

UPDATED INFORMATIVE DIGEST

AB 118 Air Quality Guidelines for the Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle Technology Program

Sections Affected: Proposed adoption of California Code of Regulations , title 13, new Chapter 8.1, new sections 2340, 2341, 2342, 2343, 2344, 2345.

Background:

On October 14, 2007, Governor Schwarzenegger signed into State law the “California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007” (Assembly Bill 118, Statutes of 2007, Chapter 750). That law provides approximately \$200 million in annual incentive funding to promote alternative fuel and vehicle technologies in order to help meet California’s air quality and climate change goals, advance California’s leadership in clean technologies, and reduce the State’s demand for petroleum. Those incentive funds are generated from increases in the smog abatement, vehicle registration, and vessel registration fees.

Assembly Bill 118 specifies that such incentive funding will be administered under several new programs, including the Air Quality Improvement Program (AQIP), which will be administered by ARB, and the Alternative and Renewable Fuel and Vehicle Technology Program, which will be administered by the California Energy Resources Conservation and Development Commission (Energy Commission). Assembly Bill 118 includes a provision which directs ARB to develop guidelines to ensure that both these programs complement California’s existing air quality programs. The guidelines must ensure that the programs: (1) do not interfere with efforts to achieve and maintain ambient air quality standards and to reduce emissions of toxic air contaminants; and (2) maintain or improve upon emission benefits in the State Implementation Plan and California’s clean fuels regulations.

These new incentive programs will, in general, be conducted in a similar fashion as existing incentive programs. Individuals and businesses apply for funding through the administering agency. The administering agency, using specified criteria and an established process, evaluates the merits of each application and subsequently awards funds to the most promising projects. Individuals and businesses that choose to receive funding participate in incentive programs on a strictly voluntary basis.

Under the oversight of ARB, AQIP will award approximately \$50 million per year through 2015 to a variety of project types specified in Assembly Bill 118, including off-road and on-road equipment, evaporative emission controls, hybrid technologies, lawn and garden equipment, research regarding the air quality impacts of alternative fuels and vehicles, and workforce training to reduce air pollutant emissions. AQIP will play a complementary role to existing ARB incentive programs, such as the Carl Moyer Memorial Air Quality Standards Attainment Program and the Goods Movement

Emission Reduction Program, since it will be able to fund a broader variety of project types, including emerging technologies.

Under the oversight of the Energy Commission, the Alternative and Renewable Fuel and Vehicle Technology Program will award approximately \$120 million per year through 2015 to develop innovative technologies and alternative fuels and to deploy them into the marketplace. One focus of such efforts is to help attain California's greenhouse gas reduction goals. Eligible project types listed in the bill include: improvements to the characteristics of alternative and renewable low-carbon fuels, in-state production and infrastructure for alternative and renewable low-carbon fuels, improvements to light-duty, medium-duty, and heavy-duty vehicle technologies to lower greenhouse gas emissions, acceleration of the commercialization of vehicles and alternative and renewable fuels, related workforce training, and program promotion and education.

The bill also creates a third incentive program, the Enhanced Fleet Modernization Program, which will provide approximately \$30 million in annual funding to expand the Bureau of Automotive Repair's existing voluntary retirement (car scrap) program, and will include high-emitting passenger cars and light-duty and medium-duty trucks. While the Bureau of Automotive Affairs will administer the car scrap program, ARB is required to establish the guidelines for its implementation.

ARB, the Energy Commission, and the Bureau of Automotive Repair are working in coordination to develop and implement the three incentive programs. The guidelines proposed here represent the first step in such a coordinated approach. In this step, ARB is directed by Assembly Bill 118 to establish guidelines to ensure that two of the new incentive programs—AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program—complement existing air quality programs and fuels regulations.

The proposed guidelines, known as the AB 118 Air Quality Guidelines (Guidelines), will be used as an initial screen in the process that the administering agencies will use to evaluate proposed projects for funding under those two programs. Air quality safeguards are already built into the existing car scrap program and will be carried forward into the expanded Enhanced Fleet Modernization Program.

Within a year, detailed and specific implementation guidelines for each of the three incentive programs will be developed. The proposed Guidelines will help structure those future efforts. For AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program, those future guidelines will specify the rest of the process (after the screening process outlined in the proposed Guidelines) that the administering agencies will use to select the most promising eligible projects for funding. The Energy Commission approved such additional guidelines for implementing the Alternative and Renewable Fuel and Vehicle Technology Program in the spring of 2009. ARB adopted additional guidelines for implementing the AQIP in April 2009 and will consider guidelines for implementing the Enhanced Fleet Modernization Program in the spring of 2009.

Description of the Proposed Regulatory Action:

As mentioned above, Assembly Bill 118 includes a provision (Health and Safety Code Section 44271(b)) that directs ARB to develop guidelines that ensure that AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program complement existing air quality programs and fuels regulations. These Guidelines, currently proposed for Board approval, set standards that the funding agencies (i.e., ARB and the Energy Commission) will use to initially evaluate potential projects for incentive funding under AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program. These Guidelines are designed to screen out those projects that would interfere with existing air quality programs. The pollutants that will be considered in evaluating potential projects include criteria pollutants (oxides of nitrogen, reactive organic gases, carbon monoxide, and particulate matter), toxic air contaminants (set forth in the California Code of Regulations sections 93000 and 93001), and greenhouse gases (such as carbon dioxide, methane, including those defined AB 32).

Because Assembly Bill 118 is designed to improve, not merely maintain, air quality in California, these proposed Guidelines—which are narrowly designed to ensure that potential projects are not detrimental to air quality—represent the initial step in the process that funding agencies will use to select projects to receive incentive funding. In subsequent steps, each of the two funding agencies will further evaluate potential projects using additional guidelines that are currently under development, as mentioned above. Thus, the specific funding criteria, funding procedures, and their associated guidelines are outside the scope of the proposed Guidelines under current consideration at this hearing.

Assembly Bill 118 lists a wide range of project types that would be eligible for incentive funding, some of which do not have a direct air quality impact. Because of this, the proposed Guidelines clarify which project types would be required to undergo an air quality impact analysis. These project types include most vehicle and equipment projects, most fuel projects, including infrastructure, research projects that involve the construction of infrastructure that triggers permitting or licensing requirements, and research projects that supply fuel for sale. Projects that do not have a direct air quality impact, such as workplace training, research projects other than those types listed above, and certain demonstration projects, would be exempt from such an analysis.

The proposed Guidelines spell out procedures that the administering agencies will use to initially evaluate vehicle and equipment projects, fuel and infrastructure projects, and the localized impacts of potential projects. Using as a basic foundation the robust procedures employed in the well-established and successful Carl Moyer Memorial Air Quality Standards Attainment Program, the procedures laid out in the proposed Guidelines require the air quality impacts of each potential fuel or vehicle technology project to be evaluated using a comparison of the proposed technology with the relevant “baseline” technology. The baseline technology is the conventional fuel or vehicle that the proposed technology would replace. These comparisons use Appendix A of the

August 2007 Full Fuel Cycle Assessment: Well-to-Wheels Energy Inputs, Emissions, and Water Impacts, CEC-600-2007-004-REV, which is incorporated by reference in the regulation. Generally, if a potential project results in emissions that are equal to or less than that of the baseline technology, it will pass that part of the analysis and may be eligible for further consideration for receiving incentive funding.

Some projects that result in minor criteria pollutant or toxic air contaminant increases relative to the baseline technology may still pass the screen if the project reduces other pollutants to a substantial degree, advances the goals of Assembly Bill 118, and the resultant pollutant trade-offs are approved in a public process. As an additional safeguard, the proposed Guidelines require full mitigation of any such emission increases by concurrent emission reductions achieved by other projects receiving incentive funding within the same air basin.

The proposed evaluation procedures also require that funding agencies ensure that potential projects will comply with relevant air pollution requirements. Accordingly, the evaluation of fuel projects includes a check for consistency with any existing fuel specifications that apply. Also, proposed projects that trigger existing permitting, licensing, or environmental review requirements must comply with such requirements and must commit to implement all air quality mitigation measures recommended and required by the applicable oversight agencies.

To ensure that Assembly Bill 118 is implemented in a manner that ensures the fair treatment of people of all races, cultures, and income levels, potential projects that trigger permitting, licensing, or environmental review requirements will only be approved for funding after a publically-noticed meeting; this will ensure that residents have the opportunity for input regarding projects that are being considered for funding in their community. Such projects will be included in an annual analysis to evaluate whether they are being located disproportionately in environmental justice areas.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations comparable to the proposed Guidelines. The proposed Guidelines delineate the first phase in the process by which ARB and the Energy Commission will select projects to award public incentive funds. Participation by individuals and businesses in the incentive programs established by Assembly Bill 118 is strictly voluntary.