

FINDING OF EMERGENCY

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

Title 4, Division 13, Article 2

Finding of Emergency

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

Authority and Reference

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

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

Informative Digest

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

Existing law authorizes CAEATFA to provide a sales and use tax exclusion (“STE”) to certain types of manufacturers and recyclers to promote the creation of California-based manufacturing, California-based jobs, and advanced manufacturing and the reduction of greenhouse gas emissions, air and water pollution, or energy consumption. Existing law also limits to \$100 million the amount of STE CAEATFA is authorized to grant for each calendar year.

Existing STE program regulations establish eligibility and evaluation criteria by which Applications are reviewed. Current STE program regulations specify that CAEATFA will accept Applications on a rolling, first-come-first-serve basis until the program becomes oversubscribed. Existing STE program regulations establish a competitive process whereby Applications are ranked based on specific criteria to determine the order of priority for consideration by CAEATFA

if the program becomes oversubscribed in a given month. As part of the Application, existing STE program regulations require Applicants to submit information on the Applicant's business, the proposed Project, and the product to be manufactured.

Existing STE program regulations limit Applicants to receiving \$10 million in STE each calendar year. Existing STE program regulations establish a \$20 million in STE set-aside for Applicants requesting \$2 million or less in STE and \$15 million in STE for Applicants that would like to request STE beyond the \$10 million in STE annual cap.

Qualified Property

Existing STE program regulations require Applicants to pay fees to cover the cost of reviewing Applications and administering the program.

At the September 15, 2020, CAEATFA Board meeting, CAEATFA approved emergency regulations to address the STE program's oversubscription, the unprecedented impact of the COVID-19 pandemic, and address lessons learned from program implementation. After the September 2020 emergency regulations took effect on November 4, 2020, CAEATFA began accepting Applications for consideration in calendar year 2021. CAEATFA received 31 Applications by the first deadline of November 20, 2020, for consideration in January 2021, requesting over \$102 million in STE. Given the number of Applications received and the time needed to implement the different pools of STE and the competitive process, the first Applications were considered at the March 2021 CAEATFA Board meeting.

At the March 2021 CAEATFA Board meeting, the CAEATFA Board approved 29 Applications, leaving an estimated STE value of \$7,020,745 left to award. The Applications considered in March resulted in an oversubscription of the \$20 million in STE set-aside for small projects requesting \$2 million or less in STE and a competitive process for that particular pool. Subsequently, one of the Applicants approved in March 2021 did not move forward with a Regulatory Agreement with CAEATFA, restoring \$433,011 in STE to the small-project set-aside.

After the March 2021 CAEATFA Board meeting, CAEATFA had eight Applications in the queue for the remaining 2021 calendar year STE. The remaining STE was awarded to three Applicants at the May 2021 CAEATFA Board meeting. Based on the amount of STE available in both the small-project set-aside and the general pool, the two complete Applications received by the December 2020 Application deadline were considered in order of receipt, with one of the Applicants receiving the remaining STE from the small-project set-aside. The two Applications received by the January 2021 Application deadline were ranked based on the Competitive Criteria, and the Application with the greater point-score was the third and final Application considered at the May 2021 CAEATFA Board meeting. CAEATFA continued to accept Applications for the 2021 calendar year waiting list, which currently has 15 Applications requesting approximately \$56 million in STE.

CAEATFA Staff has assessed the benefits and challenges of the regulations modifications to determine how to further improve and streamline the STE program administration. Proposed emergency regulations were released for public comment from September 20, 2021, to October 1, 2021, after which Staff made a few changes and brought proposed emergency regulations before the CAEATFA Board for consideration at the October 19, 2021, Board meeting.

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

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

Section 10031. Definitions.

This section includes definitions of terms commonly used throughout the regulations and STE program documents. This section is amended to add further specificity and clarity and to update section numbering.

Necessity

Section 10031(ac) is added to specify that “Small Project Pool” is a twenty million dollar set-aside in STE to award only to Applications requesting two million dollars or less in STE through September. The proposed addition is necessary to clarify the meaning of Small Project Pool when it is referenced in the regulations.

Section 10031(ad) is renumbered from subparagraph (ac) to (ad). These changes are necessary due to the addition of proposed subparagraph (ac).

Section 10031(ae) is added to specify that the “Statutory Cap” is the maximum amount of STE CAEATFA may grant pursuant to Section 26011.8(h) of the Public Resources Code. The proposed addition is necessary to clarify that there is a Statutory Cap on a maximum amount of STE that is distinct from the \$10 million in STE per-Applicant cap established in Section 10032.

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

This subsection is amended to streamline the Application process, establish application periods to determine when Applications will be received and considered, specify the order in which Applications will be considered according to an Application’s Competitive Criteria score, specify when remaining STE will be made available to Applications that have not received STE or the full amount of STE requested, clarify which Applications will receive environmental benefits points as part of the Competitive Criteria score, and establish that Applications with a Project’s industry

that is identified as an Emerging Strategic Industry will receive 75 points as part of the Competitive Criteria score.

Necessity

Section 10032(a)(1) is amended to establish application periods for the STE program, which will be announced prior to the start of each calendar year on the CAEATFA website. The modifications also establish requirements for the announcement of applications periods and provide that the Executive Director can reschedule application periods by providing notice on the website and can reschedule or relocate any previously announced Board meeting dates with at least 10 days notice.

Current regulations provide that Applications will be accepted on a rolling basis but must be submitted at least 60 days prior to the Board meeting at which the Applicant would like to be considered. In recent years, CAEATFA has received more Applications each month than in previous years, particularly in the last two years where the STE program was oversubscribed after the first application deadline. Additionally, the implementation of the different pools of STE and determining the order of consideration and review of Applications has increased the time it takes for Staff to review Applications. As a result, Staff has required more than 60 days to review and prepare Applications to bring before the Board for consideration.

The proposed regulations provide that the Executive Director will announce application periods prior to the start of each calendar year. The announcement will include the (1) application periods, (2) deadline to submit Applications for each application period, (3) tentative dates when the Authority will hold Board meetings to consider Applications, and (4) amount of STE available to award during each application period. The Executive Director can reschedule or amend any previously announced application period by providing notice on the Authority website, and may reschedule or relocate any previously announced Board meeting so long as the information is posted on the Authority website at least with at least 10 days before the scheduled meeting.

The proposed amendments are necessary to balance CAEATFA's ability to address variable Application submissions and allow Staff appropriate time to review each Application. By allowing the Executive Director to announce application periods prior to the start of each calendar year, CAEATFA can adapt and respond to program demand by lengthening or shortening the application review period. This flexibility will provide Staff sufficient time to review Applications and more certainty to Applicants as to when their Applications will be brought before the Board. Specific application periods that are properly spaced so that also prevents Applications from being submitted after an application deadline and sitting un-reviewed for long periods of time before Staff knows how much STE remains available to award.

Section 10032(a)(4) is amended to specify that Applications considered under the Small Project Pool will be presented to the CAEATFA Board in the order in which Applications are ranked based on Competitive Criteria. Current regulations provide that Applications from the Small Project Pool will be presented in the order in which Applications are ranked based on Competitive Criteria only upon oversubscription of the Small Project Pool.

This amendment also specifies that Applications considered under the Small Project Pool will be presented to the Board prior to the consideration of Applications from the general pool of STE.

The proposed amendments are necessary to clarify the order in which Applications will be presented to the Board. Current regulations resulted in an elongated and complicated process of ordering Applications based on variable factors. The proposed modifications allow for certainty that Applications from the Small Project Pool will be presented first and in the order in which they are ranked based on Competitive Criteria. The proposed amendments place the Small Project Pool of Applicants before all other Applicants because the intent of the Small Project Pool is to award at least \$20 million in STE to smaller Projects, and if an Applicant is not awarded from the Small Project Pool, it can be awarded from the general pool of STE.

This section is also amended to reflect that the Small Project Pool is now a defined term and add more specificity by replacing nonspecific pronouns.

Section 10032(a)(5)(A) is amended to update all references to the December or last Authority meeting to the last application period, provide additional clarity to the section and fix some grammatical and punctuation errors.

The proposed amendments are necessary to reflect the proposed regulations establish application periods. The proposed amendments are also necessary clarify that the additional STE to award to Applicants beyond the \$10 million cap is STE available only after all Applications are considered, not just if there is any STE available in the last application period. The proposed amendments also add more specificity by replacing nonspecific pronouns and clarify that the Executive Director will announce end-of-the-year availability of STE no later than 28 days prior to the last Authority Board meeting of the calendar year.

Section 10032(a)(5)(B) is amended to change all references to the first Board meeting of the calendar year to the first application period the calendar year. The proposed amendments are necessary to reflect the proposed regulations establish application periods, and Applications may not be considered at the first Board meeting. This section is also amended to clarify that it is the remaining STE that will be made available to award to all Applicants if any of the \$15 million in STE is not awarded.

Section 10032(a)(6) is amended to update regulatory language to reflect the addition of the definition of “Statutory Cap” in proposed Section 10031(ac) and to specify that the waitlist expires at midnight on January 1 of the year following the calendar year the list is establish. The amendment also clarifies regulatory language by replacing nonspecific pronouns with “Applicants” and “Applications,” These modifications are necessary to provide clarity to what the waiting list affects and when the waiting list expires.

Section 10032(a)(7) is deleted to reflect that the order of consideration of Applications will be based on a ranking of Competitive Criteria and no longer based on the order in which they are received.

Section 10032(a)(7) is renumbered from Section 10032(a)(8) to (a)(7) to reflect the deletion of the previous Section 10032(a)(7) and is amended to specify that the order in which all Applications will be reviewed and considered, even if the program is not oversubscribed, will be based on a ranking of Competitive Criteria, except as provided in paragraph (4). The proposed amendments are necessary to provide a clear and simple way to determine the order of review and consideration of Application given the different pools of STE established under the proposed regulations.

Current regulations provide that Applications will be considered on a first-come, first-served basis until the STE program becomes oversubscribed, at which point Applications will be considered in order based on Competitive Criteria scores. The proposed regulations also establish a \$20 million in STE set-aside for smaller projects of \$2 million or less in STE and a pool of \$15 million in STE for larger projects that apply to exceed the \$10 million in STE cap. If only one of the pools of STE is oversubscribed, there needs to be clarity as to the order of consideration within and among the different pools of STE.

If the STE program is not oversubscribed, the order of consideration of Applications is immaterial to whether an Applicant will receive an award. However, by using Competitive Criteria scores to determine the order of review for all Applications, regardless of whether the pool is oversubscribed and establishing that the Small Project Pool will be considered first, Staff can more quickly and easily determine the order of review and consideration for Applications, while still prioritizing Projects if a pool is oversubscribed to invest the STE awards more strategically to better promote program policy goals.

Section 10032(a)(7)(B) is amended to update the Competitive Criteria by which Applicants are ranked in the event the program is oversubscribed.

This section is amended to clarify that the Competitive Criteria score is the sum of all of the following Competitive Criteria.

This section is also amended to specify that 100 points will be awarded to Applicants with Recycled Resource Extraction Projects and Projects that produce an Advanced Transportation Technology or an Alternative Source product, component, or system. Current regulations provide 100 points to Projects with environmental benefits points greater than zero as calculated pursuant to the method for calculating points for environmental benefits for Advanced Transportation, Alternative Source, and Recycled Resource Extraction Applications in Section 10033(c)(4). The current criterion was initially adopted in 2019 in recognition of the STE program's statutory purpose and to prioritize Projects that produce a product with quantifiable environmental benefits.

The proposed regulations are necessary to simplify the language. Additionally, some Applicants may apply under the Advanced Manufacturing pathway, and therefore not have environmental benefit points calculated pursuant to the method for calculating points for environmental benefits for Advanced Transportation, Alternative Source, and Recycled Resource Extraction Applications in Section 10033(c)(4), but the Project may also be eligible under a different eligibility pathway. The proposed modification enables Applicants that apply under Advanced Manufacturing but qualify under one of the other eligibility pathways to receive the 100 points to recognize that the Project produces a product with quantifiable environmental benefits.

Sections 10032(a)(7)(B)(i)b. and 10032(a)(7)(B)(i)c. are amended to fix the unnecessary capitalization of the word “the” to be consistent with other sections within the Competitive Criteria of Section 10032(a)(8)(B).

Sections 10032(a)(7)(B)(i)e. and 10032(a)(7)(B)(i)f. are amended to provide clarity in grammar due to the addition of subparagraph (a)(7)(B)(i)g. and to make this section consistent with other sections within the Competitive Criteria of Section 10032(a)(7)(B).

Section 10032(a)(8)(B)(i)g. is added to establish that 75 points will be awarded if the Project’s industry qualifies as an Emerging Strategic Industry.

Existing regulations allow the Executive Director to develop a list of Emerging Strategic Industries, which are innovative industries, technologies, or products 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.

To recognize in the Competitive Criteria scoring process the potential benefits of an Emerging Strategic Industry, the proposed regulations add a new competitive criterion that awards 75 points to an Applicant if the Project is in an Emerging Strategic Industry. The proposed amendments award 75 points to scale the points based on the other Competitive Criteria and priorities.

The proposed amendment is necessary to promote industries that will have a potentially significant impact on the State’s environmental goals and economy, the advancement of which are in the public interest and which advance the purposes of the STE program.

Section 10032(a)(9) is amended to reflect the proposed changes in Section 10032 that would establish application periods and eliminate any need for reference to the Board considering Applications 60 days after receipt. It is necessary to remove this subparagraph since reference to a 60-day review period is no longer accurate due to the establishment of application periods.

Section 10032(a)(10) is renumbered from subparagraph (a)(10) to (a)(8). This is necessary due to the proposed removals of subparagraphs (a)(7) and (a)(9).

Section 10032(b). Application Requirements. Application.

Sections 10032(b)(1) and (2) are amended to specify that date of submission will be determined based on the date CAEATFA receives an Application.

Necessity

Section 10032(b)(1) is amended to specify that the date of submission will be determined based on the date CAEATFA receives a resubmitted Application. The proposed amendment is necessary to clarify for both the Applicant and Staff when an Application is deemed to have been received by CAEATFA. This section is also amended to clarify that the Applicant is the one who may correct any deficiencies and resubmit an incomplete Application.

Section 10032(b)(2) is amended to update the regulations to reflect modifications proposing to replace the 60-day review period with set application periods. This amendment is necessary to clarify for both the Applicant and Staff when an Application is deemed to have been received by CAEATFA.

Section 10032(c). Application Requirements. Documentation.

This section is amended to require Applicants to provide their North American Industry Classification System (NAICS) code in the Application and information on the taxability of the product produced in the Application, and to specify that Applicants cannot reduce the amount of Qualified Property listed in the Application to be considered under the Small Project. The amendments also specify that an Applicant cannot increase the amount of Qualified Property listed in the Application if the program is oversubscribed.

Necessity

Section 10032(c)(4)(A)(xi) is added to require Applicants to submit their NAICS code to determine eligibility for the points in Section 10033(c)(5)(D) and proposed Section 10032(a)(7)(B)(i)g. The amendment is necessary to be able to determine eligibility as an Emerging Strategic Industry, which may be identified by NAICS code or a description of the product or manufacturing process.

Section 10032(c)(4)(B)(i)j is amended to include in the Application information requested the taxability of the product produced for purposes of generating sales taxes. Part of the estimated fiscal benefits calculation for Applications includes the estimated sales and use taxes paid by consumers of the product produced by the Project. Existing regulations provide that if an Applicant produces a Biofuel and uses a fraction of the Biofuel to operate the Facility, the estimated sales and use tax revenue will be reduced based on the fraction of the Applicant's Biofuel production that will offset external fuel purchases in order to more accurately estimate the sales and use tax revenue from this type of Project. However, the current regulations do not account for all Applicants that produce a product that does not generate sales and use tax revenue. Therefore, the proposed regulations provide that if the Applicant produces a product that does not generate sales and use tax revenue, the estimated increase in sales and use taxes will be reduced based on the fraction of production that does not generate sales and use tax revenue. The proposed amendment is necessary to determine the taxability of the product produced by the Project to more accurately calculate the Project's fiscal benefits.

Section 10032(c)(4)(C) is amended to specify that Applicants cannot reduce the amount of Qualified Property listed in the Application to be considered under the Small Project Pool. The amendment also specifies that an Applicant cannot increase the amount Qualified Property listed in the Application if the total amount of STE requested in the Application period for which the Application was submitted represent STE in excess of the Statutory Cap.

Qualified Property amounts sometimes change during the review process for various reasons, such as: (1) including ineligible items, (2) incorrectly reporting costs, and (3) updating cost estimates. When Qualified Property amounts change, this can affect the amount of STE being requested from each pool and whether that pool is competitive, which in turn affects the order of Application review and Application review timeframes. The proposed amendments are necessary to help limit Qualified Property amount changes from extending the Application review time.

This section is also amended to clarify that good faith estimates are acceptable if specific property characteristics are not available at the time of submission of the Application, and to make a grammatical correction.

Section 10033. Eligibility Requirements and Application Evaluation.

This section is amended to add that a product produced that does not generate sales tax revenue will result in a reduction to the increases in sales taxes (IST) based on the fraction of production that does not generate sales tax revenue, and to change the number of environmental benefit points an Applicant applying as an Advanced Manufacturer receives for an environmental sustainability plan from 20 points to 5 points.

Necessity

Section 10033(c)(1)(G)(i)a. is amended to specify that if an Application produces a product that does not generate sales tax revenue, the estimated increase in sales taxes will be reduced based on the fraction of production that does not generate sales tax revenue.

Part of the estimated fiscal benefits calculation for Applications includes the estimated sales taxes paid by consumers of the product produced by the Project. Existing regulations provide that if an Applicant produces a Biofuel and uses a fraction of the Biofuel to operate the Facility, the estimated sales and use tax revenue will be reduced based on the fraction of the Applicant's Biofuel production that will offset external fuel purchases in order to more accurately estimate the sales and use tax revenue from this type of Project. However, the current regulations do not account for all Applicants that produce a product that does not generate sales tax revenue. Therefore, the proposed regulations provide that if the Applicant produces a product that does not generate sales tax revenue, the estimated increase in sales taxes will be reduced based on the fraction of production that does not generate sales tax revenue. The proposed amendment is necessary to more accurately calculate the Project's estimated fiscal benefits.

Section 10003(c)(3)(D)(i)a. is amended to change the number of environmental benefit points an Applicant applying as an Advanced Manufacturer receives for an environmental sustainability plan to 5 points.

Existing regulations require Applicants to score more than 20 environmental benefit points to receive a positive Staff recommendation. Existing regulations award Advanced Manufacturers environmental benefit points for having 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, and for making reductions in energy use, water use, solid

waste, hazardous waste, air pollutant emissions, or emissions of other pollutants. Applicants with Facilities that make reductions by at least 5% 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. Current regulations also award 20 points for having an environmental sustainability plan.

The proposed regulations reduce the points earned for having an environmental sustainability plan to from 20 points to five points, which is necessary to better scale the points relative to the minimum point threshold of 21 points and the points earned for the Facility's environmental impact reductions.

Section 10036. Fees.

This section is amended to specify that an Application Fee is not refundable except that 75% of an Application Fee will be refunded if an Application is (1) reviewed to only determine its Competitive Criteria ranking and (2) not fully reviewed by Staff due to the Applicant's Competitive Criteria ranking and the oversubscription of the Statutory Cap. This section also is amended to specify that a fee of \$2,250 is required for Applicants requesting a modification to its Regulatory Agreement or authorizing resolution to waive the 15% purchase requirement and the three-year initial term pursuant to Section 10035(b)(1) for consideration at the same board meeting, and specify the other administration fees must be received by CAEATFA within five business days of submission of the request.

Necessity

Section 10036(a)(4) is amended to specify that an Application Fee is not refundable except in the event when an Application is only reviewed to determine the Competitive Criteria score and is not fully reviewed by staff due to the Applicant's Competitive Criteria ranking and the oversubscription of the Statutory Cap, the 75% of the Application Fee will be refunded.

Existing regulations require Applicants to pay an Application Fee to cover the costs of reviewing the Application. Current regulations provide that the Application Fee is not refundable unless an Application is not reviewed by Staff due to the STE program being oversubscribed.

Because the proposed regulations switch the STE program to specific Application periods that will enable CAEATFA to know whether the program is oversubscribed before a subsequent application period, CAEATFA will no longer accept Applications if there is no STE available to award. Therefore, all Applications will at least be reviewed to determine Competitive Criteria scores. Determining the Competitive Criteria score of an Application requires Staff to review the Qualified Property list, estimated number of employees, and production-related information provided in the application. To reflect the amount of time spent on this initial review of the Application, the proposed regulations provide that 75% of the Application Fee will be refunded if the Application is (1) reviewed to only determine its Competitive Criteria ranking and (2) not fully reviewed by Staff due to the Applicant's Competitive Criteria ranking and the oversubscription of the statutory cap. The proposed modifications are necessary to cover the standard costs for staff to complete this initial review of the Application.

Section 10036(c)(1)(C) is added to require an additional fee of \$2,250 for Applicants requesting a modification to its Regulatory Agreement or authorizing resolution to waive the 15% purchase requirement and the three-year initial term pursuant to Section 10035(b)(1) for consideration at the same CAEATFA Board meeting.

Existing regulations require Applicants to pay an administrative fee of \$1,500 for requests to extend the 15% purchase requirement timeframe and an administrative fee of \$2,000 for requests to extend the three-year initial term to use the STE award. Recently, some Applicants have requested consideration of an extension of both 15% purchase requirement and initial term at the same meeting, which requires additional Staff time relative to a request only to extend the three-year initial term. To adjust the fees to better reflect the reasonable amount of time spent reviewing and processing these requests, the proposed regulations establish an administrative fee of \$2,250 if an Applicant requests an extension of the 15% purchase requirement timeframe and the three-year initial term for consideration at the same CAEATFA Board meeting.

Section 10036(c)(3) is amended to specify that the other administrative fees shall be received by the Authority within five (5) business days of the submission of the request. This amendment is necessary to ensure the fee is received within a reasonable amount of time to begin processing the request, which can be time sensitive. A five (5) day deadline is consistent with the deadline to submit the Application Fee and was determined based on CAEATFA's experience administering the program.

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

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

Mandate on Local Agencies or School Districts

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

Fiscal Impact

The Executive Director of CAEATFA has determined that the Emergency Regulations do not impose any additional mandated cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, or any other

non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

The proposed regulations increase program fees to help cover the costs of ongoing program operations and maintenance. Existing regulations require Applicants to pay an Application Fee to cover the costs of reviewing the Application. Current regulations provide that the Application Fee is not refundable unless an Application is not reviewed by Staff due to the STE program being oversubscribed. Because the proposed regulations switch the STE program to specific application periods that will enable CAEATFA to know whether the program is oversubscribed before a subsequent application period, CAEATFA will no longer accept Applications if there is no STE available to award. Therefore, all Applications will at least be reviewed to determine Competitive Criteria scores. Determining the Competitive Criteria score of an Application requires Staff to review the Qualified Property list, estimated number of employees, and production-related information provided in the Application. To reflect the amount of time spent on this initial review of the Application, the proposed regulations provide that 75% of the Application Fee will be refunded if the Application is (1) reviewed to only determine its Competitive Criteria ranking and (2) not fully reviewed by Staff due to the Applicant’s Competitive Criteria ranking and the oversubscription of the Statutory Cap.

Current regulations require an Applicant to pay an administrative fee of \$1,500 for requests to extend the 15% purchase requirement timeframe and of \$2,000 for requests to extend the three-year initial term to use the STE award. Recently, some Applicants have requested consideration of extensions of both the 15% purchase requirement and initial term at the same meeting, which requires additional Staff time relative to a request only to extend the three-year initial term. To adjust the fees to better reflect the reasonable amount of time spent reviewing and processing these requests, the proposed regulations establish an administrative fee of \$2,250 if an Applicant requests an extension of the 15% purchase requirement timeframe and the three-year initial term for consideration at the same CAEATFA Board meeting.

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

Assumptions:

Application Fee Refunds			
	FY2021-22	FY2022-23	FY2023-24
Number of Applications Not Fully Reviewed <i>Projection; based on historical average</i>	2	2	2
\$7,924 Application Fee <i>Projection; based on historical average over last three years</i>	\$15,848	\$15,848	\$15,848
Less 75% of Application Fee Refunded	-\$11,886	-\$11,886	-\$11,886
Total Net Increase in Fee Revenue	\$3,962	\$3,962	\$3,962

15% Purchase Requirement and Initial Term Extension Requests Considered Together			
	FY2021-22	FY2022-23	FY2023-24
Number of 15% Purchase Timeframes Expiring <i>(no more expiring in FY2021-22 at the time of the rulemaking)</i>	0	32	32
10% Request both extensions to be considered at same meeting (Rounded) (FY2022-23 & FY2023-24) <i>Projection; based on historical average</i>	0	3	3
Total Fees Received	0	\$6,750	\$6,750
Minus Fees Based on Previous Fee Amount	0	-\$6,000	-\$6,000
Total Net Increase in Fee Revenue	\$0	\$750	\$750

Fiscal Year Impact:

- Current FY2021-22: \$3,962
- FY2022-23: \$4,712
- FY2023-24: \$4,712

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