

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

***Request to Approve Regulation Modifications for the
Sales and Use Tax Exclusion Program for Manufacturers and Recyclers***

Tuesday, September 15, 2020

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REQUEST

CAEATFA staff (“Staff”) request approval of regulations for the Sales and Use Tax Exclusion (“STE”) Program (the “Program”) to address the oversubscription over the last two years, the unprecedented economic impact of the COVID-19 pandemic, and incorporate lessons learned from Program implementation (see Attachment A for full text of proposed regulations).

BACKGROUND AND PUBLIC PROCESS

CAEATFA staff has been in the process of modifying the regulations of the Sales and Use Tax Exclusion Program to address the oversubscription over the last two years and the unprecedented economic impact of the COVID-19 pandemic.

In December 2019, CAEATFA adopted regulations that made incremental changes to address more immediate Program priorities at the time, while reserving some of the more complex issues for the regular rulemaking process after Staff could take more time to solicit input and thoughtfully consider the issues and policy trade-offs. However, since the regulations were adopted, several Program and market updates have influenced the Program landscape. The Program was oversubscribed for 2020 after one application round, and there is no current increase of the \$100 million Program cap in statute.¹ Additionally, perhaps the biggest unknown is the ultimate market impact of COVID-19, which we have seen has affected purchase timeframes, financing, feedstock supply, revenue, construction, and operations for previously approved Applicants.

Incorporating feedback from the Invitation for Comment soliciting initial input from stakeholders and the discussion of potential modifications at the June 2020 Board meeting, Staff prepared a list of proposed modifications that were discussed at the July 2020 Board meeting. Staff also accepted written comments from the public on the proposed modifications, which are included in Attachment B.

¹ Approximately \$20 million of the 2020 allocation was awarded to Applicants that had been waitlisted in 2019 (without applying Competitive Criteria). In 2020, six Applicants requesting a total of \$10 million in STE remain on the waitlist. CAEATFA stopped accepting Applications for 2020 in January of that year.

The proposed regulations before the Board today reflect the feedback received from the Board and Staff’s stakeholder outreach process. The proposed regulation text seeks to address the following factors:

- User and business experience and industry needs;
- Balancing serving diverse industries and various policy goals;
- Ensuring a broad distribution of awards, while supporting both small and larger scaling capital investments;
- Current economic uncertainty due to COVID-19;
- Existing Program limit and inherent uncertainty in future market activity;
- Flexibility to adjust to various future market conditions; and the
- Need for assistance toward California’s economic recovery.

TENTATIVE REGULATION TIMELINE

If the proposed regulation text is approved, Staff intends to file the Notice of Proposed Rulemaking package shortly thereafter for publication in the California Notice Register to begin the 45-day public comment period in October. Simultaneously, Staff will take the necessary steps to incorporate the modified regulations in a new emergency rulemaking package, which would become effective at the end of October 2020 in advance of the 2021 award process.²

Below is a tentative timeline for the emergency and regular rulemaking processes. The ultimate timeline of the regular rulemaking process is dependent on several factors, including the feedback received during the public comment period and whether an additional modifications are made. Additionally, during the COVID-19 pandemic, Governor Newsom has issued two Executive Orders extending some of the rulemaking deadlines related to the filing and review of regulations and emergency regulations, which, if further extended, may affect the ultimate regulation timeline.

Tentative Dates	Emergency Rulemaking Process	Regular Rulemaking Process
September 15, 2020	Board Considers Modified Regulations for Approval	
October 7, 2020	Issue Notice of Proposed Emergency Regulations with Modified Regulations	

² Given the significant modifications proposed, Staff, in consultation with Legal counsel, has determined that a new emergency rulemaking package combining the modifications adopted in November 2019 and the current proposed modifications would be the appropriate course of action. The current emergency regulations will expire on October 14, 2020. Because CAEATFA is not accepting Applications for consideration in 2020, and given the nature of November 2019 modifications, no previously approved Applicants or future Applicants will be affected in the short timeframe between the current emergency regulations lapsing and the anticipated effective date of the new proposed regulations.

Tentative Dates	Emergency Rulemaking Process	Regular Rulemaking Process
October 12, 2020		Notice of Proposed Rulemaking Filed
October 15, 2020	Submit Emergency Rulemaking Package to OAL for Review	
October 23, 2020		Notice of Proposed Rulemaking Published in Notice Register, beginning 45-day Public Comment Period
October 26, 2020	Emergency Regulations Effective	
December 7, 2020		45-day Public Comment Period Ends
December 28, 2020		Potential modifications and additional 15-day comment period
February 16, 2021		Board considers modified regulations
March 2021		Submit Certificate of Compliance to OAL for Review
April 23, 2021	Certificate of Compliance Due to OAL for Review	

PROPOSED MODIFICATIONS TO THE REGULATIONS

CAEATFA staff is requesting approval of regulations to address the oversubscription over the last two years, the unprecedented economic impact of the COVID-19 pandemic, and incorporate lessons learned from Program implementation.

On the following page is a summary of the substantive recommended regulatory changes. The full text of the proposed amended regulations can be found in Attachment A.

Application Cycles – Continue First-Come-First-Served until Competitive, with Ability to Switch to Competitive Rounds, if Needed (Section 10032(a)(3))

The proposed regulations continue the rolling, first-come-first-serve basis of accepting Applications until competitive to help invest in the economic recovery quickly, while providing more stability and certainty for Applicants by promptly reviewing requests. However, the proposed regulations provide that the Board may limit the amount of STE available to award at each meeting, which combined with the current ability for the Board to limit the number of meetings at which Applicants will be considered, provides the flexibility for potential competitive award rounds, if necessary.

\$20 Million Set-Aside for Small Projects and \$15 Million Available for Large Projects (Section 10032(a)(4)-(5))

In an effort to balance the Board’s interest in both ensuring a broad distribution of awards and being able to assist scalable projects, the proposed regulations include two modifications to the allocation of the \$100 million statutory cap.

First, the proposed regulations set aside \$20 million out of the \$100 million Program cap for Applications requesting \$2 million or less in STE. This \$20 million would be set aside through September, ensuring availability for smaller projects throughout the year, and if any remains after the September Board meeting, it would be made available to award to all Applicants beginning in October. If CAEATFA receives more than \$20 million in requests for awards of \$2 million or less, the order in which the Applicants will be considered for award from the \$20 million set-aside will be based on Competitive Criteria. If the last Applicant considered requests more than what is available from the remaining \$20 million set-aside, the Applicant will be made whole from the general pool of STE allocation, if any remains. Any Applicant requesting \$2 million or less in STE that is not awarded from the \$20 million in STE set-aside will be considered for an award from the general pool of STE allocation, if any remains.

Second, the proposed regulations retain the \$10 million in STE per-Applicant cap, except that at the first Board meeting of the year, \$15 million in STE will be available to award on a competitive basis in addition to the \$10 million in STE from the general pool, up to \$20 million per Applicant. If the amount requested in the last Application exceeds the STE available from the \$15 million in STE, the Applicant shall only receive the amount remaining from the \$15 million in STE.

If any of the \$15 million is not awarded, it will be released to the general pool to be made available to all Applicants. Staff hopes this approach helps provide flexibility to support larger investments and continued business investment in California, but also ensures that larger awards do not inadvertently absorb all of the STE allocation.

Allocation of STE Available at the End of the Year (Section 10032(a)(5)(B))

Current regulations provide that if there is STE available at the end of the year, capped Applicants may submit an updated Application, or a new Application, for consideration at the December Board meeting to receive additional STE. Current regulations also provide that the additional STE will be allocated proportionally based on the Applicants’ Competitive Criteria scores.

The proposed regulations provide that if there is additional STE available at the last board meeting of the year, it will first be made available to the last Applicant considered for additional STE above the \$10 million cap if that Applicant did not receive its full request, if applicable, then to any additional Applicants wishing to exceed the \$10 million cap that were not awarded at the first Board meeting of the year, on a competitive basis. If there is still additional STE available, then Applicants wishing to exceed \$20 million in STE will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria. Award amounts will not be proportional based on the Competitive Criteria scores, but based on the full amount requested, as is done under the general Competitive Criteria process, to provide Applicants

more certainty and to more strategically invest the STE awards to better promote policy goals. The Applicants still will be required to update their Applications if any of the information has changed.

Competitive Criteria Process (Section 10032(a)(8))

Current regulations provide that Applications will be accepted on a rolling basis, and in the event that CAEATFA receives applications in excess of the statutory \$100 million cap for that calendar year, the order in which the Applications shall be considered in the same month will be ranked based on five criteria:

- Environmental Benefits: 100 points for Applicants with Total Pollution Benefits (TPB) points greater than zero as calculated pursuant to Section 10033(c)(4).
- Unemployment: The Unemployment Score as calculated pursuant to Section 10033(c)(5)(A) (up to 50 points based on how much greater the local unemployment rate is in comparison to the annual average statewide unemployment rate).
- Job Creation: The New Jobs Score as calculated pursuant to Section 10033(c)(5)(B) (up to 75 points based on cost of STE per job created).
- Natural Disaster Relief: 50 points for Applicants that can demonstrate the Project is to relocate or rebuild the Applicant’s Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclamation made by the California State Governor within two years of the time of application.
- California Headquarters: 15 points for Applicants with a California Corporate Headquarters as defined in Section 10031(l).

To acknowledge the difference between the STE Program and the Manufacturing and Research & Development Equipment Exemption available through the California Department of Tax and Fee Administration (“CDTFA”), which can offset the Applicant’s costs of not receiving a CAEATFA STE award, Staff proposes awarding 50 points for Applicants that do not qualify to use the CDTFA partial sales tax exemption in the Competitive Criteria. The proposed regulations specify that Staff will consult with CDTFA regarding questions of eligibility for the Manufacturing and Research & Development Equipment Exemption.

Current regulations provide that if the Program becomes oversubscribed and the amount requested in the last Application considered exceeds the STE available in the calendar year, the Authority shall award the remaining STE request using STE from the following calendar year. Given the competitive nature of the Program, the proposed regulations provide that the Authority will award the remaining STE request from the following calendar year, up to \$2 million in STE.

Ending Waiting List at the End of the Year (Section 10032(a)(6))

Existing regulations provide that Applications received but not awarded due to the statutory cap will be put on a waiting list. Currently regulations state that Applications that are on the waiting list but not considered due to the statutory cap will be considered in the subsequent calendar year.

The proposed regulations provide that the waiting list will end at the end of the year to prevent Applicants from applying too early in order to get in line for the following calendar year.

Allocation of Additional STE Available During the Calendar Year (Section 10032(a)(6))

Current regulations provide that if additional STE becomes available, Applications on the waiting list will be reviewed and considered in the order in which they are ranked based on Competitive Criteria. Because the proposed regulations do not provide that the last Applicant considered will always be made whole from the next calendar year’s STE allocation, the proposed regulations provide that if additional STE becomes available during the calendar year, it will first be awarded to the last Applicant considered, if it did not receive its full STE request, to make that Applicant’s request whole, then if there is still STE available, Applicants on the waiting list will be considered in the order in which they are ranked based on Competitive Criteria.

Additional Application Information (Section 10032(c))

To learn more about Program Applicants to better understand and evaluate Program impact and reach, the proposed regulations add to the Application information requested whether the Applicant is a small business, how the Applicant learned about the Program, and whether the Applicant has received or applied for other state incentives or financing (which also helps inform the funding status for the Project).

The proposed regulations define small business to accommodate the various types of small business models. The first two options—100 or fewer employees and Annual revenue of less than \$15 million, including affiliates—are consistent with existing commercial underwriting practices and reflect simplified similar requirements of the California Department of General Services Certification Eligibility Requirements for state solicitation and contracting purposes. The third option enables an Applicant to use the U.S. Small Business Administration standards directly, which is also consistent with existing commercial underwriting practices.

Implementation of AB 176 (Sections 10032(c)(4)(B)(i)k-m and 10033(c)(5)(B))

Existing statute requires CAEATFA to consider the extent to which a Project will create new, permanent jobs in California. AB 176 (Cervantes, Chapter 672, Statutes of 2019), adds to the Application evaluation criteria the extent to which a Project will result in the loss of permanent, full-time jobs in California, including the average and minimum wage for each classification of full-time employees proposed to be hired or not retained.

Existing regulations establish a point-based system incorporating the evaluation criteria set in statute and to determine if a Project is anticipated to provide a net benefit to the state. Applications receive a fiscal benefits score, environmental benefits score, and an “other benefits” score, and Applications that earn a total score of at least 1,000 points and an environmental benefits score of at least 20 may be recommended for approval.

To determine the extent to which the Project will create new, permanent jobs in California in the Program’s evaluation criteria, existing Program regulations ask for the estimated average number of production-related employees (in annual fulltime equivalents) employed each year, averaged over the estimated useful lifespan of the Qualified Property, taking into account any ramp-up periods. The Application also asks for the estimated per-unit labor costs, assuming the Qualified

Property is used, to estimate the fiscal benefits of the Project. The Program’s existing evaluation criteria in regulation use this information (as well as other Application inputs) to calculate the estimated marginal increase in jobs (in full-time equivalents) as a result of the STE, and quantify the resulting estimated fiscal benefits as part of the fiscal benefits score. Applicants also earn points (in both competitive and regular scoring) based on the number of FTEs per dollar of STE (New Jobs Score).

The proposed regulations ask for the projected number of employees (in full-time equivalents) assuming the Qualified Property is not used (i.e. the Project is not implemented) and determine if there would be a net loss in jobs as a result of the Project, using the estimated number of employees assuming the Project is implemented, which is already provided in the Application. If there is a net loss in jobs, the proposed regulations provide that the Applicant will receive a New Jobs Score of Zero and will lose points in the Application scoring (Lost Jobs Score). The Lost Jobs Score will be calculated based on the percent reduction in jobs as a result of the Project by (a) subtracting the projected number of jobs assuming the Qualified Property is not used from the projected number of jobs assuming the Qualified Property is used, (b) dividing the result by the number of jobs assuming the Qualified Property is used, and (c) multiplying the result by 100.

Additionally, the proposed regulations ask for the minimum and average wage of each classification of full-time employees proposed to be hired or not retained using the following wage categories: up to \$20,000; \$20,001–\$30,000; \$30,001–\$40,000; \$40,001–\$50,000; \$50,001–60,000; \$60,001–\$70,000; \$70,001–\$80,000; \$80,001–\$90,000; \$90,001–100,000; \$100,001–\$110,000; \$110,001–\$120,000; and over \$120,000. Because some forms of compensation are provisional and amounts may be uncertain, particularly for new companies, wages include monetary compensation paid to the employee each year, not including tips, commissions, bonuses, stock options, overtime, or other compensation of any kind.

The proposed regulations also ask Applicants to provide an explanation of why a classification is being eliminated and if any existing employees in the classification will be retrained or reclassified. Staff believes this approach enables CAEATFA to incorporate the statutory modifications into the Program while keeping data anonymized for employee confidentiality concerns and company trade secret concerns.

Additional Points for Providing Employee Benefits (Sections 10032(c)(4)(F)(ii)d and 10033(c)(5)(E)(i)d)

Existing regulations award additional points for Projects in counties with high unemployment (up to 50 points) in both Application scoring and Competitive Criteria, and for providing workforce training opportunities (25 points) in the Application scoring.

Under the proposed regulations, an Applicant that provides benefits and fringe benefits to its employees may submit information on the types of benefits and fringe benefits provided. Applicants will receive 5 points for each type of benefit or fringe benefit provided, up to 25 points, in order to recognize the benefits of providing jobs that include additional benefits to employees in the Application review, while recognizing that the Program supports diverse industries, labor markets, and regional economies.

Extending Term of Master Regulatory Agreement if Granted an Initial Term Extension (Section 10035(a)(2))

Existing regulations require Applicants to use the STE award within three years, unless this term is extended by the Board upon a finding it is in the public interest and advances the purposes of the Program. Additionally, Applicants must execute a Master Regulatory Agreement with CAEATFA that requires the Applicant to comply with the requirements set forth in the Program regulations, including providing annual reports on the status of the approved project. Current regulations provide that the term of Master Regulatory Agreement is equal to the longer of (a) three years or (b) one-half of the Estimated Useful Lifespan of the longest lived item of Qualified Property identified in the Application. However, current regulations do not provide for extending the term of the Master Regulatory Agreement in the event the initial term to use the STE award extends beyond the term of the Master Regulatory Agreement after receiving an extension of the initial term from the Board.

Therefore, the proposed regulations provide that if the Applicant is granted an extension of the initial term to make Qualified Property purchases after initial award approval, the term of the Regulatory Agreement shall be extended for an equal amount of time.

Update to 15% Purchase Requirement Waiver (Section 10035(b)(1)(A))

Current regulations require Applicants to purchase or execute purchase orders of at least 15% of the total Qualified Property amount approved within 18 months of approval, and allow the Board to waive or extend this requirement upon a finding of extraordinary circumstances, which includes unforeseen permitting issues, but does not include a current lack of funding.

The purpose of the 15% purchase requirement was to help maximize the Program's benefit to the state by encouraging Applicants to apply when they have more certainty of the Project's feasibility and likelihood of moving forward. To help provide some additional flexibility for unforeseen circumstances, such as permitting delays, the proposed regulations give the Board the ability to consider requests for an extension of the timeframe. However, to help maintain the requirement's purpose of discouraging Applicants from applying before they are ready, the ability to waive is limited to extraordinary circumstances and does not include a current lack of funding.

To provide additional flexibility to awardees to help mitigate the uncertainty in the current market, the proposed regulations eliminate the bright-line rule that a current lack of funding does not constitute an extraordinary circumstance.

Administrative Fees for Extension Requests (Section 10036(c)(1))

Current regulations require Applicants to pay a \$500 administrative fee for modifications to awards (e.g., name changes, award transfers, and extensions of the 15% purchase requirement timeframe and three-year initial term to purchase all Qualified Property). To adjust the fees to better reflect the amount of time spent reviewing and processing requests for extensions and Board consideration, and to account for the additional years of reporting and administration, the proposed regulations increase the administrative fee to \$1,500 for requests to extend the 15% purchase

requirement timeframe, and to \$2,000 for requests to extend the three-year initial term to use the STE award.

Other Technical Changes

The proposed regulations make several other technical changes, including updating section numbers and references throughout and updating all references to the California Board of Equalization to the California Department of Tax and Fee Administration.

RECOMMENDATION

Staff recommends adoption of a resolution to approve the proposed modifications to regulations for the Sales and Use Tax Exclusion Program.

ATTACHMENTS

Attachment A: Text of Proposed Amendments to Program Regulations

Attachment B: Written Public Comments on the Potential Modifications Discussed at the July 21, 2020 Board Meeting

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

September 15, 2020

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (“Authority”) is authorized by California Public Resources Code Section 26009 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 (the “Regulations”) relating to its implementation of the Sales and Use Tax Exclusion Program (the “Program”), as authorized in Section 26011.8 of the Public Resources Code, are necessary to be adopted at this time to implement the 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 emergency regulations in the form currently on file with the Authority.

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

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

Section 4. This resolution shall take effect immediately upon its approval.

ATTACHMENT A – TEXT OF PROPOSED AMENDMENTS TO PROGRAM REGULATIONS

Modifications made with the December 2019 emergency regulations are shown in black text. Single underline text are additions, and ~~single strikethrough~~ text are deletions made with the December 2019 emergency regulations.

Newly proposed modifications are shown in red text. Double underline text are newly proposed additions, and ~~double strikethrough~~ text are newly proposed deletions. Single underline with double strikethrough text are newly proposed deletions that were additions made with the December 2019 emergency regulations.

TEXT OF REGULATIONS CALIFORNIA CODE OF REGULATIONS

Title 4. Business Regulations

Division 13. California Alternative Energy and Advanced Transportation Financing Authority

Article 2. MANUFACTURING SALES AND USE TAX EXCLUSION PROGRAM

§ 10031. Definitions.

- (a) “Administrative Fee” means the fee payable ~~following approval of an Application upon the execution of the Regulatory Agreement between the Applicant and the Authority and at the time of submitting the semi-annual report to CAEATFA.~~
- (b) “Advanced Manufacturing” is defined as stated in Section 26003(a) of the Public Resources Code.
- (c) “Advanced Transportation Technology” or “Advanced Transportation Technologies” is defined as stated in Section 26003(a) of the Public Resources Code.
- (d) “Alternative Sources” is defined as stated in Sections 26003(a) of the Public Resources Code.
- (e) “Applicant(s)” means a Participating Party submitting an Application.
- (f) “Application” means a completed formal request for sales and use tax exclusion as specified in Section 10032.
- (g) “Application Fee” means the fee payable at the time of Application for a sales and use tax exclusion.

(h) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 of the Public Resources Code (commencing with Section 26000).

(i) “Biofuel” includes “Biodiesel,” a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and “Biogas,” the raw gaseous mixture comprised primarily of methane and carbon dioxide and derived from the anaerobic decomposition of organic matter in a landfill, lagoon, or constructed reactor (digester).

(j) “California Supplier” means a business entity that manufactures, assembles, or produces its product or service in the state of California.

(k) “Competitive Criteria” means a set of Project or Applicant characteristics, as determined in Section 10032(a)(7)(B), which are measurable at the time of application.

(l) “Corporate Headquarters” means the location that is the primary center of direction, control and coordination for the company.

(m) “Emerging Strategic 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 or economy, the advancement of which are in the public interest, and which advance the purposes of the Program. The Executive Director may from time to time develop or add to a list of Emerging Strategic 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. The list of these industries will be publicly posted on the Authority's website.

(n) “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.

(o) “Executive Director” means the executive director of CAEATFA.

(p) “Facility” or “Facilities” means 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 Manufacturing, Advanced Transportation Technologies or Alternative Source products, components, or systems, or a facility that includes or will include tangible personal property that at least 50 percent of its use is either to process Recycled feedstock that is intended to be reused in the production of another product or using Recycled feedstock in the production of another product or soil amendment. Facilities involving more than one location may be combined in a single Application, provided the locations are part of a single process. Where facilities at multiple locations are performing the same or substantially similar operations they will require separate Applications.

- (q) “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.
- (r) “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.
- (s) “Industry Cluster” means a concentration of interrelated businesses or industries in a region that, by virtue of being located in proximity, act to increase productivity or economic growth in that region. For purposes of receiving points as part of an Application, Industry Clusters must be recognized by a California state or local government entity, regional economic development authority, or association of governments as an industry cluster, strategic cluster, or competitive cluster of the region within which the Applicant's Project resides.
- (t) “Participating Party” is defined as stated in Section 26003(a)(7)(A) of the Public Resources Code.
- (u) “Program” means the sales and use tax exclusion program created pursuant to Public Resources Code Section 26011.8.
- (v) “Project” is defined as stated in Section ~~26003(a)(8)(B)~~26011.8(b)(1) of the Public Resources Code. Project does not include machinery or equipment that utilizes or is designed to utilize an Alternative Source.
- (w) “Qualified Product” means an Advanced Transportation Technology or Alternative Source product, component or system, ~~or a product produced with an Advanced Manufacturing Process,~~ or a product made by processing Recycled feedstock or utilizing Recycled feedstock.
- (x) “Qualified Property” means the tangible personal property identified in the Application or Regulatory Agreement to be purchased for use in the Facility if at least 50 percent of its use is either to process Recycled feedstock that is intended to be reused in the production of another product or using Recycled feedstock in the production of another product or Soil amendment; or tangible personal property that is used in the state for the design, manufacture, production, or assembly of Advanced Transportation Technologies, or Alternative Source products, components, or systems or utilized in an Advanced Manufacturing process. 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.

(y) “Recognized Energy Efficiency Standard” is a statutory, regulatory, or voluntary set of minimum energy efficiency standards for one or more products, product components, or categories of products or product components, as designated by the Executive Director. The Executive Director may designate a standard as a Recognized Energy Efficiency Standard if it (a) has been adopted and currently maintained by a government agency, trade group, or nonprofit organization, (b) has clearly defined test methods, (c) contains product energy consumption ratings based on independent certification and testing, and (d) the energy consumption of products that meet the standards is significantly below the consumption of comparable products.

(z) “Recycled feedstock” is defined as stated in Section 26011.8(b)(2) of the Public Resources Code.

(aa) “Recycled Resource Extraction Project” is a project that converts Recycled feedstock into materials that are used in subsequent manufacturing processes.

(ab) “Regulatory Agreement” means the agreement specified in Section 10035.

(ac) “Soil amendments” is defined as stated in Section 26011.8(b)(3) of the Public Resources Code.

Note: Authority cited: Section 26011.8, Public Resources Code. Reference: Section 26011.8, Public Resources Code; and Section 6010.8, Revenue and Taxation Code.

§ 10032. Application Requirements.

(a) Timing of Application submissions.

(1) Except as otherwise provided by the Authority pursuant to subparagraphs (3) and (9) below, 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 (3), (~~8~~9), and (~~9~~10) below.

(2) Applications must be submitted via e-mail to CAEATFA@treasurer.ca.gov as well as in person or via regular mail or commercial delivery service. CAEATFA must receive the original paper Application within five (5) business days of submission of the electronic version of the Application.

(3) The Authority may limit the number of meetings each year at which Applications will be considered, and may limit the amount of sales and use tax exclusion (STE) available to award at each particular meeting.

(4) \$20 million in sales and use tax exclusions shall be available to award only to Applications requesting \$2 million or less in sales and use tax exclusion through September each year. If any of the \$20 million in sales and use tax exclusion remains after

September, it shall be made available to award to all Applicants. In the event that the Applications received by CAEATFA requesting \$2 million or less in STE by the deadline for a particular Board meeting represent STE in excess of the \$20 million set-aside for that calendar year, the Applications submitted for that particular Board meeting will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria, as established in Section 10032(a)(8)(A)-(B) below. When the amount requested in the Application exceeds the STE available from the \$20 million set-aside, the Authority shall award the remaining STE request using STE from the general pool of STE allocation, if any remains. Any Applicant requesting \$2 million or less in STE that is not awarded from the \$20 million in STE set-aside will be considered for an award from the general pool of STE allocation, if any remains.

(45) Except as provided in subparagraphs (A) and (B) below, Applications shall be capped at ~~\$20 million~~ \$10 million of sales and use tax exclusions (~~STEs~~) per Applicant, per calendar year, based on the average statewide sales tax rate at time of Application. For any Applicant which has a parent company with an ownership interest greater than 50%, the ~~\$20 million~~ \$10 million cap also applies to the Applicant's parent company and the parent company's subsidiaries or affiliates.

(A) If STE will be available at the last Authority board meeting of the calendar year, the Authority may provide additional STE to Applicants that qualified for additional STE but were capped ~~at \$20 million~~ \$10 million of STE pursuant to this paragraph. The remaining STE available will be awarded first to the last Applicant considered for additional STE pursuant to subparagraph (B), below, if it did not receive its full STE request, then to any additional Applicants wishing to exceed the \$10 million cap that were not awarded pursuant to subparagraph (B), below. The Applications will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria. If there is still additional STE available, then Applicants wishing to exceed \$20 million in STE will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria. Applicants wishing to exceed the ~~\$20 million~~ \$10 million cap shall bring a revised Project Application or a new Application before the Authority for consideration in December of the same calendar year in which the original Application was approved. The revised or new Application shall include updated information requested in Section 10032 and will be evaluated pursuant to Section 10033. The Authority Executive Director will announce end of the year availability no later than 28 days prior to the December Authority meeting.

~~(i) The amount of additional STE available to each Applicant seeking an STE award above the \$10 million cap shall be determined as follows:~~ by the Executive Director, and shall be the amount of the Applicant's approved award, plus an amount calculated by taking the unawarded STE for that calendar year and dividing it evenly between all Applicants that wish to exceed the \$20 million Project cap, but not to exceed the requested STE for any Applicant. ~~For each Applicant seeking additional STE above the \$10 million cap, an additional award score shall be calculated pursuant to the following formula:~~

~~The additional award score will be the sum of the following:~~

~~100 points for Applicants with Total Pollution Benefits (TPB) points greater than zero as calculated pursuant to Section 10033(e)(4)~~

~~The Unemployment Score as calculated pursuant to Section 10033(e)(5)(A)~~

~~The New Jobs Score as calculated pursuant to Section 10033(e)(5)(B)~~

~~50 points for Applicants that can demonstrate the Project is to relocate or rebuild the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclamation made by the California State Governor within two years of the time of application~~

~~15 points for Applicants with a California Corporate Headquarters as defined in Section 10031(l)~~

~~The proportionate share of total points awarded for all Applicants seeking an additional award shall be calculated by dividing the Applicant's additional award score by the sum of the scores for all Applicants seeking an additional award. The additional award for each Applicant shall be calculated by multiplying each Applicant's proportionate share of points by the total unawarded STE.~~

~~In the event that an Applicant's additional award exceeds the requested STE amount for that Applicant, the excess STE above the amount requested shall be reallocated to the remaining Applicants based on the remaining Applicants' proportionate share of total points.~~

~~Applicants seeking additional STE beyond the Project cap shall not be eligible to receive STE from the subsequent calendar year pursuant to the provisions of Section 10032(a)(7)(A).~~

~~(B) For Applicants wishing to exceed the \$10 million in STE cap, \$15 million in STE will be available to award to Applicants in addition to the \$10 million in STE cap at the first Board meeting of the calendar year. Requests for STE in addition to the \$10 million in STE cap shall be capped at \$10 million in STE, for a potential total award of \$20 million in STE. The Applications will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria, as established in Section 10032(a)(8)(A)-(B) below. If the amount requested in the last Application considered exceeds the STE available from the \$15 million in STE set-aside, the Applicant shall only receive the amount remaining from the \$15 million in STE set-aside. If any of the \$15 million in STE is not awarded, it shall be made available to award to all Applicants.~~

(56) To the extent that total sales and use tax exclusions awarded during the calendar year reach \$100 million (the statutory cap), no additional Applications will be reviewed during

that calendar year. Applications that are received but not awarded due to the statutory cap will be placed on a waiting list. To the extent that additional STEs become available during the calendar year, ~~Applications on the waiting list will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked, based on Competitive Criteria. Applications that are on the waiting list but are not evaluated by staff due to the statutory cap will be considered in the subsequent calendar year~~ it will be awarded first to the last Applicant considered, if it did not receive its full STE request. If the last Applicant considered received its full STE request, then Applications on the waiting list will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria. The waiting list shall expire at midnight on December 31 of the year the list is established.

(~~67~~) Complete Applications will be reviewed in the order in which they are received, except as noted in paragraph (~~78~~) below.

(A) The order in which they are received will be determined by the time and date stamp of the electronic submission of the Application via e-mail.

(~~78~~) In the event that Applications received by CAEATFA by the deadline for a particular Board meeting represent STEs in excess of the statutory cap for that calendar year, the order in which the Applications submitted for that particular Board meeting shall be considered by the Authority will be based on a ranking of Competitive Criteria ~~of all Projects moving forward before the board within the same month~~, as established in subparagraphs (A) and (B) below.

(A) ~~Each criterion that the Application meets shall be worth between one and five points.~~ The Projects with the greatest point score will be reviewed and presented to the CAEATFA Board. In the event of a tie, the Application representing the smaller STE award will move forward to consideration before the Authority. If the STE amounts are identical, the Application that was received by CAEATFA first shall be heard first. When the amount requested in the Application exceeds the STE available in the calendar year, the Authority shall award the remaining STE request using STE from the following calendar year, up to \$2 million in STE. Any remaining Applications shall be placed on the waiting list.

(B) Competitive Criteria.

(i) ~~If the Project is located in a county with an unemployment rate greater than 110% of the statewide average, the Project shall receive points based on the ratio of the local unemployment rate (Local Rate) to the Highest Unemployment Rate In the State (HUIS), pursuant to the following equation:~~

$$1 + ((\text{Local Rate} / \text{HUIS}) * 4)$$

a. ~~If a Project receives points for the unemployment rate of the proposed Project location and, after approval by the Authority, the Applicant changes its intended~~

location to a county with a lower unemployment rate, such that the ranking of the Applicants would have been affected, the award shall be rescinded and automatically awarded to the next awardee in line.

~~b. If an award is rescinded due to changes in the proposed Project location, the Applicant may submit a revised Application with an updated Project location.~~

~~e. The local unemployment rate means the rate within the county in which the Facility is located as reported by the California Employment Development Department. The highest unemployment rate in the state is unemployment rate for the county with the highest countywide rate reported. The most current annual average unemployment rate information available at the time of the Application submission shall be used.~~

~~(ii) If the Applicant has its Corporate Headquarters located in California, the Project shall receive one point, provided that:~~

~~a. if the Applicant has a parent company with an ownership interest greater than 50%, the parent company must also have its Corporate Headquarters in California.~~

~~(iii) If the Applicant is classified as small businesses under U.S. Small Business Administration guidelines (Title 13 of the Code of Federal Regulations) and has fewer than 500 employees, the Project shall receive one point, provided that:~~

~~a. if the Applicant has a parent company with an ownership interest greater than 50%, the parent company must also be classified as small business under U.S. Small Business Administration guidelines (Title 13 of the Code of Federal Regulations) and have fewer than 500 employees.~~

~~(iv) If the Applicant has not previously been approved for an award by the Authority, the Project shall receive five points, provided that:~~

~~a. If the Applicant has a parent company with an ownership interest greater than 50%, neither the parent company, nor its subsidiaries or affiliates may have been previously approved for an award by the Authority.~~

~~(v) If the Applicant can demonstrate the Project is to relocate or rebuild the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclamation made by the California State Governor within two year of the time of application, the Project shall receive five points.~~

(i) The competitive criteria score will be the sum of the following:

100 points for Applicants with Total Pollution Benefits (TPB) points greater than zero as calculated pursuant to Section 10033(c)(4)

The Unemployment Score as calculated pursuant to Section 10033(c)(5)(A)

The New Jobs Score as calculated pursuant to Section 10033(c)(5)(B)

50 points for Applicants that can demonstrate the Project is to relocate or rebuild the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclamation made by the California State Governor within two years of the time of application

15 points for Applicants with a Corporate Headquarters, as defined in Section 10031(l), located in California

50 points for Applicants that are not eligible to use the Manufacturing and Research & Development Equipment Exemption established pursuant to Section 6377.1 of the Revenue and Taxation Code. The Authority staff will consult with the California Department of Tax and Fee Administration regarding questions of eligibility for the Manufacturing and Research & Development Equipment Exemption.

(~~8~~9) 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.

(~~9~~10) 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 and the date on which a complete application is deemed to have been received, 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 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 if the Application Fee is not received within five (5) business days of submission of the Application, unless an Application is a resubmission pursuant to Section 10032(a)(~~5~~45)(~~A~~B).

~~(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;

(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 Section 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~~ August 14, 2018).

(3) Designated Contacts. The Application must identify designated contacts who can respond to questions from the Authority or provide additional information if requested. If the designated contacts are not directly employed by Applicant, the Application must include appropriate documentation signifying the contact'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 a primary and secondary contact person

(iv) Contacts' 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.

(vii) Address of the Applicant's Corporate Headquarters as defined in Section 10031(l).

(viii) If applicable, documentation demonstrating the Project is to relocate or rebuild the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclamation made by the California State Governor within two years of the time of application.

(ix) Whether the Applicant meets at least one of the following size requirements, on average, over the past three years:

a. 100 or fewer employees, including affiliates;

b. Annual revenues of less than \$15 million, including affiliates; or

c. The U.S. Small Business Administration's size standards for a Small Business matched to the North American Industry Classification System, found in Part 121.201 of Title 13 of the Code of Federal Regulations.

(x) How the Applicant learned about the Sales and Use Tax Exclusion Program.

(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, the Advanced Manufacturing process to be utilized, or the type of Recycled Resource Extraction Project. 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.

e. Description of the sources of financing necessary for Facility completion, including the provision of financial assistance from any local governments for the project, as well as any state incentives or state financing the Applicant has applied for or received.

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.

g. Projected average number of employees at the Facility, measured in full time equivalents, assuming Qualified Property is utilized.

h. Projected number of employees employed for purposes of constructing the Facility or installing Qualified Property, measured in full time equivalents.

i. For Alternative Source Projects producing Biofuels, the fraction of Biofuel produced that is used to offset external fuel purchases.

j. Taxability of end of supply chain product for purposes of generating sales taxes.

k. Projected average number of employees at the Facility, measured in full time equivalents, assuming the Qualified Property is not utilized.

l. Average and minimum wage of each classification of full-time employees proposed to be hired or not retained using the following wage categories: up to \$20,000; \$20,001–\$30,000; \$30,001–\$40,000; \$40,001–\$50,000; \$50,001–60,000; \$60,001–\$70,000; \$70,001–\$80,000; \$80,001–\$90,000; \$90,001–100,000; \$100,001–\$110,000; \$110,001–\$120,000; and over \$120,000. Wages

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

m. An explanation of why each classification is being eliminated and if any existing employees in the classification will be retained or reclassified.

(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 can be grouped together provided that the individual items are reasonably related, such as items that will be used together to produce a particular sub-component or perform a discrete function in the manufacturing process.

- (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 (a) used to make Advanced Transportation Technologies or Alternative Source products, components, or systems, (b) utilized in an Advanced Manufacturing process, or (c) utilized in a Recycled Resource Extraction Project.

(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.
- (ii) Estimated average annual number of Qualified Products produced or amount of recycled material to be produced.
- (iii) Estimated per unit sales price.
- (iv) Estimated per unit production-related purchases from suppliers, assuming Qualified Property is utilized or installed.
- (v) Estimated percent of production costs from California Suppliers.

- (vi) Estimated per unit labor costs, assuming Qualified Property is utilized or installed.
- (vii) For Alternative Source and Advanced Transportation Projects, the Estimated Useful Lifespan of product, component, or system.
- (viii) Estimated percent of total Qualified Products to be sold in California.
- (ix) For Alternative Source or Advanced Transportation Projects, statement as to whether the technology, product, component, or system is a subcomponent of a Qualified Product or an end-of-supply-chain product.
- (x) For Alternative Source or Advanced Transportation Projects, total value of the end-of-supply-chain Green Component.
- (xi) Estimated percent of total end of supply chain product sales in California.

(E) Environmental Benefit Information.

- (i) For Facilities producing the Green Component of Alternative Source products, components or systems:
 - a. Annual energy generation capacity or energy content per unit.
 - b. Lbs. of CO₂ (or equivalent) emitted per MWh or equivalent.
 - c. Lbs. of SO₂ emitted per MWh or equivalent.
 - d. Lbs. of NO_x 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. Applicable Recognized Energy Efficiency Standard.
 - c. Annual baseline system consumption of energy per unit.
 - d. 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.
- b. Annual value of environmental benefits associated with use of the product.
- c. Annual pollution cost of any off-setting energy use or other pollutants emitted.

(v) For Advanced Manufacturing Facilities:

- a. Description of environmental benefits.
- b. Estimated reduction in energy or water use; solid waste, hazardous waste, or air pollution emissions.
- c. Description of any environmental sustainability plans.

(vi) For Recycled Resource Extraction Projects:

- a. Description of environmental benefits.
- b. Marginal increase in total amount of material recycled due to the sales and use tax exclusion.

(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) ~~For Advanced Manufacturing Applicants only~~, Other Facility Information:

a. Applicants with facilities located in California that perform research and development functions related to the product or production process at the Facility that is the subject of the Application may submit information establishing the location of the research and development facility and the connection between the research and development and the Facility, submission of which may increase an Applicant's score.

b. Applicants that have partnerships with educational institutions either for the purpose of training the workers at the Facility or for purposes of assisting in the training of potential future workers, including workers from disadvantaged communities including women, racial minorities, formerly incarcerated, and veterans, may submit information documenting this partnership, submission of which may increase an Applicant's score.

c. Applicants in Industry Clusters, as defined, may submit information establishing this fact, submission of which may increase an Applicant's score.

d. Applicants that provide benefits and fringe benefits to their employees may submit information on the types of benefits and fringe benefits provided, submission of which may increase an Applicant's score. Benefits include medical, health, dental, and vision premiums paid by the Applicant on behalf an employee, an employee's spouse or dependents. Fringe benefits include, but are not limited to, bonuses, pension plans, retirement contributions, profit-sharing programs, dependent care and assistance reimbursement, transportation subsidies, education reimbursement, gym subsidies, employee discounts, and paid leave.

~~(iviii)~~ 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.

Note: Authority cited: Section 26011.8, Public Resources Code. Reference: Section 26011.8, Public Resources Code; and Section 6010.8, Revenue and Taxation Code.

§ 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 Facility must include the purchase of tangible personal property otherwise subject to sales and use tax used substantially (a) for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems, (b) for the design, manufacture, production or assembly of a component of the Green Component of an Advanced Transportation Technology or Alternative Source product, component or system, (c) as part of an Advanced Manufacturing process, or (d) where at least 50.0 percent of the use of the Qualified Property is to process Recycled feedstock.

(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 part of an Advanced Manufacturing process; or to process Recycled feedstock more than 50.0 percent of the time.

(2) ~~Produce~~The Facility must produce benefits to the State of California, as determined by the Authority subject to the criteria and evaluation process identified herein.

(3) The Applicant must not have disclosed as part of its Legal Status Questionnaire a finding of guilty of a willful violation by the Occupational Safety and Health Administration or a case under the Occupational Safety and Health Administration's Severe Violator Enforcement Program.

(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 (ω), the price elasticity of demand for output (η), the elasticity of substitution between capital and labor (σ), 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 (ω) 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:

$$\text{Total Capital} = \text{Sales} - \text{Supplies} - (\text{Labor} + \text{EB})$$

Notwithstanding the above, if the resulting value is less than the value of CAP, then Total Capital shall be equal to CAP.

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

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

Notwithstanding the above, if the resulting value is less than zero, then the capital share of output shall be calculated pursuant to the following formula:

$$\text{Capital Share of Output} = \text{Total Capital} / (\text{Total Capital} + \text{Labor})$$

(ii) The price elasticity of demand for output (η) and the elasticity of substitution between capital and labor (σ) 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~~ Department of Tax and Fee Administration.

(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.

(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). The MIQP will be calculated pursuant to the following formula:

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

(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 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) 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 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.

(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:

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

(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:

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

(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 determined by the Executive Director.

(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~~ Department of Tax and Fee Administration, and the percent value added (VA), pursuant to the following formula:

$$\text{IST} = \text{POSCA} * \text{PVMIS} * \text{VA} * \text{STR}$$

If the Applicant produces Biofuel and utilizes a fraction of that Biofuel for purposes of operating the Facility and produces an end-of-supply-chain product that does not generate sales tax revenue, the IST will be reduced based on the fraction of the Applicant's Biofuel production that will offset external fuel purchases.

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 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 an estimate of annual tax liability (ATL) as determined by the Executive Director based on information collected by the California Franchise Tax Board, Applicant-provided data on estimated annual tax liability, or other sources as determined by the Executive Director; 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 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~~ Department of Tax and Fee Administration, 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 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) 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.

(3) 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 multiplying the percent value added (VA) per unit times the sales price per unit (\$Unit) and then dividing by the total value of the end-of-supply-chain 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:

$$FCC = (VA * \$Unit) / End \$$$

and

$$AS = POT * FCC$$

Notwithstanding the above, the FCC and the AS both have a maximum value of 1.

(B) For Facilities producing the Green Component of Alternative Source or Advanced Transportation Technology products, excluding Biofuels, the estimated impact of pollution from a gallon of gasoline equivalent (GGE) or a MWh of electricity or equivalent. 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:

$$\$GGE = \text{Pollution cost of CO}_2 \text{ per GGE} + (\text{POSCA} * (\text{pollution cost of VOC per GGE} + \text{pollution cost of NO}_x \text{ per GGE}))$$

(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:

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

(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 determined by the Executive Director, pursuant to the following formula:

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

i. The present value is based on the estimated useful lifespan of the product (ULOP) as provided by the Applicant and the discount rate 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 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:

$$\text{LPB} = (\text{GGEA} * \$\text{GGE}) - (\text{OFF}/ * \$\text{GGE}) - (\text{OFF} * \$\text{MWh}) - \text{dollar value of other pollution costs/per unit}$$

b. For Biofuels, the LPB is determined based on the net annual pollution benefit per unit (NAPB) as calculated by the Executive Director based on information from the California Air Resources Board or other state agencies, expert analysis, relevant research literature, and applicant provided information with respect to the net change in greenhouse gas emissions resulting from production and use of the alternative source product and the dollar value of pollution costs avoided by use of Biofuels as calculated based on the pollution cost per unit of 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 multiplied by the NAPB pursuant to the following formula.

$$\text{LPB} = \text{NAPB} * \$\text{CO2}$$

c. 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 determined by the Executive Director.

(iii) Net change in use of energy generated or produced from current sources (energy efficiency). The TPB resulting from the net change in the use of energy generated or produced 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), per GGE (\$GGE), or per MMBTU (\$MMBTU), respectively, as determined by the Executive Director, pursuant to the following formula:

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

or

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

or

$$\text{LPB} = \text{Present Value} (\text{NI} * \$\text{MMBTU})$$

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

ii. The net improvement in system consumption is calculated as the difference between baseline system consumption and improved system consumption where the baseline system consumption is equal to the maximum energy consumption amount that would allow the product to qualify for the applicable Recognized Energy Efficiency Standard. If more than one Recognized Energy Efficiency Standard applies to a product, the more stringent standard will be used for purposes of setting the baseline system consumption. The improved system consumption is the energy consumption of the Applicant's product under circumstances and conditions substantially similar to those used for purposes of setting the baseline system consumption value.

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.

(iv) 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.

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:

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

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

(v) 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.

(D) For Advanced Manufacturing Applications, the environmental benefits score is calculated based on the per unit reduction in energy use, waste generation, water use, or emissions of air pollutants, or other environmental benefits as follows:

(i) Applicants may receive points for the following:

a. Applicants with an environmental sustainability plan that describes the Applicant's plans to reduce energy use or water use and reduce solid waste, hazardous waste, or air pollutant emissions at the Facility will receive 20 points.

b. Applicants with Facilities that reduce energy use by at least five percent relative to the baseline identified in the Application will receive five points plus one point for each additional percentage point of reductions over five percent up to a maximum of 30 points.

c. Applicants with Facilities that reduce water use by at least five percent relative to the baseline identified in the Application will receive five points plus one point for each additional percentage point of reductions over five percent up to a maximum of 30 points.

d. Applicants with Facilities that reduce solid waste by at least five percent relative to the baseline identified in the Application will receive five points plus one point for each additional percentage point of reductions over five percent up to a maximum of 30 points.

e. Applicants with Facilities that reduce hazardous waste by at least five percent relative to the baseline identified in the Application will receive five points plus one point for each additional percentage point of reductions over five percent up to a maximum of 30 points.

f. Applicants with Facilities that reduce air pollutant emissions by at least five percent relative to the baseline identified in the Application will receive five points plus one point for each additional percentage point of reductions over five percent up to a maximum of 30 points.

g. Applicants with Facilities that reduce emissions of other pollutants by at least five percent relative to the baseline identified in the Application will receive five points plus one point for each additional percentage point of reductions over five percent up to a maximum of 30 points.

(E) For Recycled Resource Extraction Projects, the environmental benefits score will be calculated based on the estimated greenhouse gas reduction due to increased use of recycled materials as follows.

(i) The estimated change in amount recycled (CAR) will be calculated as follows.

a. Annual production costs (APC) will be calculated as the sum of annual labor costs, production-related purchase costs, and the CAP.

b. The present value of production costs (PVPC) will be calculated based on APC, the WALs of the Qualified Property as provided by the Applicant, and a discount rate determined by the Executive Director based on the relevant research literature, consultation with outside experts, or information provided by other state agencies.

$$PVPC = \text{Present Value}(APC)$$

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.

c. The percentage change in production costs (PCPC) due to the sales and use tax exclusion will be calculated from the value of the sales and use tax exclusion (exclusion amount, or EA) and the present value of production costs (PVPC) using the following formula:

$$PCPC = EA / PVPC$$

d. The percent increase in recycling (PIR) is the estimated increase in the amount of material recycled due to the sales and use tax exclusion. The PIR is calculated from the PCPC, the price elasticity of supply (SE) for the recycled material, and the price elasticity of demand (DE) for the recycled material using the following formula:

$$PIR = PCPC * (SE * DE)/(SE + DE)$$

i. The SE and DE will be determined by the Executive Director based on the relevant research literature or consultation with outside experts.

e. The CAR is calculated based on the PIR and the projected average annual amount of recycled material sold or shipped (ARM), as provided by the Applicant as follows:

$$\text{CAR} = \text{PIR} * (1 - \text{PIR}) * \text{ARM}$$

(ii) The greenhouse gas benefit (GGB) for each unit of material recycled will be determined by the Executive Director based on the relevant research literature, consultation with outside experts, information from other state agencies, or the Federal Environmental Protection Agency Waste Reduction Model (WARM). Where the California Air Resources Board (CARB) has made modifications or developed an alternative to the WARM model, the CARB measurements will be used.

(iii) The dollar value of pollution costs associated with emission of a unit of CO₂ (\$CO₂) will be determined by the Executive Director based on the relevant research literature, expert analysis, or information provided by other state agencies

(iv) The TPB will be determined based on the present value of the GGB and \$CO₂ as follows:

$$\text{TPB} = \text{Present Value}(\text{GGB} * \$\text{CO}_2)$$

a. 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.

(4) 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 for Advanced Transportation, Alternative Source, and Recycled Resource Extraction Applications 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. Points for environmental benefits (~~TPB points~~) for Advanced Manufacturing Applicants will be equal to the sum of the environmental benefits points awarded based on the categories listed in Section 10033(c)(~~23~~)(D).

(5) Additional points. Additional points shall be awarded as follows:

(A) Unemployment score. An Applicant may earn up to 50 points for creating jobs in high unemployment areas.

(i) 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.

(ii) 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:

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

a. 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 75 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 for the New Jobs Score will be awarded as follows:

a. Less than or equal to \$50,000 in sales and use tax exclusion per job - 75 points.

b. Less than or equal to \$100,000 in sales and use tax exclusion per job but greater than \$50,000 per job - 60 points.

c. Less than or equal to \$150,000 in sales and use tax exclusion per job but greater than \$100,000 per job - 55 points.

d. Less than or equal to \$200,000 in sales and use tax exclusion per job but greater than \$150,000 per job - 45 points.

e. Less than or equal to \$300,000 in sales and use tax exclusion per job but greater than \$200,000 per job - 40 points.

f. Less than or equal to \$400,000 in sales and use tax exclusion per job but greater than \$300,000 per job - 35 points.

g. Less than or equal to \$750,000 in sales and use tax exclusion per job but greater than \$400,000 per job - 30 points.

h. Less than or equal to \$1,500,000 in sales and use tax exclusion per job but greater than \$750,000 per job - 20 points.

i. Greater than \$1,500,000 in sales and use tax exclusion per job - 0 points.

(ii) The Executive Director will calculate the decrease in Facility jobs, if any, due to the sales and use tax exclusion. The number of jobs reduced by the Applicant as a result of the sales and use tax exclusion will be calculated by subtracting the Total Facility Employment as reported by the Applicant assuming the Qualified Property is not used from the total Facility Employment assuming the Qualified Property is used. If the result is a negative value, the New Jobs Score will be set to zero regardless of the results of the calculation in Section 10033(c)(5)(B)(1)(i). If this value is negative, Lost Jobs Points will be calculated by (a) subtracting the Total Facility Employment as reported by the Applicant assuming the Qualified Property is not used from the total Facility Employment assuming the Qualified Property is used, (b) dividing the result by the number of Facility jobs assuming the Qualified Property is used, and (c) multiplying the result by 100.

(C) Construction or installation jobs score. An Applicant may earn up to 75 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. Less than or equal to \$50,000 in sales and use tax exclusion per job - 75 points.
- b. Less than or equal to \$100,000 in sales and use tax exclusion per job but greater than \$50,000 per job - 60 points.
- c. Less than or equal to \$150,000 in sales and use tax exclusion per job but greater than \$100,000 per job - 55 points.
- d. Less than or equal to \$200,000 in sales and use tax exclusion per job but greater than \$150,000 per job - 45 points.
- e. Less than or equal to \$300,000 in sales and use tax exclusion per job but greater than \$200,000 per job - 40 points.
- f. Less than or equal to \$400,000 in sales and use tax exclusion per job but greater than \$300,000 per job - 35 points.
- g. Less than or equal to \$750,000 in sales and use tax exclusion per job but greater than \$400,000 per job - 30 points.

h. Less than or equal to \$1,500,000 in sales and use tax exclusion per job but greater than \$750,000 per job - 20 points.

i. Greater than \$1,500,000 in sales and use tax exclusion per job - 0 points.

(D) Emerging Strategic Industry score. An Applicant may earn up to 40 points if the Applicant's industry is in an Emerging Strategic Industry as defined in Section 10031(jm). The Executive Director will determine if an Applicant's industry is an Emerging Strategic Industry and award points to those Applicants that qualify.

~~(E) For Advanced Manufacturing Applicants only, Other Facility Characteristics.~~

(i) An Application may be awarded points for the following other facility characteristics:

a. Applicants with facilities in California that perform research and development functions related to the product or production process at the Facility that is the subject of this application will receive 25 points.

b. Applicants with partnerships with educational institutions either for the purpose of training the workers at the Facility or for purposes of assisting in the training of potential future workers, including workers from disadvantaged communities including women, racial minorities, formerly incarcerated, and veterans, will receive 25 points.

c. Applicants in Industry Clusters, as defined, will receive 25 points.

d. Applicants that provide benefits and fringe benefits to employees will receive 5 points for each type of benefit or fringe benefit provided, up to 25 points.

~~(G)~~(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:

$$\text{\$OSG} = (1 - \text{POSCA}) * (\text{pollution cost of VOC per GGE} + \text{pollution cost of NOx per GGE})$$

b. The dollar value of an out-of-state non-greenhouse gas benefit from a MWh (\$OSM) is calculated pursuant to the following formula:

$$\text{\$OSM} = (1 - \text{POSCA}) * (\text{pollution cost of US NOx per MWh} + \text{pollution cost of US SO2 per MWh})$$

c. 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.

d. 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 excluding Biofuels) is calculated pursuant to the following formula:

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

and

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

e. 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:

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

or

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

and

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

f. 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:

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

and

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

(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. 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 greater than 20 may be recommended for a sales and use tax exclusion. Notwithstanding the foregoing, where a project receives a score less than these thresholds, 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) 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 any of the threshold values set forth in Section 10033(c)(6).

Note: Authority cited: Section 26011.8, Public Resources Code. Reference: Section 26011.8, Public Resources Code; and Section 6010.8, Revenue and Taxation Code.

§ 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 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 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(a)(7)).

(2) The equipment proposed for the sales and use tax exclusion to be a "project" (Pub. Res. Code Sec. ~~26003(a)(8)(B)~~26011.8(b)(1)).

(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 dollar value of the Qualified Property approved by the Authority will be stated in the letter.

Note: Authority cited: Section 26011.8, Public Resources Code. Reference: Section 26011.8, Public Resources Code; and Section 6010.8, Revenue and Taxation Code.

§ 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. If the Applicant is granted an extension of the initial term to make Qualified Property purchases pursuant to Section 10035(b)(1)(B), below, the term of the Regulatory Agreement shall be extended for an equal amount of time.

(3) The Regulatory Agreement shall include but not be limited to the following:

(A) A requirement that the Applicant indemnify and hold harmless CAEATFA from claims connected with: 1) the 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.

(B) A requirement that the Qualified Property be installed, maintained and operated within the State of California, except as provided by this section.

(C) The Executive Director may approve a request to relocate Qualified Property outside of California in an amount up to fifteen percent (15%) of the dollar volume of Qualified Property included on all semi-annual reports to the Authority as of the date of the request. The amount of Qualified Property relocated shall be cumulative and the amount requested will be added to any previously approved request and compared to the dollar volume of Qualified Property included on all semi-annual reports to determine compliance with the fifteen percent (15%) limitation. The Executive Director shall approve a request pursuant to this section upon a finding that the relocation is part of an improvement, upgrade or increase in the economic efficiency of the Project and that approval of the requested relocation is likely to continue or increase the anticipated net benefits of the Project. Any denial of a request pursuant to this section may be reviewed by the Authority.

(D) Requests for relocation of Qualified Property in excess of the fifteen percent (15%) requirement set forth in (a)(3)(C) may be approved by the Authority based on a recommendation from the Executive Director and upon a finding that the relocation is part of an improvement, upgrade or increase in the economic efficiency of the Project and that approval of the requested relocation is likely to continue or increase the anticipated net benefits of the Project.

(E) Any amount of Qualified Property may be relocated outside of California upon a voluntary payment by the Applicant in an amount calculated by multiplying the original purchase price of the Qualified Property to be relocated by the average statewide sales tax rate at the time of the proposed relocation.

(F) A requirement that the Applicant file a semi-annual report. This report will identify purchases of Qualified Property, if any, made during the preceding two calendar quarters.

(i) Each semi-annual report shall include information about the Qualified Property purchased, including the acquisition date; vendor city, county, and country; 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.

(ii) The semi-annual report covering the first two calendar quarters of the year shall be submitted to the Authority on or before July 31; the semi-annual report covering

the last two calendar quarters of the year shall be submitted to the Authority on or before January 31 of the immediately following calendar year.

(b) 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 subparagraph (A) below, within ~~one year~~ eighteen (18) months of approval by the Authority, the Applicant must make purchases or have executed purchase orders of Qualified Property totaling not less than fifteen percent (15.0%) of the total amount listed in the approval resolution; Except as noted in subparagraph (B) below, all purchases of Qualified Property must be made within three years of Application approval. Regulatory Agreements for Facilities not meeting these requirements will be subject to termination, and no further purchases will be excluded from the imposition of the sales and use tax.

(A) Upon a finding of extraordinary circumstances and that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that the Applicant make purchases or have executed purchase orders of Qualified Property totaling not less than fifteen percent (15.0%) of the total amount of Qualified Property listed in the approval resolution within eighteen (18) months of Application approval. Extraordinary circumstances may include, but are not limited to, unforeseen permitting delays, ~~but do not include a current lack of funding.~~

~~(A)~~(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 the signing of the Regulatory Agreement as required by these regulations. 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 Qualified Products;
- (G) the amount spent on supplier purchases for Qualified Products, 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 Qualified Products; and
- (K) 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, in addition to other remedies.

(6) Rescission. Following a finding that an Applicant has provided false information pursuant to paragraph (5) or has otherwise violated the Regulatory Agreement, the Authority may, after written notice to the Applicant, terminate or rescind the approval

resolution, 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 shall be rescinded, and notice of the rescission may be provided to the ~~Board of Equalization~~Department of Tax and Fee Administration.

(7) Reporting. The Authority may from time to time publish the actual total value of the Qualified Property purchased within each city 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 cities or counties will be aggregated so as to protect the confidentiality of this information.

(8) Suspension. If the Applicant violates statute, regulations, or the terms of the Regulatory Agreement, the Executive Director may suspend the Regulatory Agreement until the Executive Director certifies that the Applicant is once again in compliance. Purchases made during this suspension will not be excluded from the imposition of sales and use tax.

(c) Recovery of Financial Assistance. The Regulatory Agreement shall contain a provision 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, except in compliance with section 10035(b)(1)(F).

Note: Authority cited: Section 26011.8, Public Resources Code. Reference: Section 26011.8, Public Resources Code; and Section 6010.8, Revenue and Taxation Code.

§ 10036. Fees.

(a) Application Fee.

(1) Except as provided in paragraph (5) below, 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 \$10,000.

(3) This fee shall be paid in a check payable to the Authority, and shall be ~~submitted with the Application~~ received by CAEATFA within five (5) business days of the Application submission.

(4) This fee is not refundable, except in the event an Application is not reviewed by staff due to oversubscription of the \$100 million annual program cap.

(5) If the Applicant can demonstrate the Project is to relocate or rebuild the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclamation made by the California State Governor within two years of the time of application, the Executive Director shall waive the Application Fee.

(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 semi-annually on July 31 and January 31 each year following Application approval until such time as the total amount of the Administrative Fee due has been paid. The amount of the Administrative Fee due during each period shall be based on the Qualified Property purchase amounts during the immediately preceding six-month period (from January 1 through June 30 and July 1 through December 31, respectively) ~~such that the fee due is proportional to the total amount of the Administrative Fee remaining after the initial \$15,000~~ until the total Administrative Fee has been paid.

(A) Each semi-annual ~~E~~fee payment shall include information about the Qualified Property purchased, including the acquisition date; vendor city, county, and country; 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.

(B) The Applicant will submit a “final statement” when the 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 10036 a determination will be made of the total amount of Qualified Property purchased, and the corresponding amount of the total Administrative Fee due. If any remaining Administrative Fee is due, the Fee shall be submitted together with the final statement. In the event that an Applicant has overpaid Administrative Fees, the overpayment will be paid to the Applicant within thirty (30) days of submission of the final statement.

(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 Administrative Fee is not refundable, except as indicated in section (5)(B) above.

(c) Other fees

(1) Except as provided below. ~~An~~ Applicant that requests a modification to its Regulatory Agreement or authorizing resolution that must be approved by the Authority shall pay an additional administrative fee of \$500.

(A) An Applicant that requests a modification to its Regulatory Agreement or authorizing resolution to waive the 15% purchase requirement pursuant to Section 10035(b)(1) above, shall pay an additional administrative fee of \$1,500.

(B) An Applicant that requests a modification to its Regulatory Agreement or authorizing resolution to waive the three-year initial term pursuant to Section 10035(b)(1) above, shall pay an additional administrative fee of \$2,000.

(2) An Applicant that requests a modification to its Regulatory Agreement or authorizing resolution that requires a revised application to be considered by the Authority

(2) An Applicant that requests a modification to its Regulatory Agreement or authorizing resolution that requires a revised application to be considered by the Authority shall pay .00005 (one two hundredth of one percent) of the total amount of Qualified Property identified in the Authority resolution approved by the board.

(A) In no case shall this fee be less than \$500 nor more than \$2,000.

(3) This fee shall be paid in checks payable to the Authority.

Note: Authority cited: Section 26011.8, Public Resources Code. Reference: Section 26011.8, Public Resources Code; and Section 6010.8, Revenue and Taxation Code.

ATTACHMENT B –

**WRITTEN PUBLIC COMMENTS ON THE
POTENTIAL MODIFICATIONS
DISCUSSED AT THE
JULY 21, 2020 BOARD MEETING**



Californians Against Waste

Conserving Resources. Preventing Pollution. Protecting the Environment.

July 24, 2020

Deana Carrillo
Executive Director
CA Alternative Energy & Advanced Transportation Financing Authority (CAEATFA)
915 Capitol Mall, Room 538
Sacramento, CA 95814

(Submitted electronically)

RE: Increased support for recycling projects in Sales and Use Tax Exemption program

Director Carrillo:

As you are aware, Californians Against has been a longtime supporter of the important work undertaken by your agency. As the sponsors of both AB 199 and AB 1583, we have long supported the role that CAEATFA's Sales and Use Tax Exemption program can play as one of our most powerful tools for building recycling markets and driving investment.

We would like to express our support for a number of the proposed modifications to the STE program that would address oversubscription issues and the unprecedented economic impact of the COVID-19 pandemic. Specifically we are very encouraged to see the inclusion of 50 additional competitive criteria points for applicants that do not qualify for the CDTFA partial sales tax exemption for manufacturers. This important modification will help ensure the STE benefit can be equitably provided to qualified applicants that are not eligible for the additional exclusion, which can offset the applicant's costs of not receiving a CAEATFA STE award.

Additionally, we would like to express our support for modifications aimed at investing in our economy quickly during this unprecedented and challenging moment in history. A set-aside STE for smaller projects will help ensure larger awards do not inadvertently absorb all of the STE allocation, and will allow for more projects overall to get awarded. We also support the additional flexibility to allocate any remaining STE at the end of the year, as well as ending the waitlist at the end of the year as a means of addressing oversubscription.

Ultimately, we believe the changes proposed will help foster and incentivize the critical recycling infrastructure necessary for California to meet our greenhouse gas (GHG) reduction goals. We look forward to the rulemaking period in the hope that it can be finalized in advance of the 2021 award process.

Sincerely,

A handwritten signature in black ink that reads "N. Lapis".

Nick Lapis
Director of Advocacy
Californians Against Waste



July 27, 2020

CAEATFA
Attn: Ashley Emery
915 Capitol Mall, Rm 538 Sacramento, CA 95814
Email: aemery@sto.ca.gov

Subject: Invitation for Comments on Sales and Use Tax Exclusion (STE) Program

Dear Ms. Emery:

Thank you for the opportunity to comment on the proposed modifications to the STE program administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA). Since 2015, this program has offered much needed investment in recycling infrastructure, encouraging green job development and helping the state meet its waste diversion goals.

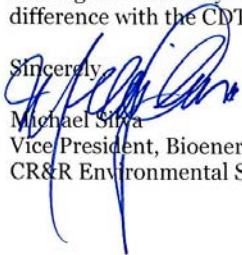
Founded in 1963, CR&R is a Southern California-based waste and recycling collection company, serving more than 3 million people and over 25,000 businesses through Orange, Los Angeles, San Bernardino, Imperial, and Riverside counties. We operate the state's largest anaerobic composting facility and power our vehicle fleet from renewable natural gas derived from organic waste.

CR&R supports the proposed change that projects ineligible for other tax exemption opportunities receive 50 additional Competitive Criteria points.

The 2018 LAO Report "Evaluation of a Sales Tax Exemption for Certain Manufacturers" noted that some applicants may be eligible for a partial exemption of sales and use tax on specific manufacturing and research and development equipment purchases or leases, administered by the California Department of Tax and Fee Administration (CDTFA). However, the waste and recycling industry does not have access to this exemption.

Given this limitation, the proposed additional points will help support the recycling infrastructure growth needed for California's economic recovery and the expansion of our green economy. We appreciate staff's consideration of this programmatic difference with the CDTFA exemption.

Sincerely,


Michael Silva
Vice President, Bioenergy Division
CR&R Environmental Services

1706 Goetz Road
Perris, CA 92570
P.O. Box 1208
Perris, CA 92572

t: 951.943.1991
f: 951.657.5493

From: [Alex Tran](#)
To: [Emery Ashley](#)
Cc: [Moua Xee](#)
Subject: CAEATFA STE Reg Comments
Date: Friday, July 31, 2020 9:54:45 AM
Attachments: [image001.png](#)
Importance: High

Hi Ashley – my apologies if this is a bit late (been drowning in SAR filings), but we two suggestions based on the last meeting and proposed reg revisions. Both relate to items on page 4 of Agenda Item – 4.B from the July 21st Meeting.

1. **\$15M “Large Applicant” Fund – Up to \$10M available to 1 Applicant that requests \$20M in total.**

Comment: We believe that this special fund for larger projects is a great idea. Larger projects have statistically shown greater STE utilization rates, job creation quality/ROI and are less volatile. However, one minor suggestion that we would make to this proposed revision would be to reduce the ability of one (1) Applicant being able to take 66.6% of this Large Applicant fund—to 33.3%.

Given the recent concerns that fewer companies could take a disproportionate share of the overall pool, we believe that allowing at least three (3) Applicants to take from this new Large Applicant fund would be more reasonable (i.e. limiting Applicants to \$15M in total STE). Based on historical data, we believe it is feasible that there will be a number of Applicants seeking STE from the Large Applicant Fund—with there likely being only one Applicant seeking an amount above \$15M in STE (the “Outlier”).

Thus, under the current proposal, it would be far more likely that the Outlier would cause several Applicants seeking Large Applicant funding to receive nothing from it for their larger projects. **Conversely, if the Outlier was limited to \$5M (33.3% of Large Applicant funds), \$10M would be allocable across all others requesting Large Applicant funds.** Our belief in this is based on the program’s history which shows that there is a higher likelihood that there will exist:

- A. *One Outlier seeking \$15-20M + several Applicants seeking between \$10-15M; versus*
- B. *No Outliers with all other Large Applicants seeking \$10-15M.*

Again, the former will result in the Outlier taking a larger portion and likely leave multiple Large Applicants without funding to cover their entire project. Finally, this would also increase the risk of STE not being utilized post-MRA since more STE would in the Outlier and fewer Applicants overall. Although larger STE awardees statistically have a lower risk of underutilization, spreading that risk across a higher volume of Large Applicants reduces the overall risk even further. In turn, this also strengthens the program as it creates a higher expected value proposition from a CAEATFA Admin Fee / Budget perspective.

2. **“Board may limit the amount of STE provided at specific meetings, if necessary (provides**

flexibility for potential funding rounds if needed).”

Comment: While we feel that we understand the idea behind this proposed revision, we believe that the inherent risk of creating this type of ad hoc flexibility for the Board outweighs the potential benefits. Nearly all other government (CA and non-CA) are effectively binary, the Applicant will receive 100% of its Staff recommended award or zero. This allows the voting board members to decide whether an Applicant is worthy/deserving of the award being sought, or is not. This binary logic exists since if an Applicant is not deserving of an award, it will receive none, not a smaller portion. The inverse is true as well, a deserving Applicant receives what it needs based on the hard work and analysis of Staff.

So with all due respect, inserting the opportunity to give a deserving Applicant less than what it needs and has requested—raises a variety of issues. Will later Applicants feel that they were unjustly “haircut” in their MRA approval? What type of consistency from a formulaic perspective will exist in these potential haircuts? Could certain stakeholders feel that they were wrongly impacted while another similarly situated Applicant does not receive a reduction? Could a Board member be accused of being biased for or against a certain Applicant? Assuming *arguendo*, that the Board is able to truly utilize this new flexible power fairly, will the public and stakeholder perception align?

In summary, the program has stakeholders that have concerns and negative feelings toward it because their businesses were unable to receive any funding—this is true of any tax incentive and is accepted as a government subsidy “norm”. But from our experience, negative stakeholder feedback and public perception is worse when businesses feel like they received less than they should have versus when they receive nothing. Particularly when the adjustments to their incentive is done at the very tail-end of the award process.

As always, deeply appreciate your time and efforts in taking in our thoughts on the program. Please let me know if you have any questions, thanks Ashley.

Best Regards,
Alex

Alex Tran, CPA
Partner | [California Incentives Group](#)
16870 W Bernardo Drive, Suite 400
San Diego, CA 92127
Office: (760) 334-8300 | Mobile: (858) 722-4580
alex.tran@CALincentives.com
www.CALincentives.com



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July 24, 2020

CAEATFA
Attn: Ashley Emery
915 Capitol Mall, Rm 538
Sacramento, CA 95814
Email: aemery@sto.ca.gov

Re: Invitation for Comments on Sales and Use Tax Exclusion (STE) Program

Dear Ms. Emery,

On behalf of Recology, I am writing in support of the Proposed Modifications to the Sales and Use Tax Exclusion Program presented by California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) staff at the July 21, 2020 board meeting.

Recology manages recycling, organic waste, and solid waste collection, processing and disposal services for nearly 100 urban, suburban and rural communities in California. Recology owns and operates some of the most technologically advanced, high-throughput recycling and composting facilities in the nation, including facilities that have benefitted from the STE program.

Recology has strongly supported policy driving increased diversion from landfills, including SB 1383's organics diversion mandate and ongoing efforts to reduce plastic pollution by increasing in-state recycling. To meet these goals, public and private entities across the state will need to make significant investments in California's recycling and composting infrastructure. Policymaking driving diversion has not slowed given COVID-19. We need to make investments in our facilities now to meet these goals – but relying on ratepayer funds to do so will prove even more challenging in this economic climate. The STE program is a critically needed for California to meet its diversion goals.

Without a statutory increase in the STE program cap, we anticipate this program will continue to be challenged with oversubscription issues. To mitigate this, we support staff's recommendations to set aside funds for smaller projects to ensure large projects do not absorb most or all of the available allocations. Additionally, we support the recommendation that applications not evaluated or awarded due to the statutory cap will be prioritized in following funding cycles. We also support the recommendation that projects ineligible for other tax exemption opportunities, such as certain waste and recycling facilities, receive additional Competitive Criteria points.

Thank you for recognizing the recycling industry as one that creates good in-state jobs and mitigates the effects of climate change and plastic pollution. We look forward to continuing to work with you through the rulemaking process.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CW', is positioned above the typed name.

Christine Wolfe
Government Relations Manager
Recology Inc.

From: [Steve Lautze](#)
To: [Emery, Ashley](#)
Cc: [Steve Lautze](#)
Subject: straggling comments on STE modifications
Date: Tuesday, July 28, 2020 11:38:57 PM

Hello Ms. Emery: when I got the notice for last week's meeting, I knew I could not tune in for the actual meeting. I also noted that today, July 28, was the deadline for written comments, though I failed to notice that comments would be due by 5pm. Given all that, this comment is technically late, but based on the proposed schedule for changes in emergency and regular rulemaking for STE modifications, I am hoping that this comment can still be considered.

My personal context with the program is as an original supporter of AB 199 (Eggman), in my former, long time role as President of the California Assn. of Recycling Market Development Zones (CARMDZ). I held this position for no less than 16 years, and also staffed the Oakland/Berkeley RMDZ from 1999 to last year, when I retired from my position in the City of Oakland, as the Green/Industrial Specialist on the Business Development Team in that city. You can see a bit more about my professional background and current activities at <https://www.linkedin.com/in/steve-lautze-15b21010>

It's fair to say that I was quite tuned in to dynamics of the STE program during integration of AB 199, but more recently fell out of touch as my retirement unfolded. That said, I remain keenly interested in recycling market development issues, as well as economic development efforts that are aimed at GHG reduction. CAEATFA's STE and other programs, like the RMDZ program, are obscure but also vital tools toward progress on these issues. It also makes sense that the economic storm clouds over California's economy warrant a re-evaluation of the structure and priorities of the STE program. Beyond this formal written comment, I would love to have a chance to discuss the direction and policy options for the program on the telephone some day soon.

I also appreciated the clarity and detail in your staff report on the

item for the July 21 meeting, particularly the two charts at the end of the report, and especially the last chart that shows the history and distribution of projects in the STE program. I have also found some information on line about the mix by number and dollar amount of STE awarded over time to the 4 different categories, including recycling-based processing and manufacturing.

Acknowledging my obvious bias for recycling based projects, and sensing that the general exercise of developing new STE regulation is to maximize "bang for the buck" during hard times, I am interested in engaging your office on the issue of relative need and impact of projects that are competing for oversubscribed tax credits. My thesis is that many of the energy, transportation, and advanced manufacturing projects that have done very well in the STE program are generally more capital intensive, better capitalized, and have typically higher ROI than recycling projects, even as recycling projects help to meet critical policy objectives, including GHG reduction per dollar of STE awarded. For tonight, the case that I am making is that this combination of factors would suggest that allocation of STE for recycling projects be enhanced or certainly not diminished in access as the new regulations go forward. My logic would also amount to a critique of the current proposal to reserve STE allocation for larger dollar value projects, based on the idea of apportioning incentives to projects where it can have the greatest impact in making the greatest difference in project economics.

I would welcome a chance to discuss my thesis, your ideas, and the mechanics of this outstanding program going forward, including a greater understanding of how best to explore options through your planned deliberation process.

Thank you for your consideration and all of your good work as STE Program Manager.

Steve Lautze
Resource Revolution
510-280-4341



July 28, 2020

Subject: Proposed Modifications to the Sales and Use Tax Exclusion Program

Dear Ashley Emery,

The Resource Recovery Coalition of California (Resource Coalition) is comprised of 33 industry member companies engaged in solid waste collection, recycling, composting, and anaerobic digestion in California. We are grateful for the opportunity to comment on the proposed modifications to the Sales and Use Tax Exclusion (STE) Program.

The Resource Coalition strongly supports the STE program administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA). Since the passage of AB 199 in 2015, this program has offered much needed investment in recycling infrastructure, encouraging green job development and helping us meet our critical waste diversion goals.

We support a number of the STE program proposed modifications to address oversubscription issues and the unprecedented economic impact of the COVID-19 pandemic. Specifically we are very encouraged to see the inclusion of 50 additional competitive criteria points for applicants that do not qualify for the CDTFA partial sales tax exemption for manufacturers. This important modification will help ensure the STE benefit can be equitably provided to qualified Applicants that are not eligible for the additional exclusion, which can offset the Applicant's costs of not receiving a CAEATFA STE award.

Additionally, we are grateful for modifications aimed at investing in our economy quickly during this unprecedented and challenging moment in history. A set-aside STE for smaller projects will help ensure larger awards do not inadvertently absorb all of the STE allocation, and will allow for more projects overall to get awarded. We also support the additional flexibility to allocate any remaining STE at the end of the year, as well as ending the waitlist at the end of the year as a means of addressing oversubscription.

Ultimately, we believe the changes proposed will help foster and incentivize the critical recycling infrastructure necessary for California to meet our greenhouse gas (GHG) reduction goals. We look forward to the rulemaking period in the hope that it can be finalized in advance of the 2021 award process. Should you have any questions, please do not hesitate to reach out to Resource Coalition staff.

Sincerely,

A handwritten signature in black ink that reads "Veronica Pardo".

Veronica Pardo
Regulatory Affairs Director
veronica@resourcecoalition.org

A handwritten signature in black ink that reads "Laura J. Ferrante".

Laura J. Ferrante
Government Affairs Advocate
laura@wastealts.com

1121 L STREET, SUITE 505 | SACRAMENTO, CA 95814
916-444-2772 | WWW.RESOURCECOALITION.ORG