

**EXHIBIT A
PROPOSED EMERGING ENERGY
TECHNOLOGY FUND REGULATIONS**

Register _____, _____ 2011 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 107 ALASKA ENERGY AUTHORITY

3 AAC 107 is amended by adding a new article to read:

Article 700. Emerging Energy Technology Grant Program

3 AAC 107.700. Purpose. 3 AAC 107.700 to 3AAC 107.799 establishes rules and procedures regarding the emerging energy technology fund program and grants under AS 42.45.375. These rules and procedures include criteria for grant applications, the evaluation of applications, the award of grants, the administration of grants, and other matters related to the emerging energy technology fund. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.705. Public purpose. The authority will administer and implement the emerging energy technology fund program and grants in a manner the authority determines is appropriate to protect the public purpose of, the public interest in, and public benefit from the program and use of grant funds. The authority may:

- (1) In consultation with the Advisory Committee, establish that certain types or locations of potential projects will receive priority consideration under a solicitation for applications, subject to statutory priorities under AS 42.45.375. The public notice for the solicitation must identify and describe any priority consideration to be given in the review of proposal abstracts and full applications under 3 AAC 107.700 - 3 AAC 107.799.
- (2) Solicit, award, or fund grants in phases. Recommendations for awarding and funding grants for preliminary development phases may be limited or delayed until the authority determines

that subsequent phases of a project are feasible, will result in sufficient benefit to the public, or are otherwise appropriate for the grant.

(3) Require a grantee to repay some or all of a grant if the grantee fails to comply with the terms and conditions of the grant or, if the grantee sells, conveys, or encumbers a project constructed with grant funds without the prior written approval of the authority. (Eff. ___/___/_____,

Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.710. Eligible grantees. (a) To be eligible for an emerging energy technology grant, an applicant must

- (1) be an eligible applicant within the meaning given in AS 42.45.375(i) and (j)(1);
and
- (2) demonstrate that the applicant will
 - (A) own, operate and maintain the emerging energy technology project, unless the grantee obtains the authority's consent under (b) of this section;
 - (B) own, lease, or otherwise control the site upon which the project is located; and
 - (C) provide adequate demonstration of the technology.

(b) The authority may consent to a grantee not owning an emerging energy technology project, or not retaining operation or maintenance responsibilities, if the authority determines that the alternative ownership, operation or maintenance protects the public interest in and benefit from the grant. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.715. Eligible projects. A project is eligible for a grant from the emerging energy technology grant fund if the project:

- (1) meets the requirements of AS 42.45.375(c);
- (2) meets the definition of “energy technology” under AS 42.45.375(j)(2); and

promotes the expansion of energy sources available for Alaskans or enhances the efficient use of energy in Alaska. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.720. Advisory committee. (a) The emerging energy technology fund advisory committee established under AS 42.45.375(f) will:

(1) advise the authority regarding solicitations for applications, including whether and how certain types or locations of projects should receive priority consideration under a solicitation,

(2) review, rank and make recommendations to the authority regarding the quality of proposal abstracts and full applications, and

(3) meet as appropriate to fulfill the responsibilities in this subsection.

(b) The advisory committee provides advice to the authority. The authority will make final decisions regarding eligibility, proposal ranking, funding level, grant provisions, and other matters regarding the emerging energy technology program and grants. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.725. Public notice of application period; solicitation of grant applications. (a)

The authority will publish public notice of the application period on the authority’s website, and

on the Alaska On-line Public Notice System. The authority may also publish notice on or through other media outlets.

(b) The notice published on the authority's website will request grant applications, and include the date, time, place, and method for delivering applications, and a description of the application requirements. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.730. Grant applications. The authority under 3 AAC 107.700 - 3 AAC 107.799 will process grant applications in two steps. In step one, the authority under 3 AAC 107.735 - 3 AAC 107.745 will solicit and review proposal abstracts, and select proposal abstracts for further evaluation. In step two, the authority under 3 AAC 107.750 - 3 AAC 107.760 will solicit a full application from applicants that submitted proposal abstracts that have been selected for further evaluation. In step two, the authority will also review and evaluate full proposals to determine who will be awarded emerging energy technology grants. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.735. Proposal abstracts. (a) The request for grant applications will establish the deadline for submitting proposal abstracts to the authority, the necessary documentation to be included with the proposal abstract, and the format and size for the proposal abstract and documentation. The executive director may accept an abstract filed after the established deadline only upon finding extraordinary circumstances justify the delayed submittal.

(b) A proposal abstract must include:

(1) documentation to establish that the applicant is an eligible applicant under AS 42.45.375(j) (1) and 3 AAC 107.715;

(2) a summary of the proposed project; including:

i) a technical synopsis;

ii) a description of how the proposed project will test emerging technologies, test methods of conserving energy, improve an existing energy technology, or deploy an existing technology that has not previously been demonstrated in the state;

iii) a description of how the proposed project addresses the priority considerations established by AS 42.45.375(d) and by the request for grant applications;

iv) a description of whether the proposed project will result in a pilot or full-scale demonstration of the energy technology;

v) a description of how the energy technology can be beneficial when deployed in Alaska;

vi) a description of any research and development which indicate the energy technology and the systems and components are likely to successfully work in the proposed Alaskan location and environment;

vii) a description of the how the proposed project will advance the commercialization of the energy technology within the next five years, and the market for purchasing energy generated by the proposed project,

viii) identification of the site for the project and evidence that the applicant has appropriate legal access to the proposed project site,

xi) statement of the project team's qualifications; and,

x) a budget for the proposed project.

(3) any additional information required in the request for grant applications or under 3 AAC 107.775; and

(4) During review of the proposal abstract, the authority may require the applicant to provide additional information the authority determines is necessary or desirable to complete review of the proposal abstract.

(c) The authority may require applicants who have previously received grants from the emerging energy technology fund for preliminary development phases or partial grants, to submit new proposal abstracts for each solicitation for applications. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.740. Eligibility review. The authority will review each timely received proposal abstract, and determine whether the proposal abstract is complete, is submitted by an eligible applicant, and relates to an eligible project. The authority will reject proposal abstracts that fail to meet those requirements. The authority will provide written notice to the applicant of the rejection, which notice may be given by electronic mail. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.745. Review of abstracts. (a) The authority, in consultation with the emerging energy technology fund advisory committee, will evaluate and rank proposal abstracts not rejected under 3 AAC 107.740 based on how well the proposed project addresses the statutory priorities under AS 42.45.375, and the following criteria:

1. feasibility of the proposed technology,
2. innovation and quality of the technical explanations submitted;
3. how well the proposed project will test emerging energy technologies, test methods of conserving energy, improve an existing energy technology, or

- deploy an existing technology that has not previously been demonstrated in the state;
4. how well the proposed project addresses the priority considerations established for projects under the request for grant applications;
 5. whether the proposed project will result in a pilot or full-scale demonstration of the energy technology;
 6. whether the proposed schedule is realistic;
 7. whether the energy technology can be beneficial when deployed in Alaska;
 8. how suitable the proposed project site is;
 9. the extent to which existing research and development demonstrates the energy technology and the systems and components included are likely to successfully work in the proposed Alaskan location and environment;
 10. the extent to which the proposed project will advance the commercialization of the energy technology within the next five years;
 11. the market for purchasing energy generated by the proposed project,
 12. capabilities of the project team;
 13. commercial market for the proposed technology or energy from the proposed project; and
 14. an evaluation of the finance plan and budget for the proposed project.

(b) Abstracts the authority or the emerging energy technology fund advisory committee chooses not to review will be deemed rejected.

(c) The authority may reject an abstract based upon the review under this section. The authority will provide written notice to the applicant of the rejection. The notice may be given by electronic mail. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.750. Full application. Grantees whose proposal abstracts are selected by the authority may be asked to submit a full application. A full application must be submitted within the time specified, and include documentation in the format required in the request for full applications. The full application must include:

(1) a description of the proposed technology and/or any improvements of current technology,

(2) a description of the commercial availability of the proposed technology,

(3) a discussion of any intellectual property issues; including:

i) ownership,

ii) licenses; and,

iii) agreement for use,

(4) a description of the technical components of the proposed project, including:

i) key technology elements to be implemented;

ii) potential hurdles and how they will be addressed,

iii) phasing of the project,

iv) deliverables,

v) the data acquisition and management plan; and,

vi) schedule,

(5) the project team and any partnerships with Alaska postsecondary

institutions, Alaska residents, associations, organizations, or manufacturers,

(6) the project site, evidence that the applicant has appropriate legal access to the proposed site, and description of why the technology is appropriate for the area the project will be located,

(7) how the proposed project will be integrated in the existing energy system,

(8) the potential market and commercialization plan for the proposed project or energy to be generated or transmitted by the project,

(9) a complete project budget, including funding requested, the amount and source of matching funding to be provided, and proposed development, operation and maintenance costs,

(10) potential public benefits from the project and potential for widespread deployment,

(11) public opinion regarding the project,

(12) any regulatory issues specific to the project, the site, the proposed technology, or other matters which could impact the project or public benefits from the project;

(13) any additional information the authority decides it needs to complete its review of the application. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.755. Review of full applications. (a) The authority, in consultation with the emerging energy technology fund advisory committee, will evaluate and rank full applications

using criteria and processes established in 3 AAC 107.760, and award grants according to ranking of the projects and the criteria established in the solicitation.

(b)The authority may ask applicants to make presentations to authority staff and the emerging energy technology fund advisory committee. During this presentation, there also will be opportunity for questions from the authority staff and emerging energy technology fund advisory committee members.

(c) As a result of the evaluation under (a) of this section, the advisory committee may recommend the authority award or not award a grant, either in the amount requested by the applicant or a different amount.

(d) The authority will determine whether to award or not award a grant. The authority may award a grant for less than the amount requested by the applicant in consultation with the advisory committee. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.760. Review criteria for full applications.

(a) The criteria for reviewing full applications will include how well the full application addresses the statutory priorities at AS 42.45.375, and

1. the feasibility of the proposed technology,
2. the innovation and quality of the technical explanations submitted;
3. how well the proposed project will test emerging energy technologies, test methods of conserving energy, improve an existing energy technology, or deploy an existing technology that has not previously been demonstrated in the state;

4. how well the proposed project addresses the priority considerations established for projects under the request for grant applications;
5. whether the proposed project will result in a pilot or full-scale demonstration of the energy technology;
6. whether the proposed schedule is realistic;
7. whether the energy technology can be beneficial when deployed in Alaska;
8. how suitable the proposed project site is;
9. the extent to which existing research and development demonstrates the energy technology and the systems and components included are likely to successfully work in the proposed Alaskan location and environment;
10. the extent to which the proposed project will advance the commercialization of the energy technology within the next five years;
11. the market for purchasing energy generated by the proposed project;
12. the capabilities of the project team;
13. the commercial market for the proposed technology or energy from the proposed project
14. an evaluation of the finance plan and budget for the proposed project. and
15. whether all regulatory and legal issues have been adequately addressed.

(b) For full applications that don't meet the criteria at 3 AAC 107.760(a) – (b), the authority in consultation with the emerging energy technology fund advisory committee may choose not to review these applications and they will be deemed rejected.

(c) The authority may reject a full application based upon the review under this section. The authority will provide written notice to the applicant of the rejection. The notice may be given by electronic mail. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.765. Reconsideration / proposal abstracts or full applications. (a) An applicant whose proposal abstract is rejected in the eligibility review or during the project review of the abstract or during the review of the full application may request reconsideration to the executive director of the authority. The request for reconsideration must be in writing, must state the basis for reconsideration, and must be received by the authority no more than 10 days after rejection.

(b) The executive director on reconsideration may accept or overturn the decision to reject the proposal abstract or full application, or request additional information from the applicant before making a decision. If the executive director overturns the decision, the authority shall further consider the abstract under 3 AAC 107.740 - 3 AAC 107.745 or the full application under 3 AAC 107.750 – 3 AAC 107.760. The decision of the executive director on reconsideration is the final agency decision. If the executive director fails to issue a decision within 30 days, the request for reconsideration shall be deemed denied, unless the executive director extends the time for reconsideration. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.770. Confidentiality of proposal abstracts, full applications and other materials submitted to the authority. (a) A proposal abstract, full application and other materials submitted to the authority under AS 42.45.375 and 3 AAC 107.700 - 3 AAC 107.799 are records subject to AS 40.25.100 – 40.25.295 (Alaska Public Records Act) and 2 AAC 96,

and may be disclosed to the public unless the records are confidential or otherwise protected from disclosure under AS 40.25.120 or other applicable law.

(b) A person submitting a proposal abstract, full application or other material under AS 42.45.375 and 3 AAC 107.700 - 3 AAC 107.799 may request that certain information be kept confidential. The request must

- (1) clearly designate the specific information to be kept confidential; and
- (2) specifically describe the basis for asserting

that the information is protected from disclosure under AS 40.25.120; if the person believes the information is protected as a trade secret or business proprietary information, the description must include analysis of whether the person's commercial privacy interest in protecting the information from disclosure outweighs the public interest in obtaining the information.

(c) If the authority determines the records submitted do not appear to be confidential or otherwise protected from disclosure under the Alaska Public Records Act, the authority will notify the applicant so that the applicant may request to withdraw all or parts of the proposal abstract or full application.

(d) If the authority agrees that records received from a grantee appear to be confidential or otherwise protected from disclosure under the Alaska Public Records Act, the authority will agree in the grant agreement to notify the applicant if the authority receives a public records request so that the applicant may seek judicial relief or take other action necessary to protect the records from disclosure. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.775. Additional information from applicant. (a) The authority may require the applicant or grantee to provide additional information which the authority considers necessary

or desirable to complete review of a proposal abstract, a full application, or during project operation and maintenance reporting required under 3 AAC 107.790 . The authority may require the additional information and at any stage in the review, evaluation, or award process. Required additional information may include information sufficient for the authority to confirm that an

- (1) application meets the requirements for abstracts and applications; or
- (2) applicant or grantee is willing and able to adjust the project scope and budget as required by the authority in awarding a grant.

(b) If an applicant or grantee fails to provide timely or adequate information required by the authority, the authority may reject the proposal abstract or full application, modify the grant award, or cancel an award of a grant. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.780. Grant agreement. (a) Before the authority may disburse any grant funds, the applicant must sign a grant agreement acceptable to the authority. The grant agreement must contain the terms and conditions of the grant, including

- (1) a description of the project;
- (2) a project schedule;
- (3) a grant fund disbursement schedule; that addresses disbursement upon the grantee achieving milestones including
 - (i) completion and approval by the authority of pre-construction phases of the project;
 - (ii) the grantee demonstrating that it has site control for the project;

(iii) the grantee demonstrating that it has required permits or authorizations for construction of the project;

(iv) the grantee demonstrating that it has obtained the required intellectual property rights or licensing for the project;

(v) the grantee's successful completion of activities or objectives set under the project schedule;

(4) requirements for project management;

(5) a description of allowable costs;

(6) requirements for the documentation of expenditures and procurements;

(7) procedures for making grant payments to the grantee;

(8) requirements for the grantee's accounting and reporting;

(9) requirements for the grantee's maintenance and retention of project records;

(10) hiring preferences applicable under AS 36.10.150 - 36.10.180 and 8 AAC 30.064 - 30.088 to the grantee and its agents, contractors, and subcontractors;

(11) procedures for verifying the provision of the grantee's matching contributions to the project;

(12) if required in the grant agreement, information on project operations and maintenance activities and costs, other costs of the project, energy output, estimated fuel displacement resulting from the energy output, discussion of operational issues, and other information useful to the authority for its evaluation of the

project and the grant;

(13) the grantee's agreement to allow access to the project site and project data by a third party chosen by the authority to verify the reporting submitted by the grantee; and

(14) other terms and conditions that the authority determines are appropriate to ensure the public purpose of and maximize the public benefit from the grant.

(b) If an applicant fails to execute the grant agreement within 30 days after receiving it from the authority, the authority may cancel a grant award and may offer the grant funds to another eligible applicant. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.785. Grant closeout; return of unexpended grant money. Upon completion of the grant project, or termination of the grant, the authority will close out the grant and the grantee shall return to the authority any grant funds and interest on grant money not spent on project work under the terms and conditions of the grant agreement.

The grant agreement may provide that specified obligations of the grantee survive grant closeout. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.790. Project operations and maintenance reporting. The grantee shall provide to the authority or its agents reports on project operations and maintenance, performance data, and other information that the authority specifies in the grant agreement, including information needed for third-party oversight and study data for the project. If the grantee fails to provide this information as required under this section and in the grant agreement, the authority may

cancel the project or determine the grantee ineligible for future emerging energy technology fund grants or other grants from the authority. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.795. Dispute resolution. A person who has a claim concerning a grant awarded under AS 42.45.375 and 3 AAC 107.700 - 3 107.799 may submit that claim in accordance with 3 AAC 108.915 – 108.920. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.799. Definitions. In 3 AAC 107.700 – 3 AAC 107.799, unless the context requires otherwise,

(1) “emerging energy technology” has the same definition as “energy technology” at AS 42.45.375(j)(2).

(2) “grant” or “emerging energy technology grant” means a grant awarded under AS 42.45.375 and 3 AAC 107.700 – 3 AAC 107.799.

(3) “grant funds” means amounts awarded as grants from the emerging energy technology fund under AS 42.45.375.

(4) “matching funds” or “matching resources”

(A) means those resources that the grantee dedicates for the completion of the project;

(B) includes

(i) cash;

(ii) loan proceeds; and

(iii) grantee-provided equipment, labor, or other materials or services needed for the completion of the project;

(5) “preliminary development phase” includes

(A) feasibility studies;

(B) reconnaissance studies;

(C) energy resource monitoring;

(D) design phases; and

(E) obtaining required permits and authorizations. (Eff. ___/___/_____,

Register ___)

Authority: AS 42.45.375 AS 44.83.080