



Notice of Proposed Rulemaking

Allocation of Transformative Climate Community Program Funds

NOTICE IS HEREBY GIVEN pursuant to Government Code section 11346.6 that the California Strategic Growth Council (Council) proposes to adopt regulations allocating funding of Transformative Climate Community Program (Program) funds pursuant to Public Resources Code sections 75240 *et seq.*

PROPOSED ACTION

Assembly Bill 2722 (Burke, 2016) created the Program to be administered by the Council. Public Resources Code Section 75242 requires the Council to develop guidelines and selection criteria for plan development and implementation of the Program. This proposed action is the first of several to develop the guidelines. Specifically, this action specifies a portion of total program funds for applications from specific geographic locations. These program details will be added to Division 6.5, Title 14 of the California Code of Regulations.

More information about the proposed regulatory action can be found in the Initial Statement of Reasons.

PUBLIC HEARING, WRITTEN COMMENT PERIOD and AGENCY CONTACT

The Council will hold a public hearing in accordance with the requirements set forth in Government Code section 11346.8. The hearing details are as followings:

Date: November 7, 2016
Time: 9:00 a.m.
Location: Fresno City Council Chambers
City Hall, 2nd Floor
2600 Fresno Street
Fresno, CA 93721

The hearing will be closed when all persons present have had an opportunity to comment on the proposed action. Time limits may be placed on oral comments to ensure that all persons wishing to comment have the opportunity within the available time for the hearing. The Council requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.



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Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the close of the public comment period. The public comment period for this regulatory action will begin on September 23, 2016. To be considered by the Council, written comments not physically submitted at the hearing, must be submitted by November 7, 2016 and received no later than 5:00 pm. The Council will consider only comments submitted and received by that time. Following the conclusion of the written comment period, the Council may adopt the proposal as set forth without further notice. Comments submitted electronically are preferred.

Submit comments to:

tccpubliccomments@sgc.ca.gov

or to:

Kim Danko
1400 Tenth Street
Sacramento, CA 95814

Please note that under the California Public Records Act (Government Code, §6250 et seq.), written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Pursuant to Government Code section 11346.9(a)(3), the Council shall in a final statement of reasons respond to comments submitted during the comment period containing objections and/or recommendations specifically directed at the Council's proposed action or to the procedures followed by the Council in proposing or adopting the proposed action

AUTHORITY AND REFERENCE

Authority: Public Resources Code section 75243.

Reference: Public Resources Code sections 75240-75243.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The purpose of the Program is to fund plans that include multiple, coordinated greenhouse gas emissions reduction projects within disadvantaged communities. (Pub. Resources Code § 75240.) The Council is authorized to develop guidelines and selection criteria to govern implementation of the



Program and the award of Program funds. (*Id.* § 75242.) The statute specifically authorizes the Council to prioritize awards in areas that have a high proportion of census tracts identified as disadvantaged communities and that focus on communities that are most disadvantaged. (*Id.* § 75242(b)(2).)

The Council will develop the Program guidelines and selection criteria in phases. The first phase, which is the subject of this action, proposes to allocate a portion of total program funds for applications from specific geographic locations. Future phases of the guidelines development will specify selection criteria and competitive process for individual applications as well as procedures for Program implementation.

Specifically, this proposed action does two things. First, it would specify that Program funds shall be allocated in the City of Los Angeles, the City of Fresno and a third location. Second, it specifies that a minimum of fifty percent of the Program funds shall be allocated within the City of Fresno and a minimum of twenty five percent within the City of Los Angeles.

Summary of Existing Laws and Regulations Related Directly to the Proposed Rulemaking

Senate Bill 732 (Steinberg, 2008) created the Council. The Council is a cabinet level committee that coordinates the activities of state agencies to:

- Improve air and water quality
- Protect natural resources and agriculture lands
- Increase the availability of affordable housing
- Promote public health
- Improve transportation
- Encourage greater infill and compact development
- Revitalize community and urban centers
- Assist state and local entities in the planning of sustainable communities and meeting AB 32 goals

The Council administers several programs using revenues raised from Cap and Trade allowance auctions, also known as the Greenhouse Gas Reduction Fund (GGRF). For example, the Council's Affordable Housing and Sustainable Communities (AHSC) Program provides grants and affordable housing loans for compact transit-oriented development and related infrastructure and programs that reduce greenhouse gas emissions.

Senate Bill 535 (de León, 2012) requires that certain portions of GGRF provide benefits to disadvantaged communities, and at least some projects be located within disadvantaged communities.

Assembly Bill 2722 (Burke, 2016) created the Program to fund plans that include multiple, coordinated greenhouse gas emissions reduction projects within disadvantaged communities. (Pub. Resources Code § 75240.)



Summary of the Effect of the Proposed Rulemaking

The effect of the proposed rulemaking will be to specify how and where certain Program funds are to be allocated.

Policy Objectives and Specific Benefits Anticipated by the Proposed Regulation Including Non-monetary Benefits

Consistent with the legislative intent described in Assembly Bill 2722, this proposed action will advance several policy objectives. As explained in more detail in the Initial Statement of Reasons, the Council intends for the Program to enable transformative change in disadvantaged communities. The Public Resources Code authorizes the Council to prioritize severely disadvantaged communities, and the cities of Fresno and Los Angeles have the largest populations living in the most severely disadvantaged communities as described in Section 39711 of the Health and Safety Code.

Additionally, this action proposes that Program funds be allocated in a few large investments, rather than numerous and comparatively small awards. This type of targeted investment is more likely to attract catalytic private resources.

By leveraging public investments in inadequate infrastructure, the funds are intended to allow neighborhoods to become communities where businesses have access to workers, workers have access to jobs, and residents have access to safe, environmentally sound places to live.

The Proposed Regulation is Not Inconsistent with or Incompatible with Existing State Regulations

The Council evaluated the regulations for inconsistency or incompatibility with existing state regulations and has found that these are the only regulations dealing with the Transformative Climate Communities Program. Therefore, the proposed regulation is not inconsistent or incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference in the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT DETERMINATION REGARDING THE PROPOSED ACTION



Pursuant to Government Code sections 11346.5(a)(5) and (a)(6), the Chair has made an initial determination that the proposed regulatory action would not create costs to State agencies. The proposed regulatory actions would not create costs or savings in federal funding to the State, costs or mandates to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, Title 2, Division 4, Part 7 (commencing with section 17500) or other nondiscretionary costs of savings to State or local agencies.

The regulation does not impose a mandate on any private individual, business or local government because participation in the Program is optional and voluntary. However, regulatory actions taken in subsequent phases that lay out guidelines for applying for and approving program proposals will likely have costs to these entities if they choose to participate.

The determinations of the Chair concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below:

- Cost to any Local Agency or School District Requiring Reimbursement Pursuant to Government Code section 17500 et seq.: None
- Cost or Savings for State Agencies: None
- Other Non-Discretionary Costs or Savings on Local Agencies: None
- Costs or Savings in Federal Funding to the State: None

There is No Significant Effect on Housing Costs

The Chair has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs because the proposed regulation only specifies where program funds may be allocated, it does not add new requirements under the law. There may be effects on housing costs from regulatory actions in subsequent phases, including if programs are implemented that affect development or transportation in targeted communities.

There is No Significant Adverse Economic Impact Directly Affecting Business, Including Ability to Compete and Declaration of Initial Determination of No Impact

The Chair has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Regulatory actions in subsequent phases could have positive economic impacts on businesses and individuals, and indeed these are the aim of the program. An initial determination has been made that there is no impact because the proposed regulation only specifies where program funds may be allocated, and further regulatory action is needed before programs may be proposed or chosen.



There is No Effect on Small Business

Regulatory actions in subsequent phases could have positive economic impacts on small businesses. An initial determination has been made that there is no impact of this phase, however, because the proposed regulation only specifies where program funds may be allocated, and further regulatory action is needed before programs may be proposed or chosen.

STATEMENT OF RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Chair has made an initial determination that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic and Fiscal Impact Analysis, which is a section in the Initial Statement of Reasons, ISOR.

While Program funds are expected to result in economic benefits, this proposed action does not affect the total amount of funds available. Rather, it merely allocates where those funds may be awarded. They therefore have no benefit, either positive or negative.

COST IMPACTS TO REPRESENTATIVE PERSONS OR BUSINESSES, INCLUDING SMALL BUSINESSES

The Council is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Chair has also made an initial determination that, pursuant to California Code of Regulations, Title 1, section 4, the proposed regulatory action would not affect small businesses because the proposed action only specifies where program funds may be allocated, it does not add new requirements under the law.

ALTERNATIVES CONSIDERED

In accordance with subsection 11346.5(a)(13) of the Government Code, the Council must determine that no reasonable alternative considered by the Council or that has otherwise been identified and brought to the attention of the Council would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons that the proposed action, and/or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.



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Two alternatives were considered: one to award funds to neighborhoods judged on a competitive basis, and another to have a more even allocation of funds to Fresno, Los Angeles, and a third community to be determined. The first alternative was rejected as it would not allow for the scale of investments that are likely needed to catalyze transformation. The second was rejected as it would reduce the potential catalytic effects of large investments in Fresno.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

tccpubliccomments@sgc.ca.gov

or to:

Kim Danko
1400 Tenth Street
Sacramento, CA 95814

Please direct requests for copies of the proposed text (“the express terms”) of the regulations, the initial statement of reasons, or other information upon which the proposed rulemaking is based to Kim Danko at the above address. A backup person to contact for access to documents is Mackenzie Weiser at mackenzie.wieser@sgc.ca.gov, (916) 327-4737.

AVAILABILITY OF RULEMAKING PACKAGE AND INTERNET ACCESS

The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of this date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms of the proposed text of the regulations, the initial statement of reasons, and supporting information. Copies may be obtained by contacting either Kim Danko or Mackenzie Wieser at their address and/or phone numbers and email addresses listed above.

If there are substantial and related changes to the proposed regulation, the full text of the regulation, if changed after the forty-five day initial public comment period, will be available for at least 15 days prior to the date on which the Council adopts, amends, or repeals the proposed regulation.



Final Statement of Reasons

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the Council's website www.sgc.ca.gov.

Internet Availability

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, will be available on the Council's website www.sgc.ca.gov.

NON-DUPLICATION OF FEDERAL LAW AND RELATIONSHIP TO FEDERAL LAW

The proposed regulations do not duplicate federal law, nor are they mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS

In accordance with Government Code section 11346.5(a)(4), there are no other requirements identified in this notice that are that are specific to the Council or any specific regulation or class of regulations.

REASONABLE ACCOMODATIONS

The hearing location is accessible to persons with disabilities. If any member of the public wishes to comment and requires other reasonable accommodations, please contact Kim Danko at the Strategic Growth Council as listed above at least five days prior to the scheduled workshop.