

**State of California
Office of Administrative Law**

In re:
California Alternative Energy and Advanced
Transportation Financing Authority

Regulatory Action:

Title 4, California Code of Regulations

Adopt sections: 10030, 10031, 10032,
10033, 10034, 10035,
10036

Amend sections:

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Sections 11346.1 and
11349.6

OAL File No. 2011-0614-01 EE

The California Alternative Energy and Advanced Transportation Financing Authority proposed to readopt as emergency regulations sections 10030, 10031, 10032, 10033, 10034, 10035, and 10036 in title 4 of the California Code of Regulations which implement the advanced transportation and alternative source manufacturing sales and use tax exclusion program.

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 6/24/2011 and will expire on 9/23/2011. The Certificate of Compliance for this action is due no later than 9/22/2011.

Date: 6/24/2011

CRS TARPENNING

Craig S. Tarpenning
Senior Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/Acting Director

Original: Christine Solich
Copy: Deana Carrillo

EMERGENCY

See instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2011-0614-01EE
For use by Office of Administrative Law (OAL) only		2011 JUN 14 AM 10:11	
NOTICE		REGULATIONS	

ENDORSED FILED
IN THE OFFICE OF

2011 JUN 24 PM 2:53

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA)	AGENCY FILE NUMBER (if any)
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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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE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) SB 71 Sales and Use Tax Exclusion Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2010-0923-02E; 2011-0322-03EE
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 Title 4, Division 13, Article 2, Sections 10030, 10031, 10032, 10033, 10034, 10035, 10036
TITLE(S) Title 4	AMEND
	REPEAL
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 type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
	<input type="checkbox"/> File & Print
	<input type="checkbox"/> Other (Specify) _____
	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> Print Only
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 30th day after filing with Secretary of State	<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"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Deana Carrillo	TELEPHONE NUMBER (916) 651-5102
FAX NUMBER (Optional) (916) 657-4821	E-MAIL ADDRESS (Optional) dcarrillo@treasurer.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 <i>Christine Solich</i>	DATE 5-31-11
TYPED NAME AND TITLE OF SIGNATORY Christine Solich, CAEATFA Executive Director	

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ENDORSED APPROVED

JUN 24 2011

Office of Administrative Law

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION
FINANCING AUTHORITY REGULATIONS IMPLEMENTING
ADVANCED TRANSPORTATION AND ALTERNATIVE SOURCE MANUFACTURING
SALES AND USE TAX EXCLUSION PROGRAM

September 16, 2010

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Section 10030. Purpose and Scope

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

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

Reference: 26011.8, Public Resources Code.

Section 10031. Definitions

- A) “Administrative Fee” means the fee payable following approval of an Application at the time of conveyance/reconveyance of property to CAEATFA.
- B) “Advanced Transportation Technology” or “Advanced Transportation Technologies” is defined as stated in Section 26003(d) of the Public Resources Code.
- C) “Alternative Source” is defined as stated in Sections 26003(c) and 26011.8(b)(2) of the Public Resources Code.
- D) “Applicant(s)” means a natural person; business entity, whether organized for profit or not for profit; or public agency, acting individually or as a group, submitting an Application.
- E) “Application” means a completed formal request for sales and use tax exclusion as specified in Section 10032.
- F) “Application Fee” means the fee payable at the time of Application for a sales and use tax exclusion.
- G) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000 of the Public Resources Code).
- H) “Emerging Green Industry” means an innovative industry, technology or product that may be identified by the Executive Director as having a potentially significant impact on the State’s environmental goals, the advancement of which is in the public interest, and which advances the purposes of the Program. The Executive Director may from time to time submit to the Authority a list of Emerging Green Industries which will be identified by North American Industry Classification System (NAICS) code (or its equivalent) or by description of the product or manufacturing process. Once approved by the Authority, the list of these industries will be publicly posted on the Authority’s website.
- I) “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.
- J) “Executive Director” means the executive director of CAEATFA.
- K) “Facility” or “Facilities” mean a design, manufacturing, production, or assembly facility that includes or will include tangible personal property utilized for the design, manufacture, production, or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems.

- L) "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.
- M) "Participating Party" is defined as stated in Section 26003(f) of the Public Resources Code.
- N) "Program" means the sales and use tax exclusion program created pursuant to Public Resources Code Section 26011.8.
- O) "Project" is defined as stated in Section 26003(g)(2) of the Public Resources Code. Project does not include machinery or equipment that utilizes or is designed to utilize an Alternative Source.
- P) "Qualified Property" means the tangible personal property identified in the Application or Regulatory Agreement necessary for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems to be purchased for use in the Facility. Qualified Property must be used for the purpose stated in the Application for a period equal to the longer of (a) one year or (b) one-half of the Estimated Useful Lifespan of the Qualified Property.
- Q) "Regulatory Agreement" means the agreement specified in Section 10035.

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

Reference: 26011.8, Public Resources Code.

Section 10032. Application Requirements

- A) Timing of Application submissions.
 - 1) Except as otherwise provided by the Authority pursuant to subparagraph 2, Applications may be submitted for consideration at any time. Applications will be presented at the first meeting at which Applications will be considered occurring at least 60 calendar days after the receipt of the complete Application, except as noted in paragraphs 2, 3, and 4 below.
 - 2) The Authority may limit the number of meetings each year at which Applications will be considered.
 - 3) Upon a recommendation of the Executive Director, the Authority may consider an Application at a meeting occurring less than 60 calendar days after the receipt of the complete Application.
 - 4) The Authority may, upon a finding that it is in the public interest and advances the purposes of the Program, at any time announce that it is not accepting further Applications.
- B) Application. Applicants shall submit to the Authority the information required by this section.
 - 1) Applications not meeting all requirements shall be considered incomplete. An Applicant shall be notified by the Authority should its Application be deemed incomplete and may correct any deficiency and resubmit the Application. Resubmitted Applications will be reviewed for completeness and, if complete, will be further reviewed by staff and

presented to the Authority pursuant to the regular review and evaluation process and timeline.

- 2) Determination of completeness, compliance with all requirements, and the scoring of the Application shall be based entirely on the documents contained in the Application as of the date on which the Application was submitted. Any additional documents pertaining to the requirements or scoring categories that the Applicant chooses to submit shall be accepted after the Application-filing date only with the understanding that, for purposes of calculating the 60 calendar days to determine the earliest meeting at which the Application will be heard, the date the additional documentation is received shall be the date of receipt of the Application. In the event the Authority asks an Applicant for additional information or requests clarification of errors, Applicants shall be given up to five (5) 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 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.
- 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:
 - i) provide Application-related documentation to the Authority upon request;
 - ii) be familiar with and comply with Program statutes and regulations;
 - iii) hold the Authority and its employees and consultants harmless from any and all issues arising from the Applicant's participation in the Program;
 - iv) agree to comply with and remain in compliance with all applicable laws and regulations during the term of the Regulatory Agreement;
 - v) acknowledge that the Authority has recommended the Applicant seek tax advice;
 - vi) acknowledge that the Application will be evaluated according to Authority regulations;
 - vii) 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;
 - viii) acknowledge that information submitted to the Authority may be subject to disclosure pursuant to the Public Records Act (Government Code Sections 6250, et seq.);
 - ix) agree to enter with the Authority into a Regulatory Agreement if the Application is approved; and,
 - x) 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 term of the Regulatory Agreement.

- 2) Legal Information. Applicants shall complete the Legal Status Questionnaire (as revised on October 1, 2010).
- 3) Designated Contact Person. The Application must identify a designated contact person who can respond to questions from the Authority or provide additional information if requested. If the designated contact person is not directly employed by Applicant, the Application must include appropriate documentation signifying the contact person's authority to represent and act on behalf of the Applicant with respect to the Application.
- 4) Applicant and Facility Information. Applicants are responsible for providing all requested information, which shall include:
 - i) Applicant Information.
 - (1) Name, phone number, email address, mailing address, and taxpayer identification number of Applicant,
 - (2) Applicant organization type (e.g., corporation, LLC, partnership, etc.),
 - (3) Name, phone number, email address, and mailing address of designated contact person
 - (4) Contact's title or relationship to Applicant,
 - (5) 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%).
 - ii) Facility Information
 - (1) Brief description of Facility and product(s) to be produced, including the following:
 - (a) Physical location of the Facility
 - (b) A description of the Facility, including the design, manufacturing, or assembly process to be employed, the product to be produced, and the intended or likely customers.
 - (c) Identification of the Advanced Transportation Technology or Alternative Source product, component or system to be produced. In the case of a Facility producing property or products that, after further manufacture, will become the Green Component of an Advanced Transportation Technology or Alternative Source product or system, the Applicant must describe both the property or product produced by the Facility and the Green Component of the Advanced Transportation Technology or Alternative Source product or system for which the product produced will be used.
 - (d) Current Facility status and a schedule indicating the estimated Facility construction start date through the placed-in-service date for the Qualified Property identified in the Application, including the expected date of any needed permits or additional financing necessary for Facility completion.

- (e) Total value of the capital stock used to produce the product, including the anticipated Qualified Property purchases. The value is not the cost of the capital stock, but the depreciated value of the capital stock excluding buildings and land.
 - (f) Projected average number of employees at the Facility, measured in full time equivalents, assuming Qualified Property is utilized.
 - (g) Projected number of employees employed for purposes of constructing the Facility or installing Qualified Property, measured in full time equivalents.
 - (h) Estimated annual corporate or other income taxes paid by the company on its profits.
- iii) Qualified Property Information. Completed provisional Qualified Property list to include the following information for each piece of property to be subject to the sales and use tax exclusion. Good faith estimates are acceptable if specific property characteristics are not available at the time of Application. Individual items of Qualified Property valued at less than \$10,000 can be grouped together provided that (a) the total value of the group of items does not exceed \$100,000 and (b) the individual items are reasonably related, such as items that will be used together to construct or assemble a larger piece of machinery or equipment that will be used to design, manufacture, produce or assemble Advanced Transportation Technologies or Alternative Source products, components, or systems.
- (1) Brief description of Qualified Property to be purchased
 - (2) Estimated cost of the Qualified Property to be purchased
 - (3) Average Estimated Useful Lifespan of the Qualified Property, weighted by cost.
 - (4) Estimated percent of time Qualified Property will be used to make Advanced Transportation Technologies or Alternative Source products, components, or systems.
- iv) 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):
- (1) Brief description and name of the product to be produced with Qualified Property and within California, including the six-digit (NAICS) code.
 - (2) Estimated average annual number of Advanced Transportation Technologies or Alternative Source products, components, or systems to be sold or shipped
 - (3) Estimated per unit sales price.
 - (4) Estimated total Facility sales in dollars.
 - (5) Estimated per unit production-related purchases from suppliers, assuming Qualified Property is utilized or installed.
 - (6) Estimated percent of production costs from California suppliers, defined as suppliers that manufacture, assemble, or produce the product or service supplied in the state of California.
 - (7) Estimated per unit labor costs, assuming Qualified Property is utilized or installed.
 - (8) Estimated Useful Lifespan of product, component, or system.
 - (9) Estimated percent of total Advanced Transportation Technology or Alternative Source products, components, or systems to be sold in California.
 - (10) Statement as to whether the technology, product, component, or system is

- a subcomponent of an Advanced Transportation Technology or Alternative Source end-of-supply-chain product.
- (11) Total value of the end-of-supply-chain Green Component.
- v) Environmental Benefit Information.
- (1) For Facilities producing the Green Component of Alternative Source products, components or systems:
- Annual MWh generated per unit.
 - Lbs. of CO₂ (or equivalent) emitted per MWh.
 - Lbs. of SO₂ emitted per MWh.
 - Lbs. of NO_x emitted per MWh.
 - Amount of other pollutants emitted per MWh.
- (2) For Facilities producing the Green Component of Alternative Source energy efficiency products, components or systems
- Type and units of energy conserved
 - Annual baseline system consumption of energy per unit
 - Annual improved system consumption of energy per unit
- (3) For Facilities producing the Green Component of Advanced Transportation Technology products, components, or systems
- Annual baseline system consumption of energy per unit
 - Annual improved system consumption of energy per unit
 - Annual consumption of any offsetting energy required to achieve improved system performance
- (4) 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:
- Environmental benefits associated with use of the product
 - Net annual reduction in consumption of energy, if any
 - Amount of other pollutants emitted, if any
- vi) Optional Supplemental Information. The following information may be submitted with an Application. Submission of this information may increase an Applicants score, as specified in Section 10033.
- (1) 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.
- (2) Applicants utilizing a manufacturing or production process that is characterized by substantial environmental improvements relative to the processes employed by directly comparable entities in energy use, water use, atmospheric emissions, waterborne waste, industrial solid waste, or post-consumer solid waste may submit the following information, submission of which may increase an Applicant's score:
- An explanation of the process improvements
 - Demonstrated proof of input use and output emission improvements over the standard processes

- (c) Quantification of the amount of the process improvements
- (3) 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.
- vii) Calculations and assumptions relied upon by the Applicant. For any calculation performed by or assumption relied upon by the Applicant in completing the Application, the Applicant must provide an explanation of the basis for the value resulting from the calculation or reasonableness of the assumption relied upon. Applicants may be asked to provide additional supporting information, including business plans, pro forma financial statements or other comparable documents used for the purpose of soliciting investors to verify responses contained in the Application. Applications that do not adequately document any calculations or assumptions relied upon will be considered incomplete.
- 5) Application materials and supporting documentation in excess of thirty pages will not be considered or reviewed except to the extent that documentation in excess of this page limit is provided in response to a direct request for additional information from the Authority.
- D) Trade secrets and confidential information. If elements of an Application contain information the Applicant considers to be trade secrets, confidential, privileged or otherwise exempt from disclosure under the Public Records Act (California Government Code Section 6250, et seq.), the Applicant shall assert a claim of exemption at the time of Application by identifying in an accompanying letter each of the items to be restricted. The asserted claim shall indicate the specific information within the Application to which the claim is made. Upon receipt of a Public Records Act request for documents that may include information the Applicant has identified as trade secret, confidential, privileged or otherwise exempt from disclosure, the Authority shall provide notice to the Applicant and provide the Applicant with three business days to provide the Authority with an explanation as to why the information is not subject to disclosure pursuant to the Public Records Act. The Authority shall consider a claim of exemption and the basis for it, but retains the authority to make the final determination as to what information will be released under the Public Records Act. Applicants will be notified by the Authority prior to release of any such information.

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

Reference: 26011.8, Public Resources Code.

Section 10033. Eligibility Requirements and Application Evaluation

- A) Staff summary and recommendation. Following receipt of a complete Application, Authority staff will review each Application and prepare a summary and recommendation to the Authority. The summary and recommendation will include a calculation of the benefits of the Facility and an assessment of whether the proposed Facility meets the eligibility requirements.
- B) Eligibility. To be eligible for the sales and use tax exclusion, a Facility must:
- 1) Include the purchase of tangible personal property otherwise subject to sales and use tax used substantially for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems or for the design, manufacture, production or assembly of a component of the Green Component of an Advanced Transportation Technologies or Alternative Source products or systems..
 - i) For this purpose, “used substantially” shall mean that the qualified property must be used more than 75.0 percent for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems during the longer of (a) one year or (b) one-half of the weighted average Estimated Useful Lifespan of the Qualified Property (WALS).
 - 2) Produce benefits to the State of California, as determined by the Authority subject to the criteria and evaluation process identified herein.
- C) Evaluation. Applications shall be scored according to the benefits provided to the state by the marginal increase in Qualified Property purchases resulting from the sales and use tax exclusion. Applicants must demonstrate that the benefits of the marginal increase in Qualified Property purchases exceed the cost to the state of the sales and use tax exclusion. Benefits can be a combination of fiscal, environmental and other benefits, as specified. Each Application will be evaluated based on these elements as specified below.
- 1) Fiscal Benefits
 - i) The estimated marginal increase in Qualified Property (MIQP) purchases resulting from sales and use tax exclusion. The increase in purchases will be calculated using Applicant-provided information on the total value of the Qualified Property (VQP) and the estimated percent increase in capital investment (PICI) associated with the relevant sales and use tax rate as determined by the Executive Director based on the relevant research literature or consultation with professional economists or other experts. Where the Applicant can demonstrate that the Facility would have been located outside of California absent the sales and use tax exclusion, the Executive Director will adjust the PICI to reflect this fact. The MIQP will be calculated pursuant to the following formula:

$$MIQP = (VQP / (1 + PICI)) * PICI$$

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

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

- (1) 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 recommended by the Executive Director based on the relevant research literature, consultation with outside experts, or information provided by other state agencies and approved by the Authority

- iii) 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:

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

- iv) 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:

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

- v) 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:

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

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

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

- vi) 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).

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

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

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

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

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

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

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

- (i) The present value is based on the WALS of the capital equipment purchased as provided by the Applicant and the discount rate recommended by the Executive Director.
- (c) The ICIT paid by the company on its profits is the present value of the estimated annual tax liability that is attributable to the Qualified Property.
- (i) The ICIT is calculated using Applicant-provided data on estimated annual tax liability (ATL), the value of the capital stock (VCS) used to produce the product and the MIQP pursuant to the following formula:

$$\text{ICIT} = \text{Present Value (ATL * MIQP/VCS)}$$

- (ii) The present value is based on the WALS of the capital equipment purchased as provided by the Applicant and the discount rate recommended by the Executive Director.
- (d) The increase in property taxes (IPT) is the present value of the annual property taxes paid on the MIQP.
- (i) The annual property tax amount is calculated using MIQP and the current property tax rate (PTR) as determined by the Executive Director based on

information collected by the California State Board of Equalization, pursuant to the following formula:

$$\text{IPT} = \text{Present Value (MIQP * PTR)}$$

- (ii) The present value is based on the WALS of the capital equipment purchased as provided by the Applicant and the discount rate recommended by the Executive Director.
- (2) The indirect fiscal benefits (IFB) result from increased state and local revenues resulting from increased economic activity caused by additional purchases from in-state suppliers and increased employee wages resulting from the MIQP.
 - (a) The increase in revenues is calculated using PVMISO and the ratio of state and local government revenues to gross state output (GRSO) as determined by the Executive Director using the sum of the latest two-year average of actual state general fund revenues from the California Department of Finance, the latest two-year average of actual aggregate city and county revenues excluding intergovernmental transfers and service charges from the cities annual report and the counties annual report from the California State Controller's Office, divided by the latest two-year average of gross state product from U.S. Department of Commerce's Bureau of Economic Analysis, pursuant to the following formula:

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

2) Environmental Benefits.

- i) The allocated share (AS) is the estimated percent of the pollution benefit from the Green Component of the Advanced Transportation Technology or Alternative Source product, component, or system that can be attributed to the Applicant's use of the Qualified Property. The AS is calculated using Applicant-provided data on the percent of time (POT) that the Qualified Property will be used to make the Advanced Transportation Technology or Alternative Source product, component or system and the fractional component contribution (FCC) of the Applicant's product to the Green Component of the end-of-supply-chain product. FCC will be calculated by dividing the value added (VA) per unit by the Applicant 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 \$). The AS will be calculated pursuant to the following formulas:

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

and

$$\text{AS} = \text{POT} * \text{FCC}$$

- ii) The estimated impact of pollution from a gallon of gasoline equivalent (GGE) or a MWh of electricity. GGE refers to the number of gallons of a fuel that has the equivalent amount of energy to one gallon of gasoline.
 - (1) 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:

$$\text{\$GGE} = \text{Pollution cost of CO2 per GGE} + (\text{POSCA} * (\text{pollution cost of VOC per GGE} + \text{pollution cost of NOx per GGE}))$$

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

$$\begin{aligned} \text{\$MWh} = & (\text{POSCA} * (\text{pollution cost of CA CO2 per MWh} + \text{pollution cost of CA} \\ & \text{NOx per MWh} + \text{pollution cost of CA SO2 per MWh})) \\ & + ((1-\text{POSCA}) * \text{pollution cost of US CO2 per MWh}) \end{aligned}$$

- (3) 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.

- iii) 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:

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

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

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

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

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

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

- (i) The present value is based on the WALs of the capital equipment as provided by the Applicant and the discount rate recommended by the Executive Director.
- (2) Net change in use of electricity generated from current sources (energy efficiency). The TPB resulting from the net change in the use of electricity generated from current sources is based on the lifetime pollution benefit (LPB) of each unit and the increase in unit sales that can be attributed to the sales and use tax exclusion.
- (a) The LPB is calculated using the annual net improvement in system consumption per unit (NI) as provided by the Applicant and estimates of the dollar value of pollution avoided per MWh (\$MWh) or per GGE (\$GGE), respectively, as determined by the Executive Director, pursuant to the following formula:

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

or

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

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

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

- (i) The present value is based on the WALs of the capital equipment as provided by the Applicant and the discount rate recommended by the Executive Director.
- (3) 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:

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

- (i) The present value is based on the ULOP as provided by the Applicant and

- the discount rate recommended by the Executive Director.
- (b) The TPB is then calculated pursuant to the following formula

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

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

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

- (i) Non-integer points (e.g., 20.4) will be rounded to the nearest whole integer for scoring purposes.
- ii) New jobs score. An Applicant may earn up to 40 points for creating new jobs.
- (1) The Executive Director will calculate the amount of the sales and use tax exclusion per job created by the Applicant as a result of the MIQP. The number of jobs created by the Applicant as a result of the MIQP will be calculated by multiplying the total number of full time equivalent jobs associated with the production of the Applicant's product times the ratio of the MIQP to the VCS. Points will be awarded as follows:
- (a) Less than or equal to \$50,000 in sales and use tax exclusion per job – 40 points

- (b) Less than or equal to \$100,000 in sales and use tax exclusion per job but greater than \$50,000 per job – 30 points
 - (c) Less than or equal to \$150,000 in sales and use tax exclusion per job but greater than \$100,000 per job – 20 points
 - (d) Less than or equal to \$200,000 in sales and use tax exclusion per job but greater than \$150,000 per job – 10 points
 - (e) Greater than \$200,000 in sales and use tax exclusion per job – 0 points
- iii) Construction or installation jobs score. An Applicant may earn up to 20 points for creating construction or installation related jobs.
- (1) 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 – 20 points
 - (b) Less than or equal to \$100,000 in sales and use tax exclusion per job but greater than \$50,000 per job – 15 points
 - (c) Less than or equal to \$150,000 in sales and use tax exclusion per job but greater than \$100,000 per job – 10 points
 - (d) Less than or equal to \$200,000 in sales and use tax exclusion per job but greater than \$150,000 per job – 5 points
 - (e) Greater than \$200,000 in sales and use tax exclusion per job – 0 points
- iv) Emerging Green Industry score. An Applicant may earn up to 40 points if the Applicant's industry is in an Emerging Green Industry as defined in Section 10031.H. The Executive Director will determine if an Applicant's industry is an Emerging Green Industry and award points to those Applicants that qualify.
- v) Process improvement score. An Applicant may earn up to 40 points for utilizing a manufacturing process that is characterized by substantial environmental improvements relative to the manufacturing processes employed by directly comparable products or processes in the following categories:
- (1) Process Inputs. For inputs to the manufacturing process, improvement means decreased use of the following inputs:
 - (a) Energy. Process energy is the energy required to operate and run the subsystem process(es), including but not limited to such items as heat exchangers, pumps, blowers, and boilers.
 - (b) Water. Water withdrawn from a stream, used in a process, treated, and replaced in essentially the same quality and in the same location should not be included. Water withdrawn from groundwater and subsequently discharged to a surface water body should be included because the groundwater is not replaced to maintain its beneficial purposes. In practice, the water quantity to be estimated is net consumptive usage. Consumptive usage as a life-cycle inventory input is the fraction of total water withdrawal from surface or

- groundwater sources that either is incorporated into the product, co-products (if any), or wastes, or is evaporated.
- (2) Process outputs. For outputs of the manufacturing process, improvement refers to decreased creation of the following outputs:
- (a) Atmospheric emissions. Atmospheric emissions from the production process are particulates, nitrogen oxides, volatile organic compounds (VOCs), sulfur oxides, carbon monoxide, aldehydes, ammonia, lead, and other atmospheric emissions monitored by the state or the United States Environmental Protection Agency.
 - (b) Waterborne wastes. Waterborne waste from the production process include biological oxygen demand (BOD), chemical oxygen demand (COD), suspended solids, dissolved solids, oil and grease, sulfides, iron, chromium, tin, metal ions, cyanide, fluorides, phenol, phosphates, ammonia, and other waterborne waste monitored by the state or the United States Environmental Protection Agency.
 - (c) Industrial solid waste. Industrial solid waste refers to the solid waste generated during the production of a product and its packaging and is typically divided into two categories: process solid waste and fuel-related solid waste. Process solid waste is the waste generated in the actual process, such as trim or waste materials that are not recycled, as well as sludges and solids from emissions control devices. Fuel-related waste is solid waste produced from the production and combustion of fuels for transportation and the operating process. Fuel combustion residues, mineral extraction wastes, and solids from utility air control devices are examples of fuel-related wastes.
 - (d) Post-consumer solid waste. Post-consumer solid waste refers to the product/packaging once it has met its intended use and is discarded into the municipal solid waste stream.
- (3) For each area in which an Applicant demonstrates substantial improvement relative to comparable production processes for like products, the Executive Director will award 10 points with a maximum of 40 points. Substantial improvement will be evidenced by documentation evidencing improvements relative to standards such as those identified by third-party certifiers, state or federal regulations, or academic studies.
- vi) 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:
- (1) 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:
 - (i) The dollar value of an out-of-state non-greenhouse gas benefit from a GGE (\$OSG) pursuant to the following formula:

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

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

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

- (iii) The dollar value per unit of any other offsetting pollutants (\$OP) be weighted by the POSCA and incorporated by the Executive Director into the calculation of the out-of-state environmental benefits score.

- (iv) The total value of out-of-state non-greenhouse gas pollution benefits (TOB) due to electricity generated from alternative sources (increased use of alternative sources) is calculated pursuant to the following formula:

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

and

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

- (v) The total value of out-of-state non-greenhouse gas pollution benefits (TOB) to electricity generated from non-alternative sources or fossil fuels burned (conservation) is calculated pursuant to the following formula:

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

or

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

and

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

- (vi) The total value of out-of-state non-greenhouse gas benefits (TOB) due to increased use of advanced transportation technologies is calculated pursuant to the following formula:

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

and

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

- (b) 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:

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

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

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

Reference: 26011.8, Public Resources Code.

Section 10034. Approval of Applications by the Authority

- A) Applications may be considered at meetings in accordance with the schedule established by the Authority pursuant to Section 10032. The Authority will evaluate Applications based on the eligibility requirements contained in Section 10033 and the summary and recommendation prepared by the Authority staff.
- B) For each Application, the Authority will determine whether the Application meets the eligibility requirements and will produce benefits for the State of California.
- C) Applicants that do not receive a recommendation for approval from the Authority staff will be notified in writing of the staff recommendation prior to the board meeting in which the Application will be considered. Applicants that do not receive a favorable recommendation from the staff may appeal the staff recommendation to the Executive Director. If the Executive Director agrees with the staff recommendation and does not recommend the Application for approval to the Authority, the Applicant may appeal the Executive Director's recommendation to the Authority. No Applicant may appeal the evaluation of another Applicant's Application.
- D) Rejected Applications. Applicants whose applications are not approved by the Authority will be notified in writing following the Authority's board meeting in which the determination was made.
- E) Approved Applications. For each approved Application, the Authority will pass a resolution including the following findings:
 - 1) The Applicant to be a Participating Party (Pub. Res. Code Sec. 26003(f))
 - 2) The equipment proposed for the sales and use tax exclusion to be a "project" (Pub. Res. Code Sec. 26003(g)(2))

- 3) The conveyance/reconveyance arrangement constitutes financial assistance (Pub. Res. Code Sec. 26003(e)(2))
- F) Applicants with Applications that are approved by the Authority will be notified in writing following the Authority's board meeting at which the determination was made. The amount of the sales and use tax exclusion approved by the Authority will be stated in the letter.

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

Reference: 26011.8, Public Resources Code.

Section 10035. Regulatory Agreement and Compliance

- A) Regulatory Agreement. All recipients of sales and use tax exclusions are required to execute a Regulatory Agreement as a condition to the Authority's making a finding and awarding sales and use tax exclusion.
 - 1) This agreement, to be entered into between the Applicant and the Authority's Executive Director, will require the Applicant to comply with the requirements set forth in these regulations. This agreement must be signed by a representative of the Applicant's company authorized to enter into contracts on behalf of that company and returned to CAEATFA within 30 calendar days from the acceptance date shown on the notification provided pursuant to Section 10034.F.
 - 2) The Regulatory Agreement will commence upon execution and will continue in force for a period equal to the longer of (a) three years or (b) one-half of the Estimated Useful Lifespan of the longest lived item of Qualified Property identified in the Application.
- B) Conveying title to the Authority. In order to receive the sales and use tax exclusion, Applicants must convey title of the Qualified Property to the Authority for purposes of reconveyance back to the Applicant without financial consideration.
 - 1) Conveyance of title to CAEATFA by Participating Parties and from CAEATFA to Participating Parties shall be pursuant to a title conveyance agreement by and between CAEATFA and the Participating Party that shall include but not be limited to:
 - i) An agreement by the Participating Party to convey title of Qualified Property to CAEATFA.
 - ii) Representations that the Participating Party has not put the Qualified Property to a taxable use prior to the conveyance.
 - iii) A requirement that CAEATFA reconvey title within 10 days of the initial conveyance.
 - iv) An agreement that there will be no fees for the conveyance or reconveyance other than those set forth in the regulations.
 - v) A requirement that the Participating Party provide a complete individualized list of Qualified Property within 30 days after the term of the agreement.
 - vi) A requirement that the Participating Party indemnify and hold harmless CAEATFA from claims connected with the: 1) Project, 2) transactions associated with the Project, 3) any violation of law connected with the Project, and 4) any dispute or ruling regarding the ultimate taxability of the sale or use of the Qualified Property.
 - vii) A requirement that the Qualified Property be installed, maintained and operated

- within the State of California.
- 2) To the extent that purchases of Qualified Property are made in multiple separate transactions, each purchase shall be subject to the same conveyance/reconveyance requirements until the total amount of Qualified Property purchases equals the total amount of exclusion granted.
 - 3) Applicants will be assessed an Administrative Fee at the time of each conveyance/reconveyance transaction, as identified in Section 10036, Fees.
- C) Compliance. Applicants are responsible for compliance with all applicable Program regulations, including the following:
- 1) Exercise of sales and use tax exclusion. Except as noted in subparagraphs i and ii below, within one year of approval by the Authority, the Applicant must make purchases of Qualified Property totaling not less than twenty-five percent (25.0%) of the total amount listed in the approval resolution; all purchases of Qualified Property must be made within three years of Application approval. Regulatory Agreements for Facilities not meeting these requirements will be rescinded, and no purchases will be excluded from the imposition of the sales and use tax.
 - i) Upon a finding that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that the first year purchases of Qualified Property are at least twenty-five percent (25.0%) of the total amount listed in the approval resolution.
 - ii) 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 of any change in the ownership of the Qualified Property, including the name, ownership percentage, and mailing address of the new owners.
 - i) 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. During the term of the Regulatory Agreement, Applicants must submit an annual certification letter documenting that the Qualified Property was used for the purposes specified in the Application for the entire period since conveyance/reconveyance. The certification letter must be submitted to the Authority by January 31 with information reported for the previous calendar year.
 - 4) Annual compliance report. During the term of the Regulatory Agreement the Applicant must submit an annual compliance report. The annual compliance report must be submitted to the Authority by January 31 with information reported for the previous calendar year. This report shall contain:
 - i) Total payroll, number of jobs, total annual product sales (in dollars), total number of units sold, and any other information requested by the Executive Director that is reasonably related to the purposes of the Program.
 - 5) 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.
- 6) False Information. Upon a finding that information supplied by an Applicant, or any person acting on behalf of an Applicant, is false or no longer true, and the Applicant has not notified the Authority in writing, the Authority may, after written notice to the Applicant, rescind the approval resolution and conveyance/reconveyance agreement, in addition to other remedies.
 - 7) Rescission. Following a finding that an Applicant has provided false information pursuant to paragraph 6 or has otherwise violated the Regulatory Agreement, the Authority may, after written notice to the Applicant, rescind the approval resolution and conveyance/reconveyance agreement, in addition to other remedies. Applicants may request an opportunity to be heard in front of the Authority to contest rescission. Any such request must be made in writing to the Authority and postmarked no later than fifteen (15) calendar days following the mailing of written notice from the Authority. Upon a final decision by the Authority, the approval resolution and conveyance/reconveyance agreement shall be rescinded, and notice of the rescission may be provided to the Board of Equalization.
 - 8) Reporting. The Authority may from time to time publish the actual total value of the sales and use tax exclusion by local jurisdiction. If the Executive Director determines that publishing such information could cause the price paid by an Applicant to a supplier for a Qualified Property purchase or the identity of that supplier to become known, then the information from multiple local jurisdictions will be aggregated so as to protect the confidentiality of this information.

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

Reference: 26011.8, Public Resources Code.

Section 10036. Fees

- A) Application Fee.
 - 1) Every Applicant shall be required to pay an Application Fee.
 - 2) The Application Fee shall be equal to .0005 (one twentieth of one percent) of the total amount of Qualified Property identified in the Application. The minimum Application Fee shall be \$250 and shall not exceed \$5,000.
 - 3) This fee shall be paid in a check payable to the Authority, and shall be submitted with the Application.
 - 4) This fee is not refundable.
- B) Administrative Fee.
 - 1) The Authority shall charge an Administrative Fee to cover the costs associated with the Program, including the costs of compliance monitoring.
 - 2) The total Administrative Fee amount shall be .004 (four tenths of one percent) of the total amount of the Qualified Property purchased.
 - 3) In no case shall the total Administrative Fee be less than \$15,000 nor more than \$350,000.
 - 4) \$15,000 of the total Administrative Fee shall be due upon the execution of the Regulatory

- Agreement between the Applicant and the Authority.
- 5) The balance of an Applicant's Administrative Fee shall be payable at the time of each subsequent conveyance/reconveyance calculated on that transaction's Qualified Property purchase amount.
 - 6) The initial \$15,000 paid by the Applicant at the time of executing the Regulatory Agreement will be credited to the Applicant's total Administrative Fee upon a determination of total amount of Qualified Property actually purchased.
 - 7) The Administrative Fee shall be paid in checks payable to the Authority.
 - 8) The total Administrative Fee is not refundable.

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

Reference: 26011.8, Public Resources Code.

