net annual Annual reduction in consumption of energy, if any. pollution cost of any off-setting energy use or other pollutants emitted.

~~(e) Amount of other pollutants emitted, if any.~~

F) Optional Supplemental Information. The following information may be submitted with an Application. Submission of this information may increase an Applicant's score, as specified in Section 10033, however, the Authority will not use this information to adjust an Applicant's score if an Applicant's score, based on the required information listed above, exceeds the established points threshold.

(i) Applicants claiming any additional significant environmental benefits associated with use of their product beyond those associated with reduced energy consumption or increased Alternative Source energy generation may provide a description of these benefits, including the amount of pollution avoided and a quantification of the impact of the pollution reduction in dollars if possible.

(ii) Applicants utilizing a manufacturing or production process that is characterized by substantial environmental improvements relative to the processes employed by directly comparable entities in energy use, water use, atmospheric emissions, waterborne waste, industrial solid waste, or post-consumer solid waste may submit the following information, submission of which may increase an Applicant's score:

(a) An explanation of the process improvements

(b) Demonstrated proof of input use and output emission improvements over the standard processes

(c) Quantification of the amount of the process improvements

(iii) Additional documentation only for Applicants claiming that without the exclusion the proposed Facility will not be sited in California. Determination of Facility benefits, as further delineated in Section 10033, may be increased for Facilities that would not locate production Facilities in California absent the grant of the sales and use tax exclusion. For Applicants claiming that Facility location or expansion decisions are dependent upon receipt of the sales and use tax exclusion, Applications must provide evidence to support the claim. Such evidence may include the following:

(a) Internal financial analysis demonstrating the extent of an advantage for a non-California site.

(b) Location consultant report demonstrating the extent of an advantage for a non-California site.

(c) Other internal or external analyses demonstrating that, absent the grant of the sales and use tax exclusion, the proposed Facility will not proceed at the California site.

G) Calculations and assumptions relied upon by the Applicant. For any calculation performed by or assumption relied upon by the Applicant in completing the Application, the Applicant must provide an explanation of the basis for the value resulting from the calculation or reasonableness of the assumption relied upon. Applicants may be asked to provide additional supporting information, including business plans, pro forma financial statements or other comparable documents used for the purpose of soliciting investors to verify responses contained in the Application. Applications that do not adequately document any calculations or assumptions relied upon will be considered incomplete.

- 5) Application materials and supporting documentation in excess of thirty pages will not be considered or reviewed except to the extent that documentation in excess of this page limit is provided in response to a direct request for additional information from the Authority.
- d) ~~Trade secrets and confidential information. If elements of an Application contain information the Applicant considers to be trade secrets, confidential, privileged or otherwise exempt from disclosure under the Public Records Act (California Government Code Section 6250, et seq.), the Applicant shall assert a claim of exemption at the time of Application by identifying in an accompanying letter each of the items to be restricted. The asserted claim shall indicate the specific information within the Application to which the claim is made. Upon receipt of a Public Records Act request for documents that may include information the Applicant has identified as trade secret, confidential, privileged or otherwise exempt from disclosure, the Authority shall provide notice to the Applicant and provide the Applicant with three business days to provide the Authority with an explanation as to why the information is not subject to disclosure pursuant to the Public Records Act. The Authority shall consider a claim of exemption and the basis for it, but retains the authority to make the final determination as to what information will be released under the Public Records Act. Applicants will be notified by the Authority prior to release of any such information.~~

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code.  
Reference: 26011.8, Public Resources Code.

**Section 10033. Eligibility Requirements and Application Evaluation**

- a) Staff summary and recommendation. Following receipt of a complete Application, Authority staff will review each Application and prepare a summary and recommendation to the Authority. The summary and recommendation will include a calculation of the benefits of the Facility and an assessment of whether the proposed Facility meets the eligibility requirements.
- b) Eligibility. To be eligible for the sales and use tax exclusion, a Facility must: 1) Include the purchase of tangible personal property otherwise subject to sales and use tax used substantially for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems or for the design, manufacture, production or assembly of a component of the Green

Component of an Advanced Transportation Technologies or Alternative Source products or systems.–

A) For this purpose, “used substantially” shall mean that the Qualified Property must be used for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems as defined in Public Resources Code sections 26003(c), 26003(d), and 26011.8(b)(2) more than 75.0 percent of the time in any during each year and more than 75.0 percent of the time on average for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems during the longer of (a) one year or (b) one-half of the weighted average Estimated Useful Lifespan of the Qualified Property (WALS).

2) Produce benefits to the State of California, as determined by the Authority subject to the criteria and evaluation process identified herein.

c) Evaluation. Applications shall be scored according to the benefits provided to the state by the marginal increase in Qualified Property purchases resulting from the sales and use tax exclusion. Applicants must demonstrate that the benefits of the marginal increase in Qualified Property purchases exceed the cost to the state of the sales and use tax exclusion. Benefits can be a combination of fiscal, environmental and other benefits, as specified. Each Application will be evaluated based on these elements as specified below. 1) Fiscal Benefits  
A) The estimated percent increase in capital investment (PICI) resulting from sales and use tax exclusion. The increase in capital investment will be calculated based on the factor share of capital ( $\omega$ ), the price elasticity of demand for output ( $\eta$ ), the elasticity of substitution between capital and labor ( $\sigma$ ), and the change in user cost from the sales tax exclusion (equal to the current statewide average sales tax rate or STR) according to the following formula:

$$PICI = (\sigma - \sigma * \omega + \omega * \eta) * STR$$

(i) The factor share of capital ( $\omega$ ) is calculated for each Applicant depending on the capital stock’s contribution to the firm’s value-added output. To calculate the factor share of capital, Applicant-provided information about estimated annual sales value (Sales), production-related purchases from suppliers (Supplies), labor costs (Labor), the value of the capital stock (VCS), and determinations made by the Executive Director based on the relevant research literature and consultation with outside experts of the cost of employee benefits (EB) and the cost of capital (\$CAP) are used in the following formula:

$$\omega = \text{Equipment Capital as Percent of Total Capital} * \text{Capital Share of Output}$$

(a) Equipment Capital as Percent of Total Capital is the ratio of the Estimated Annual Payment for Capital Stock (CAP) to Total Capital. CAP is the lesser of: 1) the estimated amount the applicant would have to pay for the capital stock (VCS) with interest (\$CAP) over the weighted average life span (WALS) of the Qualified Property, or 2) Total Capital, which is calculated pursuant to the following formula: Total Capital = Sales – Supplies – (Labor + EB)

(b) Capital Share of Output is the ratio of capital to output calculated pursuant to the following formula:

$$\text{Capital Share of Output} = 1 - (\text{Labor} + \text{EB}) / (\text{Sales} - \text{Supplies})$$

(ii) The price elasticity of demand for output ( $\eta$ ) and the elasticity of substitution between capital and labor ( $\sigma$ ) are determined by the Executive Director based on the relevant research literature and consultation with outside experts.

(iii) The change in user cost is the same as the sales tax rate (STR) as determined by the Executive Director based on information collected by the California State Board of Equalization.

(iv) Where the Applicant can demonstrate that the Facility would have been located outside of California absent the sales and use tax exclusion, the Executive Director will adjust the PICI to reflect this fact.

~~A)B)~~ The estimated marginal increase in Qualified Property (MIQP) purchases resulting from sales and use tax exclusion. The increase in purchases will be calculated using Applicant-provided information on the total value of the Qualified Property (VQP) and the estimated percent increase in capital investment (PICI) ~~associated with the relevant sales and use tax rate as determined by the Executive Director based on the relevant research literature or consultation with professional economists or other experts. Where the Applicant can demonstrate that the Facility would have been located outside of California absent the sales and use tax exclusion, the Executive Director will adjust the PICI to reflect this fact.~~ The MIQP will be calculated pursuant to the following formula:

$$\text{MIQP} = (\text{VQP} / (1 + \text{PICI}) * \text{PICI})$$

~~B)C)~~ The estimated marginal increase in sales (MIS) resulting from sales and use tax exclusion. The increase in sales will be calculated by multiplying MIQP times the ratio of the estimated annual units of production times the average per unit sales price ~~times~~ to the value of the capital stock (VCS) used to produce the product, pursuant to the following formula:

$$\text{MIS} = \text{MIQP} * (\text{Estimated Annual Sales Value} / \text{VCS})$$

(i) ~~(i)~~ The present value of the MIS (PVMIS) will be calculated based on the weighted average life span (WALS) of the Qualified Property as provided by the Applicant and a discount rate determined ~~recommended~~ by the Executive Director based on the relevant research literature, consultation with outside experts, or information provided by other state agencies and approved by the Authority ~~(ii)~~ (i)

~~C)D)~~ The estimated annual marginal increase in units (MIU) resulting from sales and use tax exclusion. The increase will be calculated using the marginal increase in sales (MIS) and Applicant-provided data on the sales price per unit (\$Unit), pursuant to the following formula:

$$\text{MIU} = (\text{MIS} / \$\text{Unit})$$

~~D~~E) The estimated annual increase in employee wages (AIEW) will be calculated based on Applicant-provided information about the per unit labor costs and the per unit price, pursuant to the following formula:

$$\text{AIEW} = (\text{MIU}) * \text{average per unit labor cost}$$

~~E~~F) The estimated marginal increase in state economic output (MISO) resulting from the sales and use tax exclusion. The MISO will be calculated using the MIS, the AIEW resulting from the marginal increase in sales, the marginal increase in in-state supplier purchases (MISP) and a multiplier effect (Multiplier) to be determined by the Executive Director based on the relevant research literature, consultation with outside experts, or information provided by other state agencies, pursuant to the following formulas:

$$\text{MISP} = \text{MIU} * \text{percent of production costs from California suppliers} * \text{Per unit production-related purchases from suppliers}$$

$$\text{MISO} = (\text{MISP} * \text{Multiplier} + \text{AIEW} * \text{Multiplier} - \text{AIEW})$$

(i) The present value of the MISO (PVMISO) will be calculated based on the WALs of the Qualified Property as provided by the Applicant and a discount rate ~~recommended~~ determined by the Executive Director ~~and approved by the Authority~~

~~F~~G) ~~G~~) The estimated extent of increased tax revenues, or total fiscal benefits (TFB), that will accrue to the state and local governments over the WALs resulting from the PVMIS and PVMISO. TFB is the sum of the increased direct fiscal benefits (DFB) and the indirect fiscal benefits (IFB).

$$\text{TFB} = \text{DFB} + \text{IFB}$$

(i) The DFB are the sum of the increases in sales taxes (IST), personal income taxes (IPIT), corporate or other income taxes paid by the company on its profits (ICIT) and property taxes (IPT) that result from the company's MIS.

$$\text{DFB} = \text{IST} + \text{IPIT} + \text{ICIT} + \text{IPT}$$

(a) The IST is calculated using MIS, Applicant-provided data on the percent of sales in California (POSCA), and the current statewide average sales tax rate (STR) as determined by the Executive Director based on information collected by the California State Board of Equalization, and the percent value added (VA), pursuant to the following formula:  $\text{IST} = \text{POSCA} * \text{PVMIS} * \text{VA} * \text{STR}$

(b) The IPIT is calculated using the present value of the AIEW and the average state income tax rate (SIR) as determined by the Executive Director by using the most recent two-year average of personal income tax rates published by the California Franchise Tax Board, pursuant to the following formula:

$$\text{IPIT} = \text{Present Value (AIEW)} * \text{SIR}$$

- (i) The present value is based on the WALs of the capital equipment purchased as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.
- (c) The ICIT paid by the company on its profits is the present value of the estimated annual tax liability that is attributable to the Qualified Property.
- (i) The ICIT is calculated using Applicant-provided data on estimated annual tax liability (ATL), the value of the capital stock (VCS) used to produce the product and the MIQP pursuant to the following formula:  $\text{ICIT} = \text{Present Value (ATL * MIQP/VCS)}$
- (ii) The present value is based on the WALs of the capital equipment purchased as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.
- (d) The increase in property taxes (IPT) is the present value of the annual property taxes paid on the MIQP.
- (i) The annual property tax amount is calculated using MIQP and the current property tax rate (PTR) as determined by the Executive Director based on information collected by the California State Board of Equalization, pursuant to the following formula:  $\text{IPT} = \text{Present Value (MIQP * PTR)}$
- (ii) The present value is based on the WALs of the capital equipment purchased as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.
- (ii) The indirect fiscal benefits (IFB) result from increased state and local revenues resulting from increased economic activity caused by additional purchases from in-state suppliers and increased employee wages resulting from the MIQP.
  - (a) The increase in revenues is calculated using PVMISO and the ratio of state and local government revenues to gross state output (GRSO) as determined by the Executive Director using the sum of the latest two-year average of actual state general fund revenues from the California Department of Finance, the latest two-year average of actual aggregate city and county revenues excluding intergovernmental transfers and service charges from the cities annual report and the counties annual report from the California State Controller's Office, divided by the latest two-year average of gross state product from U.S. Department of Commerce's Bureau of Economic Analysis, pursuant to the following formula:

$$\text{IFB} = \text{PVMISO} * \text{GRSO}$$

2) Environmental Benefits. A) The allocated share (AS) is the estimated percent of the pollution benefit from the Green Component of the Advanced Transportation Technology or Alternative Source product, component, or system that can be attributed to the Applicant's use of the Qualified Property. The AS is calculated using Applicant-provided data on the percent of time (POT) that the Qualified Property will be used to make the Advanced Transportation Technology or Alternative Source product, component or system and the fractional component contribution (FCC) of the Applicant's product to the Green Component of the end-of-supply-chain product. FCC will be calculated ~~by dividing~~ by multiplying the percent value added (VA) per unit times the sales price per unit (\$Unit) and then dividing by the Applicant by the total value of the end-of-supplychain product for Facilities producing end products or systems or by the total value of the Green Component of the end-of-supply-chain product for Facilities producing subcomponents (End \$) as provided by the Applicant. The AS will be calculated pursuant to the following formulas:

$$\text{FCC} = (\text{VA} * \$\text{Unit}) / \text{End } \$ \text{ and } \text{AS} = \text{POT} * \text{FCC}$$

B) The estimated impact of pollution from a gallon of gasoline equivalent (GGE) or a MWh of electricity. GGE refers to the number of gallons of a fuel that has the equivalent amount of energy to one gallon of gasoline.

(i) The dollar value of pollution costs associated with a GGE (\$GGE) is calculated based on the percent of sales in California (POSCA) as provided by the Applicant and the pollution cost per unit of volatile organic compounds (VOCs), nitrous oxide (NOx), and carbon dioxide or carbon dioxide equivalent (CO2) as determined by the Executive Director based on the relevant research literature, expert analysis, or information provided by other state agencies, pursuant to the following formula:  $\$GGE = \text{Pollution cost of CO2 per GGE} + (\text{POSCA} * (\text{pollution cost of VOC per GGE} + \text{pollution cost of NOx per GGE}))$

(ii) The dollar value pollution costs associated with a MWh of electricity generation (\$MWh) is calculated based on the POSCA as provided by the Applicant and the pollution cost per unit of CO2, nitrous oxide, and sulfur dioxide released from a MWh of electricity production in California (CA) and the rest of the United States (US) as determined by the Executive Director based on the relevant research literature, expert analysis, or information provided by other state agencies, pursuant to the following formula:

$$\begin{aligned} \$MWh = & (POSCA * (\text{pollution cost of CA CO}_2 \text{ per MWh} + \text{pollution cost of CA} \\ & \text{NO}_x \text{ per MWh} + \text{pollution cost of CA SO}_2 \text{ per MWh})) \\ & + ((1-POSCA) * \text{pollution cost of US CO}_2 \text{ per MWh}) \end{aligned}$$

(iii) The dollar value per pound of any other offsetting energy pollutants (\$OP) shall be determined by the Executive Director based on the relevant research literature, expert analysis, or information provided by other state agencies.

(a) Any non-greenhouse gas emissions benefits will be weighted according to the POSCA.

C) The total pollution benefit (TPB) will be calculated based on the marginal increase in product sales due to the sales and use tax exclusion in the following areas:

(i) Net change in use of electricity generated from alternative sources (increased use of alternative sources). The total pollution benefit (TPB) resulting from the net change in electricity generated from alternative sources is based on the lifetime pollution benefit (LPB) of each unit and the increase in unit sales that can be attributed to the sales and use tax exclusion.

(a) The LPB is calculated using information on the annual net electricity generation per unit (MWhG), the annual emissions per MWh of offsetting pollutants (OP) as provided by the Applicant, and estimates of the pollution cost in dollars of avoided MWh (\$MWh) and the pollution cost in dollars of any offsetting energy pollutants (\$OP) as ~~calculated~~ determined by the Executive Director, pursuant to the following formula:

$$LPB = \text{Present Value } (\$MWh * MWhG) - (OP * \$OP)$$

(i) The present value is based on the estimated useful lifespan of the product (ULOP) as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director, pursuant to the following formula:

(b) The TPB is then calculated pursuant to the following formula:

$$TPB = \text{Present Value } (LPB * AS * MIU)$$

(i) The present value is based on the WALs of the capital equipment as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.

(ii) Net change in fossil fuel consumption resulting from increased use of Alternative Source fuels. The TPB resulting from the net change in consumption of fossil fuels is based on the lifetime pollution benefit (LPB) of each unit and the increase in unit sales that can be attributed to the sales and use tax exclusion.

(a) The LPB is calculated based on the dollar value of pollution avoided per unit calculated as the number of GGEs per unit (GGEA) times the dollar value of pollution avoided per GGE (\$GGE) less the dollar value of offsetting pollution cost for any fuel or electricity required to produce a unit (OFF) of Alternative Source fuel (\$GGE or \$MWh or dollar value of pollution cost per

unit for other pollutants), as determined by the Executive Director, pursuant to the following formula:

$$\text{LPB} = \frac{(\text{number of GGEAs per unit} * \$\text{GGE}) - (\text{GGEs required to produce a unit} / \text{Unit} * \$\text{GGE})}{- (\text{MWhs} / \text{Unit} \text{ required to produce a unit} * \$\text{MWh}) - \text{dollar value of other pollution costs/unit per unit}}$$

(b) The TPB is then calculated pursuant to the following formula:

$$\text{TPB} = \text{Present Value (LPB * AS * MIU)}$$

(i) The present value is based on the WALs of the capital equipment as provided by the Applicant and the discount rate determined by the Executive Director.

(iii)(ii) Net change in use of electricity generated from current sources (energy efficiency). The TPB resulting from the net change in the use of electricity generated from current sources is based on the lifetime pollution benefit (LPB) of each unit and the increase in unit sales that can be attributed to the sales and use tax exclusion.

(a) The LPB is calculated using the annual net improvement in system consumption per unit (NI) as provided by the Applicant and estimates of the dollar value of pollution avoided per MWh (\$MWh), ~~or~~ per GGE (\$GGE), or per MMBTU (\$MMBTU), respectively, as determined by the Executive Director, pursuant to the following formula:

$$\text{LPB} = \text{Present Value (NI * \$MWh)} \text{ ~~or~~ } \text{LPB} = \text{Present Value (NI * \$GGE)}$$

or LPB = Present Value (NI \* \$MMBTU)

(i) The present value is based on the ULOP as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.

(b) The TPB is then calculated pursuant to the following formula:

$$\text{TPB} = \text{Present Value (LPB * AS * MIU)}$$

(i) The present value is based on the WALs of the capital equipment as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.

(iv)(iii) Net change in consumption of fossil fuels due to increased use of Advanced Transportation Technologies. The TPB resulting from the net change in consumption of fossil fuels is based on the lifetime pollution benefit (LPB) of each unit and the increase in unit sales that can be attributed to the sales and use tax exclusion.

## Agenda Item-4.B.

- (a) The LPB is calculated by using the annual net improvement in system consumption per unit (NI) and the annual consumption of offsetting energy (OFF) as provided by the Applicant and estimates of the dollar value of pollution avoided per GGE (\$GGE) and the dollar value of pollution emitted as a result of the offsetting energy consumption (\$MWh) as determined by the Executive Director, pursuant to the following formula:

$$\text{LPB} = \text{Present Value } ((\$GGE * \text{NI}) - (\text{OFF} * \$\text{MWh}))$$

- (i) The present value is based on the ULOP as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.
- (b) The TPB is then calculated pursuant to the following formula

$$\text{TPB} = \text{Present Value } (\text{LPB} * \text{AS} * \text{MIU})$$

- (i) The present value is based on the WALS of the capital equipment as provided by the Applicant and the discount rate ~~recommended~~ determined by the Executive Director.
- (v) ~~(iii)~~ ~~(iv)~~ Other environmental benefits. Any other environmental benefits asserted by the Applicant shall be evaluated by the Executive Director based on verification of Applicant-provided information regarding the methodology for calculating such benefits and shall be added to the appropriate Total Pollution Benefit (TPB) amount determined pursuant to these regulations.
- 3) The value of the sales and use tax exclusion. For each Application, the total cost of the sales and use tax exclusion will be calculated by multiplying the value of the Qualified Property (VQP) as reported by the Applicant times the STR.
- 4) ~~3)~~ Calculation of points. Points for fiscal benefits will be calculated by dividing total fiscal benefits (TFB) by the value of the sales and use tax exclusion and multiplying the result by 1,000. Points for environmental benefits will be calculated by dividing total pollution benefits (TPB) by the value of the sales and use tax exclusion and multiplying the result by 1,000.
- 5) ~~3)~~4) Additional points. The total amount of additional points cannot exceed 200. Points shall be awarded as follows: A) Unemployment score. An Applicant may earn up to 40 points for creating jobs in high unemployment areas.
- (a) The unemployment rate for the area means the rate within the county in which the Facility is located as reported by the California Employment Development Department. The most current annual average unemployment rate information available at the time of the Application submission shall be used.
- (b) Points are based on how much greater the local unemployment rate is in comparison to the annual average statewide unemployment rate, pursuant to the following formula:

$$\text{Points} = (\text{Local Rate} / \text{State Rate}) * 100) - 110$$

## Agenda Item-4.B.

- (i) Non-integer points (e.g., 20.4) will be rounded to the nearest whole integer for scoring purposes. B) New jobs score. An Applicant may earn up to 40 points for creating new jobs.
- (i) The Executive Director will calculate the amount of the sales and use tax exclusion per job created by the Applicant as a result of the MIQP. The number of jobs created by the Applicant as a result of the MIQP will be calculated by multiplying the total number of full time equivalent jobs associated with the production of the Applicant's product times the ratio of the MIQP to the VCS. Points will be awarded as follows:
- (a) Less than or equal to \$50,000 in sales and use tax exclusion per job – 40 points
  - (b) Less than or equal to \$100,000 in sales and use tax exclusion per job but greater than \$50,000 per job – 30 points
  - (c) Less than or equal to \$150,000 in sales and use tax exclusion per job but greater than \$100,000 per job – 20 points
  - (d) Less than or equal to \$200,000 in sales and use tax exclusion per job but greater than \$150,000 per job – 10 points
  - (e) Greater than \$200,000 in sales and use tax exclusion per job – 0 points
- C) Construction or installation jobs score. An Applicant may earn up to 20 points for creating construction or installation related jobs.
- (i) The Executive Director will calculate the amount of the sales and use tax exclusion per annual full time equivalent construction or installation job created by the Applicant as a result of the MIQP. The number of annual full time equivalent construction or installation jobs created by the Applicant as a result of the MIQP will be calculated by multiplying the total number of annual full time equivalent construction or installation jobs associated with construction of the Applicant's Facility or the installation of the Applicant's equipment times the ratio of the MIQP to the VCS. Points will be awarded as follows:
- (a) (a) Less than or equal to \$50,000 in sales and use tax exclusion per job – 20 points
  - (b) Less than or equal to \$100,000 in sales and use tax exclusion per job but greater than \$50,000 per job – 15 points
  - (c) Less than or equal to \$150,000 in sales and use tax exclusion per job but greater than \$100,000 per job – 10 points
  - (d) Less than or equal to \$200,000 in sales and use tax exclusion per job but greater than \$150,000 per job – 5 points
  - (e) Greater than \$200,000 in sales and use tax exclusion per job – 0 points
- D) Emerging Green Industry score. An Applicant may earn up to 40 points if the Applicant's industry is in an Emerging Green Industry as defined in Section 10031.H~~i~~. The Executive Director will determine if an Applicant's industry is an Emerging Green Industry and award points to those Applicants that qualify.
- E) Process improvement score. An Applicant may earn up to 40 points for utilizing a manufacturing process that is characterized by substantial environmental improvements relative to the manufacturing processes employed by directly comparable products or processes in the following categories:

(i) Process Inputs. For inputs to the manufacturing process, improvement means decreased use of the following inputs:

(a) ~~(i)~~ Energy. Process energy is the energy required to operate and run the subsystem process(es), including but not limited to such items as heat exchangers, pumps, blowers, and boilers.

(b) ~~(ii)~~ Water. Water withdrawn from a stream, used in a process, treated, and replaced in essentially the same quality and in the same location should not be included. Water withdrawn from groundwater and subsequently discharged to a surface water body should be included because the groundwater is not replaced to maintain its beneficial purposes. In practice, the water quantity to be estimated is net consumptive usage. Consumptive usage as a life-cycle inventory input is the fraction of total water withdrawal from surface or groundwater sources that either is incorporated into the product, co-products (if any), or wastes, or is evaporated.

(ii) Process outputs. For outputs of the manufacturing process, improvement refers to decreased creation of the following outputs:

(a) ~~(i)~~ Atmospheric emissions. Atmospheric emissions from the production process are particulates, nitrogen oxides, volatile organic compounds (VOCs), sulfur oxides, carbon monoxide, aldehydes, ammonia, lead, and other atmospheric emissions monitored by the state or the United States Environmental Protection Agency.

(b) ~~(ii)~~ Waterborne wastes. Waterborne waste from the production process include biological oxygen demand (BOD), chemical oxygen demand (COD), suspended solids, dissolved solids, oil and grease, sulfides, iron, chromium, tin, metal ions, cyanide, fluorides, phenol, phosphates, ammonia, and other waterborne waste monitored by the state or the United States Environmental Protection Agency.

(c) ~~(iii)~~ Industrial solid waste. Industrial solid waste refers to the solid waste generated during the production of a product and its packaging and is typically divided into two categories: process solid waste and fuel-related solid waste. Process solid waste is the waste generated in the actual process, such as trim or waste materials that are not recycled, as well as sludges and solids from emissions control devices. Fuel-related waste is solid waste produced from the production and combustion of fuels for transportation and the operating process. Fuel combustion residues, mineral extraction wastes, and solids from utility air control devices are examples of fuel-related wastes.

(d) ~~(iv)~~ Post-consumer solid waste. Post-consumer solid waste refers to the product/packaging once it has met its intended use and is discarded into the municipal solid waste stream.

(iii) For each area in which an Applicant demonstrates substantial improvement relative to comparable production processes for like products, the Executive Director will award 10 points with a maximum of 40 points. Substantial improvement will be evidenced by documentation evidencing improvements relative to standards such as those identified by third-party certifiers, state or federal regulations, or academic studies.

- F) Out-of-state environmental benefits score. An Application may be awarded points for non-greenhouse gas environmental benefits attributable to Advanced Transportation Technologies or Alternative Source products, components, or systems sold outside of California, pursuant to the following:
- (i) The Executive Director will calculate the value of the non-greenhouse gas environmental benefits resulting from the marginal increase in out-of-state product sales due to the sales and use tax exclusion, pursuant to the following equations:
    - (a) The dollar value of an out-of-state non-greenhouse gas benefit from a GGE (\$OSG) pursuant to the following formula:  $\$OSG = (1 - POSCA) * (\text{pollution cost of VOC per GGE} + \text{pollution cost of NOx per GGE})$
    - (b) ~~(ii)~~ The dollar value of an out-of-state non-greenhouse gas benefit from a MWh (\$OSM) is calculated pursuant to the following formula:  $\$OSM = (1 - POSCA) * (\text{pollution cost of US NOx per MWh} + \text{pollution cost of US SO2 per MWh})$
    - (c) ~~(iii)~~ The dollar value per unit of any other offsetting pollutants (\$OP) be weighted by the POSCA and incorporated by the Executive Director into the calculation of the out-of-state environmental benefits score. (c)
    - (d) ~~(iv)~~ The total value of out-of-state non-greenhouse gas pollution benefits (TOB) due to electricity generated from alternative sources (increased use of alternative sources) is calculated pursuant to the following formula:  $LPB = \text{Present Value} ((NI * \$OSM) - (OP * \$OP))$  and  $TOB = \text{Present Value} (LPB * AS * MIU)$
    - (e) ~~(v)~~ The total value of out-of-state non- greenhouse gas pollution benefits (TOB) to electricity generated from non-alternative sources or fossil fuels burned (conservation) is calculated pursuant to the following formula:  $LPB = \text{Present Value} (NI * \$OSM)$  or  $LPB = \text{Present Value} (NI * \$OSG)$  and  $TOB = \text{Present Value} (LPB * AS * MIU)$
    - (f) ~~(vi)~~ The total value of out-of-state non-greenhouse gas benefits (TOB) due to increased use of advanced transportation technologies is calculated pursuant to the following formula:

$$LPB = \text{Present Value} ((NI * \$OSG) - (OFF * \$OSM))$$

and TOB = Present Value (LPB \* AS \* MIU)

- (ii) The Authority will then calculate the ratio of the total value of out-of-state non-greenhouse gas benefits (TOB) to the value of the sales and use tax exclusion and the result will be multiplied times 1000 and divided in half to determine the Applicant's point total, pursuant to the following formula:

$$\text{Points} = ((\text{TOB} / \text{Sales and Use Tax Exclusion}) * 1000) / 2$$

- (a) ~~(i)~~ Non-integer point totals will be rounded to the nearest whole integer for scoring. A maximum of 40 points may be awarded for out-of-state pollution benefits
- 6) Total Score. The total number of additional points not to exceed 200 determined pursuant to Section 10033.C.5. shall be added to the number of points determined pursuant to Section 10033.C.4. The result of this sum is the Applicant's total score. Complete Applications receiving both a total score greater than or equal to the threshold value of 1,000 and a TPB score of greater than or equal to 100 will be recommended for a sales and use tax exclusion. Notwithstanding the foregoing, where a project receives a total score of less than 1,000, a TPB score of less than 100, or both the Executive Director may recommend it to the board for approval upon a statement articulating specific reasons why the approval is in the public interest and advances the purposes of the Program.
- 7) ~~6)~~ Upon a recommendation from the Executive Director that it is in the public interest and advances the purposes of the Program, the Authority may adjust the threshold value set forth in Section 10033.C.6.

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code. Reference: 26011.8, Public Resources Code.

#### **Section 10034. Approval of Applications by the Authority**

- a) Applications may be considered at meetings in accordance with the schedule established by the Authority pursuant to Section 10032. The Authority will evaluate Applications based on the eligibility requirements contained in Section 10033 and the summary and recommendation prepared by the Authority staff.
- b) For each Application, the Authority will determine whether the Application meets the eligibility requirements and will produce benefits for the State of California.
- c) Applicants that do not receive a recommendation for approval from the Authority staff will be notified in writing of the staff recommendation prior to the board meeting in which the Application will be considered. Applicants that do not receive a favorable recommendation from the staff may appeal the staff recommendation to the Executive Director. ~~If the Executive Director agrees with the staff recommendation and does not recommend the Application for approval to the Authority, the Applicant may appeal the Executive Director's recommendation to the Authority.~~ Applicants wishing to appeal the staff recommendation must notify the Authority of their intent to Appeal the decision within five (5) business days of receipt of the letter notice containing the staff recommendation. No Applicant may appeal the evaluation of another Applicant's Application.

- d) Rejected Applications. Applicants whose Applications are not approved by the Authority will be notified in writing following the Authority's board meeting in which the determination was made.
- e) Approved Applications. For each approved Application, the Authority will pass a resolution including the following findings: 1) The Applicant to be a Participating Party (Pub. Res. Code Sec. 26003(f)) 2) The equipment proposed for the sales and use tax exclusion to be a "project" (Pub. Res. Code Sec. 26003(g)(2)) 3) The conveyance/reconveyance arrangement constitutes financial assistance (Pub. Res. Code Sec. 26003(e)(2))
- f) Applicants with Applications that are approved by the Authority will be notified in writing following the Authority's board meeting at which the determination was made. The amount of the sales and use tax exclusion approved by the Authority will be stated in the letter.

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code. Reference: 26011.8, Public Resources Code.

### **Section 10035. Regulatory Agreement and Compliance**

- a) Regulatory Agreement. All recipients of sales and use tax exclusions are required to execute a Regulatory Agreement as a condition to the Authority's making a finding and awarding a sales and use tax exclusion. 1) This agreement, to be entered into between the Applicant and the Authority's Executive Director, will require the Applicant to comply with the requirements set forth in these regulations. This agreement must be signed by a representative of the Applicant's company authorized to enter into contracts on behalf of that company and returned to CAEATFA within 30 calendar days from the acceptance date shown on the notification provided pursuant to Section 10034(f). 2) The Regulatory Agreement will commence upon execution and will continue in force for a period 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.
- b) Conveying title to the Authority. In order to receive the sales and use tax exclusion, Applicants must convey title of the Qualified Property to the Authority for purposes of reconveyance back to the Applicant without financial consideration. 1) Conveyance of title to CAEATFA by ~~Participating Parties~~ Applicants and from CAEATFA to ~~Participating Parties~~ Applicants shall be pursuant to a title conveyance agreement by and between CAEATFA and the ~~Participating Party~~ Applicant. This agreement must be signed by a representative of the Applicant's company authorized to enter into contracts on behalf of that company. The agreement that shall include but not

be limited to: A) An agreement by the ~~Participating Party Applicant~~ to convey title of Qualified Property to CAEATFA. B) Representations that the ~~ApplicantParticipating Party~~ has not put the Qualified Property to a ~~taxablefunctional~~ use prior to the conveyance. C) A requirement that CAEATFA reconvey title within 10 days of the initial conveyance. D) An agreement that there will be no fees for the conveyance or reconveyance other than those set forth in the regulations. E) ~~A requirement that the Participating Party provide a complete individualized list of Qualified Property within 30 days after the term of the agreement.~~

F) A requirement that the ~~ApplicantParticipating Party~~ indemnify and hold harmless CAEATFA from claims connected with the: 1) Project, 2) transactions associated with the Project, 3) any violation of law connected with the Project, and 4) any dispute or ruling regarding the ultimate taxability of the sale or use of the Qualified Property.

G) A requirement that the Qualified Property be installed, maintained and operated within the State of California.

H) Information about the Qualified Property purchased, including the acquisition date; conveyance date; purchase order number; vendor city, county, and country; actual cost; address where the Qualified Property will be located or installed; a description and explanation of the purpose of the Qualified Property; and any other information requested by the Executive Director that is reasonably related to the purposes of the Program.

2) To the extent that purchases of Qualified Property are made in multiple separate transactions, each purchase shall be subject to the same conveyance/reconveyance requirements as identified in Section 10035 (b)(1).

3) The Applicant will submit a “final conveyance/reconveyance agreement” when the final total amount of Qualified Property purchases equals the total amount of exclusion granted or when the Applicant no longer wishes to exercise the sales and use tax exclusion granted and signifies that the Applicant’s purchases are no longer subject to the sales and use tax exclusion. Pursuant to Section 11036(b)(6) a determination will be made of the total amount of Qualified Property actually purchased, and the corresponding amount of the total Administrative Fee due. If any remaining Administrative Fee is due, the Fee should be submitted at the time of submitting the final conveyance/reconveyance agreement. In the event that an Applicant has overpaid Administrative Fees, the overpayment will be paid to the Applicant within thirty (30) days of execution of the final conveyance/reconveyance agreement. Within thirty (30) days of execution of a final conveyance/reconveyance agreement the Applicant will provide a complete individualized list of Qualified Property. ~~until the total amount of Qualified Property purchases equals the total amount of exclusion granted.~~

4) ~~3)~~ Applicants will be assessed an Administrative Fee at the time of each conveyance/reconveyance transaction, as identified in Section 10036, Fees.

c) Compliance. Applicants are responsible for compliance with all applicable Program regulations, including the following: 1) Exercise of sales and use tax exclusion. Except as noted in subparagraphs A and B below, within one year of approval by the Authority, the Applicant must make purchases of Qualified Property totaling not less than twenty-five percent (25.0%) of the total amount listed in the approval resolution; all purchases of Qualified Property must be made within three years of Application approval. Regulatory Agreements for Facilities not meeting these requirements will be rescinded, and no purchases will be excluded from the imposition of the sales and use tax. A) Upon a finding that it is in the public interest and advances the purposes of the

## Agenda Item-4.B.

Program, the Authority may waive the requirement that the first year purchases of Qualified Property are at least twenty-five percent (25.0%) of the total amount listed in the approval resolution.

B) Upon a finding that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that all purchases of Qualified Property be made within three years of Application approval.

2) **Obligation to inform the Authority.** During the term of the Regulatory Agreement, Applicants must inform the Authority if the Qualified Property is moved out of the State of California or of any change in the ownership of the Qualified Property, including the name, ownership percentage, and mailing address of the new owners. A) Any transfer of Qualified Property ownership prior to the expiration of the Regulatory

Agreement shall be evidenced by a written agreement between the parties to the transfer. Such sale or transfer may require Applicant to repay the amount of the sales and use tax exclusion if the new owner of the Qualified Property does not enter into a Regulatory Agreement with the Authority within 30 calendar days of the close of the transaction in which the owner acquires title to the Qualified Property.

3) **Certification letter and compliance report.** During the term of the Regulatory Agreement, Applicants must submit an annual certification and compliance report. The certification letter must document that the Qualified Property was used for the purposes specified in the Application for the entire period since conveyance/reconveyance. The certification letter and compliance report must be submitted to the Authority by January 31 with information reported for the previous calendar year. The annual compliance report shall contain A) total payroll; B) number of full time equivalent permanent jobs at the Applicant's Facility; C) number of full time equivalent construction or installation jobs created as a result of

the Qualified Property purchases; D) total annual product sales (in dollars) including the fraction in California; E) total number of units sold including the fraction in California; F) anticipated corporate or personal income tax related to the Facility for the preceding

calendar year; if the Facility makes multiple products, include information relating to the tax liability associated with the production of Alternative Source or Advanced Transportation products;

G) the amount spent on supplier purchases for Advanced Transportation or Alternative Source products, components or systems, including the fraction of such purchases from California Suppliers;

H) the total amount of Qualified Property purchased as of the date specified in the compliance report; I) a narrative description of the project status and consistency with the timeline

contained in the Application, anticipated purchase dates of any additional items of Qualified Property, and an explanation of any material changes to the product or manufacturing process implemented since the approval of the Application;

J) a statement indicating the fraction of the time that the Qualified Property has been used to make Advanced Transportation or Alternative Source products, components, or systems; and

B)K) any other information requested by the Executive Director that is reasonably related to the purposes of the Program. ~~The certification letter and compliance report must be submitted to the Authority by January 31 with information reported for the previous calendar year.~~

~~3)4) Annual compliance report. During the term of the Regulatory Agreement the Applicant must submit an annual compliance report. The annual compliance report must be submitted to the Authority by January 31 with information reported for the previous calendar year. This report shall contain: A) Total payroll, number of jobs, total annual product sales (in dollars), total number of units sold, and any other information requested by the Executive Director that is reasonably related to the purposes of the Program.~~

4) Retention of records. Applicants must retain records necessary to document information provided in the annual compliance reports and certification letters for at least five (5) years following the date of the latest certification letter or compliance report required.

5) False Information. Upon a finding that information supplied by an Applicant, or any person acting on behalf of an Applicant, is false or no longer true, and the Applicant has not notified the Authority in writing, the Authority may, after written notice to the Applicant, rescind the approval resolution and conveyance/reconveyance agreement, in addition to other remedies.

6) Rescission. Following a finding that an Applicant has provided false information pursuant to paragraph 6-5 or has otherwise violated the Regulatory Agreement, the Authority may, after written notice to the Applicant, rescind the approval resolution and conveyance/reconveyance agreement, in addition to other remedies. Applicants may request an opportunity to be heard in front of the Authority to contest rescission. Any such request must be made in writing to the Authority and postmarked no later than fifteen (15) calendar days following the mailing of written notice from the Authority. Upon a final decision by the Authority, the approval resolution and conveyance/reconveyance agreement shall be rescinded, and notice of the rescission may be provided to the Board of Equalization.

7) Reporting. The Authority may from time to time publish the actual total value of the Qualified Property purchased within each sales and use tax exclusion by local jurisdictioncity or county in California. If the Executive Director determines that publishing such information could cause the price paid by an Applicant to a supplier for a Qualified Property purchase or the identity of that supplier to become known, then the information from multiple ~~local jurisdictions~~cities or counties will be aggregated so as to protect the confidentiality of this information.

d) Recovery of Financial Assistance. The Regulatory Agreement shall contain a pProvision under which the Authority may seek recovery of the Financial Assistance provided plus interest at a rate to be reasonably determined by the Authority and specified in the Regulatory Agreement. The Authority may seek recovery of the Financial Assistance actually utilized in cases in which the Applicant: (1) does not meet the substantial use requirements identified in Section 10033(b)(1)(A) or (2) removes the Qualified Property purchased from the State of California prior to the shorter of (a) the expiration of the term of the Regulatory Agreement or (b) three years.

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code. Reference: 26011.8, Public Resources Code.

**Section 10036. Fees**

- a) Application Fee. 1) Every Applicant shall be required to pay an Application Fee. 2) The Application Fee shall be equal to .0005 (one twentieth of one percent) of the total amount of Qualified Property identified in the Application as originally submitted. If, during the Application process, the Applicant reduces the amount of Qualified Property listed in the Application as submitted, the Applicant will not be entitled to a refund of the excess Application Fees paid. If the Applicant makes a request to CAEATFA to increase the amount of Qualified Property listed in a revised or amended Application, CAEATFA will require additional Application Fees to be submitted. The minimum Application Fee shall be \$250 and shall not exceed \$~~5~~10,000.
- 3) This fee shall be paid in a check payable to the Authority, and shall be submitted with the Application. 4) This fee is not refundable. b) Administrative Fee. 1) The Authority shall charge an Administrative Fee to cover the costs associated with the Program, including the costs of compliance monitoring. 2) The total Administrative Fee amount shall be .004 (four tenths of one percent) of the total amount of the Qualified Property purchased. 3) In no case shall the total Administrative Fee be less than \$15,000 nor more than \$350,000. 4) \$15,000 of the total Administrative Fee shall be due upon the execution of the Regulatory Agreement between the Applicant and the Authority.
- 5) The balance of an Applicant's Administrative Fee shall be payable at the time of each subsequent conveyance/reconveyance calculated on that transaction's Qualified Property purchase amount.
- 6) The initial \$15,000 paid by the Applicant at the time of executing the Regulatory Agreement will be credited to the Applicant's total Administrative Fee upon a determination of total amount of Qualified Property actually purchased.
- 7) The Administrative Fee shall be paid in checks payable to the Authority. 8) The total Administrative Fee is not refundable, except as indicated in section 6 above.

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code. Reference: 26011.8, Public Resources Code.

**Section 10037. Trade secrets and confidential information**

- a) If elements of an Application or any other materials submitted to the Authority contain information the Applicant considers to be trade secrets, confidential, privileged or otherwise exempt from disclosure under the Public Records Act (California Government Code Section 6250, et seq.), the Applicant shall assert a claim of exemption at the time of submission by identifying in an accompanying letter each of the items to be restricted. The asserted claim shall indicate the specific information within the Application or other materials submitted to the Authority to which the claim is made. Upon receipt of a Public Records Act request for documents that may include information the Applicant has identified as trade secret, confidential, privileged or otherwise exempt from disclosure, the Authority shall provide notice to the Applicant and provide the Applicant with three (3) business days to provide the Authority with an explanation as to why the information is not subject to disclosure pursuant to the Public Records Act. The Authority shall consider a claim of exemption and the basis for it, but retains the authority to make the final determination as to what information will be released under the Public Records Act. Applicants will be notified by the Authority prior to release of any such information.

Authority: Section 26011.8, Public Resources Code; and Section 6010.8 of the Revenue and Taxation Code.  
Reference: 26011.8, Public Resources Code.

Attachment C

PROPOSED APPLICATION



**California Alternative Energy and Advanced  
Transportation Financing Authority (CAEATFA)**

Advanced Transportation and Alternative Source  
Manufacturing Sales and Use Tax Exclusion Program



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## SUBMISSION OF APPLICATION

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- Your original, signed Application to the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA” or “Authority”) must be submitted with two duplicates, along with an electronic version e-mailed to the e-mail address indicated on the cover sheet. Applicants are not required to submit materials electronically, but they are strongly encouraged to do so.
- These guidelines provide the order and content of your Application. Defined terms have the meaning set forth in the California Code of Regulation Title 4, Division 13.
- If you do not have information for one or more required items, please state in your Application why and when you expect to submit those items. In the event the Authority asks an Applicant for additional information or requests clarification of errors, the Applicant shall be given up to 5 (five) business days from the date of receipt of staff notification to provide the additional formation without extending the Application review period.
- **If your Application is not complete, CAEATFA's review may be postponed until the additional information has been provided.**
- Additional information may be obtained by accessing the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) web site at <http://www.treasurer.ca.gov/caeatfa> or by calling CAEATFA at (916) 651-8157.

## APPLICANT RESPONSIBILITIES

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- The Applicant must meet the relevant requirements of Sec. 26011.8 Public Resources Code; and Section 6010.9 of the Revenue and Taxation Code.
- The Applicant must review the California Alternative Energy and Advanced Transportation Financing Authority Act and Title 4, Division 13 of the California Code of Regulations.
- A senior company official with primary responsibility for financing the Project must certify, to the best of his or her knowledge, that the Application contains no false or incorrect information and that the Application, including all exhibits and attachments, is truly descriptive and representative of the Project.
- The Applicant has a continuing duty to inform CAEATFA when any information in the Application or supplemental material is no longer accurate and immediately supply CAEATFA with updated information.
- The Applicant must provide an updated Legal Status Questionnaire (Attachment A) for any action requiring CAEATFA Board approval.

## FEES

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- Application Fee: The Applicant must pay an Application Fee to CAEATFA upon submission of the Application.
  - The Application Fee shall be equal to 0.0005 (one twentieth of one percent) of the total amount of Qualified Property purchases identified in the Application. The minimum Application Fee shall be \$250 and shall not exceed \$5,000.
  - The Application Fee shall be paid in the form of a check payable to CAEATFA.
  - The Application Fee is non-refundable.
- Administration Fee: The Authority shall charge an Administration Fee to cover the costs associated with the Program, including costs of compliance monitoring.
  - The Administration Fee amount shall be calculated as follows:
    - The total Administrative Fee amount shall be .004 (four tenths of one percent) of the total amount of the Qualified Property purchased.
    - In no case shall the total Administrative Fee be less than \$15,000 nor more than \$350,000.
  - \$15,000 of the total Administrative Fee shall be due upon the execution of the Regulatory Agreement between the Applicant and the Authority.
  - The balance of an Applicant’s Administrative Fee shall be payable at the time of each subsequent conveyance/reconveyance calculated on that transaction’s Qualified Property purchase amount.
  - The initial \$15,000 paid by the Applicant at the time of executing the Regulatory Agreement will be credited to the Applicant’s total Administrative Fee upon a determination of the total amount of

## **Agenda Item – 4.B.**

- Qualified Property actually purchased.
- The Administrative Fee shall be paid in checks payable to the Authority.
- The total Administrative Fee is not refundable.

### APPLICATION DOCUMENTS CHECKLIST

This checklist is provided to ensure that a completed Application package is filed with CAEATFA **and must be submitted with the Application**. If an attachment does not apply, please write N/A in the space provided.

Your Application package must contain the following:

- \_\_\_\_\_ Application Fee made payable to CAEATFA (see "Fees" on page 3 for calculation).
- \_\_\_\_\_ One (1) original and Two (2) copies of this completed Application, along with an electronic version e-mailed to the email address indicated on the cover sheet.<sup>1</sup>
- \_\_\_\_\_ One (1) original and Two (2) copies of the completed Application spreadsheet, CAEATFA\_Sales\_Tax\_Exclusion\_Application.xls, along with an electronic version e-mailed to the email address indicated on the cover sheet.
- \_\_\_\_\_ One (1) original and Two (2) copies of a narrative description of the Facility, along with an electronic version e-mailed to the email address indicated on the cover sheet.
- \_\_\_\_\_ Applicant Certification
- \_\_\_\_\_ Legal Status Questionnaire (Attachment A)

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<sup>1</sup> Applicants are not required to submit materials electronically, but they are strongly encouraged to do so.

STATE OF CALIFORNIA

CALIFORNIA ALTERNATIVE ENERGY  
AND ADVANCED TRANSPORTATION FINANCING AUTHORITY  
915 Capitol Mall, Room 457  
Sacramento, CA 95814  
Telephone: (916) 654-8157  
Fax: (916) 657-4821



**MEMBERS:**

Bill Lockyer, Chairman  
**State Treasurer**

John Chiang  
**State Controller**

Ana J. Matosantos  
Department of Finance

Michael R. Peevey, President  
*Public Utilities Commission*

Robert B. Weisenmiller, Chair  
*California Energy Commission*

**EXECUTIVE DIRECTOR:**  
Christine Solich

CAEATFA USE ONLY:  
Application # \_\_\_\_\_  
Date Received: \_\_\_\_\_  
Fee Amt. Received: \_\_\_\_\_

**CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED  
TRANSPORTATION FINANCING AUTHORITY**

**ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING  
SALES AND USE TAX EXCLUSION APPLICATION**

Submission Date: \_\_\_\_\_

Requested Approval Date: \_\_\_\_\_

*(Approximate date you wish your project to go before the Authority Members for approval)*

Legal Name of Applicant: \_\_\_\_\_

Estimated Cost of Qualified Property: \_\_\_\_\_

Facility Name(s) and Address(es): \_\_\_\_\_

## ADDITIONAL APPLICATION MATERIALS

In addition to the information requested in this Application, each Applicant is required to:

**1. Prepare and attach a project narrative.**

- a. Applicant Description: provide a description of the Applicant’s business, including product(s) produced, facility locations, years in business, and any unique technological or environmental characteristics of the business or products.
- b. Project Description: provide a description of the Advanced Transportation Technology or Alternative Source product, component or system to be produced.<sup>2</sup>
- c. Facility Status/Timeline: provide a description of the current Facility status and a schedule indicating the estimated Facility construction start date through the placed-in-service date for the Qualified Property identified in the Application. Additional facility milestones can be included as well.
- d. Required Permits/Timeline: provide a description of needed permits and their current status including expected dates permits will be received.
- e. Financing Sources/Timeline: provide a description of the status of funding sources and additional financing necessary for Facility completion. Include information for any sources of government financing.

**2. Complete the companion spreadsheet.**

“CAEATFA\_Sales\_Tax\_Exclusion\_Application.xls” which contains the following sections:

PART I – APPLICANT INFORMATION

PART II – FACILITY & PRODUCT INFORMATION

PART III – QUALIFIED PROPERTY LIST

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<sup>2</sup> In the case of a Facility producing property or products that, after further manufacture, will become the Green Component of an Advanced Transportation Technology or Alternative Source product or system, the Applicant must describe both the property or product produced by the Facility and the Green Component of the Advanced Transportation Technology or Alternative Source product or system for which the product produced will be used.

## APPLICANT CERTIFICATION

We, the undersigned, hereby submit an Application to the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA” or the “Authority”) for the purpose of securing a sales and use tax exclusion as described herein and have reviewed the CAEATFA Act and submit this Application in compliance with the Act and the implementing regulations.

We agree it is our responsibility to provide one copy of a complete Application that bears original signatures and two duplicate copies of the Application (along with e-mailing an electronic version to the email address indicated on the cover sheet), accompanied by one check payable to the CAEATFA in the amount per the Application Fee calculation indicated in the regulations. We understand that thorough and complete answers and accurate data and information are required. We understand that if additional space is required, each additional page will be clearly labeled.

We understand that CAEATFA may verify the information provided, analyze materials submitted, and request Application-related documentation as well as conduct its own investigation to evaluate the Application. We understand that we have a continuing duty to inform CAEATFA when any information in the Application or supplemental materials is no longer accurate and will immediately supply CAEATFA with updated information.

We have read and understand all Public Resource Code sections relevant to the CAEATFA Advanced Transportation and Alternative Source Manufacturing Sales and Use Tax Exclusion Program. We acknowledge that CAEATFA suggests that we seek advice from legal counsel on matters related to taxation. We acknowledge that all materials and requirements are subject to change by enactment of State legislation.

We agree that if this Application for sales and use tax exclusion is approved by the Authority, the Applicant will enter into a Regulatory Agreement with the Authority. In carrying out the development and operation of the proposed Project, we agree to comply with and will remain in compliance with all applicable State laws and will abide by all CAEATFA Program and regulatory requirements during the term of the Regulatory Agreement. We acknowledge that continued compliance with Program requirements, including ongoing reporting requirements and any costs associated with such requirements for the term of the Regulatory Agreement, is the responsibility of the Applicant.

We understand that at the time of the Authority’s approval of the Application, additional fees may be owed to CAEATFA. We represent that we have read the Program regulations regarding fees and all other Program requirements.

We agree to hold the Authority and its members, officers, agents, and employees harmless from any and all matters arising out of or related to our participation in the sales and use tax exclusion Program, including any action that ultimately results in the required payment of sales and use tax..

We acknowledge that the granting of a sales and use tax exclusion shall not be used by us as evidence of the opinion of, or approval by the Authority or any of its members, officers, agents or employees as to the financial or technical feasibility of the Project or Facility nor of the capabilities of the Applicant, any of its officers, members, agents or employees to finance, construct and operate the Project.

**Agenda Item – 4.B.**

We declare under penalty of perjury that the information contained in the Application, exhibits, and attachments is true and correct to the best of the undersigned’s knowledge and belief. We understand that misrepresentation may result in the rescission of the Authority’s approval of the Application, and other actions, which the Authority is authorized to take. We understand that any further or supplemental information or documentation required to be provided shall be accompanied by a declaration under penalty of perjury that the supplemental information or documentation is true and correct to the best of the Applicant’s knowledge and belief.

We acknowledge that any materials provided to CAEATFA may be considered public records subject to disclosure pursuant to the California Public Records Act (Government Code Sections 6250, et seq.).

\_\_\_\_\_  
Signature of Applicant's Senior Official

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTACHMENT A: LEGAL STATUS QUESTIONNAIRE**

Legal Applicant Name: \_\_\_\_\_

1. Disclose material information relating to any legal or regulatory proceeding or investigation in which the Applicant is or has been a party and which might have a material impact on the financial viability of the Project or the Applicant. Such disclosures should include any parent, subsidiary, or affiliate of the Applicant that is involved in the management, operation, or development of the Project.

2. Disclose any civil, criminal, or regulatory action in which the Applicant, or any current Board members (not including volunteer Board members of non-profit entities), partners, limited liability corporation members, senior officers, or senior management personnel has been named a defendant in such action in the past ten years involving fraud or corruption, or matters involving health and safety where there are any allegations of serious harm to employees, the public, or the environment.

*Disclosures should include civil or criminal cases filed in state or federal court; civil or criminal investigations by local, state, or federal law enforcement authorities; and enforcement proceedings or investigations by local, state or federal regulatory agencies. The information provided must include relevant dates, the nature of the allegation(s), charters, complaint or filing, and the outcome. For a publicly-traded company, the relevant sections of the company's 10K, 8K, and 10Q most recently filed with the Securities and Exchange Commission may be attached in response to question #1. With respect to a response for question #2, previous 10K, 8K, and 10Q filings of the company may be attached if applicable.*

I certify this information contained in the legal questionnaire is accurate and complete

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**ATTACHMENT B: TRADE SECRETS AND CONFIDENTIAL INFORMATION**

If elements of this Application contain information the Applicant considers to be trade secret, confidential, privileged or otherwise exempt from disclosure under the Public Records Act (California Government Code Section 6250, et seq.), the Applicant shall assert a claim of exemption at the time of Application by identifying in an accompanying letter each of the items to be restricted.

The asserted claim shall indicate the specific information within the Application to which the claim is made. Upon receipt of a Public Records Act request for documents that may include information the Applicant has identified as trade secret, the Authority shall provide notice to the Applicant and provide the Applicant with three business days to provide the Authority with an explanation as to why the information is not subject to disclosure pursuant to the Public Records Act. The Authority shall consider the claim and the basis for it, but retains the authority to make the final determination as to what information will be released under the Public Records Act. Applicants will be notified by the Authority prior to release of any such information.

If the Applicant chooses to assert such a claim, attach the claim to the Application.

**Attachment D**

**Proposed Application Worksheet**

**ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM APPLICATION**

**Instructions**

This workbook contains the application materials for the CAEATFA Advanced Transportation and Alternative Source Manufacturing Sales Tax Exclusion Program. Applicants are required to complete this Application workbook as well as the companion Application document, "CAEATFA Application.doc." This workbook contains multiple tabs. Applicants are required to provide the information requested in the tabs labeled "Applicant Information," "Facility & Product Information," "Environmental Benefits Info," "Qualified Property List," and "Timeline." Applicants should fill out the "Supplemental Information" tab if they qualify for a supplemental scoring category. The remaining tabs are provided for informational purposes only. The "Scoring" tab contains calculations and assumptions similar to the ones CAEATFA staff may use in evaluating the Application, but these calculations and assumptions are provided for informational purposes and do not necessarily reflect the actual calculations and assumptions that the Authority will use to evaluate and score an individual application. The remaining tabs in the workbook reflect pollution cost, unemployment, and other information for illustrative purposes only. These data are not necessarily the data that will be used in scoring the Application. An explanation of any calculations or assumptions relied upon by the Applicant in completing this Application, including an explanation of the basis for the value resulting from a calculation and/or assumption is required. If space permits, these explanations may be provided in the "Applicant Notes" or "Explanation of Input Values and Assumptions" sections of the relevant worksheets. Alternatively, Applicants may attach additional documentation as needed. Applicants may be asked to provide additional supporting information, including business plans, pro forma financial statements or other comparable documents used for the purpose of soliciting investors to verify responses contained in the Application. All Applicant provided values may be subject to verification. For additional information about this Application or the Program, please contact CAEATFA.

## Agenda Item - 4.B.

### ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM APPLICATION

Instructions: Please enter the information requested in the grey shaded area below or select from the choices in the blue drop down lists.  
If you have any additional comments or explanations about the information you entered, please place them in Applicant Notes section.

Information Requested	Box no.	Input Values Here	Applicant Notes
<b>A. Applicant Information</b>			
<p><b>Applicant Name.</b> Enter the full name of the company or entity applying for the sales tax exclusion here.</p> <p><b>Applicant/Company Type.</b> Select from list.</p> <p><b>Date of incorporation or establishment.</b> If the Applicant is a corporation, include date of incorporation. If the Applicant is a sole proprietorship, include the date of establishment.</p> <p><b>Place of incorporation or establishment.</b> If the Applicant is a corporation, include place of incorporation. If the Applicant is a sole proprietorship, include the place of establishment.</p> <p><b>Applicant's Tax Payer ID Number.</b></p> <p><b>Street Address</b></p> <p><b>City</b></p> <p><b>State</b></p> <p><b>Zip Code</b></p> <p><b>Primary Contact Person</b></p> <p><b>Primary Contact's title or relationship to Applicant</b></p> <p><b>Primary Contact Phone Number</b></p> <p><b>Primary Contact Email Address</b></p> <p><b>Primary Contact Mailing Address</b></p> <p><b>Secondary Contact Person</b></p> <p><b>Secondary Contact's title or relationship to Applicant</b></p> <p><b>Secondary Contact Phone Number</b></p> <p><b>Secondary Contact Email Address</b></p> <p><b>Secondary Contact Mailing Address</b></p> <p><b>Company Ownership Information.</b> If the Applicant is a corporation, include the names of the officers of the corporation and major shareholders (10.0% or greater). List each owner and share of ownership in boxes at left.</p> <p><b>Parent Company Ownership Information.</b> For all types of business entities, other than publicly traded corporations, private equity firms or sole proprietorships, that are owned by another business entity with an ownership share greater than or equal to 10 percent, identify any individuals or businesses with an ownership share in the parent entity of 10 percent or more.</p>	A1	Green Company United	
	A2	LLC	
	A3	6/27/2008	
	A4	California	
	A5	01-23456789	
	A6	333 Main Street	
	A7	Fremont	
	A8	CA	
	A9	94538	
	A10	John Doe	
	A11	Vice President, Deputy General Counsel	
	A12	510-555-4389	
	A13	<a href="mailto:john.doe@greencompanyunited.com">john.doe@greencompanyunited.com</a>	
	A14	333 Main St, Fremont, CA 94538	
	A15		
	A16		
	A17		
	A18		
	A19		
	A20	Green Company United -100%	
	A21		
<b>B. Facility Location Information</b>			
<p><b>Primary Facility</b></p> <p><b>Street Address</b></p> <p><b>Facility City and County.</b> Select from list.</p> <p><b>Facility Zip Code</b></p> <p><b>Secondary Facility (if any)</b></p> <p><b>Street Address</b></p> <p><b>Facility City and County.</b> Select from list.</p> <p><b>Facility Zip Code</b></p>	B1		List any additional Facility locations here.
	B2	Fremont - Alameda	
	B3		
	B4		
	B5	Fremont - Alameda	
	B6		

[→ Go to "Facility & Product Information" tab.](#)

Official Use Only	
Applicant ID	1
Date Received	10/9/2010
Application Version	2.0

## Agenda Item - 4.B.

### ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM APPLICATION

Instructions: Please enter the information requested in the grey shaded area below or select from the choices in the blue drop down lists.  
Please explain all calculations and assumptions in the "Explanation of Input Values and Assumptions" column to the right of each entry.

[Read additional instructions.](#)

Information Requested	Box no.	Input Values	Explanation of Input Values and Assumptions
<b>C. Qualified Property Information</b>			
<p><b>Brief description of Qualified Property to be purchased.</b> Please provide a brief (&lt;25 words) description of the Qualified Property to be purchased.</p> <p><b>Estimated cost of Qualified Property to be purchased.</b> Enter total cost here from "Qualified Property List" tab.</p> <p><b>Weighted average Estimated Useful Lifespan of Qualified Property, in years.</b> Calculate the weighted average estimated useful lifespan of Qualified Property purchases in the worksheet tab labeled "Qualified Property List" and enter the value here.</p> <p><b>Estimated percent of time Qualified Property will be used to make Advanced Transportation Technology (AT) or Alternative Source (AS) products, components or systems.</b> If the Qualified Property will be used to make products other than (AT) or (AS) products, enter the average percent of time the property will be used for the AT or AS purpose during the estimated useful lifespan. Otherwise enter 100%. Must be a value between 75% and 100%.</p>	C1	Qualified Property includes assembly and test equipment to manufacture solar panels.	Explain Input Values and Assumptions Here
	C2	\$200,000	
	C3	12	
	C4	100%	
<b>D. Facility Information</b>			
<p><b>Value of capital stock used to produce Advanced Transportation Technology or Alternative Source products.</b> Enter the total value of the capital stock used to produce the AT or AS product. Value should be in current dollars inclusive of depreciation, and should include anticipated Qualified Property purchases. Include all equipment and other tangible personal property; exclude the value of land and structures. This is the total value of all equipment used to produce the output listed in section E below.</p> <p><b>Projected average number of employees (FTE) at Facility, assuming Qualified Property is utilized.</b> Enter total estimated average annual facility FTEs employed to produce AT or AS products assuming Qualified Property is utilized. Entry should reflect the average annual FTEs over the estimated useful life of Qualified Property. These are not construction related FTEs.</p> <p><b>Projected number of employees (FTE) employed for purposes of constructing facility or installing Qualified Property.</b> Enter number of construction-related jobs here. Construction-related jobs are those jobs used to build a production facility or install equipment, but do not include jobs associated with the on-going production of the AT or AS product. Value should be in annual full time equivalents (FTE).</p> <p><b>Estimated annual California Corporation or Income Tax liability.</b> Enter the estimated annual state tax liability for the Facility, averaged over the estimated useful life of the Qualified Property. If multiple products are produced, include only the prorated share of the estimated annual tax liability associated with the production of the product listed in Section E below. Assume that current rates remain in effect throughout the period. Explain the basis for the estimate provided in the explanation section at right.</p>	D1	\$200,000	Explain Input Values and Assumptions Here
	D2	2	
	D3	2	
	D4	\$7,072	
<b>E. Product Information (for product to be produced using the Qualified Property and other equipment listed in Section C above).</b>			
<p><b>Brief description/name of product to be produced with Qualified Property.</b> Please provide a brief (&lt;25 words) description of the product to be made with the Qualified Property.</p> <p><b>NAICS Code.</b> Enter NAICS code applicable to product to be produced with Qualified Property</p> <p><b>Projected average annual number of Advanced Transportation Technology or Alternative Source products to be sold or shipped (number of units).</b> Enter total estimated average annual facility production that will be sold or shipped, assuming Qualified Property is utilized. Entry should reflect average annual sales over estimated weighted average useful life of Qualified Property (i.e. should reflect any ramp up period and not just peak production). If units of multiple sizes or capacities are produced, enter the average value here or a standardized value (e.g. 1 watt of generation capacity for a solar panel). <b>Note that units must be consistent throughout Sections E and F. Explain unit used in the explanation section at right.</b></p> <p><b>Projected per unit sales price in dollars.</b> Enter the average sales price of just the product/component you are producing here. If multiple products are produced, enter the average across all products here.</p> <p><b>Total facility sales in dollars.</b> Enter the total estimated sales for all facility production (in dollars). This should normally be equal to E3 * E4. If a different value, please explain the reason for the difference.</p>	E1		Explain Input Values and Assumptions Here
	E2		
	E3	100,000	
	E4	\$4.00	
	E5	\$400,000	

## Agenda Item - 4.B.

<p><i>Per unit production-related purchases from suppliers, assuming Qualified Property is utilized/installed, in dollars.</i> Include cost of materials, parts, containers, packaging, energy consumed, and products bought and sold without further processing. If multiple products are produced, enter the average across all products here. Entry should reflect average value over Estimated Useful Lifespan of Qualified Property. This information is used to calculate the value added by the Applicant.</p> <p><i>Estimated percent of production costs from California suppliers.</i> Estimate the fraction of the total production-related costs (from Box E6) from California suppliers. Entry should reflect average value over Estimated Useful Lifespan of Qualified Property.</p> <p><i>Projected per unit labor costs, assuming Qualified Property is utilized.</i> Include total per unit salary costs. Do not include payroll taxes, fringe benefits, or other non-salary costs. Entry should reflect average value over Estimated Useful Lifespan of Qualified Property.</p> <p><i>Expected useful life of product, in years.</i> Enter the number of years that the product is expected to last. For Alternative Source fuels or other products used or consumed immediately, enter 1.</p> <p><i>Estimated percent of total product sales in California.</i> Enter the estimated percent of total sales to California customers. Value should be calculated over the Estimated Useful Lifespan of the Qualified Property.</p> <p><i>Is the product a sub-component of an Advanced Transportation or Alternative Source end of supply chain product?</i> (Select from list.) For example, if the product produced with the Qualified Property is a battery pack for an electric car drive train, enter "Yes" here. If the product is an end of supply chain product capable of producing environmental benefits without further assembly or addition of other components, enter "No" here. (Note that cells in the rows below are intentionally shaded when "No" is selected in the box at right.)</p> <p><i>What is the total value of the efficiency or energy generation component of the end of supply chain product?</i> For example, if the product is a battery pack for an electric car, enter the value of the electric drive train here and the value of the battery pack in box E4 above.</p> <p><i>Estimated percent of total end of supply chain product sales in California?</i> Enter the estimated percent of the end product's total sales to California customers. Value should be calculated over the Estimated Useful Lifespan of the Qualified Property.</p>	E6	\$2.00	Explain Input Values and Assumptions Here
	E7	50%	Explain Input Values and Assumptions Here
	E8	\$1.00	Explain Input Values and Assumptions Here
	E9	1	Explain Input Values and Assumptions Here
	E10	100%	Explain Input Values and Assumptions Here
	E11	Yes	
	E12	\$25.00	Explain Input Values and Assumptions Here
	E14	20%	Explain Input Values and Assumptions Here

[-> Go to "Environmental Benefits Info" tab.](#)

**Additional Instructions:**

If your Facility produces multiple Advanced Transportation or Alternative Source products (e.g. units of different sizes or capacities), enter the average value across all relevant products in the boxes below.

For facilities producing multiple products that are not simply similar products of different capacities or sizes, separate applications may be required. If actual values are not known, good faith estimates are acceptable.

Applicants may be asked to provide additional supporting information, including business plans, pro forma financial statements or other comparable documents used for the purpose of soliciting investors to verify responses contained in the Application.

**All Applicant provided values may be subject to verification.**

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# Agenda Item - 4.B.

## ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM APPLICATION

Instructions: Select the type of product you will be producing with the qualified property in Box F1, then enter the requested information in the section for that product type.

Unnecessary sections will be grayed out after you fill in Box F1 and the applicable section will have "Selected" in the blue header.

Environmental benefits are reported per unit, per year. One unit in this section should match one unit as described in Section E: Product Information.

Information Requested	Box no.	Input Values	Explanation of Input Values and Assumptions
<b>F. Environmental Benefits Information</b>			
<p><b>Type of Product.</b> Select the type of product from the list below, then enter in your product's environmental benefit information in the corresponding section with the same name below.</p> <p><b>Alternative Source:</b> Select for products capable of generating energy by utilizing an alternative source, such as wind or the sun. Examples include wind turbines and solar panels. Also select this option for fuels made from renewable resources, such as captured methane from dairies or landfills.</p> <p><b>Alternative Source (Energy Efficiency):</b> Select this option for products that conserve energy, such as more efficient light bulbs or appliances.</p> <p><b>Advanced Transportation:</b> Select this option for advanced transportation products such as electric vehicles or electric vehicle components.</p> <p><b>Other Product Types:</b> Select this option for any other type of Alternative Source or Advanced Transportation product.</p>	F1	<input checked="" type="radio"/> Alternative Source	
	F1	<input type="radio"/> Alternative Source (Energy Efficiency)	
	F1	<input type="radio"/> Advanced Transportation	
	F1	<input type="radio"/> Other	
	F1		
	F1		

<b>i. Alternative Source</b>		<b>Selected</b>		
<p><b>Annual energy generation capacity per unit (in MWh).</b> Projected annual energy generation capacity of the Alternative Source product, per unit. Attach a separate explanation of calculations and assumptions used. For Alternative Source products that can be used to generate electricity directly (such as solar panels), enter the electricity generation capacity of the product, averaged over the estimated useful lifespan of the product and adjusted for any efficiency loss over this period. For Alternative Source fuels that can be used to generate electricity, such as bio gas or bio mass, enter the electricity generation potential of the alternative source fuel (in MWh) per unit.</p> <p><b>Does the product require consumption of fuel or energy to achieve the generation output listed above in F2?</b> (Select from list. Note that cells in the rows below are intentionally shaded when "No" is selected in the box at right.) For technologies such as fuel cells, which require consumption of fuel or energy to achieve the generation output listed above, select "Yes." For products that result in an accelerated release of CO2 (or equivalent) relative to what would occur without the product (such as electricity generated by burning wood), enter the net increase relative to what otherwise would occur.</p> <p><b>Pounds of CO2 emitted per MWh of generation capacity.</b> State the calculated lbs/MWh of CO2 emitted per year. Note that this is use-phase emissions only, and does not include emissions associated with production or disposal. For products that result in the accelerated release of CO2 (or equivalent) relative to what would occur without the product (such as electricity generated by burning wood), enter the net increase relative to what otherwise would occur.</p> <p><b>Pounds of SO2 emitted per MWh of generation capacity.</b> State the calculated lbs/MWh of SO2 emitted per year. Note that this is use-phase emissions only, and does not include emissions associated with production or disposal. For products that result in the accelerated release of SO2 relative to what would occur without the product (such as electricity generated by burning wood), enter the net increase relative to what otherwise would occur.</p> <p><b>Pounds of NOx emitted per MWh of generation capacity.</b> State the calculated lbs/MWh of NOx emitted per year. Note that this is use-phase emissions only, and does not include emissions associated with production or disposal. For products that result in the accelerated release of NOx relative to what would occur without the product (such as electricity generated by burning wood), enter the net increase relative to what otherwise would occur.</p> <p><b>Pounds of Other pollutants emitted per MWh of generation capacity (please specify).</b> State the calculated lbs/MWh of one pollutant emitted per year in California. Note that this is use-phase emissions only, and does not include emissions associated with production or disposal. For products that result in the accelerated release of other pollutants relative to what would occur without the product (such as electricity generated by burning wood), enter the net increase relative to what otherwise would occur.</p> <p><b>Cost in dollars per pound for Other pollutants emitted per MWh of generation capacity (please specify).</b> Provide the cost in dollars per pound for the other pollutants identified in Box F7. Provide an explanation of the calculation and assumptions in the supporting schedule.</p>	F2	0.3000	Explain Input Values and Assumptions Here	
	F3	No		
	F4			Explain Input Values and Assumptions Here
	F5			Explain Input Values and Assumptions Here
	F6			Explain Input Values and Assumptions Here
	F7			Explain Input Values and Assumptions Here
	F8			Explain Input Values and Assumptions Here
	F9			Explain Input Values and Assumptions Here
	F10			Explain Input Values and Assumptions Here

<b>ii. Alternative Source (energy efficiency)</b>		<b>Not Selected</b>	
<p><b>Type of energy conserved (units).</b> Select the type of energy units conserved here. (Type is not electricity (kWh), gasoline (GGE) or natural gas (BTU), convert to kWh, Gallon of Gas Equivalent (GGE), or BTU.)</p> <p><b>Annual baseline system consumption (per unit)</b> Annual energy consumption of baseline system (system WITHOUT efficiency technology under typical operation)</p>	F9	KWh/yr	Explain Input Values and Assumptions Here
	F10	2000.00	Explain Input Values and Assumptions Here

Agenda Item - 4.B.

<p><b>Annual improved system consumption (GGE/yr) per unit:</b> Annual energy consumption of improved system WITH efficiency technology under typical operation.</p>	F11	425.00	Explain Input Values and Assumptions Here
<b>iii. Advanced Transportation</b>			
<p><b>Annual baseline system consumption (GGE/yr) per unit:</b> For products that will improve fuel efficiency, state the 1999 annual fuel consumption of baseline system WITHOUT efficiency technology under typical operation (in GGE/year). All electric cars should enter the estimated GGE/year consumed by a comparable non-electric car. A GGE is a Gallon of Gas Equivalent, defined as the amount of fuel that has the equivalent amount of energy as one gallon of gasoline.</p>	F12	Not Selected	Explain Input Values and Assumptions Here
<p><b>Annual improved system consumption (GGE/yr) per unit:</b> For products that will improve fuel efficiency, state the 1999 annual fuel consumption of baseline system WITH efficiency technology under typical operation (in GGE/year). Electric vehicles enter zero here.</p>	F13	Not Selected	Explain Input Values and Assumptions Here
<p><b>Annual consumption of offsetting energy per unit (in MWh) per unit:</b> For technologies, such as electric vehicles, that require electricity, calculate the electric fuel savings (cost) state the estimated MWh consumed per year.</p>	F14	Not Selected	Explain Input Values and Assumptions Here
<b>iv. Other</b>			
<p><b>Quantification of environmental benefits:</b> These products are a net credit (decrease) of the environmental benefits produced by a unit of your product.</p>	F15	Not Selected	
<p><b>Annual value of pollution benefits (per unit):</b> Enter the annual dollar value of available pollution benefits per unit. Provide an explanation of the calculation and assumptions used in the explanation box at the right.</p>	F16	\$00	Explain Input Values and Assumptions Here
<p><b>Annual cost of offsetting energy use (per unit):</b> Enter the annual dollar value of any offsetting energy pollution costs from the credit value of the unit. Provide an explanation of the calculation and assumptions used in the explanation box at the right.</p>	F17	\$00	Explain Input Values and Assumptions Here

[→ Go to "Supplemental Information" tab](#)

## Agenda Item - 4.B.

### ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM APPLICATION

**Instructions:** Please enter the information requested in the grey shaded area below. Explain calculations or assumptions in the "Explanation" section to the right of each entry.

**Note:** This information is not required, but may be submitted by an Applicant. Submission of this information may increase an Applicant's score.

Information Requested	Box no.	Input Values	Explanation of Input Values and Assumptions
<b>G. Optional Supplemental Information</b>			
<b>i. Significant Environmental Benefits from Product not Related to Reduced Energy Use.</b>			
<p><b>Additional environmental benefit description.</b> Enter a narrative description of the additional environmental benefits from product use that are <i>unrelated to the generation of additional electricity, production of additional alternative source fuels, reduction in energy use, or increase in efficiency.</i></p> <p><b>Amount of pollution avoided per unit.</b> State the amount of pollution avoided in standard mass or volume metrics for the pollution type.</p> <p><b>Value of environmental benefits (pollution avoided) per unit.</b> Enter the annual value of the pollution avoided (in dollars).</p>	G1		Explain Input Values and Assumptions Here
	G2		Explain Input Values and Assumptions Here
	G3		Explain Input Values and Assumptions Here
<b>ii. Manufacturing Process Improvements</b>			
<p><b>Energy use.</b> Enter the percent improvement and a brief narrative description of decreased energy use of the Applicant's manufacturing process relative to comparable production processes for like products. Attach additional supporting documentation.</p> <p><b>Water use.</b> Enter the percent improvement and a brief narrative description of decreased water use of the Applicant's manufacturing process relative to comparable production processes for like products. Attach additional supporting documentation.</p> <p><b>Atmospheric emissions.</b> Enter the percent improvement and a brief narrative description of decreased atmospheric emission from the Applicant's manufacturing process relative to comparable production processes for like products. Attach additional supporting documentation.</p> <p><b>Waterborne wastes.</b> Enter the percent improvement and a brief narrative description of decreased waterborne waste from the Applicant's manufacturing process relative to comparable production processes for like products. Attach additional supporting documentation.</p> <p><b>Industrial solid waste.</b> Enter the percent improvement and a brief narrative description of decreased industrial solid waste from the Applicant's manufacturing process relative to comparable production processes for like products. Attach additional supporting documentation.</p> <p><b>Post-consumer solid waste.</b> Enter the percent improvement and a brief narrative description of decreased post-consumer solid waste from the Applicant's manufacturing process relative to comparable production processes for like products. Attach additional supporting documentation.</p>	G4		Explain Input Values and Assumptions Here
	G5		Explain Input Values and Assumptions Here
	G6		Explain Input Values and Assumptions Here
	G7		Explain Input Values and Assumptions Here
	G8		Explain Input Values and Assumptions Here
	G9		Explain Input Values and Assumptions Here
<b>iii. Sales Tax Exclusion's Role in Project Location</b>			
Provide evidence of alternative sites reviewed or financial analyses performed, or other evidence demonstrating that without sales tax exclusion Facility will be located in another state	G10		

[-- Go to "Qualified Property List" tab](#)

# Agenda Item - 4.B.

**ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM APPLICATION**  
**Weighted Average Worksheet for the Estimated Useful Lifespan of Qualified Property (provisional Qualified Property list)**

**Instructions:** Please enter the numbers requested in the shaded area below. Enter the description of name of each peice of Qualified Property in the white areas. The worksheet will calculate the total cost of the Qualified property, the Weighted Average of the Estimated Useful Lifespan of Qualified Property, and the percent of Note that Qualified Property must be used more than 50.0 percent of the time in any year and more than 75.0 percent of the time on average for an AT or AS purpose.

Enter result shown at right in box indicated on "Facility & Product Information" tab

Total:	Weighted Average:	Weighted Average:
\$2,600	18.65	81%
Enter above value in Box C2	Enter above value in Box C3	Enter above value in Box C4

	Qualified Property	Purpose	Facility Location	Cost	Estimated Useful Lifespan (in years)	Percent of time use for AT or AS
1	Item 1			\$100	10	100%
2	Item 2			\$500	15	100%
3	Item 3			\$2,000	20	75%
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ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM APPLICATION  
Project Scoring Worksheet

This section contains scoring calculations based on the Applicant provided information and the assumptions contained in the yellow shaded boxes. All calculations and resulting scores are for the Applicants information only, and do not represent the actual score an Application will receive.

Economic Benefit Calculation

Input Values/Calculations	Acronym	Assumptions	Acronym
Output (Value-added)		Additional Employee Benefit Assumption	33.00%
Annual Labor	\$200,000.00	Applicant Cost of Capital	12.00%
Capital Share of Output	25%	Price Elasticity of Demand for Output	-3
Annual implied payment for capital stock used for produ	\$32,287.36	Original Percent Change in User Cost	-0.061
Implied total annual capital (total - labor)	\$50,746.27	Multiplier for Increase in Statewide Output	2
Equipment capital as % of Total capital (max = 100)	64%	Elasticity of Substitution between Capital & Labor	-0.71
Weighted applicant factor share of capital	16%	Discount rate	0.064
PCI based on weighted applicant factor share	10%	Average Statewide Sales Tax Rate	9.10%
Value of the Qualified Property	\$200,000		
Exclusion Amount	\$18,200		
Marginal Increase in Qualified Property	\$17,892		
Marginal Increase % of total capital	8.95%		
Estimated Annual Sales	\$400,000		
Capital to Sales Ratio	0.50		
Marginal increase in sales	\$35,785		
Marginal increase in units	8,946		
Marginal increase in in-state supplier purchases	\$8,946		
Annual increase in employee wages	\$8,946		
Annual multiplier increase in statewide output	\$26,839		
Weighted average capital life span (yrs)	12.00		
Present Value of Marginal Sales	\$293,543		
Present Value of Multiplier Output	\$220,157		

Fiscal Benefit Calculation

Input Values/Calculations	Acronym	Assumptions	Acronym
Percent of Sales in California	20%	Average state income tax rate	4.61%
Value Added %	50%	Property tax rate	1.17%
Labor as % of Total Sales	25%	Total State and Local Revenues/GSP	7.0%
Increased taxable CA sales	\$29,354		
Increased employee wages	\$73,386		
Increased AV (equip)	\$17,892		
Sales taxes	\$2,671		
Personal income taxes	\$3,383		
Firm taxes on profits	\$5,190	0.089462011	
Property taxes	\$1,716		
Sub-total Direct Fiscal Benefit	\$12,960		
Indirect Fiscal Benefit	\$15,411		
Total Fiscal Benefit	\$28,371		

Environmental Benefit Calculation

Input Values/Calculations	Acronym	Assumptions	Acronym
Sales price (per unit)	\$4.00	\$ Value of avoided GGE (All CO2 + CA non-CO2)	\$0.12
Percent of end product sold in California	20%	\$ Cost of MWh (All CO2 + CA non-CO2)	\$7.65
Total price of end of supply chain product	\$25.00	\$ pollution cost of pound of CO2	\$0.75
Fractional Component Contribution	8%	\$ pollution cost of pound of SO2	\$0.66
Substantial use percentage	100%	\$ pollution cost of pound of NOx	\$0.13
Allocated Share	8%	Discount Rate for Environmental Benefits	0.064
Expected useful life of product (yrs)	1		
Product Type	1		
Alternative Source			
Annual MWh per Unit	0.3		
Annual Pollution benefit/unit	\$2.29		
Pounds of CO2 emitted per MWh of generation capacity	0.0		
Pounds of SO2 emitted per MWh of generation capacity	0.0		
Pounds of NOx emitted per MWh of generation capacity	0.0		
Pounds of Other pollutants emitted per MWh of generation capacity	0.0		
Cost in dollars per pound for Other pollutants emitted per MWh of generation capacity	\$0.00		
Annual Pollution Cost/unit	\$0.00		
Net pollution benefit/unit	\$2.29		
Lifetime pollution benefit/unit	\$2.16		
Allocated Share	\$0.17		
Total Pollution Benefit (life of facility)	\$12,662		
Alternative Source (energy efficiency)			
Annual baseline system consumption	2200.00		
Annual improved system consumption	425.00		
Net improvement/unit	1,775.00		
Energy type	kWh/yr		
Annual Pollution benefit/unit	\$13.58		
Lifetime pollution benefit/unit	\$12.76		
Allocated Share	\$1.02		
Total Pollution Benefit (life of facility)	\$74,918		
Advanced Transportation			
Annual baseline system consumption	0.45		

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Annual improved system consumption	0.00	
Annual net improvement/unit	0.45	
Annual Pollution benefit/unit	\$0.05	
Annual offsetting energy/unit	0.00	
Annual offsetting energy cost/unit	\$0.00	
Net annual pollution benefit/unit	\$0.05	LPB
Lifetime pollution benefit/unit	\$0.05	
Allocated Share	\$0.00	
Total Pollution Benefit (life of facility)	\$303	TPB
Other		
Avoided energy type	\$0	
Annual savings per unit	\$20.00	
Annual costs per unit	\$10.00	
Net pollution benefit/unit	\$10.00	
Lifetime pollution benefit/unit	\$9.40	LPB
Allocated Share	\$0.75	
Total Pollution Benefit (life of facility)	\$55,177	TPB
Net Environmental Benefit	\$12,662	

Section G.i. Supplemental Score

Annual dollar impact of pollution avoided	\$0
Lifetime pollution benefit	\$0
Allocated Share	\$0
Additional Pollution Benefit (life of facility)	\$0

Net Benefits and Final Score

Fiscal Benefits (TFB)	\$28,371
Environmental Benefits (TPB)	\$12,662
Total Cost	(\$18,200)
<b>Net Benefits</b>	<b>\$22,833</b>
Net Benefits Score	2,255

Points  
1559  
696

Minimum Scoring Threshold Met

Other Scoring Factors

Unemployment	
Facility Unemployment Rate	11%
Unemployment Score	0
New Jobs	
Total facility FTEs	2
Marginal additional jobs	0
Sales tax exclusion/job	\$101,719
New Jobs Score	20
Construction Jobs	
Total construction FTEs	2
Marginal additional jobs	0
Sales tax exclusion/job	\$101,719
Construction Jobs Score	10
Emerging Green Industry	
Emerging Green Industry Score	0
Process Improvement	
Energy Improvement	0
Water Improvement	0
Atmospheric Emissions Improvement	0
Waterborne waste improvement	0
Industrial solid waste improvement	0
Post consumer solid waste	0
Process Improvement Score	0
Non-CA Environmental Benefits	
Annual out of state pollution benefit/unit	\$0.00
Annual out of state pollution cost/unit	\$0.00
Lifetime Net out of state pollution benefit/unit	\$0.00
Total out of state pollution benefit (life of facility)	\$0.00
Non-CA Environmental Benefits Score	0
Sub-total other factors	30
Total Additional Points	30
<b>Final Score</b>	<b>2,285</b>

Assumptions

State Unemployment Rate		12%
New Jobs Points		
Max	min	points
\$200,000	\$150,000	0
\$150,000	\$100,000	10
\$100,000	\$50,000	20
\$50,000	\$0	30
\$0	\$0	40
Construction Jobs Points		
Max	min	points
\$200,000	\$150,000	0
\$150,000	\$100,000	5
\$100,000	\$50,000	10
\$50,000	\$0	15
\$0	\$0	20
\$ value of avoided out-of-state MWh (non-CO2)		\$3.09
\$ value of avoided out-of-state GGE (non-CO2)		\$0.00
\$ value of avoided out-of-state MWh (none)		\$0.00
\$ pollution cost of pound of out-of-state SO2		\$0.52
\$ pollution cost of pound of out-of-state NOx		\$0.10
Energy improvement/unit (NI)		0.3
NI Units		MWh
Offsetting MWhs per unit		0.00
Offsetting GGEs per unit		0.00
Offsetting lbs of SO2 per unit		0.00
Offsetting lbs of NOx per unit		0.00

\$OSM  
\$OSG

**Attachment E**

**Senate Bill No. 71**

**CHAPTER 10**

An act to amend Section 26003 of, and to add and repeal Section 26011.8 of, the Public Resources Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 24, 2010. Filed with Secretary of State March 24, 2010.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 71, Padilla. Economic development: sales and use tax exclusions: environmental technology project.

The California Alternative Energy and Advanced Transportation Financing Authority Act established the California Alternative Energy and Advanced Transportation Financing Authority. The authority is authorized to do all things necessary and convenient to carry out the purposes of the act. The authority is also required to establish a renewable energy program to provide financial assistance, as defined, to certain entities for projects to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. Existing law provides that the transfer of title of tangible personal property constituting a project under the act to the authority by a participating party, or the lease or transfer of tangible personal property constituting a project under the act by the authority to a participating party pursuant to the act is not a "sale" or "purchase" for the purposes of the Sales and Use Tax Law.

This bill would, for purposes of the act until January 1, 2021, expand the definition of "alternative sources" and "projects," as specified. The bill would, until January 1, 2021, authorize the authority to evaluate project applications, and to approve projects, as defined, for financial assistance under the existing exclusion from a "sale" or "purchase" subject to sales or use tax, as provided. This bill would require the Legislative Analyst's Office to submit a report to the Joint Legislative Budget Committee, as provided.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and districts, as specified, may impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into these laws.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 26003 of the Public Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

(a) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(b) “Cost” as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; the cost of the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of a project.

(c) (1) “Alternative sources” means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(2) “Alternative sources” does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) “Advanced transportation technologies” means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state’s commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

(1) Intelligent vehicle highway systems.

(2) Advanced telecommunications for transportation.

(3) Command, control, and communications for public transit vehicles and systems.

(4) Electric vehicles and ultralow-emission vehicles.

(5) High-speed rail and magnetic levitation passenger systems.

(6) Fuel cells.

(e) “Financial assistance” includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.

- (2) Any other type of assistance the authority determines is appropriate.
- (f) “Participating party” means either of the following:
- (1) A person or an entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that does either of the following:
- (A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.
- (B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.
- (2) A public agency or nonprofit corporation that does either of the following:
- (A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.
- (B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.
- (g) (1) “Project” means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies, or an arrangement for the purchase, including prepayment, or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.
- (2) “Project,” for the purposes of Section 26011.8, means any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems.
- (h) “Public agency” means a federal or state agency, department, board, authority, state or community college, university, or commission, or a county, city and county, city, regional agency, public district, school district, or other political entity.
- (i) (1) “Renewable energy” means a device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:
- (A) Biomass.
- (B) Solar thermal.
- (C) Photovoltaic.
- (D) Wind.
- (E) Geothermal.
- (2) For purposes of this subdivision, “conventional energy fuel” means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.
- (3) Notwithstanding paragraph (1), for purposes of this section, “renewable energy” also means ultralow-emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.
- (j) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

SEC. 2. Section 26011.8 is added to the Public Resources Code, to read:

26011.8. (a) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. In furtherance of this purpose, the authority may 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.

(b) (1) For purposes of this section, “project” means a project as defined in paragraph (2) of subdivision (g) of Section 26003.

(2) For purposes of this section, “alternative sources” also includes advanced electric distributive generation technology as defined in Section 379.8 of the Public Utilities Code or energy storage technologies and their component materials.

(c) The authority shall publish notice of the availability of project applications and deadlines for submission of project applications to the authority.

(d) The authority shall evaluate project applications based upon all of the following criteria:

(1) The extent to which the project develops manufacturing facilities, or purchases equipment for manufacturing facilities, located in California.

(2) The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.

(3) The extent to which the project will create new, permanent jobs in California.

(4) To the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by any federal or state law or regulation.

(5) The extent of unemployment in the area in which the project is proposed to be located.

(6) Any other factors the authority deems appropriate in accordance with this section.

(e) At a duly noticed public hearing, the authority shall approve, by resolution, project applications for financial assistance.

(f) Notwithstanding subdivision (j), and without regard to the actual date of any transaction between a participating party and the authority, any project as defined in subdivision (g) of Section 26003 approved by the authority by resolution for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code prior to the effective date of this section, shall not be subject to this section.

(g) The Legislative Analyst’s Office shall report to the Joint Legislative Budget Committee on the effectiveness of this program, on or before January 1, 2019, by evaluating factors, including, but not limited to, the following:

(1) The number of jobs created by the program in California.

(2) The number of businesses that have remained in California or relocated to California as a result of this program.

(3) The amount of state and local revenue and economic activity generated by the program.

(4) The amount of reduction in greenhouse gases, air pollution, water pollution, or energy consumption.

(h) Once the exclusions granted pursuant to Section 6010.8 of the Revenue and Taxation Code for projects approved by the authority pursuant to this section exceed one hundred million dollars (\$100,000,000) annually, the authority shall provide a 20-day notice to the Legislature prior to making additional approvals pursuant to this section.

(i) The authority shall make every effort to expedite the operation of this section, and shall adopt regulations for purposes of implementing the section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(j) This section shall remain in effect only until January 1, 2021, and as of that date is repealed. The sale or purchase of tangible personal property of a project approved prior to January 1, 2021, shall continue to be excluded from sales and use taxes pursuant to Section 6010.8 of the Revenue and Taxation Code for the period of time set forth in the authority's resolution approving the project pursuant to this section.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to create jobs to stimulate the economy, it is necessary that this act go into immediate effect.