

**State of California
Office of Administrative Law**

In re:
California Energy Commission

Regulatory Action:

Title 20, California Code of Regulations

Adopt sections:

Amend sections: 1303

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2015-0826-01

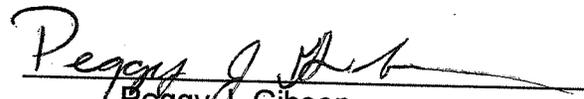
OAL Matter Type: Emergency Readopt (EE)

The California Energy Commission submitted this emergency readoption action to maintain the amendments made to section 3103 of Title 20 of the California Code of Regulations in OAL file 2015-0305-02E. The amendments modified existing regulatory text establishing funding restrictions for the Alternative and Renewable Fuel and Vehicle Technology Program by removing the requirement to discount the value of any emission credits received in an amount commensurate with the level of funding obtained from the Energy Commission for those that voluntarily opt-in to programs for the purpose of participating in the program's credit market. This change allowed these program participants to receive the full value of any emission credits the funded projects created.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 9/3/2015 and will expire on 12/3/2015. The Certificate of Compliance for this action is due no later than 12/2/2015.

Date: September 3, 2015


Peggy J. Gibson
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Robert P. Oglesby
Copy: Samantha Arens

EMERGENCY

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2015-0826-01EE
For use by Office of Administrative Law (OAL) only		For use by Secretary of State only	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Energy Commission		AGENCY FILE NUMBER (if any)	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

SEP -3 2015

2:07 PM

2015 AUG 26 A 11:20
OFFICE OF
ADMINISTRATIVE LAW

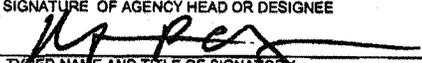
A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Alternative and Renewable Fuel and Vehicle Technology Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-0305-02E		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND		
	REPEAL		
TITLE(S) 20	Cal. Code Regs., tit. 20, sect. 3103, "Funding Restrictions"		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			
7. CONTACT PERSON Samantha Arens	TELEPHONE NUMBER (916) 651-9410	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) samantha.arenas@energy.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY
Robert P. Oglesby, Executive Director

DATE
8-18-15

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 03 2015

Office of Administrative Law

**Regulation Text - Readoption of Emergency Regulation
Alternative and Renewable Fuel and Vehicle Technology Program Funding
Restrictions**

**California Code of Regulations
Title 20. Public Utilities and Energy
Division 2. State Energy Resources Conservation and Development Commission
Chapter 12. Alternative and Renewable Fuel and Vehicle Technology Program
Regulations
Article 1. General Provisions Regarding Project Funding
Section 3103**

- a) A project shall not be eligible for funding if it is mandated by any local, regional, state, or federal law, rule, or regulation.
- b) If a project is one that helps the applicant meet a performance requirement mandated by local, regional, state, or federal law, rule, or regulation, the project shall not be eligible for funding.
- c) To the extent a project exceeds what is required for compliance with a legally enforceable requirement, it may receive funding for that part of the project that the applicant demonstrates is not mandated to meet the requirement. Credits generated by the excess, however, may not be used or sold by the applicant to offset a legally enforceable requirement, except to the extent allowed by subsection (d).
- d) For purposes of this section, a legally enforceable requirement refers to any requirement enforceable by a local, regional, state, or federal agency for the purpose of reducing the emission of one or more criteria pollutants, toxic air contaminants, or any greenhouse gas. For purposes of this section, the following are not subject to the restrictions contained in subdivisions (a)-(c):
 - 1. A project that produces opt-in fuels under the Low Carbon Fuel Standard (California Code of Regulations, title 17, section 95480.1, subdivision (b));
 - 2. A project that produces fuel that meets or falls below the average carbon intensity requirements set forth in the Low Carbon Fuel Standard (California Code of Regulations, title 17, section 95482, subdivisions (b) and (c)) for the year in which the credits are generated;
 - 3. A project under which the applicant has voluntarily opted-in to an emission reduction credit generating program for the purpose of participating in the

program's credit market; or

4. A project that had been awarded funding under Health and Safety Code section 44272 prior to the effective date of this section as amended and also satisfies at least one of the requirements listed in subdivisions (d)(1)-(3).

Note: Authority cited: Sections 25213, 25218(e), Public Resources Code; Section 44272(a), Health and Safety Code. Reference: Sections 44271-44272, Health and Safety Code.