

**CALIFORNIA ALTERNATIVE ENERGY & ADVANCED TRANSPORTATION  
FINANCING AUTHORITY**  
**Meeting Date: July 22, 2009**

***Approval for Emergency Regulations to Establish Fee Structure  
For the Renewable Energy Program***

Prepared by: *Brian Gorban*

**Summary:** Staff requests approval to amend and file emergency regulations to establish a fee structure for the renewable energy program. This is necessary to be adopted at this time to facilitate the consideration of applications for financial assistance for renewable energy projects.

**Background:** Currently the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) has a fee structure that charges an administrative fee of four tenths of one percent (0.004) for financing under \$2,500,000, five tenths of one percent (0.005) for financing at least \$2,500,000 but no greater than \$4,999,999, and six tenths of one percent (0.006) for financing that is at least \$5,000,000. The proposed fee structure being requested would be a separate fee structure for renewable energy projects as defined in Public Resources Code Section 26003(i):

- (A) if the financial assistance requested is no greater than \$5,000,000: 0.005 (five tenths of one percent).
- (B) if the financial assistance requested is greater than \$5,000,000 and no greater than \$25,000,000: \$25,000 plus 0.003 (three tenths of one percent) of the amount over \$5,000,000.
- (C) if the financial assistance requested is greater than \$25,000,000 but no greater than \$100,000,000: \$85,000 plus 0.0025 (twenty-five one hundredths of one percent) of the amount over \$25,000,000.
- (D) if the financial assistance requested is greater than \$100,000,000: \$272,500 plus 0.002 (two tenths of one percent) of the amount over \$100,000,000.
- (E) Annual Fee for Renewable Energy Projects. For renewable energy projects, as defined in Section 26003(i), the authority shall assess an annual fee each year for the life of the financial assistance in the amount of 0.0003 (three one-hundredths of one percent of the approved financial assistance amount with a minimum fee of \$500 and maximum fee of \$10,000.

***Fee Structure (Existing Fees)***

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee
	Up to \$2.5M	\$2.5-5 M	Over \$5M		
All Projects (Existing Fees)	0.4% (.004)	0.5% (.005)	0.6% (.006)	0.05% (.0005) (min \$250, max \$5,000)	N/A

***Fee Structure (Proposed Fees)***

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee	
	Up to \$5M	\$5-25 M	\$25-100M	Over \$100M		
All Projects (Proposed Fees)	0.5% (.005)	\$25,000 + 0.3% (.003)	\$85,000 + 0.25% (.0025)	\$272,500 + 0.2% (.002)	0.05% (.0005) (min \$250, max \$5,000)	0.03% (.0003) per year with minimum \$500 and maximum \$10,000

**Summary of Changes:** The changes to the existing regulations shown above were circulated to CAEATFA subscribers and posted on the CAEATFA website for public comment before the commencement of the formal rulemaking process.

**Timeline:** Outlined below is the estimated schedule.

**Emergency Regulations**

- July 1, 2009              Pre-file notice to establish renewable energy fees.
- July 10, 2009             CAEATFA agenda posting.
- July 15, 2009             Close of pre-file notice comment period.
- July 22, 2009             Board meeting. Approval of amended regulations package and renewable energy fee structure to be sent to Office of Administrative Law (OAL).
- July 23, 2009             File with OAL. Give notice of August 12 board meeting.
- August 6, 2009           Public comment period ends.
- August 7, 2009           OAL deadline to give approval or denial of emergency regulations.
- February 5, 2010        Emergency regulations expire.

**Permanent Regulations**

- August 6, 2009           The Rulemaking File and Notice of Publication are filed with the Office of Administrative Law (OAL). The Notice of Proposed Regulatory Action is issued.
- August 20, 2009           OAL publishes Notice and 45-day public comment period begins.
- October 6, 2009           Public comment period regarding proposed regulations ends.
- October 28, 2009          Results of public hearing requests, if any, are presented at CAEATFA Board meeting. Present permanent regulations to Authority for adoption if no public comments are received warranting modification of the proposed regulatory changes.

#### **Agenda Item – 4.D.**

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|-------------------|---|
| October 30, 2009  | Deliver permanent regulation package to OAL for 30-day review.                                      |
| November 30, 2009 | OAL issues Approval of Certificate of Compliance and files regulations with the Secretary of State. |
| December 30, 2009 | Permanent regulations become effective.   |

\*If public comments are received that warrant substantial modifications to the proposed regulations, then the process will be lengthened to accommodate a 15-day comment period as follows:

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|-------------------|--|
| October 7, 2009   | Proposed regulation amendments are modified and Notice Proposed Changes is issued to initiate a 15-day comment period. |
| October 22, 2009  | 15-day comment period ends.  |
| November 23, 2009 | Deliver permanent regulation package to OAL for 30-day review.   |
| December 23, 2009 | OAL issues Approval of Certificate of Compliance and files regulations with the Secretary of State.                    |
| January 22, 2010  | Permanent regulations become effective.  |

**Recommendation:** Staff recommends adoption of a resolution to establish a renewable energy program fee structure and authorize staff to undertake emergency and permanent rulemaking proceedings and other actions related to CAEATFA regulation revisions.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING AUTHORITY  
APPROVING REGULATIONS AND AUTHORIZING EMERGENCY AND  
PERMANENT RULEMAKING PROCEEDINGS AND OTHER ACTIONS  
RELATED THERETO, INCLUDING THE PUBLIC NOTICE  
AND COMMENT PROCEDURES**

WHEREAS, the California Alternative Energy And Alternative Energy Financing Authority (the "Authority") is authorized by California Public Resources Code Section 26011.6 to adopt regulations to implement and make specific the statutory provisions governing the Authority's renewable energy program; and

WHEREAS, the Authority is authorized by California Public Resources Code Section 26011.6(b) to adopt regulations relating to its renewable energy program as emergency regulations; and

WHEREAS, the Authority has determined that amendments establishing a fee structure for the renewable energy program within the Authority's regulations as set forth in Article 1 of Division 13 of Title 4 of the California Code of Regulations, are necessary to be adopted at this time to facilitate the consideration of applications for financial assistance for renewable energy projects.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The proposed regulations presented at the July 22, 2009 meeting are hereby approved in substantially the form submitted. The Chair or Executive Director is hereby authorized, for and on behalf of the Authority, to proceed with the filing of the regulations, with the supporting documentation required by law, for the purposes of adopting these as emergency regulations and later as permanent regulations.

Section 2. The Chair or Executive Director of the Authority is hereby authorized and directed to take such actions, including making or causing to be made such changes to the regulations as may be required for approval thereof by the Office of Administrative Law, and to execute and deliver any and all documents that they may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 3. This resolution shall take effect immediately upon its approval.