



# SALES AND USE TAX EXCLUSION PROGRAM

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Public Workshop on Draft Regulations for STE Program  
Development and the Incorporation of Assembly Bill 199

June 22, 2016

# Agenda



- Proposed Implementation of AB 199
- Additional Program modifications
- Next Steps and Process Timeline
- Q&A

# Introduction



- AB 199 (Eggman) added recycling projects wherein at least 50% of the tangible personal property's use is either to process recycled feedstock or to use recycled feedstock in the production of another product or soil amendment.
- This portion of the presentation describes the proposed project eligibility framework and evaluation criteria for AB 199 projects.

# AB 199 Process overview



- 1. Applicants' Projects must satisfy the definition of "Recycled feedstock" set forth in statute.
- 2. Projects must score at least 1,000 points in the net benefits test, with a minimum of 20 environmental points. See Section 10033(c)(6).
- 3. Administration – allocation of STE based on availability and per-project cap of \$20 million, as outlined in Section 10032(a)(4). Upon approval of an Application by the CAEATFA Board, Applicants will:
  - a. Enter into a Master Agreement with the Authority
  - b. Prepare a certificate, pursuant to BOE guidelines, which will be provided to suppliers to exempt both state and local sales tax from purchases of qualified property.
  - c. Report semi-annually to the Authority.

# Eligibility of recycling-related projects under proposed regulations



Type of Facility/Project	STE Application Pathway
Materials Recovery Facilities	New pathway under AB 199
Composting	
Specialty recyclers (e.g. tire or scrap metal)	
Manufacturing with Recycled Materials	Advanced manufacturing
Intermediate Processing of Recovered Materials	
Biogas	Alternative source

# Application information and scoring



- The new AB 199 project pathway will require the same types of financial and environmental information required under the existing application requirements.
- In addition, AB 199 projects will need to indicate the type(s) of recycled materials to be processed/produced.
- The information collected in the STE application will be used to score each project based on its estimated economic and environmental benefits in a manner very similar to the approach used currently.

# Estimating environmental benefits



- Environmental benefits will be estimated based on increases in the total amount of recycled materials produced.
- Using the U.S. Environmental Protection Agency's (EPA) WARM model, which estimates the greenhouse gas benefits of recycling various waste materials, the increase in recycling will be translated into an estimated greenhouse gas (GHG) reduction.
- Where the California Air Resources Board (ARB) differs from the WARM model, the ARB measurements will be used.
- Greenhouse gas reductions will then be monetized based on economic estimates of the cost of each additional ton of GHG emissions.
- Only projects that increase the amount of recycled materials produced and generate sufficient environmental benefits will be eligible.

# Estimating environmental benefits (continued)



- Increases in recycling due to the STE will be estimated as follows:
  - Applicants provide information about total production costs, tons of materials processed, and amount of recycled materials to be produced.
  - CAEATFA then calculates:
    - The change in production costs due to the STE.
    - The resulting increase in recycling due to the incentive effect of the STE based on supply and demand characteristics of the relevant recycling market.
    - The reduction in GHG emissions from the EPA WARM model (or ARB).
    - The economic benefit from the reduction in GHGs.



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# Other Proposed modifications



**1. Biofuels**

6. Project Caps

2. Application Streamlining

7. Purchase Requirement

3. Qualified Property List

8. Compliance

4. Environmental Benefits Scoring  
Threshold

9. Fees

5. Ranking Applications

# Biofuels



- The proposed amendments to the regulations revise the evaluation criteria for Biofuel projects as defined in Section 10031(i) in order to simplify the application process and more accurately score fiscal benefits based on lessons learned.
- Because Biofuels will be distinguished from other Alternative Sources, the proposed regulations define Biofuels, which will include biodiesel and biogas as defined in Sections 95481(a)(6) and 95481(a)(9) of Division 3 of Title 17 of the California Code of Regulations.

# Biofuels Scoring



## Fiscal Benefits

- Some Biofuel applicants use the product produced and therefore are not paying a sales tax on a purchase that would otherwise be made externally.
- The proposed regulations add a couple of new questions to the application, data items, and scoring adjustments to proportionally reduce estimated sales tax revenue from the qualified product. See Section 10033(c)(1).

## Environmental Benefits

- Currently, the environmental effects of alternative source projects are measured and scored based on the energy generation potential of the project, which results in a reduction in the amount of non-alternative source power otherwise needed. Applicants must calculate and provide the energy generation capacity of the project, and a dollar value of pollution avoided per megawatt hour of electricity generation is assigned based on available research.
- Under the proposed regulations, Biofuel applicants will instead provide the type of biofuel produced and units of energy produced, and the application workbook will use ARB estimates to calculate the net difference in GHG emissions between the various Biofuels and the corresponding fossil fuel and assign a dollar value to the reduction in pollution based on available research and analysis. See section 10033(c)(3).

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# Application streamlining: reduce questions and add automation



- Certain calculations, such as the expected tax liability will be automatically calculated based on application inputs.
- Unused inputs, such as manufacturing process improvements for alternative source and advanced transportation projects will be removed.
- Redundant inputs will also be removed (e.g., multiple data points for the qualified property amount, NAICS code, etc)

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# Qualified Property list



- Part B of the application collects information about anticipated equipment purchases for the project.
- Currently, applicants may lump together reasonably related equipment valued at less than \$10,000, so long as the total value does not exceed \$100,000.
- The proposed regulations will remove the \$10,000 limit for individual pieces of equipment and the \$100,000 cumulative cost limit.
- As long as applicants group purchases in the application according to reasonably related categories, staff can do its due diligence, while relying on the back-end analysis (Final Exhibit B) to capture detailed purchasing information. See Section 10032(c)(4)(C).



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# Environmental benefits scoring threshold



- Current regulations set environmental benefits threshold for applications at 100 points for AS and AT, and 20 points for AM.
- Different threshold requirements are due to the fact that AM projects generate fewer environmental benefits through process improvements than AS and AT projects do through products that directly generate environmental benefits.
- AB 199 eligible projects also create a wide array of environment benefits that meet different quantifiable standards from AS and AT.
- To better accommodate the variety of projects eligible under the Program, the 100 point threshold is decreased to 20 points for all projects. See Section 10033(c)(6).

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# Project ranking based on objective criteria

- Applications will be considered first-come, first-served, to best meet the needs of business cycles.
- At the time of oversubscription, all applications to be considered in the same month will be ranked based on four basic criteria:
  - Unemployment rate in the county of the proposed facility
  - California headquarters
  - Small business
  - Prior STE awards
- Each criterion shall be worth between one and five points, and the application with the greatest point score shall be advanced first.
- In the event of a tie, the project with the smaller STE request will advance first. If the amounts of each request are identical, the order will be determined by the order in which the applications were received by CAEATFA.
- Additional applications will be advanced in the order of their rank. The application that exceeds the Program cap will be the last to be considered, with the portion of the award in excess of the cap being awarded from the next calendar year.
- All subsequent applications will be placed on a waiting list and considered in the following calendar year.

# Objective criteria: Unemployment rate



- 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 project locating in the county with the highest unemployment rate in the state will receive five points, the maximum available.
- Projects located in counties that exceed 110% of statewide average for unemployment will receive at least one point.
- All rates will be based on those most recently reported by the California Employment Development Department at the time of application submission.
- If an applicant changes the location of the Project after approval, such that its ranking would have been adversely affected, the award shall be rescinded and granted to the next applicant in line. See Section 10032(a)(7)(B)(i).

# Objective criteria: Corporate headquarters

- Applicants with a corporate headquarters in California shall receive one point, as long as any parent company with an ownership interest greater than 50% also have a corporate headquarters in California. See Section 10032(a)(7)(B)(ii).

# Objective criteria: Small business



- 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 any parent company with an ownership interest greater than 50% is also classified as a small business. See Section 10032(a)(7)(B)(iii).

# Objective criteria: Prior awards



- If the applicant has not previously been approved for an award by the Authority, the Project shall receive five points, provided that, if the applicant has a parent company with an ownership interest greater than 50%, neither the parent company, nor its subsidiaries or affiliates have been previously approved for an award by the Authority. See Section 10032(a)(7)(B)(iv).



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# Individual project caps



- Each project will be limited to \$20 million of STE, calculated based on the statewide average sales tax at time of application.
- If additional funds are available at the end of the calendar year, approved applicants requesting more than the \$20 million cap will bring a revised application before the Authority in December.
- The amount of additional STE available to each applicant will be determined by the Executive Director, calculated by taking the unawarded STE for that calendar year and dividing it evenly between all Projects that wish to exceed the \$20 million cap. See Section 10032(a)(4).
- Large projects may return in subsequent years with applications for additional STE.

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# Readiness requirement



- CAEATFA will continue to accept and evaluate applications on a first come, first serve basis (excepting instances of oversubscription, when objective criteria will be used).
  - Allows companies to continue submitting applications on a timeline that matches unique business needs.
- A requirement to complete 15% of qualified purchases within one year of Board approval will be added.
  - Increases the likelihood that award will be used, thereby increasing efficacy of STE allocated.
- The ability of the Board to waive this purchase requirement will be removed.
  - Encourages projects that are close to breaking ground and discourages applicants from “sitting on” an award.

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# Compliance



- Approved applicants are required to adhere to terms and conditions laid out in statute, regulations, and the terms of the Master Agreement.
- 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. See Section 10035(b)(8).

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# Fees



- Current fees do not cover the expense of bringing an applicant back before the Board for modifications to an existing Master Agreement.
- Proposed modifications will add two fee provisions:
  - The first provision adds a \$500 fee for any applicant that requests a modification of its existing Master Agreement requiring approval by the Authority.
  - The second provision adds a fee for applicants requesting a modification to its Master Agreement or authorizing resolution requiring a revised application to be considered by the Authority.
    - Calculated by taking .00005 (one two hundredth of one percent) of the total amount of Qualified Property identified in the Authority resolution approved by the board, subject to a \$500 minimum and a \$2,000 maximum.
- See Section 10036(c)



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# Next steps for the STE program



- Regulatory Modifications
  - Review feedback from workshop (Due July 1, 2016 by 5pm PST)
  - Draft regulations to be brought before the Board (July 19, 2016).
  - Complete the regulatory process and open the application process to qualifying AB 199 projects (August).
- Legislative Proposals (AB 2334 and AB 1683)
  - Raise Program Cap
  - Create Roll-over function for un-awarded funds
  - Make language regarding contractors and subcontractors consistent with the BOE partial exemption program.

# Process Timeline



June 22: Public workshop



July 1: Public comments due



July 19: Board consideration of proposed regulations



August: Authority begins accepting applications from AB 199 eligible projects



October: First AB 199 projects go before the Board.

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# Public comment



- All comments must be submitted in writing to [CAEATFA@treasurer.ca.gov](mailto:CAEATFA@treasurer.ca.gov)
- or by mail to:  
CAEATFA  
Attn: AB 199 Program Development  
915 Capitol Mall, Room 457  
Sacramento, CA 95814
- All comments are due by 5pm PST on July 1, 2016
- For questions, please contact (916) 651-8157
- Please subscribe to [CAEATFA's listserv](#) or visit the [AB 199 Program Development Page](#)



# CONTACT INFORMATION

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