CALIFORNIA
ENERGY
COMMISSION

WARREN-ALQUIST ACT

Warren-Alquist State Energy Resources Conservation and Development Act

Public Resources Code Section 25000 et seq.

SEPTEMBER 2005
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ARNOLD SCHWARZENEGGER, *Governor*

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Note to Readers

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By way of information, a number of provisions sunset in 2004, including the "Local Government List of Issues" [for power plant siting] (§ 25519.5); the Demand Reduction Grant Program (PRC § 25555); the Governor's Clean Energy Green Team (Govt. § 12078); and air quality enforcement and emissions credits (H&S § 42301.14, § 42314.3).

AB 2304 (Richman) Ch. 781, stats. of 2004 repealed the Clean Fuels Program (see p. 122).

The six-month siting process, at PRC § 25550 was renewed for two years.

Under SB 1565 (Bowen), Ch. 692, stats. 2004, the CEC was mandated to adopt a strategic plan for the state's electrical transmission grid. (See § 25324)

Please bring any errors or omissions, questions or suggestions, to the attention of Jennifer Tachera, Chief Counsel's Office (916) 654-3870 or jtachera@energy.state.ca.us or Lynn Tien-Tran, Chief Counsel's Office (916) 654-3951 or mtran@energy.state.ca.us

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CHAPTER 1. TITLE AND GENERAL PROVISIONS

§ 25000. Short title

This division shall be known and may be cited as the Warren-Alquist State Energy Resources Conservation and Development Act.

§ 25000.1. Legislative finding; energy resources cost effectiveness, value for environmental costs/benefits

(a) The Legislature further finds and declares that, in addition to their other ratepayer protection objectives, a principal goal of electric and natural gas utilities' resource planning and investment shall be to minimize the cost to society of the reliable energy services that are provided by natural gas and electricity, and to improve the environment and to encourage the diversity of energy sources through improvements in energy efficiency and development of renewable energy resources, such as wind, solar, and geothermal energy.

(b) The Legislature further finds and declares that, in addition to any appropriate investments in energy production, electrical and natural gas utilities should seek to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution that offer equivalent or better system reliability, and which are not being exploited by any other entity.

(c) In calculating the cost effectiveness of energy resources, including conservation and load management options, the commission shall include a value for any costs and benefits to the environment, including air quality. The commission shall ensure that any values it develops pursuant to this section are consistent with values developed by the Public Utilities Commission pursuant to Section 701.1 of the Public Utilities Code. However, if the commission determines that a value developed pursuant to this subdivision is not consistent with a value developed by the Public Utilities Commission pursuant to subdivision (c) of Section 701.1 of the Public Utilities Code, the commission may nonetheless use this value if, in the appropriate record of its proceedings, it states its reasons for using the value it has selected.

§ 25000.5. Legislative findings; overdependence on petroleum based fuels; evaluation of economic and environmental costs of petroleum use; definition

(a) The Legislature finds and declares that overdependence on the production, marketing, and consumption of petroleum based fuels as an energy resource in the transportation sector is a threat to the energy security of the state due to continuing market and supply uncertainties. In addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries.

(b) Therefore, it is the policy of this state to fully evaluate the economic and environmental costs of petroleum use, and the economic and environmental costs of other transportation fuels, including the costs and values of environmental impacts, and to establish a state transportation energy policy that results in the least environmental and economic cost to the state. In pursuing the "least environmental and economic cost" strategy, it is the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply

sources, and competitiveness of transportation energy markets based on the least environmental and economic cost.

(c) It is also the policy of this state to minimize the economic and environmental costs due to the use of petroleum-based and other transportation fuels by state agencies. In implementing a least-cost economic and environmental strategy for state fleets, it is the policy of the state to implement practicable and cost-effective measures, including, but not necessarily limited to, the purchase of the cleanest and most efficient automobiles and replacement tires, the use of alternative fuels in its fleets, and other conservation measures.

(d) For the purposes of this section, "petroleum based fuels" means fuels derived from liquid unrefined crude oil, including natural gas liquids, liquified petroleum gas, or the energy fraction of methyltertiarybutylether (MTBE) or other ethers that is not attributed to natural gas.

§ 25001. Legislative finding; essential nature of electrical energy

The Legislature hereby finds and declares that electrical energy is essential to the health, safety and welfare of the people of this state and to the state economy, and that it is the responsibility of state government to ensure that a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of the general welfare, and for environmental quality protection.

§ 25002. Legislative finding; growth in demand; uses of power; depletion of irreversible commitment of resources

The Legislature further finds and declares that the present rapid rate of growth in demand for electric energy is in part due to wasteful, uneconomic, inefficient, and unnecessary uses of power and a continuation of this trend will result in serious depletion or irreversible commitment of energy, land and water resources, and potential threats to the state's environmental quality.

§ 25003. Legislative finding; consideration of state, regional and local plans

The Legislature further finds and declares that in planning for future electrical generating and related transmission facilities state, regional, and local plans for land use, urban expansion, transportation systems, environmental protection, and economic development should be considered.

§ 25004. Legislative finding; research and development

The Legislature further finds and declares that there is a pressing need to accelerate research and development into alternative sources of energy and into improved technology of design and siting of power facilities.

§ 25004.2. Legislative finding; cogeneration technology

The Legislature further finds that cogeneration technology is a potential energy resource and should be an important element of the state's energy supply mix. The Legislature further finds that cogeneration technology can assist meeting the state's energy needs while reducing the long-term use of conventional fuels, is readily available for immediate application,

and reduces negative environmental impacts. The Legislature further finds that cogeneration technology is important with respect to the providing of a reliable and clean source of energy within the state and that cogeneration technology should receive immediate support and commitment from state government.

§ 25004.3. Legislative finding; advanced transportation technologies

The Legislature further finds and declares all of the following:

(a) Advanced transportation technologies hold the promise of conserving energy, reducing pollution, lowering traffic congestion, and promoting economic development and jobs in California.

(b) There is a pressing need to provide business assistance to California companies engaged in producing and commercializing advanced transportation technologies.

(c) It is the policy of the state to provide financial assistance to California companies, particularly small businesses, that are engaged in commercial efforts in the field of advanced transportation technologies.

§ 25005. Legislative finding; expansion in authority and technical capability of state government

The Legislature further finds and declares that prevention of delays and interruptions in the orderly provision of electrical energy, protection of environmental values, and conservation of energy resources require expanded authority and technical capability within state government.

§ 25005.5. Legislative policy; future energy problems, information, acquisition, and analysis

The Legislature further finds and declares that information should be acquired and analyzed by the State Energy Resources Conservation and Development Commission in order to ascertain future energy problems and uncertainties, including, but not limited to:

(a) The state's role in production of oil from domestic reserves, especially within Petroleum Administration for Defense District V.

(b) The production of Alaskan North Slope oil and its projected use in the state.

(c) Plans of the federal government for development of oil in the Outer Continental Shelf adjacent to the state.

(d) Impacts of petroleum price increases and projected conservation measures on the demand for energy and indirect effects on the need for offshore oil development and Alaskan oil delivery into the state.

(e) Potential shipment of Alaskan oil through the state.

(f) Proposals for processing petroleum outside the state to supply the needs within the state.

(g) The impact on the state of national energy policies, including Project Independence.

§ 25006. State policy; responsibility for energy resources

It is the policy of the state and the intent of the Legislature to establish and consolidate the state's responsibility for energy resources, for encouraging, developing, and coordinating research and development into energy supply and demand problems, and for regulating electrical generating and related transmission facilities.

§ 25007. State policy; reduction in certain uses of energy; conservation; statewide goals

It is further the policy of the state and the intent of the Legislature to employ a range of measures to reduce wasteful, uneconomical, and unnecessary uses of energy, thereby reducing the rate of growth of energy consumption, prudently conserve energy resources, and assure statewide environmental, public safety, and land use goals.

§ 25008. State policy; energy and water conservation; alternative energy supply sources; energy or water facilities at state-owned sites

It is further the policy of the state and the intent of the Legislature to promote all feasible means of energy and water conservation and all feasible uses of alternative energy and water supply sources.

The Legislature finds and declares that the State of California has extensive physical and natural resources available to it at state-owned sites and facilities which can be substituted for traditional energy supplies or which lend themselves readily to the production of electricity or water. Due to increases in energy and water costs, the state's expenditures for energy and water have also increased, adding to the burden on California taxpayers and reducing the amount of funds available for other public purposes.

It is in the best interest of the state to use these resources when it can be demonstrated that long-term cost, water, and energy use reduction will result, and where increased independence from other fuel and water sources and development of additional revenues for the state may be obtained.

Therefore, in recognition of recent and projected increases in the cost of energy and water from traditional sources, it is the policy of the state to use available resources at state facilities which can substitute for traditional energy and water supplies or produce electricity or water at its facilities when use or production will reduce long-term energy or water expenditures. Criteria used in analysis of proposed actions shall include lifecycle cost evaluation, benefit to taxpayers, reduced fossil fuel or reduced water consumption depending on the application, and improved efficiency. Energy or water facilities at state-owned sites shall be scaled to produce optimal system efficiency and best economic advantage to the state. Energy or water produced may be reserved by the state to meet state facility needs or may be sold to state or nonstate purchasers.

Resources and processes which may be used to substitute for traditional energy and water supplies and for the purpose of electrical generation at state facilities include, but are not limited to, cogeneration, biomass, wind, geothermal, vapor compression, water reclamation, and solar technologies.

It is the intent of the Legislature that no policy in this section, expressed or implied, be in conflict with existing state and federal regulations regarding the production or sale of electricity or water, and that this policy be just and reasonable to utility ratepayers.

§ 25008.5. Legislative findings and declarations; energy and water projects at state-owned sites; third party financing and incentives to siting institutions; application of section; reports

(a) The Legislature hereby finds and declares that in order to maximize public benefit from private sector participation in state operations and to maximize the Legislature's ability to devote limited resources of the state to the responsibilities of state government that are less attractive to private sector investment, it is the policy of the state to encourage third-party financing of energy and water projects, including, but not limited to, cogeneration facilities, at state-owned sites.

(b) The Legislature further finds and declares that the development of energy and water projects at state-owned sites can be accelerated where reasonable incentives are provided to the siting institutions. These incentives are necessary to offset the long-term administrative, operational, and technical complexities of energy and water projects developed under this section. Reasonable incentives for implementing the policy of this section shall include the sharing of benefits derived from energy and water projects between the state and the siting institution. The benefits to the state and siting institutions derived from projects implemented under this section may include, but are not limited to, annual cash revenues, avoided capital costs, reduced energy costs, reduced water costs, site improvements, and additional operations and maintenance resources. The annual cash revenues derived from those projects shall be shared equally between the state and the siting institution, if both of the following conditions are met:

(1) The use of cash and avoided cost benefits by siting institutions is to be limited to improvement of ongoing maintenance, deferred maintenance, cost-effective energy improvements, and other infrastructure improvements. To the extent an institution receives annual cash revenues under this section, the institution shall retain any money it receives, but not to exceed one-half of this amount, in a special deposit fund account, which shall be continuously appropriated to the institution for the purposes of this section. The state's benefit share, and the siting institution's benefit share that exceeds its needs, shall be deposited in the Energy and Resources Fund or, if this fund is not in existence, the General Fund for the purpose of investing in renewable resources programs and energy efficiency improvements at state facilities.

(2) The use of benefits shall be in addition to, and shall not supplant or replace, funding from traditional sources for a siting institution's normal operations and maintenance or capital outlay budgets.

(c) The Legislature further finds and declares that a benefit-sharing incentive is applicable to energy projects reported to, or authorized by, the Legislature pursuant to Section 13304 or 14671.6 of the Government Code. This section shall not apply to energy projects which are constructed on or at facilities or property of the State Water Resources Development System.

(d) Commencing on January 1, 1986, the Department of General Services shall submit annual reports to the Legislature on the cost benefit aspects in carrying out this section.

(e) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

§ 25009. Modification of need determination

The Legislature finds and declares that Chapter 854 of the Statutes of 1996 restructured the California electricity industry and created a competitive electricity generation market. In a competitive generation market, the recovery by powerplant owners of their private investment and operating costs is at risk and no longer guaranteed through regulated rates. Before the California electricity industry was restructured, the regulated cost recovery framework for powerplants justified requiring the commission to determine the need for new generation, and site only powerplants for which need was established. Now that powerplant owners are at risk to recover their investments, it is no longer appropriate to make this determination. It is necessary that California both protect environmental quality and site new powerplants to ensure electricity reliability, improve the environmental performance of the current electricity industry and reduce consumer costs. The success of California's restructured electricity industry depends upon the willingness of private capital to invest in new powerplants. Therefore, it is necessary to modify the need for determination requirements of the state's powerplant siting and licensing process to reflect the economics of the restructured electricity industry and ensure the timely construction of new electricity generation capacity.

CHAPTER 2. DEFINITIONS

§ 25100. Construction of division

Unless the context otherwise requires, the definitions in this chapter govern the construction of this division.

§ 25101. Applicant

"Applicant" means any person who submits an application for certification pursuant to the provisions of this division, including, but not limited to, any person who explores for or develops geothermal resources.

§ 25102. Application; geothermal powerplant and facilities; more than one site in application

"Application" means any request for certification of any site and related facility filed in accordance with the procedures established pursuant to this division. An applicant for a geothermal powerplant and related facilities may propose more than one site and related geothermal facilities in the same application.

§ 25103. Coastal zone

"Coastal zone" means the "coastal zone" as defined in Section 30103.

§ 25103.3. Suisun Marsh

"Suisun Marsh" means the Suisun Marsh, as defined in Section 29101.

§ 25103.7. Jurisdiction of the San Francisco Bay Conservation and Development Commission

"Jurisdiction of the San Francisco Bay Conservation and Development Commission" means the area defined in Section 66610 of the Government Code.

§ 25104. Commission

"Commission" means the State Energy Resources Conservation and Development Commission.

§ 25105. Construction

"Construction" means onsite work to install permanent equipment or structure for any facility. "Construction" does not include any of the following:

(a) The installation of environmental monitoring equipment.

(b) A soil or geological investigation.

(c) A topographical survey.

(d) Any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility.

(e) Any work to provide access to a site for any of the purposes specified in subdivision (a), (b), (c), or (d).

§ 25106. Adviser

"Adviser" means the administrative adviser employed by the commission pursuant to Section 25217.

§ 25107. Electric transmission line

"Electric transmission line" means any electric powerline carrying electric power from a thermal powerplant located within the state to a point of junction with any interconnected transmission system. "Electric transmission line" does not include any replacement on the existing site of existing electric powerlines with electric powerlines equivalent to such existing electric powerlines or the placement of new or additional conductors, insulators, or accessories related to such electric powerlines on supporting structures in existence on the effective date of this division or certified pursuant to this division.

§ 25108. Electric utility

"Electric utility" means any person engaged in, or authorized to engage in, generating, transmitting, or distributing electric power by any facilities, including, but not limited to, any such person who is subject to the regulation of the Public Utilities Commission.

§ 25109. Energy

"Energy" means work or heat that is, or may be, produced from any fuel or source whatsoever.

§ 25110. Facility

"Facility" means any electric transmission line or thermal powerplant, or both electric transmission line and thermal powerplant, regulated according to the provisions of this division.

§ 25111. Account

"Account" means the Energy Resources Programs Account.

§ 25112. Member; member of the commission

"Member" or "member of the commission" means a member of the State Energy Resources Conservation and Development Commission appointed pursuant to Section 25200.

§ 25113. Notice

"Notice" means the notice of intent, as further defined in Chapter 6 (commencing with Section 25500), which shall state the intention of an applicant to file an application for certification of any site and related facility.

§ 25114. Interested party

"Interested party" means any person whom the commission finds and acknowledges as having a real and direct interest in any proceeding or action carried on, under, or as a result of the operation of, this division.

§ 25115. Equivalent certification program

"Equivalent certification program" means a program, as further defined in Section 25540.5. administered by a county and approved by the commission, which may substitute for the site and related facility certification procedures established pursuant to this division.

§ 25116. Person

"Person" means any person, firm, association, organization, partnership, business trust, corporation, limited liability company or company. "Person" also includes any city, county, public district or agency, the state or any department or agency thereof, and the United States to the extent authorized by federal law.

§ 25117. Plan

"Plan" means the Emergency Load Curtailment and Energy Distribution Plan.

§ 25118. Service area

"Service area" means any contiguous geographic area serviced by the same electric utility.

§ 25119. Site

"Site" means any location on which a facility is constructed or is proposed to be constructed.

§ 25120. Thermal powerplant

"Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

"Thermal powerplant" does not include any wind, hydroelectric, or solar photovoltaic electrical generating facility.

§ 25121. Fuel

"Fuel" means petroleum, crude oil, petroleum product, coal, natural gas, or any other substance used primarily for its energy content.

§ 25122. Gas utility

"Gas utility" means any person engaged in, or authorized to engage in, distributing or transporting natural gas, including, but not limited to, any such person who is subject to the regulation of the Public Utilities Commission.

§ 25123. Modification of an existing facility

"Modification of an existing facility" means any alteration, replacement, or improvement of equipment that results in a 50-megawatt or more increase in the electric generating capacity of an existing thermal powerplant or an increase of 25 percent in the peak operating voltage or peak kilowatt capacity of an existing electric transmission line.

§ 25124. Major oil producer

"Major oil producer" means any person who produces oil in amount determined by the commission as having a major effect on energy supplies.

§ 25125. Major natural gas producer

"Major natural gas producer" means any person who produces natural gas in amounts determined by the commission as having a major effect on energy supplies.

§ 25126. Major marketer

"Major marketer" means any person who sells natural gas or oil in amounts determined by the commission as having a major effect on energy supplies.

§ 25127. Refiner

"Refiner" means any person who owns, operates, or controls the operations of one or more refineries.

§ 25128. Refinery

"Refinery" means any industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing oil products.

§ 25129. Foreign

"Foreign" means any area exclusive of the 50 states and the District of Columbia.

§ 25130. Nonresidential building

"Nonresidential" building means any building which is heated or cooled in its interior, and is of an occupancy type other than Type H, I, or J, as defined in the Uniform Building Code, 1973 edition, as adopted by the International Conference of Building Officials.

§ 25131. Residential building

"Residential building" means any hotel, motel, apartment house, lodginghouse, single and dwelling, or other residential building which is heated or mechanically cooled.

§ 25132. Load management

"Load management" means any utility program or activity that is intended to reshape deliberately a utility's load duration curve.

§ 25133. Geothermal element

"Geothermal element" means an element of a county general plan consisting of a statement of geothermal development policies, including a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including a discussion of environmental damages and identification of sensitive environmental areas, including unique wildlife habitat, scenic, residential, and recreational areas, adopted pursuant to Section 65303 of the Government Code.

§ 25134. Cogeneration

"Cogeneration" means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:

(a) At least 5 percent of the cogeneration project's total annual energy output shall be in the form of useful thermal energy.

(b) Where useful thermal energy follows power production, the useful annual power output plus one-half the useful annual thermal energy output equals not less than 42.5 percent of any natural gas and oil energy input.

§ 25135. Conversion

"Conversion" means the processes by which residue is converted to a more usable energy form, including, but not limited to, combustion, anaerobic digestion, and pyrolysis, and is used for heating, process heat applications, and electric power generation.

§ 25136. Residue

"Residue" means any organic matter left as residue, such as agricultural and forestry residue, including, but not limited to, conifer thinnings, dead and dying trees, commercial hardwood, noncommercial hardwoods and softwoods, chaparral, burn, mill, agricultural field, and industrial residues, and manure.

§ 25137. Repealed

§ 25138. Repealed

§ 25139. Repealed

§ 25140. Solar thermal powerplant

"Solar thermal powerplant" means a thermal powerplant in which 75 percent or more of the total energy output is from solar energy and the use of backup fuels, such as oil, natural gas, and coal, does not, in the aggregate, exceed 25 percent of the total energy input of the facility during any calendar year period.

§ 25141. Unbranded

"Unbranded" means gasoline and diesel fuel sold for wholesale or retail distribution to consumers without proprietary additives or marketing under a brand name or trademark owned or controlled by an independent refiner or an integrated refining and marketing company.

CHAPTER 3. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

§ 25200. Creation; membership

There is in the Resources Agency the State Energy Resources Conservation and Development Commission, consisting of five members appointed by the Governor subject to Section 25204.

§ 25201. Qualifications of members

One member of the commission shall have a background in the field of engineering or physical science and have knowledge of energy supply or conversion systems; one member shall be an attorney and a member of the State Bar of California with administrative law experience; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be an economist with background and experience in the field of natural resource management; and one member shall be from the public at large.

§ 25202. Ex officio members

The Secretary of the Resources Agency and the President of the Public Utilities Commission shall be ex officio, nonvoting members of the commission, whose presence shall not be counted for a quorum or for vote requirements.

§ 25203. Representation of state at large; full-time service

Each member of the commission shall represent the state at large and not any particular area thereof, and shall serve on a full-time basis.

§ 25204. Appointment by governor; advice and consent of senate

The Governor shall appoint the members of the commission within 30 days after the effective date of this division. Every appointment made by the Governor to the commission shall be subject to the advice and consent of a majority of the members elected to the Senate.

§ 25205. Conflicts of interest: public office; offense

(a) No person shall be a member of the commission who, during the two years prior to appointment on the commission, received any substantial portion of his income directly or indirectly from any electric utility, or who engages in sale or manufacture of any major component of any facility. No member of the commission shall be employed by any electric utility, applicant, or within two years after he ceases to be a member of the commission, by any person who engages in the sale or manufacture of any major component of any facility.

(b) Except as provided in Section 25202, the members of the commission shall not hold any other elected or appointed public office or position.

(c) The members of the commission and all employees of the commission shall comply with all applicable provisions of Section 19251 of the Government Code.

(d) No person who is a member or employee of the commission shall participate personally and substantially as a member or employee of the commission, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his knowledge, he, his spouse, minor child, or partner, or any organization, except a governmental agency or educational or research institution qualifying as a nonprofit organization under state or federal income tax law, in which he is serving, or has served as officer, director, trustee, partner, or employee while serving as a member or employee of the commission or within two years prior to his appointment as a member of the commission, has a direct or indirect financial interest.

(e) No person who is a partner, employer, or employee of a member or employee of the commission shall act as an attorney, agent, or employee for any person other than the state in connection with any judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which the commission is a party or has a direct and substantial interest.

(f) The provisions of this section shall not apply if the Attorney General finds that the interest of the member or employee of the commission is not so substantial as to be deemed likely to affect the integrity of the services which the state may expect from such member or employee.

(g) Any person who violates any provision of this section is guilty of a felony and shall be subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison or both.

(h) The amendment of subdivision (d) of this section enacted by the 1975-76 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

§ 25206. Terms of office; vacancies

The terms of office of the members of the commission shall be for five years, except that the members first appointed to the commission shall classify themselves by lot so that the term of office of one member shall expire at the end of each one of the five years following the effective date of this division. Any vacancy shall be filled by the Governor within 30 days of the date on which a vacancy occurs for the unexpired portion of the term in which it occurs or for any new term of office.

If the Governor fails to make an appointment for any vacancy within such 30-day period, the Senate Rules Committee may make the appointment to fill the vacancy for the unexpired portion of the term in which the vacancy occurred or for any new term of office, subject to the provisions of Section 25204.

§ 25207. Compensation; expenses

The members of the commission shall receive the salary provided for by Chapter 6 (commencing with, Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Each member of the commission shall receive the necessary traveling and other expenses incurred in the performance of his official duties. When necessary, the members of the commission and its employees may travel within or without the state.

§ 25208. Repealed

§ 25209. Vote: quorum

Each member of the commission shall have one vote. Except as provided in Section 25211, the affirmative votes of at least three members shall be required for the transaction of any business of the commission.

§ 25210. Hearings and investigations; powers of department heads

The commission may hold any hearings and conduct any investigations in any part of the state necessary to carry out its powers and duties prescribed by this division and, for those purposes, has the same powers as are conferred upon heads of departments of the state by Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

§ 25211. Committees; attendance; orders

The commission may appoint a committee of not less than two members of the commission to carry on investigations, inquiries, or hearings which the commission has power to undertake or to hold. At least one member of the committee shall attend all public hearings or other proceedings held pursuant to Chapter 6 (commencing with Section 25500), and all public hearings in biennial report proceedings and rulemaking proceedings, except that, upon agreement of all parties to a proceeding who are present at the hearing or proceeding, the committee may authorize a hearing officer to continue to take evidence in the temporary absence of a commission member. Every order made by the committee pursuant to the inquiry, investigation, or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be the order of the commission.

§ 25212. Chairman; vice chairman

Every two years the Governor shall designate a chairman and vice chairman of the commission from among its members.

§ 25213. Rules and regulations

The commission shall adopt rules and regulations, as necessary, to carry out the provisions of this division in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission shall make available to any person upon request copies of proposed regulations, together with summaries of reasons supporting their adoption.

§ 25214. Headquarters; branch offices; open meetings and hearings

The commission shall maintain its headquarters in the County of Sacramento and may establish branch offices in such parts of the state as the commission deems necessary. The commission shall hold meetings at such times and at such places as shall be determined by it. All

meetings and hearings of the commission shall be open to the public, and opportunity to be heard with respect to the subject of the hearings shall be afforded to any person. Upon request, an interested party may be granted reasonable opportunity to examine any witness testifying at the hearing. The first meeting of the commission shall be held within 30 days after the confirmation of the last member of the commission pursuant to Section 25204. The Governor shall designate the time and place for the first meeting of the commission.

§ 25215. Removal of member

Any member of the commission may be removed from office by the Legislature, by concurrent resolution adopted by a majority vote of all members elected to each house, for dereliction of duty or corruption or incompetency.

§ 25216. Duties; assessment of trends; energy conservation measures; forecasts; research and development

In addition to other duties specified in this division, the commission shall do all of the following:

(a) Undertake a continuing assessment of trends in the consumption of electrical energy and other forms of energy and analyze the social, economic, and environmental consequences of these trends; carry out directly, or cause to be carried out, energy conservation measures specified in Chapter 5 (commencing with Section 25400) of this division; and recommend to the Governor and the Legislature new and expanded energy conservation measures as required to meet the objectives of this division.

(b) Collect from electric utilities, gas utilities, and fuel producers and wholesalers and other sources forecasts of future supplies and consumption of all forms of energy, including electricity, and of future energy or fuel production and transporting facilities to be constructed; independently analyze such forecasts in relation to statewide estimates of population, economic, and other growth factors and in terms of the availability of energy resources, costs to consumers, and other factors; and formally specify statewide and service area electrical energy demands to be utilized as a basis for planning the siting and design of electric power generating and related facilities.

(c) Carry out, or cause to be carried out, under contract or other arrangements, research and development into alternative sources of energy, improvements in energy generation, transmission, and siting, fuel substitution, and other topics related to energy supply, demand, public safety, ecology, and conservation which are of particular statewide importance.

§ 25216.3. Design and operational standards; compilation; adoption; compliance

(a) The commission shall compile relevant local, regional, state, and federal land use, public safety, environmental, and other standards to be met in designing, siting, and operating facilities in the state; except as provided in subdivision (d) of Section 25402, adopt standards, except for air and water quality, to be met in designing or operating facilities to safeguard public health and safety, which may be different from or more stringent than those adopted by local, regional, or other state agencies, or by any federal agency if permitted by federal law; and monitor compliance and ensure that all facilities are operated in accordance with this division.

(b) The local, regional, and other state agencies shall advise the commission as to any change in its standards, ordinances, or laws which are pertinent and relevant to the objective of carrying out the provisions of this division.

§ 25216.4. Repealed

§ 25216.5. Powers and duties; applications; plans; policies; repository of data; dissemination; fees

The commission shall do all of the following:

(a) Prescribe the form and content of applications for facilities; conduct public hearings and take other actions to secure adequate evaluation of application; and formally act to approve or disapprove applications, including specifying conditions under which approval and continuing operation of any facility shall be permitted.

(b) Prepare an integrated plan specifying actions to be taken in the event of an impending serious shortage of energy, or a clear threat to public health, safety, or welfare.

(c) Evaluate policies governing the establishment of rates for electric power and other sources of energy as related to energy conservation, environmental protection, and other goals and policies established in this division, and transmit recommendations for changes in power-pricing policies and rate schedules to the Governor, the Legislature, to the Public Utilities Commission, and to publicly owned electric utilities.

(d) Serve as a central repository within the state government for the collection, storage, retrieval, and dissemination of data and information on all forms of energy supply, demand, conservation, public safety, research, and related subjects. The data and information shall be derived from all sources, including, but not be limited to, electric and gas utilities, oil and other energy producing companies, institutions of higher education, private industry, public and private research laboratories, private individuals, and from any other source that the commission determines is necessary to carry out its objectives under this division. The commission may charge and collect a reasonable fee for retrieving and disseminating any such information to cover the cost of such a service. Any funds received by the commission pursuant to this subdivision shall be deposited in the account and are continuously appropriated for expenditure, by the commission, for purposes of retrieving and disseminating any such information pursuant to this section.

§ 25217. Powers and duties; appointment of staff and legal counsel

The commission shall do all of the following:

(a) Appoint an executive director with administration and fiscal experience, who shall serve at its pleasure and whose duties and salary shall be prescribed by the commission.

(b) Employ and prescribe the duties of other staff members as necessary to carry out the provisions of this division. Staff members of the commission may participate in all matters before the commission to the limits prescribed by the commission.

(c) Employ legal counsel who shall advise the commission and represent it in connection with legal matters and litigation before any boards and agencies of the state or federal government.

§ 25217.1. Public adviser; nomination and appointment; duties; removal

The commission shall nominate and the Governor shall appoint for a term of three years a public adviser to the commission who shall be an attorney admitted to the practice of law in this state and who shall carry out the provisions of Section 25222 as well as other duties prescribed by this division or by the commission. The adviser may be removed from office only upon the joint concurrence of four commissioners and the Governor.

§ 25217.5. Chairman; duties

The chairman of the commission shall direct the adviser, the executive director, and other staff in the performance of their duties in conformance with the policies and guidelines established by the commission.

§ 25218. Powers; finance; contracts for services; actions; use of governmental agencies; rules and regulations

In addition to other powers specified in this division, the commission may do any of the following:

(a) Apply for and accept grants, contributions, and appropriations.

(b) Contract for professional services if such work or services cannot be satisfactorily performed by its employees or by any other state agency.

(c) Be sued and sue.

(d) Request and utilize the advice and services of all federal, state, local, and regional agencies.

(e) Adopt any rule or regulation, or take any action, it deems reasonable and necessary to carry out the provisions of this division.

(f) Adopt rules and regulations, or take any action, it deems reasonable and necessary to ensure the free and open participation of any member of the staff in proceedings before the commission.

§ 25218.5. Powers and duties; liberal construction

The provisions specifying any power or duty of the commission shall be liberally construed, in order to carry out the objectives of this division.

§ 25219. Matters involving the federal government

As to any matter involving the federal government, its departments or agencies, which is within the scope of the power and duties of the commission, the commission may represent its interest or the interest of any county, city, state agency, or public district upon its

request, and to that end may correspond, confer, and cooperate with the federal government, its departments or agencies.

§ 25220. Participation in federal and state proceedings

The commission may participate as a party, to the extent that it shall determine, in any proceeding before any federal or state agency having authority whatsoever to approve or disapprove any aspect of a proposed facility, receive notice from any applicant of all applications and pleadings filed subsequently by such applicants in any of such proceedings, and, by its request, receive copies of any of such subsequently filed applications and pleadings that it shall deem necessary.

§ 25221. Attorney general; representation of commission; exception

Upon request of the commission, the Attorney General shall represent the commission and the state in litigation concerning affairs of the commission, unless the Attorney General represents another state agency, in which case the commission shall be authorized to employ other counsel.

§ 25222. Adviser; duties

The adviser shall insure that full and adequate participation by all interested groups and the public at large is secured in the planning, site and facility certification, energy conservation, and emergency allocation procedures provided in this division. The adviser shall insure that timely and complete notice of commission meetings and public hearings is disseminated to all interested groups and to the public at large. The adviser shall also advise such groups and the public as to effective ways of participating in the commission's proceedings. The adviser shall recommend to the commission additional measures to assure open consideration and public participation in energy planning, site and facility certification, energy conservation, and emergency allocation proceedings.

§ 25223. Information filed or submitted; public availability; proprietary information

The commission shall make available any information filed or submitted pursuant to this division under the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1 of the Government Code; provided, however, that the commission shall keep confidential any information submitted to the Division of Oil and Gas of the Department of Conservation that the division determines, pursuant to Section 3752, to be proprietary.

§ 25224. Exchange of information with state agencies

The commission and other state agencies shall, to the fullest extent possible, exchange records, reports, material, and other information relating to energy resources and conservation and power facilities siting, or any areas of mutual concern, to the end that unnecessary duplication of effort may be avoided.

§ 25225. Expenditure of funds by commission; prerequisite findings and adoption of plan; application of section

(a) Prior to expending any funds for any research, development, or demonstration program or project relating to vehicles or vehicle fuels, the commission shall do both of the following, using existing resources:

(1) Adopt a plan describing any proposed expenditure that sets forth the expected costs and qualitative as well as quantitative benefits of the proposed program or project.

(2) Find that the proposed program or project will not duplicate any other past or present publicly funded California program or project. This paragraph is not intended to prevent funding for programs or projects jointly funded with another public agency where there is no duplication.

(b) Within 120 days from the date of the conclusion of a program or project subject to subdivision (a) that is funded by the commission, the commission shall issue a public report that sets forth the actual costs of the program or project, the results achieved and how they compare with expected costs and benefits determined pursuant to paragraph (1) of subdivision (a), and any problems that were encountered by the program or project.

(c)(1) This section does not apply to any funds appropriated for research, development, or demonstration pursuant to a statute that expressly specifies both of the following:

(A) A vehicle technology or vehicle fuel which is the subject of the research, development, or demonstration.

(B) The purpose of, or anticipated products of, the research, development, or demonstration.

(2) This section does not apply to the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program (Part 10.7 (commencing with Section 17910) of Division 1 of Title 1 of the Education Code).

CHAPTER 4. INTEGRATED ENERGY POLICY REPORTING

§ 25300. Legislative findings and declarations

(a) The Legislature finds and declares that clean and reliable energy is essential to the health of the California economy and of vital importance to the health and welfare of the citizens of the state and to the environment.

(b) The Legislature further finds and declares that government has an essential role to ensure that a reliable supply of energy is provided consistent with protection of public health and safety, promotion of the general welfare, maintenance of a sound economy, conservation of resources, and preservation of environmental quality.

(c) The Legislature further finds and declares that the state government requires at all times a complete and thorough understanding of the operation of energy markets, including electricity, natural gas, petroleum, and alternative energy sources, to enable it to respond to possible shortages, price shocks, oversupplies, or other disruptions.

(d) The Legislature further finds and declares that timely reporting, assessment, forecasting, and data collection activities are essential to serve the information and policy development needs of the Governor, the Legislature, public agencies, market participants, and the public.

(e) The Legislature further finds and declares that one of the objectives of this act is to encourage cooperation among the various state agencies with energy responsibilities.

§ 25301. Assessments and forecasts; scope; contents

(a) At least every two years, the commission shall conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The commission shall use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. To perform these assessments and forecasts, the commission may require submission of demand forecasts, resource plans, market assessments, and related outlooks from electric and natural gas utilities, transportation fuel and technology suppliers, and other market participants. These assessments and forecasts shall be done in consultation with the appropriate state and federal agencies including, but not limited to, the Public Utilities Commission, the Office of Ratepayer Advocates, the Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, the Department of Transportation, and the Department of Motor Vehicles.

(b) In developing the assessments and forecasts prepared pursuant to subdivision (a), the commission shall do all of the following:

(1) Provide information about the performance of energy industries.

(2) Develop and maintain the analytical capability sufficient to answer inquiries about energy issues from government, market participants, and the public.

(3) Analyze and develop energy policies.

(4) Provide an analytical foundation for regulatory and policy decisionmaking.

(5) Facilitate efficient and reliable energy markets.

§ 25302. Integrated energy policy report; electricity and natural gas markets; transportation fuels, technologies and infrastructure; public interest energy strategies

(a) Beginning November 1, 2003, and every two years thereafter, the commission shall adopt an integrated energy policy report. This integrated report shall contain

an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. Energy markets and systems shall be grouped and assessed in three subsidiary volumes:

(1) Electricity and natural gas markets.

(2) Transportation fuels, technologies, and infrastructure.

(3) Public interest energy strategies.

(b) The commission shall compile the integrated energy policy report prepared pursuant to subdivision (a) by consolidating the analyses and findings of the subsidiary volumes in paragraphs (1), (2), and (3) of subdivision (a). The integrated energy policy report shall present policy recommendations based on an indepth and integrated analysis of the most current and pressing energy issues facing the state. The analyses supporting this integrated energy policy report shall explicitly address interfuel and intermarket effects to provide a more informed evaluation of potential tradeoffs when developing energy policy across different markets and systems.

(c) The integrated energy policy report shall include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers all aspects of energy industries and markets that are essential for the state economy, general welfare, public health and safety, energy diversity, and protection of the environment. This assessment shall be based on determinations made pursuant to this chapter.

(d) Beginning November 1, 2004, and every two years thereafter, the commission shall prepare an energy policy review to update analyses from the integrated energy policy report prepared pursuant to subdivisions (a), (b), and (c), or to raise energy issues that have emerged since the release of the integrated energy policy report. The commission may also periodically prepare and release technical analyses and assessments of energy issues and concerns to provide timely and relevant information for the Governor, the Legislature, market participants, and the public.

(e) In preparation of the report, the commission shall consult with the following entities: the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, the Department of Transportation, and the Department of Motor Vehicles, and any federal, state, and local agencies it deems necessary in preparation of the integrated energy policy report. To assure collaborative development of state energy policies, these agencies shall make a good faith effort to provide data, assessment, and proposed recommendations for review by the commission.

(f) The commission shall provide the report to the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall

carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.

(g) The commission shall make the report accessible to state, local, and federal entities and to the general public.

§ 25303. Electricity and natural gas forecasting and assessment activities; analytical components; evaluation

(a) The commission shall conduct electricity and natural gas forecasting and assessment activities to meet the requirements of paragraph (1) of subdivision (a) of Section 25302, including, but not limited to, all of the following:

(1) Assessment of trends in electricity and natural gas supply and demand, and the outlook for wholesale and retail prices for commodity electricity and natural gas under current market structures and expected market conditions.

(2) Forecasts of statewide and regional electricity and natural gas demand including annual, seasonal, and peak demand, and the factors leading to projected demand growth including, but not limited to, projected population growth, urban development, industrial expansion and energy intensity of industries, energy demand for different building types, energy efficiency, and other factors influencing demand for electricity. With respect to long-range forecasts of the demand for natural gas, the report shall include an evaluation of average conditions, as well as best and worst case scenarios, and an evaluation of the impact of the increasing use of renewable resources on natural gas demand.

(3) Evaluation of the adequacy of electricity and natural gas supplies to meet forecasted demand growth. Assessment of the availability, reliability, and efficiency of the electricity and natural gas infrastructure and systems including, but not limited to, natural gas production capability both in and out of state, natural gas interstate and intrastate pipeline capacity, storage and use, and western regional and California electricity and transmission system capacity and use.

(4) Evaluation of potential impacts of electricity and natural gas supply, demand, and infrastructure and resource additions on the electricity and natural gas systems, public health and safety, the economy, resources, and the environment.

(5) Evaluation of the potential impacts of electricity and natural gas load management efforts, including end user response to market price signals, as a means to ensure reliable operation of electricity and natural gas systems.

(6) Evaluation of whether electricity and natural gas markets are adequately meeting public interest objectives including the provision of all of the following: economic benefits; competitive, low-cost reliable services; customer information and protection; and environmentally sensitive electricity and natural gas supplies. This evaluation may consider the extent to which California is an element within western energy markets, the existence of appropriate incentives for market participants to provide supplies and for consumers to respond to energy prices, appropriate identification of responsibilities of various market participants, and an assessment of long-term versus short-term market performance. To the extent this

evaluation identifies market shortcomings, the commission shall propose market structure changes to improve performance.

(7) Identification of impending or potential problems or uncertainties in the electricity and natural gas markets, potential options and solutions, and recommendations.

(b) Commencing November 1, 2003, and every two years thereafter, to be included in the integrated energy policy report prepared pursuant to Section 25302, the commission shall assess the current status of the following:

(1) The environmental performance of the electric generation facilities of the state, to include all of the following:

(A) Generation facility efficiency.

(B) Air emission control technologies in use in operating plants.

(C) The extent to which recent resource additions have, and expected resource additions are likely to, displace or reduce the operation of existing facilities, including the environmental consequences of these changes.

(2) The geographic distribution of statewide environmental, efficiency, and socioeconomic benefits and drawbacks of existing generation facilities, including, but not limited to, the impacts on natural resources including wildlife habitat, air quality, and water resources, and the relationship to demographic factors. The assessment shall describe the socioeconomic and demographic factors that existed when the facilities were constructed and the current status of these factors. In addition, the report shall include how expected or recent resource additions could change the assessment through displaced or reduced operation of existing facilities.

§ 25304. Transportation forecasting and assessment; analytical components; evaluation

The commission shall conduct transportation forecasting and assessment activities to meet the requirements of paragraph (2) of subdivision (a) of Section 25302 including, but not limited to:

(a) Assessment of trends in transportation fuels, technologies, and infrastructure supply and demand and the outlook for wholesale and retail prices for petroleum, petroleum products, and alternative transportation fuels under current market structures and expected market conditions.

(b) Forecasts of statewide and regional transportation energy demand, both annual and seasonal, and the factors leading to projected demand growth including, but not limited to, projected population growth, urban development, vehicle miles traveled, the type, class, and efficiency of personal vehicles and commercial fleets, and shifts in transportation modes.

(c) Evaluation of the sufficiency of transportation fuel supplies, technologies, and infrastructure to meet projected transportation demand growth. Assessment of crude oil and other transportation fuel feedstock supplies; in-state, national, and worldwide production

and refining capacity; product output storage availability; and transportation and distribution systems capacity and use.

(d) Assessments of the risks of supply disruptions, price shocks, or other events and the consequences of these events on the availability and price of transportation fuels and effects on the state's economy.

(e) Evaluation of the potential for needed changes in the state's energy shortage contingency plans to increase production and productivity, improve efficiency of fuel use, increase conservation of resources, and other actions to maintain sufficient, secure, and affordable transportation fuel supplies for the state.

(f) Evaluation of alternative transportation energy scenarios, in the context of least environmental and economic costs, to examine potential effects of alternative fuels usage, vehicle efficiency improvements, and shifts in transportation modes on public health and safety, the economy, resources, the environment, and energy security.

(g) Examination of the success of introduction, prices, and availability of advanced transportation technologies, low- or zero-emission vehicles, and clean-burning transportation fuels, including their potential future contributions to air quality, energy security, and other public interest benefits.

(h) Recommendations to improve the efficiency of transportation energy use, reduce dependence on petroleum fuels, decrease environmental impacts from transportation energy use, and contribute to reducing congestion, promoting economic development, and enhancing energy diversity and security.

§ 25305. Public interest energy strategies; analytical components; identification of trends

The commission shall rely upon forecasting and assessments performed in accordance with Sections 25301 to 25304, inclusive, as the basis for analyzing the success of and developing policy recommendations for public interest energy strategies. Public interest energy strategies include, but are not limited to, achieving energy efficiency and energy conservation; implementing load management; pursuing research, development, demonstration, and commercialization of new technologies; promoting renewable generation technologies; reducing statewide greenhouse gas emissions and addressing the impacts of climate change on California; stimulating California's energy-related business activities to contribute to the state's economy; and protecting and enhancing the environment. Additional assessments to address public interest energy strategies shall include, but are not limited to, all of the following:

(a) Identification of emerging trends in energy efficiency in the residential, commercial, industrial, agricultural, and transportation sectors of the state's economy, including, but not limited to, evaluation of additional achievable energy efficiency measures and technologies. Identification of policies that would permit fuller realization of the potential for energy efficiency, either through direct programmatic actions or facilitation of the market.

(b) Identification of emerging trends in the renewable energy industry. In addition, the commission shall evaluate progress in ensuring the operation of existing facilities, and the development of new and emerging, in-state renewable resources.

(c) Identification of emerging trends in energy research, development, and demonstration activities that advance science or technology to produce public benefits.

(d) Identification of progress in reducing statewide greenhouse gas emissions and addressing the effects of climate change on California.

§ 25305.5. International energy markets; report on competitiveness and export promotion

The commission shall include in its report prepared pursuant to Sections 25301 to 25304, inclusive, a description of international energy market prospects and an evaluation of its export promotion activities, as well as an assessment of the state of the California energy technology and energy conservation industry's efforts to enter foreign markets. The report shall also include recommendations for state government initiatives to foster the California energy technology and energy conservation industry's competition in world markets.

§ 25306. Workshops, hearings and other forums; public and industry perspectives

The commission shall conduct workshops, hearings, and other forums to gain the perspectives of the public and market participants for purposes of the integrated energy policy report prepared pursuant to Section 25302 and the forecasting and assessments prepared pursuant to Sections 25301, 25303, 25304, and 25305. The commission shall include the comments, as well as responses to those comments, of governmental agencies, industry representatives, market participants, private groups, and any other person concerning the commission's proposals and recommendations in the docket for the integrated energy policy report.

§ 25307. Governor’s review of integrated energy policy report; official statement of energy policy

(a) The Governor shall review the integrated energy policy report prepared pursuant to Section 25302 and shall, on or before 90 days after receipt of the report, report further to the Legislature the Governor's agreement or disagreement with the policy recommendations contained in that report. The Governor's report to the Legislature shall cover the information required to be included in the integrated energy policy report and may cover any additional item that is necessary or appropriate. If the Governor disagrees with one or more recommendations in the integrated energy policy report, the Governor shall, in each instance, indicate the reason for disagreement and shall specify the alternate policy the Governor finds appropriate.

(b) The Governor's report to the Legislature pursuant to this section is the Governor's official statement of energy policy.

§ 25320. Data collection system; required information

(a) The commission shall manage a data collection system for obtaining information necessary to develop the policy reports and analyses required by Sections 25301 to 25307, inclusive, the energy shortage contingency planning efforts in Chapter 8 (commencing with Section 25700), and to support other duties of the commission.

(b) The data collection system, adopted by regulation under Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and managed by the commission shall:

(1) Include a timetable for the submission of this information, so that the integrated energy policy report required by Section 25302 can be completed in an accurate and timely manner.

(2) Require a person to submit only information that is reasonably relevant, and that the person can either be expected to acquire through his or her market activities, or possesses or controls. Information collected pursuant to this section shall relate to the functional role of each category of market participant in that industry and the consumers within that industry.

(3) To the extent it satisfies the information needs of the commission, rely on the use of estimates and proxies, to the maximum extent practicable, for some data elements using survey and research techniques, while for other information it shall obtain data from market participants using submissions consistent with their accounting records. In determining whether to rely upon estimates or participant provided data, the commission shall weigh the burden of compliance upon industry participants and energy consumers against the benefit of participant provided data for the public interest.

(4) To the extent it satisfies the information needs of the commission, rely on data, to the maximum extent practicable, that is reported to other government agencies or is otherwise available to the commission.

(c) Pursuant to the requirements of subdivision (b), the data collection system for electricity and natural gas shall enumerate specific requirements for each category of market participants, including, but not limited to, private market participants, energy service providers, energy service companies, natural gas marketers, electric utility and natural gas utility companies, independent generators, electric transmission entities, natural gas producers, natural gas pipeline operators, importers and exporters of electricity and natural gas, and specialized electric or natural gas system operators. The commission may also collect information about consumers' natural gas and electricity use from their voluntary participation in surveys and other research techniques.

(d) Pursuant to the requirements of subdivision (b), the data collection system for nonpetroleum fuels and transportation technologies shall enumerate specific requirements for each category of market participant, including, but not limited to, fuel importers and exporters, fuel distributors and retailers, fuel pipeline operators, natural gas liquid producers, and transportation technology providers. The commission may also collect information about consumers' nonpetroleum fuel and transportation technology use from their voluntary participation in surveys and other research techniques.

(e) The commission shall collect data for petroleum fuel pursuant to Chapter 4.5 (commencing with Section 25350). The commission may also collect information about consumers' petroleum fuel use from consumers' participation in surveys and other research techniques.

§ 25321. Compliance with data collection; enforcement measures

In order to ensure timely and accurate compliance with the data collection system adopted under Section 25320, the commission may use any of the following enforcement measures:

(a) If any person fails to comply with an applicable provision of the data collection system, the commission shall notify the person. If, after five working days from being notified of the violation, the person continues to fail to comply, the person shall be subject to a civil penalty, to be imposed by the commission after a hearing that complies with constitutional requirements.

(1) The civil penalty shall not be less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each category of data the person did not provide and for each day the violation has existed and continues to exist.

(2) In the case of a person who willfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the commission, the civil penalty shall not be less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) per day applied to each day in the interval between the original due date and the date when corrected information is submitted.

(b) For the purposes of this section, "person" means, in addition to the definition contained in Section 25116, any responsible corporate officer.

(c) Enforcement measures for petroleum and other fuels shall be those contained in Section 25362.

§ 25322. Confidentiality of data collection system information

(a) The data collection system managed pursuant to Section 25320 shall include the following requirements regarding the confidentiality of the information collected by the commission:

(1) Any person required to present information to the commission pursuant to this section may request that specific information be held in confidence. The commission shall grant the request in any of the following circumstances:

(A) The information is exempt from disclosure under the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(B) The information satisfies the confidentiality requirements of Article 2 (commencing with Section 2501) of Chapter 7 of Division 2 of Title 20 of the California Code of Regulations, as those regulations existed on January 1, 2002.

(C) On the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(2) The commission may, by regulation, designate certain categories of information as confidential, which removes the obligation to request confidentiality for that information.

(3) Any confidential information pertinent to the responsibilities of the commission specified in this chapter that is obtained by another state agency, or the California Independent System Operator or its successor, shall be available to the commission and shall be treated in a confidential manner.

(4) Information presented to or developed by the commission and deemed confidential pursuant to this section shall be held in confidence by the commission. Confidential information shall be aggregated or masked to the extent necessary to assure confidentiality if public disclosure of the specific information would result in an unfair competitive disadvantage to the person supplying the information.

(b) Requests for records of information shall be handled as follows:

(1) If the commission receives a written request to publicly disclose information that is being held in confidence pursuant to paragraph (1) or (2) of subdivision (a), the commission shall provide the person making the request with written justification for the confidential designation and a description of the process to seek disclosure.

(2) If the commission receives a written request to publicly disclose a disaggregated or unmasked record of information designated as confidential under paragraph (1) or (2) of subdivision (a), notice of the request shall be provided to the person that submitted the record. Upon receipt of the notice, the person that submitted the record may, within five working days of receipt of the notice, provide a written justification of the claim of confidentiality.

(3) The commission or its designee shall rule on a request made pursuant to paragraph (2) on or before 20 working days after its receipt. The commission shall deny the request if the disclosure will result in an unfair competitive disadvantage to the person that submitted the information.

(4) If the commission grants the request pursuant to paragraph (3), it shall withhold disclosure for a reasonable amount of time, not to exceed 14 working days, to allow the submitter of the information to seek judicial review.

(c) No information submitted to the commission pursuant to this section is confidential if the person submitting the information has made it public.

(d) The commission shall establish, maintain, and use appropriate security practices and procedures to ensure that the information it has designated as confidential, or received with a confidential designation from another government agency, is protected against disclosure other than that authorized using the procedures in subdivision (b). The commission shall incorporate the following elements into its security practices and procedures:

(1) Commission employees shall sign a confidential data disclosure agreement providing for various remedies, including, but not limited to, fines and termination for wrongful disclosure of confidential information.

(2) Commission employees, or contract employees of the commission, shall only have access to confidential information when it is appropriate to their job assignments and if they have signed a nondisclosure agreement.

(3) Computer data systems that hold confidential information shall include sufficient security measures to protect the data from inadvertent or wrongful access by unauthorized commission employees and the public.

(e) Data collected by the commission on petroleum fuels in Section 25320 shall be subject to the confidentiality provisions of Sections 25364 to 25366, inclusive.

§ 25323. Supply plans for individual utilities; scope of commission authority

Nothing in this division shall authorize the commission in the performance of its analytical, planning, siting, or certification responsibilities to mandate a specified supply plan for any utility.

§ 25324. Adoption of strategic plan for state's electric transmission grid using existing resources

The commission, in consultation with the Public Utilities Commission, the California Independent System Operator, transmission owners, users, and consumers, shall adopt a strategic plan for the state's electric transmission grid using existing resources. The strategic plan shall identify and recommend actions required to implement investments needed to ensure reliability, relieve congestion, and meet future growth in load and generation, including, but not limited to, renewable resources, energy efficiency, and other demand reduction measures. The plan shall be included in the integrated energy policy report adopted on November 1, 2005, pursuant to subdivision (a) of Section 25302.

CHAPTER 4.5. PETROLEUM SUPPLY AND PRICING

§ 25350. Legislative finding and declaration

(a) The Legislature finds and declares that the petroleum industry is an essential element of the California economy and is therefore of vital importance to the health and welfare of all Californians.

(b) The Legislature further finds and declares that a complete and thorough understanding of the operations of the petroleum industry is required by state government at all times to enable it to respond to possible shortages, oversupplies, or other disruptions and to assess whether all consumers, including emergency service agencies, state and local government agencies, and agricultural and business consumers of petroleum products have adequate and economic supplies of fuel.

(c) The Legislature further finds and declares that information and data concerning all aspects of the petroleum industry, including, but not limited to, crude oil production, production and supplies of finished branded and unbranded gasoline, supplies of diesel fuel and other distillates, supplies of blendstocks used to make gasoline and other refined

products, refining, product output, exports of finished gasoline, diesel fuel, and blendstocks, prices, distribution, demand, and investment choices and decisions are essential for the state to develop and administer energy policies that are in the interest of the state's economy and the public's well-being.

§ 25352. Short title

This chapter shall be known and may be cited as the Petroleum Industry Information Reporting Act of 1980.

§ 25354. Informational reports; duty; time; scope; powers of commission; alternate reports

(a) Each refiner and major marketer shall submit information each month to the commission in such form and extent as the commission prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each monthly reporting period and shall include the following:

(1) Refiners shall report, for each of their refineries, feedstock inputs, origin of petroleum receipts, imports of finished petroleum products and blendstocks, by type, including the source of those imports, exports of finished petroleum products and blendstocks, by type, including the destination of those exports, refinery outputs, refinery stocks, and finished product supply and distribution, including all gasoline sold unbranded by the refiner, blender, or importer.

(2) Major marketers shall report on petroleum product receipts and the sources of these receipts, inventories of finished petroleum products and blendstocks, by type, distributions through branded and unbranded distribution networks, and exports of finished petroleum products and blendstocks, by type, from the state.

(b) Each major oil producer, refiner, marketer, oil transporter, and oil storer shall annually submit information to the commission in such form and extent as the commission prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each reporting period, and shall include the following:

(1) Major oil transporters shall report on petroleum by reporting the capacities of each major transportation system, the amount transported by each system, and inventories thereof. The commission may prescribe rules and regulations that exclude pipeline and transportation modes operated entirely on property owned by major oil transporters from the reporting requirements of this section if the data or information is not needed to fulfill the purposes of this chapter. The provision of the information shall not be construed to increase or decrease any authority the Public Utilities Commission may otherwise have.

(2) Major oil storers shall report on storage capacity, inventories, receipts and distributions, and methods of transportation of receipts and distributions.

(3) Major oil producers shall, with respect to thermally enhanced oil recovery operations, report annually by designated oil field, the monthly use, as fuel, of crude oil and natural gas.

(4) Refiners shall report on facility capacity, and utilization and method of transportation of refinery receipts and distributions.

(5) Major oil marketers shall report on facility capacity and methods of transportation of receipts and distributions.

(c) Each person required to report pursuant to subdivision (a) shall submit a projection each month of the information to be submitted pursuant to subdivision (a) for the quarter following the month in which the information is submitted to the commission.

(d) In addition to the data required under subdivision (a), each integrated oil refiner (produces, refines, transports, and markets in interstate commerce) who supplies more than 500 branded retail outlets in California shall submit to the commission an annual industry forecast for Petroleum Administration for Defense, District V (covering Arizona, Nevada, Washington, Oregon, California, Alaska, and Hawaii). The forecast shall include the information to be submitted under subdivision (a), and shall be submitted by March 15 of each year. The commission may require California-specific forecasts. However, those forecasts shall be required only if the commission finds them necessary to carry out its responsibilities.

(e) The commission may by order or regulation modify the reporting period as to any individual item of information setting forth in the order or regulation its reason for so doing.

(f) The commission may request additional information as necessary to perform its responsibilities under this chapter.

(g) Any person required to submit information or data under this chapter, in lieu thereof, may submit a report made to any other governmental agency, if:

(1) The alternate report or reports contain all of the information or data required by specific request under this chapter.

(2) The person clearly identifies the specific request to which the alternate report is responsive.

(h) Each refiner shall submit to the commission, within 30 days after the end of each monthly reporting period, all of the following information in such form and extent as the commission prescribes:

(1) Monthly California weighted average prices and sales volumes of finished leaded regular, unleaded regular, and premium motor gasoline sold through company-operated retail outlets, to other end-users, and to wholesale customers.

(2) Monthly California weighted average prices and sales volumes for residential sales, commercial and institutional sales, industrial sales, sales through company-operated retail outlets, sales to other end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil.

(3) Monthly California weighted average prices and sales volumes for retail sales and wholesale sales of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-

type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel oil with greater than 1 percent sulfur and consumer grade propane.

(i)(1) Beginning the first week after the effective date of the act that added this subdivision, and each week thereafter, an oil refiner, oil producer, petroleum product transporter, petroleum product marketer, petroleum product pipeline operator, and terminal operator, as designated by the commission, shall submit a report in the form and extent as the commission prescribes pursuant to this section. The commission may determine the form and extent necessary by order or by regulation.

(2) A report may include any of the following information:

(A) Receipts and inventory levels of crude oil and petroleum products at each refinery and terminal location.

(B) Amount of gasoline, diesel, jet fuel, blending components, and other petroleum products imported and exported.

(C) Amount of gasoline, diesel, jet fuel, blending components, and other petroleum products transported intrastate by marine vessel.

(D) Amount of crude oil imported, including information identifying the source of the crude oil.

(E) The regional average of invoiced retailer buying price. This subparagraph does not either preclude or augment the current authority of the commission to collect additional data under subdivision (f).

(3) This subdivision is intended to clarify the commission's existing authority under subdivision (f) to collect specific information. This subdivision does not either preclude or augment the existing authority of the commission to collect information.

§ 25356. Analysis of information

(a) The commission, utilizing its own staff and other support staff having expertise and experience in, or with, the petroleum industry, shall gather, analyze, and interpret the information submitted to it pursuant to Section 25354 and other information relating to the supply and price of petroleum products, with particular emphasis on motor vehicle fuels, including, but not limited to, all of the following:

(1) The nature, cause, and extent of any petroleum or petroleum products shortage or condition affecting supply.

(2) The economic and environmental impacts of any petroleum and petroleum product shortage or condition affecting supply.

(3) Petroleum or petroleum product demand and supply forecasting methodologies utilized by the petroleum industry in California.

(4) The prices, with particular emphasis on retail motor fuel prices, including sales to unbranded retail markets, and any significant changes in prices charged by the

petroleum industry for petroleum or petroleum products sold in California and the reasons for those changes.

(5) The profits, both before and after taxes, of the industry as a whole and of major firms within it, including a comparison with other major industry groups and major firms within them as to profits, return on equity and capital, and price-earnings ratio.

(6) The emerging trends relating to supply, demand, and conservation of petroleum and petroleum products.

(7) The nature and extent of efforts of the petroleum industry to expand refinery capacity and to make acquisitions of additional supplies of petroleum and petroleum products, including activities relative to the exploration, development, and extraction of resources within the state.

(8) The development of a petroleum and petroleum products information system in a manner that will enable the state to take action to meet and mitigate any petroleum or petroleum products shortage or condition affecting supply.

(b) The commission shall analyze the impacts of state and federal policies and regulations upon the supply and pricing of petroleum products.

§ 25357. Analysis of production reports

The commission shall obtain and analyze monthly production reports prepared by the State Oil and Gas Supervisor pursuant to Section 3227.

§ 25358. Summary, analysis and interpretation of information; reports

(a) Within 70 days after the end of each preceding quarter of each calendar year, the commission shall publish and submit to the Governor and the Legislature a summary, an analysis, and an interpretation of the information submitted to it pursuant to Section 25354 and information reviewed pursuant to Section 25357. This report shall be separate from the report submitted pursuant to Section 25322. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted.

(b) The commission shall prepare a biennial assessment of the information provided pursuant to this chapter and shall include its assessment in the biennial fuels report prepared pursuant to Section 25310.

(c) The commission may use reasonable means necessary and available to it to seek and obtain any facts, figures, and other information from any source for the purpose of preparing and providing reports to the Governor and the Legislature. The commission shall specifically include in such reports its analysis of any unsuccessful attempts in obtaining information from potential sources, including the lack of cooperation or refusal to provide information.

(d) Whenever the commission fails to provide any report required pursuant to this section within the specified time, it shall provide to all members of the Legislature, within five days of such specified time, a detailed written explanation of the cause of any such delay.

§ 25362. Failure to timely provide information; notice; false statements; civil penalties; person

(a) The commission shall notify those persons who have failed to timely provide the information specified in Section 25354. If, within five days after being notified of the failure to provide the specified information, the person fails to supply the specified information, the person shall be subject to a civil penalty of not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) per day for each day the submission of information is refused or delayed, unless the person has timely filed objections with the commission regarding the information and the commission has not yet held a hearing on the matter, or the commission has held a hearing and the person has properly submitted the issue to a court of competent jurisdiction for review.

(b) Any person who willfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the commission shall be subject to a civil penalty not to exceed two thousand dollars ($2,000).

(c) For the purpose of this section, the term "person" shall mean, in addition to the definition contained in Section 25116, any responsible corporate officer.

§ 25364. Confidential information; disclosure to State Air Resources Board

(a) Any person required to present information to the commission pursuant to Section 25354 may request that specific information be held in confidence. Information requested to be held in confidence shall be presumed to be confidential.

(b) Information presented to the commission pursuant to Section 25354 shall be held in confidence by the commission or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(c) (1) Whenever the commission receives a request to publicly disclose unaggregated information, or otherwise proposes to publicly disclose information submitted pursuant to Section 25354, notice of the request or proposal shall be provided to the person submitting the information. The notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 working days in which to respond to the notice to justify the claim of confidentiality on each specific item of information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

(2) The commission shall consider the respondent's submittal in determining whether to publicly disclose the information submitted to it to which a claim of confidentiality is made. The commission shall issue a written decision which sets forth its reasons for making the determination whether each item of information for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) The commission shall not make public disclosure of information submitted to it pursuant to Section 25354 within 10 working days after the commission has issued its written decision required in this section.

(e) No information submitted to the commission pursuant to Section 25354 shall be deemed confidential if the person submitting the information or data has made it public.

(f) With respect to petroleum products and blendstocks reported by type pursuant to paragraph (1) or (2) of subdivision (a) of Section 25354 and information provided pursuant to subdivision (h) of Section 25354, neither the commission nor any employee of the commission may do any of the following:

(1) Use the information furnished under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) of Section 25354 for any purpose other than the statistical purposes for which it is supplied.

(2) Make any publication whereby the information furnished by any particular establishment or individual under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) of Section 25354 can be identified.

(3) Permit anyone other than commission members and employees of the commission to examine the individual reports provided under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) of Section 25354.

(g) Notwithstanding any other provision of law, the commission may disclose confidential information received pursuant to subdivision (a) of Section 25310.4 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section.

§ 25366. Confidential information obtained by another state agency

Any confidential information pertinent to the responsibilities of the commission specified in this division which is obtained by another state agency shall be available to the commission and shall be treated in a confidential manner.

§ 25368. Repealed

CHAPTER 4.7. MOTOR VEHICLE FUEL CONSERVATION [Repealed]

§§ 25370 to 25381. Repealed

CHAPTER 4.9. LOCAL ENERGY CONSERVATION PROGRAMS SECTION [Repealed]

§§ 25390 to 25395. Repealed

CHAPTER 5. ENERGY RESOURCES CONSERVATION

§ 25400. Assessment of forms of energy; encouragement of balanced use of resources

The commission shall conduct an ongoing assessment of the opportunities and constraints presented by all forms of energy. The commission shall encourage the balanced use of all sources of energy to meet the state's needs and shall seek to avoid possible undesirable consequences of reliance on a single source of energy.

§ 25401. Continuous studies, projects; reduction in wasteful and inefficient uses; potential sources

The commission shall continuously carry out studies, research projects, data collection, and other activities required to assess the nature, extent, and distribution of energy resources to meet the needs of the state, including but not limited to fossil fuels and solar, nuclear, and geothermal energy resources. It shall also carry out studies, technical assessments, research projects, and data collection directed to reducing wasteful, inefficient, unnecessary, or uneconomic uses of energy, including, but not limited to, all of the following:

(a) Pricing of electricity and other forms of energy.

(b) Improved building design and insulation.

(c) Restriction of promotional activities designed to increase the use of electrical energy by consumers.

(d) Improved appliance efficiency.

(e) Advances in power generation and transmission technology.

(f) Comparisons in the efficiencies of alternative methods of energy utilization.

The commission shall survey pursuant to this section all forms of energy on which to base its recommendations to the Governor and Legislature for elimination of waste or increases in efficiency for sources or uses of energy. The commission shall transmit to the Governor and the Legislature, as part of the biennial report specified in Section 25309, recommendations for state policy and actions for the orderly development of all potential sources of energy to meet the state's needs, including, but not limited to, fossil fuels and solar, nuclear, and geothermal energy resources, and to reduce wasteful and inefficient uses of energy.

§ 25401.1. Repealed.

§ 25401.2. Biennial report of emerging energy conservation trends; inventory of cost-effective opportunities; advisory group

(a) As part of the report required by Section 25302, the commission shall develop and update an inventory of current and potential cost-effective opportunities in each utility's service territory, to improve efficiencies and to help utilities manage loads in all sectors of natural gas and electricity use. The report shall include estimates of the overall magnitude of

these resources, load shapes, and the projected costs associated with delivering the various types of energy savings that are identified in the inventory. The report shall also estimate the amount and incremental cost per unit of potential energy efficiency and load management activities. Where applicable, the inventory shall include data on variations in savings and costs associated with particular measures. The report shall take into consideration environmental benefits as developed in related commission and public utilities commission proceedings.

(b) The commission shall develop and maintain the inventory in consultation with electric and gas utilities, the Public Utilities Commission, academic institutions, and other interested parties.

(c) The commission shall convene a technical advisory group to develop an analytic framework for the inventory, to discuss the level of detail at which the inventory would operate, and to ensure that the inventory is consistent with other demand-side data bases. Privately owned electric and gas utilities shall provide financial support, gather data, and provide analysis for activities that the technical advisory group recommends. The technical advisory group shall terminate on January 1, 1993.

§ 25401.5. Energy standards for older residences

For the purpose of reducing electrical and natural gas energy consumption, the commission may develop and disseminate measures that would enhance energy efficiency for single-family residential dwellings that were built prior to the development of the current energy efficiency standards. The measures, if developed and disseminated, shall provide a homeowner with information to improve the energy efficiency of a single-family residential welling. The commission may comply with this section by posting the measures on the commission's Internet Web site or by making the measures available to the public, upon request.

§ 25401.6. Separate rebate for eligible distributed emerging technologies for affordable housing projects

(a) In its administration of Section 25744, the commission shall establish a separate rebate for eligible distributed emerging technologies for affordable housing projects including, but not limited to, projects undertaken pursuant to Section 50052.5, 50053, or 50199.4 of the Health and Safety Code. In establishing the rebate, where the commission determines that the occupants of the housing shall have individual meters, the commission may adjust the amount of the rebate based on the capacity of the system, provided that a system may receive a rebate only up to 75 percent of the total installed costs. The commission may establish a reasonable limit on the total amount of funds dedicated for purposes of this section.

(b) It is the intent of the Legislature that this section fulfills the purpose of paragraph (5) of subdivision (b) of Section 25744.

§ 25401.7. Home inspections

At the time a single-family residential dwelling is sold, a buyer or seller may request a home inspection, as defined in subdivision (a) of Section 7195 of the Business and Professions Code, and a home inspector, as defined in subdivision (d) of Section 7195 of the Business and Professions Code, shall provide, contact information for one or more of the following entities that provide home energy information:

(a) A nonprofit organization.

(b) A provider to the residential dwelling of electrical service, or gas service, or both.

(c) A government agency, including, but not limited to, the commission.

§ 25402. Duties of commission; hearings; standards; appliances to display date of manufacture

The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost-effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt any revision which, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost-effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt any revision which, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(c)(1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy consumption labeling not preempted by federal labeling, and consumer education programs, to promote the use of energy efficient appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(2) No new appliance, except for any plumbing fitting, regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance, under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that such a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Prior to January 1, 1986, the commission shall not take any action to increase any standard prescribing minimum levels of operating efficiency for any appliance or adopt any new standard under paragraph (1). Prior to January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification therefor, to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard which is readopted is not more stringent than the standard that was found to be defective or preempted.

(E) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency pursuant to Section 8558 of the Government Code.

(5) Notwithstanding paragraph (4), the commission may adopt standards pursuant to commission order No. 84-0111-1, on or before June 30, 1985.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of conflict.

(e) The commission shall do all of the following:

(1) Not later than January 1, 2004, amend any regulations in effect on January 1, 2003, pertaining to the energy efficiency standards for residential clothes washers to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers.

(2) Not later than April 1, 2004, petition the federal Department of Energy for an exemption from any relevant federal regulations governing energy efficiency standards that are applicable to residential clothes washers.

(3) Not later than January 1, 2005, report to the Legislature on its progress with respect to the requirements of paragraphs (1) and (2).

§ 25402.1. Duties of commission; public domain computer program; certification process; manual, sample calculations and model designs; pilot project of field testing; technical assistance program; enforcement and resolutions

In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods which provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The

commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of this Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs Account after completion of the certification process for that application shall be returned to the applicant within a reasonable period of time.

(c) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(d) Conduct a pilot project of field testing of actual residential buildings to calibrate and identify potential needed changes in the modeling assumptions to increase the accuracy of the public domain computer program specified in subdivision (a) and to evaluate the impacts of the standards, including, but not limited to, the energy savings, cost-effectiveness, and the effects on indoor air quality. The pilot project shall be conducted pursuant to a contract entered into by the commission. The commission shall consult with the participants designated pursuant to Section 9202 of the Public Utilities Code to seek funding and support for field monitoring in each public utility service territory, with the University of California to take advantage of its extensive building monitoring expertise, and with the California Building Industry Association to coordinate the involvement of builders and developers throughout the state. The pilot project shall include periodic public workshops to develop plans and review progress. The commission shall prepare and submit a report to the Legislature on progress and initial findings not later than December 31, 1988, and a final report on the results of the pilot project on residential buildings not later than June 30, 1990. The report shall include recommendations regarding the need and feasibility of conducting further monitoring of actual residential and nonresidential buildings. The report shall also identify any revisions to the public domain computer program and energy conservation standards if the pilot project determines that revisions are appropriate.

(e) Certify, not later than 180 days after approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(f) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(g) Subdivision (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(5) No construction of any state building shall commence until the Department of General Services or the state agency that otherwise has jurisdiction over the property reviews the plans for the proposed building and certifies that the plans satisfy the minimum standards established pursuant to subdivision (a) or (b) of Chapter 2.8 (commencing with Section 15814.30) of Part 10b of Division 3 of Title 2 of the Government Code, Section 25402, and this section which are applicable to the building.

(h) Subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivision (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of the rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those section. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(i) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(j) If a dispute arise between an applicant for a building permit, or the state pursuant to paragraph (5) of subdivision (g), and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(k) Nothing in Section 25130, 25131, or 25402, or in this section prevents enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to September 16, 1977.

§ 25402.2. Building standards

Any standard adopted by the commission pursuant to Sections 25402 and 25402.1, which is a building standard as defined in Section 25488.5, shall be submitted to the State Building Standards Commission for approval pursuant to, and is governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the commission and published in the State Building Standards Code shall be enforced as provided in Section 25402 and 25402.1.

§ 25402.3. Regional training centers for local building officials and enforcement personnel; locations; sessions; workshops for rural areas

For purposes of subdivision (e) of Section 25402.1, the commission shall contract with California building officials to establish two regional training centers to provide continuing education for local building officials and enforcement personnel as follows:

(a) One site shall be located in northern California and one site shall be located in southern California to serve the needs of the respective regions.

(b) The centers shall provide training on a monthly basis to ensure a uniform understanding and implementation of the energy efficient building standards. Existing resources shall be used as much as possible by utilizing members of the building official community in training activities.

(c) The centers shall provide similar training sessions, in the form of workshops given in designated rural areas, to ensure that adequate training is available throughout the state.

(1) A minimum of two workshops in northern California and two workshop in southern California shall be offered each year.

(2) The sites shall be selected to ensure the greatest number of participants will be served in areas of greatest need to decrease the financial burden on small rural or isolated local government agencies that would not be able to travel to the regional training centers for instruction.

§ 25402.4. Nonresidential building standards; option using passive or semipassive thermal systems; construction techniques

The standards for nonresidential buildings prescribed by the commission pursuant to subdivisions (a) and (b) of Section 25402 shall provide at least one option which uses passive or semipassive thermal systems, as defined in Section 25600, for meeting the prescribed energy use requirements. These systems may include but are not limited to, the following construction techniques:

(a) Use of skylights or other daylighting techniques.

(b) Use of openable windows or other means of using outside air for space conditioning.

(c) Use of building orientation, to complement other passive or semipassive thermal systems.

(d) Use of thermal mass, of structural or nonstructural type, for storage of heat or cold; including, but not limited to, roof ponds and water walls.

§ 25402.5. Lighting devices; standards; advisory group; report and recommendations

(a) As used in this section, "lighting device" includes, but is not limited to, a lamp, luminaire, light fixture, lighting control, ballast, or any component of those devices.

(b)(1) The commission shall consider both new and replacement, and both interior and exterior, lighting devices as lighting which is subject to subdivision (a) of Section 25402.

(2) The commission shall include both indoor and outdoor lighting devices as appliances to be considered in prescribing standards pursuant to paragraph (1) of subdivision (c) of Section 25402.

(3) The Legislature hereby finds and declares that paragraphs (1) and (2) are declarative of existing law.

(c) The commission shall adopt efficiency standards for outdoor lighting. The standards shall be technologically feasible and cost-effective. As used in this subdivision, “outdoor lighting" refers to all electrical lighting that is not subject to standards adopted pursuant to Section 25402, and includes, but is not limited to, street lights, traffic lights, parking lot lighting, and billboard lighting. The commission shall consult with the Department of Transportation (CALTRANS) to ensure that outdoor lighting standards that affect CALTRANS are compatible with that department's policies and standards for safety and illumination levels on state highways.

§ 25402.6. Report on peakload energy consumption in buildings

The commission shall investigate options and develop a plan to decrease wasteful peakload energy consumption in existing residential and nonresidential buildings. On or before January 1, 2004, the commission shall report its findings to the Legislature, including, but not limited to, any changes in law necessary to implement the plan to decrease wasteful peakload energy consumption in existing residential and nonresidential buildings.

§ 25402.7. Utility support for building standards

(a) In consultation with the commission, electric and gas utilities shall provide support for building standards and other regulations pursuant to Section 25402 and subdivision (b) of Section 25553 including appropriate research, development, and training to implement those standards and other regulations.

(b) The electric and gas utilities shall provide support pursuant to subdivision (a) only to the extent that funds are made available to the utilities for that purpose.

§ 25402.8. Indoor air pollution; assessment of new building standards

When assessing new building standards for residential and nonresidential buildings relating to the conservation of energy, the commission shall include in its deliberations the impact that those standards would have on indoor air pollution problems.

§ 25402.9. Home energy rating program, information booklet; fee

(a) On or before July 1, 1996, the commission shall develop, adopt, and publish an informational booklet to educate and inform homeowners, rental property owners, renters, sellers, brokers, and the general public about the statewide home energy rating program adopted pursuant to Section 25942.

(b) In the development of the booklet, the commission shall consult with representatives of the Department of Real Estate, the Department of Housing and Community Development, the Public Utilities Commission, investor-owned and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups.

(c) The commission shall charge a fee for the informational booklet to recover its costs under subdivision (a).

§ 25403. Recommendations on energy consumption; submission to public agencies; reports

The commission shall submit to the Public Utilities Commission and to any publicly owned electric utility, recommendations designed to reduce wasteful, unnecessary, or uneconomic energy consumption resulting from practices including, but not limited to, differential rate structures, cost-of-service allocations, the disallowance of a business expense of advertising or promotional activities which encourage the use of electrical power, peakload pricing, and other pricing measures. The Public Utilities Commission or publicly owned electric utility shall review and consider such recommendations and shall, within six months after the date it receives them, as prescribed by this section, report to the Governor and the Legislature its actions and reasons therefor with respect to such recommendations.

§ 25403.5. Electrical load management; adoption of standards; costs of compliance as rate base factor; exemptions or delays; findings

The commission shall, by July 1, 1978, adopt standards by regulation for a program of electrical load management for each utility service area. In adopting the standards, the commission shall consider, but need not be limited to, the following load management techniques:

(1) Adjustments in rate structure to encourage use of electrical energy at off-peak hours or to encourage control of daily electrical load. Compliance with such changes in rate structure shall be subject to the approval of the Public Utilities Commission in a proceeding to change rates or service.

(2) End use storage systems which store energy during off-peak periods for use during peak periods.

(3) Mechanical and automatic devices and systems for the control of daily and seasonal peakloads.

The standards shall be cost effective when compared with the costs for new electrical capacity, and the commission shall find them to be technologically feasible. Any expense or any capital investment required of a utility by the standards shall be an allowable expense or an allowable item in the utility rate base and shall be treated by the Public Utilities Commission as such in a rate proceeding.

The commission may determine that one or more of such techniques are infeasible and may delay their adoption. If the commission determines that any techniques are infeasible to implement, it shall make a finding in each instance stating the grounds upon which the determination was made and the actions it intends to take to remove the impediments to implementation. The commission's findings shall be published and forwarded to the Governor and the Legislature.

The commission may also grant, upon application by a utility, an exemption from the standards or a delay in implementation. The grant of an exemption or delay shall be accompanied by a statement of findings by the commission indicating the grounds for the exemption or delay. Exemption or delay shall be granted only upon a showing of extreme hardship, technological infeasibility, lack of cost effectiveness, or reduced system reliability and efficiency.

This section does not apply to proposed sites and related facilities for which a notice of intent or an application requesting certification has been filed with the commission prior to the effective date of the standards.

§ 25403.8. Battery backup power for traffic signals

(a) The commission shall develop and implement a program to provide battery backup power for those official traffic control signals, operated by a city, county, or city and county, that the commission, in consultation with cities, counties, or cities and counties, determines to be high priority traffic control signals.

(b) Based on traffic factors considered by cities, counties, or cities and counties, including, but not limited to, traffic volume, number of accidents, and presence of children, the commission shall determine a priority schedule for the installation of battery backup power for traffic control systems. The commission shall give priority to a city, county, or city and county that did not receive a grant from the State of California for the installation of light-emitting diode traffic control signals.

(c) The commission shall also develop or adopt the necessary technical criteria as to wiring, circuitry, and recharging units for traffic control signals. Only light-emitting diodes (LED) traffic control signals are eligible for battery backup power for the full operation of the traffic control signal or a flashing red mode. A city, county, or city and county may apply for a matching grant for battery backup power for traffic control signals retrofitted with light-emitting diodes.

(d) Based on the criteria described in subdivision (c), the commission shall provide matching grants to cities, counties, and cities and counties for backup battery systems described in this section in accordance with the priority schedule established by the commission pursuant to subdivision (b). The commission shall provide 70 percent of the funds for a battery backup system, and the city, county, or city and county shall provide 30 percent.

(e) If a city, county, or city and county has installed a backup battery system for LED traffic control signals between January 1, 2001, and the effective date of the act adding this section, the commission may reimburse the city, county, or city and county for up to 30 percent of the cost incurred for the backup battery system installation. However, the commission may not spend more than one million five hundred thousand dollars ($1,500,000) for reimbursements pursuant to this subdivision.

§ 25404. Cooperation with interested parties; environmental impact reports

The commission shall cooperate with the Office of Planning and Research, the Resources Agency and other interested parties in developing procedures to ensure that mitigation measures to minimize wasteful, inefficient, and unnecessary consumption of energy are included in all environmental impact reports required on local projects as specified in Section 21151.

§ 25405. Schedule of fees

A city, county, or city and county may be ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of standards adopted pursuant to this chapter.

CHAPTER 5.1 SOLAR AND PHOTOVOLTAIC SYSTEMS

§ 25406. "Sunny Homes Seal" program

A local government may develop and administer a program to encourage the construction of buildings that use solar thermal and photovoltaic systems that meet applicable standards and requirements imposed by the state or the local government for an eligible solar energy system pursuant to paragraph (2) of subdivision (g) of Section 25619. The program shall recognize owners and builders who participate in the program by awarding these owners and builders a "Sunny Homes Seal."

CHAPTER 5.2 ENERGY CONSERVATION ASSISTANCE

§ 25410. Short title

This chapter shall be known and may be cited as the Energy Conservation Assistance Act of 1979.

§ 25410.5. Findings and declarations

The Legislature finds and declares all of the following:

(a) Energy costs are frequently the second largest discretionary expense in a local government's budget. According to the commission, most public institutions could reduce their energy costs by 20 to 30 percent.

(b) A variety of energy conservation measures are available to local governments. These measures are highly cost-effective, often providing a payback on the initial investment in three years or less.

(c) Many local governments lack energy management expertise and are often unaware of their high energy costs or the opportunities to reduce those costs.

(d) Local governments that desire to reduce their energy costs through energy conservation and efficiency measures often lack available funding.

(e) Since 1980, the Energy Conservation Assistance Account has provided $110 million in loans, through a revolving loan account, to 600 schools, hospitals, and local governments. The energy conservation projects funded by the account save approximately $35-million annually in energy costs.

(f) Local governments and public institutions need assistance in all aspects of energy efficiency improvements, including but not limited to project identification, project development and implementation, evaluation of project proposals and options operations and maintenance, and troubleshooting of problem projects.

§ 25410.6. Legislative intent; duties of commission

(a) It is the intent of the Legislature that the commission shall administer the State Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings, including, but not limited to, technical assistance, demonstrations, and identification and implementation of cost-effective energy efficiency measures and programs in existing and planned buildings or facilities.

(b) It is further the intent of the Legislature that the commission seek the assistance of utility companies in providing energy audits for local governments and public institutions and in publicizing the availability of State Energy Conservation Assistance Account funds to qualified entities.

§ 25411. Definitions

As used in this chapter:

(a) "Allocation" means a loan of funds by the commission pursuant to the procedures specified in this chapter.

(b) "Building" means any existing or planned structure that includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

(c) "Eligible institution" means a school, hospital, public care institution, or a unit of local government.

(d) "Energy audit" means a determination of the energy consumption characteristics of a building or facility that does all of the following:

(1) Identifies the type, size, and energy use level of the building or facility and the major energy using systems of the building or facility.

(2) Determines appropriate energy conservation maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

(e) "Energy conservation maintenance and operating procedure" means a modification or modifications in the maintenance and operations of a building or facility, and any installations therein (based on the use time schedule of the building or facility), which are designed to reduce energy consumption in the building or facility and that require no significant expenditure of funds.

(f) "Energy conservation measure" means an installation or modification of an installation in a building or facility that is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

(g) "Energy conservation project" means an undertaking to acquire and to install one or more energy conservation measures in a building or facility, and technical assistance in connection with that undertaking.

(h) "Facility" means any major energy using system of an eligible institution whether or not housed in a building.

(i) "Hospital" means a public or nonprofit institution that is both of the following:

(1) A general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care;

(2) Duly authorized to provide hospital services under the laws of this state.

(j) "Hospital building" means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses' home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) "Local government building" means a building that is primarily occupied by offices or agencies of a unit of local government or by a public care institution.

(l) "Project" means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, energy conservation and operating procedures, and energy conservation measures, in existing and planned buildings and facilities energy conservation projects, and technical assistance programs.

(m) "Public care institution" means a public or nonprofit institution that owns:

(1) A long-term care institution.

(2) A rehabilitation institution.

(3) An institution for the provision of public health services, including related publicly owned services such as laboratories, clinics, and administrative offices operated in connection with the institution.

(4) A residential child care center.

(n) "Public or nonprofit institution" means an institution owned and operated by:

(1) The state, a political subdivision of the state, or an agency or instrumentality of either.

(2) An organization exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

(3) In the case of public care institutions, an organization also exempt from income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

(o) "School" means a public or nonprofit institution, including a local educational agency, which:

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis.

(2) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis and meets all of the following requirements:

(A) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate.

(B) Is accredited by a nationally recognized accrediting agency or association.

(C) Provides an education program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward the degree at any institution that meets the requirements of subparagraphs (A) and (B) and that provides that program.

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of (2).

(p) "School building" means a building housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

(q) "Technical assistance costs" means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel or both necessary for providing technical assistance.

(r) "Technical assistance program" means assistance to schools, hospitals, local government, and public care institutions and includes, but is not limited to:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of:

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit, or

(B) Acquisition and installation of one or more specified energy conservation measures in the building or facility, or as a result of both.

(C) New construction activities.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building or facility.

(3) Developing and evaluating alternative project implementation methods and proposals.

(s) "Unit of local government" means a unit of general purpose government below the state or a special district.

§ 25412. Application for an allocation

Any eligible institution may submit an application to the commission for an allocation for the purpose of financing all or a portion of the costs incurred in implementing a project. The application shall be in such form and contain such information as the commission shall prescribe.

An application may be for the purpose of financing the eligible institution's share of such costs which are to be jointly funded through a state, local, or federal-local program.

§ 25413. Approval of application; information on savings in cost of energy; priority

Applications may be approved by the commission only in those instances where the eligible institution has furnished information satisfactory to the commission that the costs of the project, plus interest on state funds loaned, calculated in accordance with Section 25415, will be recovered through savings in the cost of energy to the institution during the repayment period of the allocation.

The savings shall be calculated in a manner prescribed by the commission.

§ 25414. Computation of cost of energy saved

Annually at the conclusion of each fiscal year, but not later than October 31, each eligible institution which has received an allocation pursuant to the provisions of this chapter shall compute the cost of the energy saved as a result of implementing a project funded by such allocation. Such cost shall be calculated in a manner prescribed by the commission.

§ 25415. Repayment of allocation; interest; budget

(a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 30 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the project is completed. The repayment period may not exceed the life of the equipment, as determined by the commission or the lease term of the building in which the energy conservation measures will be installed.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

(c) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs or other sources.

§ 25416. State energy conservation assistance account; creation; disbursements; contracts for services; grants; fees

(a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding section 13340 of the Government Code, the account is continuously appropriated to the commission without regard to fiscal year.

(b) The money in the account shall consist of all money authorized or required to be deposited in the account by the Legislature and all money received by the commission pursuant to Sections 25414 and 25415.

(c) The money in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the by the commission.

(d) The commission may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and operation and training. The amount expended for those services may not exceed 10 percent of the balance of the account as determined by the commission on July 1 of each year.

(e) The commission may make grants for innovative projects and programs. The amount expended for grants may not exceed 5 percent of the annual appropriation from the account.

(f) The commission may charge a fee for the services provided under subdivision (d).

§ 25417. Use of allocation; return of allocation used for unauthorized purpose

(a) An allocation made pursuant to this chapter shall be used for the purposes specified in an approved application.

(b) In the event that the commission determines that an allocation has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the allocation. The eligible institution shall immediately comply with such request.

§ 25417.5. Loans, borrowing and lending authority; collateralization; hiring consultants

(a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank and the California Consumer Power and Conservation Financing Authority, from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority, ~~or~~ the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers as may be necessary in its judgment in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.

§ 25418. Audit

The Department of Finance, at its discretion may audit the expenditure of any allocation made pursuant to this chapter or the computation of any payment made pursuant to Section 25415.

§ 25419. Powers of commission

In addition to the powers specifically granted to the commission by the other provisions of this chapter, the commission shall have the following powers:

(a) To establish qualifications and priorities, consistent with the objectives of this chapter, for making allocations.

(b) To establish such procedures and policies as may be necessary for the administration of this chapter.

§ 25420. Administrative costs

The commission may expend from the State Energy Conservation Assistance Account an amount to pay for the actual administrative costs incurred by the commission pursuant to this chapter. Such amount shall not exceed 5 percent of the total appropriation, to be held in reserve and used to defray costs incurred by the commission for allocations made by the commission pursuant to this chapter.

§ 25421. Duration of chapter; repayment of outstanding loans; unexpended funds

(a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2011, deletes or extends that date.

(b) All loans outstanding as of January 1, 2011, shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 2011, and thereafter, except to the extent those funds are encumbered pursuant to Section 25417.5, shall revert to the General Fund.

CHAPTER 5.3. ENERGY CONSERVATION ACT OF 2001

Article 1. General Provisions

§ 25425. Short Title

This chapter shall be known, and may be cited, as the Energy Conservation Act of 2001.

§ 25426. Definitions

As used in this article, the following terms have the following meanings:

(a) "Commercial refrigeration" means a refrigerator that is not a federally regulated consumer product.

(b) "Energy-efficient model" means any appliance that meets the efficiency standards of the United States Department of Energy that are effective on and after July 1, 2001, and, if applicable, products certified as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

Article 2. Loans And Grants For Construction And Retrofit Projects

§ 25433. Legislative Intent

It is the intent of the Legislature to establish incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners for constructing and retrofitting buildings to be more energy efficient by using design elements, including, but not limited to, energy-efficient siding, insulation, products certified as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission, and double-paned windows.

§ 25433.5. Grant Programs; loan programs; guidelines and criteria for awards

(a) In consultation with the Public Utilities Commission, the commission shall do both of the following for the purpose of full or partial funding of an eligible construction or retrofit project:

(1) Establish a grant program to provide financial assistance to eligible low-income individuals.

(2) Establish a 2-percent interest per annum loan program to provide financial assistance to a small business owner, residential property owner, or individual who is not eligible for a grant pursuant to paragraph (1). The loans shall be available to a small business owner who has a gross annual income that does not exceed one hundred thousand dollars ($100,000) or to an individual or residential property owner who has a gross annual household income that does not exceed one hundred thousand dollars ($100,000).

(b)(1) The commission shall use the design guidelines adopted pursuant to paragraph (2) of subdivision (f) of Section 14 of the act that added this section as standards to determine eligible energy-efficiency projects.

(2) The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that the commission applied factors, other than those adopted by the commission, in making the award.

(3) The grant or loan recipient shall commit to using the grant or loan for the purpose for which the grant or loan was awarded.

(4) Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission.

(5) The amount of any grant awarded pursuant to this article to a low-income individual does not constitute income for purposes of calculating the recipient's gross income for the tax year during which the grant is received.

§ 25434. Scope of authority to contract

The commission may contract with one or more business entities capable of supplying or providing goods or services necessary for the commission to carry out the responsibilities for the programs conducted pursuant to this article, and shall contract with one or more business entities to evaluate the effectiveness of the programs implemented pursuant to subdivision (a) of Section 25433.5. The commission may select an entity on a sole source basis for one or both of those purposes if the cost to the state will be reasonable and the commission determines that it is in the best interest of the state.

§ 25434.5. Definitions

As used in this article, the following terms have the following meanings:

(a) "Eligible construction or retrofit project" means a project for making improvements to a home or building in existence on the effective date of the act adding this section, through an addition, alteration, or repair, which effectively increases the energy efficiency or reduces the energy consumption of the home or building as specified by the commission's guidelines under paragraph (2) of subdivision (f) of Section 14 of the act that added this section. The improvements shall be deemed to be cost-effective.

(b) "Low income" means an individual with a gross annual income equal to or less than 200 percent of the federal poverty level.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

Article 3. Small Business Energy Efficient Refrigeration Loan Program

§ 25435. Administration of loan program

The commission shall administer the Small Business Energy Efficient Refrigeration Loan Program, as provided for in Section 25436.

§ 25436. Implementation of loan program

(a) Within 45 days of the effective date of this chapter, the commission shall implement a Small Business Energy Efficient Refrigeration Loan Program for qualifying small businesses to purchase and install energy efficient refrigeration equipment.

(b) The program shall offer loans at 3 percent interest on terms that will ensure the small business owner will repay the loan over time in accordance with terms established by the Energy Commission, but in no event may the term exceed the useful life of the purchase.

(c) The commission may enter into agreements with lending institutions and qualifying vendors to facilitate making and administering loans. Any loan made by the commission for the purchase of equipment shall be secured against the equipment purchased.

CHAPTER 5.4. LOCAL JURISDICTION ENERGY ASSISTANCE

Article 1. General Provisions

§ 25440. Legislative finding and declaration

The Legislature finds and declares all of the following:

(a) Energy costs account for a growing and substantial portion of the operating expenses for local governments, and other local jurisdictions in California.

(b) Substantial reductions in local jurisdiction energy costs can be realized through the utilization of energy conservation, management, and development techniques.

(c) Provision of financial assistance to local jurisdictions to reduce energy costs is consistent with the guidelines for using federal petroleum violation escrow funds which provide compensation to energy users who were overcharged by oil companies that violated federal oil price control regulations.

§ 25440.5. Local jurisdiction

"Local jurisdiction" means any city, county, or regional planning agency, or any combination thereof formed for the joint exercise of any power.

Article 2. Training And Management Assistance

§ 25441. Financial assistance to provide staff training and support services

The commission shall provide financial assistance to local jurisdictions for the purpose of providing staff training and support services, including, but not limited to, planning

design, permitting, energy conservation, comprehensive energy management, project evaluation, and development of alternative energy resources.

Article 3. Energy Project Assistance

§ 25442. Loans; purposes

The commission shall provide loans to local jurisdictions for all of the following purposes:

(a) Purchase, maintenance, and evaluation of energy efficient equipment for existing and new facilities, including, but not limited to, equipment related to lights, motors, pumps, water and wastewater systems, boilers, heating, and air conditioning.

(b) Purchase, maintenance, and evaluation of small power production systems, including, but not limited to, wind, cogeneration, photovoltaics, geothermal, and hydroelectric systems.

(c) Improve the operating efficiency of existing local transportation systems.

§ 25442.5. Eligible projects; studies and analysis

The commission may award financial assistance for project audits, feasibility studies, engineering and design, and legal and financial analysis related to the purposes of Section 25442.

§ 25442.7. Limitations on amount of loans or financial assistance; loan repayments

(a) Loans under this article may not exceed five million dollars ($5,000,000) for any one local jurisdiction, unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served at a higher loan amount.

(b) Loan repayments shall be made in accordance with a schedule established by the commission. Repayment of loans shall be made in full unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served by negotiating a reduced loan repayment for a project that fails to meet the technical or financial performance criteria through no fault of the local jurisdiction.

§ 25443. Disposition of principal and interest payments

(a) Principal and interest payments on loans under this article shall be returned to the commission and shall be used to make additional loans to local jurisdictions pursuant to Section 25442 or to provide financial assistance to local jurisdictions pursuant to Section 25441.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

§ 25443.5. Loans; borrowing and lending authority; collateralization; hiring consultants

(a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, and accountants, and other service providers, as may be necessary in its judgment in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), and is supplemental and additional to powers conferred by other laws.

Article 4. Program Design And Advisory Committee

§ 25445. Commission to design program; funding

The commission shall design a local jurisdiction energy assistance program for the purpose of providing financial assistance under Article 2 (commencing with Section 25441) and providing loans under Article 3 (commencing with Section 25442). A local jurisdiction's energy assistance program shall be funded through the commission's existing local government assistance programs, except that if a project is not eligible for funding under an existing program, the commission may fund the project under this chapter.

§ 25446. Loans; evaluation factors

Loans made pursuant to this program shall, at a minimum, be evaluated on all of the following factors:

(a) Project feasibility.

(b) Energy savings or energy production potential sufficient to repay the loan in accordance with Section 25442.

Article 5. Energy Saving Transportation Program

§ 25448. Financial assistance; technical assistance and equipment

The Department of Transportation shall award financial assistance to local jurisdictions for the purposes of providing technical assistance and equipment to improve traffic flow efficiency through optimized traffic signal timing and operations.

§ 25448.1. Financial assistance; limitations

Financial assistance provided under this article may not exceed 75 percent of the cost of carrying out the activity, unless the department determines that the public interest and objectives of this chapter would be better served at a higher level of state funding.

Article 6. Miscellaneous

§ 25449. Expenditure of petroleum violation escrow funds; agreement to improve energy efficiency at state-supported universities and colleges

The Commission shall enter into an agreement with the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges for the expenditure of petroleum violation escrow funds to supplement, and not supplant, other available funds to improve energy efficiency at state-supported universities and colleges under their respective jurisdictions by funding projects involving any of the following:

(a) Data collection.

(b) Establishment of operations and maintenance standards.

(c) Staff training.

(d) Ongoing energy equipment maintenance.

(e) Projects involving heating, ventilation, air conditioning, and lighting equipment.

§ 25449.1. Expenditures of petroleum violation escrow funds; grants to school districts for planning and management of energy conservation; loans to purchase and maintain energy efficient equipment

The commission shall enter into an agreement with the State Department of Education to expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide loans to school districts to purchase, maintain, and evaluate energy efficient equipment and small power production systems.

§ 25449.2. Report; effect of fees on alternative financing for public sector programs

Not later than three years after the imposition of any fees pursuant to this chapter, the commission shall report to the Legislature in the biennial energy conservation report required by Section 25401.1, on the effect of those fees on alternative public and private financing for public sector programs.

§ 25449.3. Local Jurisdiction Energy Assistance Account; deposits; fees; contracting for services

(a) The Local Jurisdiction Energy Assistance Account is hereby created in the General Fund. All money appropriated for purposes of this chapter and all money received from local jurisdictions from loan repayments shall be deposited in the account and disbursed by the Controller as authorized by the commission.

(b) The commission may charge a fee for the services provided under this chapter.

(c) The commission may contract for services to be performed by eligible institutions, as defined in subdivision (c) of Section 25411. Those services shall include, but are not limited to, performance of a feasibility analyses. and providing project design, field evaluation, and operation and training assistance. The amount expended for contract services shall not exceed 10 percent of the annual scheduled loan repayment to the Local Jurisdiction Energy Assistance Account, as determined by the commission not later than July 1 of each fiscal year.

§ 25449.4. Repeal of chapter; continuing application for loan repayment; unexpended funds

(a) Except as provided in subdivision (b), this chapter shall remain effective until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2011, deletes or extends that date.

(b) All loans outstanding as of January 1, 2011, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2011, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall be deposited in the Federal Trust Fund and be available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.

CHAPTER 5.5 PETROLEUM RESOURCE MANAGEMENT [Repealed]

§§ 25450 to 25455. Repealed

CHAPTER 5.7 SMART CORRIDOR TELECOMMUNICATIONS DEMONSTRATION PROJECT [Repealed]

§§ 25470 to 25473. Repealed

CHAPTER 5.8 ENERGY CONSERVATION IN TRANSPORTATION

§ 25480. Department

As used in this chapter, "department" means the Department of Transportation.

§ 25481. Legislative findings and declaration

The Legislative hereby finds and declares that:

(a) Due to the projected rapid growth in demand for energy, coupled with the mounting difficulties in providing energy supplies, a continuing energy shortage exists, posing a significant danger to public health and welfare.

(b) The use of the automobile represents the single largest use of energy in this state and, therefore, the growing use of energy by automobiles is a major factor contributing to such shortage.

(c) Heavy automobile traffic in our major cities has resulted in serious problems of air pollution and traffic congestion.

(d) Increased ridesharing by commuters would aid in lowering air pollution levels, conserving energy, and reducing urban traffic congestion.

It is, therefore, the purpose of this chapter to provide incentives for the wider use of ridesharing by commuters in metropolitan areas.

§ 25482. Assistance to state employees living in metropolitan areas; coordination by department

All state agencies shall provide assistance to their employees living in metropolitan areas in establishing carpools and locating potential carpool participants. The department shall be responsible for coordinating these efforts.

§ 25483. Ridesharing programs; metropolitan public and private employees; establishment and maintenance

In order to perform its new functions of promoting and assisting ridesharing the department is authorized to establish ridesharing programs in metropolitan areas for public and private employees with funds made available for such purpose from any source. The ridesharing programs may be established and maintained entirely by the department or by the department in cooperation with public or private parties pursuant to contract.

§ 25484. Ridesharing programs; inclusion of matching systems, promotional efforts and preferential treatment on highways

The ridesharing programs established by the department may include, but are not limited to, computer or manual matching systems, promotional efforts to encourage carpooling, vanpooling, buspooling, and flexible work hours, and preferential treatment on highways.

§ 25485. Preferential lanes; engineering study; access to bus lanes

The department shall develop programs and undertake any necessary construction to establish, for the use of carpool vehicles carrying at least three persons, preferential lanes on major freeways in metropolitan areas where the total benefits to the carpool vehicles will bear a reasonable relationship to the total adverse effects on the remaining vehicles, as established on the basis of an engineering study. The department shall also permit such carpool vehicles to have access to preferential bus lanes established on major freeways, unless congestion seriously impeding the travel of buses will result or will present a serious traffic hazard.

§ 25486. Preferential lanes; state highway route 10; pilot project

The department is encouraged to establish as soon as possible preferential lanes for the use of buses and three-passenger carpool vehicles in both directions on State Highway Route 10, the Santa Monica Freeway, at least from Centinela Avenue to Vermont Avenue in Los Angeles County. Due to the high-density traffic flow on such a highway, it is necessary that the department establish such preferential lanes as a pilot project so that data can be developed for implementation of similar projects in other areas of the state.

CHAPTER 5.9. ENERGY SYSTEMS

Article 1. Definitions

§ 25487. Construction of chapter

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

§ 25488. Title 24 Standards

"Title 24 Standards" refers to the nonresidential building standards developed by the commission.

§ 25488.5. Building standard

"Building standard" means a building standard as defined in Section 18909 of the Health and Safety Code which is adopted by the commission.

§ 25489. Lifecycle cost

"Life-cycle cost" means an estimate of the total cost of acquisition, operation, maintenance, and construction of any energy system within or related to a structure over the design life of the structure. "Life-cycle cost" includes, but is not limited to, the cost of fuel, materials, machinery, ancillary devices, labor, service, replacement, and repairs.

§ 25491. Governmental agency

"Governmental agency" means any public agency, including any agency of the state, each county, city, district, association of governments, and joint power agency.

§ 25492. Structure

"Structure" means any building which has more than 10,000 square fee of floor area and which has a heating, cooling, water heating, or lighting system which is designed to provide lighting and space conditioning more than 1,000 hours per year.

§ 25493. New structure; compliance with Title 24 standards

On or after January 1, 1979, no governmental agency shall commence construction on any new structure unless the new structure complies with Title 24 Standards.

§ 25493.5. New structure; compliance with building standards

On and after January 1, 1980, no governmental agency shall commence construction on any new structure unless the new structure complies with all applicable building standards, as defined in Section 25488.5 and published in the State Building Standards Code.

§ 25494. Manual for comparison of lifecycle cost alternatives

Not later than July 13, 1978, the commission shall prepare a manual outlining a methodology by which governmental agencies and the general public may at their option compare the lifecycle costs of various building design alternatives. This manual will provide the information and procedures necessary to evaluate a building's lifecycle costs in the microclimate and utility service area where it is to be built.

§ 25495. Guidelines for new construction; options

No later than July 31, 1978, the commission shall develop design guidelines for new construction which include energy conserving options, including, but not limited to, the use of daylighting, heating ventilation and air conditioning economizer cycles, natural ventilation, building envelope solar heat gain control mechanisms, and alternative energy systems such as solar energy for space heating and water heating and load management strategies. These guidelines and the cost analysis done pursuant to Section 25494 may be considered by government agencies at their option for ultimate selection of a building design in the competitive bidding process.

§ 25496. Lighting standards for existing buildings; advice and recommendations

No later than July 1, 1978, the commission shall develop and make available to government agencies and the general public to be utilized at their option lighting standards for existing buildings. These standards shall address, but not be limited to, task and general area lighting levels, light switching and control mechanisms, and lighting energy budgets. The commission may provide advice and recommendations to the public or any governmental agency as to the standards.

§ 25498. Supplementary solar water heating system

In addition to any other requirements applicable to such structure, no new state-owned structure shall be construed which is not equipped with a supplementary solar water heating system, unless such structure is specifically exempted from this requirement by the State Architect for reasons of economic or physical infeasibility.

CHAPTER 6. POWER FACILITY AND SITE CERTIFICATION

§ 25500. Authority; necessity of certification

In accordance with the provisions of this division, the commission shall have the exclusive power to certify all sites and related facilities in the state, whether a new site and related facility or a change or addition to an existing facility. The issuance of a certificate by the commission shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.

After the effective date of this division, no construction of any facility or modification of any existing facility shall be commenced without first obtaining certification for any such site and related facility by the commission, as prescribed in this division.

§ 25500.5. Certifications sufficient to accommodate projected demand

The commission shall certify sufficient sites and related facilities which are required to provide a supply of electric power sufficient to accommodate the demand projected in the most recent forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309.

§ 25501. Inapplicability of chapter to certain sites and facilities

This chapter does not apply to any site or related facility for which the Public Utilities Commission has issued a certificate of public convenience and necessity or which any municipal utility has approved before January 7, 1975.

§ 25501.3. Repealed

§ 25501.5. Repealed

§ 25501.7. Facility or site; proposed construction; waiver of exclusion; application of chapter

Any person proposing to construct a facility or a site to which Section 25501 applies may waive the exclusion of such site and related facility from the provisions of this chapter by submitting to the commission a notice to that effect on or after July 1, 1976, and any and all of the provisions of this chapter shall apply to the construction of such facility.

§ 25502. Thermal powerplant or transmission line; proposed construction; notice of intention

Each person proposing to construct a thermal powerplant or electric transmission line on a site shall submit to the commission a notice of intention to file an application for the certification of the site and related facility or facilities. The notice shall be an attempt primarily to determine the suitability of the proposed sites to accommodate the facilities and to determine the general conformity of the proposed sites and related facilities with standards of the commission and assessments of need adopted pursuant to Sections 25305 to 25308, inclusive. The notice shall be in the form prescribed by the commission and shall be supported by such information as the commission may require.

Any site and related facility once found to be acceptable pursuant to Section 25516 is, and shall continue to be, eligible for consideration in an application for certification without further proceedings required for a notice under this chapter.

§ 25502.3. Facility; proposed construction; waiver of exclusion; application of chapter

Except as provided in Section 25501.7, any person proposing to construct a facility excluded from the provisions of this chapter may waive such exclusion by submitting to the commission a notice of intention to file an application for certification, and any and all of the provisions of this chapter shall apply to the construction of such facility.

§ 25502.5. Repealed

§ 25503. Alternative sites and related facilities; notice; contents

Each notice of intention to file an application shall contain at least three alternative sites and related facilities, at least one of which shall not be located in whole or in part in the coastal zone. In addition, the alternative sites and related electrical facilities may be proposed from an inventory of sites which have previously been approved by the commission in a notice of intent or may be proposed from sites previously examined.

§ 25504. Statement by applicant; contents

The notice of intention shall include a statement by the applicant describing the location of the proposed sites by section or sections, range and township, and county; a summary of the proposed design criteria of the facilities; the type or types of fuels to be used; the methods of construction and operation; the proposed location of facilities and structures on each site; a preliminary statement of the relative economic, technological, and environmental advantages and disadvantages of the alternative site and related facility proposals; a statement of need for the facility and information showing the compatibility of the proposals with the most recent electricity report issued pursuant to Section 25308; and any other information that an electric utility deems desirable to submit to the commission.

§ 25504.5. Proposal for site accommodating excess capacity; notice; contents

An applicant may, in the notice, propose a site to be approved which will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for the initial approval of the commission. If such a proposal is made, the notice shall include, but not be limited to, in addition to the information specified in Section 25504, all of the following:

(a) The number, type, and energy source of electric generating units which the site is proposed ultimately to accommodate and the maximum generating capacity for each unit.

(b) The projected installation schedule for each unit.

(c) The impact at the site when fully developed, on the environment and public health and safety.

(d) The amount and sources of cooling water needed at the fully developed site.

(e) The location and specifications of auxiliary facilities planned for each state of development including, but not limited to, pipelines, waste storage facilities, fuel storage facilities, switchyards, coolant lines, coolant outfalls, and cooling ponds, lakes, or towers.

§ 25505. Publication of summary of notice of intention; copies to governmental agencies

Upon receipt of a notice, the commission shall cause a summary of the notice to be published in a newspaper of general circulation in each county in which the sites and related

facilities, or any part thereof, designated in the notice are proposed to be located. The commission shall also transmit a copy of the notice to the Public Utilities Commission, for sites and related facilities requiring a certificate of public convenience and necessity, and to other federal, state, regional, and local agencies having an interest in matters pertinent to the proposed facilities at any of the alternative sites. A copy of the notice shall also be transmitted to the Attorney General.

§ 25506. Comments and recommendations; governmental agencies

The commission shall request the appropriate local, regional, state, and federal agencies to make comments and recommendations regarding the design, operation, and location of the facilities designated in the notice, in relation to environmental quality, public health and safety, and other factors on which they may have expertise.

§ 25506.5. Comments and recommendations; public utilities commission

The commission shall request the Public Utilities Commission, for sites and related facilities requiring a certificate of public convenience and necessity, to make comments and recommendations regarding the design, operation, and location of the facilities designated in the notice in relation to the economic, financial, rate, system reliability, and service implications of the proposed facilities.

§ 25507. Coastal zones, Suisun Marsh or within jurisdiction of San Francisco Bay Conservation and Development Commission; alternative site and related facility; notice; analysis

(a) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the coastal zone, the commission shall transmit a copy of the notice to the California Coastal Commission. The California Coastal Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 30413 prior to commencement of hearings pursuant to Section 25513.

(b) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the Suisun Marsh, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the notice to the San Francisco Bay Conservation and Development Commission. The San Francisco Bay Conservation and Development Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 66645 of the Government Code prior to commencement of hearings pursuant to Section 25513.

§ 25508. Coastal zone or Suisun Marsh; cooperation with commission; participation in proceedings

The commission shall cooperate with, and render advice to, the California Coastal Commission and the San Francisco Bay Conservation and Development Commission in studying applications for any site and related facility proposed to be located, in whole or in part, within the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission if requested by the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be. The California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as

the case may be, may participate in public hearings on the notice and on the application for site and related facility certification as an interested party in such proceedings.

§ 25509. Informational presentations; purposes

Within 45 days of the filing of the notice, the commission shall conduct public informational presentations in the county or counties in which the proposed sites and related facilities are located. The place of such public informational presentations shall be as close as practicable to the proposed sites. Such presentations shall be for the purpose of setting forth the electrical demand basis for the proposed site and related facility and providing and knowledge and understanding of the proposed facilities and sites.

§ 25509.5. Nonadjudicatory hearings; purposes

No sooner than 15 days after the conclusion of the presentations pursuant to Section 25509, the commission shall commence nonadjudicatory hearings. Such hearings shall identify issues for adjudication in hearings pursuant to Section 25513, issues which may be eliminated from further consideration in the notice proceedings, and issues which should be deferred to the certification proceeding. Any person may participate to the extent deemed reasonable and relevant by the presiding member of the commission in any such hearing. In scheduling such hearings the presiding member shall confer with the public adviser to provide that the hearing dates and locations are as convenient as possible for interested parties and the public. Such hearings shall be conducted in order to accomplish all of the following purposes:

(a) To set forth the electrical demand basis for the proposed site and related facility.

(b) To provide knowledge and understanding of proposed facilities and sites.

(c) To obtain the views and comments of the public, parties, and concerned governmental agencies on the environmental, public health and safety, economic, social, and land use impacts of the facility at the proposed sites.

(d) To solicit information regarding reasonable alternative sources of the electric generating capacity or energy to be provided by alternative sites and related facilities, or combinations thereof, which will better carry out the policies and objectives of this division.

§ 25510. Summary and hearing order on notice of intention to file application

After the conclusion of such hearings, and no later than 150 days after filing of the notice, the commission shall prepare and make public a summary and hearing order on the notice of intention to file an application. The commission may include within the summary and hearing order any other alternatives proposed by the commission or presented to the commission at a public hearing prior to preparation of the summary and hearing order. The summary and hearing order shall be published and made available to the public and to interested local, regional, state, and federal agencies.

§ 25511. Safety and reliability factors; information required; analysis; findings

The commission shall review the factors related to safety and reliability of the facilities at each of the alternative sites designated in the notice. In addition to other information

requested of the applicant, the commission shall, in determining the appropriateness of sites and related facilities, require detailed information on proposed emergency systems and safety precautions, plans for transport, handling and storage of wastes and fuels, proposed methods to prevent illegal diversion of nuclear fuels, special design features to account for seismic and other potential hazards, proposed methods to control density of population in areas surrounding nuclear powerplants, and such other information as the commission may determine to be relevant to the reliability and safety of the facility at the proposed sites. The commission shall analyze the information provided by the applicant, supplementing it, where necessary, by onsite investigations and other studies. The commission shall determine the adequacy of measures proposed by the applicant to protect public health and safety, and shall include its findings in the final report required by Section 25514.

§ 25512. Summary and hearing order; basis; contents

The summary and hearing order shall be based upon the record of the proceeding including statements or documents presented during any hearing or informational presentation on the notice, the comments transmitted by the Public Utilities Commission and local, regional, state, and federal agencies and the public to the commission, and the independent studies conducted by the commission's staff.

The summary and hearing order shall:

(a) Identify those issues for consideration in hearings pursuant to Section 25513.

(b) Identify those issues which may be eliminated from further consideration in the notice of intention proceedings.

(c) Identify those issues which should be deferred to the certification proceeding.

(d) Contain proposed findings on matters relevant to the provisions of Section 25514.

(e) Specify dates for the adjudicatory hearings.

§ 25512.5. Distribution of copies

Within 15 days of the publication of the summary and hearing order, a copy will be distributed to any person who requests such copy.

§ 25513. Adjudicatory hearings; commencement

No earlier than 30 days after distribution of the summary and hearing order, the commission shall commence adjudicatory hearings pursuant to the hearing order.

§ 25513.3. Disqualification; investigator or advocate in adjudicative proceeding of the commission

Notwithstanding Sections 11425.30 and 11430.10 of the Government Code, unless a party demonstrates other statutory grounds for disqualification, a person who has served

as investigator or advocate in an adjudicative proceeding of the commission under this code may serve as a supervisor of the presiding officer or assist or advise the presiding officer in the same proceeding if the service, assistance, or advice occurs more than one year after the time the person served as investigator or advocate, provided the content of any advice is disclosed on the record and all parties have an opportunity to comment on the advice.

§ 25514. Final report; contents

After conclusion of the hearings held pursuant to Section 25513 and no later than 300 days after the filing of the notice, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:

(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or considered in the notice of intention proceeding with both of the following:

(1) The 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, except as provided in Section 25514.5.

(2) Applicable local, regional, state, and federal standards, ordinances, and laws, including any long-range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.

(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.

(d) The commission's findings on the acceptability and relative merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission.

(e) Findings and conclusions with respect to the safety and reliability of the facility or facilities at each of the sites designed in the notice, as determined by the commission pursuant to Section 25511, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from such findings and conclusions.

(f) Findings and conclusions as to whether increased property taxes due to the construction of the project are sufficient to support needed local improvements and public services required to serve the project.

§ 25514.3. Public utilities commission; comments and recommendations

In specifying any modifications, conditions, or criteria pursuant to Section 25514, for sites and related facilities requiring a certificate of public convenience and necessity, the commission shall request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of such modifications, conditions, or criteria.

§ 25514.5. Conformity of proposal with forecast; determination

In considering the acceptability of a site proposed to accommodate ultimately additional power-generating capacity, the commission, in determining pursuant to Sections 25514 and 25512, the conformity of the facilities proposed in the notice with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, shall base its determination only on such initial facilities as are proposed for operation within the forthcoming 12-year period. Additional facilities projected to be operating at the site at a time beyond the forthcoming 12-year period shall not be considered in the determination of conformity with the electric power demand forecast.

§ 25515. Final report; hearings

No later than 30 days after the final report is distributed, a hearing or hearings on the final report shall be commenced. Such hearings shall be concluded within 15 days of their commencement.

§ 25516. Approval of notice; necessity for alternative site and related facility proposals; exception

The approval of the notice by the commission shall be based upon findings pursuant to Section 25514. The notice shall not be approved unless the commission finds at least two alternative site and related facility proposals considered in the commission's final report as acceptable. If the commission does not find at least two sites and related facilities acceptable, additional sites and related facilities may be proposed by the applicant which shall be considered in the same manner as those proposed in the original notice.

If the commission finds that a good faith effort has been made by the person submitting the notice to find an acceptable alternative site and related facility and that there is only one acceptable site and related facility among those submitted, the commission may approve the notice based on the one site and related facility. If a notice is approved based on one site and related facility, the commission may require a new notice to be filed to identify acceptable alternative sites and related facilities for the one site and related facility approved unless suitable alternative sites and related facilities have been approved by the commission in previous notice of intention proceedings.

If the commission finds that additional electric generating capacity is needed to accommodate the electric power demand forecast pursuant to subdivision (e) of Section 25305 and, after the commission finds that a good faith effort was made by the person submitting the notice to propose an acceptable site and related facility, it fails to find any proposed site and related facility to be acceptable, the commission shall designate, at the request of and at the expense of the person submitting the notice, a feasible site and related facility for providing the needed electric generating capacity.

§ 25516.1. Finding of relative merit of available alternative sites

If a site and related facility found to be acceptable by the commission pursuant to Section 25516 is located in the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission, no application for certification may be filed pursuant to Section 25519 unless the commission has determined, pursuant to Section 25514, that such site and related facility have greater relative merit than available alternative sites and related facilities for an applicant's service area which have been determined to be acceptable by the commission pursuant to Section 25516.

§ 25516.5. Approval of notice for initial and expanded ultimate capacity; potential multiple facility site

On a notice which proposes an expanded ultimate electric generating capacity for a site, the commission may, based upon findings pursuant to Section 25514, either approve the notice only for the initial facility or facilities proposed for operation within the forthcoming 12-year period or may approve the notice for the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

If a notice is approved which includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple facility site. The commission may, in determining the acceptability of a potential multiple facility site, specify conditions or criteria necessary to insure that future additional facilities will not exceed the limitations of the site.

§ 25516.6. Decision on notice; determination of completeness; determination as to when notice is considered filed

(a) Except as otherwise expressly provided in this division, the commission shall issue its written decision on the notice not later than 12 months after the notice is filed, or at any later time as is mutually agreed upon by the commission and the applicant.

(b) The commission shall determine, within 45 days after it receives the notice, whether the notice is complete. If the commission determines that the notice is complete, the notice shall be deemed filed for the purpose of this section on the date that this determination is made. If the commission determines that the notice is incomplete, the commission shall specify, in writing, those parts of the notice which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the notice, the commission shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the notice complete. The notice shall be deemed filed on the date the commission determines the notice is complete if the commission has adopted regulations specifying the informational requirements for a complete notice, but if the commission has not adopted regulations, the notice shall be deemed filed on the last date the commission receives any additional data that completes the notice.

§ 25517. Necessity of certification; restoration if certification denied

Except as provided in Section 25501 no construction of any thermal powerplant or electric transmission line shall be commenced by any electric utility without first obtaining

certification as prescribed in this division. Any onsite improvements not qualifying as construction may be required to be restored as determined by the commission as to be necessary to protect the environment, if certification is denied.

§ 25518. Certification required before issuance of certificate of public convenience and necessity

The Public Utilities Commission shall issue no certificate of public convenience and necessity for a site or related electrical facilities unless the utility has obtained a certificate from the commission.

§ 25518.5. Concurrent initiation of application for certificate; conditions

Nothing is this division shall preclude the concurrent initiation of an application for a certificate of public convenience and necessity from the Public Utilities Commission subject to the condition specified in Section 25518.

§ 25519. Application for certification of site and related facility; data; impact report; local agencies; copies

(a) In order to obtain certification for a site and related facility, an application for certification of the site and related facility shall be filed with the commission. The application shall be in a form prescribed by the commission and shall be for a site and related facility that has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site that has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility that was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), that it determines is reasonably necessary to make any decision on the application.

(c) The commission shall be the lead agency as provided in Section 21165 for all projects that require certification pursuant to this chapter and for projects that are exempted from such certification pursuant to Section 25541. Unless the commission's regulatory program governing site and facility certification and related proceedings are certified by the Resources Agency pursuant to Section 21080.5, an environmental impact report shall be completed within one year after receipt of the application. If the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5, any other public agency that must make a decision that is subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000), on a site or related facility, shall use the document or documents prepared by the commission in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Those local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) Local and state agencies having jurisdiction or special interest in matters pertinent to the proposed site and related facilities shall provide their comments and recommendations on the project within 180 days of the date of filing of an application.

(i) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(j) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. If the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of those modifications.

(k) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each agency. The commission shall request any relevant laws, ordinances, or regulations that an agency has promulgated or administered.

(l) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

~~§ 25519.5. Local government list of issues~~

~~(a) Each local government agency reviewing an application pursuant to subdivision (f) of Section 25519 shall file a preliminary list of issues regarding the design, operation, location, and financial impacts of the facility with the commission no later than 45 days after the date an application for certification is deemed filed for purposes of Section 25522 and shall provide a final list of those issues with the commission no later than 100 days after the application for certification is deemed filed. Nothing in this section may be construed to limit the right of a city, county, or city and county, to comment on an application filed pursuant to this chapter or to act as an intervenor or other party to a proceeding established pursuant to this chapter.~~

~~(b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.~~

§ 25520. Application; contents

The application shall contain all of the following information and any other information that the commission by regulation may require:

(a) A detailed description of the design, construction, and operation of the proposed facility.

(b) Safety and reliability information, including, in addition to documentation previously provided pursuant to Section 25511, planned provisions for emergency operations and shutdowns.

(c) Available site information, including maps and descriptions of present and proposed development and, as appropriate, geological, aesthetic, ecological, seismic, water supply, population and load center data, and justification for the particular site proposed.

(d) Any other information relating to the design, operation, and siting of the facility that the commission may specify.

(e) A description of the facility, the cost of the facility, the fuel to be used, the source of fuel, fuel cost, plant service life and capacity factor, and generating cost per kilowatt hour.

(f) A description of any electric transmission lines including the estimated cost of the proposed electric transmission line; a map in suitable scale of the proposed routing showing details of the rights-of-way in the vicinity of settled areas, parks, recreational areas, and scenic areas, and existing transmission lines within one mile of the proposed route; justification for the route, and a preliminary description of the effect of the proposed electric transmission line on the environment, ecology, and scenic, historic and recreational values.

§ 25520.5. Additional facility at a potential multiple facility site; reconsideration of prior determination

(a) In reviewing an application for an additional facility at a potential multiple facility site, the commission shall undertake a reconsideration of its prior determinations in the final

report on the notice for the site issued pursuant to Section 25514, based on current conditions and other reasonable and feasible alternatives to the proposed facility.

(b) Within 180 days of the filing of the application for an additional facility at a potential multiple facility site and after adequate public hearings, the commission shall issue its decision on the acceptability of the proposed facility based on the reconsideration specified in subdivision (a) of this section. A negative determination shall be the final decision of the commission on the application and subject to judicial review pursuant to Section 25531. An affirmative determination shall not be a final decision of the commission on the application.

(c) The decision of the commission on an application for an additional facility at a potential multiple facility site receiving a favorable determination pursuant to subdivision (b) of this section shall be issued within 24 months after the filing of the application or at such later time as is mutually agreed upon by the commission and the applicant.

§ 25521. Public hearings

No earlier than 90 nor later than 240 days after the date of the filing of an application, the commission shall commence a public hearing or hearings thereon in Sacramento, San Francisco, Los Angeles, or San Diego, whichever city is nearest the proposed site. Additionally, the commission may hold a hearing or hearings in the county in which the proposed site and related facilities are to be located. The commission hearings shall provide a reasonable opportunity for the public and all parties to the proceeding to comment upon the application and the commission staff assessment and shall provide the equivalent opportunity for comment as required pursuant to Division 13 (commencing with Section 21000). Consistent with the requirements of this section, the commission shall have the discretion to determine whether or not a hearing is to be conducted in a manner that requires formal examination of witnesses or that uses other similar adjudicatory procedures.

§ 25522. Written decision on application for certification of site; time; determination as to when application considered filed

(a) Except as provided in subdivision (c) of Section 25520.5, within 18 months of the filing of an application for certification, or within 12 months if it is filed within one year of the commission's approval of the notice of intent, or at any later time as is mutually agreed by the commission and the applicant, the commission shall issue a written decision as to the application.

(b) The commission shall determine, within 45 days after it receives the application, whether the application is complete. If the commission determines that the application is complete, the application shall be deemed filed for purposes of this section on the date that this determination is made. If the commission determines that the application is incomplete, the commission shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the application, the commission shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the application complete. The application shall be deemed filed on the date when the commission determines the application is complete if the commission has adopted regulations specifying the informational requirements for a complete application, but if the commission has not adopted regulations, the application shall be deemed filed on the last date the commission receives any additional data that completes the application.

§ 25523. Written decision; contents

The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d)(1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other applicable local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The commission may not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies, prior to the licensing of the project by the commission, that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant within the time required by the district's rules or unless the applicable air pollution control district or air quality management district certifies that the applicant requires emissions offsets to be obtained prior to the commencement of operation consistent with Section 42314.3 of the Health and Safety Code and prior to commencement of the operation of the proposed facility. The commission shall require as a condition of certification that the applicant obtain any required emission offsets within the time required by the applicable district rules, consistent with any applicable federal and state laws and regulations, and prior to the commencement of the operation of the proposed facility.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.

(g) In the case of a facility, other than a resource recovery facility subject to subdivision (f), specific conditions requiring the facility to be monitored to ensure compliance with toxic air contaminant control measures adopted by an air pollution control district or air quality management district pursuant to subdivision (d) of Section 39666 or Section 41700 of the Health and Safety Code, whether the measures were adopted before or after issuance of a determination of compliance by the district.

(h) A discussion of any public benefits from the project including, but not limited to, economic benefits, environmental benefits, and electricity reliability benefits.

§ 25524. Repealed

§ 25524.1. Nuclear fuel rod reprocessing and storage; conditions for plant certification and land use; findings; resolution of disaffirmance

(a) Except for the existing Diablo Canyon Units 1 and 2 owned by Pacific Gas and Electric Company and San Onofre Units 2 and 3 owned by Southern California Edison Company and San Diego Gas and Electric Company, no nuclear fission thermal powerplant requiring the reprocessing of fuel rods, including any to which this chapter does not otherwise apply, excepting any having a vested right as defined in this section, shall be permitted land use in the state, or where applicable, certified by the commission until both of the following conditions are met:

(1) The commission finds that the United States through its authorized agency has identified and approved, and there exists a technology for the construction and operation of, nuclear fuel rod reprocessing plants.

(2) The commission has reported its findings and the reasons therefor pursuant to paragraph (1) to the Legislature. That report shall be assigned to the appropriate policy committees for review. The commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the commission made pursuant to paragraph (1).

(3) A resolution of disaffirmance shall set forth the reasons for the action and shall provide to the extent possible, guidance to the commission as to an appropriate method of bringing the commission's findings into conformance with paragraph (1).

(4) If a disaffirming resolution is adopted, the commission shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the commission shall transmit its findings in writing, with the reasons therefor, to the Legislature.

(5) If the findings are that the conditions of paragraph (1) have been met, the commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings to the Legislature unless within those 100 legislative days both houses of the Legislature act by statute to declare the findings null and void and takes appropriate action.

(6) To allow sufficient time for the Legislature to act, the reports of findings of the commission shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.

(b) The commission shall further find on a case-by-case basis that facilities with adequate capacity to reprocess nuclear fuel rods from a certified nuclear facility or to store that fuel if that storage is approved by an authorized agency of the United States are in actual operation or will be in operation at the time that the nuclear facility requires reprocessing or storage; provided, however, that the storage of fuel is in an offsite location to the extent necessary to provide continuous onsite full core reserve storage capacity.

(c) The commission shall continue to receive and process notices of intention and applications for certification pursuant to this division, but shall not issue a decision pursuant to Section 25523 granting a certificate until the requirements of this section have been met. All other permits, licenses, approvals, or authorizations for the entry or use of the land, including orders of court, which may be required may be processed and granted by the governmental entity concerned but construction work to install permanent equipment or structures shall not commence until the requirements of this section have been met.

§ 25524.2. Disposal of high-level nuclear waste; conditions for plant certification and land use; findings; resolution of disaffirmance

Except for the existing Diablo Canyon Units 1 and 2 owned by Pacific Gas and Electric Company and San Onofre Units 2 and 3 owned by Southern California Edison Company and San Diego Gas and Electric Company, no nuclear fission thermal powerplant, including any to which this chapter does not otherwise apply, but excepting those exempted herein, shall be permitted land use in the state, or where applicable, be certified by the commission until both of the following conditions have been met:

(a) The commission finds that there has been developed and that the United States through its authorized agency has approved and there exists a demonstrated technology or means for the disposal of high-level nuclear waste.

(b)(1) The commission has reported its findings and the reasons therefor pursuant to paragraph (a) to the Legislature. That report shall be assigned to the appropriate policy committees for review. The commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the commission made pursuant to subdivision (a).

(2) A resolution of disaffirmance shall set forth the reasons for the action and shall provide, to the extent possible, guidance to the commission as to an appropriate method of bringing the commission's findings into conformance with subdivision (a).

(3) If a disaffirming resolution is adopted, the commission shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its

reexamination, the commission shall transmit its findings in writing, with the reasons therefor, to the Legislature.

(4) If the findings are that the conditions of subdivision (a) have been met, the commission may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings to the Legislature unless within those 100 legislative days both houses of the Legislature act by statute to declare the findings null and void and take appropriate action.

(5) To allow sufficient time for the Legislature to act, the reports of findings of the commission shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.

(c) As used in subdivision (a), "technology or means for the disposal of high-level nuclear waste" means a method for the permanent and terminal disposition of high-level nuclear waste. Nothing in this section requires that facilities for the application of that technology or means be available at the time that the commission makes its findings. That disposition of high-level nuclear waste does not preclude the possibility of an approved process for retrieval of the waste.

(d) The commission shall continue to receive and process notices of intention and applications for certification pursuant to this division but shall not issue a decision pursuant to Section 25523 granting a certificate until the requirements of this section have been met. All other permits, licenses, approvals or authorizations for the entry or use of the land, including orders of court, which may be required may be processed and granted by the governmental entity concerned but construction work to install permanent equipment or structures shall not commence until the requirements of this section have been met.

§ 25524.25. Repealed

§ 25524.3. Repealed

§ 25524.5. Generating capacity in excess of maximum allowable capacity; exception; conditions

The commission shall not certify any facility which adds generating capacity to a potential multiple facility site in excess of the maximum allowable capacity established by the commission pursuant to Section 25516.5, unless the commission finds that exceeding the maximum allowable capacity will not increase adverse environmental impacts or create technological, seismic, or other difficulties beyond those already found acceptable in the commission's findings on the notice for that site pursuant to Sections 25516 and 25516.5.

§ 25525. Conformance with standards, ordinances and laws; exception

The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law

or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.

§ 25526. Findings necessary for site approval

(a) The commission shall not approve as a site for a facility any location designated by the California Coastal Commission pursuant to subdivision (b) of Section 30413, unless the California Coastal Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of such land is obtained.

(b) The commission shall not approve as a site for a facility any location designated by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (b) of Section 66645 of the Government Code unless the San Francisco Bay Conservation and Development Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of such land is obtained.

§ 25527. Prohibited areas as sites for facilities; exceptions

The following areas of the state shall not be approved as a site for a facility, unless the commission finds that such use is not inconsistent with the primary uses of such lands and that there will be no substantial adverse environmental effects and the approval of any public agency having ownership or control of such lands is obtained:

(a) State, regional, county and city parks; wilderness, scenic or natural reserves; areas for wildlife protection, recreation, historic preservation; or natural preservation areas in existence on the effective date of this division.

(b) Estuaries in an essentially natural and undeveloped state.

In considering applications for certification, the commission shall give the greatest consideration to the need for protecting areas of critical environmental concern, including, but not limited to, unique and irreplaceable scientific, scenic, and educational wildlife habitats; unique historical, archaeological, and cultural sites; lands of hazardous concern; and areas under consideration by the state or the United States for wilderness, or wildlife and game reserves.

§ 25528. Acquisition of development rights by applicant; population densities; eminent domain; nuclear facility; governmental land use restrictions

(a) The commission shall require as a condition of certification of any site and related facility, that the applicant acquire, by grant or contract, the right to prohibit development of privately owned lands in the area of the proposed site which will result in population densities in excess of the maximum population densities which the commission determines, as to the factors considered by the commission pursuant to Section 25511, are necessary to protect public health and safety.

If the applicant is authorized to exercise the right of eminent domain under Article 7 (commencing with Section 610) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant may exercise the right of eminent domain to acquire such development rights as the commission requires be acquired.

(b) In the case of an application for a nuclear facility, the area and population density necessary to insure the public's health and safety designated by the commission shall be that as determined from time to time by the United States Nuclear Regulatory Commission, if the commission finds that such determination is sufficiently definitive for valid land use planning requirements.

(c) The commission shall waive the requirements of the acquisition of development rights by an applicant to the extent that the commission finds that existing governmental land use restrictions are of a type necessary and sufficient to guarantee the maintenance of population levels and land use development over the lifetime of the facility which will insure the public health and safety requirements set pursuant to this section.

(d) No change in governmental land use restrictions in such areas designated in subdivision (c) of this section by any government agency shall be effective until approved by the commission. Such approval shall certify that the change in land use restrictions is not in conflict with requirements provided for by this section.

(e) It is not the intent of the Legislature by the enactment of this section to take private property for public use without payment of just compensation in violation of the United States Constitution or the Constitution of California.

§ 25529. Public use area; maintenance by applicant or dedication to local agency or state

When a facility is proposed to be located in the coastal zone or any other area with recreational, scenic, or historic value, the commission shall require, as a condition of certification of any facility contained in the application, that an area be established for public use, as determined by the commission. Lands within such area shall be acquired and maintained by the applicant and shall be available for public access and use, subject to restrictions required for security and public safety. The applicant may dedicate such public use zone to any local agency agreeing to operate or maintain it for the benefit of the public. If no local agency agrees to operate or maintain the public use zone for the benefit of the public, the applicant may dedicate such zone to the state. The commission shall also require that any facility to be located along the coast or shoreline of any major body of water be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values.

§ 25530. Reconsideration of decision or order; motion; petition

The commission may order a reconsideration of all or part of a decision or order on its own motion or on petition of any party.

Any such petition shall be filed within 30 days after adoption by the commission of a decision or order. The commission shall not order a reconsideration on its own motion more than 30 days after it has adopted a decision or order. The commission shall order or deny reconsideration on a petition therefor within 30 days after the petition is filed.

A decision or order may be reconsidered by the commission on the basis of all pertinent portions of the record together with such argument as the commission may permit, or the commission may hold a further hearing, after notice to all interested persons. A decision or order

of the commission on reconsideration shall have the same force and effect as an original order or decision.

§ 25531. Judicial review; evidence; scope; jurisdiction; eminent domain proceedings; prohibition of mandate for specific supply plan

(a) The decisions of the commission on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact are final and are not subject to review, except as provided in this article. These questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the commission certifies any site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire the site and related facility.

(e) No decision of the commission pursuant to Section 25516, 25522, or 25523 shall be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

§ 25532. Monitoring system

The commission shall establish a monitoring system to assure that any facility certified under this division is constructed and is operating in compliance with air and water quality, public health and safety, and other applicable regulations, guidelines, and conditions adopted or established by the commission or specified in the written decision on the application. In designing and operating the monitoring system, the commission shall seek the cooperation and assistance of the State Air Resources Board, the State Water Resources Control Board, the Department of Health, and other state, regional, and local agencies which have an interest in environmental control.

§ 25534. Amendment or revocation of certification; grounds; administrative civil penalty

(a) The commission may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons:

(1) Any material false statement set forth in the application, presented in proceedings of the commission, or included in supplemental documentation provided by the applicant.

(2) Any significant failure to comply with the terms or conditions of approval of the application, as specified by the commission in its written decision.

(3) A violation of this division or any regulation or order issued by the commission under this division.

(4) The owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved provided the California Consumer Power and Conservation Financing Authority notifies the commission that it is willing and able to construct the project pursuant to subdivision (g). The project owner may extend the 12-month period by 24 additional months pursuant to subdivision (f). This paragraph applies only to projects with a project permit application deemed complete by the commission after January 1, 2003.

(b) The commission may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed seventy-five thousand dollars ($75,000) per violation, except that the civil penalty may be increased by an amount not exceed one thousand five hundred dollars ($1,500) per day for each day in which the violation occurs or persists, but the total of the per day penalties may not exceed fifty thousand dollars ($50,000).

(c) A project owner shall commence construction of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) within 12 months after the project has been certified by the commission and after all accompanying project permits are final and administrative and judicial appeals have been completed. The project owner shall submit construction and commercial operation milestones to the commission within 30 days after project certification. Construction milestones shall require the start of construction within the 12-month period established by this subdivision. The commission shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the commission is not met, the commission shall establish milestones for the project.

(d) The failure of the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the commission of good cause, shall be cause for revocation of certification or the imposition of other penalties by the commission.

(e) A finding by the commission that there is good cause for failure to meet the start-of-construction deadline required by paragraph (4) of subdivision (a) or any subsequent milestones of subdivision (c) shall be made if the commission determines that any of the following criteria are met:

(1) The change in any deadline or milestone does not change the established deadline or milestone for the start of commercial operation.

(2) The deadline or milestone is changed due to circumstances beyond the project owner's control, including, but not limited to, administrative and legal appeals.

(3) The deadline or milestone will be missed but the project owner demonstrates a good faith effort to meet the project deadline or milestone.

(4) The deadline or milestone will be missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.

(5) The deadline or milestone will be missed for any other reason determined reasonable by the commission.

(f) The commission shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months, if the owner reimburses the commission's actual cost of licensing the project less the amount paid pursuant to subdivision (a) of section 25806. For the purposes of this section, the commission's actual cost of licensing the project shall be based on a certified audit report filed by the commission staff within 180 days of the commission's certification of the project. The certified audit shall be filed and served on all parties to the proceeding, is subject to public review and comment, and is subject to at least one public hearing if requested by the project owner. Any reimbursement received by the commission pursuant to this subdivision shall be deposited in the General Fund.

(g) If the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) fails to commence construction, without good cause, within 12 months after the project has been certified by the commission and has not received an extension pursuant to subdivision (f), the commission shall provide immediate notice to the California Consumer Power and Conservation Financing Authority. The authority shall evaluate whether to pursue the project independently or in conjunction with any other public or private entity, including the original certificate holder. If the authority demonstrates to the commission that it is willing and able to construct the project either independently or in conjunction with any other public or private entity, including the original certificate holder, the commission may revoke the original certification and issue a new certification for the project to the authority, unless the authority's statutory authorization to finance or approve new programs, enterprises, or projects has expired. If the authority declines to pursue the project, the permit shall remain with the current project owner until it expires pursuant to the regulations adopted by the commission.

(h) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority, the commission shall adopt new milestones for the project that allow the authority up to 24 months to start construction of the project or to start to meet the applicable deadlines or milestones. If the authority fails to begin construction in conformity with the deadlines or milestones adopted by the commission, without good cause, the certification may be revoked.

(i)(1) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority and the authority pursues the project, without participation of the original certificate holder, the

authority shall offer to reimburse the original certificate holder for the actual costs the original certificate holder incurred in permitting the project and in procuring assets associated with the license, including, but not limited to, major equipment and the emission offsets. In order to receive reimbursement, the original certificate holder shall provide to the commission documentation of the actual costs incurred in permitting the project. The commission shall validate those costs. The certificate holder may refuse to accept the offer of reimbursement for any asset associated with the license and retain the asset. To the extent the certificate holder chooses to accept the offer for an asset, it shall provide the authority with the asset.

(2) If the authority reimburses the original certificate holder for the costs described in paragraph (1), the original certificate holder shall provide the authority with all of the assets for which the original certificate holder received reimbursement.

(j) This section does not prevent a certificate holder from selling its license to construct and operate a project prior to its revocation by the commission. In the event of a sale to an entity that is not an affiliate of the certificate holder, the commission shall adopt new deadlines or milestones for the project that allow the new certificate holder up to 12 months to start construction of the project or to start to meet the applicable deadlines or milestones.

(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility's load. For the purposes of this subdivision, "replacement" of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.

(l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to "local publicly owned electric utilities" as defined in subdivision (d) of Section 9604 of the Public Utilities Code whose governing bodies certify to the commission that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the commission and the California Consumer Power and Conservation Financing Authority may, in consultation with each other, adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

§ 25534.1. Complaint; hearing; orders; amount of penalty

(a) The executive director of the commission may issue a complaint to any person or entity on whom an administrative civil penalty may be imposed pursuant to Section

25534. The complaint shall allege the act or failure to act for which the civil penalty is proposed, the provision of law authorizing civil liability, and the proposed civil penalty.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that a hearing will be conducted within 60 days after the party has been served. The hearing shall be before the commission. The complainant may waive the right to a hearing, in which case the commission shall not conduct a hearing.

(c) After any hearing, the commission may adopt, with or without revision, the proposed decision and order of the executive director.

(d) Orders setting an administrative civil penalty shall become effective and final upon issuance thereof, and any payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

(e) In determining the amount of the administrative civil penalty, the commission shall take into consideration and nature, circumstance, extent, and gravity of the violation or violations, whether the violation is susceptible to removal or resolution, the cost to the state in pursuing the enforcement action, and with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary removal or resolution efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

§ 25534.2. Review; collection of penalties; deposit of moneys recovered

(a) Within 30 days after service of an order issued under Section 25534.1, any aggrieved party may file with the superior court a petition for writ of mandate for review thereof pursuant to Section 1094.5 of the Code of Civil Procedure. If no aggrieved party petition for a writ of mandate is filed within the time provided by this section, an order of the commission is not subject to review by any court or agency, except that the commission may grant review on its own motion of an order issued under Section 25534.1 after the expiration of the time limits set by this section.

(b) Upon request of the commission, the Attorney General shall institute an action in the appropriate superior court to collect and recover any administrative civil penalties imposed pursuant to Section 25534.1. The court shall accord priority on its calendar to any action under this subdivision.

(c) Any moneys recovered by the commission pursuant to this section shall be deposited in the General Fund.

§ 25535. Costs allowable for ratemaking purposes

Such reasonable and direct costs as the applicant incurs to comply with the provisions of this chapter shall be allowed for ratemaking purposes.

§ 25536. Repealed.

§ 25537. Approval of application; submission of information to federal agencies

Upon approval of an application, the commission shall forward to the United States Nuclear Regulatory Commission, the Environmental Protection Agency, and to other appropriate federal agencies, the results of its studies including the environmental impact report on the facility, the written decision on the facility contained in the application, and the commission's determination of facility safety and reliability as provided in Section 25511.

§ 25538. Review by local agencies; fees; lost permit fees; reimbursement

Upon receiving the commission's request for review under subdivision (f) of Section 25519 and Section 25506, the local agency may request a fee from the commission to reimburse the local agency for the actual and added costs of this review by the local agency. The commission shall reimburse the local agency for the added costs that shall be actually incurred by the local agency in complying with the commission's request. The local agency may also request reimbursement for permit fees that the local agency would receive but for the operation of Section 25500, provided, however, that such fees may only be requested in accordance with actual services performed by the local agency. The commission shall either request a fee from the person proposing the project or devote a special fund in its budget, for the reimbursement of such costs incurred by local agencies.

§ 25539. Rules and regulations

In reviewing notices and applications for certification or modifications of existing facilities, the commission shall adopt rules and regulations as necessary to insure that relevant duties pursuant to this division are carried out.

§ 25540. Geothermal powerplant and related facilities; alternative sites and related facilities; notice; findings; final decision

If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, the commission shall not require three alternative sites and related facilities to be proposed in the notice. Except as otherwise provided, the commission shall issue its findings on the notice, as specified in Section 25514, within nine months from the date of filing of such notice, and shall issue its final decision on the application, as specified in Section 25523, within nine months from the date of the filing of the application for certification, or at such later time as is mutually agreed to by the commission and the applicant or person submitting the notice or application.

§ 25540.1. Geothermal powerplant; determination of completeness of notice or application; determination as to when notice or application deemed filed

The commission shall determine, within 30 days after the receipt of a notice or application for a geothermal powerplant, whether the notice or application is complete. If the notice or application is determined not to be complete, the commission's determination shall specify, in writing, those parts of the notice or application which are incomplete and shall indicate the manner in which it can be made complete. Within 30 days after receipt of the applicant's filing with the commission the additional information requested by the commission to make the notice or application complete, the commission shall determine whether the subsequent filing is sufficient to complete the notice or application. A notice or application shall be deemed filed for purposes of Section 25540 on the date the commission determines the notice or application is completed if the

commission has adopted regulations specifying the informational requirements for a complete notice or application, but if the commission has not adopted regulations, the notice or application shall be deemed filed on the last date the commission receives any additional data that completes the notice or application.

§ 25540.2. Geothermal powerplant and related facilities; proposed construction; notice of intention; final decision; copies of application for certification

Notwithstanding any other provision of law:

(a) If an applicant proposes to construct a geothermal powerplant at a site which, at the outset of the proceeding, the applicant can reasonably demonstrate to be capable of providing geothermal resources in commercial quantities, no notice of intention pursuant to Section 25502 shall be required, and the commission shall issue the final decision on the application, as specified in Section 25523, within 12 months after acceptance of the application for certification of a geothermal powerplant and related facilities, or at such later time as is mutually agreed by the commission and the applicant.

(b) Upon receipt of an application for certification of a geothermal powerplant and related facilities, the commission shall transmit a copy of the application to every state and local agency having jurisdiction over land use in the area involved.

§ 25540.3. Geothermal powerplant and related facilities; application; contents; electric generating potential in excess of capacity proposed for initial construction; potential multiple facility site

(a) An applicant for a geothermal powerplant may propose a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction. In addition to the information concerning the initial powerplant and related facilities proposed for construction required pursuant to Section 25520, such application shall include all of the following, to the extent known:

(1) The number, type, and energy source of electric generating units which the site is proposed ultimately to accommodate and the maximum generating capacity for each unit.

(2) The projected installation schedule for each unit.

(3) The impact of the site, when fully developed, on the environment and public health and safety.

(4) The amount and sources of cooling water needed at the fully developed site.

(5) The general location and design of auxiliary facilities planned for each stage of development, including, but not limited to pipelines, transmission lines, waste storage and disposal facilities, switchyards, and cooling ponds, lakes, or towers.

(6) Such other information relating to the design, operation, and siting of the facility as the commission may by regulation require.

(b) If an application is filed pursuant to subdivision (a) which proposes a site to be approved which will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction, the commission may, in its decision pursuant to subdivision (a) of Section 25540.3, either certify only the initial facility or facilities proposed for initial construction or may certify the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

If the decision includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple facility site. The commission may, in determining the acceptability of a potential multiple facility site, specify conditions or criteria necessary to ensure that future additional facilities will not exceed the limitations of the site.

§ 25540.4. Potential multiple facility site; decision on application for additional facility; reconsideration of prior determination; environmental impact report; time

Notwithstanding any other provision of law:

(a) The decision of the commission on an application for an additional facility at a potential multiple facility site shall be issued within three months after the acceptance of the application or at such later time as is mutually agreed upon by the commission and the applicant.

(b) In reviewing an application for an additional facility at a potential multiple facility site, the commission may, upon a showing of good cause, undertake a reconsideration of its prior determinations in the final report for the site pursuant to Section 25514 or its decision pursuant to Section 25523 based on current conditions and other reasonable alternatives to the proposed facility. Such reconsideration must be completed within seven months after acceptance of such application for an additional facility.

(c) The commission shall, pursuant to Section 21100.2, provide by resolution or order for completing and certifying the environmental impact report within the time limits established by subdivisions (a) and (b).

§ 25540.5. Geothermal powerplant and related facilities; certification; delegation to county; revocation

The commission may, at the petition of a county which has adopted a geothermal element for its general plan, approve an equivalent certification program which delegates to that county full authority for the certification of all geothermal powerplants within such county. Once approved by the commission, the equivalent certification program shall replace and supersede the procedures for certification of all geothermal powerplants and related facilities, pursuant to Sections 25540 to 25540.4, inclusive, to be located within such county. The commission may, after public hearings, revoke the approved equivalent certification program of such county if the commission finds that the program does not comply with current commission certification requirements. The equivalent certification program shall include, but not be limited to, provisions for all of the following:

(a) Certification of geothermal areas as potential multiple facility sites, if so applied for.

(b) Processing of applications in less than 12 months.

(c) Periodic review and updating of the program by the county as may be required by law and the commission.

(d) Appeal procedures, including appeals to the commission on substantive issues. In any such appeal on a substantive issue, the commission shall determine whether the act or decision is supported by substantial evidence in the light of the whole record. The commission shall determine, within 15 days of receipt of an appeal, whether the appeal has merit and whether action should be taken.

(e) Input and review by other relevant public agencies and members of the public.

(f) Public hearing procedures equivalent to those specified in Article 6 (commencing with Section 65350) of Chapter 3 of Title 7 of the Government Code.

§ 25540.6. Thermal powerplants on which commission must issue final decision on application within 12 months; site selection application discussion where project exempt from notice of intention requirement

(a) Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:

(1) A thermal powerplant which will employ cogeneration technology, a thermal powerplant that will employ natural gas-fired technology, or a solar thermal powerplant.

(2) A modification of an existing facility.

(3) A thermal powerplant which it is only technologically or economically feasible to site at or near the energy source.

(4) A thermal powerplant with a generating capacity of up to 100 megawatts.

(5) A thermal powerplant designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.

(b) Projects exempted from the notice of intention requirement pursuant to paragraph (1), (4), or (5) of subdivision (a) shall include, in the application for certification, a discussion of the applicant's site selection criteria, any alternative sites that the applicant considered for the project, and the reasons why the applicant chose the proposed site. That discussion shall not be required for cogeneration projects at existing industrial sites. The commission may also accept an application for a noncogeneration project at an existing industrial

site without requiring a discussion of site alternatives if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.

§ 25541. Thermal-powerplants; exemption from provisions of chapter; conditions

The commission may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts and modifications to existing generating facilities that do not add capacity in excess of 100 megawatts, if the commission finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

§ 25541.1. Thermal powerplants using resource recovery technology; legislative encouragement

It is the intent of the Legislature to encourage the development of thermal powerplants using resource recovery (waste-to-energy) technology. Previously enacted incentives for the production of electrical energy from nonfossil fuels in commercially scaled projects have failed to produce the desired results. At the same time, the state faces a growing problem in the environmentally safe disposal of its solid waste. The creation of electricity by a thermal powerplant using resource recovery technology addresses both problems by doing all of the following:

(a) Generating electricity from a nonfossil fuel of an ample growing supply.

(b) Conserving landfill space, thus reducing waste disposal costs.

(c) Avoiding the health hazards of burying garbage.

Furthermore, development of resource recovery facilities creates new construction jobs, as well as ongoing operating jobs, in the communities in which they are located.

§ 25541.5. Regulatory program; certification

(a) On or before January 1, 2001, the Secretary of the Resources Agency shall review the regulatory program conducted pursuant to this chapter that was certified pursuant to subdivision (k) of Section 15251 of Title 14 of the California Code of Regulations, to determine whether the regulatory program meets the criteria specified in Section 21080.5. If the Secretary of the Resources Agency determines that the regulatory program meets those criteria, the secretary shall continue the certification of the regulatory program.

(b) If the Secretary of the Resources Agency continues the certification of the regulatory program, the commission shall amend the regulatory program from time to time, as necessary to permit the secretary to continue to certify the program.

(c) This section does not invalidate the certification of the regulatory program, as it existed on January 1, 2000, pending the review required by subdivision (a).

§ 25542. Inapplicability of division to certain sites and facilities; power of commission ineffective

In the case of any site and related facility or facilities for which the provisions of this division do not apply, the exclusive power given to the commission pursuant to Section 25500 to certify sites and related facilities shall not be in effect.

§ 25543. Improvements to the siting process

(a) It is the intent of the Legislature to improve the process of siting and licensing new thermal electric powerplants to ensure that these facilities can be sited in a timely manner, while protecting environmental quality and public participation in the siting process.

(b) Notwithstanding Section 7550.5 of the Government Code, the commission shall prepare a report to the Governor and the Legislature on or before March 31, 2000, that identifies administrative and statutory measures that, preserving environmental protections and public participation, would improve the commission's siting and licensing process for thermal powerplants of 50 megawatts and larger. The report shall include, but is not limited to, all of the following:

(1) An examination of potential process efficiencies associated with required hearings, site visits, and documents.

(2) A review of the impacts on both process efficiency and public participation of restrictions on communications between applicants, the public, and staff or decisionmakers.

(3) An assessment of means for improving coordination with the licensing activities of local jurisdictions and participation by other state agencies.

(4) An assessment of organizational structure issues including the adequacy of the amounts and organization of current technical and legal resources.

(5) Recommendations for administrative and statutory measures to improve the siting and licensing process.

(c) The commission may immediately implement any administrative recommendations. Regulations, as identified in paragraph (5), adopted within 180 days of the effective date of this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code. For purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

CHAPTER 6.5 EXPEDITED SITING OF ELECTRICAL GENERATION

§ 25550. Six month process

(a) Notwithstanding subdivision (a) of Section 25522, and Section 25540.6 the commission shall establish a process to issue its final certification for any thermal powerplant and related facilities within six months after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and will comply with all applicable standards, ordinances, or laws. For purposes of this section, filing has the same meaning as in Section 25522.

(b) Thermal powerplants and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission, by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed thermal powerplant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed thermal powerplant and related facilities.

(c) After acceptance of an application under this section, the commission shall not be required to issue a six-month final decision on the application if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, or law. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, all local, regional, and state agencies that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide their final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control boards, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

(e) Thermal powerplants and related facilities that demonstrate superior environmental or efficiency performance shall receive priority in review.

(f) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.

(g) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the thermal powerplant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.

(h) This section shall not apply to an application filed with the commission on or before August 1, 1999.

(i) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(j) This section shall remain in effect until January 1, ~~2004~~2007, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, ~~2004~~2007, deletes or extends that date.

§ 25550.5. Required findings; repowering

(a) Notwithstanding subdivision (a) of Section 25522 and Section 25540.6, the commission shall establish a process to issue its final decision on an application for certification for the repowering of a thermal powerplant and related facilities within 180 days after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and that the project will comply with all applicable standards, ordinances, regulations, and statutes. For purposes of this section, filing has the same meaning as in Section 25522.

(b) The repowering of a thermal powerplant and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed repowering of a thermal powerplant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed repowering of a thermal powerplant and related facilities.

(c) After an application is filed under this section, the commission shall not be required to issue a final decision on the application within 180 days if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, regulation, or statute. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, any local, regional, or state agency that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide its final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control board, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

(e) The repowering of a thermal powerplant and related facilities that demonstrate superior environmental or efficiency performance improvement shall receive first priority in review by the commission.

(f) With respect to the repowering of a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the applicant has contracted with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.

(g) With respect to a repowering of a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the thermal powerplant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.

(h) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(i) For purposes of this section, "repowering" means a project for the modification of an existing generation unit of a thermal powerplant that meets all of the following criteria:

(1) The project complies with all applicable requirements of federal, state, and local laws.

(2) The project is located on the site of, and within the existing boundaries of, an existing thermal facility.

(3) The project will not require significant additional rights-of-way for electrical or fuel-related transmission facilities.

(4) The project will result in significant and substantial increases in the efficiency of the production of electricity, including, but not limited to, reducing the heat rate, reducing the use of natural gas, reducing the use and discharge of water, and reducing air pollutants emitted by the project, as measured on a per kilowatthour basis.

(j) This section shall remain in effect only until January 1, ~~2004~~2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2004~~2007, deletes or extends that date.

~~§ 25552. Procedure for simple cycle plants~~

~~(a) The commission shall implement a procedure, consistent with Division 13 (commencing with Section 21000) and with the federal Clean Air Act (42 U.S.C.A. Sec. 7401 et seq.), for an expedited decision on simple cycle thermal powerplants and related facilities that can be put into service on or before December 31, 2002, including a procedure for considering~~

~~amendments to a pending application if the amendments specify a change from a combined cycle thermal powerplant and related facilities to a simple cycle thermal powerplant and related facilities.~~

~~(b) The procedure shall include all of the following:~~

~~(1) A requirement that, within 15 days of receiving the application or amendment to a pending application, the commission shall determine whether the application is complete.~~

~~(2) A requirement that, within 25 days of determining that an application is complete, the commission, or a committee of the commission, shall determine whether the application qualifies for an expedited decision pursuant to this section. If an application qualifies for an expedited decision pursuant to this section, the commission shall provide the notice required by Section 21092.~~

~~(c) The commission shall issue its final decision on an application, including an amendment to a pending application, within four months from the date on which it deems the application or amendment complete, or at any later time mutually agreed upon by the commission and the applicant, provided that the thermal powerplant and related facilities remain likely to be in service on or before December 31, 2002.~~

~~(d) The commission shall issue a decision granting a license to a simple cycle thermal powerplant and related facilities pursuant to this section if the commission finds all of the following:~~

~~(1) The thermal powerplant is not a major stationary source or a modification to a major stationary source, as defined by the federal Clean Air Act, and will be equipped with best available control technology, in consultation with the appropriate air pollution control district or air quality management district and the State Air Resources Board.~~

~~(2) The thermal powerplant and related facilities will not have a significant adverse effect on the environment or the electrical system as a result of construction or operation.~~

~~(3) With respect to a project for a thermal powerplant and related facilities reviewed under the process established by this section, the applicant has a contracted with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the thermal powerplant.~~

~~(e) In order to qualify for the procedure established by this section, an application shall satisfy the requirements of Section 25523, and include a description of the proposed conditions of certification that will do all of the following:~~

~~(1) Assure that the thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.~~

~~(2) Assure protection of public health and safety.~~

~~(3) Result in compliance with all applicable federal, state, and local laws, ordinances, and standards.~~

~~(4) A reasonable demonstration that the thermal powerplant and related facilities, if licensed on the expedited schedule provided by this section, will be in service before December 31, 2002.~~

~~(5) A binding and enforceable agreement with the commission, that demonstrates either of the following:~~

~~(A) That the thermal powerplant will cease to operate and the permit will terminate within three years.~~

~~(B) That the thermal powerplant will be recertified, modified, replaced, or removed within a period of three years with a cogeneration combined-cycle thermal powerplant that uses best available control technology and obtains necessary offsets, as determined at the time the combined-cycle thermal powerplant is constructed, and that complies with all other applicable laws, ordinances, and standards.~~

~~(6) Where applicable, that the thermal powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the air pollution control district or air quality management district based upon the actual emissions from the thermal powerplant, to the district for expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code, to mitigate the emissions from the plant. To the extent consistent with federal law and regulation, any offsets required pursuant to this paragraph shall be based upon a 1:1 ratio, unless, after consultation with the applicable air pollution control district or air quality management district, the commission finds that a different ratio should be required.~~

~~(7) Nothing in this section shall affect the ability of an applicant that receives approval to install simple cycle thermal powerplants and related facilities as an amendment to a pending application to proceed with the original application for a combined cycle thermal powerplant or related facilities.~~

~~(f) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date except that the binding commitments in paragraph (5) of subdivision (e) shall remain in effect after that date.~~

~~§ 25555. Demand reduction grant programs~~

~~(a) In consultation with the Public Utilities Commission, the commission shall implement the peak electricity demand reduction grant programs listed in paragraphs (1), (2), and (3). The commission's implementation of these programs shall be consistent with guidelines established pursuant to subdivision (b). The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that factors other than those adopted by the commission were applied in making the award. Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission. Awards made pursuant to this section are not subject to any repayment requirements of Chapter 7.4 (commencing with Section 25645). The peak electricity demand programs the commission shall implement pursuant to this section shall include, but not be limited to, the following:~~

~~(1) For San Francisco Bay Area and San Diego region electricity customers, the peak electricity demand program shall include both of the following:~~

~~(A) Incentives for price responsive heating, ventilation, air conditioning, and lighting systems.~~

~~(B) Incentives for cool communities.~~

~~(2) For statewide electricity customers, the peak electricity demand program shall include all of the following:~~

~~(A) Incentives for price responsive heating, ventilation, air conditioning, and lighting systems.~~

~~(B) Incentives for cool communities.~~

~~(C) Incentives for energy efficiency improvements for public universities and other state facilities.~~

~~(D) Funding for state building peak reduction measures.~~

~~(E) Incentives for light-emitting diode traffic signals.~~

~~(F) Incentives for water and wastewater treatment pump and related equipment retrofits.~~

~~(3) Renewable energy development, except hydroelectric development, for both onsite distributed energy development and for commercial scale projects through which awards may be made by the commission to reduce the cost of financing those projects.~~

~~(b) In consultation with the Public Utilities Commission, the commission shall establish guidelines for the administration of this section. The guidelines shall enable the commission to allocate funds between the programs as it determines necessary to lower electricity system peak demand. The guidelines adopted pursuant to this subdivision are not regulations subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(c) The commission may choose from among one or more business entities capable of supplying or providing goods or services that meet a specified need of the commission in carrying out the responsibilities for programs included in this section. The commission may select an entity on a sole source basis if the cost to the state will be reasonable and the commission determines that it is in the state's best interest.~~

~~(d) The commission shall contract with one or more business entities for evaluation of the effectiveness of the programs implemented pursuant to subdivision (a). The contracting provisions specified in subdivision (c) shall apply to these contracts.~~

~~(e) For purposes of this section, the following definitions shall apply:~~

~~(1) "Low-rise buildings" means one and two story buildings.~~

~~(2) "Price responsive heating, ventilation, air conditioning, and lighting systems" means a program that provides incentives for the installation of equipment that will automatically lower the electricity consumption of these systems when the price of electricity reaches specific thresholds.~~

~~(3) "Light-emitting diode traffic signals" means a program to provide incentives to encourage the replacement of incandescent traffic signal lamps with light-emitting diodes.~~

~~(4) "Cool communities" means a program to reduce "heat island" effects in urban areas and thereby conserve energy and reduce peak demand.~~

~~(5) "Water and wastewater treatment pump retrofit" means a program to provide incentives to encourage the retrofit and replacement of water and wastewater treatment pumps and equipment and installation of energy control systems in order to reduce their electricity consumption during periods of peak electricity system demand.~~

~~(f) The commission may expend no more than 3 percent of the amount appropriated to implement this section, for purposes of administering this section.~~

~~**(g) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.**~~

CHAPTER 7. RESEARCH AND DEVELOPMENT

§ 25600. Definitions

As used in this chapter:

(a) "Passive thermal system" means a system which utilizes the structural elements of a building and is not augmented by mechanical components to provide for collection, storage and distribution of solar energy or coolness.

(b) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy or coolness.

(c) "Solar device" means the equipment associated with the collection, transfer, distribution, storage, and control of solar energy.

(d) "Solar system" means the integrated use of solar devices for the functions of collection, transfer, storage, and distribution of solar energy.

(e) "Standard" means a specification of design, performance, and procedure, or of the instrumentation, equipment, surrounding conditions, and skills required during the conduct of a procedure.

§ 25601. Development and coordination of program; priorities

The commission shall develop and coordinate a program of research and development in energy supply, consumption, and conservation and the technology of siting facilities and shall give priority to those forms of research and development which are of particular importance to the state, including, but not limited to, all of the following:

(a) Methods of energy conservation specified in Chapter 5 (commencing with Section 25400).

(b) Increased energy use efficiencies of existing thermal electric and hydroelectric powerplants and increased energy efficiencies in designs of thermal electric and hydroelectric powerplants.

(c) Expansion and accelerated development of alternative sources of energy, including geothermal and solar resources, including, but not limited to, participation in large-scale demonstrations of alternative energy systems sited in California in cooperation with federal agencies, regional compacts, other state governments and other participants. For purposes of this subdivision, "participation" shall be defined as any of the following: (1) direct interest in a project, (2) research and development to insure acceptable resolution of environment and other impacts of alternative energy systems, (3) research and development to improve siting and permitting methodology for alternative energy systems; (4) experiments utilizing the alternative energy systems, and (5) research and development of appropriate methods to insure the widespread utilization of economically useful alternative energy systems. Large-scale demonstrations of alternative energy systems are exemplified by the 100 KWe to 100 MWe range demonstrations of solar, wind, and geothermal systems contemplated by federal agencies, regional compacts, other state governments, and other participants.

(d) Improved methods of construction, design, and operation of facilities to protect against seismic hazards.

(e) Improved methods of energy-demand forecasting.

(f) To accomplish the purposes of subdivision (c), an amount not more than one-half of the total state funds appropriated for the solar energy research and development program as proposed in the budget prepared pursuant to Section 25604 shall be allocated for large-scale demonstration of alternative energy systems.

§ 25602. Technical assessment studies

The commission shall carry out technical assessment studies on all forms of energy and energy-related problems, in order to influence federal research and development priorities and to be informed on future energy options and their impacts, including, in addition to those problems specified in Section 25601, but not limited to, the following:

(a) Advanced nuclear powerplant concepts, fusion, and fuel cells.

(b) Total energy concepts.

(c) New technology related to coastal and offshore siting of facilities.

(d) Expanded use of wastewater as cooling water and other advances in powerplant cooling.

(e) Improved methods of power transmission to permit interstate and interregional transfer and exchange of bulk electric power.

(f) Measures to reduce wasteful and inefficient uses of energy.

(g) Shifts in transportation modes and changes in transportation technology in relation to implications for energy consumption.

(h) Methods of recycling, extraction, processing, fabricating, handling, or disposing of materials, especially materials which require large commitments of energy.

(i) Expanding recycling of materials and its effect on energy consumption.

(j) Implications of government subsidies and taxation and ratesetting policies.

(k) Utilization of waste heat.

(l) Use of hydrogen as an energy form.

(m) Use of agricultural products, municipal wastes, and organic refuse as an energy source.

Such assessments may also be conducted in order to determine which energy systems among competing technologies are most compatible with standards established pursuant to this division.

§ 25603. Energy-conserving buildings

For research purposes, the commission shall, in cooperation with other state agencies, participate in the design, construction, and operation of energy-conserving buildings using data developed pursuant to Section 25401, in order to demonstrate the economic and technical feasibility of such designs.

§ 25603.5. State solar medallion passive design competition

(a) Pursuant to the duties of the commission described in subdivision (a) of Section 25401 and Section 25603, the commission shall conduct a statewide architectural design competition to select outstanding designs for new single-family and multifamily residential units which incorporate passive solar and other energy-conserving design features.

The purpose of the competition, to be known as the "State Solar Medallion Passive Design Competition", is to demonstrate the technical and economic feasibility of passive solar design for residential construction, to speed its commercialization, and to promote its use by developers in housing for moderate-income families in the state. The competition shall be carried out with the assistance and cooperation of the office of the State Architect.

(b) The competition shall be conducted for each of the state's six regional climate zones. Each climate zone shall have the following four categories of competition:

(1) Single-family dwellings. The construction costs of these dwellings shall not exceed thirty-five thousand dollars ($35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars ($55,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars ($55,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed eighty-five thousand dollars ($85,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(3) Multifamily housing units with a market price or rental value comparable to paragraph (1) of this subdivision.

(4) Multifamily housing units with a market price or rental value comparable to paragraph (2) of this subdivision.

(c) In order to qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:

(1) A building designer or architect.

(2) A builder, developer, or contractor.

(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:

(1) To build five models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed more than 30 single-family detached units during the one-year period ending on the date of the award, or

(2) To build three models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed 30 or fewer single-family detached units during the one-year period ending on the date of the award, or

(3) To build one model of the winning design for all multifamily categories.

(4) To commence construction within 18 months of the announcement of awards.

(5) To permit the commission to install monitoring equipment for measuring energy conservation performance of the structure on all models constructed in compliance with paragraphs (1), (2), and (3) of this subdivision.

(6) To permit the commission to document, exhibit, and publicize the constructed designs.

All models of winning designs shall be built on the site or sites described in the submission or on an alternate site or sites with comparable features.

Cash awards to authors of the winning designs may be made prior to commencement of the agreed upon construction.

All winning designs in the competition shall become the property of the state and may be published and exhibited by the state after completion of competition.

(e) The judging panel for the competition shall consist of the following five jurors:

(1) One representative of the Office of the State Architect.

(2) One representative of the commission.

(3) One certificated architect.

(4) One representative of the state's lending institutions.

(5) One developer, builder, or contractor.

The nonagency members shall be appointed by the State Architect.

In recognition of the wide variation in construction costs statewide, and in order to ensure fair and equitable competition in all areas of the state, a cost index shall be used to determine different construction cost and market price requirements for each category of competition in the major metropolitan areas of the state.

The construction cost and market price figures specified in paragraphs (1) and (2) of subdivision (b) shall be used as the upper limit values on which the index shall be based. Construction cost and market price figures reflecting the diversity in costs in different areas of the state shall be determined in relation to upper limit values specified in this section.

The cost index shall be prepared by the Office of the State Architect and shall be published in the competition program.

The evaluation shall take place in two stages, with an initial technical review by the commission staff. The staff shall summit to the judging panel a rigorous technical assessment of the anticipated energy conservation performance of all submissions. Final selections shall be made by the judging panel.

Designs submitted to the competition shall be judged on the extent to which they satisfy the following criteria:

(1) Use of passive solar and other energy conserving design features.

(2) Amount of energy savings achieved by the design.

(3) Adaptability of the design to widespread use.

(f) The commission shall be responsible for developing rules and procedures for the conduct of the competition and for the judging, which rules shall ensure anonymity of designs submitted prior to final awarding of prizes, shall ensure impartiality of the judging panel, and shall ensure uniform treatment of competitors.

In administering the competition, the commission shall accomplish the following tasks:

(1) Preparation of a competition program, including climatological data for each of the six regional climate zones.

(2) Distribution of competition information and ongoing publicity.

(3) Development of rules and procedures for competitors and judges.

(4) Preparation of a summary document for the competition, including a portfolio of winning designs and follow-up publicity.

(5) Instrumentation of winning dwellings constructed in accordance with requirements of this section; instrumentation for measurement of energy conservation performance of the units and ongoing data collection shall be provided by the commission pursuant to Section 25607.

For purposes of administering the competition, the commission shall contract with the Office of the State Architect for materials and services that cannot be performed by its staff.

(g) Cash awards to authors of the winning designs shall be made on the following basis:

Using the criteria in subdivision (e) of this section, the judging panel shall select, as follows:

(1) The most outstanding design statewide selected from among the first place winners in either of two single-family categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(2) The most outstanding design statewide selected from among the first place winners in either of the two multifamily categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(3) The first place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of five thousand dollars ($5,000).

(4) The second place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of two thousand dollars ($2,000).

§ 25603.7. Repealed

§ 25604. Repealed.

§ 25605. Regulations governing solar devices

On or before November 1, 1978, the commission shall develop and adopt, in cooperation with affected industry and consumer representatives, and after one or more public hearings, regulations governing solar devices. The regulations shall be designed to encourage the development and use of solar energy and to provide maximum information to the public concerning solar devices. The regulations may include, but need not be limited to, any or all of the following:

(a) Standards for testing, inspection, certification, sizing, and installation of solar devices.

(b) Provisions for the enforcement of the standards. Such provisions may include any or all of the following:

(1) Procedures for the accreditation by the commission of laboratories to test and certify solar devices.

(2) Requirements for onsite inspection of solar devices, including specifying methods for inspection, to determine compliance or noncompliance with the standards.

(3) Requirements for submission to the commission of any data resulting from the testing and inspection of solar devices.

(4) Prohibitions on the sale of solar devices which do not meet minimum requirements for safety and durability as established by the commission.

(5) Dissemination of the results of the testing, inspection, and certification program to the public.

(c) In adopting the regulations, the commission shall give due consideration to their effect on the cost of purchasing, installing, operating and maintaining solar devices. The commission shall reassess the regulations as often as it deems necessary, based upon the value of the regulations in terms of benefits and disadvantages to the widespread adoption of solar energy systems and the need to encourage creativity and innovative adaptations of solar energy. The commission may amend or repeal these regulations based on such reassessment.

(d) Under no circumstances may the commission preclude any person from developing, installing, or operating a solar device on his or her own property.

(e) Any violation of any regulation adopted by the commission pursuant to this section may be enjoined in the same manner as is prescribed in Chapter 10 (commencing with Section 25900) of this division for enjoining a violation of this division.

§ 25605.5. Building standards; adoption approval; enforcement

Standards adopted by the commission pursuant to Section 25605, which are building standards as defined in Section 25488.5, shall be submitted to the State Building Standards Commission for approval pursuant to, and are governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the commission and published in the State Building Standards Code shall comply with, and be enforced as provided in, Section 25605.

§ 25606. Repealed

§ 25607. Repealed

§ 25608. Conferences to coordinate adoption of regulations

The commission shall confer with officials of federal agencies, including the National Aeronautics and Space Administration, the National Institute of Standards and Technology, the Department of Energy, and the Department of Housing and Urban Development, to coordinate the adoption of regulations pursuant to Sections 25603, and 25605.

§ 25609. Effective date of regulations

The commission may, in adopting regulations pursuant to this chapter, specify the date when the regulations shall take effect. The commission may specify different dates for different regulations.

§ 25609.5. Building standards; approval of effective dates

The effective dates of building standards adopted by the commission pursuant to Section 25609 are subject to approval pursuant to the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Part 13 of the Health and Safety Code.

§ 25610. Contracts for materials and services

For purposes of carrying out the provisions of this chapter, the commission may contract with any person for materials and services that cannot be performed by its staff or other state agencies, and may apply for federal grants or any other funding.

§ 25611. Repealed

§ 25612. Repealed

§ 25615. Repealed

§ 25616. Legislative intent; energy projects

(a) It is the intent of the Legislature to encourage local agencies to expeditiously review permit applications to site energy projects, and to encourage energy project developers to consider all cost-effective and environmentally superior alternatives that achieve their project objectives.

(b) Subject to the availability of funds appropriated therefor, the commission shall provide technical assistance and grants-in-aid to assist local agencies to do either or both of the following:

(1) Site energy production or transmission projects which are not otherwise subject to the provisions of Chapter 6 (commencing with Section 25500).

(2) Integrate into their planning processes, and incorporate into their general plans, methods to achieve cost-effective energy efficiency.

(c) The commission shall provide assistance at the request of local agencies and shall coordinate that assistance with the assistance provided by the Department of Permit Assistance, created pursuant to Section 15399.50 of the Government Code.

(d) As used in this section, an energy project is any project designed to produce, convert, or transmit energy as one of its primary functions.

§ 25617. Legislative intent; diverse energy resources; development of diesel fuels

(a) It is the intent of the Legislature to preserve diversity of energy resources, including diversity of resources used in electric generation facilities, industrial and commercial applications, and transportation.

(b) The commission shall, within the limits of available funds, provide technical assistance and support for the development of petroleum diesel fuels which are as clean or cleaner than alternative clean fuels and clean diesel engines. That technical assistance and support may include the creation of research, development, and demonstration programs.

§ 25618. Facilitating development and commercialization of ultra low- and zero-emission electric vehicles

(a) The commission shall facilitate development and commercialization of ultra low- and zero-emission electric vehicles and advanced battery technologies, as well as development of an infrastructure to support maintenance and fueling of those vehicles in California. Facilitating commercialization of ultra low- and zero-emission electric vehicles in California shall include, but not be limited to, the following:

(1) The commission may, in cooperation with county, regional, and city governments, the state's public and private utilities, and the private business sector, develop plans for accelerating the introduction and use of ultra low- and zero-emission electric vehicles throughout California's air quality nonattainment areas, and for accelerating the development and implementation of the necessary infrastructure to support the planned use of those vehicles in California. These plans shall be consistent with, but not limited to, the criteria for similar efforts contained in federal loan, grant, or matching fund projects.

(2) In coordination with other state agencies, the commission shall seek to maximize the state's use of federal programs, loans, and matching funds available to states for ultra low- and zero-emission electric vehicle development and demonstration programs, and infrastructure development projects.

(b) Priority for implementing demonstration projects under this section shall be directed toward those areas of the state currently in a nonattainment status with federal and state air quality regulations.

§ 25619. **Solar energy system**

(a) The commission shall develop a grant program to offset a portion of the cost of eligible solar energy systems. The goals of the program are all of the following:

(1) To make solar energy systems cost competitive with alternate forms of energy.

(2) To provide support for electricity storage capabilities in solar electric applications to facilitate enhanced reliability in the event of a power outage.

(3) To encourage the purchase by California residents of California-made solar systems.

(b) (1) The grant for an eligible solar energy system shall be based on either the performance of, or the type of, the solar energy system, as the commission determines, and the amount of the grant shall not exceed seven hundred fifty dollars ($750). Except as provided in paragraph (2), if a grant is awarded pursuant to this section for an eligible solar energy system that produces electricity, no grant shall be made for that system from any other grant program administered by the commission.

(2) An applicant who receives a grant for a photovoltaic solar energy system from another program administered by the commission, may also receive a grant for that system pursuant to this section, if all of the following conditions are met:

(A) The system will accomplish the purpose specified in paragraph (3) of subdivision (a).

(B) The system is an eligible solar energy system.

(C) The system includes adequate battery storage, as determined by the commission.

(c) Purchasers, sellers, owner-builders, or owner-developers of the solar energy system may apply for a grant under this section. An owner-builder or owner-developer of a new single-family dwelling on which a system is installed may elect not to apply for a grant on a solar energy system installed on a new single-family dwelling. If an owner-builder or owner-developer of a new single-family dwelling on which a system is installed elects not to apply for the grant for a solar energy system, the purchaser of the dwelling may apply for the grant. The seller, owner-builder, or owner-developer shall reflect the amount of the grant received on the purchaser's bill of sale.

(d) The commission shall develop and adopt guidelines to provide appropriate consumer protection under the grant program and to govern other aspects of the grant program. The guidelines shall be adopted at a publicly noticed meeting and all interested parties shall be provided an opportunity to comment either orally or in writing. Not less than 30 days notice shall be provided for the public meeting. Subsequent substantive changes to adopted guidelines shall be adopted by the commission at a public meeting upon written notice to the public of not less than 10 days. The guidelines adopted pursuant to this subdivision are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(e) The commission shall require installers of solar energy systems funded through grants under this section to be properly licensed to do so by the Contractors' State License Board. This requirement does not apply to the owner of a single-family dwelling who installs a solar energy system on his or her single-family dwelling.

(f) The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the award. Any action taken by an applicant to apply for, or become or remain eligible to receive an award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission. Awards made pursuant to this section are not subject to any repayment requirements of Chapter 7.4 (commencing with Section 25645).

(g) For the purposes of this section, the following terms have the following meanings:

(1) "Cost" includes equipment, installation charges, and all components necessary to carry out the intended use of the system if those components are an integral part of the system. In the case of a system that is leased, "cost" means the principal recovery portion of all lease payments scheduled to be made during the full term of the lease, which is the cost incurred by the taxpayer in acquiring the solar energy system, excluding interest charges and maintenance expenses.

(2)(A) "Eligible solar energy system" means any new, previously unused solar energy device whose primary purpose is to provide for the collection, conversion, transfer, distribution, storage, or control of solar energy for water heating or electricity generation, and that meets applicable standards and requirements imposed by state and local permitting authorities, including, but not limited to, the National Electric Code. Eligible solar energy systems for water heating purposes shall be certified by the Solar Rating and Certification Corporation (SRCC) or any other nationally recognized certification agency that certifies complete systems. Major components of eligible solar energy systems for electricity generation shall be listed by a certified testing agency, such as the Underwriters Laboratory. In the absence of certification, major components of eligible solar energy systems for electricity generation shall comply with specifications adopted by the commission.

(B) "Eligible solar energy system" does not include any of the following:

(i) Wind energy devices that produce electricity or provide mechanical work.

(ii) Additions to or augmentation of existing solar energy systems.

(iii) A device that produces electricity for a structure unless the device is interconnected and operates in parallel with the electric grid.

(C) Eligible solar energy systems shall have a warranty of not less than three years.

(3) "Installed" means placed in a functionally operative state.

(h) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

CHAPTER 7.1. PUBLIC INTEREST ENERGY RESEARCH, DEMONSTRATION, AND DEVELOPMENT PROGRAM

§ 25620. Findings and declarations; environmentally sound, safe, reliable, and affordable energy services and products

The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of section 399.7 of the Public Utilities Code.

(d) The commission should use its adopted "Five-Year Investment Plan, 2002 Through 2006 for the Public Interest Energy Research (PIER) Program (Volume 1)" (P600-01-004a, March 1, 2001) to ensure compliance with the policies and provisions of Section 399.7 of the Public Utilities Code in the administration of public interest energy research, demonstration, and development programs.

§ 25620.1. Creation of program; portfolio

(a) The commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program that is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets. The commission shall administer the program consistent with the policies of Section 399.7 of the Public Utilities Code.

(b) The goal of the program is to provide public value for the benefit of California and its citizens through the development of technologies which will improve environmental quality, enhance system reliability, increase efficiency of energy-using technologies, lower system costs, or provide other tangible benefits.

(c) To achieve the goal established in subdivision (b), the commission shall adopt a portfolio approach for the program that does all of the following:

(1) Effectively balances the risks, benefits, and time horizons for various activities and investments that will provide tangible benefits for California electricity ratepayers.

(2) Emphasizes innovative energy supply and end use technologies, focusing on their reliability, affordability, and environmental attributes.

(3) Includes projects that have the potential to enhance transmission and distribution capabilities.

(4) Includes projects that have the potential to enhance the reliability, peaking power, and storage capabilities of renewable energy.

(5) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 399.8 of the Public Utilities Code.

(6) Addresses key technical and scientific barriers.

(7) Demonstrates a balance between short-term, mid-term, and long-term potential.

(8) Ensures that prior, current, and future research not be unnecessarily duplicated.

(9) Provides for the future market utilization of projects funded through the program.

(d) The commission shall review the portfolio adopted pursuant to subdivision (c) in accordance with the "Five-Year Investment Plan, 2002 Through 2006 for the Public Interest Energy Research (PIER) Program (Volume 1)" (P600-01-004a, March 1, 2001).

(e) The term "award," as used in this chapter, may include, but is not limited to, contracts, grants, interagency agreements, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

§ 25620.2. Program criteria; administration; regulations

(a) To ensure the efficient implementation and administration of the Public Interest Research, Development, and Demonstration Program, the commission shall do both of the following:

(1) Develop procedures for the solicitation of award applications for project or program funding, and to ensure efficient program management.

(2) Evaluate and select programs and projects, based on merit, that will be funded under the program.

(b) The commission shall adopt regulations to implement the program, in accordance with the following procedures:

(1) Prepare a preliminary text of the proposed regulation and provide a copy of the preliminary text to any person requesting a copy.

(2) Provide public notice of the proposed regulation to any person who has requested notice of the regulations prepared by the commission. The notice shall contain all of the following:

(A) A clear overview explaining the proposed regulation.

(B) Instructions on how to obtain a copy of the proposed regulations.

(C) A statement that if a public hearing is not scheduled for the purpose of reviewing a proposed regulation, any person may request, not later than 15 days prior to the close of the written comment period, a public hearing conducted in accordance with commission procedures.

(3) Accept written public comments for 30 calendar days after providing the notice required in paragraph (2).

(4) Certify that all written comments were read and considered by the commission.

(5) Place all written comments in a record that includes copies of any written factual support used in developing the proposed regulation, including written reports and copies of any transcripts or minutes in connection with any public hearings on the adoption of the regulation. The record shall be open to public inspection and available to the courts.

(6) Provide public notice of any substantial revision of the proposed regulation at least 15 days prior to the expiration of the deadline for public comments and comment period using the procedures provided in paragraph (2).

(7) Conduct public hearings, if a hearing is requested by an interested party, that shall be conducted in accordance with the procedures set forth in Section 11346.8 of the Government Code.

(8) Adopt any proposed regulation at a regularly scheduled and noticed meeting of the commission. The regulation shall become effective immediately unless otherwise provided by the commission.

(9) Publish any adopted regulation in a manner that makes copies of the regulation easily available to the public. Any adopted regulation shall also be made available on the Internet. The commission shall transmit a copy of an adopted regulation to the Office of Administrative Law for publication, or, if the commission determines that printing the regulation is impractical, an appropriate reference as to where a copy of the regulation may be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25620.1 and 25620.2 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2007, unless a later enacted statute deletes or extends that date. However, after January 1, 2007, the commission is not required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2007, using the procedures specified in this subdivision.

§ 25620.3. Commission awards

(a) The commission may, consistent with the requirements of this chapter, provide awards to any individual or entity for planning, implementation, and administration of projects or programs selected pursuant to Section 25620.5.

(b) The commission may provide an award to a project or program that includes a group of related projects, or to a party who aggregates projects that directly benefit from the award.

(c) The commission may establish multiparty agreements. In a multiparty agreement, the commission may be a signatory to a common agreement among two or more parties. These agreements include, but are not limited to, cofunding, leveraged research, collaborations, and membership arrangements. If the commission enters into these agreements, it shall be a party to these agreements and may share in the roles, responsibilities, risks, investments, and results.

(d) The commission may issue awards that include the ability to make advance payments to prime contractors, to enable them to make advance payments to a subcontractor that is a federal agency, national laboratory, or state entity, on the condition that the subcontract is binding and enforceable and includes specific performance milestones.

(e) The commission may issue awards that include the ability to assign tasks on a work authorization basis.

(f) Prior to making any award pursuant to this chapter for a research, development, or demonstration program or project, the commission shall identify the expected costs and any qualitative or quantitative benefits of the proposed program or project.

§ 25620.4. Intellectual property; benefits accruing to state

(a) To the extent that intellectual property is developed under this chapter, an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.

(b) The commission may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The commission may negotiate sharing mechanisms for intellectual property or benefits with award recipients.

§ 25620.5. Application for awards; sealed bids; competitive negotiation process; multiparty and interagency agreements; sole sources basis; severability

(a) The commission may solicit applications for awards, using a sealed competitive bid, competitive negotiation process, commission-issued intradepartmental master agreement, the methods for selection of professional services firms set forth in Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, interagency agreement, single source, or sole source method. When scoring teams are convened to review and score proposals, the scoring teams may include persons not employed by the commission, as long as employees of the state constitute no less than 50 percent of the membership of the scoring team. A person participating on a scoring team may not have any conflict of interest with respect to the proposal before the scoring team.

(b) A sealed bid method may be used when goods and services to be acquired can be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in the solicitation for bids.

(c) The commission may use a competitive negotiation process in any of the following circumstances:

(1) Whenever the desired award is not for a fixed price.

(2) Whenever project specifications cannot be drafted in sufficient detail so as to be applicable to a sealed competitive bid.

(3) Whenever there is a need to compare the different price, quality, and structural factors of the bids submitted.

(4) Whenever there is a need to afford bidders an opportunity to revise their proposals.

(5) Whenever oral or written discussions with bidders concerning the technical and price aspects of their proposals will provide better results to the state.

(6) Whenever the price of the award is not the determining factor.

(d) The commission may establish interagency agreements.

(e) The commission may provide awards on a single source basis by choosing from among two or more parties or by soliciting multiple applications from parties capable of supplying or providing similar goods or services. The cost to the state shall be reasonable and the commission may only enter into a single source agreement with a particular party if the commission determines that it is in the state's best interests.

(f) The commission, in accordance with subdivision (g) and in consultation with the Department of General Services, may provide awards on a sole source basis when the cost to the state is reasonable and the commission makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

(3) A competitive solicitation would frustrate obtaining necessary information, goods, or services in a timely manner.

(4) The award funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission may not use a sole source basis for an award pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least 30 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee, in writing, of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 30 days from the date of notification required by paragraph (1).

(h) The commission shall submit semiannual reports to the Legislative Analyst and to the appropriate fiscal and policy committees of the Legislature that review bills relating to energy and public utilities. The reports shall contain an evaluation of the progress and status of the implementation of this section. In addition, the reports shall identify each instance in which an exemption authorized by subdivision (b) of Section 25620.3 was utilized.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

§ 25620.6. Insurance coverage

The commission, in consultation with the Department of General Services, may purchase insurance coverage necessary to implement an award. Funding for the purchase of insurance may be made from money in the Public Interest Research, Development, and Demonstration Fund created pursuant to Section 384 of the Public Utilities Code.

§ 25620.7. Technical and administrative services support

(a) The commission may contract for, or through interagency agreement obtain, technical, scientific, or administrative services or expertise from one or more entities, to support the program. Funding for this purpose shall be made from money in the Public Interest Research, Development, and Demonstration Fund.

(b) The commission may select the services or expertise described in subdivision (a), pursuant to Section 25620.5. In the event that contracts or interagency agreements have been made to multiple entities and their subcontractors for similar purposes, the commission may select from among those entities the particular expertise needed for a specified type of work. Selection of the particular expertise may be based solely on a review of

qualifications, including the specific expertise required, availability of the expertise, or access to a resource of special relevance to the work, including, but not limited to, a database, model, technical facility, or a collaborative or institutional affiliation that will expedite the quality and performance of the work.

§ 25620.8. Annual reports on awards

The commission shall prepare and submit to the Legislature an annual report, not later than March 31 of each year, on awards made pursuant to this chapter. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of any funded projects, and any recommendations for improvements in the program. The report shall set forth the actual costs of programs or projects funded by the commission, the results achieved, and how the actual costs and results compare to the expected costs and benefits. The commission shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

§ 25620.9. Panel of independent experts with special expertise in public interest research, development, and demonstration programs; reports; duration of section

(a) Not later than three months after the enactment of this section, the commission shall designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs. In order to ensure continuity in the evaluation of the public interest energy research, demonstration, and development projects, the commission, when practicable, shall select experts that served on prior independent review panels. The panel shall conduct a comprehensive evaluation of the program established pursuant to this chapter. The evaluation shall include a review of the public value of programs established pursuant to this chapter, including, but not limited to, the monetary and nonmonetary benefits to public health and the environment, and the benefit of providing funds for technology development that would otherwise not be funded.

(b) Not later than 15 months after the enactment of this section, the panel designated pursuant to subdivision (a) shall submit a preliminary report to the Governor and to the Legislature on its findings and recommendations on the implementation of the program established pursuant to this chapter. The panel, not later than 30 months after the enactment of this section, shall submit a final report to the Governor and to the Legislature, including any additional findings and recommendations regarding implementation of the program.

(c) This section shall remain in effect only until July 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

§ 25620.10. Eligible distributed generation system

(a) The commission shall develop and implement a grant program to offset a portion of the costs of eligible distributed generation systems.

(b) A grant for an eligible distributed generation system shall be based on either the performance or type of distributed generation system, as determined by the

commission. The amount of the grant shall not exceed the lesser of 10 percent of the costs of the eligible distributed generation system or two thousand dollars ($2,000).

(c) An applicant who receives a grant for an eligible distributed generation system from another program administered by the commission may also receive a grant for that system pursuant to this section if the system possesses adequate black-start capability, as determined by the commission.

(d) Purchasers, sellers, owner-builders, or owner-developers of the eligible distributed generation system may apply for a grant under this section. If the owner-developer or owner-builder of the property on which a system is installed elects to not apply for a grant under this section, the purchaser of the property may apply for the grant. The seller, owner-builder, or owner-developer shall reflect the amount of the grant received on the purchaser's bill of sale.

(e) The commission shall develop and adopt guidelines to provide appropriate consumer protection under the grant program and to govern other aspects of the grant program, which shall be made available to the public. Not less than 30 days' notice shall be provided for a public meeting to adopt the guidelines. Public meetings to adopt subsequent substantive guideline changes require written public notice of not less than 10 days. The guidelines adopted pursuant to this subdivision are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The commission shall require installers of eligible distributed generation systems funded through grants under this section to be properly licensed to do so by the Contractors' State License Board.

(g) The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that factors other than those adopted by the commission were applied in making the award. Any action taken by an applicant to apply for, or become or remain eligible to receive a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission. Awards made pursuant to this section are not subject to any repayment requirements of Chapter 7.4 (commencing with Section 25645).

(h) Eligible distributed generation systems shall have a warranty of not less than three years.

(i) For purposes of this section, the following terms have the following meanings:

(1) ”Black-start capability" means the capability to provide electricity to the customer in the event of an outage.

(2) "Cost" includes equipment, installation charges and all components necessary to carry out the intended use of the system if those components are an integral part of the system. In the case of a system that is leased, "cost" means the principal recovery portion of all lease payments scheduled to be made during the full term of the lease, which is the costs incurred by the customer in acquiring the distributed generation system, excluding interest charges and maintenance expenses.

(3) "Distributed generation" means any onsite generation, interconnected and operating in parallel with the electricity grid, that is used solely to meet onsite electric load.

(4) "Eligible distributed generation system" means any new, previously unused distributed generation system, interconnected and operating in parallel with the electricity grid, certified by the commission to provide environmental and system reliability benefits equal to or greater than the following specifications:

(A) Forty percent total fuel-to-energy conversion efficiency for any nonrenewable fuel system.

(B) Thirty-five percent total fuel-to-energy conversion efficiency for any renewable fuel system.

(C) Emission of oxides of nitrogen and any other applicable criteria pollutants that equal or exceed Best Achievable Control Technology (BACT) for natural gas fired central station powerplants. The State Air Resources Board shall, in consultation with the commission, prepare and update specifications for those emissions and other applicable criteria pollutants.

(D) Ninety percent total system reliability.

(5) Potentially certifiable technologies include all of the following:

(A) Microcogeneration.

(B) Gas turbines.

(C) Fuel cells.

(D) Electricity storage technologies in systems not eligible for grants under Section 25619.

(E) Reciprocating internal combustion engines.

(6) "Installed" means placed in a functionally operative state.

(j) This section shall remain in effect only until January 1, 2006, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

§ 25620.11 Advisory board; recommendations regarding programs and projects selected for funding

The commission shall regularly convene an advisory board that shall make recommendations to guide the commission's selection of programs and projects to be funded under this chapter. The advisory board shall include as appropriate, but not be limited to, representatives from the Public Utilities Commission, consumer organizations, environmental organizations, and electrical corporations subject to the funding requirements of Section 381 of the Public Utilities Code.

~~CHAPTER 7.2. CLEAN FUELS ACCOUNT~~

~~§ 25625. Legislative findings and declarations~~

~~The Legislature finds and declares all of the following:~~

~~(a) Air pollution in California remains a significant threat to public health and the environment and urban areas are in need of special efforts to reduce harmful emissions.~~

~~(b) That recent studies have found that increasing levels of particulates and other pollutants from diesel engines are a major contributor to visibility and other air pollution problems, including acid deposition.~~

~~(c) That despite efforts to regulate emissions from heavy-duty diesel engines, harmful pollutants from these vehicles have proven difficult to control with current technology, and as a consequence, the implementation of more stringent emission standards may result in adverse effects on performance and fuel economy.~~

~~(d) That state and federal researchers have determined that methanol fuel has demonstrated the potential for significant air quality improvements beyond the levels which can be achieved by conventional gasoline and diesel engines, and that methanol fuel can be produced from a variety of abundant domestic energy sources, including natural gas, coal, and biomass.~~

~~(e) That reducing dependence on imported petroleum and increasing the security of transportation fuel supplies are important elements of the state's energy policy.~~

~~(f) That because of the potential environmental and energy security benefits of expanded methanol fuel use, along with the prospect of increased competitiveness of the fuels market, it is consistent with the goal of restitution to energy consumers for the Legislature to appropriate a portion of the state's allocation of petroleum violation escrow funds for methanol demonstration programs and for financial incentives to private industry and local governments to expand methanol fuel use.~~

~~§ 25626. Technology development and financial assistance program for expansion of methanol use as means of air pollution reduction~~

~~(a) The commission, in conjunction with the State Air Resources Board, shall carry out a program of technology development and financial assistance to expand the use of methanol fuel as a means of reducing air pollution, assuring the state's energy security, and increasing the competitiveness of fuel markets. The program shall include all of the following:~~

~~(1) A project demonstrating the technological and economic feasibility and environmental impacts of utilizing methanol fuel in heavy-duty diesel engines of 500 horsepower or less, as used by the state's trucking industry.~~

~~(2) A project demonstrating the technological and economic feasibility and environmental impacts of utilizing methanol fuel in heavy-duty diesel engines of 1000 horsepower or more, as used by railroad locomotives and marine vessels.~~

~~(3) Technical and financial assistance for public and private transit operators for the acquisition and operation of new and retrofitted methanol-powered transit buses.~~

~~(4) Technical and financial assistance for vehicle fleet operations of state and local agencies, and private rideshare programs, to underwrite the differential costs of the purchase of flexible fuel vehicles and the establishment of necessary fueling facilities. For purposes of this chapter, "flexible fuel vehicles" means vehicles which can operate on either alcohol fuels or premium unleaded gasoline, or a combination thereof.~~

~~(b) The program undertaken pursuant to this chapter shall be conducted with the maximum feasible financial and technical participation of private industry and other government agencies in order to assure that the risks and benefits of the program are shared with industry and other levels of government.~~

~~§ 25627. Clean fuels account, creation~~

~~The Clean Fuels Account is hereby created as a separate account in the General Fund.~~

~~§ 25628. Allocation of appropriation~~[*]

~~The seven million five hundred thousand dollars ($7,500,000) appropriated to the commission from the Clean Fuels Account by the act enacting this chapter shall be allocated for proposes of carrying out the program in Section 25626 as follows:~~

~~(a) Two million dollars ($2,000,000) for technology demonstration programs for methanol-powered heavy-duty diesel engines under paragraphs (1) and (2) of subdivision (a) of Section 25626.~~

~~(b) Three million dollars ($3,000,000) for financial assistance to public and private transit operators for the acquisition and operation of methanol-powered transit buses under paragraph (3) of subdivision (a) of Section 25626.~~

~~(c) Two million five hundred thousand dollars ($2,500,000) for financial assistance to state and local agencies, and private rideshare programs, for the purchase of flexible fuel vehicles for fleet operations under paragraph (4) of subdivision (a) of Section 25626.~~

~~[*] The Governor's message included in the chaptered version of this legislation reduced the total appropriation from $7,500,000 to $5,000,000. See Chapter 1340, Statutes of 1986.~~

CHAPTER 7.3. SMALL BUSINESS ENERGY TECHNOLOGY LOAN PROGRAM

§ 25630. Alternative technology energy projects for small businesses; funding; royalty agreements; loan repayment

(a) The commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

(b) The loan program may use royalty agreements, as provided in Chapter 7.4 (commencing with Section 25645), to replenish program funds beyond the amount of loan repayment. Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration Account. The interest rate shall be determined as provided in subdivision (g) of Section 25647.

CHAPTER 7.4. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION PROGRAMS

§ 25645. Short title

This chapter shall be known as, and may be cited as, the Energy Research, Development, Demonstration, and Commercialization Act of 1993.

§ 25646. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

(a) The state's growing population creates an increasing need to strengthen its infrastructure to achieve adequate economically and environmentally acceptable energy services systems.

(b) The condition of the state's economy makes it necessary to stretch the effective use of funds provided by state and federal government for energy research, development, demonstration, and commercialization projects by substituting loans for contract funding where possible, by requiring at least 50 percent cofunding of contract and grant-funded projects, and by requiring repayment of contract and grant funds when the cofunded work has become financially rewarding for the recipient.

(c) The placement of provisions relating to the administration of energy research, development, demonstration, and commercialization projects not otherwise provided for by statute in one comprehensive chapter enhances the ability of the commission to use the funds available for those projects with the greatest effectiveness, administrative efficiency, and likelihood of repayment.

(d) California's continued leadership in new energy technology research, development, and demonstration projects is a business and employment asset to the state, and is encouraged through effective partnership between the public and private sectors. New energy

technologies have inherent financial and technical risks which limit necessary and important progress without state involvement.

(e) Energy sources and efficiency devices can be developed and offered on the market which provide energy services at lower competitive cost to the energy user, increase energy independence and reliability, make sustainable use of California's indigenous resources, provide a healthier environment, and rebuild the state's economy through employment opportunities in new technology businesses.

(f) Loans are an efficient use of funds, allowing the state to recoup the loan funds, thus promoting continuity of the state's commitment to energy research, development, demonstration, and commercialization programs.

(g) Research contracts and grants to small businesses, with repayment features, allows the state to recoup and replenish funds from financially successful energy projects and inventions, thus providing for the recycling of funds for energy technology advancement.

(h) Grants and loans provide small businesses with access to energy research, development, demonstration, and commercialization cofunding, while providing the state with a mechanism to cofund and administer small business projects with efficiency.

§ 25647. Definitions

For purposes of this chapter:

(a) "Alternative source of energy" includes, but is not limited to, geothermal power, hydroelectric power equal to or less than 5 megawatts, photovoltaics, wind, biomass, cogeneration, solar thermal energy, fuel cells, alternative fuels, electric vehicles, low-emission vehicles, advanced energy storage, and energy efficiency and conservation measures.

(b)(1) "Award repayment or program reimbursement agreement," including a "royalty agreement," as specified in paragraph (1) of subdivision (c), means a method used at the discretion of the commission to determine and establish the terms of replenishment of program funds, including, at a minimum, repayment of the award to provide for further awards under this chapter. The award repayment or program reimbursement agreement may provide that payments be made to the commission when the award recipient, affiliate of the award recipient, or third party receives, through any kind of transaction, an economic benefit from the project, invention, or product developed, made possible, or derived, in whole or in part, as a result of the award.

(2) An award repayment or program reimbursement agreement shall specify the method to be used by the commission to determine and establish the terms of repayment and reimbursement of the award.

(3) The commission may require due diligence of the award recipient and may take any action that is necessary to bring the project, invention, or product to market.

(4) Subject to the confidentiality requirements of Section 2505 of Title 20 of the California Code of Regulations, the commission may require access to financial, sales, and production information, and to other agreements involving transactions of the award recipient,

affiliates of the award recipient, and third parties, as necessary, to ascertain the royalties or other payments due the commission.

(c)(1) A "royalty agreement" is an award repayment or program reimbursement agreement and is subject to all of the following conditions:

(A) The royalty rate shall be determined by the commission and shall not exceed 5 percent of the gross revenue derived from the project, invention, or product.

(B) The royalty agreement shall specify the method to be used by the commission to determine and establish the terms of payment of the royalty rate.

(C) The commission shall determine the duration of the royalty agreement and may negotiate a collection schedule.

(D) The commission, for separate consideration, may negotiate and receive payments to provide for an early termination of the royalty agreement.

(2)(A) The commission may require that the intellectual property developed, made possible, or derived, in whole or in part, as a result of the award repayment or program reimbursement agreement, revert to the state upon a default in the terms of the award repayment or program reimbursement agreement or royalty agreement.

(B) The commission may require advance notice of any transaction involving intellectual property rights.

(d) "Loan" means the contractual financing of a qualifying project under a program in which all of the following occur:

(1) The recipient of the loan repays the loan amount, plus accrued interest.

(2) The loan applicant is required to demonstrate the financial capability to repay the loan regardless of the commercial success of the project.

(3) The loan is required to be secured by appropriate collateral regardless of the commercial success of the project.

(4) Loans are generally provided to those projects using energy technologies that are relatively close to full commercialization, include demonstration or commercialization of the technologies, and have a high probability of generating revenue or other economic benefit sufficient to repay the loan and the accrued interest within 10 years from the performance determination date of the contract. A royalty agreement may be used to replenish program funds beyond the amount of the loan repayment.

(e) "Research contract" means a contractual award made to a qualifying project under a program in which all of the following occur:

(1) The award includes an award repayment or program reimbursement agreement.

(2) The award repayment or program reimbursement agreement specifies the method to be used by the commission in determining and establishing the terms of repayment and reimbursement of the award.

(3) Research contracts are provided for those projects that have a moderate to low probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(f) "Grant" means a grant award made to a small business certified by the Office of Small and Minority Business of the Department of General Services, or which meets the requirements of Part 121.601 of Title 13 of the Code of Federal Regulations, to cofund a qualifying project under a program in which all of the following occur:

(1) The award includes an award repayment or program reimbursement agreement.

(2) The award repayment or program reimbursement agreement specifies the method to be used by the commission in determining and establishing the terms of repayment and reimbursement.

(g) "Accrued interest" means the cumulative interest on the outstanding balance of a loan, research contract, or grant. The commission shall specify in the terms of the award the manner in which the commission will compute the interest. Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans, research contracts, and grants based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account. Interest shall begin accruing upon the date of first drawdown of funds.

(h) "Performance determination date" means the date at which the commission renders a written decision on the success of the project in meeting the goals and objectives established in the loan, research contract, or grant.

§ 25648. Loans; research contract and grant awards; selection procedure

(a) The commission shall make loans, and research contract and grant awards, for purposes of making existing energy technologies more efficient, cost-effective, and environmentally acceptable, and to research, develop, demonstrate, and commercialize new, cost-effective alternative sources of energy, technologies which displace conventional fuels, and energy efficiency and conservation devices.

(b) In selecting projects, the commission shall consider, but is not limited to, the list of opportunity technologies developed in the most current energy development report produced pursuant to Section 25604, or a subset of those opportunity technologies.

(c) The commission shall select the projects through competitive bid procedures, including, but not limited to invitations for bids, requests for proposals, program opportunity notices, and multistep bids using preapplications, by demonstrating the need for sole source awards, or by evaluating small business grant and loan applications.

(d) The criteria for the selection of projects shall include, but not be limited to, all of the following factors:

(1) The potential of the project to reduce energy consumption or provide an alternative source of energy.

(2) The financial, technical, and management strength of the project applicant.

(3) The near-term and long-term feasibility of the project.

(4) The ability of the project technology to be used throughout California.

(5) The potential of the project for promoting diverse, secure, and resilient energy supplies.

(6) The potential of the project to displace petroleum.

(7) The potential of the project for reducing adverse environmental impacts.

(8) The potential of the project to stimulate economic development, employment, and tax revenues for California.

(9) The potential of the project for reducing short-term and long-term energy costs for the ratepayers of California.

(10) The need of the project for state financing.

(11) The ability of the project to attract private and other public investment.

(12) The investment payback period for the project.

(13) The probability of success in overcoming the risk of the project.

(14) The potential for stimulating small business competition in the field of alternative energy development.

(15) The ability of the project to generate needed community economic development for participating local jurisdictions.

(16) The extent of the applicant's financial participation.

(17) The degree of innovation of the project.

(18) Whether the project is, in general, consistent with the energy policies of California regarding the energy technologies and priorities as set forth in the biennial report of the commission.

(19) The cost of the project.

(e) The commission shall apply the criteria specified in subdivision (d) consistently within each competitive bid solicitation.

(f) Awards provided pursuant to this chapter are not subject to Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

§ 25648.1. Recommendations; solicitation

In selecting projects and types of technologies for funding, the commission shall actively solicit recommendations from interested parties, including, but not limited to, representatives of private industry, small businesses, research organizations, public utilities, independent energy producers, local governments, and the federal government.

§ 25648.2. Loans and research contract or grant funding; limits

(a) Any loan that is made shall not be greater than 80 percent of the total project cost. The commission may provide a loan which exceeds that limit if it determines, through a four-fifths vote of the commission, that a major state contribution is essential to ensure project success.

(b) The commission's contribution to any research contract or grant funding shall not be greater than 50 percent of the total project cost.

§ 25648.4. Chapter application

The commission shall apply this chapter to research, development, demonstration, and commercialization projects that are not subject to Chapter 6 (commencing with Section 3800) of Division 3, chapter 7.1 (commencing with section 25620), and Chapter 7.8 (commencing with Section 25680).

§ 25648.5. Biennial report; project summary

The commission shall include a summary of projects financed under this chapter in its biennial report, or one of the subsidiary documents to the biennial report

§ 25648.6. Chapter duration

The chapter shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 7.5. AGRICULTURAL INDUSTRY ENERGY PROGRAM

§ 25650. Energy technologies research, development, and demonstration account

(a) All funds from loan repayments and interest that become due and payable for loans made by the commission pursuant to an agriculture energy assistance program shall be deposited in the Energy Technologies Research, Development, and Demonstration Account, and shall be available for loans and technical assistance pursuant to

this section, upon appropriation in the Budget Act. Up to 20 percent of the annual appropriation may be available for technical assistance.

(b) Loans made pursuant to this section shall be for the purchase of equipment and services for agriculture energy efficiency and development demonstration projects, including, but not limited to, production of methane or ethanol, use of wind, photovoltaics, and other sources of energy for irrigation pumping, application of load management conservation techniques, improvements in water pumping and pressurization techniques, and conservation tillage techniques.

(c) The loans shall contain terms that provide for a repayment period of not more than seven years and for interest at a rate that is not less than 2 percent below the rate earned by moneys in the Pooled Money Investment Account.

CHAPTER 7.6. THE CLEAN COAL ACCOUNT [Repealed]

§§ 25675 to 25677. Repealed

CHAPTER 7.7. CLEAN FUELS ACT

§ 25678. Grant program providing incentive for liquid fuels fermented in state from biomass and biomass-derived resources

The commission shall establish a grant program which provides a forty cent ($0.40) per gallon production incentive for liquid fuels fermented in this state from biomass and biomass-derived resources produced in this state. Eligible liquid fuels include, but are not limited to, ethanol, methanol, and vegetable oils. Eligible biomass resources include, but are not limited to, agricultural products and byproducts, forestry products and byproducts, and industrial wastes. The commission shall adopt rules and regulations necessary to implement the program. Prior to determining an applicant eligible for participation in the production incentive program, the commission shall find, among other things, that the production techniques employed will lead to a net increase in the amount of energy available for consumption.

§ 25679. Application for grant

Applicants for a grant under this chapter shall submit an application on a form prescribed by the commission which is responsible for administration of the program.

CHAPTER 7.8. ENERGY TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION

§ 25680. Short title

This chapter shall be known and may be cited as the Rosenthal-Naylor Act of 1984.

§ 25681. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

(a) Additional energy supplies will be needed in the near future, in order to serve an increasing number of citizens.

(b) Energy sources should be developed which provide power at the lowest competitive cost to the ratepayer, which increase energy independence and system reliability through use of California's indigenous resources, which provide environmental benefits, and which build the state's economy.

(c) California's continued leadership in new energy technology research, development, and demonstration projects requires an active partnership between the public and private sectors, as well as flexible public financing tools which are responsive to changing technological events and commercialization impediments.

(d) The use of California's indigenous energy resources and alternative energy technologies can be made more efficient and cost-effective through increased research, development, and demonstration and can contribute to stabilizing and potentially reducing near-term energy costs for industry, agriculture, local governments, and individual citizens.

(e) Renewable energy sources can help lower the cost of energy if research, development, and demonstration efforts emphasize shortrun and longrun cost effectiveness.

(f) Advanced energy technologies have inherent financial and technical risks which limit necessary and important research, development, and demonstration in those areas without state involvement.

(g) State government can accelerate widespread market acceptance of new energy technologies by providing assistance to a limited number of projects with the intent of overcoming impediments, demonstrating technologies, and offering successful models for the private sectors to duplicate on its own.

(h) Increasing the efficiency and cost-effectiveness of existing and new energy sources will provide benefits to California citizens beyond energy costs. It will contribute to reduction of the state's dependence on foreign energy sources, stimulate the state economy, make our energy system more resilient and reliable, and continue to provide a healthier environment for our citizens.

(i) Loans offer an efficient, effective means of providing an economic incentive with distinct limits to stimulate energy project development for a broader range of market (end-use) applications, since the funds can be used more than once.

(j) Loans present a more efficient use of funds, allowing the state to achieve more from the original budget allocation, and to meet goals and objectives established in long-term energy policies approved in each fiscal year budget.

(k) Loans offer the state a mechanism to benefit from cofunding an energy project that encounters initial high capital costs followed by considerable net revenues use once the project is in operation.

(l) Loans strengthen the continuity of the state government's commitment from year to year and maintain the ability to share the costs of project development.

§ 25682. Definitions

For purposes of this chapter:

(a) "Account" means the Energy Technologies Research, Development, and Demonstration Account.

(b) "Alternative sources of energy" includes, but is not limited to, geothermal, hydroelectric power equal to or less than 5 megawatts, photovoltaics, wind, biomass, cogeneration, solar thermal, fuel cells, and energy efficiency measures.

(c)(1) "Award repayment or program reimbursement agreement," including a "royalty agreement," as specified in paragraph (1) of subdivision (d), means a method used at the discretion of the commission to determine and establish the terms of replenishment of program funds, including, at a minimum, repayment of the award to provide for further awards under this chapter. The award repayment or program reimbursement agreement may provide that payments be made to the commission when the award recipient, affiliate of the award recipient, or third party receives, through any kind of transaction, an economic benefit from the project, invention, or product developed, made possible, or derived, in whole or in part, as a result of the award.

(2) An award repayment or program reimbursement agreement shall specify the method to be used by the commission to determine and establish the terms of repayment and reimbursement of the award.

(3) The commission may require due diligence of the award recipient and may take any action that is necessary to bring the project, invention, or product to market.

(4) Subject to the confidentiality requirements of Section 2505 of Title 20 of the California Code of Regulations, the commission may require access to financial, sales, and production information, and to other agreements involving transactions of the award recipient, affiliates of the award recipient, and third parties, as necessary, to ascertain the royalties or other payments due the commission.

(d)(1) A "royalty agreement" is an award repayment or program reimbursement agreement and is subject to all of the following conditions:

(A) The royalty rate shall be determined by the commission and shall not exceed 5 percent of the gross revenue derived from the project, invention, or product.

(B) The royalty agreement shall specify the method to be used by the commission to determine and establish the terms of payment of the royalty rate.

(C) The commission shall determine the duration of the royalty agreement and may negotiate a collection schedule.

(D) The commission, for separate consideration, may negotiate and receive payments to provide for an early termination of the royalty agreement.

(2)(A) The commission may require that the intellectual property developed, made possible, or derived, in whole or in part, as a result of the award repayment or program reimbursement agreement, revert to the state upon a default in the terms of the award repayment or program reimbursement agreement or royalty agreement.

(B) The commission may require advance notice of any transaction involving intellectual property rights.

(e) "Loan" means the contractual financing of a qualifying project under the program, and in which the recipient of the loan repays the loan amount, plus accrued interest regardless of the commercial success of the project. Loans are generally to be provided to those projects that include energy technology systems that are relatively close to full commercialization, represent demonstrations of the technology, and have high probability of generating revenue or other economic benefit sufficient to repay the loan and the accrued interest within 10 years from the performance determination date of the contract. A royalty agreement may be used to replenish program funds beyond the amount of the loan repayment.

(f)(1) "Repayable research contract" means the contractual award made to a qualifying project under the program, and which is provided to those projects that are in the latter stages of technology development and have a moderate probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(2) The repayable research contract shall include an award repayment or program reimbursement agreement.

(3) The repayable research contract shall specify the method to be used by the commission in determining and establishing the terms of repayment and reimbursement of the award.

(g)(1) "Primary research contract" means the contractual award made to a qualifying project under the program, and which is provided to those projects that are in the early stages of technology development and have a low probability of generating revenue or other economic benefit within 15 years from the performance determination date of the contract.

(2) The primary research contract shall include an award repayment or program reimbursement agreement.

(3) The primary research contract shall specify the method to be used by the commission in determining and establishing the terms of repayment and reimbursement of the award.

(h) "Performance determination date" means the date at which the commission renders a written decision on the success of the project in meeting the goals and objectives established in the contract for the project.

§ 25683. Energy technologies research, development, and demonstration account

(a) There is hereby created in the General Fund, to be administered by the commission, the Energy Technologies Research, Development, and Demonstration Account for the purpose of carrying out this chapter.

(b) The Controller shall deposit in the account all money appropriated to the account by the Legislature, plus accumulated interest on that money, and money from loan, research contract, and grant repayments and royalties, and loan, research contract, and grant interest repayments for use by the commission for financing energy research, demonstration, development, and commercialization projects funded under this chapter, Chapter 7.3 (commencing with Section 25630), and Chapter 7.4 (commencing with Section 25645). Funds shall be identified in accordance with the programmatic source of the funds.

§ 25684. Loans; research contracts; selection procedure

(a) The commission shall make loans and repayable research contracts, and may provide primary research contracts funding from the account for the purposes of making energy technologies more efficient and cost-effective, and to develop new cost-effective alternative sources of energy. The commission shall select recipients through a procedure using an invitation for bids or a request for proposals. Each invitation for bids and request for proposals shall specify the criteria to be used in selecting projects for financing. The criteria shall include, but not be limited to, all of the following factors:

(1) The potential of the project to reduce consumption and increase the efficiency of nonrenewable energy sources and systems.

(2) The financial, technical, and management strength of the project applicant.

(3) The near-term and long-term feasibility of the project.

(4) The ability of the project technology to be used on other applications throughout California.

(5) The potential of the project for promoting diverse, secure, and resilient energy supplies.

(6) The potential of the project for reducing adverse environmental impacts.

(7) The potential of the project to stimulate economic development, employment, and tax revenues for California.

(8) The potential of the project for reducing short-term and long-term energy costs for the ratepayers of California.

(9) The need of the project for state financing.

(10) The ability of the project to garner private investment.

(11) The investment payback period for the project.

(12) The probability of success in overcoming the risk of the project.

(13) The potential for stimulating small business competition in the field of alternative energy development.

(14) The ability of the project to generate needed community economic development for participating local jurisdictions.

(15) The extent of the applicant's financial participation.

(16) The degree of innovation of the project.

(17) Whether the project is in general agreement with the energy policies of California regarding the energy technologies and priorities as set forth in the biennial report of the commission.

(b) Awards provided pursuant to this chapter are not subject to Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

§ 25685. Energy technology projects

The energy technology projects to be considered for funding under this chapter shall include, but are not limited to, all of the following:

(a) Low and medium temperature geothermal systems.

(b) Advance cogeneration systems.

(c) Fuel cells.

(d) Coal combustion systems.

(e) Advanced oil or gas combustion systems.

(f) Methanol overfiring and coproduction.

(g) Transmission system efficiency and reliability.

(h) Photovoltaics.

(i) Biomass gasification system.

(j) Low and medium BTU gas technologies for electric generation.

(k) Other alternative energy technologies.

§ 25686. Recommendations; solicitation

The commission shall actively solicit recommendations from interested parties, including, but not limited to, representatives of private industry, small businesses, research organizations, public utilities, independent energy producers, local governments, and the federal government in selecting the kinds of technologies for funding.

§ 25686.5. Allocation of funds

At the commencement of each fiscal year, at least 70 percent of the money in the account shall be made available for loans or repayable research contracts for projects and the remainder shall be made available for primary research contracts funding under this chapter for that fiscal year. The commission may make less than 70 percent of the money in the account at the commencement of each fiscal year available for loans, or repayable research contracts, if it determines, through a four-fifths vote of the commission, that the public interest and objectives of this chapter will be better served through increased primary research contracts funding. In no instance, however, shall the amount of funds available for loans or repayable research contracts be less than 50 percent of the money in the account at the commencement of each fiscal year.

§ 25686.8. Limits on loans and contract research funding

Any loan made from the account shall not be greater than 80 percent of the total project cost. Any repayable research contract or primary research contracts funding shall not be greater than 50 percent of the total project cost. The commission may provide a loan which exceeds that limit if it determines, through a four-fifths vote of the commission, that a major state contribution is essential to ensure project success.

§ 25687. Interest rates; loan repayment

Notwithstanding any other provision of law, the commission shall unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account. Loans shall be repaid within 20 years from receipt of the funds, as determined by the commission.

§ 25687.5. Funds available to local jurisdictions

The commission shall make at least 10 percent of the funds in the account at the commencement of each fiscal year available to local jurisdictions. The commission may make less than 10 percent of the funds available for local jurisdictions, if it determines, through a four-fifths vote, that the public interest and the objectives of this chapter will be better served at a lower level.

§ 25687.6. Individual projects funding limit

Not more than 25 percent of the funds in the account at the commencement of each fiscal year shall be available for any individual project. However, the commission may make

more than 25 percent of the funds available for an individual project, if it determines, through a four-fifths vote, that the public interest and the objectives of this chapter will be better served at the higher level.

§ 25687.7. Ineligible projects

No projects that are eligible for funding under Chapter 6 (commencing with Section 3800) of Division 3 shall be eligible for funding under this chapter.

§ 25688. Commission's report; inclusion of summary of projects

The commission shall include a summary of projects financed under this chapter in its biennial report, or one of the subsidiary documents to the biennial report.

~~**§ 25689. Report**~~

~~The commission shall prepare an extensive report examining the benefits to the people of this state from the research, development, and demonstration projects for which financing was provided under this chapter, and submit it to the Legislature on or before January 1, 1990.~~

§ 25690. Appropriations

The sum of six million dollars ($6,000,000) is hereby appropriated and transferred to the account, of which one million dollars ($1,000,000), for the 1984-85 fiscal year, and five million dollars ($5,000,000), for the 1985-86 fiscal year, shall be from the Energy Resources Programs Account in the General Fund, for use by the commission to carry out this chapter. In the event that all or part of the one million dollars ($1,000,000) appropriation from the Energy Resources Programs Account for the 1984-85 fiscal year is unavailable, the balance of the appropriation shall be made from the General Fund, not to exceed one million dollars ($1,000,000) from both sources during the 1984-85 fiscal year.

§ 25690.5. Technical assistance, review and quality control of funded projects

The commission shall provide technical assistance, review and quality control of projects funded under this chapter. Beginning July 1, 1985, and each fiscal year thereafter, funds for administering this chapter shall be appropriated in the Budget Act from the State Energy Resources Programs Account.

§ 25692. Repayments; deposit

(a) Notwithstanding any other provision of law, the commission shall deposit in the account any repayments, including equipment sales, interest, royalties, and loans, and contract funds appropriated to the commission for research, development, demonstration or commercialization of energy technologies. However, if repayments from equipment sales or contract funds were generated from a loan, research contract, or grant account which is still in existence, those repayments shall return to that specific loan, research contract, or grant account.

(b) The account shall be a revolving account with funds annually appropriated by the Legislature to the commission for disbursement over a three-year period. Additional funds, if necessary to carry out the purposes of this chapter, may be appropriated in the Budget Act.

§ 25693. Duration of chapter

This chapter shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 7.9. ENERGY TECHNOLOGY AND ENERGY CONSERVATION

§ 25695. Legislative findings and declaration

In enacting this chapter, the Legislature hereby finds and declares all of the following:

(a) The development and commercialization of energy technologies and energy conservation is a vital element in meeting the state's energy needs.

(b) The continuing vitality of California's energy technology and energy conservation industry, as well as the maintenance of California's technological leadership in these energy systems, depends on the industry's ability to expand into new markets, including those in other countries. The expansion of California's energy technology and energy conservation industry into foreign markets will result in lower domestic prices, more stable growth, increased employment opportunities, and additional tax revenues.

(c) California's energy technology and energy conservation industry's entry into export markets is being inhibited by foreign-based competitors benefiting from extensive financial and technical support from their governments. Furthermore, small- to medium-sized energy firms are handicapped by high information costs and financial constraints.

(d) California-based energy technology and energy conservation firms seeking to expand into foreign markets can be substantially assisted by state efforts to disseminate international market data, foreign government regulatory information, and other material, and to provide technical assistance to facilitate export efforts.

(e) It is in the best interest of the state to increase the export of goods and services provided by California-based energy technology and energy conservation firms, particularly small- and medium-sized businesses, in a manner which coordinates with and augments existing private, state, and federal programs.

§ 25696. Export of technologies, products, and services to international markets; powers of commission to assist

The commission, in cooperation with the California State World Trade Commission and the Trade and Commerce Agency, may assist California-based energy technology and energy conservation firms to export their technologies, products, and services to international markets.

The commission may, in coordination with the California State World Trade Commission, do all of the following:

(a) Conduct a technical assistance program to help California energy companies improve export opportunities and enhance foreign buyers' awareness of and access to energy technologies and services offered by California-based companies. Technical assistance activities may include, but are not limited to, an energy technology export information clearinghouse, a referral service, a trade lead service consulting services for financing, market evaluation, and legal counseling, and information seminars.

(b) Perform research studies and solicit technical advice to identify international market opportunities.

(c) Assist California energy companies to evaluate project or site-specific energy needs of international markets.

(d) Assist California energy companies to identify and address international trade barriers restricting energy technology exports, including unfair trade practices and discriminatory trade laws.

(e) Develop promotional materials in conjunction with California energy companies to expand energy technology exports.

(f) Establish technical exchange programs to increase foreign buyers' awareness of suitable energy technology uses.

(g) Prepare equipment performance information to enhance potential export opportunities.

(h) Coordinate activities with state, federal, and international donor agencies to take advantage of trade promotion and financial assistance efforts offered.

§ 25696.5. Reimbursement of financial assistance; conditions; deposit

(a) Every California-based energy technology and energy conservation firm awarded direct financial assistance pursuant to Section 25696 shall reimburse the commission for that assistance, when both of the following conditions have been met:

(1) The assistance was substantial and essential for the completion of a specific identifiable project.

(2) The resulting project is producing revenues.

(b) All moneys appropriated for purposes of this chapter and all moneys received by the commission as reimbursement under this section shall be deposited in the Energy Resources Programs Account and shall be available, when appropriated by the Legislature, for the purposes of this chapter.

§ 25697. Conducting overseas trade missions, shows, and exhibits; consultation

The commission shall consult with the California State World Trade Commission with respect to conducting overseas trade missions, trade shows, and trade exhibits. Consultation may include interagency agreements, cosponsorship, and memoranda of understanding for joint overseas trade activities.

§ 25698. Repealed.

CHAPTER 8. ENERGY SHORTAGE CONTINGENCY PLANNING

§ 25700. Development of plans

The commission shall, in accordance with the provisions of this chapter, develop contingency plans to deal with possible shortages of electrical energy or fuel supplies to protect public health, safety, and welfare.

§ 25701. Emergency load curtailment and energy distribution plans; preparation and submission by utilities, fuel wholesalers and manufacturers; governmental agencies

(a) Within six months after the effective date of this division, each electric utility, gas utility, and fuel wholesaler or manufacturer in the state shall prepare and submit to the commission a proposed emergency load curtailment plan or emergency energy supply distribution plan setting forth proposals for identifying priority loads or users in the event of a sudden and serious shortage of fuels or interruption in the generation of electricity.

(b) The commission shall encourage electric utilities to cooperate in joint preparation of an emergency load curtailment plan or emergency energy distribution plan. If such a cooperative plan is developed between two or more electric utilities, such utilities may submit such joint plans to the commission in place of individual plans required by subdivision (a) of this section.

(c) The commission shall collect from all relevant governmental agencies, including, but not limited to, the Public Utilities Commission and the Office of Emergency Services, any existing contingency plans for dealing with sudden energy shortages or information related thereto.

§ 25702. Public hearings; review; submission of emergency plans to governor and legislature

The commission shall, after one or more public hearings, review the emergency load curtailment program plans or emergency energy supply distribution plans submitted pursuant to Section 25701, and, within one year after the effective date of this division, the commission shall approve and recommend to the Governor and the Legislature plans for emergency load curtailment and energy supply distribution in the event of a sudden energy shortage. Such plans shall be based upon the plans presented by the electric utilities, gas utilities, and fuel wholesalers or manufacturers, information provided by other governmental agencies, independent analysis

and study by the commission, and information provided at the hearing or hearings. Such plans shall provide for the provision of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic state economy. Provision shall be made in such plans to eliminate wasteful, uneconomic, and unnecessary uses of energy in times of shortages and to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments. Such plans shall also specify the authority of and recommend the appropriate actions of state and local governmental agencies in dealing with energy shortages.

§ 25703. Certification of new facilities; review and revision of emergency plans

Within four months after the date of certification of any new facility, the commission shall review and revise the recommended plans based on additional new capacity attributed to any such facility. The commission shall, after one or more public hearings, review the plans at least every five years from the approval of the initial plan as specified in Section 25702.

§ 25704. Studies relating to potential energy shortages; recommendations

The commission shall carry out studies to determine if potential serious shortages of electrical, natural gas, or other sources of energy are likely to occur and shall make recommendations to the Governor and the Legislature concerning administrative and legislative actions required to avert possible energy supply emergencies or serious fuel shortages, including, but not limited to, energy conservation and energy development measures, to grant authority to specific governmental agencies or officers to take actions in the event of a sudden energy shortage, and to clarify and coordinate existing responsibilities for energy emergency actions.

§ 25705. Construction and use of emergency generating facilities; report

If the commission determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency, and upon a declaration by the Governor or by an act of the Legislature that a threat to public health, safety, and welfare exists and requires immediate action, the commission shall authorize the construction and use of generating facilities under such terms and conditions as specified by the commission to protect the public interest.

Within 60 days after the authorization of construction and use of such generating facilities, the commission shall issue a report detailing the full nature, extent, and estimated duration of the emergency situation and making recommendations to the Governor and the Legislature for further energy conservation and energy supply measures to alleviate the emergency situation as alternatives to use of such generating facilities.

CHAPTER 8.2. STRATEGIC FUEL RESERVE

§ 25720. Operation of a strategic fuel reserve; examination of feasibility

(a) By January 31, 2002, the commission shall examine the feasibility, including possible costs and benefits to consumers and impacts on fuel prices for the general public, of operating a strategic fuel reserve to insulate California consumers and businesses from substantial short-term price increases arising from refinery outages and other similar supply interruptions. In evaluating the potential operation of a strategic fuel reserve, the commission shall consult with other state agencies, including, but not limited to, the State Air Resources Board.

(b) The commission shall examine and recommend an appropriate level of reserves of fuel, but in no event may the reserve be less than the amount of refined fuel that the commission estimates could be produced by the largest California refiner over a two week period. In making this examination and recommendation, the commission shall take into account all of the following:

(1) Inventories of California-quality fuels or fuel components reasonably available to the California market.

(2) Current and historic levels of inventory of fuels.

(3) The availability and cost of storage of fuels.

(4) The potential for future supply interruptions, price spikes, and the costs thereof to California consumers and businesses.

(c) The commission shall evaluate a mechanism to release fuel from the reserve that permits any customer to contract at any time for the delivery of fuel from the reserve in exchange for an equal amount of fuel that meets California specifications and is produced from a source outside of California that the customer agrees to deliver back to the reserve within a time period to be established by the commission, but not longer than six weeks.

(d) The commission shall evaluate reserve storage space from existing facilities.

(e) The commission shall evaluate a reserve operated by an independent operator that specializes in purchasing and storing fuel, and is selected through competitive bidding.

(f)(1) Not later than January 31, 2002, the commission and the State Air Resources Board, in consultation with the other state and local agencies the commission deems necessary, shall develop and adopt recommendations for the Governor and Legislature on a California Strategy to Reduce Petroleum Dependence.

(2) The strategy shall include a base case forecast by the commission of gasoline, diesel, and petroleum consumption in years 2010 and 2020 based on current best estimates of economic and population growth, petroleum base fuel supply and availability, vehicle efficiency, and utilization of alternative fuels and advanced transportation technologies.

(3) The strategy shall include recommended statewide goals for reductions in the rate of growth of gasoline and diesel fuel consumption and increased transportation energy efficiency and utilization of nonpetroleum based fuels and advanced transportation technologies, including alternative fueled vehicles, hybrid vehicles, and high fuel efficiency vehicles.

(g) The studies required by this section shall be conducted in conjunction with any other studies required by acts enacted during the 2000 portion of the 1999-2000 Regular Session dealing with gasoline prices.

§ 25721. Reports on findings and recommendations

The commission shall report its findings and recommendations to the Governor, the Legislature, and the Attorney General by January 31, 2002. If the commission finds that it would be feasible to operate a strategic gas reserve to insulate California consumers and businesses from substantial, short-term price increases arising from refinery outages or other similar supply interruptions, the commission shall request specific statutory authority and funding for establishment of a reserve.

CHAPTER 8.3. STATE VEHICLE FLEET

§ 25722. Fuel and tire efficiency standards

(a) On or before January 31, 2003, the commission, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the commission , the department, and the state board deem necessary, shall develop and adopt fuel-efficiency specifications governing the purchase by the state of motor vehicles and replacement tires that, on an annual basis, will reduce petroleum consumption of the state vehicle fleet to the maximum extent practicable and cost-effective.

(b) In developing the specifications, the commission and the department shall jointly conduct a study to examine state vehicle purchasing patterns, including the purchase of after market tires, and to analyze the costs and benefits of reducing the energy consumption of the state vehicle fleet by no less than 10 percent on or before January 1, 2005.

(c) The study shall include an analysis of all of the following topics:

(1) Use of alternative fuels.

(2) Use of fuel-efficient vehicles.

(3) Costs and benefits of decreasing the size of the state vehicle fleet.

(4) Reduction in vehicle trips and increase in use of alternative means of transportation.

(5) Improved vehicle maintenance.

(6) Costs and benefits of using fuel-efficient tires relative to using retreaded tires, as described in the Retreaded Tire Program (Chapter 7 (commencing with Section 42400) of Part 3 of Division 30 of the Public Resources Code).

(7) The costs and benefits of purchasing high fuel efficiency gasoline vehicles, including hybrid electric vehicles, instead of flexible fuel vehicles.

(d) On or before January 31, 2003, and annually thereafter, the commission, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the commission, the department, and the state board deem necessary, shall develop and adopt air pollution emission specifications governing the purchase by the state of passenger cars and light-duty trucks that meet or exceed California's Ultra-Low Emission Vehicle (ULEV) standards for exhaust emissions (13 Cal. Code Regs. 1960.1).

(e) If the study described in subdivision (b) determines that lower cost measures exist that deliver petroleum reductions equivalent to applicable federal requirements governing the state purchase of passenger cars and light-duty trucks, the state shall pursue a waiver from those federal requirements.

§ 25722.5. Development and adoption of standards for passenger cars and light-duty trucks; emergency vehicles; specifications and standards; review of vehicle fleet by state offices, agencies, and departments; use of alternative fuels; compilation and maintenance of information regarding nature of vehicles owned or leased

(a) On or before January 1, 2005, in order to achieve the policy objectives set forth in Sections 25000.5 and 25722, the Department of General Services, in consultation with the commission and the State Air Resources Board, shall develop and adopt specifications and standards for all passenger cars and light-duty trucks that are purchased or leased on behalf of, or by, state offices, agencies, and departments. Authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, that are equipped with emergency lamps or lights described in Section 25252 of the Vehicle Code are exempt from the requirements of this section. The specifications and standards shall include the following:

(1) Minimum air pollution emission specifications that meet or exceed California's Ultra-Low Emission Vehicle II (ULEV II) standards for exhaust emissions (13 Cal. Code Regs. 1961). These specifications shall apply on January 1, 2006, for passenger cars and on January 1, 2010, for light-duty trucks.

(2) Notwithstanding any other provision of law, the utilization of procurement policies that enable the Department of General Services to accomplish the following:

(A) Evaluate and score emissions and fuel economy in addition to capital cost to enable the Department of General Services to choose the vehicle with the lowest life-cycle cost when awarding a state vehicle procurement contract.

(B) Maximize the purchase or lease of hybrid or "Best in Class" vehicles that are substantially more fuel efficient than the class average.

(C) Maximize the purchase or lease of available vehicles that meet or exceed California's Super Ultra-Low Emission Vehicle (SULEV) passenger car standards for exhaust emissions.

(3) In order to discourage the unnecessary purchase or leasing of a sport utility vehicle and a four-wheel drive truck, a requirement that each state office, agency, or department seeking to purchase or lease that vehicle, demonstrate to the satisfaction of the Director of General Services or to the entity that purchases or leases vehicles for that office, agency, or department, that the vehicle is required to perform an essential function of the office, agency, or department. If it is so demonstrated, priority consideration shall be given to the purchase or lease of an alternatively fueled or hybrid sports utility vehicle or four-wheel drive vehicle.

(b) On or before December 31, 2005, each state office, agency, and department shall review its vehicle fleet and, upon finding that it is fiscally prudent, cost-effective, or otherwise in the public interest to do so, shall dispose of nonessential sport utility vehicles and four-wheel drive trucks from its fleet and replace these vehicles with more fuel efficient front-wheel drive passenger cars and trucks.

(c) To the maximum extent practicable, each state office, agency, and department that has bifuel natural gas and bifuel propane vehicles in its vehicle fleet shall use the respective alternative fuel in those vehicles.

(d) Commencing no later than January 1, 2005, the Director of General Services shall compile and maintain information on the nature of vehicles that are owned or leased by the state, including, but not limited to, all of the following:

(1) The number of passenger-type motor vehicles purchased or leased during the year, and the number owned or leased as of December 31 of each year.

(2) The number of sport utility vehicles and four-wheel drive trucks purchased or leased by the state during the year, and the number owned or leased as of December 31 of each year.

(3) The number of alternatively fueled vehicles and hybrid vehicles purchased or leased by the state during the year, and the total number owned or leased as of December 31 of each year.

(4) The justification provided for all sport utility vehicles and four-wheel drive trucks purchased or leased by the state and the specific office, department, or agency responsible for the purchase or lease.

(5) The number of sport utility vehicles and four-wheel drive trucks purchased or leased by the state during the year, and the number owned or leased as of December 31 of each year that are alternative fuel or hybrid vehicles.

(6) The number of light-duty trucks disposed under subdivision (b).

(7) The total dollars spent by the state on passenger-type vehicle purchases and leases, categorized by sport utility vehicle and nonsport utility vehicle, and within each of those categories, by alternative fuel, hybrid and other.

(e) Each state office, agency, and department shall cooperate with the Department of General Services data requests in order that the department may compile and maintain the information required in subdivision (d).

(f) As soon as practicable, the information compiled and maintained under subdivision (d) and a list of those state offices, agencies, and departments that are not in compliance with subdivision (e) shall be made available to the public on the Department of General Services' Web site.

§ 25723. Fuel and tire efficiency standards

On or before January 31, 2003, the commission, in consultation with any other state agency that the commission deems necessary, shall develop and adopt recommendations for consideration by the Governor and the Legislature of a California State Fuel-Efficient Tire Program. The commission shall make recommendations on all of the following items:

(a) Establishing a test procedure for measuring tire fuel efficiency.

(b) Development of a data base of fuel efficiency of existing tires in order to establish an accurate baseline of tire efficiency.

(c) A rating system for tires that provides consumers with information on the fuel efficiency of individual tire models.

(d) A consumer-friendly system to disseminate tire fuel-efficiency information as broadly as possible. The commission shall consider labeling, Web site listing, printed fuel economy guide booklets, and mandatory requirements for tire retailers to provide fuel-efficiency information.

(e) A study to determine the safety implications, if any, of different policies to promote fuel efficient replacement tires in the consumer market.

(f) A mandatory fuel-efficiency standard for all after market tires sold in California.

(g) Consumer incentive programs that would offer a rebate to purchasers of replacement tires that are more fuel efficient than the average replacement tire.

CHAPTER 8.5. CLIMATE CHANGE INVENTORY AND INFORMATION

§ 25730. Duties of the Commission; update inventories, data and information; public workshops; interagency task force; climate change advisory committee

The commission, in consultation with the State Air Resources Board, the Department of Forestry and Fire Protection, the Department of Transportation, the State Water Resources Control Board, the California Integrated Waste Management Board, and other state agencies with jurisdiction over matters affecting climate change, shall do all of the following:

(a) On or before January 1, 2002, update the inventory of greenhouse gas emissions from all sources located in the state, as identified in the commission's 1998 report entitled, "Appendix A: Historical and Forecasted Greenhouse Gas Emissions Inventories for California." Information on natural sources of greenhouse gas emissions shall be included to the extent that information is available. The inventory shall include information that compares emissions from similar inventories prepared for the United States and other states or countries, and shall include information on relevant current and previous energy and air quality policies, activities, and greenhouse gas emissions reductions and trends since 1990, to the extent that information is available.

(b) Acquire and develop data and information on global climate change, and provide state, regional, and local agencies, utilities, business, industry, and other energy and economic sectors with information on the costs, technical feasibility, and demonstrated effectiveness of methods for reducing or mitigating the production of greenhouse gases from in-state sources, including net reductions through the management of natural forest reservoirs. The commission, in consultation with the State Air Resources Board, shall provide a variety of forums for the exchange of that information among interested parties, and shall provide other state agencies with information on cost-effective and technologically feasible methods that can be used to reduce or mitigate the emissions of greenhouse gases.

(c) Update its inventory every five years using current scientific methods, and report on the updated inventory to the Governor and the Legislature.

(d) Conduct at least one public workshop prior to finalizing each updated inventory. The commission shall post its report and inventory on the commission's web page on the Internet.

(e) Convene an interagency task force consisting of state agencies with jurisdiction over matters affecting climate change to ensure policy coordination at the state level for those activities.

(f) Establish a climate change advisory committee, to the extent that the commission determines that it can do so within existing resources. This advisory committee shall make recommendations to the commission on the most equitable and efficient ways to implement international and national climate change requirements based on cost, technical feasibility, and relevant information on current energy and air quality policies and activities and on greenhouse gas emissions reductions and trends since 1990. The commission shall designate one of its commissioners as chair, and shall include on the advisory committee members who represent business, including major industrial and energy sectors, utilities, forestry, agriculture, local government, and environmental groups. The meetings of the advisory

committee shall be open to the public, and shall provide an opportunity for the public to be heard on matters considered by the advisory committee.

CHAPTER 8.6. RENEWABLE ENERGY RESOURCES PROGRAM

§ 25740. Legislative intent

It is the intent of the Legislature in establishing this program, to increase the amount of renewable electricity generated per year, so that it equals at least 17 percent of the total electricity generated for consumption in California per year by 2006.

§ 25741. Definitions

As used in this chapter, the following terms have the following meaning:

(a) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility is located in the state or near the border of the state with the first point of connection to the Western Electricity Coordinating Council (WECC) transmission system located within this state.

(3) For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the commission.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(b) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge authorized to be collected and to be transferred to the Renewable Resource Trust Fund pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(c) "Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the commission.

§ 25742. Improvements to existing in-state renewable electricity generation facilities

(a) Twenty percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Eligibility for incentives under this section shall be limited to those technologies found eligible for funds by the commission pursuant to paragraphs (5), (6), and (8) of subdivision (c) of Section 399.6 of the Public Utilities Code.

(b) Any funds used to support in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the provisions of the report, subject to all of the following requirements:

(1) Of the funding for existing renewable electricity generation facilities available pursuant to this section, 75 percent shall be used to fund first tier technologies, including biomass and solar electric technologies and 25 percent shall be used to fund second tier wind technologies.

(2) The commission shall reexamine the tier structure as proposed in the report and adjust the structure to reflect market and contractual conditions. The commission shall also consider inflation when adjusting the structure.

(3) The commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report, as those payment caps are revised in guidelines adopted by the commission, representing the difference between target prices and the price paid for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and price paid for electricity or the payment caps, production incentives shall be based on the

amount determined by dividing available funds by eligible generation. The price paid for electricity shall be determined by the commission based on the energy prices paid to nonutility power generators as authorized by the Public Utilities Commission, or on otherwise available measures of price. For the first tier technologies, the commission shall establish a time-differentiated incentive structure that encourages plants to run the maximum feasible amount of time and that provides a higher incentive when the plants are receiving the lowest price.

(4) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(A) Is sold at monthly average rates equal to or greater than the applicable target price, as determined by the commission.

(B) Is that portion of electricity generation attributable to the use of qualified agricultural biomass fuel, for a facility that is receiving fuel-based incentives through the Agricultural Biomass-to-Energy Incentive Grant Program established pursuant to Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code. Notwithstanding subdivision (f) of Section 1104 of the Food and Agricultural Code, facilities that receive funding from the Agricultural Biomass-to-Energy Incentive Grant Program are eligible to receive funding pursuant to this section.

(C) Is used onsite or is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

§ 25743. Development of new in-state renewable electricity generation facilities

(a) Fifty-one and one-half percent of the money collected pursuant to the renewable energy public goods charge, shall be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide.

(b) Any funds used for new in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) In order to cover the above market costs of renewable resources as approved by the Public Utilities Commission and selected by retail sellers to fulfill their obligations under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, the commission shall award funds in the form of supplemental energy payments, subject to the following criteria:

(A) The commission may establish caps on supplemental energy payments. The caps shall be designed to provide for a viable energy market capable of achieving the goals of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of the Public Utilities Code. The commission may waive application of the caps to accommodate a facility, if it is demonstrated to the satisfaction of the commission, that operation of the facility would provide substantial economic and environmental benefits to end-use customers subject to the funding requirements of the renewable energy public goods charge.

(B) Supplemental energy payments shall be awarded only to facilities that are eligible for funding under this subdivision.

(C) Supplemental energy payments awarded to facilities selected by an electrical corporation pursuant to Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be paid for the lesser of 10 years, or the duration of the contract with the electrical corporation.

(D) The commission shall reduce or terminate supplemental energy payments for projects that fail either to commence and maintain operations consistent with the contractual obligations to an electrical corporation, or that fail to meet eligibility requirements.

(E) Funds shall be managed in an equitable manner in order for retail sellers to meet their obligation under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(2) The commission may determine as part of a solicitation, that a facility that does not meet the definition of an "in-state renewable electricity generation technology" facility solely because it is located outside the state, is eligible for funding under this subdivision if it meets all of the following requirements:

(A) It is located so that it is or will be connected to the Western Electricity Coordinating Council (WECC) transmission system.

(B) It is developed with guaranteed contracts to sell its generation to end-use customers subject to the funding requirements of Section 381, or to marketers that provide this guarantee for resale of the generation, for a period of time at least equal to the amount of time it receives incentive payments under this subdivision.

(C) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(D) If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

(E) It meets any other condition established by the commission.

(3) Facilities that are eligible to receive funding pursuant to this subdivision shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(A) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments, except for that electricity that satisfies subparagraph (C) of paragraph (1) of subdivision (c) of Section 399.6 of the Public Utilities Code.

(B) Is used onsite or is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(C) Is produced by a facility that is owned by an electrical corporation or a local publicly owned electric utility as defined in subdivision (d) of Section 9604 of the Public Utilities Code.

(D) Is a hydroelectric generation project that will require a new or increased appropriation of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(E) Is a solid waste conversion facility, unless the facility meets the criteria established in paragraph (3) of subdivision (a) of Section 25741 and the facility certifies that any local agency sending solid waste to the facility is in compliance with Division 30 (commencing with Section 40000), has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

(4) Eligibility to compete for funds or to receive funds shall be contingent upon having to sell the output of the renewable electricity generation facility to customers subject to the funding requirements of the renewable energy public goods charge.

(5) The commission may require applicants competing for funding to post a forfeitable bid bond or other financial guaranty as an assurance of the applicant's intent to move forward expeditiously with the project proposed. The amount of any bid bond or financial guaranty may not exceed 10 percent of the total amount of the funding requested by the applicant.

(6) In awarding funding, the commission may provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(c) Repowered existing facilities shall be eligible for funding under this subdivision if the capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility.

(d) Facilities engaging in the direct combustion of municipal solid waste or tires are not eligible for funding under this subdivision.

(e) Production incentives awarded under this subdivision prior to January 1, 2002, shall commence on the date that a project begins electricity production, provided that the project was operational prior to January 1, 2002, unless the commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond January 1, 2007.

(f) Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation technology facility to the extent that they report to the commission the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the following:

(1) Agricultural crops and agricultural wastes and residues.

(2) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(3) Wood and wood wastes that meet all of the following requirements:

(A) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Sec. 4511) of Part 2 of Division 4).

(B) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(C) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

§ 25744. Development of emerging renewable technologies

(a) Seventeen and one-half percent of the money collected pursuant to the renewable energy public goods charge shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

(b) Any funds used for emerging technologies pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than five years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(2) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to subparagraph (C), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the purchase or lease cost of the eligible system, or the cost of electricity produced by the eligible system. Incentives shall be issued on the basis of the rated electrical generating capacity of the system measured in watts, or the amount of electricity production of the system, measured in kilowatthours. Incentives shall be limited to a maximum percentage of the system price, as determined by the commission.

(3) Eligible distributed emerging technologies are photovoltaic, solar thermal electric, fuel cell technologies that utilize renewable fuels, and wind turbines of not more than 50 kilowatts rated electrical generating capacity per customer site, and other distributed renewable emerging technologies that meet the emerging technology eligibility criteria established by the commission. Eligible electricity generating systems are intended primarily to offset part or all of

the consumer's own electricity demand, and shall not be owned by local publicly owned electric utilities, nor be located at a customer site that is not receiving distribution service from an electrical corporation that is subject to the renewable energy public goods charge and contributing funds to support programs under this chapter. All eligible electricity generating system components shall be new and unused, shall not have been previously placed in service in any other location or for any other application, and shall have a warranty of not less than five years to protect against defects and undue degradation of electrical generation output. Systems and their fuel resources shall be located on the same premises of the end-use consumer where the consumer's own electricity demand is located, and all eligible electricity generating systems shall be connected to the utility grid in California. The commission may require eligible electricity generating systems to have meters in place to monitor and measure a system's performance and generation. Only systems that will be operated in compliance with applicable law and the rules of the Public Utilities Commission shall be eligible for funding.

(4) The commission shall limit the amount of funds available for any system or project of multiple systems and reduce the level of funding for any system or project of multiple systems that has received, or may be eligible to receive, any government or utility funds, incentives, or credit.

(5) In awarding funding, the commission may provide preference to systems that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(6) In awarding funding, the commission shall develop and implement eligibility criteria and a system that provides preference to systems based upon system performance, taking into account factors, including, but not limited to, shading, insulation levels, and installation orientation.

(7) At least once annually, the commission shall publish and make available to the public the balance of funds available for emerging renewable energy resources for rebates, buydowns, and other incentives for the purchase of these resources.

<u>(c) Notwithstanding Section 399.6 of the Public Utilities Code, the commission may expend, until December 31, 2008, up to sixty million dollars ($60,000,000) of the funding allocated to the Renewable Resources Trust Fund for the program established in this section, subject to the repayment requirements of subdivision (f) of Section 25751.</u>

§ 25745. Customer credits

(a) Ten percent of the money collected pursuant to the renewable energy public goods charge shall be used to provide customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

(b) Any funds used for customer credits pursuant to this section shall be expended, as provided in the report, subject to all of the following requirements:

(1) Customer credits shall be awarded to California retail customers located in the service territory of an electrical corporation that is subject to the renewable energy public goods charge that is contributing funds to support programs under this chapter, and that is purchasing qualifying electricity from renewable electricity generating facilities, through

transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity from the claimed renewable electricity generating facilities has been sold once and only once to a retail customer.

(2) Credits awarded pursuant to this paragraph may be paid directly to electric service providers, energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's bills. Credits may not exceed one and one-half cents ($0.015) per kilowatthour. Credits awarded to members of the combined class of customers, other than residential and small commercial customers, may not exceed one thousand dollars ($1,000) per customer per calendar year. In no event may more than 20 percent of the total customer incentive funds be awarded to members of the combined class of customers other than residential and small commercial customers.

(3) The commission shall develop criteria and procedures for the identification of energy purchasers and providers that are eligible to receive funds pursuant to this paragraph through a process consistent with this paragraph. These criteria and procedures shall apply only to funding eligibility and may not extend to other renewable marketing claims.

(4) Customer credits may not be awarded for the purchase of electricity that is used to meet the obligations of a renewable portfolio standard.

(5) The Public Utilities Commission shall notify the commission in writing within 10 days of revoking or suspending the registration of any electric service provider pursuant to paragraph (4) of subdivision (b) of Section 394.25 of the Public Utilities Code.

§ 25746. Promotion of renewable energy

One percent of the money collected pursuant to the renewable energy public goods charge shall be used in accordance with the report to promote renewable energy and disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

§ 25747. Guidelines for funding

~~(a) The commission shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001-02 Regular Session are declaratory of, and not a change in existing law.~~

(a) The commission shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any

guidelines adopted pursuant to this chapter or Section 399.13 of the Public Utilities Code, shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001-02 Regular Session are declaratory of, and not a change in existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the commission, shall not constitute the rendering of goods, services, or a direct benefit to the commission.

§ 25748. Report to Legislature; contents; reallocation

~~The commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this chapter. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The report shall identify the types and quantities of biomass fuels used by facilities receiving funds pursuant to Section 25743 and their impacts on improving air quality. The reports shall discuss the progress being made toward achieving the 17-percent target provided in Section 25740 by each funding category authorized pursuant to this chapter. The reports shall also address the allocation of funds from interest on the accounts described in this chapter, and money in the accounts described in subdivision (b) of Section 25751. Money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this section, except that reallocations may not reduce the allocation established in Section 25743 nor increase the allocation established in Section 25742.~~

(a) The commission shall report to the Legislature on or before November 1, 2005, and annually thereafter, regarding the results of the mechanisms funded pursuant to this chapter. The report shall contain all of the following: (1) A description of the allocation of funds among existing, new, and emerging technologies, the allocation of funds among programs, including consumer-side incentives, and the need for the reallocation of money among those technologies.

(2) The status of account transfers and repayments.

(3) A description of the cumulative commitment of claims by account, the relative demand for funds by account, and a forecast of future awards.

(4) A list identifying the types and quantities of biomass fuels used by facilities receiving funds pursuant to Section 25743 and their impacts on improving air quality.

(5) A discussion of the progress being made toward achieving the targets established under Section 25740 by each funding category authorized pursuant to this chapter.

(6) A description of the allocation of funds from interest on the accounts described in this chapter, and money in the accounts described in subdivision (b) of Section 25751.

(7) An itemized list, including project descriptions, award amounts, and outcomes for projects awarded funding in the prior year.

(8) Other matters the commission determines may be of importance to the Legislature.

(b) Money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this section, except that reallocations may not reduce the allocation established in Section 25743 nor increase the allocation established in Section 25742.

§ 25749. Comprehensive renewable electricity generation resource plan

The commission shall, by December 1, 2003, prepare and submit to the Legislature a comprehensive renewable electricity generation resource plan that describes the renewable resource potential available in California, and recommendations for a plan for development to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006. The commission shall consult with the Public Utilities Commission, electrical corporations, and the Independent System Operator, in the development and preparation of the plan.

§ 25750. Participation in Public Utilities Commission proceedings

The commission shall participate in proceedings at the Public Utilities Commission that relate to or affect efforts to stimulate the development of electricity generated from renewable sources, in order to obtain coordination of the state's efforts to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006.

§ 25751. Renewable resource trust fund

(a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby established within the Renewable Resource Trust Fund:

(1) The Existing Renewable Resources Account.

(2) New Renewable Resources Account.

(3) Emerging Renewable Resources Account.

(4) Customer-Credit Renewable Resource Purchases Account.

(5) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended for the state's administration of this article only upon appropriation by the Legislature in the annual Budget Act.

(d) Notwithstanding Section 383, that portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 399.6 of the Public Utilities Code. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts. The commission shall examine the cashflow in the respective accounts on an annual basis, and shall annually prepare and submit to the Legislature a report that describes the status of account transfers and repayments.

~~(g) The commission shall, on a quarterly basis, report to the Legislature on the implementation of this article. Those quarterly reports shall be submitted to the Legislature not more than 30 days after the close of each quarter and shall include information describing the awards submitted to the Controller for payment pursuant to this article, the cumulative commitment of claims by account, the relative demand for funds by account, a forecast of future awards, and other matters the commission determines may be of importance to the Legislature.~~

(~~h~~g) The Department of Finance, commencing March 1, 1999, shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash

balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

CHAPTER 8.7. REPLACEMENT TIRE EFFICIENCY PROGRAM

§ 25770. Definitions

For the purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the California Integrated Waste Management Board established pursuant to Division 30 (commencing with Section 40000).

(b) "Consumer information requirement" means point-of-sale information or signs that are conspicuously displayed, readily accessible, and written in a manner that can be easily understood by the consumer. "Consumer information requirement" does not include mandatory labeling, imprinting, or other marking, on an individual tire by the tire manufacturer or the tire retailer.

(c) "Cost effective" means the cost savings to the consumer resulting from a replacement tire subject to an energy efficiency standard that equals or exceeds the additional cost to the consumer resulting from the standard, taking into account the expected fuel cost savings over the expected life of the replacement tire.

(d) "Replacement tire" means a tire sold in the state that is designed to replace a tire sold with a new passenger car or light-duty truck. "Replacement tire" does not include any of the following tires:

(1) A tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually.

(2) A deep tread, winter-type snow tire, a space-saver tire, or a temporary use spare tire.

(3) A tire with a nominal rim diameter of 12 inches or less.

(4) A motorcycle tire.

(5) A tire manufactured specifically for use in an off-road motorized recreational vehicle.

§ 25771. Development and adoption of database of replacement tire energy efficiency, energy efficiency rating system for replacement tires, and energy efficiency reporting requirements for tire manufacturers

On or before July 1, 2006, the commission shall develop and adopt all of the following:

(a) A database of the energy efficiency of a representative sample of replacement tires sold in the state, based on test procedures adopted by the commission.

(b) Based on the data collected pursuant to subdivision (a), a rating system for the energy efficiency of replacement tires sold in the state, that will enable consumers to make more informed decisions when purchasing tires for their vehicles.

(c) Based on the test procedures adopted pursuant to subdivision (a) and the rating system established pursuant to subdivision (b), requirements for tire manufacturers to report to the commission the energy efficiency of replacement tires sold in the state.

§ 25772. Adoption and implementation of tire energy efficiency program of statewide applicability for replacement tires

On or before July 1, 2007, the commission, in consultation with the board, shall, after appropriate notice and workshops, adopt and, on or before July 1, 2008, implement, a tire energy efficiency program of statewide applicability for replacement tires, designed to ensure that replacement tires sold in the state are at least as energy efficient, on average, as tires sold in the state as original equipment on new passenger cars and light-duty trucks.

§ 25773. Contents of tire energy efficiency program

(a) The program described in Section 25772 shall include all of the following:

(1) The development and adoption of minimum energy efficiency standards for replacement tires, except to the extent that the commission determines that it is unable to do so in a manner that complies with subparagraphs (A) to (E), inclusive. Energy efficiency standards adopted pursuant to this paragraph shall meet all of the following conditions:

(A) Be technically feasible and cost effective.

(B) Not adversely affect tire safety.

(C) Not adversely affect the average tire life of replacement tires.

(D) Not adversely affect state efforts to manage scrap tires pursuant to Chapter 17 (commencing with Section 42860) of Part 3 of Division 30.

(2) The development and adoption of consumer information requirements for replacement tires for which standards have been adopted pursuant to paragraph (1).

(b) The energy efficiency standards established pursuant to paragraph (1) of subdivision (a) shall be based on the results of laboratory testing and, to the extent it is available and deemed appropriate by the commission, an onroad fleet testing program developed by tire manufacturers in consultation with the commission and the board, conducted by tire manufacturers, and submitted to the commission on or before January 1, 2006.

(c) If the commission finds that tires used to equip an authorized emergency vehicle, as defined in Section 165 of the Vehicle Code, are unable to meet the standards established pursuant to paragraph (1) of subdivision (a), the commission shall authorize an

operator of an authorized emergency vehicle fleet to purchase for those vehicles tires that do not meet those standards.

(d) The commission, in consultation with the board, shall review and revise the program, including any standards adopted pursuant to the program, as necessary, but not less than once every three years. The commission may not revise the program or standards in a way that reduces the average efficiency of replacement tires.

CHAPTER 9. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT ACCOUNTS

§ 25800. Renumbered

§ 25801. Energy resources programs account

There is in the General Fund in the State Treasury the Energy Resources Programs Account.

§ 25802. Notice of intent for proposed facilities; fees

Each person who submits to the commission a notice of intent for any proposed generating facility shall accompany the notice with a fee of one cent ($0.01) per kilowatt of net electric capacity of the proposed generation facility. Such fee shall only be paid on one of the alternate proposed facility sites which has the highest electrical designed capacity. In no event shall such fee be less than one thousand dollars ($1,000) nor more than twenty-five thousand dollars ($25,000).

For any other facility, the notice shall be accompanied by a fee of five thousand dollars ($5,000). Such fee shall only be paid on one of the alternate proposed facility sites.

§ 25803. Deposit of funds; expenditures

All funds received by the commission pursuant to Section 25802, shall be remitted to the State Treasurer for deposit in the account. All funds in the account shall be expended for purposes of carrying out the provisions of this division, when appropriated by the Legislature in the Budget Act.

§ 25804. State energy resources conservation and development special account; references

All references in this division or any other provision of law to the State Energy Resources Conservation and Development Special Account shall be deemed references to the Energy Resources Programs Account.

§ 25805. Transfer to energy resources programs account

On July 1, 1983, all funds in the State Energy Resources Conservation and Development Reserve Account shall be transferred to the Energy Resources Programs Account.

§ 25806. Fees; Energy Facility License and Compliance Fund

(a) A person who submits to the commission an application for certification for a proposed generating facility shall submit with the application a fee of one hundred thousand dollars ($100,000) plus two hundred fifty dollars ($250) per megawatt of gross generating capacity of the proposed facility. The total fee accompanying an application may not exceed three hundred fifty thousand dollars ($350,000).

(b) A person who receives certification of a proposed generating facility shall pay an annual fee of fifteen thousand dollars ($15,000). The first payment of the annual fee is due on the date this section takes effect. For a facility certified on or after the effective date of this section, the first payment of the annual fee is due on the date the commission adopts the final decision. All subsequent payments are due by July 1 of each year in which the facility retains its certification. The fiscal year for the annual fee is July 1 to June 30, inclusive.

(c) The fees in subdivisions (a) and (b) shall be adjusted annually to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce.

(d) No fee is required to accompany an application for certification, and no annual fee is required thereafter, for a generating facility that uses a renewable resource as its primary fuel or power source. For purposes of this subdivision, a renewable resource includes, but is not limited to, biomass, solar thermal, geothermal, digester gas, municipal solid waste conversion, landfill gas, ocean thermal, and solid waste converted to a clean burning fuel by using a noncombustion thermal process.

(e) The Energy Facility License and Compliance Fund is hereby created in the State Treasury. All fees received by the commission pursuant to this section shall be remitted to the Treasurer for deposit in the fund. The money in the fund shall be expended, upon appropriation by the Legislature, for processing applications for certification and for compliance monitoring.

CHAPTER 10. ENFORCEMENT AND JUDICIAL REVIEW

§ 25900. Injunction

Except as provided in Section 25531, whenever the commission finds that any provision of this division is violated or a violation is threatening to take place which constitutes an emergency requiring immediate action to protect the public health, welfare, or safety, the Attorney General, upon request of the commission, shall petition a court to enjoin such violation. The court shall have jurisdiction to grant such prohibitory or mandatory injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, and permanent injunction.

§ 25901. Writ of mandate for review

(a) Within 30 days after the commission issues its determination on any matter specified in this division, except as provided in Section 25531, any aggrieved person may file with the superior court a petition for a writ of mandate for review thereof. Failure to file such an action

shall not preclude a person from challenging the reasonableness and validity of a decision in any judicial proceedings brought to enforce the decision or to obtain other civil remedies.

(b) The decision of the commission shall be sustained by the court unless the court finds (1) that the commission proceeded without, or in excess of its jurisdiction, (2) that, based exclusively upon a review of the record before the commission, the decision is not supported by substantial evidence in light of the whole record, or (3) that the commission failed to proceed in the manner required by law.

(c) Except as otherwise provided in this section, subdivisions (f) and (g) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section.

(d) The amendment of this section made at the 1989-90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

§ 25902. Evaluations, findings and determinations pursuant to specified sections; finality; reviewability

Any evaluations in the reports required by Section 25309 and any findings and determinations on the notice of intent pursuant to Chapter 6 (commencing with Section 25500) shall not be construed as a final evaluation, finding, or determination by the commission and a court action may not be brought to review any such evaluation, finding, or determination.

§ 25903. Site and facility certification provisions; decisions on validity; review

If any provision of subdivision (a) of Section 25531, with respect to judicial review of the decision on certification of a site and related facility, is held invalid, judicial review of such decisions shall be conducted in the superior court subject to the conditions of subdivision (b) of Section 25531. The superior court shall grant priority in setting such matters for review, and the appeals from any such review shall be given preference in hearings in the Supreme Court and courts of appeal.

CHAPTER 10.5. INSULATION MATERIAL STANDARDS

§ 25910. Minimum standards for additional insulation in existing buildings

The commission shall, by regulation adopted no later than July 1, 1978, establish minimum standards for the amount of additional insulation (expressed in terms of R-value) installed in existing buildings. One year after the adoption of those standards, no insulation shall be installed in any existing building by a contractor unless the contractor certifies to the customer in writing that the amount of insulation (expressed in terms of R-value) meets or exceeds the minimum amount established by the standards. The minimum standards may vary for different types of buildings or building occupancies and different climate zones in the state. The minimum standards shall be economically feasible in that the resultant savings in energy procurement costs shall be greater than the cost of the insulation to the customer amortized over the useful life of the insulation.

§ 25911. Urea formaldehyde foam insulation regulations

The State Energy Resources Conservation and Development Commission may adopt regulations pertaining to urea formaldehyde foam insulation materials as are reasonably necessary to protect the public health and safety. These regulations may include, but are not limited to, prohibition of the manufacture, sale, or installation of urea formaldehyde foam insulation, requirements for safety notices to consumers, certification of installers, and specification of installation practices. Regulations adopted pursuant to this section shall be promulgated after public hearings in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any regulation adopted by the commission to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence which demonstrates the need for the prohibition in order to protect the public health and safety.

§ 25912. Urea formaldehyde foam insulation; regulations prohibiting; consultations and solicitation of comments

Prior to adopting any regulation which causes a prohibition on the sale and installation of urea formaldehyde foam insulation, the commission shall consult with, and solicit written comments from, all of the following:

(a) Federal and state agencies with appropriate scientific staffs, including, but not limited to, the State Department of Health Services, the National Academy of Sciences, the United States Department of Housing and Urban Development, the United States Department of Energy, and the United States Consumer Product Safety Commission.

(b) Universities and public and private scientific organizations.

§§ 25915 to 25931. Repealed

CHAPTER 10.8. HOME ENERGY AND LABELING PROGRAM

§ 25940. Repealed

§ 25941. Repealed

§ 25942. Home energy rating program; criteria; public information program; report

(a) On or before July 1, 1995, the commission shall establish criteria for adopting a statewide home energy rating program for residential dwellings. The program criteria shall include, but are not limited to, all of the following elements:

(1) Consistent, accurate, and uniform ratings based on a single statewide rating scale.

(2) Reasonable estimates of potential utility bill savings, and reliable recommendations on cost-effective measures to improve energy efficiency.

(3) Training and certification procedures for home raters and quality assurance procedures to promote accurate ratings and to protect consumers.

(4) In coordination with home energy rating service organization data bases, procedures to establish a centralized, publicly accessible, data base that includes a uniform reporting system for information on residential dwellings, excluding proprietary information, needed to facilitate the program. There shall be no public access to information in the data base concerning specific dwellings without the owner's or occupant's permission.

(5) Labeling procedures that will meet the needs of home buyers, homeowners, renters, the real estate industry, and mortgage lenders with an interest in home energy ratings.

(b) The commission shall adopt the program pursuant to subdivision (a) in consultation with representatives of the Department of Real Estate, the Department of Housing and Community Development, the Public Utilities Commission, investor-owned and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups.

(c) On and after January 1, 1996, no home energy rating services may be performed in this state unless the services have been certified, if such a certification program is available, by the commission to be in compliance with the program criteria specified in subdivision (a) and, in addition, are in conformity with any other applicable element of the program.

(d) On or before July 1, 1996, the commission shall consult with the agencies and organizations described in subdivision (b), to facilitate a public information program to inform homeowners, rental property owners, renters, sellers, and others of the existence of the statewide home energy rating program adopted by the commission.

(e) Beginning with the 1998 biennial energy conservation report required by Section 25401.1, the commission shall, as part of that biennial report, report on the progress made to implement a statewide home energy rating program. The report shall include an evaluation of the energy savings attributable to the program, and a recommendation concerning which means and methods will be most efficient and cost-effective to induce home energy ratings for residential dwellings.

CHAPTER 11. GAS APPLIANCES

Article 1. Definitions

§ 25950. Gas appliance

"Gas appliance" means any new residential-type furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, dryer, decorative fireplace log, or other similar device, except a water heater, which uses a gaseous fuel for operation and is automatically ignited.

§ 25951. Pilot light

"Pilot light" means any gas operated device that remains continually operated or lighted in order to ignite a gas appliance to begin normal operation.

§ 25952. Intermittent ignition device

"Intermittent ignition device" means an ignition device which is actuated only when the gas appliance is in operation.

§ 25953. Additional definitions

As used in this chapter, the following terms have the following meanings:

(a) "Person" means any individual, partnership, corporation, limited liability company association, manufacturer, distributor, retailer, contractor or builder as defined in Section 7026 of the Business and Professions Code, or other groups, however organized, who sell or cause to be distributed or installed, any new gas appliance as defined in Section 25950.

(b) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufacturers, assembles, produces, or gathers consumer goods.

(c) "Distributor" means any individual, partnership, corporation, association or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments or contracts for sale of consumer goods.

(d) "Retail seller," "retail outlets," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling new goods to retail buyers.

(e) "Contractor" for the purpose of this chapter is synonymous with the term "builder" and, within the meaning of this chapter, a contractor is any person who undertakes to or offers to undertake to or purports to have the capacity to undertake to or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, moved, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term "contractor" includes subcontractor and specialty contractor.

Article 2. General Provisions

§ 25960. Appliances with pilot lights; sales after certification of alternative means

No new residential-type gas appliance that is equipped with a pilot light shall be sold in the state after an alternate means has been certified by the commission. This prohibition shall become operative 24 months after an intermittent ignition device has been demonstrated and certified by the commission as an alternate means. The commission may determine, after

demonstration, that there is no feasible alternative means to the use of pilot light or that the use of a pilot light is necessary for public health and safety.

§ 25960.5. Swimming pool heaters; equipped with pilot light or intermittent ignition device or designed to burn liquefied petroleum gases

Notwithstanding the prohibition contained in Section 25960, any swimming pool heater with a pilot light which was manufactured prior to February 24, 1984, and in stock or on order as of that date, may be sold in this state prior to December 1, 1984. On or after December 1, 1984, no swimming pool heater may be sold or offered for sale, unless it is equipped with an intermittent ignition device or is designed to burn only liquefied petroleum gases.

§ 25961. Specifications for certification of intermittent ignition devices

The commission shall, on or before January 1, 1976, develop in cooperation with affected industry and consumer representatives, who will be designated as such representatives by the commission, the specifications for certification of intermittent ignition devices which shall not significantly affect the price of gas appliances in competition with similar electrical appliances. The specifications shall be developed so as to result in the conservation of primary energy resources, shall include provisions necessary for public health and safety, and shall give due consideration to the initial costs, including installation and maintenance costs imposed upon the consumer.

§ 25962. Notice of pilot light prohibition

Within 90 days after an intermittent ignition device has been certified by the commission, the commission shall notify all gas appliance manufacturers doing business in the state, as to the prohibition of affected pilot lights and shall inform the manufacturers of the devices available to comply with this article.

§ 25963. Seal of certification

The commission shall create a seal of certification and shall distribute the seal to every manufacturer that complies with this article. The seal shall be affixed to every new appliance sold in the state.

§ 25964. Sales after certification of intermittent ignition device; seal of certification; building permits

After 24 months after an intermittent ignition device has been certified by the commission, no person shall sell or offer for sale in this state any new gas appliances, as defined in Section 25950, without obtaining the proper seal of certification from the commission, unless the commission otherwise permits such action. Beginning 24 months after an intermittent ignition device has been certified by the commission, no city or county, city and county, or state agency shall issue a permit for any building to be equipped with any new gas appliance, as defined in Section 25950, unless such building permit shows that the gas appliance complies with this chapter. However, any new gas appliance which does not comply with this chapter may be installed if the appliance was purchased pursuant to a contract executed prior to June 17, 1978, and if the building permit was approved prior to July 8, 1978.

§ 25965. Inspection of manufacturers, distributors, and retail outlets for compliance with article

After 24 months after an intermittent ignition device has been certified by the commission, the commission shall make periodic inspections of manufacturers and distributors of gas appliances and may inspect retail outlets, including gas appliances that have been or are to be installed by contractors or builders at building sites in order to determine their compliance with this article.

§ 25966. Violations; injunctions

Any person who violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice which violates any provision of this chapter.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

§ 25967. Civil penalties; disposition

(a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the commission, the court shall determine the reasonable expenses incurred by the commission in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the commission shall be paid to the State Treasurer.

§ 25968. Inspector's access to premises and records

Any inspector appointed or authorized by the commission shall have access to the premises, equipment, materials, partly finished and finished articles, and records of any person subject to the provisions of this chapter.

CHAPTER 12. SOLAR SHADE CONTROL

§ 25980. Short title; public policy

This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

§ 25981. Solar collector

As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, which is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system which makes use of solar energy for any or all of the following purposes: (1) water heating, (2) space heating or cooling, and (3) power generation.

§ 25982. Placement or growth of tree or shrub subsequent to installation of solar collector on property of another

After January 1, 1979, no person owning, or in control of a property shall allow a tree or shrub to be placed, or, if placed, to grow on such property, subsequent to the installation of a solar collector on the property of another so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface on the property of another at any one time between the hours of 10 a.m. and 2 p.m., local standard time; provided, that this section shall not apply to specific trees and shrubs which at the time of installation of a solar collector or during the remainder of that annual solar cycle cast a shadow upon that solar collector. For the purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and no less than 10 feet above the ground. A collector may be less than 10 feet in height, only if in addition to the five feet setback, the collector is set back three times the amount lowered.

§ 25983. Violations; public nuisance; notice to abate; prosecution; penalty

Every person who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 upon property owned by such person and every person leasing the property of another who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 after reasonable notice in writing from a district attorney or city attorney or prosecuting attorney, to remove or alter the tree or shrub so that there is no longer a violation of Section 25982, has been served upon such person, is guilty of a public nuisance as defined in Sections 370 and 371 of the Penal Code and in Section 3480 of the Civil Code. For the purposes of this chapter, a violation is hereby deemed an infraction. The complainant shall establish to the satisfaction of the prosecutor that the violation has occurred prior to the prosecutor's duty to issue the abatement notice. For the purpose of this section, "reasonable notice" means 30 days from receipt of such notice. Upon expiration of the 30-day period, the complainant shall file an affidavit with the prosecutor alleging that the nuisance has not been abated if the complainant wishes to proceed with the action.

The existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state infractions, to prosecute all persons guilty of violating this section by continuous prosecutions until the violation is corrected. Each and every violation of this section shall be punishable by a fine not to exceed one thousand dollars ($1,000).

§ 25984. Trees on timberland; commercial agricultural crop land; replacement of trees or shrubs; application of chapter

Nothing in this chapter shall apply to trees planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops. Nothing in this chapter shall apply to the replacement of a tree or shrub which had been growing prior to the installation of a solar collector and which, subsequent to the installation of such solar collector, dies.

§ 25985. Ordinance to exempt city or unincorporated areas from provisions of chapter

Any city, or for unincorporated areas, any county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of such an ordinance shall not be subject to the provisions of the California Environmental Quality Act (commencing with Section 21000).

§ 25986. Passive or natural solar system which impacts on adjacent active solar system; action to exempt from provisions of chapter

Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.

OTHER RELATED STATUTES

OTHER RELATED STATUTES

BUSINESS AND PROFESSIONS CODE

Home Inspection - section 7195.

§ 7195. Definitions

For purposes of this chapter, the following definitions apply:

(a)(1) "Home inspection" is a noninvasive, physical examination, performed for a fee in connection with a transfer, as defined in subdivision (e), of real property, of the mechanical, electrical, or plumbing systems or the structural and essential components of a residential dwelling of one to four units designed to identify material defects in those systems, structures and components. "Home inspection" includes any consultation regarding the property that is represented to be a home inspection or any confusingly similar term.

(2) "Home inspection," if requested by the client, may include an inspection of energy efficiency. Energy efficiency items to be inspected may include the following:

(A) A noninvasive inspection of insulation R-values in attics, roofs, walls, floors, and ducts.

(B) The number of window glass panes and frame types.

(C) The heating and cooling equipment and water heating systems.

(D) The age and fuel type of major appliances.

(E) The exhaust and cooling fans.

(F) The type of thermostat and other systems.

(G) The general integrity and potential leakage areas of walls, window areas, doors, and duct systems.

(H) The solar control efficiency of existing windows.

(b) A "material defect" is a condition that significantly affects the value, desirability, habitability, or safety of the dwelling. Style or aesthetics shall not be considered in determining whether a system, structure, or component is defective.

(c) A "home inspection report" is a written report prepared for a fee and issued after a home inspection. The report clearly describes and identifies the inspected systems, structures, or components of the dwelling, any material defects identified, and any

recommendations regarding the conditions observed or recommendations for evaluation by appropriate persons.

(d) A "home inspector" is any individual who performs a home inspection.

(e) "Transfer" is a transfer by sale, exchange, installment land sales contract, as defined in Section 2985 of the Civil Code, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

CIVIL CODE

Solar Energy Systems – section 714

§ 714. Unenforceability of deeds, contracts or instruments prohibiting or restricting installation or use of solar energy system

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

(b) This section shall not apply to provisions which impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

~~(c) Solar collectors shall meet applicable standards and requirements imposed by state and local permitting authorities. Specifically, solar energy systems shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agencies. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation. A solar energy system shall also meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.~~

~~(d) For the purposes of this section:~~

~~(1) "Significantly" means an amount exceeding 20 percent of the cost of the system or decreasing the efficiency of the solar energy system by an amount exceeding 20 percent, as originally specified and proposed.~~

~~(2) "Solar energy system" has the same meaning as defined in Section 801.5.~~

(c)(1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agencies. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall also meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(d) For the purposes of this section:

(1)(A) For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, "significantly" means an amount exceeding 20 percent of the cost of the system or decreasing the efficiency of the solar energy system by an amount exceeding 20 percent, as originally specified and proposed.

(B) For photovoltaic systems that comply with state and federal law, “significantly" means an amount not to exceed two thousand dollars ($2,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 20 percent as originally specified and proposed.

(2) "Solar energy system" has the same meaning as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5.

(e) Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

(f) Any entity, other than a public entity, that willfully violates this section shall be liable to the applicant or other party for actual damages occasioned thereby, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars ($1,000).

(g) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney's fees.

(h)(1) A public entity that fails to comply with this section may not receive funds from a state-sponsored grant or loan program for solar energy. A public entity shall certify its compliance with the requirements of this section when applying for funds from ~~such~~ a state-sponsored grant or loan program.

(2) A local public entity may not exempt residents in its jurisdiction from the requirements of this section.

EDUCATION CODE – DIVISION 1

Chapter 3 – Construction of School Buildings – section 17255.

§ 17255. Best design practices recommended by the Energy Resources Conservation and Development Commission

The Energy Resources Conservation and Development Commission shall, in consultation with the State Department of Education and the Division of the State Architect and the Office of Public School Construction within the Department of General Services, recommend best design practices that include energy efficiency measures for all new public schools. The practices and measures shall have as a goal incorporating energy efficiency design and technologies that would provide the greatest amount of energy efficiency savings within a cost recapture period of seven years. The commission may additionally recommend best design practices and measures that would be cost-effective taking into consideration life-cycle costs. The recommendations shall be reported to the Governor and the Legislature by October 1, 2003.

EDUCATION CODE - DIVISION 1

Part 10.7, Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program - Section 17910 et seq.

CHAPTER 1. General Provisions

§ 17910. Short title

This part shall be known and may be cited as the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program.

§ 17910.1. Definitions

As used in this part, the following terms have the following meanings:

(a) "Commission" means the State Energy Resources Conservation and Development Commission.

(b) "Superintendent" means the Superintendent of Public Instruction.

(c) "Fund" means the Katz Schoolbus Fund created pursuant to Section 17911.

(d) "Department" means the Department of the California Highway Patrol.

(e) "Program" means the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program.

(f) "Schoolbus" means a schoolbus, as defined in Section 545 of the Vehicle Code, which is Type 1 and publicly owned.

(g) "Local educational agency" means any of the following:

(1) A school district.

(2) A county office of education.

(3) A regional occupational program or center.

(4) A joint powers agency which operated publicly owned schoolbuses.

§ 17910.2. Purchase of new schoolbuses; specifications; distribution

The Legislature finds and declares that there are many schoolbuses operating in this state which are not fuel efficient and do not meet current federal standards of safety, and that ensuring the safety of schoolbus transportation is a matter of the highest importance. It is, therefore, the intent of the Legislature, in enacting this part, to create a program for the purchase of new schoolbuses which meet federal safety standards and operate with greater efficiency and produce fewer adverse air emissions than the vehicles being replaced.

It is further the intent of the Legislature that the replacement schoolbuses provided under this program be distributed to as diverse a selection of districts as is consistent with safety and energy considerations.

CHAPTER 2. Fiscal Provisions And Authorized Use Of Funds

§ 17911. Katz Schoolbus Fund; creation

There is hereby created in the State Treasury the Katz Schoolbus Fund.

§ 17911.2. Determination of participating local agencies

The commission shall determine the local educational agencies that are to receive replacement schoolbuses for participation in the program.

§ 17911.3. Determination of candidate schoolbuses; criteria

In determining which candidate schoolbuses will be selected for replacement, the commission shall first, in coordination with the department and the superintendent, determine which local educational agencies meet the demonstration project criteria.

§ 17911.4. Candidate schoolbuses; inspection; criteria

All candidate schoolbuses selected by the commission for replacement shall be inspected by the department to determine all of the following criteria:

(a) The dates of manufacture of the schoolbuses. The schoolbuses shall have been manufactured prior to April 1, 1977, and shall have been certified during the prior school year pursuant to Section 2807 of the Vehicle Code.

(b) The total accumulated mileage of each candidate schoolbus, as supported by the owner's records and records of the department. Any records maintained by the superintendent may also be considered in determining the true accumulated mileage of a candidate schoolbus. Only mileage accumulated on the candidate school bus during usage by the applicant district may be considered by the commission as mileage under this subdivision.

(c) The average number of miles per day each candidate schoolbus traveled during the prior school year and to date during the current school year, as evidenced by the owner's records. Any records maintained by the department or by the superintendent may also be considered in determining the true average daily miles of a candidate schoolbus.

(d) The dates of each of the last three annual certifications and the odometer reading for each of those dates.

§ 17911.5. Purchase of schoolbuses; specifications; title; safety standards; capacity; design

(a) Schoolbuses shall be purchased by the Department of General Services pursuant to specifications developed by the commission. Title to any schoolbus purchased by the Department of General Services pursuant to this section shall be in the name of the local educational agency for which the schoolbus was purchased.

(b) Any schoolbus purchased with these funds shall meet all applicable federal motor vehicle safety standards, operate with greater energy efficiency, and produce fewer adverse air emissions than the schoolbus being replaced.

(c) Except as provided in this subdivision, no replacement schoolbus shall exceed the capacity of the schoolbus being replaced, as estimated by the department. A local educational agency may use funds from any available source, other than grants received pursuant to this part, to pay that part of the cost of a schoolbus that exceeds the cost of a replacement schoolbus of the same capacity and with the same features as the schoolbus being replaced, as estimated by the Department of General Services.

(d) A replacement schoolbus may be of the same design, configuration, and nonpower-train specifications as the retired schoolbus.

§ 17911.6. Application for replacement; statement of special circumstances

Local educational agencies may submit a statement describing special circumstances which are applicable to a qualified candidate schoolbus, such as the unavailability of repair or replacement parts, or any necessary chassis modifications requiring the approval of the manufacturer of the chassis, as required by regulations of the department, with its application for a replacement schoolbus. The commission may consider those special circumstances in determining the local educational agencies that are to receive replacement schoolbuses.

§ 17911.7. Schoolbuses; prohibited uses

Schoolbuses replaced under this part shall not be used as schoolbuses, youth buses, school pupil activity buses, general public paratransit vehicles, or farm labor vehicles in this state.

CHAPTER 3. Demonstration Program

§ 17912. Design and administration; duties of commission

The demonstration program established by this chapter shall be designed and administered by the commission, with the advice and consultation of the department and the superintendent. The commission shall insure that fuel economy and exhaust emissions are monitored as a part of the demonstration, and shall ensure that at least 35 percent of the vehicles are powered by methanol or other low-emission, clean-burning fuels, unless the commission determines, within 18 months of the effective date of this act, that the use of these funds for clean burning fuel projects is infeasible. The commission shall, within 30 days of making that determination, submit a report to the Legislature explaining its determination with respect to the feasibility or infeasibility of the project. The field demonstration shall be in accordance with State Energy Conservation Program guidelines.

§ 17912.1. Report to governor and legislature

The commission shall transmit a report to the Governor and to the Legislature on the demonstration program required by this chapter on or before June 30, 1989.

§ 17912.2. Local agency participation; regulation

When a local educational agency accepts a replacement schoolbus, it shall also agree to participate in the demonstration program. That participation shall include maintaining records of mileage and fuel consumption, and reporting that information to the commission in a timely manner. The commission shall, establish a procedure and requirement for participation in the demonstration program. All vehicles acquired under the demonstration program, at a minimum, shall meet all applicable laws and regulations, including those related to their acquisition by school districts, operation, fuel efficiency, air emissions, and safety.

§ 17912.3. Purchase of schoolbuses; restrictions; federal standards

No school district which receives one or more replacement buses pursuant to this part shall purchase for use as a schoolbus, as defined in section 545 of the Vehicle Code, any schoolbus which does not meet federal Motor Vehicle Safety Standards 220, 221 and 222 (49 CFR §§ 571.220, 571.221 and 571.222) applicable to schoolbuses commencing April 1, 1977.

EDUCATION CODE - DIVISION 1

Part 10.8. Schoolbus Emissions Reduction Funds – Section 17920 et seq.

§ 17920. Establishment and administration

Any school district or county office of education may establish and administer a schoolbus emissions reduction fund to receive revenue from public and private sources for the purpose of purchasing low- or zero-emission schoolbuses to replace, or increase the number of, schoolbuses in the existing school district or county fleet or retrofitting existing schoolbuses to achieve reductions in emissions.

§ 17921. Revenue sources

A school district or county office of education that establishes a schoolbus emissions reduction fund may receive revenues from air pollution control district and air quality anagement district grants, revenues from a city that are granted pursuant to paragraph (1) of subdivision (b) of Section 44243 of the Health and Safety Code, or from any other source. The school district or county office of education shall contribute a majority of the money deposited in its schoolbus emissions reduction fund.

§ 17922. State funds

State funds may, upon appropriation by the Legislature, be distributed to the Superintendent of Public Instruction for distribution to districts and county offices of education for the purchase of low- or zero-emission schoolbuses that replace, or increase the number of, schoolbuses in the existing schoolbus fleet or for retrofitting existing schoolbuses to achieve reductions in emissions. State funds that are provided pursuant to this part shall not exceed the amount of funds provided from other sources.

§ 17923. Private sector contributors

A school district or county office of education may enter into contracts, including multiple year contracts, with private sector individuals, businesses, and other entities for the purpose of receiving revenues to supplement its schoolbus emissions reduction fund in exchange for the issuance to the private sector contributor of emission reduction credits resulting from the purchase by the school district or county office of education of low- or zero-emission schoolbuses or the retrofit of existing schoolbuses. If there are multiple private sector contributors, each of those contributors shall receive a share of the credits allocated in proportion to their contribution, as specified by the school district or county office of education at the time that the parties enter into the agreement.

§ 17924. State guidelines; funding; credits

The Chairperson of the State Air Resources Board and the Superintendent of Public Instruction shall jointly develop guidelines for school district or county office of education use that describe all of the following:

(a) The manner in which school districts or county offices of education may obtain funding from private and public entities for deposit into a school district or county office of education schoolbus emissions reduction fund.

(b) The methods for determining the quantity and allocation of emission reduction credits generated from a new bus that replaces an existing bus or from a new or retrofitted bus that represents an expansion of fleet capacity.

(c) The methods by which school districts or county offices of education located in the South Coast Air Quality Management District may obtain funds from cities pursuant to paragraph (1) of subdivision (b) of Section 44243 of the Health and Safety Code.

§ 17925. Appropriations

Prior to distributing any state funds pursuant to this part, the Superintendent of Public Instruction shall consult with the State Energy Resources Conservation and Development Commission to avoid duplication or overlap with appropriations from the Katz Schoolbus Fund, created pursuant to Section 17911.

§ 17926. Sale of replaced schoolbuses

Any schoolbus replaced pursuant to this part that meets the federal safety standards established in 1977 shall be offered for sale to school districts to replace schoolbuses that do not meet the federal safety standards, at a purchase price not to exceed the amount of the school district or county office of education's contribution specified in Section 17921, plus appropriate administrative costs. This section shall not apply if the school district or county office of education certifies a continued need for the schoolbus being replaced.

FINANCIAL CODE - DIVISION 15.5

State Assistance Fund for Enterprise, Business and Industrial Development Corporation - Section 32000 et seq.

§ 32101. Purposes

The purposes of this division are the following:

(a) The enhance the availability of financial assistance for small business in California.

(b) To increase the cost effectiveness and efficiency of financial assistance to small businesses provided by the state.

(c) To provide maximum utilization of available federal assistance programs, including, but not limited to, the Small Business Administration’s loan guarantee program.

(d) To reduce duplication and overlap in the provisions of financing assistance to small businesses through increased coordination and direction of state assistance programs.

(e) To provide the maximum degree of leverage of the limited state resources available to assist small business, consistent with sound business practices and fiduciary responsibility.

(f) To increase the competitiveness of California's small businesses in the world economy and the creation of jobs.

The board of directors of the Corporation consists of seven members: three official directors and four public directors. The official members of the board are the Secretary of Trade and Commerce, one member of the Energy Commission and the chairperson of the Small Business Development Board. The board is directed to establish, among other accounts, an "energy loan fund" to assist small businesses that provide or purchase alternative energy systems or services and an "energy efficiency improvements loan fund" to encourage small businesses to invest in energy efficiency improvements. (See sections 32402, 32621, 32623, 32920 and 32922.) With respect to loans for energy efficiency improvements, the Board is to incorporate into its loan approval guidelines, recommendations adopted by the Energy Commission with respect to technical criteria that are to be applied to projects receiving loans. (Section 32940.) The Corporation, the Energy Commission, and the Energy Extension Service are required to jointly file a report to the Legislature every 2 years (beginning January 1, 1988) summarizing program activities regarding energy efficiency improvements. (Section 32955.) The provisions for the energy efficiency improvements loan fund become inoperative on July 1, 1996.

Legislation passed in 2001 (AB 26xx; Chapter 15, Statutes of 2001, Second Extraordinary Session) changed the inoperative date from July 1, 2001 to July 1, 2011.

FOOD AND AGRICULTURAL CODE – DIVISION 1

Part 3, Chapter 144 – Agricultural Biomass-To-Energy Incentive Grant Program – Section 1101 et seq.

Repealed by SB 704, ch. 480, stats. of 2003

GOVERNMENT CODE - TITLE 1 – DIVISION 5

Chapter 3.5 - State Energy Projects - section 4240 et seq.-

Repealed - §§ 4240 to 4247 sunset January 1, 2003

~~GOVERNMENT CODE~~

~~Governor's Clean Energy GREEN TEAM - section 12078.~~

~~**§ 12078.** (a) There is hereby established the Governor's Clean Energy GREEN TEAM, which shall consist of a chairperson and not more than 15 members as follows:~~

~~(1) The Chair of the Electricity Oversight Board.~~

~~(2) The President of the California Public Utilities Commission.~~

~~(3) The Chair of the Energy Resources Conservation and Development Commission.~~

~~(4) The Secretary for Environmental Protection.~~

~~(5) The Secretary of the Resources Agency.~~

~~(6) The Secretary of the Trade and Commerce Agency.~~

~~(7) The director of the Governor's Office of Planning and Research.~~

~~(8) Representatives from the United States Environmental Protection Agency, the United States Fish and Wildlife Service, and other affected federal agencies appointed by the Governor.~~

~~(9) Representatives of local and regional agencies, including, but not limited to, air pollution control districts and air quality management districts appointed by the Governor.~~

~~(b) Within 90 days of the effective date of this section, the GREEN TEAM shall do all of the following:~~

~~(1) Compile and, upon request, make available to persons proposing to construct powerplants, all available guidance documents and other information on the environmental effects associated with powerplants proposed to be certified pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code, and including state-of-the-art and best available control technologies and air emissions offsets that could be used to mitigate those environmental effects.~~

~~(2) Upon request, provide assistance to persons proposing to construct powerplants in obtaining essential inputs, including, but not limited to, natural gas supply, emission offsets, and necessary water supply.~~

~~(3) Upon request, provide assistance to persons proposing to construct powerplants pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code in identifying the environmental effects of such powerplants and any actions the person may take to mitigate those effects.~~

~~(4) Upon request, provide assistance to persons proposing to construct powerplants in working with local governments in ensuring that local permits, land use authorizations, and other approvals made at the local level are undertaken in the most expeditious manner feasible without compromising public participation or environmental protection.~~

~~(5) Develop recommendations for low- or zero-interest financing programs for renewable energy, including distributed renewable energy for state and nonprofit corporations.~~

~~**(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.**~~

GOVERNMENT CODE – TITLE 2 – DIVISION 3

Part 2.5, Agencies - Chapter 1, Administration – Section 12816.6

§ 12812.6. Secretary for Environmental Protection; coordination of greenhouse gas reductions and climate-change activities

The Secretary for Environmental Protection shall coordinate greenhouse gas emission reductions and climate-change activities in state government.

GOVERNMENT CODE - TITLE 2

Part 5, Chapter 4 - California Transportation Research and Innovation Program - Section 14450 et seq.

Legislation passed in 1992 (AB 3096; Chapter 352, statutes of 1992) created the California Transportation Research and Innovation Program to be developed by the Department of Transportation. The program is required to be balanced and multimodal and shall ensure that adequate resources are devoted to research and development of nonhighway transportation modes, including, but not limited to, transit buses and other public transportation, and nonmotorized modes. In preparing the research and development program the Department of Transportation must consult other parts of the transportation industry and affected state agencies including the Energy Commission.

GOVERNMENT CODE - TITLE 2

Solar Energy – Section 14684 et seq.

§ 14684. Solar energy equipment installation on state buildings and state parking facilities; feasibility

(a) The department, in consultation with the State Energy Resources Conservation and Development Commission, shall ensure that solar energy equipment is installed, no later than January 1, 2007, on all state buildings and state parking facilities, where feasible. The department shall establish a schedule designating when solar energy equipment will be installed on each building and facility, with priority given to buildings and facilities where installation is most feasible, both for state building and facility use and consumption and local publicly owned electric utility use, where feasible.

(b) Solar energy equipment shall be installed where feasible as part of the construction of all state buildings and state parking facilities that commences after December 31, 2002.

(c) For purposes of this section, it is feasible to install solar energy equipment if adequate space on a building is available, and if the solar energy equipment is cost-effective funding is available.

(d) No part of this section shall be construed to exempt the state from any applicable fee or requirement imposed by the Public Utilities Commission.

(e) The department may adopt regulations for the purposes of this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1. For purposes of Chapter 3.5 (commencing with Section 11340) of Part 1, including, but not limited to, Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding the 120-day limit specified in subdivision (e) of Section 11346.1, the regulations shall be repealed 180 days after their effective date, unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

(f) For purposes of this section, the following terms have the following meanings:

(1) "Cost-effective" means that the present value of the savings generated over the life of the solar energy system, including consideration of the value of the energy produced during peak and off-peak demand periods and the value of a reliable energy supply not subject to price volatility, shall exceed the present value cost of the solar energy equipment by not less than 10 percent. The present value cost of the solar energy equipment does not include the cost of unrelated building components. The department, in making the present value assessment, shall obtain interest rates, discount rates, and consumer price index figures from the Treasurer, and shall take into consideration air emission reduction benefits.

(2) "Local publicly owned electric utility" means a local publicly owned electric utility as defined in Section 9604 of the Public Utilities Code.

(3) "Solar energy equipment" means equipment whose primary purpose is to provide for the collection, conversion, storage, or control of solar energy for electricity generation.

§ 14684.1 Installation of solar energy equipment on state buildings and state parking facilities; schedule of installation; feasibility; standards and requirements to be met; adoption of regulations; defined terms

(a) The department, in consultation with the State Energy Resources Conservation and Development Commission, shall ensure that solar energy equipment is installed, no later than January 1, 2007, on all state buildings and state parking facilities, where feasible. The department shall establish a schedule designating when solar energy equipment will be installed on each building and facility, with priority given to buildings and facilities where installation is most feasible, both for state building and facility use and consumption and local publicly owned electric utility use, where feasible.

(b) Solar energy equipment shall be installed, where feasible, as part of the construction of all state buildings and state parking facilities for which construction commences on or after January 1, 2003.

(c) For purposes of this section, it is feasible to install solar energy equipment if adequate space on or adjacent to a building is available, if the solar energy equipment is cost-effective, and if funding is available.

(d) Any solar energy equipment installed pursuant to this section shall meet applicable standards and requirements imposed by state and local permitting authorities, including, but not limited to, all of the following:

(1) Certification by the Solar Rating Certification Corporation, which is a nonprofit third party supported by the Department of Energy, or any other nationally recognized certification agency.

(2) All applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories, such as the Underwriters Laboratories.

(3) Where applicable, the regulations adopted by the Public Utilities Commission regarding safety and reliability.

(e) This section does not exempt the state from the payment of any applicable fee or requirement imposed by the Public Utilities Commission.

(f) The department may adopt regulations for the purposes of this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1. For purposes of that chapter, including, but not limited to, Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding the 120-day limit specified in subdivision (e) of Section 11346.1, the regulations shall be repealed 180 days after their effective date, unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

(g) Any solar energy equipment installed pursuant to this section shall be subject to the provisions of the California Solar Rights Act of 1978 (Chapter 1154 of the Statutes of 1978), as amended.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Cost-effective" means that the present value of the savings generated over the life of the solar energy system, including consideration of the value of the energy produced during peak and off-peak demand periods and the value of a reliable energy supply not subject to price volatility, shall exceed the present value cost of the solar energy equipment by not less than 10 percent. The present value cost of the solar energy equipment does not include the cost of unrelated building components. The department, in making the present

value assessment, shall obtain interest rates, discount rates, and consumer price index figures from the Treasurer, and shall take into consideration air emission reduction benefits and the value of stable energy costs.

(2) "Local publicly owned electric utility" means a local publicly owned electric utility as defined in subdivision (d) of Section 9604 of the Public Utilities Code.

(3) "Solar energy equipment" means equipment whose primary purpose is to provide for the collection, conversion, storage, or control of solar energy for the purpose of heat production.

GOVERNMENT CODE - TITLE 2

Part 5.5, Chapter 2 – State Building Energy Retrofits - Section 14710 et seq.

§ 14710. Definitions

As used in this article, the following terms have the following meanings:

(a) "Alternative energy equipment" means alternative energy equipment, as defined in subdivision (d) of Section 15814.11, and, in the case of fossil fuel generation, complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purposes of this article, distributed energy resources shall meet emission levels equivalent to nine ppm oxides of nitrogen, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower.

(b) "Cogeneration equipment" means equipment used for cogeneration, as defined in Section 218.5 of the Public Utilities Code.

(c) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account life-cycle costing analyses, and environmental, social, and technological factors, however, renewable technologies shall not be exempt based solely on cost considerations.

(d) "Public building" means a public building, as defined in Section 15802.

(e) "State agency" means any state agency, board, department or commission, including, but not limited to, the entities specified in subdivision (a) of Section 15814.12.

§ 14711.5. Identification of buildings feasible for retrofits

(a) The department in consultation with the State Energy Resources Conservation and Development Commission, with the concurrence of the Department of Finance, shall identify each public building in the department's state property inventory where it is feasible for that building to reduce energy consumption and achieve energy efficiencies, as

well as to produce its own onsite electrical generation or reduce its level of peak demand electricity consumption using alternative energy equipment, thermal energy storage technologies, or cogeneration equipment.

(b) The department may consider a variety of factors, including, but not limited to, the size of the public building, its location, the ease of conversion to onsite electrical generation, peak demand reduction efficiency, cost effectiveness, and the amount of megawatts generated or shifted to off-peak periods.

§ 14712. Authority to enter into certain third party agreements and negotiated agreements; objectives of agreements

The director may enter into third party agreements that the director, with the concurrence of the Department of Finance, determines are appropriate and cost-effective to implement energy efficiencies and feasible onsite electric generation pursuant to Section 14711.5 and to achieve the goals of this section. The director may enter into negotiated agreements with parties on the terms and conditions that the director, with the concurrence of the Department of Finance, deems are in the state's interests to accomplish all of the following objectives:

(a) Reduce overall energy consumption in state facilities by 30 percent.

(b) Achieve energy self-sufficiency at state facilities using clean, modern technologies that produce zero air emissions or that meet or exceed state air quality standards.

(c) Maximize the use of renewable energy technologies for both onsite electrical generation as well as thermal energy production.

(d) Utilize private third party financing, where feasible, for the construction, operation, and maintenance of such energy investments.

(e) Achieve these objectives at delivered energy costs equal to or less than the cost of obtaining the energy through the electric grid or other conventional means, as determined by the director.

§ 14713. Exemptions from statutory prohibitions on certain acquisitions of equipment, construction and contracts; requirements for California State University public buildings; generation of excess electricity

(a) Notwithstanding subdivision (b) of Section 15814.12, the department shall retrofit all public buildings, identified in Section 14711.5, where feasible, provided that work on public buildings of the California State University shall be performed only at the request or with the consent of the university.

(b) If a public building generates more electricity than it uses, it may make the energy available for the state electrical distribution grid.

§ 14714. Energy savings report

On or before two years after the effective date of the act adding this section, and every two years thereafter, the Department of General Services shall prepare and submit to the

Legislature and the Governor, a report of the energy savings, if any, in terms of megawatts per year, for each public building retrofitted pursuant to this article.

GOVERNMENT CODE – TITLE 2

Part 6.7, Chapter 1 – Renewable Energy Loan Guarantee Program - Section 15350 et seq.

Repealed by AB 1757, ch. 229, stats. 2003

GOVERNMENT CODE - TITLE 2

Part 10b, Chapter 2.7 - Energy Conservation in Public Buildings - Section 15814.10 et seq.

Legislation passed in 1991 (SB 1206; Chapter 1121, Statutes of 1991) added two sections to Chapter 2.7 of the Government Code. Section 15814.22 requires the Department of General Services to develop a multiyear plan with the goal of exploiting all practicable and cost-effective energy efficiency measures in state facilities. This plan is to be developed in consultation with the Energy Commission and other state agencies and is to be updated biennially. Section 15814.23 requires the Department of General Services or each state agency having jurisdiction to ensure that all new state buildings are designed and constructed to meet at least the minimum energy efficiencies specified in standards adopted by the Energy Commission pursuant to Public Resources Code section 25402. This section also requires consideration of additional state-of-the-act energy efficiency design measures and equipment, beyond those required by the standards, that are cost-effective and feasible.

Legislation passed in 1993 (AB 1338; Chapter 1178, Statutes of 1993) added Section 15814.25 to the Government Code. This section limits energy conservation measures eligible for financing by kindergarten through grade 12 schools to those measures recommended by on energy audit provided by the Energy Commission. This section also requires the Energy Commission to publish a report in consultation with the Department of General Services, describing the activities related to financing energy conservation measures at kindergarten through grade 12 schools. This report must be transmitted to the Legislature by December 31, 1994.

GOVERNMENT CODE - TITLE 2

Part 10b, Chapter 2.8 - Energy Efficiency in Public Buildings - Section 15814.30 et seq.

Chapter 2.8 was added to the Government Code in 1991 (AB 1273, Chapter 962, Statutes of 1991). This legislation requires that all new public buildings for which construction begins after January 1, 1993 shall be models of energy efficiency. The Department of General Services and the State Architect are directed to consult with the Energy Commission to determine which energy efficiency measures, materials and devices are feasible and cost-effective over the life of the building. (Section 15814.30(b).) The Department of General Services, in conjunction with the Energy Commission, is required to review the standard leases used by the state and to

adopt lease revisions that will maximize energy savings in buildings leased by the state. (Section 15814.33(a).) Section 15814.33(b) requires the two agencies to prepare a report to the Legislature, on or before July 1, 1992, that identifies ways to improve energy efficiency in buildings leased by the state. Section 15814.34 directs the Department of General Services to identify commodities (copiers, heating and air conditioning units, etc.) purchased by the state that consume a significant amount of energy and to determine both the life-cycle cost of the commodities purchased and those commodities with lowest life-cycle costs. The Department of General Services is directed to consult with the Energy Commission in the development and revision of one or more methods of determining the life-cycle costs of commodities. (Section 15814.34(b)(3).) All state agencies are directed to purchase those commodities identified pursuant to section 15814.34(b) that have the lowest life-cycle costs. The energy efficiency provisions of chapter 2.8 only apply to public buildings with energy costs that exceed $10,000 per year. (Section 15814.35.)

GOVERNMENT CODE - TITLE 7

Environmental Justice Programs – [Governor's Office of Planning and Research]

§ 65040.12. Coordinating agency for environmental justice programs

(a) The office shall be the coordinating agency in state government for environmental justice programs.

(b) The director shall do all of the following:

(1) Consult with the Secretaries of the California Environmental Protection Agency, the Resources Agency, the Trade and Commerce Agency, and the Business, Transportation and Housing Agency, the Working Group on Environmental Justice established pursuant to Section 72002 of the Public Resources Code, any other appropriate state agencies, and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898, and from the Working Group on Environmental Justice established pursuant to Section 72002 of the Public Resources Code.

(c) For the purposes of this section, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

§ 65850.5. Solar Energy systems; limitations on ordinances that create unreasonable barriers to installation; approval or denial of applications; appeal; conditions imposed; health and safety standards; definitions.

(a) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of solar energy systems is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern. It is the intent of the Legislature that local agencies not adopt ordinances that create unreasonable barriers to the installation of solar energy systems, including, but not limited to, design review for aesthetic purposes, and not unreasonably restrict the ability of homeowners and agricultural and business concerns to install solar energy systems. It is the policy of the state to promote and encourage the use of solar energy systems and to limit obstacles to their use. It is the intent of the Legislature that local agencies comply not only with the language of this section, but also the legislative intent to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting for such systems.

(b) A city or county shall administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Review of the application to install a solar energy system shall be limited to the building official's review of whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety. However, if the building official of the city or county has a good faith belief that the solar energy system could have a specific, adverse impact upon the public health and safety, the city or county may require the applicant to apply for a use permit.

(c) A city or county may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

(d) The decision of the building official pursuant to subdivisions (b) and (c) may be appealed to the planning commission of the city or county.

(e) Any conditions imposed on an application to install a solar energy system shall be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

(f)(1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agency. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters

Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(g) The following definitions apply to this section:

(1) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by a city or county on another similarly situated application in a prior successful application for a permit. A city or county shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code.

(2) "Solar energy system" has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code.

(3) A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

§ 65892.13. Wind energy; legislative findings and declarations; definitions; local agency ordinances

(a) The Legislature finds and declares all of the following:

(1) California has a shortage of reliable electricity supply, which has led the Governor to proclaim a state of emergency and to issue numerous executive orders to lessen, and mitigate the effects of, the shortage. The executive orders, among other things, expedite and shorten the processing of applications for existing and new powerplants, establish an emergency siting process for peaking and renewable powerplants, and relax existing air pollutant emission requirements in order to allow power generation facilities to continue generating much needed electricity.

(2) Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources and reduces air and water pollution that result from conventional sources. Distributed small wind energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands, increase in-state electricity generation, diversify the state's energy supply portfolio, and make the electricity supply market more competitive by promoting consumer choice.

(3) In 2000, the Legislature and Governor recognized the need to promote all feasible adoption of clean, renewable, and distributed energy sources by enacting the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code). As set forth in Section 399.6 of the Public Utilities Code, the stated objectives of the act include to "increase, in the near term, the quantity of California's electricity generated by in-state renewable energy resources while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents."

(4) Small wind energy systems, designed for onsite home, farm, and small commercial use, are recognized by the Legislature and the State Energy Resources Conservation and Development Commission as an excellent technology to help achieve the goals of increased in-state electricity generation, reduced demand on the state electric grid, increased consumer energy independence, and nonpolluting electricity generation. In June 2001, the commission adopted a Renewable Investment Plan that includes one hundred one million two hundred fifty thousand dollars ($101,250,000) over the next five years, in the form of a 50 percent buydown incentive for the purchasers of "emerging renewable technologies," including small wind energy systems.

(5) In light of the state's electricity supply shortage and its existing program to encourage the adoption of small wind energy systems, it is the intent of the Legislature that any ordinances regulating small wind energy systems adopted by local agencies have the effect of providing for the installation and use of small wind energy systems and that provisions in these ordinances relating to matters including, but not limited to, parcel size, tower height, noise, notice, and setback requirements do not unreasonably restrict the ability of homeowners, farms, and small businesses to install small wind energy systems in zones in which they are authorized by local ordinance. It is the policy of the state to promote and encourage the use of small wind energy systems and to limit obstacles to their use.

(b) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of small wind energy systems is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern. It is the intent of the Legislature that this section apply to all local agencies, including, but not limited to, charter cities, charter counties, and charter cities and counties.

(c) The following definitions govern this section:

(1) "Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity that does not exceed the allowable rated capacity under the Emerging Renewables Fund of the Renewables Investment Plan administered by the California Energy Commission and which will be used primarily to reduce onsite consumption of utility power.

(2) "Tower height" means the height above grade of the fixed portion of the tower, excluding the wind turbine.

(d) Any local agency may, by ordinance, provide for the installation of small wind energy systems in the jurisdiction outside an "urbanized area," as defined in paragraph (2) of subdivision (b) of Section 21080.7 of the Public Resources Code pursuant to this section. The local agency may establish a process for the issuance of a conditional use permit for small wind energy systems.

(1) The ordinance may impose conditions on the installation of small wind energy systems that include, but are not limited to, notice, tower height, setback, view protection, aesthetics, aviation, and design safety requirements. However, the ordinance shall not require conditions on notice, tower height, setbacks, noise level, turbine approval, tower drawings, and engineering analysis, or line drawings that are more restrictive than the following:

(A) Notice of an application for installation of a small wind energy system shall be provided to property owners within 300 feet of the property on which the system is to be located.

(B) Tower heights of not more than 65 feet shall be allowed on parcels between one and five acres and tower heights of not more than 80 feet shall be allowed on parcels of five acres or more, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.

(C) Setbacks for the system tower shall be no farther from the property line than the height of the system, provided that it also complies with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(D) Decibel levels for the system shall not exceed the lesser of 60 decibels (dBA), or any existing maximum noise levels applied pursuant to the noise element of a general plan for the applicable zoning classification in a jurisdiction, as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe wind storms.

(E) The system's turbine must have been approved by the California Energy Commission as qualifying under the Emerging Renewables Fund of the commission's Renewables Investment Plan or certified by a national program recognized and approved by the Energy Commission.

(F) The application shall include standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code or the California Building Standards Code and certification by a professional mechanical, structural, or civil engineer licensed by this state. However, a wet stamp shall not be required, provided that the application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code wind exposure D), the requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.

(G) The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code).

(H) The application shall include a line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.

(2) The ordinance may require the applicant to provide information demonstrating that the system will be used primarily to reduce onsite consumption of electricity. The ordinance may also require the application to include evidence, unless the applicant does not plan to connect the system to the electricity grid, that the electric utility service provider that

serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

(3) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) The California Coastal Commission, pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact, Title 7.4 (commencing with Section 66800) of the Government Code.

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code.

(E) A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.

(F) The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

(G) A local agency to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

(I) The terms of an open-space easement entered into pursuant to the Open-space Easement Act of 1974, Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5 of the Government Code.

(J) The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.2 (commencing with Section 10200) of the Public Resources Code.

(K) The terms of a contract entered into pursuant to the Williamson Act, Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.

(L) The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

(4) If the governing authority of the restricted military airspace known as "R-2515" files a detailed diagram of that restricted military airspace with a local agency, and if a local agency receives an application to install a small wind energy system on a site that is within that restricted military airspace, then the local agency shall promptly forward a copy of that application to the governing authority of that restricted military airspace. If the governing authority of the restricted military airspace known as "R-2515" provides written comments regarding that application, the local agency shall consider those comments before acting on the application.

(5) In the event a small wind energy system is proposed to be sited in an agricultural area that may have aircraft operating at low altitudes, the local agency shall take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify pest control aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code.

(6) Notwithstanding the requirements of paragraph (1), a local agency may, if it deems it necessary due to circumstances specific to the proposed installation, provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the installation is proposed.

(7) Nothing in this section shall be construed to alter or affect existing law regarding the authority of local agencies to review an application.

(e) Notwithstanding subdivision (f), any local agency that has not adopted an ordinance in accordance with subdivision (d) by July 1, 2002, may adopt such ordinance at a later date, but any applications that are submitted between July 1, 2002, and the adopted date of the ordinance must be approved pursuant to subdivision (f).

(f) Any local agency which has not adopted an ordinance pursuant to subdivision (d) on or before July 1, 2002, shall approve applications for a small wind energy systems by right if all of the following conditions are met:

(1) The size of the parcel where the system is located is at least one acre and is outside an "urbanized area," as defined in paragraph (2) of subdivision (b) of Section 21080.7 of the Public Resources Code.

(2) The tower height on parcels that are less than five acres does not exceed 80 feet.

(3) No part of the system, including guy wire anchors, extends closer than 30 feet to the property boundary, provided that it also complies with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(4) The system does not exceed 60 decibels (dBA), as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe wind storms.

(5) The system's turbine has been approved by the State Energy Resources Conservation and Development Commission as qualifying under the Emerging Renewables

Fund of the commission's Renewables Investment Plan or certified by a national program recognized and approved by the Energy Commission.

(6) The application includes standard drawings and an engineering analysis of the tower, showing compliance with the Uniform Building Code or the California Building Standards Code and certification by a licensed professional engineer. A wet stamp is not required if the application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code wind exposure D), the requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.

(7) The system complies with all applicable Federal Aviation Administration requirements, including any necessary approvals for installations close to airports, and the requirements of the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code).

(8) The application includes a line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.

(9) Unless the applicant does not plan to connect the system to the electricity grid, the application includes evidence, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

(10) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) The California Coastal Commission, pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact, Title 7.4 (commencing with Section 66800) of the Government Code.

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code.

(E) A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.

(F) The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

(G) A local agency to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

(I) The terms of an open-space easement entered into pursuant to the Open-space Easement Act of 1974, Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5 of the Government Code.

(J) The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.2 (commencing with Section 10200) of the Public Resources Code.

(K) The terms of a contract entered into pursuant to the Williamson Act, Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.

(L) On a site listed in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

(11) If the governing authority of the restricted military airspace known as "R-2515" files a detailed diagram of that restricted military airspace with a local agency, and if a local agency receives an application to install a small wind energy system on a site that is within that restricted military airspace, then the local agency shall promptly forward a copy of that application to the governing authority of that restricted military airspace. If the governing authority of the restricted military airspace known as "R-2515" provides written comments regarding that application, the local agency shall consider those comments before acting on the application.

(12) In the event that a proposed site for a small wind energy system is in an agricultural area that may have aircraft operating at low altitudes, the local agency shall take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify pest control aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code.

(13) No other local ordinance, policy, or regulation shall be the basis for a local agency to deny the siting and operation of a small wind energy system under this subdivision.

(14) No changes in the general plan shall be required to implement this subdivision. Any local agency, when amending its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the approval of small wind energy systems, must do so in a manner consistent with the requirements of this subdivision and the Permit Streamlining Act (commencing with Section 65920).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the siting and operation of small wind energy systems.

(h) A local agency shall review an application for a small wind energy system as expeditiously as possible pursuant to the timelines established in the Permit Streamlining Act (commencing with Section 65920).

(i) Fees charged by a local agency to review an application for a small wind energy system shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(j) Any requirement of notice to property owners imposed pursuant to subdivision (d) shall ensure that responses to the notice are filed in a timely manner.

(k) This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends that date.

HEALTH AND SAFETY CODE - DIVISION 13

Part 1.5, Chapter 4 – Application and Scope – Section 17950 et seq.

§ 17959.1. Solar energy systems; approval of applications through issuance of building permits; denial; conditions imposed; health and safety standards; definitions

(a) A city or county shall administratively approve applications to install solar energy systems though the issuance of a building permit or similar nondiscretionary permit. However, if the building official of the city or county has a good faith belief that the solar energy system could have a specific, adverse impact upon the public health and safety, the city or county may require the applicant to apply for a use permit.

(b) A city or county may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This finding shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

(c) Any conditions imposed on an application to install a solar energy system must be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

(d)(1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agency. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(e) The following definitions apply to this section:

(1) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost effective method, condition, or mitigation imposed by a city or county on another similarly situated application in a prior successful application for a permit. A city or county shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code.

(2) "Solar energy system" has the meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code.

(3) A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

HEALTH AND SAFETY CODE - DIVISION 13

Part 2 - Mobilehomes/Manufactured Housing; Chapter 4 - Standards - Section 18025 et seq.

Section 18032.5 was added to the Health and Safety Code by SB 314 in 1993 (Chapter 1159). This section directs the Department of Housing and Community to develop and implement cost-effective energy efficiency standards for manufactured housing. The standards are to be developed in consultation with the Energy Commission and are to take effect before January 1, 1995.

Section 18032.5 shall only become operative if the federal government does not issue final thermal insulation and energy efficiency standards for manufactured housing on or before October 24, 1993. The federal Department of Housing and Urban Development adopted final preemptive regulations for manufactured housing energy efficiency which are effective October 25, 1993 (58 Fed.Reg. 54975).

HEALTH AND SAFETY CODE - DIVISION 26

Part 2, Chapter 3.5 - Toxic Air Contaminants - Section 39650 et seq.

Section 39660.5(c) requires the Air Resources Board to refer to the Energy Commission all available data on the exposure and suspected sources of toxic air contaminants that have been found in any indoor environment.

HEALTH AND SAFETY CODE – DIVISION 26

Part 2, Chapter 4.7 – Agricultural Biomass Utilization Account - Section 39760 et seq.

§ 39760. Legislative findings and declarations; utilization of agricultural biomass and rice straw

The Legislature hereby finds and declares that the rice industry has led many other commodity groups in developing alternatives to open-field burning. In order to aid in the continuation of this role of leadership within the agricultural industry and to enable the transition to a free-market utilization of biomass, funds are needed to provide grants to persons that utilize agricultural biomass and rice straw.

§ 39761. Definitions

For the purposes of this chapter, the following terms mean:

(a) "Department" means the Department of Food and Agriculture.

(b) "Secretary" means the Secretary of Food and Agriculture.

§ 39762. Agricultural Biomass Utilization Account; creation

(a)(1) The Agricultural Biomass Utilization Account is hereby created in the Department of Food and Agriculture Fund.

(2) The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Agricultural Biomass Utilization Account for expenditure for the purposes identified in subdivision (b).

(b) The account shall be administered by the department, in consultation with the State Air Resources Board and the California Integrated Waste Management Board, for the purpose of providing grants to persons that utilize agricultural biomass as a means of avoiding landfill use, preventing air pollution, and enhancing environmental quality.

(c) Moneys in the account shall include moneys transferred from the General Fund pursuant to subdivision (a) and any moneys solicited by the secretary from other sources.

(d) The secretary shall actively solicit funds from other federal, state, and private sources with the goal of initially supplementing and eventually supplanting the appropriation from the General Fund made pursuant to subdivision (a).

(e) The department may implement similar grant programs for other commodity groups that are used for the purposes set forth in paragraphs (1) to (6), inclusive, of subdivision (e) of Section 39763.

(f) The department shall not utilize more than 7 percent of the funds described in subdivision (a) for the administration of the account.

§ 39763. Appropriated funds; dedication of grants

(a) The funds appropriated by paragraph (2) of subdivision (a) of Section 39762, less administrative costs, shall be dedicated for grants to persons that utilize rice straw.

(b) Grants shall be provided pursuant to this chapter in a manner to be determined by the department, and shall include, but shall not be limited to, grants on a per-ton basis and a per-project basis.

(c) On or before July 1 of each year, the secretary shall set the per-ton grant level in an amount of not less than twenty dollars ($20) per ton of rice straw so utilized.

(d) Grants shall not be provided pursuant to this section for the purchase of any rice straw for which a tax credit has been claimed pursuant to Section 17052.10 of the Revenue and Taxation Code.

(e) A per-ton grant may be provided pursuant to this chapter only if the applicant is the "end-user" of agricultural biomass. For purposes of this subdivision, "end user" means a person who uses agricultural biomass for any of the following purposes:

(1) Processing.

(2) Generating energy.

(3) Manufacturing.

(4) Exporting.

(5) Preventing erosion.

(6) Any other environmentally sound purpose, excluding open-field burning, as determined to be appropriate by the department.

(f) Criteria to be considered by the department in determining whether to award a grant pursuant to this chapter shall include, but shall not be limited to, the following:

(1) Quantity of biomass to be utilized.

(2) Whether the proposed use offers other environmental or public policy benefits, including but not limited to, landfill avoidance, pollution prevention, electrical generation, and sustainability.

(3) The degree to which the proposed grant would assist in moving the commodity group toward an eventual free market utilization of biomass without the assistance of government.

(g) The secretary shall select grant recipients in consultation with the State Air Resources Board, the Integrated Waste Management Board, and the advisory committee created pursuant to subdivision (l) of Section 41865 from a list of potential grantees recommended by the Department of Food and Agriculture.

HEALTH AND SAFETY CODE – DIVISION 26

Part 2, Chapter 7 – . Expedited Air Quality Improvement Program For Electrical Generation - Section 39910 et seq.

§ 39910. Legislative findings and declarations

The Legislature finds and declares that it is in the interests of the people of the State of California to ensure that the state board establish a unified, coordinated, and expedited process for districts to retrofit electrical generating facilities in a manner that protects public health and the environment and that complies fully with applicable federal and state statutes and regulations.

§ 39915. Schedule for retrofit of electric generation facilities

On or before July 1, 2002, the state board, in consultation with air quality management districts, air pollution control districts, and the Independent System Operator, shall establish a schedule for the retrofit of electric generation facilities pursuant to retrofit criteria and procedures established under the federal Clean Air Act (42 U.S.C. Section 7401 et seq.) or this division. The schedule shall require completion of any mandated retrofits by December 31, 2004, or such later date as the state board, in consultation with the Independent System Operator, air pollution control districts, air quality management districts, and the owners and operators of electrical generating facilities determines is necessary to maintain electric system reliability. Nothing in this section is intended to require the retrofit of a generation facility that could not be required to be retrofitted by an air quality management district or air pollution control district under the law in effect on the effective date of the act adding this chapter during the 2001-02 First Extraordinary Session. The state board shall suspend the deadline for the completion of a retrofit of an electrical generation unit scheduled pursuant to this section if it determines all of the following:

(a) The owner of the generation unit proposes to replace or repower the generation unit in a manner that complies with all applicable laws and regulations.

(b) The owner has filed the necessary applications for permits for such replacement or repower prior to the suspension of the deadline for the completion of the required retrofits.

(c) The owner is diligently proceeding with the replacement or repower of the unit and the state board determines that the replacement or repower will be completed.

§ 39920. Program for tracking emission reduction credits and facilitating the banking, trading and purchasing of those credits

On or before July 1, 2001, the state board shall implement a program for tracking the emission reduction credits made available by the program required under Section 39915, and for facilitating the banking, trading, and purchasing of those credits in order to expedite the construction of new, clean generating facilities in the state. The state board shall establish criteria for the development of a state emission reduction credits bank, which shall ensure that a specified percentage of emission reduction credits created pursuant to section 39915 be contributed to the bank for the purpose of making emission reduction credits available for new, clean generation capacity.

HEALTH AND SAFETY CODE - DIVISION 26

Part 3, Chapter 5.5 - South Coast Air Quality Management District - Section 40400 et seq.

Section 40448.5 of the Health and Safety Code requires the South Coast Air Quality Management District to establish a program of voluntary projects to increase the use of clean-burning fuels. The District is directed to coordinate this program with the Air Resources Board, the Energy Commission, and other appropriate state and federal agencies and private organizations that are conducting activities to promote the use of clean-burning fuels.

Section 40448.5.1 was added to the Health and Safety Code in 1995. (SB 199; Ch. 609, Stats. 1995). This section requires the program specified in Section 40448.5(b) to be developed by the South Coast Air Quality Management District must include a description of any proposed expenditures, setting forth the expected costs and qualitative as well as quantitative benefits. The South Coast Air Quality Management District is also required by Section 40448.5.1 to find that its proposed program will not duplicate any other past or present program funded by a list of other entities, including the Energy Commission.

HEALTH AND SAFETY CODE – DIVISION 26

Air Emission: Distributed Generation – Sections 41514.9 and 41514.10

§ 41514.9. Electrical generation technologies; adoption of a certification program and uniform emission standards

(a) On or before January 1, 2003, the state board shall adopt a certification program and uniform emission standards for electrical generation technologies that are exempt from district permitting requirements.

(b) The emission standards for electrical generation technologies shall reflect the best performance achieved in practice by existing electrical generation technologies for the electrical generation technologies referenced in subdivision (a) and, by the earliest practicable date, shall be made equivalent to the level determined by the state board to be the best available control technology for permitted central station powerplants in California. The

emission standards for state certified electrical generation technology shall be expressed in pounds per megawatt hour to reflect the expected actual emissions per unit of electricity and heat provided to the consumer from each permitted central powerplant as compared to each state certified electrical generation technology.

(c) Commencing on January 1, 2003, all electrical generation technologies shall be certified by the state board or permitted by a district prior to use or operation in the state. This section does not preclude a district from establishing more stringent emission standards for electrical generation technologies than those adopted by the state board.

(d) The state board may establish a schedule of fees for purposes of this section to be assessed on persons seeking certification as a distributed generator. The fees charged, in the aggregate, shall not exceed the reasonable cost to the state board of administering the certification program.

(e) As used in this section, the following definitions shall apply:

(1) "Best available control technology" has the same meaning as defined in Section 40405.

(2) "Distributed generation" means electric generation located near the place of use.

§ 41514.10. Certification of electrical generation technologies; guidance issued

On or before January 1, 2003, the state board shall issue guidance to districts on the permitting or certification of electrical generation technologies under the districts regulatory jurisdiction. The guidance shall address best available control technology determinations, as defined by Section 40405, for electrical generation technologies and, by the earliest practicable date, shall make those equivalent to the level determined by the state board to be the best available control technology for permitted central station powerplants in California. The guidance shall also address methods for streamlining the permitting and approval of electrical generation units, including the potential for precertification of one or more types of electrical generation technologies.

HEALTH AND SAFETY CODE - DIVISION 26

Part 4, Chapter 2 – Basinwide Mitigation for Cogeneration and Resource Recovery Projects – Section 41606 et seq.

§ 41606. Biomass facilities; incentives to increase use of agricultural waste; legislative intent to reduce open field burning; qualified agricultural biomass; amount of incentive payments; award of grants; eligibility for emission reduction credits

(a)(1) It is the intent of the Legislature to reduce air pollution from open field burning in the state and to improve air quality and protect the public health through new

incentives for biomass facilities to increase their use of agricultural waste that would otherwise be burned in open fields in the state.

(2) It is the further intent of the Legislature that the initial incentives paid pursuant to this section provide an effective incentive for the use of qualified agricultural biomass purchased from July 1, 2003, through December 31, 2003, inclusive, in order to maximize air quality benefits during the 2003-04 fiscal year.

(b) For purposes of this section:

(1) "Qualified agricultural biomass" means agricultural residues that are purchased after July 1, 2003, that historically have been open-field burned in the jurisdiction of the air district from which the agricultural residues are derived, as determined by the air district, excluding urban and forest wood products, that include either of the following:

(A) Field and seed crop residues, including, but not limited to, straws from rice and wheat.

(B) Fruit and nut crop residues, including, but not limited to, orchard and vineyard pruning and removals.

(2) "Facility" means any facility located in California that meets all of the following criteria:

(A) As of July 1, 2003, converted and continues to convert qualified agricultural biomass to energy.

(B) Is permitted with best available control technology to reduce emissions, has emissions control equipment in good working order, and is in compliance with its operating permit, as determined by the air pollution control district or air quality management district in which the facility operates.

(C) Demonstrates a significant net increase in utilization of qualified agricultural biomass as compared to usage without grant moneys pursuant to this section. A "significant net increase" means an increase of at least 10 percent in purchases of qualified agricultural biomass above the average annual tonnage purchased by the facility in the previous five years of operation prior to the implementation of the Agricultural Biomass-to-Energy Incentive Grant Program pursuant to former Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code, as repealed by the act adding this section.

(c)(1) The State Energy Resources Conservation and Development Commission shall, upon determining that a facility is eligible for funding, provide incentives to the facility, consistent with this section.

(2) The State Energy Resources Conservation and Development Commission shall complete the issuance of incentive payments for qualified agricultural biomass purchased from July 1, 2003, through December 31, 2003, inclusive, within 90 days of the effective date of this section.

(3) In providing incentives pursuant to this section, the State Energy Resources Conservation and Development Commission shall provide incentive payments in the amount of ten dollars ($10) for each ton of qualified agricultural biomass received by a facility and converted into energy. The State Energy Resources Conservation and Development Commission may increase the incentive payment for types or sources of qualified agricultural biomass that require greater incentives to achieve meaningful increases in usage by facilities, as determined by the State Energy Resources Conservation and Development Commission.

(4) Notwithstanding any other provision of law, the receipt of incentives pursuant to this section does not make a facility ineligible for any other production subsidy, rebate, buydown, or other incentive funded through electricity surcharges, except that receipt of incentives funded through electricity surcharges shall preclude receipt of biomass-to-energy incentives financed by the General Fund.

(5) The State Energy Resources Conservation and Development Commission, in consultation with the California Environmental Protection Agency, may adopt guidelines governing the incentives authorized under this section at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this paragraph may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this section shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code. Adoption of guidelines shall not delay the timing of the payment of incentives that are required by paragraph (2).

(6) Awards made pursuant to this section are grants, subject to appeal to the State Energy Resources Conservation and Development Commission upon a showing that factors other than those contained in this section, and any guidelines adopted pursuant to this section, were a substantial factor in making the award. Any actions taken by an applicant to apply for, become, or remain eligible for an award, shall not be the rendering of goods, services, or a direct benefit to the State Energy Resources Conservation and Development Commission.

(d) Facilities receiving incentive payments pursuant to this section are not eligible to receive emission reduction credits for any qualified agricultural biomass for which a facility has received an incentive payment. Generators or suppliers of qualified agricultural biomass may not receive emission reduction credits for any qualified agricultural biomass for which a facility has received an incentive payment. For purposes of this section, "emission reduction credits" means a credit for a reduction in the emission of an air contaminant that is banked and is available to offset increases in emissions pursuant to Section 40709, and the regulations adopted pursuant to that section.

HEALTH AND SAFETY CODE - DIVISION 26

Rice Straw - Section 41865.5 et seq.

§ 41865.5. Recommendations for ensuring consistency and predictability in rice straw supply for cost-effective uses

Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2001, the State Air Resources Board, in consultation with the Department of Food and Agriculture, and in cooperation with the State Energy Resources Conservation and Development Commission and the California Integrated Waste Management Board, shall prepare and submit to the Legislature recommendations for ensuring consistency and predictability in the supply of rice straw for cost-effective uses, including, but not limited to, recommendations for methods of harvesting, storing, and distributing rice straw for off-field uses. Off-field uses may include, but are not limited to, the production of energy and fuels, construction materials, pulp and paper, and livestock feed.

HEALTH AND SAFETY CODE - DIVISION 26

Chapter 4 – Enforcement – Section 42301.14 et seq.

~~**§ 42301.14.** (a) To the extent permitted by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), and notwithstanding Section 65950 of the Government Code, a district may issue a temporary, expedited, consolidated permit, as provided by Sections 42300.1 and 42301.3, for a powerplant within 60 days after the date of certification of an environmental impact report, within 30 days after the adoption of a negative declaration, or within 30 days after the date of a determination that the project is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code, if all of the following conditions are met:~~

~~(1) The powerplant will emit less than 5 parts per million of oxides of nitrogen averaged over a three-hour period.~~

~~(2) The powerplant will operate exclusively under the terms of a contract entered into with the Independent System Operator and approved by the Electricity Oversight Board established pursuant to Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.~~

~~(3) The owner or operator of the powerplant shall demonstrate that the powerplant, on average, will displace electrical generation that produces greater air emissions in the same air basin or in a basin that causes air pollution transport into that basin.~~

~~(4) The powerplant will be interconnected to the grid in a manner that the Public Utilities Commission, in consultation with the Electricity Oversight Board, has determined will allow the powerplant to provide service to a geographical area of the state that is urgently in need of generation in order to provide reliable electric service. However, nothing in this paragraph affects the authority of the Energy Resources Conservation and Development~~

~~Commission over powerplants pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.~~

~~(5) The powerplant will be operated at a location that has the necessary fueling and electrical transmission and distribution infrastructure for its operation.~~

~~(6) The owner or operator of the powerplant enters into a binding and enforceable agreement with the district, and where applicable, with the Energy Resources Conservation and Development Commission, which demonstrates either of the following:~~

~~(A) That the powerplant will cease to operate and the permit will terminate within three years.~~

~~(B) That the powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle powerplant that uses best available control technology and offsets, as determined at the time the combined-cycle plant is constructed, and that complies with all other applicable laws and regulations.~~

~~(7) Where applicable, the owner or operator of the powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the district based upon the actual emissions from the powerplant, to the district for expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5, to mitigate the emissions from the plant.~~

~~(8) It is the intent of the Legislature in this section to encourage the expedited siting of cleaner generating units to address peaking power needs. It is further the intent of the Legislature to require local air quality management districts and air pollution control districts to recognize the critical need for these facilities and the short life span of these facilities in exercising their discretionary authority to apply more restrictive air quality regulations than would otherwise be required by law.~~

~~(b) This section may be utilized for the purpose of expediting the siting of electrical generating facilities pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.~~

~~**(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.**~~

§ 42301.15. Expedited programs for the permitting of standby electrical generation facilities, distributed generation facilities, geothermal facilities and natural gas transmission facilities; public health and air quality

Each district shall adopt an expedited program for the permitting of standby electrical generation facilities, distributed generation facilities, geothermal facilities, including wells, and, where applicable, natural gas transmission facilities, that ensures those facilities will be operated in a manner that protects public health and air quality. Upon request by a district, the Independent System Operator and the Public Utilities Commission shall provide any information necessary, as determined by the district, to implement this section.

~~**§ 42314.3.** (a) The Legislature finds and declares all of the following:~~

~~(1) There is an urgent need to facilitate the siting of the cleanest and least polluting new electrical generation and repowering, as defined in subdivision (i) of Section 25550.5 of the Public Resources Code in the state in order to displace older and more polluting electrical generation.~~

~~(2) Certain areas of the state currently lack sufficient air emissions offsets needed to site clean new generation and repowering, as defined in paragraph (1).~~

~~(3) The purpose of this section is to provide a mechanism to provide needed offsets for clean new electrical generation and repowering, as defined in paragraph (1), for new facilities constructed during the period of energy emergency currently being experienced in the state.~~

~~(4) Nothing in this section is intended, in any manner, to limit or abridge the responsibilities and obligations of any party under the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), as that act existed on January 1, 2001, including, but not limited to, the requirement that emissions offsets be enforceable as established pursuant to Section 173(a)(1) of that act (42 U.S.C. Sec. 7503(a)(1) (A)), and that offsets be obtained by the time a source is to commence operation pursuant to Section 173 (a)(1)(A) of that act (42 U.S.C. Sec. 7503(a)(1)(A)).~~

~~(b) Each district shall identify and make available to the public emission reduction credits that may be purchased by applicants for electrical generation facilities and used to offset emissions from those facilities pursuant to this section. Each district shall adopt, in a public hearing, standards for the implementation of this section, including, but not limited to, quantification protocols, emissions baselines, antibacksliding provisions, and monitoring, recordkeeping, reporting, and testing requirements, to establish that the offsets made available pursuant to this section are quantifiable, verifiable, enforceable, real, and surplus.~~

~~(c) To the extent permitted under the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), including, but not limited to, those sections of the act referenced under paragraph (4) of subdivision (a), in lieu of obtaining air emission offsets, an applicant for a permit for an electrical generating facility may pay an emissions offset fee to a district for expenditure by the district to purchase offsets for that facility. The applicant may post a bond in an amount sufficient to cover the cost of the required emissions offsets, provided that bond shall only be issued by an admitted surety for the benefit of, and held by, the district.~~

~~(d) Prior to commencement of operation, the owner or operator of the facility shall obtain any required emissions offsets or a portion of the required emissions offsets and shall forfeit a proportionate amount of the offset fee or bond to the district in an amount determined by the district to be sufficient to acquire and hold that portion of the required emissions offsets not obtained by the applicant. Any forfeited funds shall be used by the district to purchase offsets for the facility in the applicable air basin prior to the commencement of operation of the facility.~~

~~(e) In expending emissions offset fees, a district shall give first priority to obtaining offsets from stationary sources that have emissions comparable to those emissions that the electrical generation facility will emit and shall meet all standards regarding proximity of~~

~~such offsets established under state and federal law, and district rules and regulations. To the extent stationary source offsets are not available, the district shall expend offset fees to obtain emissions reductions from other sources of a type and in an amount equivalent to those offsets which would otherwise be required to be obtained by the facility in order to operate. However, a district may expend funds for offsets from mobile or areawide sources only after making a public determination that sufficient reductions from stationary sources cannot be secured prior to commencement of operation of the project.~~

~~(f) Prior to accepting the payment of an emissions offset fee pursuant to this section, and not less than 11 months prior to commencement of the electrical generation facility, the governing board or the air pollution control officer of a district shall hold a duly noticed public hearing that meets all of the following conditions:~~

~~(1) Notice of the hearing shall be published at least 30 days prior to the date of the hearing in all newspapers of general circulation in the area to be affected by the electrical generation facility's emissions.~~

~~(2) At the hearing, the applicant demonstrates, to the satisfaction of the governing board or the air pollution control officer, that emissions offsets are not available to the applicant in the district, or that the offsets are available only at a cost which, for all practical purposes, make the offsets unavailable to the applicant.~~

~~(3) At the hearing, the district identifies those offsets that it will purchase for use by the applicant and finds that those offsets comply with the requirements of this section and with all applicable requirements of state and federal law and district rules and regulations, including, but not limited to, requirements that those offsets are quantifiable, verifiable, enforceable, real, permanent, and surplus and that they are, measured from a verified air emissions baseline.~~

~~(4) At the hearing, the district establishes the amount of emissions offset fees or the portion of the bond to be paid by the applicant. The amount shall be sufficient to obtain the equivalent amount of offsets as would otherwise be required to be obtained by the applicant, and may include an additional amount not to exceed 3 percent to cover the district's administrative costs.~~

~~(g) Not less than six months after the hearing conducted pursuant to subdivision (f), the district shall publish and make available to the public and the applicant the types and quantities of offsets that it has secured.~~

~~(h) This section may be utilized by a thermal powerplant subject to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code. However, to the extent this section is utilized by a thermal powerplant subject to that chapter, the thermal powerplant shall be required to demonstrate compliance with this section in a manner consistent with the requirements of Section 25523 of the Public Resources Code.~~

~~(i) A district may, by regulation, suspend or limit the applicability of this section for any period of time or with respect to a particular electrical generation facility if the district determines that it would interfere with attainment or maintenance of state or federal ambient air quality standards, or to the extent it determines that adequate offsets are available at a reasonable price. District rules governing notice required for adoption or amendment of regulations shall apply to this subdivision.~~

~~**(j)(1) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.**~~

~~(2) However, except as otherwise provided in this section, the repeal of this section may not affect any electrical generation facility for which offsets have been obtained pursuant to this section prior to the date of the repeal.~~

HEALTH AND SAFETY CODE – DIVISION 26

Part 4, Chapter 6 - California Climate Action Registry - Section 42800 et seq.

Article 1. Findings and Declarations

§ 42800. Short title

This chapter shall be known, and may be cited, as the California Climate Action Registry.

§ 42801. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) It is in the best interest of the State of California, the United States of America, and the earth as a whole, to encourage voluntary actions to achieve all economically beneficial reductions of greenhouse gas emissions from California sources.

(b) Mandatory greenhouse gas emissions reductions may be imposed on California sources at some future point, and in view of this, the state has a responsibility to use its best efforts to ensure that organizations that voluntarily reduce their emissions receive appropriate consideration for emissions reductions made prior to the implementation of any mandatory programs.

(c) Past initiatives in the state that took early and responsible action to reduce air pollution and ozone smog have demonstrated political, economic, and technological leadership, and have proven to benefit the state.

(d) The state's tradition of environmental leadership should be recognized through the establishment of a registry to provide documentation of those greenhouse gas emissions reductions that are voluntarily achieved by sources in the state.

(e) The state hereby commits to use its best efforts to ensure that organizations that establish greenhouse gas emissions baselines and register emissions results that are verified in accordance with this chapter receive appropriate consideration under any future international, federal, or state regulatory scheme relating to greenhouse gas emissions. The state cannot guarantee that any regulatory regime relating to greenhouse gas emissions will recognize the baselines or reductions recorded in the registry.

(f) The state hereby commits to review future international or federal programs related to greenhouse gas emissions and to make reasonable efforts to promote consistency between the state program and these programs and to reduce the reporting burden on participants, if changes to the state program are consistent with the goals and intent of Section 42810.

§ 42801.1. Definitions

For purposes of this chapter, the following terms have the following meanings:

(a) "Annual emissions results" means the participant's applicable data on the release of greenhouse gas emissions, both direct and indirect, from one particular year.

(b) "Baseline" means a datum against which to measure greenhouse gas emissions performance over time, usually annual emissions in a selected base year. For the purposes of this subdivision, the baseline shall start on or after January 1, 1990.

(c) "Certification" means the determination of whether a given participant's greenhouse gas emissions inventory (either baseline or annual result) has met a minimum quality standard and complied with an appropriate set of registry-approved procedures and protocols for submitting emissions inventory information. The process for certification of emissions results will be specified within the procedures and protocols approved for industry-specific emissions inventory reporting, and may involve a range of options depending upon the nature of the emissions, complexity of a company's facilities and operations, or both, and the procedures deemed necessary by the registry board to validate a participant's emissions information.

(d) "De minimis emissions" means emissions that are below a certain threshold, when summed across all applicable sources of the participating entity. The State Energy Resources Conservation and Development Commission shall recommend to the registry for adoption a threshold emissions level for each type of greenhouse gas emission that shall be considered de minimus.

(e) "Emissions" means the release of greenhouse gases into the atmosphere.

(f)(1) "Emissions inventory" means an accounting of the amount of greenhouse gases discharged into the atmosphere. It is generally characterized by all of the following factors:

(A) The chemical or physical identity of the pollutants included.

(B) The geographic area covered.

(C) The institutional entities covered.

(D) The time period over which emissions are estimated.

(E) The types of activities that cause emissions.

(2) An emissions inventory shall include sufficient documentation and supporting data to make transparent the underlying assumptions and calculations for all of the reported results.

(g) "Forest" means lands that support, or can support," at least 10 percent tree canopy cover and that allow for management of one or more forest resources including timber, fish and wildlife, biodiversity, water quality, recreation, aesthetics and other public benefits.

(h) "Greenhouse gases" includes all of the following gases: carbon dioxide, methane, nitrous oxide, hydroflurocarbons, perfluorocarbons, and sulfur hexafluoride.

(i) "Material" means any emission of greenhouse gas that is not de minimis.

(j) "Native" means forests classified in the 1988 edition, or its approved successor equivalent, of "A Guide to Wildlife Habitats of California," published by the Department of Fish and Game, and forests that are composed of the forest types within those classifications.

(k) "Natural forest management" means forest management practices that promote and maintain native forests comprised of multiple ages and mixed native species in the overstory and understory.

Article 2. Purposes

§ 42810. Climate action registry purposes

The purposes of the California Climate Action Registry shall be to do all of the following:

(a) Help various entities in the state to establish emissions baselines against which any future federal greenhouse gas emission reduction requirements may be applied.

(b) Encourage voluntary actions to increase energy efficiency and reduce greenhouse gas emissions.

(c) Enable participating entities to voluntarily record greenhouse gas emissions reductions made after 1990 in a consistent format that is certified.

(d) Ensure that sources in the state receive appropriate consideration for certified emissions results under any future federal regulatory regime relating to greenhouse gas emissions.

(e) Recognize, publicize, and promote registrants in the registry.

(f) Recruit broad participation in the process from all economic sectors and regions of the state.

Article 3. Climate Action Registry

§ 42820. Establishment of registry

The Secretary of the Resources Agency shall establish a nonprofit public benefit corporation, to be known as the California Climate Action Registry.

§ 42821. Board; membership

(a) The registry shall be governed by a nine ~~seven~~-member board of directors, to be composed of all of the following members:

(1) The Secretary of the Resources Agency, or his or her designee.

(2) The Secretary for Environmental Protection, or his or her designee.

(3) One member appointed by the Senate Committee on Rules.

(4) One member appointed by the Speaker of the Assembly.

(~~3~~5) Five public members representing business, local government, and public interest environmental organizations, to be appointed by the Governor for two-year terms, staggered so that, initially, three public members serve one-year terms and two members serve two-year terms. In the event of a vacancy, the Governor shall appoint a replacement public board member.

(b) The board of directors of the registry is responsible for ensuring that the registry fulfills the purposes established by this chapter and meets the financial, reporting, and operating requirements of its articles of incorporation. The board of directors shall appoint and supervise an executive director, who shall hire and direct staff.

(c) The board of directors shall adopt bylaws that ensure that, at each regularly scheduled meeting of the registry, there will be an opportunity for members of the public to comment on matters being considered by the registry, as specified on the registry meeting agenda.

§ 42822. Recognized procedures and protocols; fee schedules

(a) The procedures and protocols for monitoring, estimating, calculating, reporting, and certifying greenhouse gas emissions established by, or approved pursuant to, this chapter shall be the only procedures and protocols recognized by the state for the purposes of the registry, as described in Section 42810. These procedures shall be, to the extent practicable, consistent with the methods and practices used for the statewide inventory of greenhouse gas emissions prepared by the State Energy Resources Conservation and Development Commission, as required by Section 25730 of the Public Resources Code.

(b) The registry shall adopt a schedule of fees and, after an initial startup period, charge participants for registry services to cover the reasonable costs of its operations.

§ 42823. Functions of the registry

The registry shall perform all of the following functions:

(a) Provide referrals to approved providers for advice on all of the following:

(1) Designing programs to establish emissions baselines and to monitor and track greenhouse gas emissions.

(2) Establishing emissions reduction goals based on international best practices for specific industries and economic sectors.

(3) Designing and implementing organization-specific plans that improve energy efficiency or utilize renewable energy, or both, and that are capable of achieving emission reduction targets.

(4) Designing plans for the conservation and management of native forest reservoirs as a means to assist participants in attaining emission reduction goals and reporting annual emissions results.

(b) In coordination with the State Energy Resources Conservation and Development Commission, the registry shall adopt and periodically update a list of organizations recognized by the state as qualified to provide the detailed technical advice in subdivision (a) and assist participants in identifying and selecting providers that have expertise applicable to each participant's circumstances. The registry shall coordinate with the Department of Forestry and Fire Protection and the State Board of Forestry and Fire Protection to provide referrals to providers for purposes of paragraph (4) of subdivision (a).

(c) The registry shall adopt procedures and protocols for the reporting and certification of greenhouse gas emission reductions resulting from a project or an action of a participant. A participant shall report emission reductions as a separate item in its annual emissions results.

(d) In coordination with the Resources Agency and consistent with the data and information acquired and developed pursuant to subdivision (b) of Section 25730 of the Public Resources Code, the registry shall adopt procedures and protocols for the monitoring, estimating, calculating, reporting, and certifying of carbon stocks and carbon dioxide emissions resulting from the conservation and conservation-based management, including reforestation, of native forest reservoirs in California in order to permit participants to include the results of those activities as a participant's registered emissions results, or as a part thereof. Procedures and protocols shall require, at a minimum, that those forestry activities meet the following criteria in order to be reported as a participant's emissions results, or as a part thereof:

(1) Forestry activities that are reported as a participant's emissions results, or as a part thereof, shall be based on forest management practices within a defined project area that exceed applicable federal, state, and local land use laws and regulations, including, but not limited to, the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section

4511) of Part 2 of Division 4 of the Public Resources Code). Applicable federal, state, and local land use laws and regulations shall be those in effect each time a participant registers a defined project area in the registry.

(2) Forestry activities that are reported as a participant's emissions results, or a part thereof, shall occur on forestland that is permanently dedicated to forest use through a restriction, granted in perpetuity, on the use that may be made of real property that is consistent with the conservation purposes listed in Section 170(h)(4) (A)(ii) and (iii) of Title 26 of the United States Code.

(3) Forestry activities reported as emissions results, or as a part thereof, shall reflect the amount of time that net carbon gains are stored.

(4) Forestry activities maintain and promote native forest types.

(5) If emissions results are derived from forest lands undergoing harvest and regeneration, those results are derived from natural forest management practices.

(e) Adopt procedures and protocols for certification of reported baseline emissions and emissions results. When adopting procedures and protocols for the certification, the registry shall consider the availability and suitability of simplified techniques and tools.

(f) Qualify third-party organizations that have the capability to certify reported baseline emissions and emissions results, and that are capable of certifying the participant-reported results as provided in this chapter.

(g) Adopt procedures and protocols, including a uniform format for reporting emissions baselines and emissions results to facilitate their recognition in any future regulatory regime.

(h) Maintain a record of all certified greenhouse gas emissions baselines and emissions results. Separate records shall be kept for direct and indirect emissions results. The public shall have access to this record, except for any portion of the data or information that is exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) Encourage organizations from various sectors of the state's economy, and those from various geographic regions of the state, to report emissions, establish baselines and reduction targets, and implement efficiency improvement and renewable energy programs to achieve those targets.

(j) Recognize, publicize, and promote participants.

(k) In coordination with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, adopt industry-specific reporting metrics at one or more public meetings.

(l) In consultation with the state board, adopt procedures and protocols for the reporting and certification of reductions in emissions of greenhouse gases, to the extent permitted by state and federal law, for those reductions achieved prior to the operative date of the regulations adopted pursuant to subdivision (a) of Section 43018.5.

§ 42823.1. Interpretation and construction of procedures and protocols of registry

Procedures and protocols adopted pursuant to subdivision (d) of Section 42823 shall not be interpreted or construed as a condition for any lease, permit, license, certificate, or other entitlement for an ongoing use of forest land.

§ 42824. Participation in the registry; use of registry services

Participation in the registry is voluntary, and participants may withdraw at any time. If participants cease, and then resume participation, they will be expected to fill in any interim emissions information or set a new baseline. Any entity conducting business in the state may register its emissions results, including emissions generated outside of the state, on an entitywide basis with the registry, and may utilize the services of the registry.

Article 4. Procedures for Reporting, Monitoring, and Verifying Emissions

§ 42840. Reporting procedures

(a) Participants shall utilize the following reporting procedures to establish a greenhouse gas emissions baseline, participants shall report their certified emissions for the most recent year for which they have complete energy use and fuel consumption data as specified in this chapter. Participants that have complete energy use or fuel consumption data for earlier years that can be certified may establish their baseline as any year beginning on or after January 1, 1990. After establishing baseline emissions, participants shall report their certified emissions results in each subsequent year in order to show changes in emissions levels with respect to their baseline year. Participants may report annual emission results without establishing an emissions baseline. Participants shall also report using industry-specific metrics once the registry adopts an industry-specific metric for the industry in question.

(b)(1) Participants shall report direct emissions and indirect emissions separately. Direct emissions are those emissions from applicable sources that are under management control of a participating entity, including onsite combustion, fugitive noncombustion emissions, and vehicles owned and operated by the participant. Indirect emissions that are required to be reported by participants are those emissions embodied in net electricity and steam imports, including offsite steam generation and district heating and cooling. Participants are encouraged, but are not required, to report other indirect emissions based on guidance that is adopted by the registry.

(2) On or after January 1, 2004, the registry board, in coordination with the State Energy Resources Conservation and Development Commission, may revise the scope of indirect emission source types that are required to be reported by participants specified in paragraph (1) after a public workshop and review process conducted by the registry if all of the following requirements have been met.

(A) The State Energy Resources Conservation and Development Commission has approved that revision at a public hearing following a public workshop.

(B) Prior to approving that proposed revision, the commission determines all of the following:

(i) A reasonable and generally-accepted methodology exists that will enable participants to accurately estimate and report the emissions for the indirect source type in question.

(ii) The proposed revision will not create an unreasonable reporting burden on the participants.

(iii) The proposed revision is necessary to achieve the purposes listed in Section 42810.

(C) The registry, at any time it acts to revise the scope of indirect emission source types that are required to be reported by participants, establishes a timeframe for the phase in of the revised scope so that participants shall have at least four months before the start of the next annual reporting cycle that incorporates the revised scope.

(3) In cases of joint ownership, emissions are reported by the managing entity, unless the owners decide to report emissions on a pro rata basis.

(4) Participants shall not be required to report emissions of any greenhouse gas that is de minimis in quantity, when summed up across all applicable sources of the participating entity. The State Energy Resources Conservation and Development Commission shall recommend to the registry a definition of de minimis emissions that reasonably accounts for differences in the size, activities, and sources of direct and indirect baseline emissions of participants, and is consistent with the goals and intent of subdivision (f) of Section 42801.

(c)(1) All participants shall report direct and indirect carbon dioxide (CO2) emissions that are material to their operations.

(2) The registry shall also encourage participants to monitor and report emissions of the following gases:

(A) Hydrofluorocarbons (HFCs).

(B) Methane (CH4).

(C) Oxides of nitrogen (N2O).

(D) Perfluorocarbons (PFCs).

(E) Sulfur hexafluoride (SF6).

(3) The report of information specified in paragraph (2) is optional for three years after a participant joins the registry. After participating in the registry for a total of three years, participants shall report emissions required by both paragraphs (1) and (2).

(4) Emissions of all gases under this subdivision shall be reported in mass units.

(d) The basic unit of participation in the registry shall be an entity in its entirety such as a corporation or other legally constituted body, any city or county, and each state government agency. The registry shall not record emissions baselines and reductions for individual facilities or projects, except to the extent they are included in an entity's emissions reporting.

(1) Corporations may report emissions baselines and annual emissions results from subsidiaries if the parent corporation is clearly defined.

(2) Participants shall report emissions results from all of their applicable sources in the state when they initially register.

(3) Participants may, and are encouraged to, at any time, register emissions from all applicable sources based in the United States, so long as this reporting meets all the other requirements established by this chapter. Those participants with emissions in other states that report California emissions only may not be able to receive equal consideration for their emissions records in future national or international regulatory regimes relating to greenhouse gas emissions. In addition, participants with operations outside of the United States are encouraged to register their total worldwide emissions baselines and annual emissions results. Within three years, the registry shall review and report to the Legislature with a recommendation on whether the registry should require, rather than encourage, participants to report all of their greenhouse gas emissions in the United States, not just California emissions.

(4) To ensure that reported emissions reflect actual emissions, participants that outsource production or services shall report emissions associated with the outsourced activity, and remove these emissions from their emissions baseline. The subcontracted entity, if it voluntarily chooses to participate in the registry shall report emissions associated with the outsourced activities it has taken over. Participants shall attest at least once each year that the entity has not outsourced any emissions, or that if it has, that all emissions associated with the outsourced activity have been reported and subtracted from the entity's baseline emissions.

(5) To prevent changes in vertical integration within corporations from leading to apparent emissions reductions when in fact no reductions have occurred, the registry shall treat mergers, acquisitions, and divestitures as follows:

(A) The emissions baselines of any merged or acquired entity shall be added together, and the registry shall treat the resulting entity as if it had been one corporation from the beginning.

(B) In divestitures, the emissions baselines of the affected corporations shall be split, with the effect that the registry shall treat them as if they had been separate corporations from the beginning. If the divested corporation is purchased by another firm, the registry shall treat that purchase as a merger with the purchasing corporation. If the divested corporation remains a separate entity after the divestiture, its registry baseline shall reflect the emissions associated with the entity's operations before the divestiture. Corporations that divest operations may allocate certified emissions results achieved prior to the divestiture among the divesting and the divested entities, and the registry shall adjust their baselines accordingly.

(C) Any adjustments for changes in vertical integration shall be verified in the annual emissions certifications required for recordation of emissions results.

(6) If a participant changes from statewide to national reporting under this program, changes to its baseline will be treated in a similar manner as changes in vertical integration as described in paragraph (5).

(7) To ensure that reported emissions accurately reflect shifts in operations to or from other states, the registry shall adopt, in consultation with the State Energy Resources Conservation and Development Commission, at a public meeting and following at least one public workshop, reporting procedures for participants that choose to report greenhouse emissions on a statewide basis that require participants to show both of the following:

(A) Changes in a participant's operations, such as a facility startup or shutdown, that result in a significant and long-term shift of greenhouse gas emissions from California to other states or from other states to California.

(B) The corresponding change in the participant's baseline.

§ 42841. Forms and emissions tracking software; conformance of procedures to Commission requirements

(a) To support the estimation, calculation, reporting, and certification of emissions results in a consistent format, the registry shall adopt standardized forms that all participants shall use to calculate, report, and certify emissions, unless an alternative format is (1) reviewed and recommended by the State Energy Resources Conservation and Development Commission and the State Air Resources Board, and (2) adopted by the registry, and deemed to be consistent with the goals and intent of this chapter. In cooperation with the State Energy Resources Conservation and Development Commission, the registry shall review commonly available emissions tracking software to determine whether existing software packages are able to generate reports for the registry.

(b) The procedures established for all of the following shall conform to the requirements of Article 6 (commencing with Section 42870):

(1) Establishing electricity and fuel usage and for calculating associated emissions.

(2) Mass-balance calculations, stack testing, or continuous emissions monitoring of greenhouse gases from onsite fuel combustion are all acceptable ways of reporting greenhouse gases from onsite fuel combustion.

(3) Estimating, calculating, reporting, and certifying noncombustion emissions of the gases listed in paragraphs (1) and (2) of subdivision (c) of Section 42840.

(4) Collecting and maintaining data and records of energy, fuel, and chemical consumption sufficient to allow contemporaneous and ex post certification of direct and indirect emissions.

§ 42842. Certification of methodologies and results

(a) Participants registering baseline emissions and emissions results in the registry shall provide certification of their methodologies and results. The registry board may, upon recommendation of the State Energy Resources Conservation and Development Commission and the state board, following a public process, adopt simplified procedures to certify emissions results as appropriate. Participants shall follow registry-approved procedures and protocols in determining emissions, and supply the quantity and quality of information necessary to allow an independent ex post certification of the emissions baseline and emissions results reported under this program.

(b) The registry shall adopt a list of approved third-party organizations recognized as competent to certify emissions results as provided in this chapter. The process for evaluating and approving these organizations shall be developed in coordination with the State Energy Resources Conservation and Development Commission. The registry may reopen the qualification process periodically in order for new organizations to be added to the approved list.

(c) As appropriate, the registry shall refer participants to the organization on the approved list described in subdivision (b).

(d) Where required by the registry for certification, organizations approved pursuant to subdivision (b) shall do all of the following:

(1) Evaluate whether the participant has a program, consistent with registry-approved procedures and protocols, in place for preparation and submittal of the information reported under this chapter.

(2) Check, during certification, the reasonableness of the emissions information being reported for a random sample of estimates or calculations.

(3) Summarize its review in a report to the board of directors, or equivalent governing body, of the participating entity, attesting to the existence of a program that is consistent with registry-approved procedures and protocols and the reasonableness of the reported emissions results and noting any exceptions, omissions, limitations, or other qualifications to their representations.

(e) In conducting certification for a participant under this program, the approved organization shall schedule any meeting or meetings with the participant in advance at one or more representative locations and allow the participant to control property access. The meetings shall be conducted in accordance with a protocol that is agreed upon in advance by the participant and the approved organization. The approved organization shall not perform facility inspection, direct measurement, monitoring, or testing unless authorized by the participant.

(f) To ensure the integrity and constant improvement of the registry program, the State Energy Resources Conservation and Development Commission shall perform on a random basis an occasional review and evaluation of participants' emissions reporting, certifications, and the reasonableness of the emissions information being reported for analysis of estimates or calculations. The commission shall report any findings in writing to the registry. The registry shall include a summary of these findings in the biennial report to the Governor and the Legislature required by Article 5 (commencing with Section 42860).

§ 42843. Evaluation and review of reporting

Not later than July 1, 2003, and periodically thereafter, the registry shall evaluate and review the approaches to emissions reporting described in subdivision (b) of Section 42840, in light of knowledge gained from the actual practices of estimating, calculating, reporting, and certifying emissions, and, upon recommendation of the State Energy Resources Conservation and Development Commission following a public process, may modify or revise reporting requirements as appropriate to further the purposes of this chapter.

Article 5. Annual Report

§ 42860. Report

Not later than July 1, 2003, and biennially thereafter, the registry shall report to the Governor and the Legislature on the number of organizations participating in the registry, the percentage of the state's emissions represented by the participants in the registry, the reductions in greenhouse gas emissions achieved by those participants, and ways to make the registry more workable for participants that are consistent with the goals and intent of this chapter.

Article 6. Responsibilities of the State Energy Resources Conservation and Development Commission

§ 42870. Duties of the Commission

The State Energy Resources Conservation and Development Commission shall do all of the following:

(a) Develop a process to identify and qualify third-party organizations approved to provide technical assistance and advice, upon the request of a participant in any or all of the following areas:

(1) Determining greenhouse gas emissions.

(2) Developing industry-specific emissions reduction targets.

(3) Developing and implementing efficiency improvement programs appropriate to various industries and economic sectors.

The process shall do all of the following:

(A) Define the minimum technical and organizational capabilities and other qualifications approved firms are required to meet.

(B) Call for applications or otherwise encourage interested organizations to submit their qualifications for review.

(C) Evaluate applicant organizations according to this list of qualification standards.

(D) Recommend, not later than six months following the first registry board meeting, specific organizations to the registry as qualified to provide the technical assistance functions of this chapter.

(E) Update the list of approved technical assistance providers periodically by doing all of the following:

(i) Reviewing the capabilities of already approved providers.

(ii) Reviewing applications of new providers.

(iii) Recommending to the registry specific organizations to be added to the approved list, and specific organizations no longer qualified to provide the technical assistance duties of this chapter.

(b) Develop or update certain emissions reporting metrics by doing all of the following:

(1) Review, in coordination with the State Air Resources Board, industry-specific greenhouse gas reporting metrics linked to or based on international or federal standards, as these become available periodically, and advise the registry of its opinion as to whether the adoption of sectoral or industry-specific metrics complement the reporting procedures.

(2) By July 1, 2003, recommend to the registry for possible adoption a procedure for defining and measuring transportation-based emissions associated with registry participants' activities, including, but not limited to, shipping of products and materials, employee commuting, and purchased air travel.

(c) Develop, not later than six months following the first registry board meeting, guidance to the registry on all of the following processes to facilitate participation in the program:

(1) Recommendations for threshold emissions of each greenhouse gas that are considered de minimis to a participant's operations.

(2) Establishing entities' electricity usage and calculating CO2 emissions associated with that usage.

(3) Establishing entities' fuel usage and calculating CO2 emissions associated with that usage.

(4) Determining emissions from onsite fuel combustion.

(5) Determining the noncombustion emissions of the six greenhouse gases with which the registry is concerned, as applicable.

(6) Establishing procedures and protocols to certify greenhouse gas emissions baselines and emissions results.

(7) Collecting and maintaining data and records of energy, fuel, and chemical consumption sufficient to allow ex post certification of emission results of direct and indirect emissions on an entity-wide basis.

(d) Develop, not later than six months after the first meeting of the registry board, a process for qualifying third-party organizations recognized by the State of California as competent to certify the emissions results of the types of entities that may choose to participate in this registry, by doing all of the following:

(1) Developing a list of the minimum technical and organizational capabilities and other qualification standards that approved third-party organizations shall meet. Those qualifications shall include the ability to sign an opinion letter, for which they may be held financially at risk, and certifying the participant-reported emissions results as provided in this chapter.

(2) Publicizing an applications process or otherwise encouraging interested organizations to submit their qualifications for review.

(3) Evaluating applicant organizations according to the list of qualifications described in paragraph (1).

(4) Recommending specific third-party organizations to the registry as qualified to certify participants' actual emissions results in accordance with this chapter.

(5) Periodically updating the list of approved third-party organizations by doing any of the following:

(A) Reviewing the capabilities of approved organizations.

(B) Reviewing applications of organizations seeking to become approved.

(C) Recommending to the registry specific organizations to be added to the approved list, and specific organizations no longer qualified to perform the duties of this chapter.

(e)(1) Occasionally, and on a random basis, accompany third-party organizations on scheduled visits to observe and evaluate, during any certification visit, both the following:

(A) Whether the participant has a program, consistent with registry-approved procedures and protocols, in place for the preparation and submittal of the information required under this chapter.

(B) The reasonableness of the emissions information being reported for a sample of estimates or calculations.

(2) To help the registry report to the Legislature, the State Energy Resources Conservation and Development Commission shall report, in writing, to the registry on these findings to further ensure that reported emissions accurately reflect annual emissions of greenhouse gases.

(f) Review future international or federal programs related to greenhouse gas emissions, and make reasonable efforts to promote consistency between the state program and these programs, and to reduce the reporting burden on participants.

HEALTH AND SAFETY CODE - DIVISION 26

Part 5 – Vehicular Air Pollution Control – Section 43000 et seq.

§ 43013.1. Timetable for removal of MTBE from gasoline

(a) The State Energy Resources Conservation and Development Commission, in consultation with, and the state board, shall develop a timetable for the removal of MTBE from gasoline at the earliest possible date. In developing the timetable, the commission and the state board shall consider studies conducted by the commission and should ensure adequate supply and availability of gasoline.

(b) The state board shall ensure that regulations for California Phase 3 Reformulated Gasoline (CaRFG3) adopted pursuant to Executive Order D-5-99 meet all of the following conditions:

(1) Maintain or improve upon emissions and air quality benefits achieved by California Phase 2 Reformulated Gasoline in California as of January 1, 1999, including emission reductions for all pollutants, including precursors, identified in the State Implementation Plan for ozone, and emission reductions in potency-weighted air toxics compounds.

(2) Provide additional flexibility to reduce or remove oxygen from motor vehicle fuel in compliance with the regulations adopted pursuant to subdivision (a).

(3) Are subject to a multimedia evaluation pursuant to Section 43830.8.

(c) On or before April 1, 2000, the State Water Resources Control Board, in consultation with the Department of Water Resources and the State Department of Health Services, shall identify areas of the state that are most vulnerable to groundwater contamination by MTBE or other ether-based oxygenates. The State Water Resources Control Board shall direct resources to those areas for protection and cleanup on a prioritized basis. Loans for upgrading, replacing, or removing tanks shall be made available pursuant to Chapter 8.5

(commencing with Section 15399.10) of Part 6.7 of Division 3 of Title 2 of the Government Code. In identifying areas vulnerable to groundwater contamination, the State Water Resources Control Board shall consider criteria including, but not limited to, any one, or any combination of, the following:

(1) Hydrogeology.

(2) Soil composition.

(3) Density of underground storage tanks in relation to drinking water wells.

(4) Degree of dependence on groundwater for drinking water supplies.

§ 43018.5. Development and adoption of regulations achieving reduction of greenhouse gas emissions from motor vehicles by January 1, 2005

(a) No later than January 1, 2005, the state board shall develop and adopt regulations that achieve the maximum feasible and cost-effective reduction of greenhouse gas emissions from motor vehicles.

(b)(1) The regulations adopted pursuant to subdivision (a) may not take effect prior to January 1, 2006, in order to give the Legislature time to review the regulations and determine whether further legislation should be enacted prior to the effective date of the regulations, and shall apply only to a motor vehicle manufactured in the 2009 model year, or any model year thereafter.

(2)(A) Within 10 days of adopting the regulations pursuant to subdivision (a), the state board shall transmit the regulations to the appropriate policy and fiscal committees of the Legislature for review.

(B) The Legislature shall hold at least one public hearing to review the regulations. If the Legislature determines that the regulations should be modified, it may adopt legislation to modify the regulations.

(c) In developing the regulations described in subdivision (a), the state board shall do all of the following:

(1) Consider the technological feasibility of the regulations.

(2) Consider the impact the regulations may have on the economy of the state, including, but not limited to, all of the following areas:

(A) The creation of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The expansion of businesses currently doing business within the state.

(D) The ability of businesses in the state to compete with businesses in other states.

(E) The ability of the state to maintain and attract businesses in communities with the most significant exposure to air contaminants, localized air contaminants, or both, including, but not limited to, communities with minority populations or low-income populations, or both.

(F) The automobile workers and affiliated businesses in the state.

(3) Provide flexibility, to the maximum extent feasible consistent with this section, in the means by which a person subject to the regulations adopted pursuant to subdivision (a) may comply with the regulations. That flexibility shall include, but is not limited to, authorization for a person to use alternative methods of compliance with the regulations. In complying with this paragraph, the state board shall ensure that any alternative methods for compliance achieve the equivalent, or greater, reduction in emissions of greenhouse gases as the emission standards contained in the regulations. In providing compliance flexibility pursuant to this paragraph, the state board may not impose any mandatory trip reduction measure or land use restriction.

(4) Conduct public workshops in the state, including, but not limited to, public workshops in three of the communities in the state with the most significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities with minority populations or low-income populations, or both.

(5)(A) Grant emissions reductions credits for any reductions in greenhouse gas emissions from motor vehicles that were achieved prior to the operative date of the regulations adopted pursuant to subdivision (a), to the extent permitted by state and federal law governing emissions reductions credits, by utilizing the procedures and protocols adopted by the California Climate Action Registry pursuant to subdivision (j) of Section 42823.

(B) For the purposes of this section, the state board shall utilize the 2000 model year as the baseline for calculating emission reduction credits.

(6) Coordinate with the State Energy Resources Conservation and Development Commission, the California Climate Action Registry, and the interagency task force, convened pursuant to subdivision (e) of Section 25730 of the Public Resources Code, in implementing this section.

(d) The regulations adopted by the state board pursuant to subdivision (a) shall not require any of the following:

(1) The imposition of additional fees and taxes on any motor vehicle, fuel, or vehicle miles traveled, pursuant to this section or any other provision of law.

(2) A ban on the sale of any vehicle category in the state, specifically including, but not limited to, sport utility vehicles and light-duty trucks.

(3) A reduction in vehicle weight.

(4) A limitation on, or reduction of, the speed limit on any street or highway in the state.

(5) A limitation on, or reduction of, vehicle miles traveled.

(e) The regulations adopted by the state board pursuant to subdivision (a) shall provide an exemption for those vehicles subject to the optional low-emission vehicle standard for oxides of nitrogen (NOx) for exhaust emission standards described in paragraph (9) of subdivision (a) of Section 1961 of Title 13 of the California Code of Regulations.

(f) Not later than July 1, 2003, the California Climate Action Registry, in consultation with the state board, shall adopt procedures for the reporting of reductions in greenhouse gas emissions from mobile sources to the registry.

(g) By January 1, 2005, the state board shall report to the Legislature and the Governor on the content of the regulations developed and adopted pursuant to this section, including, but not limited to, the specific actions taken by the state board to comply with paragraphs (1) to (6), inclusive, of subdivision (c), and with subdivision (f). The report shall include, but shall not be limited to, an analysis of both of the following:

(1) The impact of the regulations on communities in the state with the most significant exposure to air contaminants or toxic air contaminants, or both, including, but not limited to, communities with minority populations or low-income populations, or both.

(2) The economic and public health impacts of those actions on the state.

(h) If the federal government adopts a standard regulating a greenhouse gas from new motor vehicles that the state board determines is in a substantially similar timeframe, and of equivalent or greater effectiveness as the regulations that would be adopted pursuant to this section, the state board may elect not to adopt a standard on any greenhouse gas included in the federal standard.

(i) For the purposes of this section, the following terms have the following meanings:

(1) "Greenhouse gases" means those gases listed in subdivision (g) of Section 42801.1.

(2) "Maximum feasible and cost-effective reduction of greenhouse gas emissions" means the greenhouse gas emission reductions that the state board determines meet both of the following criteria:

(A) Capable of being successfully accomplished within the time provided by this section, taking into account environmental, economic, social, and technological factors.

(B) Economical to an owner or operator of a vehicle, taking into account the full life-cycle costs of a vehicle.

(3) "Motor vehicle" means a passenger vehicle, light-duty truck, or any other vehicle determined by the state board to be a vehicle whose primary use is noncommercial personal transportation.

HEALTH AND SAFETY CODE - DIVISION 26

Part 5 - Vehicular Air Pollution Control; Article 3, Heavy-Duty Motor Vehicles - Section 43000 et seq.

During 1990, the Legislature added Article 3 (sections 43700 and 43701) (SB 2330; Chapter 1453, Statutes of 1990) to Chapter 3 of Part 5. Section 43701(a) requires the Air Resources Board to adopt regulations (in consultation with the Bureau of Automotive Repair) to require owners or operators of heavy-duty diesel motor vehicles to perform regular inspections of these vehicles for excessive emissions of smoke. These regulations are to be adopted by July 15, 1992. Section 43701(b) requires the Air Resources Board to develop regulations in consultation with the Energy Commission that would require heavy-duty diesel motor vehicles subject to subdivision (a) to utilize emission control equipment and alternative fuels. The Air Resources Board is directed to consider the use of cleaner burning diesel fuel or other methods which will reduce gaseous and smoke emissions to the greatest extent feasible and the regulations must be adopted by December 15, 1993.

Sections 43800 through 43805 set forth the policy, standards, and requirements for the purchase of low emission motor vehicles by the state. For this purpose, section 43800 defines "low-emission motor vehicle" differently from the general definition of "low-emission motor vehicle" contained in section 39037.05 of the Health and Safety Code. The Department of General Services is required by Section 43803 to determine if vehicles identified by the Air Resources Board as low-emission vehicles meet certain additional requirements. This determination is to be made in consultation with the Air Resources Board and the Energy Commission.

§ 43830.8. Motor Vehicle Fuel

(a) The state board may not adopt any regulation that establishes a specification for motor vehicle fuel unless that regulation, and a multimedia evaluation conducted by affected agencies and coordinated by the state board, are reviewed by the California Environmental Policy Council established pursuant to subdivision (b) of Section 71017 of the Public Resources Code.

(b) As used in this section, "multimedia evaluation" means the identification and evaluation of any significant adverse impact on public health or the environment, including air, water, or soil, that may result from the production, use, or disposal of the motor vehicle fuel that may be used to meet the state board's motor vehicle fuel specifications.

(c) The multimedia evaluation shall be based on the best available scientific data, written comments submitted by any interested person, and information collected by the state board in preparation for rulemaking. At a minimum, the evaluation shall address impacts associated with all the following:

(1) Emissions of air pollutants, including ozone forming compounds, particulate matter, toxic air contaminants, and greenhouse gases.

(2) Contamination of surface water, groundwater, and soil.

(3) Disposal or use of the byproducts and waste materials from the production of the fuel.

(d) The state board shall prepare a written summary of the multimedia evaluation and submit it for peer review in accordance with Section 57004. The state board shall maintain for public inspection, a record of any relevant materials submitted from any state agency and any written public comments received during the multimedia evaluation. The state board shall submit its written summary and the results of the peer review to the California Environmental Policy Council prior to the adoption of the proposed regulation.

(e) The council shall complete its review of the multimedia evaluation within 90 calendar days following notice from the state board that it intends to adopt the regulation. If the council determines that the proposed regulation will cause a significant adverse impact on the public health or the environment, or that alternatives exist that would be less adverse, the council shall recommend alternative measures that the state board or other state agencies may take to reduce the adverse impact on public health or the environment. The council shall make all information relating to its review available to the public.

(f) Within 60 days of receiving notification from the council of a determination of adverse impact, the state board shall adopt revisions to the proposed regulation to avoid or reduce the adverse impact, or the affected agencies shall take appropriate action that will, to the extent feasible, mitigate the adverse impact so that, on balance, there is no adverse impact on public health or the environment.

(g) In coordinating a multimedia evaluation pursuant to subdivision (a), the state board shall consult with other boards and departments within the California Environmental Protection Agency, the State Department of Health Services, the State Energy Resources Conservation and Development Commission, the Department of Forestry and Fire Protection, the Department of Food and Agriculture, and other state agencies with responsibility for, or expertise regarding, impacts that could result from the production, use, or disposal of the motor vehicle fuel that may be used to meet the specification.

(h) Notwithstanding subdivisions (a) through (g), inclusive, the state board may, prior to July 1, 2000, adopt a regulation that was formally proposed prior to January 1, 2000, to revise existing specifications for motor vehicle fuel, if the council reviews the environmental assessment of the proposed revision and determines that there will be no significant adverse impact on public health or the environment, including any impact on air, water, or soil, that is likely to result from the change in motor vehicle fuel that is expected to be implemented to meet the state board's revised motor vehicle fuel specifications. Such a determination by the council shall be deemed final and conclusive.

(i) Notwithstanding subdivision (a), the state board may adopt a regulation that establishes a specification for motor vehicle fuel without the proposed regulation being subject to a multimedia evaluation if the council, following an initial evaluation of the proposed

regulation, conclusively determines that the regulation will not have any significant adverse impact on public health or the environment.

Sections 44000 through 44071 establish the policies and procedures for a biennial motor vehicle inspection and maintenance program in the urban nonattainment areas of the state. Section 44011.6 requires the Air Resources Board to develop a test procedure for the detection of excessive smoke emissions from heavy-duty diesel motor vehicles. The Air Resources Board is required to adopt regulations to prohibit the use of heavy-duty motor vehicles which are determined to have excessive smoke emissions or other emission-related defects using the test procedure referenced above. The regulations must require that the owner of a vehicle in violation shall immediately correct every deficiency specified. Subsection (d) states that an owner of a motor vehicle in violation of the regulations is subject to a civil penalty of not more that $1,500 per day for each day the vehicle is in violation.

Subsection (l), specifies that the owner of a motor vehicle cited pursuant to section 44011.6(b) shall pay an additional civil penalty of $300 per citation. (See Assembly Bill 1107; Chapter 940, Statutes of 1989.) All civil penalties imposed pursuant to subsection (h) shall be deposited in the Diesel Emission Reduction Fund. This fund is to be available to the Energy Commission for research, development, and demonstration programs undertaken pursuant to Section 25617 of the Public Resources Code. (Section 5 of Assembly Bill 1107 appropriated $150,000 from the Diesel Emission Reduction Fund beginning July 1, 1990, for the Energy Commission for expenditure pursuant to Section 25617 of the Public Resources Code.)

HEALTH AND SAFETY CODE – DIVISION 26

Part 5, Chapter 8.6 – Zero-Emission Vehicle Grants - Sections 44260-44265

§ 44260. Grants; encourage purchase or lease of zero-emission vehicle

The state board, in conjunction with the State Energy Resources Conservation and Development Commission, shall develop and administer a program to provide grants to individuals, local governments, state agencies, nonprofit organizations, and private businesses, to encourage the purchase or lease of a new zero-emission vehicle.

§ 44261. Maximum grant; definitions

(a) The maximum available grant for any qualified recipient, as determined by the state board, shall be an amount equal to 90 percent of the incremental cost above one thousand dollars ($1,000) of a new zero-emission light-duty car or truck eligible for the program.

(b) For the purposes of this chapter:

(1) "Incremental cost" means the amount determined by the State Energy Resources Conservation and Development Commission as the reasonable difference between the cost of the zero-emission vehicle and the cost of a comparable gasoline or diesel fueled vehicle.

(2) "New zero-emission vehicle" shall include previously leased vehicles that have been substantially upgraded, as determined by the state board, with new technologies, including, but not necessarily limited to, advanced batteries or power electronics.

§ 44262. Distribution of grants

Grants made pursuant to this chapter shall be distributed in the following manner, in amounts as determined by the state board:

(a) Up to three thousand dollars ($3,000) of the available grant funds may be provided for the first 12-month period of the lease or purchase of the vehicle.

(b) Up to three thousand dollars ($3,000) of the remaining available grant funds may be provided for the second 12-month period of the lease or purchase of the vehicle.

(c) Up to three thousand dollars ($3,000) of the remaining available grant funds may be provided for the third 12-month period of the lease or purchase of the vehicle.

(d) No grant funds shall be provided following the third 12-month period of the lease or purchase of the vehicle.

§ 44263. Grant eligibility; criteria

In order to be eligible to receive a grant under this chapter, a zero-emission vehicle shall meet all of the following criteria:

(a) Be purchased on or leased on or after October 1, 2000, and on or before December 31, 2002. For purposes of this subdivision, a vehicle shall be deemed to be leased on the date upon which the lease of the vehicle commences.

(b) Be registered with the Department of Motor Vehicles for use in this state.

(c) Meet all applicable federal and state safety standards, or, if the vehicle is to be utilized solely for a demonstration program, have received the applicable waivers from the National Highway Traffic Safety Administration.

(d) Be capable of operation on a freeway, as determined by the state board in conjunction with the State Energy Resources Conservation and Development Commission.

(e) Any other criteria established by the state board.

§ 44265. Administration of grant program

(a) The grant program described in this chapter may be administered by a local air management district or air pollution control district on a voluntary basis, provided that the district administers the program based upon the guidelines developed by the state board in conjunction with the State Energy Resources Conservation and Development Commission pursuant to subdivision (b) of Section 44264.

(b) Any district that voluntarily administers this grant program is authorized to provide grants from its own funding sources in an amount of five hundred dollars ($500) to one thousand dollars ($1,000) or more per year for each qualified zero-emission vehicle registered within the boundaries of its territorial jurisdiction.

HEALTH AND SAFETY CODE - DIVISION 26

Part 5, Chapter 9 – Carol Moyer Memorial Air Quality Standards Attainment Program – Section 44275 et seq.

Article 1. Definitions

§ 44275. Definitions

As used in this chapter, the following terms have the following meaning:

(a) "Advisory board" means the Carl Moyer Program Advisory Board created by Section 44297.

(b) "Btu" means British thermal unit.

(c) "Commission" means the State Energy Resources Conservation and Development Commission.

(d) "Cost-effectiveness" means dollars provided to a project pursuant to subdivision (d) of Section 44283 for each ton of NOx emission reduction attributed to a project or to the program as a whole. In calculating cost-effectiveness, one-time grants of funds made at the beginning of a project shall be annualized using a time value of public funds or discount rate determined for each project by the state board, taking into account the interest rate on bonds, interest earned by state funds, and other factors as determined appropriate by the state board. Cost-effectiveness shall be calculated by dividing annualized costs by average annual emissions reduction of NOx in this state.

(e) "Covered engine" includes any internal combustion engine or electric motor and drive powering a covered source.

(f) "Covered source" includes onroad vehicles of 14,000 pounds GVWR or greater, offroad nonrecreational equipment and vehicles, locomotives, diesel marine vessels, stationary agricultural engines, and, as determined by the state board, other high-emitting diesel engine categories.

(g) "Covered vehicle" includes any vehicle or piece of equipment powered by a covered engine.

(h) "District" means a county air pollution control district or an air quality management district.

(i) "Fund" means the Carl Moyer Memorial Air Quality Standards Attainment Trust Fund created by Section 44299.

(j) "Mobile Source Air Pollution Reduction Review Committee" means the Mobile Source Air Pollution Reduction Review Committee created by Section 44244.

(k) "Incremental cost" means the cost of the project less a baseline cost that would otherwise be incurred by the applicant in the normal course of business. Incremental costs may include added lease or fuel costs pursuant to Section 44283 as well as incremental capital costs.

(1) "New very low emission vehicle" means a vehicle that qualifies as a very low emission vehicle when it is a new vehicle, where new vehicle has the same meaning as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low emission vehicle within 12 months of delivery to an owner for private or commercial use.

(m) "NOx" means oxides of nitrogen.

(n) "Program" means the Carl Moyer Memorial Air Quality Standards Attainment Program created by subdivision (a) of Section 44280.

(o) "Repower" means replacing an engine with a different engine. The term repower, as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older emissions-certified engine with a newer engine certified to lower emissions standards may be eligible for funding under this program.

(p) "Retrofit" means making modifications to the engine and fuel system such that the retrofitted engine does not have the same specifications as the original engine.

(q) "Very low emission vehicle" means a vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels pursuant to Section 44282.

Article 2. Program Introduction

§ 44280. Administration; grants; infrastructure demonstration and technology development

(a) There is hereby created the Carl Moyer Memorial Air Quality Standards Attainment Program. The program shall be administered by the state board in accordance with this chapter. The administration of the program may be delegated to the districts.

(b) The program shall provide grants to offset the incremental cost of projects that reduce emissions of NOx from covered sources in California. Eligibility for grant awards shall be determined by the state board, in consultation with the districts, in accordance with this chapter.

(c) The program shall also provide funding for a fueling infrastructure demonstration program and for technology development efforts that are expected to result in commercially available technologies in the near-term that would improve the ability of the program to achieve its goals. The infrastructure demonstration and technology development portions of the program shall be managed by the commission, in consultation with the state board.

Article 3. Eligible Projects and Applicants

§ 44281. Eligible projects; ineligible projects; fueling or electrification infrastructure; eligible applicants; legislative intent

(a) Eligible projects are any of the following:

(1) Purchase of new very low or zero-emission covered vehicles or covered engines.

(2) Emission-reducing retrofit of covered engines, or replacement of old engines powering covered sources with newer engines certified to more stringent emissions standards than the engine being replaced, or with electric motors or drives.

(3) Purchase and use of emission-reducing add-on equipment for covered vehicles.

(4) Development and demonstration of practical, low-emission retrofit technologies, repower options, and advanced technologies for covered engines and vehicles with very low emissions of oxides of nitrogen.

(b) No new purchase, retrofit, repower, or add-on equipment shall be funded under this chapter if it is required by any local, state, or federal statute, rule, regulation, memoranda of agreement or understanding, or other legally binding document, except that an otherwise qualified project may be funded even if the State Implementation Plan assumes that the change in equipment, vehicles, or operations will occur, if the change is not required by a statute, regulation, or other legally binding document in effect as of the date the grant is awarded. No project funded by the program shall be used for credit under any state or federal emissions averaging, banking, or trading program. No emission reduction generated by the program shall be used as marketable emission reduction credits or to offset any emission reduction obligation of any entity. Projects involving new engines that would otherwise generate marketable credits under state or federal averaging, banking, and trading programs shall include transfer of credits to the engine end user and retirement of those credits toward reducing air emissions in order to qualify for funding under the program. A purchase of a low-emission vehicle or of equipment pursuant to a corporate or a controlling board's policy, but not otherwise required by law, shall generate surplus emissions reductions and may be funded by the program.

(c) The program may also provide funding toward installation of fueling or electrification infrastructure as provided in Section 44284.

(d) Eligible applicants may be any individual, company, or public agency that owns one or more covered vehicles that operate primarily within California or otherwise contribute substantially to the NOx emissions inventory in California.

(e) It is the intent of the Legislature that all emission reductions generated by this chapter shall contribute to public health by reducing, for the life of the vehicle being funded, the total amount of emissions in California.

Article 4. General Eligibility Criteria

§ 44282. General eligibility criteria

The following criteria apply to all projects to be funded through the program except for projects funded through the Advanced Technology Account and the Infrastructure Demonstration Program:

(a) Except for projects involving marine vessels, 75 percent or more of vehicle miles traveled or hours of operation shall be projected to be in California for at least five years following the grant award. Projects involving marine vessels and engines shall be limited to those that spend enough time operating in California air basins over the lifetime of the project to meet the cost-effectiveness criteria based on NOx reductions in California, as provided in Section 44283.

(b) To be eligible, projects shall meet cost-effectiveness per ton of NOx reduced requirements of Section 44283.

(c) To be eligible, retrofits, repowers, and installation of add-on equipment for covered vehicles shall be performed, or new covered vehicles delivered to the end user, on or after the date the program is implemented.

(d) Retrofit technologies, new engines, and new vehicles shall be certified for sale or under experimental permit for operation in California.

(e) Repower projects that replace older, uncontrolled engines with new, emissions-certified engines or that replace emissions-certified engines with new engines certified to a more stringent NOx emissions standard are approvable subject to the other applicable selection criteria. The state board shall determine appropriate baseline emission levels for the uncontrolled engines being replaced.

(f) Retrofit and add-on equipment projects shall document a NOx emission reduction of at least 25 percent and no increase in particulate emissions compared to the applicable baseline emissions accepted by the state board for that engine year and application. The state board shall determine appropriate baseline emission levels. Acceptable documentation shall be defined by the state board. After study of available emission reduction technologies and after public notice and comment, the state board may revise the minimum percentage NOx reduction criterion for retrofits and add-on equipment provided for in this section to improve the ability of the program to achieve its goals.

(g)(1) For projects involving the purchase of new very low or zero-emission vehicles, engines shall be certified to an optional low NOx emissions standard established by the state board, except as provided for in paragraph (2).

(2) For projects involving the purchase of new very low or zero-emission covered vehicles for which no optional low-NOx emission standards are available, documentation shall be provided showing that the low or zero-emission engine emits not more than 70 percent of the NOx or NOx plus hydrocarbon emissions of a new engine certified to the applicable baseline NOx or NOx plus hydrocarbon emission standard for that engine and meets applicable particulate standards. The state board shall specify the documentation required. If no baseline emission standard exists for new vehicles in a particular category, the state board shall determine an appropriate baseline emission level for comparison.

Article 5. Cost-Effectiveness Criteria

§ 44283. Cost-effectiveness criteria

(a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than twelve thousand dollars ($12,000) per ton of NOx reduced in California.

(b) Only NOx reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in California nonattainment areas shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus NOx reductions in California from representative project types over the life of the project.

(d) The cost of the NOx reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, plus any other state funds, or funds under the district's budget authority or fiduciary control, provided toward the project. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in subdivision (c) of Section 44275, and with accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

(e) A grant shall not be made that, net of taxes, provides the applicant with funds in excess of the incremental cost of the project. Incremental lease costs may be capitalized according to guidelines adopted by the state board so that these incremental costs may be offset by a one-time grant award.

(f) Funds under a district's budget authority or fiduciary control may be used to pay for the incremental cost of liquid or gaseous fuel, other than standard gasoline or diesel, which is integral to a NOx reducing technology that is part of a project receiving grant funding under the program. The fuel shall be approved for sale by the state board. The incremental fuel cost over the expected lifetime of the vehicle may be offset by the district if the project as a whole, including the incremental fuel cost, meets all of the requirements of this chapter, including the maximum allowed cost-effectiveness. The state board shall develop an appropriate methodology for converting incremental fuel costs over the vehicle lifetime into an

initial cost for the purposes of determining project cost-effectiveness. Incremental fuel costs may not be included in project costs for fuels dispensed from any facility that was funded, in whole or in part, from the fund.

(g) For purposes of determining any grant amount pursuant to this chapter, the incremental cost of any new purchase, retrofit, repower, or add-on equipment shall be reduced by the value of any current financial incentive that directly reduces the project price, including any tax credits or deductions, grants, or other public financial assistance. Project proponents applying for funding shall be required to state in their application any other public financial assistance to the project.

(h) For projects that would repower offroad equipment by replacing uncontrolled diesel engines with new, certified diesel engines, the state board may establish maximum grant award amounts per repower. A repower project shall also be subject to the incremental cost maximum pursuant to subdivision (e).

(i) After study of available emission reduction technologies and costs and after public notice and comment, the state board may reduce the values of the maximum grant award criteria stated in this section to improve the ability of the program to achieve its goals. Every year the state board shall adjust the maximum cost-effectiveness amount established in subdivision (a) and any per-project maximum set by the state board pursuant to subdivision (h) to account for inflation.

Article 6. Infrastructure Demonstration Project

§ 44284. Authorized expenditure; project approval; funding rates; qualifying criteria; applications; staff and technical support; reporting

(a) In order to provide sufficient support for low-emission vehicle projects at the start of the program, the commission shall administer a demonstration project that provides limited funds for fueling infrastructure. Expenditures from the fund for this demonstration program shall not exceed two million five hundred thousand dollars ($2,500,000). In addition to providing necessary financial assistance to a limited number of infrastructure projects, the purpose of the infrastructure demonstration program is to assess whether funding for infrastructure is an appropriate and cost-effective use of public funds.

(b) The commission shall solicit applications for a balanced mix of demonstration projects involving fueling and electrification infrastructure that is linked to covered vehicle projects and that is consistent with program goals. The commission, in consultation with participating districts, shall make every effort to coordinate infrastructure projects with covered vehicle projects representing a broad variety of fuels, technologies, and applications as appropriate and consistent with this chapter. Infrastructure projects that begin to dispense qualifying fuel on or after the date the program is implemented are eligible for funding under the program. The commission may also subvene infrastructure funds to districts to solicit applications and to expend the funds in accordance with this section. The commission shall have oversight and reporting responsibility for any funds that are subvened pursuant to this subdivision.

(c) Any fueling infrastructure funded under the program shall be approved for funding by both the commission and the applicable district. The commission, in consultation with the districts, shall develop guidelines and criteria for infrastructure projects to be funded under the program.

(d) The purchase and installation of equipment at a site that is designed primarily to dispense qualifying fuel is eligible for funding under the program. "Qualifying fuel" includes any liquid or gaseous fuel, other than standard gasoline or diesel, which is ultimately dispensed into covered vehicles that provide NOx reductions in California, and which were introduced into operation in California on or after the date the program is implemented.

(e) Infrastructure projects to dispense qualifying fuel are eligible for funding from the Infrastructure Demonstration Program at a rate of seven dollars ($7) in one-time funding per million Btus of qualifying fuel to be dispensed annually. Projects that cannot demonstrate sufficient annual fuel throughput to qualify for a one hundred thousand dollar ($100,000) award, that is, over 14,280 million Btus per year, are not eligible for funding. Projects that can demonstrate an annual throughput of more than 14,280 million Btus per year, however, may request funding in amounts less than one hundred thousand dollars ($100,000). Private access facilities are eligible for a maximum award of up to four hundred thousand dollars ($400,000). Public access or limited public access facilities are eligible for a maximum award of up to six hundred thousand dollars ($600,000). Cofunding may be required to receive the applicable award amount. Infrastructure project awards from the fund, net of taxes, shall not exceed the total cost of the infrastructure project less any other applicable grants or tax credits.

(f) Infrastructure projects to dispense qualifying fuel shall meet all of the following criteria:

(1) Provide documentation, signed by owners of vehicles that will use the fuel, to demonstrate that an approvable amount of qualifying fuel is expected to be dispensed over a period of at least five years.

(2) Be designed to meet current industry standards and codes and any applicable regulations.

(3) If the owner of the fuel storage and dispensing equipment will be fueling vehicles the owner does not own, the owner shall provide one or more statements, signed by the proposed fueling equipment owner and by the owners of those vehicles that are referenced in the demonstration of adequate fuel throughput pursuant to subdivision (e), that mutually satisfactory arrangements regarding fuel price have been made. If the owner and operator of the fueling equipment will use the equipment exclusively to fuel his or her own vehicles, no documentation regarding fuel pricing arrangements is required.

(g) Infrastructure projects to dispense electricity to covered vehicles shall be eligible for funding from the Infrastructure Demonstration Program at the rate of a minimum of four thousand dollars ($4,000), up to a maximum of ten thousand dollars ($10,000) per charger infrastructure charge port including installation for each qualifying charger. A "qualifying charger" is any charger that dispenses 4,000 kWh or more of energy per year, through each of one or more charging ports, into one or more covered vehicles that provide NOx reductions in California. Awards shall be based on a sliding scale of four thousand dollars ($4,000) to fourteen thousand dollars ($14,000) per charger port for qualifying chargers that dispense

between 4,000 kWh and 15,000 kWh of electricity per port. In order for the project to be eligible for funding, documentation shall be provided, signed by owners of the vehicles that will use the charger, to demonstrate that the claimed kilowatt hours of electricity are expected to be dispensed per year for a period of at least five years. Funding shall be limited to a maximum award of two hundred thousand dollars ($200,000) per business per location. Infrastructure project awards from the fund, net of taxes, shall not exceed the total cost of the infrastructure project less any other applicable grants or tax credits.

(h) The commission, in consultation with the state board and the districts, shall develop a simple, standardized application package for a project to be funded from the Infrastructure Demonstration Program. In addition to the application form, an application package shall include a brief description of the program, the projects that are eligible for the funding that is available, the selection criteria and evaluation process, the documentation that is required, and who to contact for more information, as well as an example of the contract that an applicant will be required to execute before receiving a grant award. The application form shall require as much information as the commission determines is necessary to properly evaluate each project, but shall otherwise minimize the information required. An applicant shall not be required to calculate tons of emissions reduced or cost-effectiveness as part of the application. Application packages shall be finalized and published as soon as practicable.

(i) The commission shall make staff or technical support contractors available on an as-needed basis within available budgetary resources to assist project proponents to address issues common to infrastructure projects eligible for funding. Those issues may involve permitting and safety requirements.

(j) As part of the annual program reports required pursuant to Section 44295, the commission shall report on the use of Infrastructure Demonstration Program funds. The commission shall report on facilities funded, how those facilities are supporting covered vehicle projects, fuel or electricity dispensed from each facility, and associated emissions reductions and cost-effectiveness.

The commission shall calculate a total cost-effectiveness of NOx reductions from the vehicles that fuel at facilities funded from the Infrastructure Demonstration Program. This total cost-effectiveness shall include program funding provided to vehicles as well as funding provided from the Infrastructure Demonstration Program.

Article 7. Advanced Technology Development

§ 44285. Requests for proposals and program opportunity notices

(a) From time to time, the commission shall issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology proposals to be funded from the Advanced Technology Account. The first issuance of RFPs or PONs shall be no later than January 31, 2000. It is the intent of the Legislature that the technology grants be used to support development of emission-reducing technologies that could be used for projects eligible for funding pursuant to this chapter. It is also the intent of the Legislature that the technology grants be directed to a balanced mix of retrofit and add-on technologies to reduce emissions from the existing stock of targeted vehicles, as well as to advanced technologies for new engines and vehicles that produce very low or zero-NOx emissions. The commission, in consultation with the state board, may also consider funding technology projects that would

allow qualifying fuels, as defined in subdivision (d) of Section 44284, to be produced from California energy resources, with preference given to projects involving otherwise unusable California energy resources, at prices lower than prices otherwise available and low enough to make projects that would qualify for funding under the program economically attractive to local businesses. Not more than 20 percent of Advanced Technology Account funds may be directed to those qualifying fuel projects. Advanced technologies and any retrofit or add-on projects that provide multiple benefits by reducing emissions of particulates and other air pollutants should be given special consideration by the commission in soliciting proposals and determining how to allocate funds. At least 50 percent of the funds available in the Advanced Technology Account shall be directed toward technologies that provide multiple benefits.

(b) Proposals involving technologies that allow onroad covered vehicles to replace with electric power the power normally supplied by the vehicles' internal combustion engine while the vehicle is parked shall be eligible for funding from the Advanced Technology Account if they meet all applicable criteria under this section.

(c) Technologies proposed for technology grants shall show clear and compelling evidence that the technology being funded has a strong commercialization plan and organization, is likely to be offered for commercial sale in California within five years of the application for funding, and that, once commercial, the technology will present opportunities for projects otherwise eligible for funding pursuant to this chapter. The commission shall specifically consider the projected NOx reducing potential and cost-effectiveness of the commercialized technology, the potential for the technology to contribute in a significant way to air quality goals, and the strength of the commercialization plan.

(d) The commission may require cost sharing for technology projects, but shall not require repayment of funds granted.

(e) Proposals for projects involving either publicly owned or privately owned vehicles or vessels shall be eligible for technology awards.

(f) In developing RFPs and PONs and in evaluating proposals for funding, the commission shall consider that the primary objective of technology grants is to advance toward commercialization technologies that would support projects to be funded under the program.

Article 8. Program Administration: General

§ 44286. Responsibilities of state board, districts and commission

(a) The responsibilities of the state board include management of program funds and program oversight. The state board is responsible for producing guidelines, protocols, and criteria for covered vehicle projects and developing methodologies for evaluating project cost-effectiveness in accordance with this chapter. The state board shall have primary responsibility for the reporting aspects of the program.

(b) The responsibilities of a district include local administration of project funds, monitoring funded projects, and reporting results to the state board, in accordance with this chapter. Any project funds awarded to a successful applicant shall be disbursed by the district.

(c) Relative to the allocation of funds in the south coast district, for purposes of this program, Mobile Source Air Pollution Reduction Review Committee funds shall only be used as matching funds upon approval, by minute action, of the Mobile Source Air Pollution Reduction Review Committee.

(d) The state board may reserve up to 10 percent of the program funds available each year to directly fund any project that is multidistrict in nature. A project that is multidistrict in nature shall be funded by the state board in coordination with the appropriate districts. The state board shall coordinate outreach efforts with a participating district to ensure that any parallel availability of a district grant and a grant from the state board is clear to an eligible applicant. Reserved funds not committed to a project funded directly by the state board by the end of the fiscal year shall be made available to the districts in the following year.

(e) The commission, in consultation with the state board, shall manage the Advanced Technology Account and the Infrastructure Demonstration Program in accordance with this chapter.

(f) The state board shall work closely with the commission and the districts for the duration of this program to maximize the ability of the program to achieve its goals.

(g) The state board and the districts shall take all appropriate and necessary actions to ensure that emissions reductions achieved through the program are credited by the United States Environmental Protection Agency to the appropriate emission reduction objectives in the State Implementation Plan.

§ 44287. Grant criteria and guidelines; administration of funds; district applications

(a) The state board shall establish grant criteria and guidelines consistent with this chapter for covered vehicle projects as soon as practicable, but not later than January 1, 2000. The adoption of guidelines is exempt from the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The state board shall solicit input and comment from the districts during the development of the criteria and guidelines and shall make every effort to develop criteria and guidelines that are compatible with existing district programs that are also consistent with this chapter. Guidelines shall include protocols to calculate project cost-effectiveness. The grant criteria and guidelines shall include safeguards to ensure that the project generates surplus emissions reductions. Guidelines shall enable and encourage districts to cofund projects that provide emissions reductions in more than one district. The state board shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

(b) The state board, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (a) as necessary to improve the ability of the program to achieve its goals. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the state board shall hold at least one public meeting to consider public comments before final adoption of the revision.

(c) The state board shall reserve funds for, and disburse funds to, districts from the fund for administration pursuant to this section and Section 44299.1.

(d) The state board shall develop guidelines for a district to follow in applying for the reservation of funds, in accordance with this chapter. It is the intent of the Legislature that district administration of any reserved funds be in accordance with the project selection criteria specified in Sections 44281, 44282, and 44283 and all other provisions of this chapter. The guidelines shall be established and published by the state board as soon as practicable, but not later than January 1, 2000.

(e) Funds shall be reserved by the state board for administration by a district that adopts an eligible program pursuant to this chapter and offers matching funds at a ratio of one dollar ($1) of matching funds committed by the district or the Mobile Source Air Pollution Reduction Review Committee for every two dollars ($2) committed from the fund. Funds available to the Mobile Source Air Pollution Reduction Review Committee may be counted as matching funds for projects in the South Coast Air Basin only if the committee approves the use of these funds for matching purposes. Matching funds may be any funds under the district's budget authority that are committed to be expended in accordance with the program. Funds committed by a port authority or a local government, in cooperation with a district, to be expended in accordance with the program may also be counted as district matching funds. Matching funds provided by a port authority or a local government may not exceed 30 percent of the total required matching funds in any district that applies for more than three hundred thousand dollars ($300,000) of the state board funds. Only a district, or a port authority or a local government teamed with a district, may provide matching funds.

(f) The state board may adjust the ratio of matching funds described in subdivision (e), if it determines that an adjustment is necessary in order to maximize the use of, or the air quality benefits provided by, the program, based on a consideration of the financial resources of the district.

(g) Notwithstanding subdivision (e), a district need not provide matching funds for state board funds allocated to the district for program outreach activities pursuant to paragraph (4) of subdivision (a) of Section 44299.1.

(h) A district may include within its matching funds a reasonable estimate of direct or in-kind costs for assistance in providing program outreach and application evaluation. In-kind and direct matching funds shall not exceed 15 percent of the total matching funds offered by a district. A district may also include within its matching funds any money spent on or after February 25, 1999, that would have qualified as matching funds but were not previously claimed as matching funds.

(i) A district desiring a reservation of funds shall apply to the state board following the application guidelines established pursuant to this section. The state board shall approve or disapprove a district application not later than 60 days after receipt. Upon approval of any district application, the state board shall simultaneously approve a reservation of funding for that district to administer. Reserved funds shall be disbursed to the district so that funding of a district-approved project is not impeded.

(j) Notwithstanding any other provision of this chapter, districts and the Mobile Source Air Pollution Reduction Review Committee shall not use funds collected pursuant to Section 41081 or Chapter 7 (commencing with Section 44220), or pursuant to Section

9250.11 of the Vehicle Code, as matching funds to fund a project with stationary or portable engines, locomotives, or marine vessels.

(k) Any funds reserved for a district pursuant to this section are available to the district for a period of not more than two years from the time of reservation. Funds not expended by June 30 of the second calendar year following the date of the reservation shall revert back to the state board as of that June 30, and shall be deposited in the Covered Vehicle Account established pursuant to Section 44299. The funds may then be redirected based on applications to the fund. Regardless of any reversion of funds back to the state board, the district may continue to request other reservations of funds for local administration. Each reservation of funds shall be accounted for separately, and unused funds from each application shall revert back to the state board as specified in this subdivision.

(l) The state board shall specify a date each year when district applications are due. If the eligible applications received in any year oversubscribe the available funds, the state board shall reserve funds on an allocation basis, pursuant to subdivision (b) of Section 44299.1. The state board may accept a district application after the due date for a period of months specified by the state board. Funds may be reserved in response to those applications, in accordance with this chapter, out of funds remaining after the original reservation of funds for the year.

(m) Guidelines for a district application shall require information from an applicant district to the extent necessary to meet the requirements of this chapter, but shall otherwise minimize the information required of a district.

(n) A district application shall be reviewed by the state board immediately upon receipt. If the state board determines that an application is incomplete, the applicant shall be notified within 10 working days with an explanation of what is missing from the application. A completed application fulfilling the criteria shall be approved as soon as practicable, but not later than 60 working days after receipt.

(o) The commission, in consultation with the districts, shall establish project approval criteria and guidelines for infrastructure projects consistent with Section 44284 as soon as practicable, but not later than February 15, 2000. The commission shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

(p) The commission, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (o) as necessary to improve the ability of the program to achieve its goals. A revision may be proposed at any time, or may be proposed in response to a finding made in the annual report on the program published by the state board pursuant to Section 44295. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the commission shall hold at least one public meeting to consider public comments before final adoption of the revision.

Article 9. Program Administration: Application Evaluation and Program Outreach

§ 44288. Application evaluation and processing

(a) An application for a project grant shall be reviewed by the administering district immediately upon receipt. If the administering district determines that an application is incomplete, the applicant shall be notified within five working days with an explanation of what is missing from the application. The date and time of receipt of each application determined to be complete shall be recorded and the completed application shall be evaluated with respect to the appropriate project selection criteria. A district shall make every effort to process an application and grant an award rapidly and to coordinate project approval with any purchase or installation timing constraint on an applicant. Notwithstanding any other provision of this chapter, the administering district may determine that an application is not in good faith, not credible, or not in compliance with this chapter and its objectives.

(b) A participating district may request assistance from the state board on an as needed basis to clarify project evaluation protocols or to obtain information necessary to properly evaluate an application.

(c) An application for a grant for an infrastructure project shall be reviewed by the commission immediately upon receipt. If the commission determines that an application is incomplete, the applicant shall be notified within five working days with an explanation of what is missing from the application. The date and time of receipt of each application determined to be complete shall be recorded and the completed application shall be evaluated with respect to the appropriate project selection criteria. A complete grant application fulfilling the project selection criteria shall be approved as soon as practicable, but not later than 60 working days after receipt. Notwithstanding any other provision of this chapter, the commission may determine that an application is not in good faith, not credible, or not in compliance with this chapter and its objectives. The commission shall expedite the processing of an application and shall grant an award as rapidly as possible.

(d) Funds shall be awarded in conjunction with the execution of a contract that obligates the state board or a participating district to make the grant and obligates the grantee to take the actions described in the grant application. A contract shall incorporate the recapturing provisions contained in subdivision (c) of Section 44291.

§ 44290. Outreach program

The state board and participating districts shall institute an outreach program to inform potential participants, technology suppliers, vendors, engine and equipment dealers and distributors, fleet owners, industry organizations and publications, districts, and rail and port organizations of the availability of grants, and of the requirements and objectives of the grant program. The state board and district shall vigorously recruit grant applications and publish examples of successful projects. The commission shall work closely with the state board and districts so that infrastructure and technology development projects are closely coordinated with overall program implementation. Outreach efforts on the part of the state board shall be coordinated with district outreach efforts.

Article 10. Monitoring

§ 44291. Monitoring and auditing procedures

(a) The state board shall assist districts with developing procedures to monitor whether the emission reductions projected in successful grant applications are actually achieved. Monitoring procedures may include project audits, and may also include requirements, as part of the contract between the state board or districts and the grant recipients, that each grant recipient provide information about the project on an annual basis. Information required from grant recipients should be minimized and the format for reporting the information should be made simple and convenient.

(b) As soon as practicable, the commission, in consultation with the districts, shall publish procedures to monitor and audit infrastructure projects. These procedures shall ensure that the amount of qualifying fuel dispensed annually is greater than or equal to the amount upon which the grant award is based and that any project qualifying for funding on the basis of public accessibility or limited public accessibility is, in fact, providing that accessibility.

(c) The monitoring and auditing procedures shall be sufficient to allow emission reductions generated to be fully credited to air quality plans. The monitoring procedures shall contain provisions for recapturing grant awards in proportion to any loss of emission reductions or underachievement in dispensing qualifying fuel compared with the reductions and fuel dispensing projected in the grant application. Funds recaptured shall be deposited in the accounts from which the funds were originally expended. From time to time, monitoring and auditing procedures shall be revised as appropriate to enhance program effectiveness.

(d) The state board shall monitor district programs to ensure that participating districts conduct their programs consistent with the criteria and guidelines established by the state board and the commission pursuant to this chapter. The monitoring procedures shall contain provisions for recapture of funds not yet awarded to approved projects if a district fails to show that they are implementing a program consistent with the approved program. If the state board determines, pursuant to this subdivision, that moneys from the fund allocated to a district should be recaptured, the state board shall hold at least one public meeting to consider public comments prior to recapturing the allocated funds. The state board shall make every effort to assist districts to implement programs in an approved manner and shall only recapture allocated funds if these efforts fail to address problems adequately. Recaptured funds shall be deposited in the Covered Vehicle Account. The state board shall not recapture funds already awarded to approved projects.

Article 11. Reporting

§ 44295. Annual program report

(a) Not later than March 1, 2001, and each March 1 thereafter, through March 1, 2003, the state board in cooperation with participating districts, and assisted by the commission with regard to projects funded from the Infrastructure Demonstration Program and the Advanced Technology Account, shall publish, and notwithstanding Section 7550.5 of the Government Code, provide the Legislature with, a program report. The report shall describe

each covered vehicle project funded by the state board and by districts that have received funds pursuant to this chapter, the amount granted for the project, and the emission reductions obtained and the cost-effectiveness of the project. For projects funded from the Advanced Technology Account, the report shall describe the technical objectives and accomplishments of the project, and the progress of the technology toward commercialization. For projects funded from the Infrastructure Demonstration Program, the report shall describe whether the funding has been critical to supplying qualifying fuel and supporting vehicles that reduce NOx emissions in California, shall include a discussion of demonstration program cost-effectiveness pursuant to subdivision (j) of Section 44284, and shall make a finding as to the need for additional moneys to be appropriated from the fund to the Infrastructure Demonstration Program in order to improve the ability of the program to achieve its goals.

(b) The report shall detail funds received, funds granted, funds reserved for grants based on project approvals, district matching funds and the sources of those funds, and any recommended transfer of funds between accounts, and shall estimate future demand for grant funds.

(c) The report shall describe the overall effectiveness of the program in delivering the emission reductions required by air quality plans, including rate of progress plans and milestone and conformity tests, as well as attainment and maintenance plans. The report shall evaluate the effectiveness of the program in soliciting and evaluating project applications, providing awards in a timely manner, and monitoring project implementation. The report shall describe any adjustments made to the project selection criteria and recommend any further needed changes or adjustments to the grant program, including changes in grant award criteria, administrative procedures, or statutory provisions that would enhance the effectiveness and efficiency of the grant program.

(d) The state board shall request comments and hold public meetings on each draft annual report to obtain public comments. The state board shall consider and respond to all significant comments received in producing a final annual report.

(e) A final annual report shall be published within 90 days from the date of publication of each draft annual report.

Article 12. Disposition of Funds

§ 44296. Disposition of funds

(a) All program funds shall be encumbered prior to January 1, 2002. No grants shall be made by districts using money reserved within the fund after that date, and no technology or infrastructure project may be funded by the commission after that date.

(b) On January 1, 2002, all unencumbered funds reserved for districts shall revert back to the state board, and thereafter shall be permanently allocated by the state board to districts in proportion to the aggregate net disbursements that the participating districts received during the life of the grant program, to be used in accordance with the goals and objectives of the grant program and to be granted by the districts in accordance with the procedures and criteria in place at the termination of the grant program or as subsequently modified by the districts as needed to better meet the grant program objectives and protect human health and welfare.

(c) Notwithstanding subdivision (b), the advisory board may recommend that unused funds be allocated to fund a continuing statewide program similar to the program established as part of the advisory board recommendations for a continuing program pursuant to Section 44297.

(d) Notwithstanding any provision in the Budget Act of 1999, funds appropriated in that act to carry out the provisions of this act shall only be available for encumbrance during the 1999-2000 fiscal year.

~~Article 13. Continuing Program Recommendation~~

~~§ 44297. Diesel emissions incentives program; Carl Moyer Program Advisory Board; duration of article~~

~~(a) Not later than January 15, 2000, the state board, in cooperation with participating districts, shall prepare a report on the implementation, to date, of the diesel emissions incentives program funded under the Budget Act of 1998. Notwithstanding Section 7550.5 of the Government Code, the state board shall submit the report to the Governor, the Legislature, and the advisory board. The report shall describe district efforts to implement the existing program and provide an overview of the types of project applications received. The report shall assess the need for emission reductions and incentive programs relative to the state implementation plan, and the potential for emission reductions with continued funding, and shall assess whether the program should be continued and funded in the future. The report shall also identify and inventory all available state and local funds that may be utilized in carrying out a continuing program including, but not necessarily limited to, county district vehicle registration funding, air pollution penalties from diesel and other air quality violations, funds from the High Polluter Repair or Removal Account, created pursuant to subdivision (a) of Section 44091, that are not expected to be utilized for low-income repair assistance, and funds received from the federal government pursuant to the Congestion Management and Air Quality program. The report shall also analyze the possible use of mitigation fees, alternative settlements for compliance with state air quality and environmental protection laws and regulations, contributions by users of diesel equipment, and funds resulting from the mitigation of adverse environmental impacts of transportation projects.~~

~~(b) The Carl Moyer Program Advisory Board is hereby created in state government for purposes of assessing implementation of the program and determining whether the program should continue to be funded. The advisory board shall have the following specified responsibilities:~~

~~(1) To review the report prepared by the state board pursuant to subdivision (a) on program implementation.~~

~~(2) To hold a public hearing on the need for a continuing program.~~

~~(3) Notwithstanding Section 7550.5 of the Government Code, to prepare a report and submit it to the Legislature and the Governor on or before March 31, 2000. The report may recommend a continuing program, similar to the program established by this chapter, that will make a significant contribution toward attaining air quality standards in~~

~~California. The report shall recommend revenue sources for funding financial incentives, together with any legislative or budget action needed to implement a continuing program.~~

~~(c) The advisory board shall consist of 13 members. Four of the members shall be public members. Two public members shall be appointed by the Senate Committee on Rules, and two public members shall be appointed by the Speaker of the Assembly. The Secretary for Environmental Protection shall appoint the following nine members:~~

~~(1) The executive officer of the state board.~~

~~(2) One member of the commission.~~

~~(3) One representative of the heavy-duty trucking industry.~~

~~(4) One representative of the agricultural industry.~~

~~(5) One representative of the construction industry.~~

~~(6) One representative from the locomotive industry.~~

~~(7) One representative from the marine industry.~~

~~(8) One representative of a regional transportation agency.~~

~~(9) One member of a public interest environmental organization.~~

~~(d) The executive officer of the state board shall serve as the chairperson of the advisory committee~~

~~(e) The advisory board may appoint ex officio officers.~~

~~(f) The advisory board may request assistance from the state board and the commission for administrative services and staff support, and these agencies may provide these services, to the extent they determine it is feasible, within existing budgetary resources.~~

~~(g) This article shall remain in effect only until April 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted on or before April 1, 2000, deletes or extends that date.~~

Article 13. Heavy-Duty Fleet Modernization Projects

§ 44297. Revision of grant criteria and guidelines; eligible costs; consideration of existing heavy-duty fleet modernization program; offset of incremental costs; weighted cost-effectiveness standard

(a) The state board, acting within its existing authority, shall, at its first opportunity following January 1, 2005, revise the grant criteria and guidelines adopted pursuant to Section 44287 to incorporate projects described in subdivision (c).

(b) The guidelines may define eligible costs to include monitoring and verifying compliance with this article.

(c) Notwithstanding any other provision of this chapter, a project that meets either of the following criteria constitutes a heavy-duty fleet modernization project and thus is eligible for funding under the program, if it complies with the guidelines established by the state board pursuant to subdivision (a):

(1) Replaces an old engine or vehicle with a newer engine or vehicle certified to more stringent emissions standards than the engine or vehicle being replaced, pursuant to paragraph (2) of subdivision (a) of Section 44281.

(2) Provides the equivalent emission reductions as would be gained by a project that combines both of the following:

(A) The purchase of a new very low or zero-emission covered vehicle pursuant to paragraph (1) of subdivision (a) of Section 44281.

(B) The replacement of an old engine or vehicle with a newer engine or vehicle certified to more stringent standards than the engine or vehicle being replaced, pursuant to paragraph (2) of subdivision (a) of Section 44281.

(c) In establishing guidelines pursuant to subdivision (a), the state board shall consider any existing heavy-duty fleet modernization program carried out by a district. The state board shall design a program that, to the extent feasible, includes fleet owners, independent truck owners, heavy-duty vehicle dealers, districts, and other participants it determines appropriate from existing local programs.

(d) The grants provided pursuant to this article shall provide moneys to offset the incremental cost of projects that reduce emissions of oxides of nitrogen (NOx) and particulate matter (PM).

(e) The state board shall determine an appropriate weighted cost-effectiveness standard for projects intended to reduce particulate matter.

Article 14. Funds

§ 44299. Carl Moyer Memorial Air Quality Standards Attainment Trust Fund; creation

(a) The Carl Moyer Memorial Air Quality Standards Attainment Trust Fund is hereby created in the State Treasury. The Controller shall transfer any unencumbered funds appropriated to the commission or the state board for the diesel emissions reduction incentive program by Items 3360-001-0314 and 3900-001-0001 of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998), and Items 3360-001-0314, 3360-001-0001, 3360-001-0465, 3900-001-0001, and 3900-001-0115 of Section 2.00 of the Budget Act of 1999 (Ch. 50, Stats. 1999), to the trust fund. The money in the trust fund shall be available upon appropriation by the Legislature to carry out the purposes of this chapter.

(b) To ensure that emission reductions are obtained as needed from air pollution sources, the following accounts are hereby created in the trust fund:

(1) The Covered Vehicle Account.

(2) The Advanced Technology Account.

(c) Notwithstanding Sections 16475, 16475.1, and 16480.6 of the Government Code, all of the interest earned on money in the trust fund shall be deposited in the trust fund.

§ 44299.1. Carl Moyer Memorial Air Quality Standards Attainment Trust Fund; administration

(a) To ensure that emission reductions are obtained as needed from pollution sources, any money deposited in or appropriated to the fund shall be segregated and administered as follows:

(1) Ten percent, not to exceed two million dollars ($2,000,000), shall be allocated to the Infrastructure Demonstration Project to be used pursuant to Section 44284.

(2) Ten percent shall be deposited in the Advanced Technology Account to be used to support research, development, demonstration, and commercialization of advanced low-emission technologies for covered sources that show promise of contributing to the goals of the program.

(3) Not more than 2 percent of the moneys in the fund shall be allocated to program support and outreach costs incurred by the state board and the commission directly associated with implementing the program pursuant to this chapter. These funds shall be allocated to the state board and the commission in proportion to total program funds administered by the state board and the commission.

(4) Not more than 2 percent of the moneys in the fund shall be allocated to direct program outreach activities. The state board may use these funds for program outreach contracts or may allocate outreach funds to participating air districts in proportion to each district's allocation from the Covered Vehicle Account. The state board shall report on the use of outreach funds in their reports to the Legislature pursuant to Section 44295.

(5) The balance shall be deposited in the Covered Vehicle Account to be expended to offset added costs of new very low or zero-emission vehicle technologies, and emission reducing repowers, retrofits, and add-on equipment for covered vehicles and engines.

(b) Funds in the Covered Vehicle Account shall be allocated to a district that submits an eligible application to the state board pursuant to Section 44287. The state board shall determine the maximum amount of annual funding from the Covered Vehicle Account that each district may receive. This determination shall be based on the population in each district as well as the relative importance of obtaining NOx reductions in each district, specifically through the program.

Sec. 3. (a) It is the intent of the Legislature that funds appropriated to the State Energy Resources Conservation and Development Commission for the Diesel Emissions Incentive Program pursuant to Item 3360-001-0001 of Section 2.00 of the Budget Act of 1999 are to be encumbered for the support of the Carl Moyer Memorial Air Quality Standards Attainment Program as follows:

(1) Two million dollars ($2,000,000) for Advanced Technology Development grants awarded pursuant to Article 7 (commencing with Section 44285) of Chapter 9 of Part 5 of Division 26 of the Health and Safety Code.

(2) Two million dollars ($2,000,000) for the Infrastructure Demonstration Program described in Article 6 (commencing with Section 44284) of Chapter 9 of Part 5 of Division 26 of the Health and Safety Code.

(b) Funds specified in subdivision (a), and any other funds appropriated during the 1999-2000 fiscal year to the State Energy Resources Conservation and Development Commission for support of the Carl Moyer Memorial Air Quality Standards Attainment Program, may be used for any of the following purposes:

(1) Grants.

(2) Loans.

(3) Contracts.

(4) Technical support.

(c) Any unencumbered funds appropriated to the State Air Resources Board for the diesel emissions reduction incentive program by the Budget Act of 1998 and the Budget Act of 1999, other than those funds listed in the items in subdivision (a) of Section 44299, shall be transferred by the Controller to the Carl Moyer Memorial Air Quality Standards Attainment Trust Fund for the support of the Carl Moyer Air Quality Standards Attainment Program.

HEALTH AND SAFETY CODE – DIVISION 26

Part 5, Chapter 9.5 – Sacramento Emergency Clean Air and Transportation Program - Section 44299.50 et seq.

§ 44299.50. Definitions

As used in this chapter, the following terms have the following meanings:

(a) "Advanced introduction costs" means the costs of the project less a baseline cost that would otherwise be incurred by the applicant in the normal course of business. "Advanced introduction costs" may include, but are not limited to, incremental costs, additional operational costs, facility modifications, additional staff training, fueling infrastructure, and costs associated with off-cycle vehicle replacement, as determined by the Sacramento Region Districts.

(b) "Attainment" means meeting the National Ambient Air Quality Standards for ozone.

(c) "Conformity" means that a transportation program, project, and plan promulgated by the Sacramento Area Council of Governments is able to successfully comply with Sections 7410 and 7506 of Title 42 of the United States Code, so as to qualify for an approval, license, or permit, or to obtain financial assistance, from the federal agencies specified in those sections.

(d) "Covered engine" includes any internal combustion engine or electric motor and drive powering a covered source.

(e) "Covered source" includes onroad heavy-duty diesel vehicles and other onroad high-emitting diesel engine categories, as determined by SACOG.

(f) "Covered vehicle" includes any vehicle or piece of equipment powered by a covered engine.

(g) "New very low-emission vehicle" means a vehicle that qualifies as a very low emission vehicle when it is a new vehicle, as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low-emission vehicle within 12 months of delivery to an owner for private or commercial use.

(h) "NOx" means oxides of nitrogen.

(i) "Program" means the Sacramento Emergency Clean Air and Transportation Program created by this chapter.

(j) "Repower" means replacing an engine with a different engine. The term "repower," as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older emissions-certified engine with a newer engine certified to lower emissions standards may be eligible for funding under this program.

(k) "Retrofit" means making modifications to the engine and fuel system such that the retrofitted engine does not have the same specifications as the original engine.

(l) "SACOG" means the Sacramento Area Council of Governments.

(m) "Sacramento federal ozone nonattainment area" means the area defined by the United States Environmental Protection Agency in the Federal Register notice dated November 6, 1991 (56 Fed. Reg. 56694).

(n) "Sacramento Region Districts" means the El Dorado Air Pollution Control District, Feather River Air Quality District, Placer County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, and Yolo-Solano Air Quality Management District.

(o) "Very low-emission vehicle" means a vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels determined pursuant to the criteria in Section 44282.

§ 44299.51. Creation of program

There is hereby created the Sacramento Emergency Clean Air and Transportation Program. The program shall be administered by SACOG. The implementation of the program, in whole or in part, may be delegated by SACOG to the Sacramento Region Districts.

The program may provide grants to offset the advanced introduction costs of eligible projects that reduce onroad emissions of NOx within the Sacramento federal ozone nonattainment area. Eligibility for grant awards shall be determined by SACOG, or delegated by SACOG to the Sacramento Region Districts, in accordance with this chapter.

§ 44299.52. Determination of eligible projects; criteria

(a) Eligible projects may include, but shall not be limited to, any of the following:

(1) Purchase of new very low- or zero-emission covered vehicles or covered engines to replace older heavy-duty diesel vehicles or engines.

(2) NOx emission-reducing retrofit of covered engines, or replacement of old diesel engines and drives powering covered sources with newer diesel engines and drives certified to more stringent NOx emissions standards than the engine being replaced.

(3) Purchase and use of NOx emission-reducing add-on equipment for covered vehicles.

(4) Implementation of practical, low-emission retrofit technologies, repower options, advanced technologies, or low sulfur diesel or alternative fuel mixtures for covered engines and vehicles.

(b) In determining eligible projects, SACOG or the Sacramento Region Districts shall not exclude any technology based on the type of fuel utilized by that technology.

(c) Eligible applicants may be any individual, company, or public agency that owns one or more covered vehicles that operate primarily within the Sacramento federal ozone nonattainment area or otherwise contribute substantially to the NOx emissions inventory in the Sacramento federal ozone nonattainment area.

(d) The program shall provide grants to eligible projects that help reduce onroad NOx emissions on a timely and cost-effective basis within the Sacramento federal ozone nonattainment area in order to maximize the reduction in NOx emissions from available funds, thereby aiding the area in its efforts to achieve applicable air quality conformity goals in 2002 and 2005.

§ 44299.53. Source of funds; segregation of funds; evaluation and review of eligible projects

(a) Funds to implement the program shall be provided from the amount allocated from the Traffic Congestion Relief Fund for the purposes of paragraph (118) of subdivision (a) of Section 14556.40 of the Government Code.

(b) To ensure that emission reductions are obtained as needed from pollution sources, funds provided as described in subdivision (a) shall be segregated as follows:

(1) Not more than 1 percent of the funds provided as described in subdivision (a) shall be allocated to program support and outreach costs incurred by SACOG or the Sacramento Region Districts directly associated with implementing the program pursuant to this chapter.

(2) Not more than 2 percent of the funds provided as described in subdivision (a) shall be allocated to direct program outreach activities.

(3) The balance shall be used to offset costs of eligible projects.

(c) SACOG, in consultation with the Sacramento Region Districts, shall specify procedures by which evaluation and review of eligible projects shall be accomplished.

(d) The Sacramento Region Districts shall include an evaluation of the emission benefits provided by those eligible projects that are implemented in the Sacramento federal ozone nonattainment area in the milestone reports submitted in 2002 and 2005 to the United States Environmental Protection Agency pursuant to subsection (g) of Section 7511a of Title 42 of the United States Code.

(e) Funds provided to SACOG as described in subdivision (a) shall not be expended on any NOx control retrofit technology unless that technology has been determined to be eligible for use in the program pursuant to Section 44299.54.

§ 44299.54. Eligibility determinations of NO_x retrofit technologies

On or before January 10, 2001, the executive officer of the state board shall make a determination as to the eligibility of NOx retrofit technologies for use in the program, and may make additional determinations of eligibility of NOx technologies after January 10, 2001. In order to be determined eligible by the executive officer of the state board, each NOx retrofit technology shall have, at a minimum, the ability to reduce onroad heavy-duty diesel emissions of NOx by 10 percent or more and shall be durable and effective in reducing emissions, as determined by the executive officer of the state board.

§ 44299.55. Emissions reductions and credits; uses

All emissions reductions and credits achieved as a result of programs initiated under this chapter shall be used to fulfill local and regional commitments to air quality standards. Any additional reductions or credits that may exist after the local or regional commitment to air quality is fulfilled may be used to fulfill the state's commitment to air quality standards and attainment.

HEALTH AND SAFETY CODE – DIVISION 26

Part 5, Chapter 9.7 – San Joaquin Valley Emergency Clean Air Attainment Program - Section 44299.75 et seq.

§ 44299.75. Definitions

As used in this chapter, the following terms have the following meanings:

(a) "Advanced introduction costs" means the costs of the project, less a baseline cost that would otherwise be incurred by the applicant in the normal course of business. "Advanced introduction costs" may include, but shall not be limited to, incremental costs, additional operational costs, facility modifications, additional staff training, fueling infrastructure, and costs associated with off-cycle vehicle replacement, as determined by the district.

(b) "Attainment" means meeting the National Ambient Air Quality Standards (NAAQS) for ozone.

(c) "Covered engine" includes any internal combustion engine or electric motor and drive powering a covered source.

(d) "Covered source" includes onroad and off-road heavy-duty diesel vehicles and other onroad and off-road high-emitting diesel engine categories, as determined by the San Joaquin Valley Air Pollution Control District.

(e) "Covered vehicle" includes any vehicle or piece of equipment powered by a covered engine.

(f) "District" means the San Joaquin Valley Air Pollution Control District.

(g) "New very low-emission vehicle" means a vehicle that qualifies as a very low-emission vehicle when it is a new vehicle, as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low-emission vehicle within 12 months of delivery to an owner for private or commercial use.

(h) "NOx" means oxides of nitrogen.

(i) "Program" means the San Joaquin Valley Emergency Clean Air Attainment Program created by this chapter.

(j) "Repower" means replacing an engine with a different engine. The term "repower," as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older emissions-certified engine with a new engine certified to lower emissions standards may be eligible for funding under this program.

(k) "Retrofit" means making modifications to the engine and fuel system such that the retrofitted engine does not have the same specifications as the original engine.

(l) "San Joaquin Valley federal ozone nonattainment area" means the area defined by the United States Environmental Protection Agency on page 56699 of Volume 56 of the Federal Register dated November 6, 1991.

(m) "Very low-emission vehicle" means a vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels determined pursuant to the criteria in Section 44282.

§ 44299.76. Creation of program

(a) There is hereby created the San Joaquin Valley Emergency Clean Air Attainment Program. The program shall be administered and implemented by the district.

(b) The program may provide grants to offset the advanced introduction costs of eligible projects that the district determines aid in the reduction of onroad and off-road emissions of NOx within the San Joaquin Valley federal ozone nonattainment area.

(c) Eligibility of projects for grant awards shall be determined by the district in accordance with this chapter.

§ 44299.77. Determination of eligible projects; criteria

(a) Eligible projects may include, but shall not be limited to, any of the following:

(1) Purchase of new very low- or zero-emission covered vehicles or covered engines to replace older heavy-duty diesel vehicles or engines.

(2) NOx emission-reducing retrofit of covered engines, or replacement of old diesel engines and drives powering covered sources with newer diesel engines and drives certified to more stringent NOx emissions standards than the engine being replaced.

(3) Purchase and use of NOx emission-reducing add-on equipment for covered vehicles.

(4) Implementation of practical, low-emission retrofit technologies, repower options, advanced technologies, or low sulfur or alternative fuel mixtures for covered engines and vehicles.

(b) In determining eligible projects, the district shall not exclude any technology based on the type of fuel utilized by that technology.

(c) Eligible applicants may be any person or public agency that owns one or more covered vehicles that operate primarily within the San Joaquin Valley federal ozone nonattainment area or otherwise contribute substantially to the NOx emissions inventory in the San Joaquin Valley federal ozone nonattainment area, as determined by the district.

(d) The program shall provide grants to eligible projects that help reduce onroad and off-road NOx emissions on a timely and cost-effective basis within the San Joaquin Valley federal ozone nonattainment area in order to maximize the reduction in NOx emissions from available funds, thereby aiding the area in its efforts to achieve applicable air quality goals.

§ 44299.78. Source of funds; segregation of funds; allocation of funds

(a) Funds to implement the program shall be provided from the amount allocated from the Traffic Congestion Relief Fund for the purposes of paragraph (100) of subdivision (a) of Section 14556.40 of the Government Code.

(b) Funds from the account may be reserved by the district for local governments within the San Joaquin Valley federal ozone nonattainment areas that adopt an eligible program pursuant to this chapter.

(c) To ensure that emission reductions are obtained as needed from pollution sources, any funds provided as described in subdivision (a) shall be segregated as follows:

(1) Not more than 1 percent of the funds shall be allocated to program support and outreach costs incurred by the district directly associated with implementing the program pursuant to this chapter.

(2) Not more than 2 percent of the funds provided as described in subdivision (a) shall be allocated to direct program outreach activities.

(3) The balance shall be used to offset costs of eligible projects.

(d) Funds provided as described in subdivision (a) shall be allocated to the district upon the approval by the district of an application from an eligible applicant regarding an eligible project. The district may determine the maximum amount of annual funding each applicant may receive.

(e) Funds provided as described in subdivision (a) shall not be expended on any NOx control retrofit technology unless the technology has been determined to be eligible for use in the program pursuant to Section 44299.79.

§ 44299.79. Eligibility determinations of NO_x retrofit technologies

On or before January 10, 2001, the executive officer of the state board shall make a determination as to the eligibility of NOx retrofit technologies for use in the program, and may make additional determinations of eligibility of NOx technologies after January 10, 2001. In order to be determined eligible by the executive officer of the state board, each NOx retrofit technology shall have, at a minimum, the ability to reduce onroad heavy-duty diesel emissions of NOx by 10 percent or more and shall be durable and effective in reducing emissions, as determined by the executive officer of the state board.

PUBLIC RESOURCES CODE - DIVISION 3

Chapter 6 - Disposition of Geothermal Revenues - Section 3800 et seq.

Article 2. Definitions

§ 3805. Construction of chapter

The definitions set forth in this article shall govern the construction of this chapter.

§ 3805.5. Commission

"Commission" means the State Energy Resources Conservation and Development Commission.

§ 3806. County of origin

"County of origin" means any county in which the United States has leased lands for geothermal development.

§ 3807. Local jurisdiction

"Local jurisdiction" means any unit of Indian government, any city, county, or district, including, but not limited to, a regional planning agency and a public utility district, or any combination thereof formed for the joint exercise of any power, except that "public utility district" does not include any public utility district which generates for sale more than 50 megawatts gross of electricity.

§ 3808. Geothermal resources

"Geothermal resources" means geothermal resources designated by the United States Geological Survey or the Department of Conservation, or by both.

The department shall periodically review, and revise as necessary, its designation of geothermal resource areas and shall transmit any changes to the State Energy Resources Conservation and Development Commission.

§ 3809. Private entity

"Private entity" means any individual or organization engaged in the exploration and development of geothermal energy for profit.

§ 3810. Award repayment or program reimbursement agreement; royalty agreement

(a)(1) "Award repayment or program reimbursement agreement," including a "royalty agreement," as specified in subdivision (b), means a method used at the discretion of the commission to determine and establish the terms of replenishment of program funds, including, at a minimum, repayment of the award to provide for further awards under this chapter. The award repayment or program reimbursement agreement may provide that payments be made to the commission when the award recipient, affiliate of the award recipient, or third party receives, through any kind of transaction, an economic benefit from the project, invention, or product developed, made possible, or derived, in whole or in part, as a result of the award.

(2) An award repayment or program reimbursement agreement shall specify the method to be used by the commission to determine and establish the terms of repayment and reimbursement of the award.

(3) The commission may require due diligence of the award recipient and may take any action that is necessary to bring the project, invention, or product to market.

(4) Subject to the confidentiality requirements of Section 2505 of Title 20 of the California Code of Regulations, the commission may require access to financial, sales, and production information, and to other agreements involving transactions of the award recipient, affiliates of the award recipient, and third parties, as necessary, to ascertain the royalties or other payments due the commission.

(b) A "royalty agreement" is an award repayment or program reimbursement agreement" and is subject to all of the following conditions:

(1) The royalty rate shall be determined by the commission and shall not exceed 5 percent of the gross revenue derived from the project, invention, or product.

(2) The royalty agreement shall specify the method to be used by the commission to determine and establish the terms of payment of the royalty rate.

(3) The commission shall determine the duration of the royalty agreement and may negotiate a collection schedule.

(4) The commission, for separate consideration, may negotiate and receive payments to provide for an early termination of the royalty agreement.

(c)(1) The commission may require that the intellectual property developed, made possible, or derived, in whole or in part, as a result of the award repayment or program reimbursement agreement, revert to the state upon a default in the terms of the award repayment or program reimbursement agreement or royalty agreement.

(2) The commission may require advance notice of any transaction involving intellectual property rights.

Article 3. Allocation and Use of Revenues

§ 3822. Grants to local jurisdictions

(a) Thirty percent of the revenues received and deposited in the Geothermal Resources Development Account shall be available for expenditure by the commission as grants or loans to local jurisdictions or private entities without regard to fiscal years. These revenues shall be held by the commission in the Local Government Geothermal Resources Revolving Subaccount, which is hereby created in the Geothermal Resources Development Account. Loan repayments shall be deposited in the subaccount and shall be used for making additional grants and loans pursuant to Section 3823.

(b) No local jurisdiction shall be eligible to apply for a grant or loan pursuant to this section unless its governing body approves the application by resolution.

(c) Each recipient of a grant or loan made pursuant to this section shall establish, for the deposit of the revenues, an account or fund that is separate from the other accounts and funds of the recipient, and may expend the revenues only for the purposes specified in this chapter.

(d) The commission shall make grants and loans pursuant to this section irrespective of whether a local jurisdiction is a county of origin.

(e) Any of the revenues that are not disbursed as grants or loans pursuant to this section during the fiscal year received shall be retained in the subaccount and may be disbursed as grants or loans pursuant to this section in succeeding fiscal years.

(f)(1) Any loan made under this section shall:

(A) Not exceed 80 percent of the local jurisdiction's costs,

(B) Be repaid together with interest within 20 years from receipt of the loan funds.

(2) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

(g) Any loan or grant made to a private entity under this section shall (1) be matched with at least an equal investment by the recipient, (2) provide tangible benefits, as determined by the commission, to a local jurisdiction, and (3) be approved by the city, county, or Indian reservation within which the project is to be located.

(h) The commission may require an award repayment or program reimbursement agreement of any recipient of a grant or loan made pursuant to this section.

§ 3822.1. Governor's budget; execution of funding agreements

Notwithstanding any other provision of law, commencing with the 1984-85 fiscal year and in each fiscal year thereafter, any revenues not granted pursuant to Section 3822 remaining in the Geothermal Resources Development Account and any revenues expected to be received and disbursed during the 1984-85 fiscal year and in each fiscal year thereafter shall be made a part of the Governor's Budget. Projects approved by the State Energy Resources Conservation and Development Commission under this chapter shall be submitted for review and comment to the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee when the Legislature is in session. After a 30-day period, the commission shall execute the funding agreements. The commission shall submit to the Legislature by April 1 of each year, a list of projects, in priority order, selected and approved during the previous year.

§ 3822.2. Technical assistance to local jurisdictions

(a) Notwithstanding any other provision of law, the State Energy Resources Conservation and Development Commission may expend funds, from that portion of the Geothermal Resources Development Account used by the commission for grants and loans, to provide direct technical assistance to local jurisdictions which are eligible for grants and loans pursuant to Section 3822.

(b) The total of all amounts expended pursuant to this section shall not exceed 5 percent of all funds available under Section 3822 or one hundred thousand dollars ($100,000), whichever amount is less.

(c) In making expenditures under this section, the commission shall consider, but not be limited to a consideration of, all of the following:

(1) The availability of energy resource and technology opportunities.

(2) The project definition and likelihood of success.

(3) Local needs and potential project benefits.

§ 3823. Expenditures; revenues and grants; activities

Revenues disbursed to counties of origin pursuant to Section 3821 and grants or loans made to local jurisdictions or private entities pursuant to Section 3822 shall be expended by the county or recipient for the following purposes:

(a) Undertaking research and development projects relating to geothermal resource assessment and exploration, and direct-use and electric generation technology.

(b) Local and regional planning and policy development and implementation necessary for compliance with programs required by local, state, or federal laws and regulations.

(c) Identification of feasible measures that will mitigate the adverse impacts of the development of geothermal resources and the adoption of ordinances, regulations, and guidelines to implement those measures.

(d) Collecting baseline data and conducting environmental monitoring.

(e) Preparation or revision of geothermal resource elements, or geothermal components of energy elements, for inclusion in the local general plan, zoning and other ordinances, and related planning and environmental documents.

(f) Administrative costs incurred by the local jurisdiction that are attributable to the development or production of geothermal resources.

(g) Monitoring and inspecting geothermal facilities and related activities to assure compliance with applicable laws, regulations, and ordinances.

(h) Identifying, researching, and implementing feasible measures that will mitigate the adverse impacts of that development or production.

(i) Planning, constructing, providing, operating, and maintaining those public services and facilities that are necessitated by and result from the development or production.

(j) Undertaking projects demonstrating the technical and economic feasibility of geothermal direct heat and electrical generation applications.

(k) Undertaking projects for the enhancement, restoration, or preservation of natural resources, including, but not limited to, water development, water quality improvement, fisheries enhancement, and park and recreation facilities and areas.

PUBLIC RESOURCES CODE - DIVISION 6

Part 2, Chapter 3 - Oil and Gas and Mineral Leases - Section 6801 et seq.

Part 2 of Division 6 of the Public Resources Code (section 6501 et seq.) gives the State Lands Commission the authority to lease lands owned by the state which are under the commission's jurisdiction. The leases may be for such purposes as the commission deems advisable. Chapter 3 of Part 2 (section 6801 et seq.) contains specific requirements for oil, gas and mineral leases. If the State Lands Commission exercises a right to take oil, gas or other hydrocarbons in kind pursuant to any lease, Section 6815.1 requires the commission to dispose of the oil, gas or other hydrocarbons by contract with the highest bidder. Section 6815.2 provides that the commission may exchange any oil, gas or other hydrocarbons for refined products, which must be allocated to state agencies or other public agencies if the Energy Commission finds that this is necessary to alleviate fuel shortage conditions or will result in a

substantial cost savings to the state. These refined products must be allocated to state agencies or other public agencies in accordance with regulations adopted by the Energy Commission (section 6815.2(d)).

PUBLIC RESOURCES CODE – DIVISION 12

Chapter 4 - Mobile Efficiency Brigade - Section 14420 et seq. – **Sunset January 1, 2003**

PUBLIC RESOURCES CODE - DIVISION 12.1

California Beverage Container Recycling and Litter Reduction Act - Section 14500 et seq.

This Division of the Public Resources Code sets out policies and procedures for recycling beverage containers in California. The beverage container recycling program is administered by the Department of Conservation. Section 14584 of this Act provides that:

(b) Corporations, companies, or individuals may apply for loan and grant funds from the Energy Technologies Research, Development, and Demonstration Account specified in Section 25683 by applying to the State Energy Resources Conservation and Development Commission for the purpose of demonstrating equipment for enhancing recycling opportunities.

PUBLIC RESOURCES CODE - DIVISION 16

California Alternative Energy and Advanced Transportation Financing Authority Act - Section 26000 et seq.

This Division of the Public Resources Code establishes the California Alternative Energy Source Financing Authority. The function of the Authority is to provide an alternative method of financing for alternative energy sources in the state. (Section 26002.) The Authority is comprised of 5 members: the Director of Finance, the Chairperson of the State Energy Resources Conservation and Development Commission, the President of the Public Utilities Commission, the Controller and the Treasurer. The Authority is authorized to sell bonds to raise money to finance alternative energy projects.

Legislation passed in 1994 (SB 1952; Chapter 1218, Statutes of 1994) renamed this division as the California Alternative Energy and Advanced Transportation Financing Authority Act. Now, in addition to providing an alternative method of financing for alternative energy sources, the authority is to provide alternative financing for facilities needed for the development and commercialization of advanced transportation technologies.

§ 26003. Definitions

As used in this division, unless the context otherwise requires:

(a) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(b) "Cost" as applied to a project or portion thereof financed under this division means all or any part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest therein, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of any project.

(c)(1) "Alternative sources" means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts and meeting the criteria set forth in subdivision (b) of Section 15352 of the Government Code, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(2) "Alternative sources" does not include any hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state's commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

(1) Intelligent vehicle highway systems.

(2) Advanced telecommunications for transportation.

(3) Command, control, and communications for public transit vehicles and systems.

(4) Electric vehicles and ultra-low emission vehicles.

(5) High-speed rail and magnetic levitation passenger systems.

(6) Fuel cells.

(e) "Financial assistance" includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.

(2) Any other type of assistance the authority determines is appropriate.

(f) "Participating party" means either of the following:

(1) Any person or any entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(2) Any public agency or nonprofit corporation that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(g) "Project" means any land, building, improvement thereto, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies.

(h) "Public agency" means any federal or state agency, board, or commission, or any county, city and county, city, regional agency, public district, or other political subdivision.

(i)(1) "Renewable energy" means any device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(2) For purposes of this subdivision, "conventional energy fuel" means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, "renewable energy" also means ultralow emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of any money in any fund or account of the authority.

§ 26011.5. Criteria for selection of projects to receive financing assistance; considerations

The authority, in consultation with the State Energy Resources Conservation and Development Commission, shall establish criteria for the selection of projects to receive financing assistance from the authority. In the selection of projects, the authority shall, in accordance with the legislative intent, provide financial assistance under this division in a manner consistent with sound financial practice. In developing project selection criteria, the authority shall consider, but not be limited to, all of the following:

(a) The technological feasibility of the projects.

(b) The economic soundness of the projects and a realistic expectation that all financial obligations can and will be met by the participating parties.

(c) The contribution that the projects can make to a reduction or more efficient use of fossil fuels.

(d) The contribution that the project can make toward diversifying California's energy resources by fostering renewable energy systems that can substitute, or preferably eliminate, the demand for conventional energy fuels.

(e) Any other such factors that the authority finds significant in achieving the purposes and objectives of this division.

§ 26011.6. Renewable energy program; financial assistance for specified projects

(a) The authority shall establish a renewable energy program to provide financial assistance to public power entities, independent generators, utilities, or businesses manufacturing components or systems, or both, to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies, such as solar, photovoltaic, wind, and ultralow emission equipment. The authority shall give preference to utility-scale projects that can be rapidly deployed to provide a significant contribution as a renewable energy supply.

(b) The authority shall make every effort to expedite the operation of renewable energy systems, and shall adopt regulations for purposes of this section and Sections 26011.5 and 26011.7 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding the 120-day limitation specified in subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the authority complies with Sections 11346.2 to 11347.3, inclusive, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) The authority shall consult with the State Energy Resources Conservation and Development Commission regarding the financing of projects to avoid duplication of other renewable energy projects.

(d) The authority shall ensure that any financed project shall offer its power within California on a long-term contract basis.

PUBLIC RESOURCES CODE - DIVISION 16.5

Energy and Resources Fund - Section 26400 et seq.

This Division creates within the State Treasury, the Energy and Resources Fund which is divided into two accounts: the Energy Account and the Resources Account. The fund is intended to be used for short-term projects and not for any ongoing programs. Funding priority is to be given to energy projects which best fulfill the following criteria: 1) the potential for reducing the use of oil and natural gas to produce energy, 2) the greatest potential for transferability and widespread use by 1990, and 3) the highest degree of feasibility. Appropriations from the Fund and the selection of projects for funding are to be done by the Legislature through the annual Budget Bill. Section 26403 lists 19 categories of programs and projects to which funding is limited.

PUBLIC RESOURCES CODE – DIVISION 20

California Coastal Act – Section 30000 et seq.

The policies of the Coastal Act deal with public access to the coast, coastal recreation, the marine environment, coastal land resources, and coastal development of various types, including energy facilities, ports, and other industrial development.

The Coastal Commission was established by voter initiative in 1972 (Proposition 20) and made permanent by the Legislature in 1976. The mission of the Commission, as the lead agency responsible for carrying out California's coastal management program, is to plan for

and egulate development in the coastal zone consistent with the policies of the California Coastal Act.

Development within the coastal zone may not commence until a coastal development permit has been issued by either the Commission or a local government that has a Commission-certified local coastal program. Section 30600(a) provides a specific exemption for facilities licensed under the Warren-Alquist Act.

PUBLIC RESOURCES CODE – DIVISION 34

Part 3 - Environmental Justice - Section 71110 et seq.

§ 71110. Duties of California Environmental Protection Agency

The California Environmental Protection Agency, in designing its mission for programs, policies, and standards, shall do all of the following:

(a) Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(b) Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations in the state.

(c) Ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies.

(d) Improve research and data collection for programs within the agency relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(e) Coordinate its efforts and share information with the United States Environmental Protection Agency.

(f) Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency.

(g) Consult with and review any information received from the Working Group on Environmental Justice established to assist the California Environmental Protection Agency in developing an agencywide strategy pursuant to Section 71113 that meets the requirements of this section.

§ 71111. Model environmental justice mission statement

On or before January 1, 2001, the California Environmental Protection Agency shall develop a model environmental justice mission statement for boards, departments, and

offices within the agency. For purposes of this section, environmental justice has the same meaning as defined in subdivision (e) of Section 65040.12 of the Government Code.

§ 71112. Consultant, review, and evaluation of information from the Working Group on Environmental Justice

In developing the model environmental justice mission statement pursuant to Section 71111, the California Environmental Protection Agency shall consult with, review, and evaluate any information received from the Working Group on Environmental Justice established pursuant to Section 71113.

§ 71113. Working group on environmental justice; working group members; duties

(a) On or before January 1, 2002, the Secretary for Environmental Protection shall convene a Working Group on Environmental Justice to assist the California Environmental Protection Agency in developing, on or before July 1, 2002, an agencywide strategy for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

(b) The working group shall be composed of the Secretary for Environmental Protection, the Chairs of the State Air Resources Board, the California Integrated Waste Management Board, and the State Water Resources Control Board, the Director of Toxic Substances Control, the Director of Pesticide Regulation, the Director of Environmental Health Hazard Assessment, and the Director of Planning and Research.

(c) The working group shall do all of the following on or before April 1, 2002:

(1) Examine existing data and studies on environmental justice, and consult with state, federal, and local agencies and affected communities.

(2) Recommend criteria to the Secretary for Environmental Protection for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

(3) Recommend procedures and provide guidance to the California Environmental Protection Agency for the coordination and implementation of intraagency environmental justice strategies.

(4) Recommend procedures for collecting, maintaining, analyzing, and coordinating information relating to an environmental justice strategy.

(5) Recommend procedures to ensure that public documents, notices, and public hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. The recommendation shall include guidance for determining when it is appropriate for the California Environmental Protection Agency to translate crucial public documents, notices, and hearings relating to human health or the environment for limited-English-speaking populations.

(6) Hold public meetings to receive and respond to public comments regarding recommendations required pursuant to this section, prior to the finalization of the

recommendations. The California Environmental Protection Agency shall provide public notice of the availability of draft recommendations at least one month prior to the public meetings.

(7) Make recommendations on other matters needed to assist the agency in developing an intraagency environmental justice strategy.

§ 71114. Advisory group to assist working group; appointments; composition

(a) The Secretary for Environmental Protection shall, on or before January 1, 2002, convene an advisory group to assist the working group described in Section 71113 by providing recommendations and information to, and serving as a resource for, the working group. The Secretary for Environmental Protection shall appoint members to the advisory group according to the following categories:

(1) Two representatives of local or regional land use planning agencies.

(2) Two representatives from air pollution control districts or air quality management districts.

(3) Two representatives from certified unified program agencies (CUPAs).

(4) Two representatives from environmental organizations.

(5) Four representatives from the business community, two from a small business and two from a large business, except that three of these representatives may be from an association that represents small or large businesses, and at least one of the small business representatives shall be from an association that represents small businesses. As used in this paragraph, "small business" has the meaning given that term by subdivision (c) of Section 1028.5 of the Code of Civil Procedure, and a large business is any business other than a small business.

(6) Two representatives from community organizations.

(7) One representative from a federally recognized Indian tribe.

(8) Two representatives from environmental justice organizations.

(b) The advisory group may form subcommittees to address specific types of environmental program areas. The California Environmental Protection Agency shall provide a reasonable per diem for attendance at advisory committee meetings by advisory committee members from nonprofit organizations.

§ 71114.1. Review of programs, policies and activities to identify impediments to the achievement of environmental justice

After the California Environmental Protection Agency develops the strategy pursuant to Section 71113 and before December 31, 2003, each board, department, and office within the agency shall, in coordination with the Secretary for Environmental Protection and the Director of the Office of Planning and Research, review its programs, policies, and activities and identify and address any gaps in its existing programs, policies, or activities that may impede the achievement of environmental justice.

§ 71115. Report prepared and submitted by secretary

The Secretary for Environmental Protection shall, not later than January 1, 2004, and every three years thereafter, prepare and submit to the Governor and the Legislature a report on the implementation of this part.

§ 71116. Environmental Justice Small Grant Program

(a) The Environmental Justice Small Grant Program is hereby established under the jurisdiction of the California Environmental Protection Agency. The California Environmental Protection Agency shall adopt regulations for the implementation of this section. These regulations shall include, but need not be limited to, all of the following:

(1) Specific criteria and procedures for the implementation of the program.

(2) A requirement that each grant recipient submit a written report to the agency documenting its expenditures of the grant funds and the results of the funded project.

(3) Provisions promoting the equitable distribution of grant funds in a variety of areas throughout the state, with the goal of making grants available to organizations that will attempt to address environmental justice issues.

(b) The purpose of the program is to provide grants to eligible community groups, including, but not limited to, community-based, grassroots nonprofit organizations that are located in areas adversely affected by environmental pollution and hazards and that are involved in work to address environmental justice issues.

(c)(1) Both of the following are eligible to receive moneys from the fund.

(A) A nonprofit entity.

(B) A federally recognized tribal government.

(2) For the purposes of this section, "nonprofit entity" means any corporation, trust, association, cooperative, or other organization that meets all of the following criteria:

(A) Is operated primarily for scientific, educational, service, charitable, or other similar purposes in the public interest.

(B) Is not organized primarily for profit.

(C) Uses its net proceeds to maintain, improve, or expand, or any combination thereof, its operations.

(D) Is a tax-exempt organization under Section 501 (c)(3) of the federal Internal Revenue Code, or is able to provide evidence to the agency that the state recognizes the organization as a nonprofit entity.

(3) For the purposes of this section, "nonprofit entity" specifically excludes an organization that is a tax-exempt organization under Section 501 (c)(4) of the federal Internal Revenue Code.

(d) Individuals may not receive grant moneys from the fund.

(e) Grant recipients shall use the grant award to fund only the project described in the recipient's application. Recipients shall not use the grant funding to shift moneys from existing or proposed projects to activities for which grant funding is prohibited under subdivision (g).

(f) Grants shall be awarded on a competitive basis for projects that are based in communities with the most significant exposure to pollution. Grants shall be limited to any of the following purposes and no other:

(1) Resolve environmental problems through distribution of information.

(2) Identify improvements in communication and coordination among agencies and stakeholders in order to address the most significant exposure to pollution.

(3) Expand the understanding of a community about the environmental issues that affect their community.

(4) Develop guidance on the relative significance of various environmental risks.

(5) Promote community involvement in the decisionmaking process that affects the environment of the community.

(6) Present environmental data for the purposes of enhancing community understanding of environmental information systems and environmental information.

(g)(1) The agency shall not award grants for, and grant funding shall not be used for, any of the following:

(A) Other state grant programs.

(B) Lobbying or advocacy activities relating to any federal, state, regional, or local legislative, quasi-legislative, adjudicatory, or quasi-judicial proceeding involving development or adoption of statutes, guidelines, rules, regulations, plans or any other governmental proposal, or involving decisions concerning siting, permitting, licensing, or any other governmental action.

(C) Litigation, administrative challenges, enforcement action, or any type of adjudicatory proceeding.

(D) Funding of a lawsuit against any governmental entity.

(E) Funding of a lawsuit against a business or a project owned by a business.

(F) Matching state or federal funding.

(G) Performance of any technical assessment for purposes of opposing or contradicting a technical assessment prepared by a public agency.

(2) An organization's use of funds from a grant awarded under this section to educate a community regarding an environmental justice issue or a governmental process does not preclude that organization from subsequent lobbying or advocacy concerning that same issue or governmental process, as long as the lobbying or advocacy is not funded by a grant awarded under this section.

(h) The agency shall review, evaluate, and select grant recipients, and screen grant applications to ensure that they meet the requirements of this section.

(i) The maximum amount of a grant provided pursuant to this section may not exceed twenty thousand dollars ($20,000).

(j) For the purposes of this section, "environmental justice" has the same meaning as defined in Section 65040.12 of the Government Code.

(k) This section shall be implemented only during fiscal years for which an appropriation is provided for the purposes of this section in the annual Budget Act or in another statute.

PUBLIC UTILITIES CODE - DIVISION 1

Part 1, Chapter 2.3 - Electrical Restructuring -Section 330 et seq.

AB 1890 (Ch. 854, Stats. 1996) added Chapter 2.3 (section 330 et seq.) to Division 1 of the Public Utilities Code. This legislation provides a foundation for transforming the regulatory framework of California's electric industry to restructure the industry into a competitive market. Portions of AB 1890 assign responsibilities to the Energy Commission. Section 374, dealing with load allocations for irrigation districts, and sections 381 through 383 relating to research, environmental and low-income funds are set out below.

SB 90 (Ch. 905, Stats. 1997) added sections 383.5 and 384 relating to the funding of the Public Interest Research, Development and Demonstration Program to Chapter 2.3 of the Public Utilities Code.

SB 1305 (Ch. 796, Stats. 1997) added Article 14 (sections 398.1 et seq.) to Chapter 2.3 of the Public Utilities Code. This article establishes a program for the disclosure of information on the sources of energy that are used to provide electric services.

Article 1. General Provisions and Definitions

§ 330. Legislative findings and declarations

In order to provide guidance in carrying out this chapter, the Legislature finds and declares all of the following:

(a) It is the intent of the Legislature that a cumulative rate reduction of at least 20 percent be achieved not later than April 1, 2002, for residential and small commercial customers, from the rates in effect on June 10, 1996. In determining that the April 1, 2002, rate reduction has been met, the commission shall exclude the costs of the competitively procured electricity and the costs associated with the rate reduction bonds, as defined in Section 840.

(b) The people, businesses, and institutions of California spend nearly twenty-three billion dollars ($23,000,000,000) annually on electricity, so that reductions in the price of electricity would significantly benefit the economy of the state and its residents.

(c) The Public Utilities Commission has opened rulemaking and investigation proceedings with regard to restructuring California's electric power industry and reforming utility regulation.

(d) The commission has found, after an extensive public review process, that the interests of ratepayers and the state as a whole will be best served by moving from the regulatory framework existing on January 1, 1997, in which retail electricity service is provided principally by electrical corporations subject to an obligation to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates, to a framework under which competition would be allowed in the supply of electric power and customers would be allowed to have the right to choose their supplier of electric power.

(e) Competition in the electric generation market will encourage innovation, efficiency, and better service from all market participants, and will permit the reduction of costly regulatory oversight.

(f) The delivery of electricity over transmission and distribution systems is currently regulated, and will continue to be regulated to ensure system safety, reliability, environmental protection, and fair access for all market participants.

(g) Reliable electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy. It is the intent of the Legislature that electric industry restructuring should enhance the reliability of the interconnected regional transmission systems, and provide strong coordination and enforceable protocols for all users of the power grid.

(h) It is important that sufficient supplies of electric generation will be available to maintain the reliable service to the citizens and businesses of the state.

(i) Reliable electric service depends on conscientious inspection and maintenance of transmission and distribution systems. To continue and enhance the reliability of the delivery of electricity, the Independent System Operator and the commission, respectively, should set inspection, maintenance, repair, and replacement standards.

(j) It is the intent of the Legislature that California enter into a compact with western region states. That compact should require the publicly and investor-owned utilities located in those states, that sell energy to California retail customers, to adhere to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems.

(k) In order to achieve meaningful wholesale and retail competition in the electric generation market, it is essential to do all of the following:

(1) Separate monopoly utility transmission functions from competitive generation functions, through development of independent, third-party control of transmission access and pricing.

(2) Permit all customers to choose from among competing suppliers of electric power.

(3) Provide customers and suppliers with open, nondiscriminatory, and comparable access to transmission and distribution services.

(l) The commission has properly concluded that:

(1) This competition will best be introduced by the creation of an Independent System Operator and an Independent Power Exchange.

(2) Generation of electricity should be open to competition and utility generation should be transitioned from regulated status to unregulated status through means of commission-approved market valuation mechanisms.

(3) There is a need to ensure that no participant in these new market institutions has the ability to exercise significant market power so that operation of the new market institutions would be distorted.

(4) These new market institution should commence simultaneously with the phase-in of customer choice, and the public will be best served if these institutions and the nonbypassable transition cost recovery mechanism referred to in subdivisions (s) to (w), inclusive, are in place simultaneously and no later than January 1, 1998.

(m) It is the intention of the Legislature that California's publicly owned electric utilities and investor-owned electric utilities should commit control of their transmission facilities to the Independent System Operator. These utilities should jointly advocate to the Federal Energy Regulatory Commission a pricing methodology for the Independent System Operator that results in an equitable return on capital investment in transmission facilities for all Independent System Operator participants.

(n) Opportunities to acquire electric power in the competitive market must be available to California consumers as soon as practicable, but no later than January 1, 1998, so that all customers can share in the benefits of competition.

(o) Under the existing regulatory framework, California's electrical corporations were granted franchise rights to provide electricity to consumers in their service territories.

(p) Consistent with federal and state policies, California electrical corporations invested in power plants and entered into contractual obligations in order to provide reliable electrical service on a nondiscriminatory basis to all consumers within their service territories who requested service.

(q) The cost of these investments and contractual obligations are currently being recovered in electricity rates charged by electrical corporations to their consumers.

(r) Transmission and distribution of electric power remain essential services imbued with the public interest that are provided over facilities owned and maintained by the state's electrical corporations.

(s) It is proper to allow electrical corporations an opportunity to continue to recover, over a reasonable transition period, those costs and categories of costs for generation-related assets and obligations, including costs associated with any subsequent renegotiation or buyout of existing generation-related contracts, that the commission, prior to December 20, 1995, had authorized for collection in rates and that may not be recoverable in market prices in a competitive generation market, and appropriate additions incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that the costs are necessary to maintain those facilities through December 31, 2001. In determining the costs to be recovered, it is appropriate to net the negative value of above market assets against the positive value of below market assets.

(t) The transition to a competitive generation market should be orderly, protect electric system reliability, provide the investors in these electrical corporations with a fair opportunity to fully recover the costs associated with commission approved generation-related assets and obligations, and be completed as expeditiously as possible.

(u) The transition to expanded customer choice, competitive markets, and performance based ratemaking as described in Decision 95-12-063, as modified by Decision 96-01-009, of the Public Utilities Commission, can produce hardships for employees who have dedicated their working lives to utility employment. It is preferable that any necessary reductions in the utility work force directly caused by electrical restructuring, be accomplished through offers of voluntary severance, retraining, early retirement, outplacement, and related benefits. Whether work force reductions are voluntary or involuntary, reasonable costs associated with these sorts of benefits should be included in the competition transition charge.

(v) Charges associated with the transition should be collected over a specific period of time on a nonbypassable basis and in a manner that does not result in an increase in rates to customers of electrical corporations. In order to insulate the policy of nonbypassability against incursions, if exemptions from the competition transition charge are granted, a fire wall shall be created that segregates recovery of the cost of exemptions as follows:

(1) The cost of the competition transition charge exemptions granted to members of the combined class of residential and small commercial customers shall be recovered only from those customers.

(2) The cost of the competition transition charge exemptions granted to members of the combined class of customers other than residential and small commercial customers shall be recovered only from those customers. The commission shall retain existing cost allocation authority provided that the fire wall and rate freeze principles are not violated.

(w) It is the intent of the Legislature to require and enable electrical corporations to monetize a portion of the competition transition charge for residential and small commercial consumers so that these customers will receive rate reductions of no less than 10 percent for 1998 continuing through 2002. Electrical corporations shall, by June 1, 1997, or earlier, secure the means to finance the competition transition charge by applying concurrently for financing orders from the Public Utilities Commission and for rate reduction bonds from the California Infrastructure and Economic Development Bank.

(x) California's public utility electrical corporations provide substantial benefits to all Californians, including employment and support of the state's economy. Restructuring the electric services industry pursuant to the act that added this chapter will continue these benefits, and will also offer meaningful and immediate rate reductions for residential and small commercial customers, and facilitate competition in the supply of electric power.

§ 331. Definitions

The definitions set forth in this section shall govern the construction of this chapter.

(a) "Aggregator" means any marketer, broker, public agency, city, county, or special district, that combines the loads of multiple end-use customers in facilitating the sale and purchase of electric energy, transmission, and other services on behalf of these customers.

(b) "Broker" means an entity that arranges the sale and purchase of electric energy, transmission, and other services between buyers and sellers, but does not take title to any of the power sold.

(c) "Direct transaction" means a contract between any one or more electric generators, marketers, or brokers of electric power and one or more retail customers providing for the purchase and sale of electric power or any ancillary services.

(d) "Fire wall" means the line of demarcation separating residential and small commercial customers from all other customers as described in subdivision (e) of Section 367.

(e) "Marketer" means any entity that buys electric energy, transmission, and other services from traditional utilities and other suppliers, and then resells those services at wholesale or to an end-use customer.

(f) "Microcogeneration facility" means a cogeneration facility of less than one megawatt.

(g) "Restructuring trusts" means the two tax-exempt public benefit trusts established by Decision D.96-08-038 of the Public Utilities Commission to provide for design and development of the hardware and software systems for the Power Exchange and the

Independent System Operator, respectively, and that may undertake other activities, as needed, as ordered by the commission.

(h) “Small commercial customer” means a customer that has a maximum peak demand of less than 20 kilowatts.

§ 331.1. “Community choice aggregator” defined

For purposes of this chapter, "community choice aggregator" means any of the following entities, if that entity is not within the jurisdiction of a local publicly owned electric utility that provided electrical service as of January 1, 2003:

(a) Any city, county, or city and county whose governing board elects to combine the loads of its residents, businesses, and municipal facilities in a communitywide electricity buyers' program.

(b) Any group of cities, counties, or cities and counties whose governing boards have elected to combine the loads of their programs, through the formation of a joint powers agency established under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

§ 332.1. Interim rate caps for San Diego Gas and Electric Company; comparable energy components and frozen rates

(a)(1) It is the intent of the Legislature to enact Item 1 (revised) on the commission's August 21, 2000 agenda, entitled "Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas and Electric Company," as modified below.

(2) It is also the intent of the Legislature that to the extent that the Federal Energy Regulatory Commission orders refunds to electrical corporations pursuant to their findings, the commission shall ensure that any refunds are returned to customers.

(b) The commission shall establish a ceiling of six and five-tenth cents ($.065) per kilowatt hour on the energy component of electric bills for residential, small commercial, and street lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

(c) The commission shall establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the ceiling provided for in subdivision (b). The accounting procedure shall utilize revenues associated with sales of energy from utility-owned or managed generation assets to offset an undercollection, if undercollection occurs. The accounting procedure shall be reviewed periodically by the commission, but not less frequently than semiannually. The commission may utilize an existing proceeding to perform the review. The accounting procedure and review shall provide a reasonable opportunity for San Diego Gas and Electric Company to recover its reasonable and prudent costs of service over a reasonable period of time.

(d) If the commission determines that it is in the public interest to do so, the commission, after the date of the completion of the proceeding described in subdivision (g), may adjust the ceiling from the level specified in subdivision (b), consistent with the Legislature's intent to provide substantial protections for customers of the San Diego Gas and Electric Company and their interest in just and reasonable rates and adequate service.

(e) For purposes of this section, "small commercial customer" includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule A of the San Diego Gas and Electric Company, all accounts of customers who are "general acute care hospitals," as defined in Section 1250 of the Health and Safety Code, all San Diego Gas and Electric Company accounts of customers who are public or private schools for pupils in kindergarten or any of grades 1 to 12, inclusive, and all accounts on Rate Schedule AL-TOU under 100 kilowatts.

(f) The commission shall establish a program for large commercial, agricultural, and industrial customers who buy energy from the San Diego Gas and Electric Company, on a voluntary basis, at the election of the customer, to set the energy component of their bills at six and five-tenths cents ($.065) per kilowatt hour with a true-up after a year.

(g) The commission shall institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric Company in the procurement of wholesale energy on behalf of its customers, for a period beginning at the latest on June 1, 2000. If the commission finds that San Diego Gas and Electric Company acted imprudently or unreasonably, the commission shall issue orders that it determines to be appropriate affecting the retail rates of San Diego Gas and Electric Company customers including, but not limited to, refunds.

Article 2. Oversight Board

§ 334. Legislative findings and declarations

The Legislature finds and declares that in order to ensure the success of electric industry restructuring, in the transition to a new market structure it is important to ensure a reliable supply of electricity. Reliable electric service is of paramount importance to the safety, health, and comfort of the people of California. Transmission connections between electric utilities allow them to share generation resources and reduce the number of powerplants necessary to maintain a reliable system. The connections between utilities also created exposure to events that can cause widespread and extended transmission and service outages that reach far beyond the originating utility service area. California utilities and those in the western United States voluntarily adhere to reliability standards developed by the Western Systems Coordinating Council. The economic cost of extended electricity outages, such as those that occurred in California and throughout the Western Systems Coordinating Council on July 2, 1996, and August 10, 1996, to California's residential, commercial, agricultural, and industrial customers is significant. The proposed restructuring of the electricity industry would transfer responsibility for ensuring short- and long-term reliability away from electric utilities and regulatory bodies to the Independent System Operator and various market-based mechanisms. The Legislature has an interest in ensuring that the change in the locus of responsibility for reliability does not expose California citizens to undue economic risk in connection with system reliability.

§ 335. Formation of board; functions

In order to ensure that the interests of the people of California are served, a five-member Electricity Oversight Board is hereby created as provided in Section 336. For purposes of this chapter, any reference to the Oversight Board shall mean the Electricity Oversight Board. Its functions shall be all of the following:

(a) To oversee the Independent System Operator and the Power Exchange.

(b) To determine the composition and terms of service and to exercise the exclusive right to decline to confirm the appointments of specific members of the governing board of the Power Exchange.

(c) To serve as an appeal board for majority decisions of the Independent System Operator governing board, as they relate to matters subject to exclusive state jurisdiction, as specified in Section 339.

(d) Those members of the Power Exchange governing board whose appointments the Oversight Board has the exclusive right to decline to confirm include proposed governing board members representing agricultural end users, industrial end users, commercial end users, residential end users, end users at large, nonmarket participants, and public interest groups.

(e) To investigate any matter related to the wholesale market for electricity to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the availability of electric transmission and generation and related costs, during periods of peak demand.

§ 336. Composition of board; terms

(a) The five-member Oversight Board shall be comprised as follows:

(1) Three members, who are California residents and electricity ratepayers, appointed by the Governor from a list jointly provided by the California Energy Resources Conservation and Development Commission and the Public Utilities Commission, and subject to confirmation by the Senate.

(2) One member of the Assembly appointed by the Speaker of the Assembly.

(3) One member of the Senate appointed by the Senate Committee on Rules.

(b) Legislative members shall be nonvoting members, however, they are otherwise full members of the board with all rights and privileges pertaining thereto.

(c) Oversight Board members shall serve three-year terms with no limit on reappointment. For purposes of the initial appointments set forth in paragraph (1), the Governor

shall appoint one member to a one-year term, one to a two-year term, and one to a three-year term.

(d) The Governor shall designate one of the voting members as the chairperson of the Oversight Board who shall preside over meetings and direct the executive director in the routine administration of the Oversight Board's business. The chairperson may designate one of the other voting members to preside over meetings in the absence of the chairperson.

(e) Two voting members shall constitute a quorum. Any decision or action of the Oversight Board shall be by majority vote of the voting members.

(f) The members of the Oversight Board shall serve without compensation, but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

§ 337. Independent system operator governing board; composition

(a) The Independent System Operator governing board shall be composed of a five-member independent governing board of directors appointed by the Governor and subject to confirmation by the Senate. Any reference in this chapter or in any other provision of law to the Independent System Operator governing board means the independent governing board appointed under this subdivision.

(b) A member of the independent governing board appointed under subdivision (a) may not be affiliated with any actual or potential participant in any market administered by the Independent System Operator.

(c)(1) All appointments shall be for three-year terms.

(2) There is no limit on the number of terms that may be served by any member.

(d) The Oversight Board shall require the articles of incorporation and bylaws of the Independent System Operator to be revised in accordance with this section, and shall make filings with the Federal Energy Regulatory Commission as the Oversight Board determines to be necessary.

(e) For the purposes of the initial appointments to the Independent System Operator governing board, as provided in subdivision (a), the Governor shall appoint one member to a one-year term, two members to a two-year term, and two members to a three-year term.

§ 338. Power exchange governing board; composition

The Oversight Board shall have the exclusive right to approve procedures and the qualifications for Power Exchange governing board members specified in subdivision (d) of Section 335, all of whom shall be required to be electricity customers in the area served by the Power Exchange. The Power Exchange governing board shall include, but not be limited to, representatives of investor-owned electric distribution companies, publicly owned electric distribution companies, nonutility generators, public buyers and sellers, private buyers and sellers, industrial end-users, commercial end-users, residential end-users, agricultural end-

users, public interest groups, and nonmarket participant representatives. The structural composition of the Power Exchange governing board existing on July 1, 1999, shall remain in effect until an agreement with a participating state is legally in effect. However, prior to such an agreement, California shall retain the right to change the Power Exchange governing board into a nonstakeholder board. In the event of such a legislative change, revised bylaws shall be filed with the Federal Energy Regulatory Commission under Section 205 of the Federal Power Act (16 U.S.C.A. Sec. 824d).

§ 339. Appeal board for governing board; jurisdiction

(a) The Oversight Board is the appeal board for majority decisions of the Independent System Operator governing board relating to matters that are identified in subdivision (b) as they pertain to the Independent System Operator.

(b) The following matters are subject to California's exclusive jurisdiction:

(1) Selections by California of governing board members, as described in Sections 335, 337, and 338.

(2) Matters pertaining to retail electric service or retail sales of electric energy.

(3) Ensuring that the purposes and functions of the Independent System Operator and Power Exchange are consistent with the purposes and functions of California nonprofit public benefit corporations, including duties of care and conflict of interest standards for directors of the corporations.

(4) State functions assigned to the Independent System Operator and Power Exchange under state law.

(5) Open meeting standards and meeting notice requirements.

(6) Appointment of advisory representatives representing state interests.

(7) Public access to corporate records.

(8) The amendment of bylaws relevant to these matters.

(c) Only members of the Independent System Operator governing board may appeal a majority decision of the Independent System Operator related to any of the matters specified in subdivision (b) to the Oversight Board.

§ 340. Incorporation of independent system operator and power exchange as separate public benefit, nonprofit corporations; authorization

The Oversight Board shall take the steps that are necessary to ensure the earliest possible incorporation of the Independent System Operator and the Power Exchange as separately incorporated public benefit, nonprofit corporations under the Corporations Code.

§ 341. Powers of board

The Oversight Board may do all of the following:

(a) Meet at the times and places it may deem proper.

(b) Accept appropriations, grants, or contributions from any public source, private foundation, or individual.

(c) Sue and be sued.

(d) Contract with state, local, or federal agencies for services or work required by the Oversight Board.

(e) Contract for or employ any services or work required by the Oversight Board that in its opinion cannot satisfactorily be performed by its staff or by other state agencies.

(f) Appoint advisory committees from members of other public agencies and private groups or individuals.

(g) As a body, or on the authorization of the Oversight Board, as a subcommittee composed of one or more members, hold hearings at the times and places it may deem proper.

(h) Issue subpoenas to compel the production of books, records, papers, accounts, reports, and documents and the attendance of witnesses.

(i) Administer oaths.

(j) Adopt or amend rules and regulations to carry out the purposes and provisions of this chapter, and to govern the procedures of the Oversight Board.

(k) Exercise any authority consistent with this chapter delegated to it by a federal agency or authorized to it by federal law.

(l) Make recommendations to the Governor and the Legislature at the time or times the Oversight Board deems necessary.

(m) Participate in proceedings relevant to the purposes of this chapter or to the purposes of Division 4.9 (commencing with Section 9600) or, as part of any coordinated effort by the state, participate in activities to promote the formation of interstate agreements to enhance the reliability and function of the electricity system and the electricity market.

(n) Do any and all other things necessary to carry out the purposes of this chapter.

§ 341.1. Regulations

Regulations adopted within 120 days of the effective date of this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section

11340) of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

§ 341.2. Board meetings; open and closed sessions

The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) applies to meetings of the Oversight Board. In addition to the allowances of that act, the Oversight Board may hold a closed session to consider the appointment of one or more candidates to the governing board of the Power Exchange, deliberate on matters involving the removal of a member of the governing board of the Power Exchange, or to consider a matter based on information that has received a grant of confidential status pursuant to regulations of the Oversight Board, provided that any action taken on such a matter shall be taken by vote in an open session.

§ 341.3. Voting members of board; filing of financial disclosure statements

Voting members of the Oversight Board shall be required to file financial disclosure statements with the Fair Political Practices Commission. The appointing authority for voting members shall avoid appointing persons with conflicts of interest.

§ 341.4. Executive director of board; compensation

The Oversight Board shall appoint, and fix the salary of, an executive director who shall have charge of administering the affairs of the Oversight Board, including entering into contracts, subject to the direction and policies of the Oversight Board. Notwithstanding Sections 11042 and 11043 of the Government Code, the Oversight Board shall appoint an attorney who shall advise the Oversight Board and each member and represent the Oversight Board as a party in any state or federal action or proceeding related to the purposes of this chapter or to an action of the Oversight Board and who shall perform generally all the duties of attorney to the Oversight Board. For purposes of this section, the Oversight Board may appoint a person exempt pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution. The executive director shall, in accordance with Article VII of the California Constitution and subject to the approval of the Oversight Board, appoint employees as may be necessary to carry out the Oversight Board's duties and responsibilities.

§ 341.5. Bylaws; requirements; effective date of bylaw changes

(a) The Independent System Operator and Power Exchange bylaws shall contain provisions that identify those matters specified in subdivision (b) of Section 339 as matters within state jurisdiction. The bylaws shall also contain provisions which state that California's bylaws approval function with respect to the matters specified in subdivision (b) of Section 339 shall not preclude the Federal Energy Regulatory Commission from taking any action necessary to address undue discrimination or other violations of the Federal Power Act (16 U.S.C.A. Sec. 791a et seq.) or to exercise any other commission responsibility under the Federal Power Act. In taking any such action, the Federal Energy Regulatory Commission shall give due respect to California's jurisdictional interests in the functions of the Independent System Operator and Power Exchange and to attempt to accommodate state interests to the extent those interests are not inconsistent with the Federal Energy Regulatory Commission's

statutory responsibilities. The bylaws shall state that any future agreement regarding the apportionment of the Independent System Operator and Power Exchange board appointment function among participating states associated with the expansion of the Independent System Operator and Power Exchange into multistate entities shall be filed with the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act (16 U.S.C.A. Sec. 824d).

(b) Any necessary bylaw changes to implement the provisions of Section 335, 337, 338, 339, or subdivision (a) of this section, or changes required pursuant to an agreement as contemplated by subdivision (a) of this section with a participating state for a regional organization, shall be effective upon approval of the respective governing boards and the Oversight Board and acceptance for filing by the Federal Energy Regulatory Commission.

Article 3. Independent System Operator

§ 345. Purpose of independent system operator

The Independent System Operator shall ensure efficient use and reliable operation of the transmission grid consistent with achievement of planning and operating reserve criteria no less stringent than those established by the Western Systems Coordinating Council and the North American Electric Reliability Council.

§ 345.5. Independent System Operator; conduct of operations consistent with state and federal laws and interests of people of state; management of transmission grid; other requirements of Independent System Operator

(a) The Independent System Operator, as a nonprofit, public benefit corporation, shall conduct its operations consistent with applicable state and federal laws and consistent with the interests of the people of the state.

(b) To ensure the reliability of electric service and the health and safety of the public, the Independent System Operator shall manage the transmission grid and related energy markets in a manner that is consistent with all of the following:

(1) Making the most efficient use of available energy resources. For purposes of this section, "available energy resources" include energy, capacity, ancillary services, and demand bid into markets administered by the Independent System Operator. "Available energy resources" do not include a schedule submitted to the Independent System Operator by an electrical corporation or a local publicly owned electric utility to meet its own customer load.

(2) Reducing, to the extent possible, overall economic cost to the state's consumers.

(3) Applicable state law intended to protect the public's health and the environment.

(4) Maximizing availability of existing electric generation resources necessary to meet the needs of the state's electricity consumers.

(c) The Independent System Operator shall do all of the following:

(1) Consult and coordinate with appropriate state and local agencies to ensure that the Independent System Operator operates in furtherance of state law regarding consumer and environmental protection.

(2) Ensure that the purposes and functions of the Independent System Operator are consistent with the purposes and functions of nonprofit, public benefit corporations in the state, including duties of care and conflict-of-interest standards for officers and directors of a corporation.

(3) Maintain open meeting standards and meeting notice requirements consistent with the general policies of the Bagley-Keene Open Meetings Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of the Government Code) and affording the public the greatest possible access, consistent with other duties of the corporation. The Independent System Operator's Open Meeting Policy, as adopted on April 23, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the Bagley-Keene Open Meetings Act than its policy in effect as of May 1, 2002.

(4) Provide public access to corporate records consistent with the general policies of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and affording the public the greatest possible access, consistent with the other duties of the corporation. The Independent System Operator's Information Availability Policy, as adopted on October 22, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the California Public Records Act than its policy in effect as of May 1, 2002.

§ 346. Federal energy regulatory commission proceedings; participation

The Independent System Operator shall immediately participate in all relevant Federal Energy Regulatory Commission proceedings. The Independent System Operator shall ensure that additional filings at the Federal Energy Regulatory Commission request confirmation of the relevant provisions of this chapter and seek the authority needed to give the Independent System Operator the ability to secure generating and transmission resources necessary to guarantee achievement of planning and operating reserve criteria no less stringent than those established by the Western Systems Coordinating Council and the North American Electric Reliability Council.

§ 347. Technical advisory committees; formation; composition

The Independent System Operator governing board may form appropriate technical advisory committees composed of market and nonmarket participants to advise the Independent System Operator governing board on issues including, but not limited to, rules and protocols and operating procedures.

§ 348. Standards for transmission facilities

The Independent System Operator shall adopt inspection, maintenance, repair, and replacement standards for the transmission facilities under its control no later than September 30, 1997. The standards, which shall be performance or prescriptive standards, or both, as appropriate, for each substantial type of transmission equipment or facility, shall provide for high quality, safe, and reliable service. In adopting its standards, the Independent System Operator shall consider: cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The Independent System Operator shall also adopt standards for reliability, and safety during periods of emergency and disaster. The Independent System Operator shall report to the Oversight Board, at such times as the Oversight Board may specify, on the development and implementation of the standards in relation to facilities under the operational control of the Independent System Operator. The Independent System Operator shall require each transmission facility owner or operator to report annually on its compliance with the standards. That report shall be made available to the public.

§ 349. Review of major outages; penalties; authorization

The Independent System Operator shall perform a review following a major outage that effects at least 10 percent of the customers of the entity providing the local distribution service. The review shall address the cause of the major outage, the response time and effectiveness, and whether the transmission facility owner or operator's operation and maintenance practices enhanced or undermined the ability to restore service efficiently and in a timely manner. If the Independent System Operator finds that the operation and maintenance practices of the transmission facility owner or operator prolonged the response time or was responsible for the outage, the Independent System Operator may order appropriate sanctions, subject to the Federal Energy Regulatory Commission approving that authority.

§ 350. Report to legislature

The Independent System Operator, in consultation with the California Energy Resources Conservation and Development Commission, the Public Utilities Commission, the Western Systems Coordinating Council, and concerned regulatory agencies in other western states, shall within six months after the Federal Energy Regulatory Commission approval of the Independent System Operator, provide a report to the Legislature and to the Oversight Board that does the following:

(a) Conducts an independent review and assessment of Western Systems Coordinating Council operating reliability criteria.

(b) Quantifies the economic cost of major transmission outages relating to the Pacific Intertie, Southwest Power Link, DC link, and other important high voltage lines that carry power both into and from California.

(c) Identifies the range of cost-effective options that would prevent or mitigate the consequences of major transmission outages.

(d) Identifies communication protocols that may be needed to be established to provide advance warning of incipient problems.

(e) Identifies the need for additional generation reserves and other voltage support equipment, if any, or other resources that may be necessary to carry out its functions.

(f) Identifies transmission capacity additions that may be necessary at certain times of the year or under certain conditions.

(g) Assesses the adequacy of current and prospective institutional provisions for the maintenance of reliability.

(h) Identifies mechanisms to enforce transmission right-of-way maintenance.

(I) Contains recommendations regarding cost-beneficial improvements to electric system reliability for the citizens of California.

Article 3.5. Distributed Energy Resources

§ 353.1. Distributed energy resources

As used in this article, "distributed energy resources" means any electric generation technology that meets all of the following criteria:

(a) Commences initial operation between May 1, 2001, and June 1, 2003, except that gas-fired distributed energy resources that are not operated in a combined heat and power application must commence operation no later than September 1, 2002.

(b) Is located within a single facility.

(c) Is five megawatts or smaller in aggregate capacity.

(d) Serves onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

(e) Is powered by any fuel other than diesel.

(f) Complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purpose of this article, distributed energy resources shall meet emissions levels equivalent to nine parts per million oxides of nitrogen, or the equivalent standard taking into account efficiency as determined by the State Air Resources Board, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower, except for distributed generation units that displace and therefore significantly reduce emissions from natural gas flares or reinjection compressors, as determined by the State Air Resources Control Board. These units shall comply with the applicable best available control technology as determined by the air pollution control district or air quality management district in which they are located.

§ 353.2. "Ultra clean and low emission distributed generation" defined

(a) As used in this article, "ultra-clean and low-emission distributed generation" means any electric generation technology that meets all of the following criteria:

(1) Commences initial operation between January 1, 2003, and December 31, 200~~5~~8.

(2) Produces zero emissions during its operation or produces emissions during its operation that are equal to or less than the 2007 State Air Resources Board emission limits for distributed generation, except that technologies operating by combustion must operate in a combined heat and power application with a 60-percent system efficiency on a higher heating value.

(b) In establishing rates and fees, the commission may consider energy efficiency and emissions performance to encourage early compliance with air quality standards established by the State Air Resources Board for ultra-clean and low-emission distributed generation.

§ 353.3. Electrical corporations under operational control of Independent System Operator as of January 1, 2001; modification of tariffs; real-time metering and pricing program; application of additional rates or tariffs

(a) The commission shall require each electrical corporation under the operational control of the Independent System Operator as of January 1, 2001, to modify its tariffs so that all customers installing new distributed energy resources in accordance with the criteria described in Section 353.1 are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources.

(b) To qualify for the tariffs described in subdivision (a), each customer with distributed energy resources that meet the criteria of Section 353.1 shall participate in a real-time metering and pricing program, when these programs become available, in which rates for any energy purchased from the electrical corporation reflect the actual cost to the electrical corporation of energy it purchases at the time it is consumed by the customer. Prior to the time these programs become available, the customer shall participate in a time-of-use pricing tariff. On or before December 31, 2001, the commission shall adopt a real time pricing tariff for the purpose of this section.

(c) Except as specified in Section 353.7, customers may not be subject to the application of additional rates or tariffs solely because of their use of distributed energy resources to serve onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

§ 353.5. Distribution planning process; consideration of nonutility owned distributed energy resources

Each electrical corporation, as part of its distribution planning process, shall consider nonutility owned distributed energy resources as a possible alternative to investments in its distribution system in order to ensure reliable electric service at the lowest possible cost.

§ 353.7. Limitations of § 353.3

Notwithstanding Section 353.3, nothing in this article may result in any exemption from reasonable interconnection charges, lead to any reduction in contributions by each customer class to public purpose programs funded under Section 399.8, or relieve any customer of any obligation determined by the commission to result from participation in the purchase of power through the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code.

§ 353.9. Firewall segregation distribution cost recovery

In establishing the rates required under this article, the commission shall create a firewall that segregates distribution cost recovery so that any net costs, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, resulting from the tariff modifications granted to members of each customer class may be recovered only from that class.

§ 353.11. Review by local publicly owned electric utility of rates, tariffs and rules to identify barriers to and determine balance of costs and benefits of distributed energy resources

A local publicly owned electric utility, as defined in subdivision (d) of Section 9604, or a local publicly owned utility otherwise providing electrical service, shall review at the earliest practicable date its rates, tariffs, and rules to identify barriers to and determine the appropriate balance of costs and benefits of distributed energy resources in order to facilitate the installation of these resources in the interests of their customer-owners and the state, and shall hold at least one noticed public meeting to solicit public comment on the review and any recommended changes. However, notwithstanding any other provision of this article, such an entity has the sole authority to undertake such a review and to make modifications to its rates, tariffs, and rules as the governing body of that utility determines to be necessary.

§ 353.13. Establishment of new tariffs by electrical corporations for customers using distributed energy resources; report

(a) The commission shall require each electrical corporation to establish new tariffs on or before January 1, 2003, for customers using distributed energy resources, including, but not limited to, those which do not meet all of the criteria described in Section 353.1. However, after January 1, 2003, distributed energy resources that meet all of the criteria described in Section 353.1 shall continue to be subject only to those tariffs in existence pursuant to Section 353.3, until June 1, 2011, except that installations that do not operate in a combined heat and power application will be subject to those tariffs in existence pursuant to Section 353.3 only until June 1, 2006. Those tariffs required pursuant to this section shall ensure that all net distribution costs incurred to serve each customer class, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as

determined by the commission, are fully recovered only from that class. The commission shall require each electrical corporation, in establishing those rates, to ensure that customers with similar load profiles within a customer class will, to the extent practicable, be subject to the same utility rates, regardless of their use of distributed energy resources to serve onsite loads or over-the-fence transactions allowed under Sections 216 and 218. Customers with dedicated facilities shall remain responsible for their obligations regarding payment for those facilities.

(b) The commission shall prepare and submit to the Legislature, on or before June 1, 2002, a report describing its proposed methodology for determining the new rates and the process by which it will establish those rates.

§ 353.15. Annual report of information on monthly basis with regard to distributed energy resources with capacity greater than 10 kilowatts; contents

(a) In order to evaluate the efficiency, emissions, and reliability of distributed energy resources with a capacity greater than 10 kilowatts, customers that install those resources pursuant to this article shall report to the commission, on an annual basis, all of the following information, as recorded on a monthly basis:

(1) Heat rate for the resource.

(2) Total kilowatthours produced in the peak and off-peak periods, as determined by the ISO.

(3) Emissions data for the resource, as required by the State Air Resources Board or the appropriate air quality management district or air pollution control district.

(b) The commission shall release the information submitted pursuant to subdivision (a) in a manner that does not identify the individual user of the distributed energy resource.

(c) The commission, in consultation with the State Air Resources Board, air quality management districts, air pollution control districts, and the State Energy Resources Conservation and Development Commission, shall evaluate the information submitted pursuant to subdivision (a) and, within two years of the effective date of the act adding this article, prepare and submit to the Governor and the Legislature a report recommending any changes to this article it determines necessary based upon that information.

Article 4. Power Exchange

§ 355. Purpose of power exchange

The Power Exchange shall provide an efficient competitive auction, open on a nondiscriminatory basis to all suppliers, that meets the loads of all exchange customers at efficient prices.

§ 355.1. Repealed

~~The commission may investigate issues associated with multiple qualified exchanges. If the commission determines that allowing electrical corporations to purchase from multiple qualified exchanges is in the public interest, the commission shall prepare and submit findings and recommendations to the Legislature on or before June 1, 2001. Prior to June 1, 2001, the commission may not implement the part of any decision authorizing electrical corporations to purchase from exchanges other than the Power Exchange. That portion of any decision of the commission adopted prior to January 1, 2001, but after June 1, 2000, authorizing electrical corporations to purchase from multiple qualified exchanges, may not be implemented.~~

§ 356. Technical advisory committees; formation

The Power Exchange governing board may form appropriate technical advisory committees comprised of market and nonmarket participants to advise the governing board on relevant issues.

Article 5. Regional Compact

§ 359. Requirements of compact; legislative intent

(a) It is the intent of the Legislature to provide for the evolution of the Independent System Operator and the Power Exchange into regional organizations to promote the development of regional electricity transmission markets in the western states and to improve the access of consumers served by the Independent System Operator and the Power Exchange to those markets.

(b) The preferred means by which the voluntary evolution described in subdivision (a) should occur is through the adoption of a regional compact or other comparable agreement among cooperating party states, the retail customers of which states would reside within the geographic territories served by the Independent System Operator and the Power Exchange.

(c) The agreement described in subdivision (b) should provide for all of the following:

(1) An equitable process for the appointment or confirmation by party states of members of the governing boards of the Independent System Operator and the Power Exchange.

(2) A respecification of the size, structure, representation, eligible membership, nominating procedures, and member terms of service of the governing boards of the Independent System Operator and the Power Exchange.

(3) Mechanisms by which each party state, jointly or separately, can oversee effectively the actions of the Independent System Operator and the Power Exchange as those actions relate to the assurance of electricity system reliability within the party state and to matters that affect electricity sales to the retail customers of the party state or otherwise affect the general welfare of the electricity consumers and the general public of the party state.

(4) The adherence by publicly owned and investor-owned utilities located in party states to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems.

Article 6. Requirements for the Public Utilities Commission

§§ 360 to 380.

Sections 360 to 380 impose requirements on the PUC relative to system reliability, divestment of generating facilities by investor-owned utilities and recovery of commission-approved costs.

§ 366. Facilitation of direct transactions between suppliers and end-use customers; aggregation of customer electrical load

(a) The commission shall take actions as needed to facilitate direct transactions between electricity suppliers and end-use customers. Customers shall be entitled to aggregate their electrical loads on a voluntary basis, provided that each customer does so by a positive written declaration. If no positive declaration is made by a customer, that customer shall continue to be served by the existing electrical corporation or its successor in interest, except aggregation by community choice aggregators, accomplished pursuant to Section 366.2.

(b) Aggregation of customer electrical load shall be authorized by the commission for all customer classes, including, but not limited, to small commercial or residential customers. Aggregation may be accomplished by private market aggregators, special districts, or on any other basis made available by market opportunities and agreeable by positive written declaration by individual consumers, except aggregation by community choice aggregators, which shall be accomplished pursuant to Section 366.2.

§ 366.2. Aggregation of customer electric loads with community choice aggregators

(a)(1) Customers shall be entitled to aggregate their electric loads as members of their local community with community choice aggregators.

(2) Customers may aggregate their loads through a public process with community choice aggregators, if each customer is given an opportunity to opt out of their community's aggregation program.

(3) If a customer opts out of a community choice aggregator's program, or has no community choice program available, that customer shall have the right to continue to be served by the existing electrical corporation or its successor in interest.

(b) If a public agency seeks to serve as a community choice aggregator, it shall offer the opportunity to purchase electricity to all residential customers within its jurisdiction.

(c)(1) Notwithstanding Section 366, a community choice aggregator is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts. However, the community choice aggregator may not aggregate electrical load if that load is served by a local publicly owned electric utility, as defined in subdivision (d) of Section 9604. A community choice aggregator may group retail

electricity customers to solicit bids, broker, and contract for electricity and energy services for those customers. The community choice aggregator may enter into agreements for services to facilitate the sale and purchase of electricity and other related services. Those service agreements may be entered into by a single city or county, a city and county, or by a group of cities, cities and counties, or counties.

(2) Under community choice aggregation, customer participation may not require a positive written declaration, but all customers shall be informed of their right to opt out of the community choice aggregation program. If no negative declaration is made by a customer, that customer shall be served through the community choice aggregation program.

(3) A community choice aggregator establishing electrical load aggregation pursuant to this section shall develop an implementation plan detailing the process and consequences of aggregation. The implementation plan, and any subsequent changes to it, shall be considered and adopted at a duly noticed public hearing. The implementation plan shall contain all of the following:

(A) An organizational structure of the program, its operations, and its funding.

(B) Ratesetting and other costs to participants.

(C) Provisions for disclosure and due process in setting rates and allocating costs among participants.

(D) The methods for entering and terminating agreements with other entities.

(E) The rights and responsibilities of program participants, including, but not limited to, consumer protection procedures, credit issues, and shutoff procedures.

(F) Termination of the program.

(G) A description of the third parties that will be supplying electricity under the program, including, but not limited to, information about financial, technical, and operational capabilities.

(4) A community choice aggregator establishing electrical load aggregation shall prepare a statement of intent with the implementation plan. Any community choice load aggregation established pursuant to this section shall provide for the following:

(A) Universal access.

(B) Reliability.

(C) Equitable treatment of all classes of customers.

(D) Any requirements established by state law or by the commission concerning aggregated service.

(5) In order to determine the cost-recovery mechanism to be imposed on the community choice aggregator pursuant to subdivisions (d), (e), and (f) that shall be paid by the customers of the community choice aggregator to prevent shifting of costs, the community choice aggregator shall file the implementation plan with the commission, and any other information requested by the commission that the commission determines is necessary to develop the cost-recovery mechanism in subdivisions (d), (e), and (f).

(6) The commission shall notify any electrical corporation serving the customers proposed for aggregation that an implementation plan initiating community choice aggregation has been filed, within 10 days of the filing.

(7) Within 90 days after the community choice aggregator establishing load aggregation files its implementation plan, the commission shall certify that it has received the implementation plan, including any additional information necessary to determine a cost-recovery mechanism. After certification of receipt of the implementation plan and any additional information requested, the commission shall then provide the community choice aggregator with its findings regarding any cost recovery that must be paid by customers of the community choice aggregator to prevent a shifting of costs as provided for in subdivisions (d), (e), and (f).

(8) No entity proposing community choice aggregation shall act to furnish electricity to electricity consumers within its boundaries until the commission determines the cost-recovery that must be paid by the customers of that proposed community choice aggregation program, as provided for in subdivisions (d), (e), and (f). The commission shall designate the earliest possible effective date for implementation of a community choice aggregation program, taking into consideration the impact on any annual procurement plan of the electrical corporation that has been approved by the commission.

(9) All electrical corporations shall cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs. Cooperation shall include providing the entities with appropriate billing and electrical load data, including, but not limited to, data detailing electricity needs and patterns of usage, as determined by the commission, and in accordance with procedures established by the commission. Electrical corporations shall continue to provide all metering, billing, collection, and customer service to retail customers that participate in community choice aggregation programs. Bills sent by the electrical corporation to retail customers shall identify the community choice aggregator as providing the electrical energy component of the bill. The commission shall determine the terms and conditions under which the electrical corporation provides services to community choice aggregators and retail customers.

(10)(A) A city, county, or city and county that elects to implement a community choice aggregation program within its jurisdiction pursuant to this chapter shall do so by ordinance.

(B) Two or more cities, counties, or cities and counties may participate as a group in a community choice aggregation pursuant to this chapter, through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts an ordinance pursuant to subparagraph (A).

(11) Following adoption of aggregation through the ordinance described in paragraph (10), the program shall allow any retail customer to opt out and to continue to be served as a bundled service customer by the existing electrical corporation, or its successor in interest. Delivery services shall be provided at the same rates, terms, and conditions, as approved by the commission, for community choice aggregation customers and customers that have entered into a direct transaction where applicable, as determined by the commission. Once enrolled in the aggregated entity, any ratepayer that chooses to opt out within 60 days or two billing cycles of the date of enrollment may do so without penalty and shall be entitled to receive default service pursuant to paragraph (3) of subdivision (a). Customers that return to the electrical corporation for procurement services shall be subject to the same terms and conditions as are applicable to other returning direct access customers from the same class, as determined by the commission, as authorized by the commission pursuant to this code or any other provision of law. Any reentry fees to be imposed after the opt-out period specified in this paragraph, shall be approved by the commission and shall reflect the cost of reentry. The commission shall exclude any amounts previously determined and paid pursuant to subdivisions (d), (e), and (f) from the cost of reentry.

(12) Nothing in this section shall be construed as authorizing any city or any community choice retail load aggregator to restrict the ability of retail electricity customers to obtain or receive service from any authorized electric service provider in a manner consistent with law.

(13)(A) The community choice aggregator shall fully inform participating customers at least twice within two calendar months, or 60 days, in advance of the date of commencing automatic enrollment. Notifications may occur concurrently with billing cycles. Following enrollment, the aggregated entity shall fully inform participating customers for not less than two consecutive billing cycles. Notification may include, but is not limited to, direct mailings to customers, or inserts in water, sewer, or other utility bills. Any notification shall inform customers of both of the following:

(i) That they are to be automatically enrolled and that the customer has the right to opt out of the community choice aggregator without penalty.

(ii) The terms and conditions of the services offered.

(B) The community choice aggregator may request the commission to approve and order the electrical corporation to provide the notification required in subparagraph (A). If the commission orders the electrical corporation to send one or more of the notifications required pursuant to subparagraph (A) in the electrical corporation's normally scheduled monthly billing process, the electrical corporation shall be entitled to recover from the community choice aggregator all reasonable incremental costs it incurs related to the notification or notifications. The electrical corporation shall fully cooperate with the community choice aggregator in determining the feasibility and costs associated with using the electrical corporation's normally scheduled monthly billing process to provide one or more of the notifications required pursuant to subparagraph (A).

(C) Each notification shall also include a mechanism by which a ratepayer may opt out of community choice aggregated service. The opt out may take the form of a self-addressed return postcard indicating the customer's election to remain with, or return to, electrical energy service provided by the electrical corporation, or another straightforward

means by which the customer may elect to derive electrical energy service through the electrical corporation providing service in the area.

(14) The community choice aggregator shall register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.

(15) Once the community choice aggregator's contract is signed, the community choice aggregator shall notify the applicable electrical corporation that community choice service will commence within 30 days.

(16) Once notified of a community choice aggregator program, the electrical corporation shall transfer all applicable accounts to the new supplier within a 30-day period from the date of the close of their normally scheduled monthly metering and billing process.

(17) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section, including, but not limited to, all business and information system changes, except for transaction-based costs as described in this paragraph. Any costs not reasonably attributable to a community choice aggregator shall be recovered from ratepayers, as determined by the commission. All reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the commission.

(18) At the request and expense of any community choice aggregator, electrical corporations shall install, maintain and calibrate metering devices at mutually agreeable locations within or adjacent to the community aggregator's political boundaries. The electrical corporation shall read the metering devices and provide the data collected to the community aggregator at the aggregator's expense. To the extent that the community aggregator requests a metering location that would require alteration or modification of a circuit, the electrical corporation shall only be required to alter or modify a circuit if such alteration or modification does not compromise the safety, reliability or operational flexibility of the electrical corporation's facilities. All costs incurred to modify circuits pursuant to this paragraph, shall be born by the community aggregator.

(d)(1) It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the Department of Water Resources' electricity purchase costs, as well as electricity purchase contract obligations incurred as of the effective date of the act adding this section, that are recoverable from electrical corporation customers in commission-approved rates. It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers.

(2) The Legislature finds and declares that this subdivision is consistent with the requirements of Division 27 (commencing with Section 80000) of the Water Code and Section 360.5, and is therefore declaratory of existing law.

(e) A retail end-use customer that purchases electricity from a community choice aggregator pursuant to this section shall pay both of the following:

(1) A charge equivalent to the charges that would otherwise be imposed on the customer by the commission to recover bond related costs pursuant to any agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, which charge shall be payable until any obligations of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code are fully paid or otherwise discharged.

(2) Any additional costs of the Department of Water Resources, equal to the customer's proportionate share of the Department of Water Resources' estimated net unavoidable electricity purchase contract costs as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources.

(f) A retail end-use customer purchasing electricity from a community choice aggregator pursuant to this section shall reimburse the electrical corporation that previously served the customer for all of the following:

(1) The electrical corporation's unrecovered past undercollections for electricity purchases, including any financing costs, attributable to that customer, that the commission lawfully determines may be recovered in rates.

(2) Any additional costs of the electrical corporation recoverable in commission-approved rates, equal to the share of the electrical corporation's estimated net unavoidable electricity purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the electrical corporation.

(g)(1) Any charges imposed pursuant to subdivision (e) shall be the property of the Department of Water Resources. Any charges imposed pursuant to subdivision (f) shall be the property of the electrical corporation. The commission shall establish mechanisms, including agreements with, or orders with respect to, electrical corporations necessary to ensure that charges payable pursuant to this section shall be promptly remitted to the party entitled to payment.

(2) Charges imposed pursuant to subdivisions (d), (e), and (f) shall be nonbypassable.

(h) Notwithstanding Section 80110 of the Water Code, the commission shall authorize community choice aggregation only if the commission imposes a cost-recovery mechanism pursuant to subdivisions (d), (e), (f), and (g). Except as provided by this subdivision, this section shall not alter the suspension by the commission of direct purchases of electricity from alternate providers other than by community choice aggregators, pursuant to Section 80110 of the Water Code.

(i)(1) The commission shall not authorize community choice aggregation until it implements a cost-recovery mechanism, consistent with subdivisions (d), (e), and (f), that is applicable to customers that elected to purchase electricity from an alternate provider between February 1, 2001, and January 1, 2003.

(2) The commission shall not authorize community choice aggregation until it submits a report certifying compliance with paragraph (1) to the Senate Energy, Utilities and Communications Committee, or its successor, and the Assembly Committee on Utilities and Commerce, or its successor.

(3) The commission shall not authorize community choice aggregation until it has adopted rules for implementing community choice aggregation.

(j) The commission shall prepare and submit to the Legislature, on or before January 1, 2006, a report regarding the number of community choices aggregations, the number of customers served by community choice aggregations, third party suppliers to community choice aggregations, compliance with this section, and the overall effectiveness of community choice aggregation programs.

§ 366.5. Change in aggregator or supplier of electric power by small commercial customers or residential customers; verification procedures; violations; liability

(a) No change in the aggregator or supplier of electric power for any small commercial customer may be made until one of the following means of confirming the change has been completed:

(1) Independent third-party telephone verification.

(2) Receipt of a written confirmation received in the mail from the consumer after the consumer has received an information package confirming the agreement.

(3) The customer signs a document fully explaining the nature and effect of the change in service.

(4) The customer's consent is obtained through electronic means, including, but not limited to, computer transactions.

(b) No change in the aggregator or provider of electric power for any residential customer may be made over the telephone until the change has been confirmed by an independent third-party verification company, as follows:

(1) The third-party verification company shall meet each of the following criteria:

(A) Be independent from the entity that seeks to provide the new service.

(B) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by an entity that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the entity.

(C) Operate from facilities physically separate from those of the entity that seeks to provide the new service.

(D) Not derive commission or compensation based upon the number of sales confirmed.

(2) The entity seeking to verify the sale shall do so by connecting the resident by telephone to the third-party verification company or by arranging for the third-party verification company to call the customer to confirm the sale.

(3) The third-party verification company shall obtain the customer's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the customer upon request. Information obtained from the customer through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved resident against the entity or its employees who are responsible for the violation.

(4) Notwithstanding paragraphs (1), (2), and (3), an aggregator or provider of electric power shall not be required to comply with these provisions when the customer directly calls an aggregator or provider of electric power to change service providers. However, an aggregator or provider of electric power shall not avoid the verification requirements by asking a customer to contact an aggregator or provider of electric power directly to make any change in the service provider.

(c) No change in the aggregator or provider of electric power for any residential customer may be made via an Internet transaction, in which the customer accesses the website of the aggregator or provider, unless both of the following occur with respect to confirming the change:

(1) In addition to any other information gathered in the course of the transaction, the customer shall be asked to read and respond to a separate screen that states, in easily legible text, the following:

"I acknowledge that in entering this transaction I am voluntarily choosing to change the entity that supplies me with my electric power."

(2) The separate screen shall offer the customer the option to complete or terminate the transaction.

(d)(1) No change in the aggregator or provider of electric power for any residential customer may be made via a written transaction unless the change has been confirmed, as provided in this subdivision. In order to comply with this subdivision, in addition to any other information gathered in the course of the transaction, and in addition to any other signature required, the customer shall be asked to sign and date a document separate from that written transaction, containing the following words printed in 10-point type or larger:

"I acknowledge that in signing this contract or agreement, I am voluntarily choosing to change the entity that supplies me with electric power."

(2) The acknowledgment document described in paragraph (1) may not be included with a check or in connection with a sweepstakes solicitation.

(e) Any aggregator or provider of electric power offering electricity service to residential and small commercial customers that switches the electric service of a customer without the customer's consent shall be liable to the aggregator or provider of electric power offering electricity services previously selected by the customer in an amount equal to all charges paid by the customer after the violation and shall refund to the customer any amount in excess of the amount that the customer would have been obligated to pay had the customer not been switched.

(f) An aggregator or provider of electric power shall keep a record of the confirmation of a change pursuant to subdivision (b), (c), or (d) for two years from the date of that confirmation, and shall make those records available, upon request, to the customer and to the commission in the course of a commission investigation of a customer complaint or an investigation pursuant to subdivision (c) of Section 394.2.

(g) Public agencies are exempt from this section to the extent they are serving customers within their jurisdiction.

(h) Notwithstanding subdivisions (c) and (d), the commission may require third-party verification for all residential changes to electric service providers if it finds that the application of subdivisions (c) and (d) results in the unauthorized changing of a customer's electric service provider.

(i) An electrical corporation is exempt from this section for customers that default to the service of the electrical corporation.

(j) Electric power sold to customers pursuant to Section 80100 of the Water Code is not subject to this section.

§ 372. Cogeneration; public policy; application and allocation of uneconomic costs

(a) It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section, the commission shall determine the applicability to customers of uneconomic costs as specified in Sections 367, 368, 375, and 376. Consistent with this state policy, the commission shall provide that these costs shall not apply to any of the following:

(1) To load served onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995, or by increases in the capacity of such a facility to the extent that such increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of December 20, 1995, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements

entered into after December 20, 1995, between unaffiliated parties. For the purposes of this subdivision, "affiliated" means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common on control with another specified entity. "Control" means either of the following:

(A) The possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity, whether through an ownership, beneficial, contractual, or equitable interest.

(B) Direct or indirect ownership of at least 25 percent of an entity, whether through an ownership, beneficial or equitable interest.

(2) To load served by onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility for which the customer was committed to construction as of December 20, 1995, provided that the facility was substantially operational on or before January 1, 1998, or by increases in the capacity of such a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of January 1, 1998, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties.

(3) To load served by existing, new, or portable emergency generation equipment used to serve the customer's load requirements during periods when utility service is unavailable, provided such emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.

(4) After June 30, 2000, to any load served onsite or under an over the fence arrangement by any nonmobile self-cogeneration or cogeneration facility.

(b) Further, consistent with state policy, with respect to self-cogeneration or cogeneration deferral agreements, the commission shall do the following:

(1) Provide that a utility shall execute a final self-cogeneration or cogeneration deferral agreement with any customer that, on or before December 20, 1995, had executed a letter of intent (or similar documentation) to enter into the agreement with the utility, provided that the final agreement shall be consistent with the terms and conditions set forth in the letter of intent and the commission shall review and approve the final agreement.

(2) Provide that a customer that holds a self-cogeneration or cogeneration deferral agreement that was in place on or before December 20, 1995, or that was executed pursuant to paragraph (1) in the event the agreement expires, or is terminated, may do any of the following:

(A) Continue through December 31, 2001, to receive utility service at the rate and under terms and conditions applicable to the customer under the deferral agreement that, as executed, includes an allocation of uneconomic costs consistent with subdivision (e) of Section 367.

(B) Engage in a direct transaction for the purchase of electricity and pay uneconomic costs consistent with Sections 367, 368, 375, and 376.

(C) Construct a self-cogeneration or cogeneration facility of approximately the same capacity as the facility previously deferred, provided that the costs provided in Sections 367, 368, 375, and 376 shall apply consistent with subdivision (e) of Section 367, unless otherwise authorized by the commission pursuant to subdivision (c).

(3) Subject to the fire wall described in subdivision (e) of Section 367 provide that the ratemaking treatment for self-cogeneration or cogeneration deferral agreements executed prior to December 20, 1995, or executed pursuant to paragraph (1) shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

(c) The commission shall authorize, within 60 days of the receipt of a joint application from the serving utility and one or more interested parties, applicability conditions as follows:

(1) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to load served onsite by a nonmobile self-cogeneration or cogeneration facility that became operational on or after December 20, 1995.

(2) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to any load served under over the fence arrangements entered into after December 20, 1995, between unaffiliated entities.

(d) For the purposes of this subdivision, all onsite or over the fence arrangements shall be consistent with Section 218 as it existed on December 20, 1995.

(e) To facilitate the development of new microcogeneration applications, electrical corporations may apply to the commission for a financing order to finance the transition costs to be recovered from customers employing the applications.

(f) To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

(1) The commission and the Electricity Oversight Board shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

(2) If the commission and the Electricity Oversight Board find that any policy or action of the Independent System Operator unreasonably discourages, the connection of existing self-generationor cogeneration or new self-generation or cogeneration to the grid, the commission and the Electricity Oversight Board shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

§ 374.5. Peak load research; agricultural customers with multiple electric meters

Any electrical corporation serving agricultural customers that have multiple electric meters shall conduct research based on a statistically valid sample of those customers and meters to determine the typical simultaneous peak load of those customers. The results of the research shall be reported to the customers and the commission not later than July 1, 2001. The commission shall consider the research results in setting future electric distribution rates for those customers.

§ 379.5. Actions required by commission to respond to electricity problems

Notwithstanding any other provision of law, on or before March 7, 2001, the commission, in consultation with the Independent System Operator, shall take all of the following actions, and shall include the reasonable costs involved in taking those actions in the distribution revenue requirements of utilities regulated by the commission, as appropriate:

(a)(1) Identify and undertake those actions necessary to reduce or remove constraints on the state's existing electrical transmission and distribution system, including, but not limited to, reconductoring of transmission lines, the addition of capacitors to increase voltage, the reinforcement of existing transmission capacity, and the installation of new transformer banks. The commission shall, in consultation with the Independent System Operator, give first priority to those geographical regions where congestion reduces or impedes electrical transmission and supply.

(2) Consistent with the existing statutory authority of the commission, the commission shall afford electrical corporations a reasonable opportunity to fully recover costs it determines are reasonable and prudent to plan, finance, construct, operate, and maintain any facilities under its jurisdiction required by this section.

(b) In consultation with the State Energy Resources Conservation and Development Commission, adopt energy conservation demand-side management and other initiatives in order to reduce demand for electricity and reduce load during peak demand periods. Those initiatives shall include, but not be limited to, all of the following:

(1) Expansion and acceleration of residential and commercial weatherization programs.

(2) Expansion and acceleration of programs to inspect and improve the operating efficiency of heating, ventilation, and air-conditioning equipment in new and existing buildings, to ensure that these systems achieve the maximum feasible cost-effective energy efficiency.

(3) Expansion and acceleration of programs to improve energy efficiency in new buildings, in order to achieve the maximum feasible reductions in uneconomic energy and peak electricity consumption.

(4) Incentives to equip commercial buildings with the capacity to automatically shut down or dim nonessential lighting and incrementally raise thermostats during peak electricity demand period.

(5) Evaluation of installing local infrastructure to link temperature setback thermostats to real-time price signals.

(6) Incentives for load control and distributed generation to be paid for enhancing reliability.

(7) Differential incentives for renewable or super clean distributed generation resources pursuant to section 379.6.

(8) Reevaluation of all efficiency cost-effectiveness tests in light of increases in wholesale electricity costs and of natural gas costs to explicitly include the system value of reduced load on reducing market clearing prices and volatility.

(c) In consultation with the Energy Resources Conservation and Development Commission, adopt and implement a residential, commercial, and industrial peak reduction program that encourages electric customers to reduce electricity consumption during peak power periods.

§ 379.6. Self-generation incentive program; program requirements

(a) The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall until January 1, 2008, administer a self-generation incentive program for distributed generation resources, in the same form as exists on January 1, 2004.

(b) Notwithstanding subdivision (a), the self-generation incentive program shall do all of the following:

(1) Commencing January 1, 2005, require all combustion-operated distributed generation projects using fossil fuels to meet an oxides of nitrogen (NOx) emissions rate standard of 0.14 pounds per megawatthour to be eligible for self-generation rebates.

(2) Commencing January 1, 2007, require all combustion-operated distributed generation projects using fossil fuels to meet an oxides of nitrogen (NOx) emissions rate standard of 0.07 pounds per megawatthour and a minimum efficiency of 60 percent, to be eligible for self-generation rebates. A minimum efficiency of 60 percent shall be measured as useful energy output divided by fuel input. The efficiency determination shall be based on 100 percent load.

(3) Combined heat and power units that meet the 60 percent efficiency standard may take a credit to meet the applicable oxides of nitrogren (NOx) emission standard of 0.14 pounds per megawatthour or 0.07 pounds per megawatthour. Credit shall be at the rate of one megawatthour for each 3.4 million British Thermal Units (BTUs) of heat recovered.

~~(4) Provide the commission with flexibility in administering the self-generation incentive program, including, but not limited to, flexibility with regard to the amount of rebates, inclusion of other ultra clean and low emission distributed generation technologies, and evaluation of other public policy interests, including, but not limited to, ratepayers, and energy efficiency and environmental interests.~~

(4) Notwithstanding paragraphs (1) and (2), a project that does not meet the applicable NOx emission standard is eligible if it meets both of the following requirements:

(A) The project operates solely on waste gas. The commission shall require a customer that applies for an incentive pursuant to this paragraph to provide an affidavit or other form of proof, that specifies that the project shall be operated solely on waste gas. Incentives awarded pursuant to this paragraph shall be subject to refund and shall be refunded by the recipient to the extent the project does not operate on waste gas. As used in this paragraph, "waste gas" means natural gas that is generated as a byproduct of petroleum production operations and is not eligible for delivery to the utility pipeline system.

(B) The air quality management district or air pollution control district, in issuing a permit to operate the project, determines that operation of the project will produce an onsite net air emissions benefit, compared to permitted onsite emissions if the project does not operate. The commission shall require the customer to secure the permit prior to receiving incentives.

(c) In administering the self-generation incentive program, the commission may adjust the amount of rebates, include other ultraclean and low-emission distributed generation technologies, as defined in Section 353.2, and evaluate other public policy interests, including, but not limited to, ratepayers, and energy efficiency and environmental interests.

Article 7. Research, Environmental, and Low-Income Funds

§ 381. System reliability and in-state benefit programs and programs for low-income customers; funding; separate rate component; allocation of funds

(a) To ensure that the funding for the programs described in subdivision (b) and Section 382 are not commingled with other revenues, the commission shall require each electrical corporation to identify a separate rate component to collect the revenues used to fund these programs. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage. This rate component shall fall within the rate levels identified in subdivision (a) of Section 368.

(b) The commission shall allocate funds collected pursuant to subdivision (a), and any interest earned on collected funds, to programs that enhance system reliability and provide in-state benefits as follows:

(1) Cost-effective energy efficiency and conservation activities.

(2) Public interest research and development not adequately provided by competitive and regulated markets.

(3) In-state operation and development of existing and new and emerging renewable resource technologies defined as electricity produced from other than a conventional power source within the meaning of Section 2805, provided that a power source utilizing more than 25 percent fossil fuel may not be included.

(c) The Public Utilities Commission shall order the respective electrical corporations to collect and spend these funds, as follows:

(1) Cost-effective energy efficiency and conservation activities shall be funded at not less than the following levels commencing January 1, 1998, through December 31, 2001: for San Diego Gas and Electric Company a level of thirty-two million dollars ($32,000,000) per year; for Southern California Edison Company a level of ninety million dollars ($90,000,000) for each of the years 1998, 1999, and 2000; fifty million dollars ($50,000,000) for the year 2001; and for Pacific Gas and Electric Company a level of one hundred six million dollars ($106,000,000) per year.

(2) Research, development, and demonstration programs to advance science or technology that are not adequately provided by competitive and regulated markets shall be funded pursuant to section 399.8.

(3) In-state operation and development of existing and new and emerging renewable resource technologies shall be funded at not less than the following levels on a statewide basis: one hundred nine million five hundred thousand dollars ($109,500,000) per year for each of the years 1998, 1999, 2000, and one hundred thirty-six million five hundred thousand dollars ($136,500,000) for the year 2001. To accomplish these funding levels over the period described herein the San Diego Gas and Electric Company shall spend twelve million dollars ($12,000,000) per year, the Southern California Edison Company shall expend no less than forty-nine million five hundred thousand dollars ($49,500,000) for the years 1998, 1999, and 2000, and no less than seventy-six million five hundred thousand dollars ($76,500,000) for the year 2001, and the Pacific Gas and Electric Company shall expend no less than forty-eight million dollars ($48,000,000) per year through the year 2001. Additional funding not to exceed seventy-five million dollars ($75,000,000) shall be allocated from moneys collected pursuant to subdivision (d) in order to provide a level of funding totaling five hundred forty million dollars ($540,000,000).

(4) Up to fifty million dollars ($50,000,000) of the amount collected pursuant to subdivision (d) may be used to resolve outstanding issues related to implementation of subdivision (a) of Section 374. Moneys remaining after fully funding the provisions of this paragraph shall be reallocated for purposes of paragraph (3).

(5) Up to ninety million dollars ($90,000,000) of the amount collected pursuant to subdivision (d) may be used to resolve outstanding issues related to contractual arrangements in the Southern California Edison service territory stemming from the Biennial Resource Planning Update auction. Moneys remaining after fully funding the provisions of this paragraph shall be reallocated for purposes of paragraph (3).

(6) The funding of in-state operation and development of existing and new and emerging renewable resources technologies shall be made available pursuant to Section 399.8.

(d) Notwithstanding any other provisions of this chapter, the commission may allow entities subject to its jurisdiction to extend the period for competition transition charge collection up to three months beyond its otherwise applicable termination of December 31, 2001, so as to ensure that the aggregate portion of the research, environmental, and low-income funds allocated to renewable resources shall equal five hundred forty million dollars ($540,000,000) and that the costs specified in paragraphs (3), (4), and (5) of subdivision (c) are collected.

(e) Each electrical corporation shall allow customers to make voluntary contributions through their utility bill payments as either a fixed amount or a variable amount to support programs established pursuant to paragraph (3) of subdivision (b). Funds collected by electrical corporations for these purposes shall be forwarded in a timely manner to the appropriate fund as specified by the commission.

(f) For purposes of this article, "emerging renewable technology" means a new renewable technology, including, but not limited to, fuel cells using renewable fuels photovoltaic technology, that is determined by the state Energy Resources Conservation and Development Commission to be emerging from research and development and that has significant commercial potential.

(g) The commission's authority to collect funds pursuant to this section, for purposes of paragraph (3) of subdivision (b), shall become inoperative on March 31, 2002.

§ 381.1. Establishment of policies and procedures to govern application by parties to become administrators for cost-effective energy efficiency and conservation programs; factors in consideration of approving application; audit and reporting requirements

(a) No later than July 15, 2003, the commission shall establish policies and procedures by which any party, including, but not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs established pursuant to Section 381. In determining whether to approve an application to become administrators, the commission shall consider the value of program continuity and planning certainty and the value of allowing competitive opportunities for potentially new administrators. The commission shall weigh the benefits of the party's proposed program to ensure that the program meets the following objectives:

(1) Is consistent with the goals of the existing programs established pursuant to Section 381.

(2) Advances the public interest in maximizing cost-effective electricity savings and related benefits.

(3) Accommodates the need for broader statewide or regional programs.

(b) All audit and reporting requirements established by the commission pursuant to Section 381 and other statutes shall apply to the parties chosen as administrators under this section.

(c) If a community choice aggregator is not the administrator of energy efficiency and conservation programs for which its customers are eligible, the commission shall require the administrator of cost-effective energy efficiency and conservation programs to direct a proportional share of its approved energy efficiency program activities for which the community choice aggregator's customers are eligible, to the community choice aggregator's territory without regard to customer class. To the extent that energy efficiency and conservation programs are targeted to specific locations to avoid or defer transmission or distribution system upgrades, the targeted expenditures shall continue irrespective of whether the loads in those locations are served by an aggregator or by an electrical corporation. The commission shall

also direct the administrator to work with the community choice aggregator, to provide advance information where appropriate about the likely impacts of energy efficiency programs and to accommodate any unique community program needs by placing more, or less, emphasis on particular approved programs to the extent that these special shifts in emphasis in no way diminish the effectiveness of broader statewide or regional programs. If the community choice aggregator proposes energy efficiency programs other than programs already approved for implementation in its territory, it shall do so under established commission policies and procedures. The commission may order an adjustment to the share of energy efficiency program activities directed to a community aggregator's territory if necessary to ensure an equitable and cost-effective allocation of energy efficiency program activities.

§ 381.5. Low-income energy efficiency programs; evaluation; delivery to maximum number of eligible participants

It is the intent of the Legislature to protect and strengthen the current network of community service providers by doing the following:

(a) Directing that any evaluation of the effectiveness of the low-income energy efficiency programs shall be based not solely on cost criteria, but also on the degree to which the provision of services allows maximum program accessibility to quality programs to low-income communities by entities that have demonstrated performance in effectively delivering services to the communities.

(b) Ensuring that high quality, low-income energy efficiency programs are delivered to the maximum number of eligible participants at a reasonable cost.

§ 382. Low-income electricity customers; program funding

Programs provided to low-income electricity customers, including, but not limited to, targeted energy-efficiency services and the California Alternative Rates for Energy Program shall be funded at not less than 1996 authorized levels based on an assessment of customer need. The commission shall allocate funds necessary to meet the low-income objectives in this section.

§ 383. Transfer of funds to subaccount of energy resources programs account; use of funds

Moneys collected pursuant to paragraph (3) of subdivision (b) of Section 381 shall be transferred to a subaccount of the Energy Resources Programs Account of the California Energy Resources Conservation and Development Commission to be held until further action by the Legislature for purposes of:

(a) Supporting the operation of existing and the development of new and emerging in-state renewable resource technologies.

(b) Supporting the operations of existing renewable resource generation facilities which provide fire suppression benefits, reduce materials going into landfills, and mitigate the amount of open-field burning of agricultural waste.

(c) Supporting the operations of existing, innovative solar thermal technologies that provide essential peak generation and related reliability benefits.

§ 383.5 Repealed.

§ 383.6. Transmission plan for renewable electricity generation facilities; preparation and submission of plan

The commission shall, by December 1, 2003, prepare and submit to the Legislature, a comprehensive transmission plan for renewable electricity generation facilities, to provide for the rational, orderly, cost-effective expansion of transmission facilities that may be necessary to facilitate the development of renewable electricity generation facilities identified in the renewable electricity generation resource plan prepared pursuant to Section 25749 of the Public Resources Code. The commission shall consult with the State Energy Resources Conservation and Development Commission, the Independent System Operator, and electrical corporations in the development of and preparation of the plan.

(b) Nothing in this section is intended to limit the commission's authority to revise its customer credit subaccount guidelines to implement the program changes contained herein.

§ 383.7 Repealed.

§ 384. Public Interest Research, Development and Demonstration Fund

(a) Funds transferred to the State Energy Resources Conservation and Development Commission pursuant to this article for purposes of public interest research, development, and demonstration shall be transferred to the Public Interest Research, Development, and Demonstration Fund, which is hereby created in the State Treasury. The fund is a trust fund and shall contain money from all interest, repayments, disencumbrances, royalties, and any other proceeds appropriated, transferred, or otherwise received for purposes pertaining to public interest research, development, and demonstration. Any appropriations that are made from the fund shall have an encumbrance period of not longer than two years, and a liquidation period of not longer than four years.

(b) The State Energy Resources Conservation and Development Commission shall report annually to the appropriate budget committees of the Legislature on any encumbrances or liquidations that are outstanding at the time the commission's budget is submitted to the Legislature for review.

Article 8. Publicly Owned Utilities

§ 385. Local publicly owned electric utilities; nonbypassable usage based charge on local distribution service; use of funds

(a) Each local publicly owned electric utility shall establish a nonbypassable, usage based charge on local distribution service of not less than the lowest expenditure level of the three largest electrical corporations in California on a percent of revenue basis, calculated from each utility's total revenue requirement for the year ended December 31, 1994, and each

utility's total annual expenditure under paragraphs (1), (2), and (3) of subdivision (c) of Section 381 and Section 382, to fund investments by the utility and other parties in any or all of the following:

(1) Cost-effective demand-side management services to promote energy efficiency and energy conservation.

(2) New investment in renewable energy resources and technologies consistent with existing statutes and regulations which promote those resources and technologies.

(3) Research, development and demonstration programs for the public interest to advance science or technology which is not adequately provided by competitive and regulated markets.

(4) Services provided for low-income electricity customers, including, but not limited to, energy efficiency services, education, weatherization, and rate discounts.

(b) Each local publicly owned electric utility that has not implemented programs for low-income electricity customers including targeted energy efficiency services and rate discounts based upon the income level of the customer, or completed an assessment of need for those programs, on or before December 31, 2000, shall perform a needs assessment for the programs described in paragraph (4) of subdivision (a) and shall hold one or more public meetings, after notice, to review the findings of the needs assessment. Following the public meetings, the governing body of the local publicly owned electric utility shall determine the amount of the total funds collected pursuant to this section to be allocated to low-income programs, including, but not limited to, targeted energy efficiency services, education, weatherization, and rate discounts. In making its decision on the need for the programs, the governing body shall consider all of the following:

(1) The number and income level of low-income customers that reside in the service area of the utility.

(2) The availability of home weatherization services to low-income customers pursuant to Section 2790.

(3) The availability of in-home energy efficiency education in the utility's service area.

(4) Other factors that may indicate a need for low-income services.

(c) Following a determination pursuant to subdivision (b) that low-income services are needed, the local publicly owned utility shall promptly implement or expand those programs. The local publicly owned electric utility shall work with existing weatherization providers to implement energy efficiency, education, and weatherization programs.

§ 387. Local publicly owned electrical utilities; implementation and enforcement of renewables portfolio standard; annual report

(a) Each governing body of a local publicly owned electric utility, as defined in Section 9604, shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers, the following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels considered eligible renewable energy resources as defined by Section 399.12.

Article 9. State Agencies

§ 389. Shifting costs from electric utility ratepayers to other classes of beneficiaries; evaluation and report to legislature

(a) The Secretary of the California Environmental Protection Agency, in consultation with interested stakeholders including relevant state and federal agencies, boards, and commissions, shall evaluate and recommend to the Legislature public policy strategies that address the feasibility of shifting costs from electric utility ratepayers, in whole or in part, to other classes of beneficiaries. This evaluation also shall address the quantification of benefits attributable to the solid-fuel biomass industry and implementation requirements, including statutory amendments and transition period issues that may be relevant, to bring about equitable and effective allocation of solid-fuel biomass electricity costs that ensure the retention of the economic and environmental benefits of the biomass industry while promoting measurable reduction in real costs to ratepayers. This evaluation shall be in coordination with the California Energy Resources Conservation and Development Commission's efforts pursuant to subdivision (b) of Section 383, addressing renewable policy implementation issues. The Secretary of the California Environmental Protection Agency shall submit a final report to the Legislature, using existing agency resources, prior to March 31, 1997.

(b) The Secretary of the California Environmental Protection Agency, in consultation with relevant state and federal agencies, boards, and commissions, and with representatives of the solid-fuel biomass industry, shall prepare and submit to the Legislature an annual report on the existence, status, and progress of any public policy measures for cost-shifting developed as a result of the recommendations made pursuant to subdivision (a), on or before March 31 of each year from 1999 to 2001, inclusive. A report prepared pursuant to this subdivision shall not exceed 10 pages.

Article 10. Nonutility Power Generators

§ 390.1. Renewal and extension of contract beyond five year term

Any nonutility power generator using renewable fuels that has entered into a contract with an electrical corporation prior to December 31, 2001, specifying fixed energy prices for five years of output may negotiate a contract for an additional five years of fixed energy payments upon expiration of the initial five-year term, at a price to be determined by the commission.

§ 391. Legislative findings, declarations and intent

The Legislature finds and declares all of the following:

(a) Electricity is essential to the health, safety, and economic well-being of all California consumers.

(b) The restructuring of the electricity industry will create a new electricity market with new marketers and sellers offering new goods and services, many of which may not be readily evaluated by the average consumer.

(c) It is important that these customers be protected from unfair marketing practices and that market participants demonstrate their creditworthiness and technical expertise in order to engage in power sales to these members of the public.

(d) Larger commercial and industrial customers are sophisticated energy consumers that have adequate civil remedies and are adequately protected by existing commercial law, as demonstrated by the absence of significant amounts of contract litigation between commercial and industrial natural gas users and natural gas marketers in California.

(e) It is important to create a market structure that will not unduly burden new entrants into the competitive electric market, or California may not receive the full benefits of reduced electricity costs through competition.

(f) It is appropriate to create a system of registration and consumer protection for the electric industry, designed to ensure sufficient protection for residential and small commercial consumers while simplifying entry into the market for responsible entities serving larger, more sophisticated customers.

(g) It is the intent of the Legislature that:

(1) Electricity consumers be provided with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market.

(2) Consumers be provided with mechanisms to protect themselves from marketing practices that are unfair or abusive.

(3) Pursuant to the authority granted to the commission in this part as to registration and consumer protection matters, the commission shall balance the need to

maximize competition by reducing barriers to entry into the small retail electricity procurement market with the need to protect small consumers against deceptive, unfair, or abusive business practices, or insolvency of the entity offering retail electric service.

(h) It is the intent of the Legislature in enacting this act to further the policies of AB 1890 (Chapter 854, Statutes of 1996) relating to electric industry restructuring.

Article 11. Information Practices

§ 392. Disclosure of components of electric bills; customer education program; standard bill format

(a)(1) Electrical corporations shall disclose each component of the electrical bill as follows:

(A) The total charges associated with transmission and distribution, including that portion comprising the research, environmental, and low-income funds.

(B) The total charges associated with generation, including the competition transition charge.

(2) Electrical corporations shall provide conspicuous notice that if the customer elects to purchase electricity from another provider that customer will continue to be liable for payment of the competition transition charge. This paragraph does not prohibit the commission from requiring additional information.

(b) Prior to the implementation of the competition transition charge, electric corporations, in conjunction with the commission, shall devise and implement a customer education program informing customers of the changes to the electric industry. The program shall provide customers with information necessary to help them make appropriate choices as to their electric service. The education program shall be subject to approval by the commission.

(c) The standard bill format developed by the commission pursuant to subdivision (e) of Section 394.4 shall also apply to electrical corporations.

§ 392.1. Registered provider information; consumer assistance; customer complaints; filings and data maintenance; public alerts

(a) The commission shall compile and regularly update the following information: names and contact numbers of registered providers, information to assist consumers in making service choices, and the number of customer complaints against specific providers in relation to the number of customers served by those providers and the disposition of those complaints. To facilitate this function, registered entities shall file with the commission information describing the terms and conditions of any standard service plan made available to residential and small commercial customers. The commission shall adopt a standard format for this filing. The commission shall maintain and make generally available a list of entities offering electrical services operating in California. This list shall include all registered providers and those providers not required to be registered who request the commission to be included in the list. The commission shall, upon request, make this information available at no charge. Notwithstanding any other provision of law, public agencies which are registered entities shall

be required to disclose their terms and conditions of service contracts only to the same extent that other registered entities would be required to disclose the same or similar service contracts.

(b) The commission shall issue public alerts about companies attempting to provide electric service in the state in an unauthorized or fraudulent manner as defined in subdivision (b) of Section 394.25.

(c) The commission shall direct the Office of Ratepayer Advocates to collect and analyze information provided pursuant to subdivision (a) for purposes of preparing easily understandable informational guides or other tools to help residential and small commercial customers understand how to evaluate competing electric service options. In implementing these provisions, the commission shall direct the Office of Ratepayer Advocates to pay special attention to ensuring that customers, especially those with limited-English-speaking ability or other disadvantages when dealing with marketers, receive correct, reliable, and easily understood information to help them make informed choices. The Office of Ratepayer Advocates shall not make specific recommendations or rank the relative attractiveness of specific service offerings of registered providers of electric services.

§ 393. Pilot study; residential and small commercial customers; management of electricity use

(a) The commission shall conduct a pilot study of the residential and small commercial customers of each electrical corporation, where the rate level established in subdivision (a) of Section 368 is no longer in effect, to determine the relative value to ratepayers of various information, rate design, and metering innovations for helping residential and small commercial customers better manage their electricity use. The commission shall compare the net benefits, including, but not limited to, all of the following approaches:

(1) The retrofit or replacement of residential and small commercial meters to provide real-time usage information to a standard output interface that is connected to a visual display module within the customer's home or business that presents information, at minimum, on current usage and historic usage. The commission may also test the effects of providing greater amounts of information display capability including, but not limited to, historic usage and estimated aggregated costs for the billing period, associated with the customer's bundled rate structure. The standard output interface of the meter must be multiply accessible to allow the installation by the customer, an electrical corporation, or a registered energy service provider of energy information-based energy management applications.

(2) The replacement of residential and small commercial meters with time-of-use meters that distinguish and measure peak and off-peak energy use. Subject to the approval of the commission, electrical corporations shall offer a rate schedule to customers that differentially price seasonal on-peak, mid-peak, and off-peak energy use that reflects the electrical corporation's actual energy cost. The meters used shall have the same standard usage information output interface as in paragraph (1).

(3) The replacement of residential and small commercial meters with meters that facilitate the offering of hourly real-time pricing. Subject to the approval of the commission, electrical corporations shall offer a rate schedule to customers that prices electricity usage at the electrical corporation's hourly cost. The meters used shall have the same standard usage information output interface as in paragraph (1).

(b) The commission shall ensure that sufficient valid randomized customer use data, normalized for weather, occupancy, energy cost differences and other potentially confounding factors, are collected to respond to, but are not limited to, all of the following questions:

(1) To what extent is the real-time availability of customer usage information to customers sufficient to bring about a significant change in customer energy consumption behavior?

(2) To what extent is the availability of customer usage information to customers sufficient to stimulate innovation in energy information-based energy management applications?

(3) What is the difference in energy consumption behavior between customers that have enhanced access to energy consumption information and those who have time-of-use rates?

(4) Do the differences in usage and net cost savings, if any, between customers who have enhanced energy information and those who have time-of-use rates justify the broader offering of time-of-use metering capability?

(5) What is the difference in energy consumption behavior between customers who consume electricity under hourly real-time pricing and customers who either have enhanced information access or time-of-use pricing? Does the value of these differences justify the broader offering of hourly real-time pricing?

(6) What issues should be addressed prior to systemwide deployment?

(c) In conducting the pilot study, the commission shall ensure that all of the following study conditions are observed:

(1) No more than the minimum number of customers required to provide a statistically valid sample for a customer group in a pilot study as required by subdivision (a) are included. The aggregate total number of customers participating in a customer group in a pilot study may not exceed 3 percent of the electrical corporation's customers.

(2) Customers from each electrical corporation are selected from comparable geographic areas, from a variety of climate zones, and from a range of socioeconomic circumstances. In addition, control groups of customers shall be established for each study against whom the behavior of the study group participants may be compared.

(3) No customer is required to participate in a pilot study. However, customer rates of participation and reasons for nonparticipation for each study condition shall be monitored and incorporated in the study results, as appropriate.

(4) The offerings for the customers in the service territories of each electrical corporation that participates in a pilot study required by subdivision (a) are identical among electrical corporations to allow the comparison of data and results. However, electrical corporations may test alternative technological solutions, not including those relating to the standard usage information output interface specified in subdivision (e), to offer hourly real-time pricing for the pilot study in paragraph (3) of subdivision (a).

(5) Notwithstanding paragraph (4), the commission may waive the requirement imposed by that paragraph, or otherwise alter a pilot study, if the commission finds that it is in the public interest.

(6) All interested energy service providers and equipment manufacturers are included in the design and implementation of the pilot study to ensure that its results may be used to guide the subsequent deployment of the appropriate customer usage information infrastructure.

(d) The commission shall report to the Legislature on the initial results of the pilot study on or before March 31, 2002. The commission shall report on the results of the study for electrical corporations that continue to be under the rate level established in subdivision (a) of Section 368 at the effective date of this act within 15 months from the time when that rate level is no longer in effect.

(e) The study data shall be available to the public. The data shall be provided in a way that does not reveal customer-specific information.

(f) The standard usage information output interface used in pilot study elements set forth in paragraphs (1) to (3), inclusive, of subdivision (a) shall meet all of the following specifications:

(1) All electrical corporation retrofits or meter replacements shall conform to the same American National Standards Institute, Institute of Electrical and Electronics Engineers or other standard, as appropriate, and provide the same standard output interface.

(2) The technology selected shall be the most cost-effective, including its use of electricity on a life-cycle basis.

(3) The standard output interface selected shall allow a customer's data to be multiply accessed in a secure and protected manner.

(4) The standard output interface shall be installed in a way that does not compromise customer or worker safety or the integrity or accuracy of the meter.

(5) Because some older vintage meters cannot be readily retrofitted, the decision regarding whether to retrofit or replace a meter must be made on the basis of cost-effectiveness.

(6) Access by electrical corporations and third-party providers to the usage information output interface shall be at the sole discretion of the customer, except to the extent that the customer enters into a billing relationship with an electrical corporation or energy service provider.

(7) To ensure customer privacy, unless specifically authorized by the customer, information based upon customer data may not be used for any commercial purpose.

(8) Customers receiving service under the California Alternative Rates for Energy program under Section 739.1 do not pay a higher distribution rate attributable to participating in any of the pilot studies in subdivision (a).

(g) The commission shall allow electrical corporations to include in their distribution rates the reasonable investment and operating, installing, accounting, and evaluating costs of the pilot studies, those costs to be allocated only among the customer classes participating in the study.

Article 12. Consumer Protection

§ 394. Electric service providers; registration

(a) As used in this section, "electric service provider" means an entity that offers electrical service to customers within the service territory of an electrical corporation, but does not include an electrical corporation, as defined in Section 218, does not include an entity that offers electrical service solely to serve customer load consistent with subdivision (b) of Section 218, and does not include a public agency that offers electrical service to residential and small commercial customers within its jurisdiction, or within the service territory of a local publicly owned electric utility. "Electric service provider" includes the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218.

(b) Each electric service provider shall register with the commission. As a precondition to registration, the electric service provider shall provide, under oath, declaration, or affidavit, all of the following information to the commission:

(1) Legal name and any other names under which the electric service provider is doing business in California.

(2) Current telephone number.

(3) Current address.

(4) Agent for service of process.

(5) State and date of incorporation, if any.

(6) Number for a customer contact representative, or other personnel for receiving customer inquiries.

(7) Brief description of the nature of the service being provided.

(8) Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed within the 10 years immediately prior to registration, against the company or any owner, partner, officer, or director of the company pursuant to any state or federal consumer protection law or regulation, and of any felony convictions of any kind against the company or any owner, partner, officer, or director of the company. In addition, each electric service provider shall furnish the commission with fingerprints for those owners, partners, officers, and managers of the electric service provider specified by any commission decision applicable to all electric service providers. The commission shall submit completed fingerprint cards to the

Department of Justice. Those fingerprints shall be available for use by the Department of Justice and the Department of Justice may transmit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The commission may use information obtained from a national criminal history record check conducted pursuant to this section to determine an electric service provider's eligibility for registration.

(9) Proof of financial viability. The commission shall develop uniform standards for determining financial viability and shall publish those standards for public comment no later than March 31, 1998. In determining the financial viability of the electric service provider, the commission shall take into account the number of customers the potential registrant expects to serve, the number of kilowatthours of electricity it expects to provide, and any other appropriate criteria to ensure that residential and small commercial customers have adequate recourse in the event of fraud or nonperformance.

(10) Proof of technical and operational ability. The commission shall develop uniform standards for determining technical and operational capacity and shall publish those standards for public comment no later than March 31, 1998.

(c) Any registration filing approved by the commission prior to the effective date of this section which does not comply in all respects with the requirements of subdivision (a) of Section 394 shall nevertheless continue in force and effect so long as within 90 days of the effective date of this section the electric service provider undertakes to supplement its registration filing to the satisfaction of the commission. Any registration that is not supplemented by the required information within the time set forth in this subdivision shall be suspended by the commission and shall not be reinstated until the commission has found the registration to be in full compliance with subdivision (a) of Section 394.

(d) Any public agency offering aggregation services as provided for in Section 366 solely to retail electric customers within its jurisdiction that has registered with the commission prior to the enactment of this section may voluntarily withdraw its registration to the extent that it is exempted from registration under this chapter.

(e) Before reentering the market, electric service providers whose registration has been revoked shall file a formal application with the commission that satisfies the requirements set forth in Section 394.1 and demonstrates the fitness and ability of the electric service provider to comply with all applicable rules of the commission.

(f) Registration with the commission is an exercise of the licensing function of the commission, and does not constitute regulation of the rates or terms and conditions of service offered by electric service providers. Nothing in this part authorizes the commission to regulate the rates or terms and conditions of service offered by electric service providers.

§ 394.1. Approval of registration; grounds for denial; information updates

(a) The registration shall be deemed approved and a registration number issued no later than 45 days after the required information has been submitted, unless the commission's executive director finds, upon review of the information submitted by the electric service provider or available to the commission, that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for denial of registration as specifically set forth in the operative provisions of this chapter, including, but not limited to, subdivision (c).

(b) Upon a finding by the commission's executive director that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for denial of registration as set forth in this section, the commission shall notify the electric service provider in writing, cause the documents submitted by the electric service provider to be filed as a formal application for registration, and notice an expedited hearing on the registration of the electric service provider to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support denial of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the registration request which shall be based on the findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(c)(1) The commission may deny an application for registration in accordance with subdivision (b) on the grounds that the electric service provider or any officer or director of the electric service provider has one or more of the following:

(A) Been convicted of a crime as described in paragraph (8) of subdivision (a) of Section 394.

(B) Failure to make a sufficient showing with respect to paragraphs (1) to (10), inclusive, of subdivision (a) of Section 394.

(C) Knowingly made a false statement of fact in the application for registration.

(2) The commission may deny registration pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties required to provide retail electric service to end use customers of electricity or the false statement is material to the registration application. For purposes of this subdivision, conviction of a crime shall be established in the same manner as that set forth in paragraph (1) of subdivision (a) of Section 480 of the Business and Professions Code.

(d) The commission shall require electric service providers registered under this section to update their registration information set forth in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 394 within 60 days of any material change in the information provided. Material changes to any other information required pursuant to this article shall be updated annually.

§ 394.2. Consumer complaints regarding electric service providers; investigation of abuses; remedies

(a) The commission shall accept, compile, and attempt to informally resolve consumer complaints regarding electric service providers. Where the commission reasonably suspects a pattern of customer abuses, the commission may, on its own motion, initiate investigations into the activities of electric service providers offering electrical service. Consumer complaints regarding service by a public agency offering electric service within the political boundary of the public agency or service territory of a local publicly owned electric utility shall continue to be resolved by the public agency. Within the service territory of a local publicly

owned utility, consumer complaints arising from the violation of direct access rules adopted by the governing body of the local publicly owned utility shall be resolved through the local publicly owned utility's consumer complaint procedures.

(b) Notwithstanding other provisions, residential and small commercial customers shall have the option to proceed with a complaint against an electric service provider either through an action filed in the judicial court system or through a complaint filed with the commission. A customer who elects either the judicial or commission remedies may not raise the same claim in both forums. The commission shall have the authority to accept, compile, and resolve residential, and small commercial consumer complaints, including the authority to award reparations. The commission's authority in these complaint proceedings is limited to adjudication of complaints regarding residential and small commercial electric service provided by an electric service provider and shall not be expanded to include either an award of any other damages or regulation of the rates or charges of the electric service provider. However, a person or electric service provider that takes a conflict to the commission shall not be precluded from pursuing an appeal of the decision through the courts as provided for in law.

(c) In connection with customer complaints or commission investigations into customer abuses, electric service providers shall provide the commission access to their accounts, books, papers, and documents related to California transactions as described in Sections 313 and 314, provided the information is relevant to the complaint or investigation.

(d) No electric service provider may discontinue service to a customer for a disputed amount if that customer has filed a complaint that is pending with the commission, and that customer has paid the disputed amount into an escrow account.

§ 394.25. Authority of commission; suspension or revocation of registration; moratorium on adding or soliciting additional customers; refunds from electric service providers whose registration is revoked; reentry fees

(a) The commission may enforce the provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against electric service providers as if those electric service providers were public utilities as defined in these code sections. Notwithstanding the above, nothing in this section grants the commission jurisdiction to regulate electric service providers other than as specifically set forth in this part. Electric service providers shall continue to be subject to the provisions of Sections 2111 and 2112. Upon a finding by the commission's executive director that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the electric service provider in writing and notice an expedited hearing on the suspension or revocation of the electric service provider's registration to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(b) An electric service provider may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:

(1) Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.

(2) Dishonesty, fraud, or deceit with the intent to substantially benefit the electric service provider or its employees, agents, or representatives, or to disadvantage retail electricity customers.

(3) Where the commission finds that there is evidence that the electric service provider is not financially or operationally capable of providing the offered electric service.

(4) The misrepresentation of a material fact by an applicant in obtaining a registration pursuant to Section 394.

(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the electric service provider to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until the time when they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any electric service provider under the service agreement if the serving electric service provider's registration is suspended or revoked.

(d) The commission shall require any electric service provider whose registration is revoked pursuant to paragraph (4) of subdivision (b) to refund all of the customer credit funds that the electric service provider received from the State Energy Resources Conservation and Development Commission pursuant to subdivision (a) of Section 25744 of the Public Resources Code. The repayment of these funds shall be in addition to all other penalties and fines appropriately assessed the electric service provider for committing those acts under other provisions of law. All customer credit funds refunded under this subdivision shall be deposited in the Renewable Resource Trust Fund for redistribution by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code. This subdivision may not be construed to apply retroactively.

(e) If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electric corporation shall be the obligation of the electric service provider or a community choice aggregator, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers.

§ 394.27. Claim for property damage; duty to inform customer of remedies

When a customer files a claim with an electrical corporation for damages to property resulting from the curtailment of electric service due to the failure of the electrical corporation to reasonably provide service or restore service within a reasonable time after a fire, flood, earthquake, other natural disaster, or act of God, the electric corporation shall inform the customer that such claim may be pursued in small claims court or other judicial courts, depending on the amount of the claim.

§ 394.3. Registration fees; calculation; penalty

In order to carry out essential elements of a sustainable and effective consumer protection program in connection with electric service providers offering electrical service to residential and small commercial customers as intended by the Legislature in this article, the following shall apply:

(a) A registration fee of one hundred dollars ($100) shall be collected from electric service providers required to register under this article, and the fee proceeds shall be deposited in the Public Utilities Reimbursement Account established under Section 402.

(b) The commission shall annually determine the costs of administering the registration program and other facets of consumer protection directly related to the direct access transactions of electric service providers, including the cost for the duties imposed pursuant to subdivision (c) of Section 392.1. The commission shall only collect those costs not already being collected elsewhere. Registrants who fail to submit to the commission required fees or information upon which fees are calculated within 30 days of billing shall be subject to a 15-percent penalty.

§ 394.4. Minimum standards; adoption of rules

Rules that implement the following minimum standards shall be adopted by the commission for electric service providers offering electrical services to residential and small commercial customers and the governing body of a public agency offering electrical services to residential and small commercial customers within its jurisdiction:

(a) Confidentiality: Customer information shall be confidential unless the customer consents in writing. This shall encompass confidentiality of customer specific billing, credit, or usage information. This requirement shall not extend to disclosure of generic information regarding the usage, load shape, or other general characteristics of a group or rate classification, unless the release of that information would reveal customer specific information because of the size of the group, rate classification, or nature of the information.

(b) Physical disconnects and reconnects: Only an electrical corporation, or a publicly owned electric utility, that provides physical delivery service to the affected customer shall have the authority to physically disconnect or reconnect a customer from the transmission or distribution grid. Physical disconnection by electrical corporations subject to the commission's jurisdiction shall occur only in accordance with protocols established by the commission. Physical disconnection by publicly owned electric utilities shall occur only in accordance with protocols established by the governing board of the local publicly owned electric utility.

(c) Change in providers: Upon adequate notice supplied by a electric service provider to the electric corporation or local publicly owned electric utility providing physical delivery service, customers who are eligible for direct access may change their energy supplier. Energy suppliers may charge for this change, provided that any fee or penalty charged by the supplier associated with early termination of service, shall be disclosed in that contract or applicable tariff.

(d) Written notices: Notices describing the terms and conditions of service as described in Section 394.5, service agreements, notices of late payment, notices of discontinuance of service, and disconnection notices addressed to residential and small commercial customers shall be easily understandable, and shall be provided in the language in which the electric service provider offered the services.

(e) Billing: All bills shall have a standard bill format, as determined by the commission or the governing body, and shall contain sufficient detail for the customer to recalculate the bill for accuracy. Any late fees shall be separately stated. Each electric service provider shall provide on all customer bills a phone number by which customers may contact the electric service provider to report and resolve billing inquiries and complaints. An electric service provider contacted by a customer regarding a billing dispute shall advise the customer at the time of the initial contact that the customer may file a complaint with the commission if its dispute is not satisfactorily resolved by the electric service provider.

(f) Meter integrity: An electric customer shall have a reasonable opportunity to have its meter tested to ensure the reasonable accuracy of the meter. The commission or governing body shall determine who is responsible for the cost of that testing.

(g) Customer deposits: Electric service providers may require customer deposits before commencing service, but in no event shall the deposit be more than the estimated bill for the customer for a three-month period.

(h) Additional protections: The commission or the governing body may adopt additional residential and small commercial consumer protection standards that are in the public interest.

§ 394.5. Notice of service to potential customers; contents; denial of service

(a) Except for an electrical corporation as defined in Section 218, or a local publicly owned electric utility as defined in subdivision (d) of Section 9604 offering electrical service to residential and small commercial customers within its service territory, each electric service provider offering electrical service to residential and small commercial customers shall, prior to the commencement of service, provide the potential customer with a written notice of the service describing the price, terms, and conditions of the service. The notices shall include all of the following:

(1) A clear description of the price, terms, and conditions of service, including:

(A) The price of electricity expressed in a format which makes it possible for residential and small commercial customers to compare and select among similar products and services on a standard basis. The commission shall adopt rules to implement this subdivision. The commission shall require disclosure of the total price of electricity on a cents-per-kilowatthour basis, including the costs of all electric services and charges regulated by the commission. The commission shall also require estimates of the total monthly bill for the electric service at varying consumption levels, including the costs of all electric services and charges regulated by the commission. In determining these rules, the commission may consider alternatives to the cent-per-kilowatthour disclosure if other information would provide the customer with sufficient information to compare among alternatives on a standard basis.

(B) Separate disclosure of all recurring and nonrecurring charges associated with the sale of electricity.

(C) If services other than electricity are offered, an itemization of the services and the charge or charges associated with each.

(2) An explanation of the applicability and amount of the competition transition charge, as determined pursuant to Sections 367 to 376, inclusive.

(3) A description of the potential customer's right to rescind the contract without fee or penalty as described in Section 395.

(4) An explanation of the customer's financial obligations, as well as the procedures regarding past due payments, discontinuance of service, billing disputes, and service complaints.

(5) The electric service provider's registration number, if applicable.

(6) The right to change service providers upon written notice, including disclosure of any fees or penalties assessed by the supplier for early termination of a contract.

(7) A description of the availability of low-income assistance programs for qualified customers and how customers can apply for these programs.

(b) The commission may assist electric service providers in developing the notice. The commission may suggest inclusion of additional information it deems necessary for the consumer protection purposes of this section. On at least a semiannual basis, electric service providers shall provide the commission with a copy of the form of notice included in standard service plans made available to residential and small commercial customers as described in subdivision (a) of Section 392.1.

(c) Any electric service provider offering electric services who declines to provide those services to a consumer shall, upon request of the consumer, disclose to that consumer the reason for the denial in writing within 30 days. At the time service is denied, the electric service provider shall disclose to the consumer his or her right to make this request. Consumers shall have at least 30 days from the date service is denied to make the request.

§ 394.6. Service territories

For purposes of this article, service territory of a local publicly owned electric utility means within the boundaries of its service territory as it existed on December 20, 1995, or within the boundaries specified in an applicable service territory boundary agreement entered into pursuant to Article 1 (commencing with Section 8101) of Division 4, or any other provision of law, between an electrical corporation and the affected local publicly owned electric utility, or within the boundaries specified in an applicable service territory boundary agreement between one local publicly owned electric utility and another local publicly owned electric utility. Furthermore, for purposes of this article, the boundaries of the Merced Irrigation District shall be as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base, which was located outside of the district on that date.

§ 394.7. Telephone solicitation by electric service providers; list of customers not wishing solicitation; violations; liability

(a) The commission shall maintain a list of residential and small commercial customers who do not wish to be solicited by telephone, by an electric corporation, marketer, broker, or aggregator for electric service, to subscribe to or change their electric service provider. The commission shall not assess a charge for inclusion of a customer on the list. The list shall be updated periodically, but no less than quarterly.

(b) The list shall include sufficient information for electric corporations, marketers, brokers, or aggregators of electric service to identify customers who do not wish to be solicited, including a customer's address and telephone number. The list shall be made accessible electronically from the commission to any party regulated as an electric corporation or registered at the commission as an electric marketer, broker, or aggregator of electric service.

(c) An electric corporation, marketer, broker, or aggregator of electric service shall not solicit, by telephone, any customer on the list prepared pursuant to subdivision (a). Any electric corporation, marketer, broker, or aggregator of electric service, or the representative of an electric corporation, marketer, broker, or aggregator of electric service, who solicits any customer on the list prepared pursuant to subdivision (a) more than once shall be liable to the customer for twenty-five dollars ($25) for each contact in violation of this subdivision.

(d) This section shall not apply to the telephone verification required pursuant to Section 366.5.

§ 394.8. Local publicly owned electric utilities; exclusion from article provisions

Notwithstanding any other provision of this article, requirements placed on an electric service provider shall not apply to electrical services provided by a local publicly owned electric utility to customers within the jurisdiction or service territory of that local publicly owned electric utility.

§ 394.9. Unclaimed refunds; interest; use

Unclaimed refunds ordered by the commission, and any accrued interest, may be used by the commission to fund additional consumer protection efforts.

§ 395. Cancellation of contract; notice of cancellation

(a) In addition to any other right to revoke an offer, residential and small commercial customers of electrical service, as defined in subdivision (h) of Section 331, have the right to cancel a contract for electric service until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase.

(b) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address specified in the agreement or offer.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) Notice of cancellation given by the buyer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the buyer not to be bound by the contract.

§ 396. Violations of article; damages

(a) A consumer damaged by a violation of this article by an electric service provider is entitled to recover all of the following:

(1) Actual damages.

(2) The consumer's reasonable attorney's fees and court costs.

(3) Exemplary damages, in the amount the court deems proper, for intentional or willful violations.

(4) Equitable relief as the court deems proper.

(b) The rights, remedies, and penalties established by this article are in addition to the rights, remedies, or penalties established under any other law.

(c) Nothing in this article shall abrogate any authority of the Attorney General to enforce existing law.

Article 14. Disclosure of Sources of Electrical Generation

§ 398.1. Legislative findings and declarations

(a) The Legislature finds and declares that there is a need for reliable, accurate, and timely information regarding fuel sources for electric generation offered for retail sale in California.

(b) The purpose of this article is to establish a program under which entities offering electric services in California disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric services.

§ 398.2. Definitions

The definitions set forth in this section shall govern the construction of this article.

(a) "System operator" means the Independent System Operator with responsibility for the efficient use and reliable operation of the transmission grid, as provided by Section 345, or a local publicly owned electric utility that does not utilize the Independent System Operator.

(b) "Specific purchases" means electricity transactions which are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer. Retail suppliers may rely on annual data to meet this requirement, rather than hour-by-hour matching of loads and resources.

(c) "Net system power" means the mix of electricity fuel source types established by the California Energy Resources Conservation and Development Commission representing the sources of electricity consumed in California that are not disclosed as specific purchases pursuant to Section 398.4.

§ 398.3. Electricity generation data in kilowatthours; disclosure of data

(a) Beginning January 1, 1998, or as soon as practicable thereafter, each generator that provides meter data to a system operator shall report to the system operator electricity generated in kilowatthours by hour by generator, the fuel type or fuel types and fuel consumption by fuel type by month on an historical recorded quarterly basis. Facilities using only one fuel type may satisfy this requirement by reporting fuel type only. With regard to any facility using more than one fuel type, reports shall reflect the fuel consumed as a percentage of electricity generation.

(b) The California Energy Resources Conservation and Development Commission shall have authorization to access the electricity generation data in kilowatthours by hour for each facility that provides meter data to the system operator, and the fuel type or fuel types.

(c) With regard to out-of-state generation, the California Energy Resources Conservation and Development Commission shall have authorization to access the electricity generation data in kilowatthours by hour at the point at which out-of-state generation is metered, to the extent the information has been submitted to a system operator.

(d) Trade secrets as defined in subdivision (d) of Section 3426.1 of the Civil Code contained in the information provided to the system operators pursuant to this section shall be treated as confidential. These data may be disclosed only by the system operators and only by authorization of the generator except that the California Energy Resources Conservation and Development Commission shall have authorization to access these data, shall consider all these data to be trade secrets, and shall only release these data in an aggregated form such that trade secrets cannot be discerned.

§ 398.4. Retail suppliers of electricity; disclosure of electricity sources

(a) Every retail supplier that makes an offering to sell electricity that is consumed in California shall disclose its electricity sources. A retail supplier that does not make any claims that identify its electricity sources as different than net system power may disclose net system power. Every retail supplier that makes an offering to sell electricity that is consumed in California and makes any claims that identify any of its electricity sources as different than net system power shall disclose these sources as specific purchases.

(b) The disclosures required by this section shall be made to potential end-use consumers in all product-specific written promotional materials that are distributed to consumers by either printed or electronic means, except that advertisements and notices in general circulation media shall not be subject to this requirement.

(c) The disclosures required by this section shall be made at least quarterly to end-use consumers of the offered electricity.

(d) The disclosures required by this section shall be made separately for each offering made by the retail supplier.

(e) On or before January 1, 1998, the California Energy Resources Conservation and Development Commission shall specify guidelines for the format and means for disclosure required by Section 398.3 and this section, based on the requirements of this article and subject to public hearing.

(f) The costs of making the disclosures required by this section shall be considered to be generation-related.

(g) The disclosures required by this section shall be expressed as a percentage of annual sales derived from each of the following categories, unless no specific purchases are disclosed, in which case only the first category shall be disclosed:

(1) Net system power.

(2) Specific purchases.

(h)(1) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the categories specified as follows:

(A) Coal.

(B) Large hydroelectric (greater than 30 megawatts).

(C) Natural gas.

(D) Nuclear.

(E) Other.

(F) Eligible renewables, which means renewable resource technologies defined as electricity produced from other than a conventional power source within the meaning of Section 2805, provided that a power source utilizing more than 25 percent fossil fuel may not be included, shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the subcategories specified as follows:

(i) Biomass and waste.

(ii) Geothermal.

(iii) Small hydroelectric (less than or equal to 30 megawatts).

(iv) Solar.

(v) Wind.

(2) The category "Other" shall be used for fuel types other than those listed above that represent less than 2 percent of net system power. The California Energy Resources Conservation and Development Commission may specify additional categories or change these categories, consistent with the requirements of this article and subject to public hearing, if it determines that the changes will facilitate the disclosure objectives of this section.

(i) All electricity sources disclosed as specific purchases shall meet the requirements of subdivision (b) of Section 398.2.

(j) Specific purchases identified pursuant to this section shall be from sources connected to the Western Systems Coordinating Council interconnected grid.

(k) Net system power shall be disclosed for the most recent calendar year available. Disclosure of net system power shall be accompanied by this qualifying note: "The State of California determines this net system power mix annually; your actual electricity purchases may vary." The California Energy Resources Conservation and Development Commission may modify this note, consistent with the requirements of this article and subject to public hearing, if it determines that the changes will facilitate the disclosure objectives of this section.

(l) For each offering made by a retail supplier for which specific purchases are disclosed, the retail supplier shall disclose projected specific purchases for the current calendar year. Projected specific purchases need not be disclosed by numerical percentage at the subcategory level identified in subparagraph (F) of paragraph (1) of subdivision (h). On or before April 15, 1999, and annually thereafter, every retail supplier that discloses specific purchases shall also disclose to its customers, separately for each offering made by the retail supplier, its actual specific purchases for the previous calendar year consistent with information provided to the California Energy Resources Conservation and Development Commission pursuant to Section 398.5. Disclosure of projected specific purchases and actual specific purchases shall each be accompanied by statements identifying whether the data are projected or actual, as developed by the California Energy Resources Conservation and Development Commission, subject to public hearing.

(m) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

§ 398.5. Annual report by retail suppliers of electricity

(a) Retail suppliers that disclose specific purchases pursuant to Section 398.4 shall report on March 1, 1999, and annually thereafter, to the California Energy Resources Conservation and Development Commission, for each electricity offering, for the previous calendar year each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) For each electricity offering the kilowatthours sold at retail.

(3) For each electricity offering the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the California Energy Resources Conservation and Development Commission pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) On or before January 1, 1998, the California Energy Resources Conservation and Development Commission shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the California Energy Resources Conservation and Development Commission shall seek to minimize the reporting burden and cost of reporting that it imposes on retail suppliers.

(e) On or before October 15, 1999, and annually thereafter, the California Energy Resources Conservation and Development Commission shall issue a report comparing information available pursuant to Section 398.3 with information submitted by retail suppliers pursuant to this section, and with information disclosed to consumers pursuant to Section 398.4. This report shall be forwarded to the California Public Utilities Commission.

(f) Beginning April 15, 1999, and annually thereafter, the California Energy Resources Conservation and Development Commission shall issue a report calculating net system power. The California Energy Resources Conservation and Development Commission will establish the generation mix for net generation imports delivered at interface points and metered by the system operators. The California Energy Resources Conservation and Development Commission shall issue an initial report calculating preliminary net system power for calendar year 1997 on or before January 1, 1998. This report shall be updated on or before October 15, 1998.

(g) The provisions of this section shall not apply to generators providing electric service on site, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

(h) The California Energy Resources Conservation and Development Commission may verify the veracity of environmental claims made by retail suppliers.

Article 15. Reliable Electric Service Investments Act

§ 399. Short title; Legislative findings, declarations and intent

(a) This article shall be known, and may be cited, as the Reliable Electric Service Investments Act.

(b) The Legislature finds and declares that safe, reliable electric service is of utmost importance to the citizens of this state, and its economy.

(c) The Legislature further finds and declares that in order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is essential that prudent investments continue to be made in all of the following areas:

(1) To protect the integrity of the electric distribution grid.

(2) To ensure an adequately sized and trained utility workforce.

(3) To ensure cost-effective energy efficiency improvements.

(4) To achieve a sustainable supply of renewable energy.

(5) To advance public interest research, development and demonstration programs not adequately provided by competitive and regulated markets.

(d) It is the intent of the Legislature to reaffirm, without requiring revision, California's doctrine, as reflected in regulatory and judicial decisions, regarding electrical corporations' reasonable opportunity to recover costs and investments associated with their electric distribution grid and the reasonable opportunity to attract capital for investment on reasonable terms.

(e) The Legislature further finds and declares all of the following:

(1) Acting under applicable constitutional and statutory authorities, the Public Utilities Commission and the boards of local publicly owned electric utilities have included in regulated electricity prices, investments that are essential to maintaining system reliability, reducing California electricity users' bills, and mitigating environmental costs of California users' electricity consumption.

(2) Among the most important of these "system benefits" investments categories are energy efficiency, renewable energy, and public interest research, development and demonstration (RD&D).

(3) Energy efficiency investments funded from California's usage-based charges on electricity distribution help improve systemwide reliability by reducing demand in times and areas of system congestion, and at the same time reduce all California electricity users' costs. These investments also significantly reduce environmental costs associated with California's electricity consumption, including, but not limited to, degradation of the state's air, water, and land resources.

(4) California's in-state renewable energy resources help alleviate supply deficits that could threaten electric system reliability, reduce environmental costs associated with California's electricity consumption, and increase the diversity of the electricity system's fuel mix, reducing electricity users' exposure to fossil-fuel price volatility.

(5) California's public-interest research, development and demonstration (RD&D) investments enhance private and regulated sector investment in electricity system technologies, and are designed specifically to help ensure sustained improvement in the economic and environmental performance of the distribution, transmission, and generation and end-use systems that serve California electricity users.

(6) California has established a long tradition of recovering system benefits investments through usage-based electricity charges, which is reflected in at least two decades of electricity price regulation by the commission, the boards of local publicly owned electric utilities, and the mandate of the Legislature in Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the 1995-96 Regular Session of the Legislature) and Chapter 905 of the Statutes of 1997 (Senate Bill 90 of the 1995-96 Regular Session of the Legislature).

(7) Unless the Legislature acts to extend the mandate of Chapter 854 of the Statutes of 1996 for minimum levels of usage based system benefits charges, California electricity users are at substantial risk of higher economic and environmental costs and degraded reliability.

§ 399.1. Definitions

(a) As used in this article, the term "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(b) As used in this article, the term "local publicly owned electric utility" has the same meaning as set forth in subdivision (d) of Section 9604.

§ 399.2. Public policy and legislative intent

(a)(1) It is the policy of this state, and the intent of the Legislature, to reaffirm that each electrical corporation shall continue to operate its electric distribution grid in its service territory and shall do so in a safe, reliable, efficient, and cost-effective manner.

(2) In furtherance of this policy, it is the intent of the Legislature that each electrical corporation shall continue to be responsible for operating its own electric distribution grid including, but not limited to, owning, controlling, operating, managing, maintaining, planning, engineering, designing, and constructing its own electric distribution grid, emergency response and restoration, service connections, service turnons and turnoffs, and service inquiries relating to the operation of its electric distribution grid, subject to the commission's authority.

(b) In order to ensure the continued efficient use, and cost-effective, safe, and reliable operation of the electric distribution grid, each electrical corporation shall continue to operate its electric distribution grid in its service territory consistent with Section 330.

(c) In carrying out the purposes of this section, each electrical corporation shall continue to make reasonable investments in its electric distribution grid. Each electrical corporation shall continue to have a reasonable opportunity to fully recover from all customers of the electrical corporation, in a manner determined by the commission pursuant to this code, all of the following:

(1) Reasonable investments in its electric distribution grid.

(2) A reasonable return on the investments in its electric distribution grid.

(3) Reasonable costs to operate its electric distribution grid.

(d) For purposes of this section, the term "electric distribution grid" means those facilities owned or operated by an electrical corporation that are not under the control of the Independent System Operator and that are used to transmit, deliver, or furnish electricity for light, heat, or power.

(e) Nothing in this section shall be construed to alter or to affect any of the following:

(1) Section 216, 218, or 2827.

(2) The authority of the commission to establish and enforce standards and tariff conditions for the interconnection of customer-owned facilities to the electric distribution grid.

(3) The ratemaking authority of the commission under this code.

(4) The authority of the commission to establish rules governing the extension of service to new customers.

(f) Nothing in this section shall be construed to alter or affect any authority or lack of authority of the commission regarding the ownership and operation of new electric generation used in whole, or in part, for the purpose of maintaining or enhancing the reliability of the electric distribution grid.

(g) Nothing in this section diminishes or expands any existing authority of a local governmental entity.

(h) The commission shall require every electrical corporation operating an electric distribution grid to inform all customers who request residential service connections via telephone of the availability of the California Alternative Rates for Energy (CARE) program and how they may qualify for and obtain these services and shall accept applications for the CARE program according to procedures specified by the commission. Electrical corporations shall recover the reasonable costs of implementing this subdivision.

§ 399.3. Application of public policy and intent

Nothing in Section 399.2 shall be construed to preclude any of California's local publicly owned electric utilities from exercising authority to operate their electric distribution grid as provided under law.

§ 399.4. Cost-effective energy efficiency programs; administration; evaluation of energy efficiency investments

(a)(1) In order to ensure that prudent investments in energy efficiency continue to be made that produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electric distribution grid, it is the policy of this state and the intent of the Legislature that the commission shall continue to administer cost-effective energy efficiency programs authorized pursuant to existing statutory authority.

(2) As used in this section, the term "energy efficiency" includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers' bills, and reduce system needs.

(b) The commission, in evaluating energy efficiency investments under its existing statutory authorities, shall also ensure both of the following:

(1) That local and regional interests, multifamily dwellings, and energy service industry capabilities are incorporated into program portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.

(2) That no energy efficiency funds are used to provide incentives for the purchase of new energy-efficient refrigerators.

§ 399.6. Investment plans; allocations

(a) In order to optimize public investment and ensure that the most cost-effective and efficient investments in renewable resources are vigorously pursued, the Energy Commission shall create an investment plan as set forth in paragraphs (1) to (3), inclusive, to govern the allocation of funds provided pursuant to this article. The Energy Commission's long-term goal shall be a fully competitive and self-sustaining California renewable energy supply. The investment plan shall be in accordance with all of the following:

(1) The investment plan's objective shall be to increase, in the near term, the quantity of California's electricity generated by in-state renewable energy resources, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

(2) An additional objective of the plan shall be to identify and support emerging renewable energy technologies that have the greatest near-term commercial promise and that merit targeted assistance.

(3) The investment plan shall contain specific numerical targets, reflecting the projected impact of the plan, for both of the following:

(A) Increased quantity of California electrical generation produced from emerging technologies and from overall renewable resources.

(B) Increased supply of renewable generation available from facilities other than those selling to investor-owned utilities under contracts entered into prior to 1996 under the federal Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

(b) The Energy Commission shall, on an annual basis, evaluate progress on meeting the targets set forth in subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or any substitute provisions adopted by the Legislature upon review of the investment plan, and assess the impact of the investment plan on reducing the cost to Californians of renewable energy generation.

(c) In preparing these investment plans, the Energy Commission shall recommend allocations among all of the following:

(1)(A) Except as provided in subparagraph (B), production incentives for new renewable energy, including repowered or refurbished renewable energy.

(B) Allocations may not be made for renewable energy that is generated by a project that remains under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter.

(C) Notwithstanding subparagraph (B), production incentives for incremental new, repowered or refurbished renewable energy from existing projects under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter, may be allowed in any month, if all of the following occur:

(i) The project's power purchase contract provides that all energy delivered and sold under the contract is paid at a price that does not exceed commission approved short-run avoided cost of energy.

(ii) Either of the following:

(I) The power purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive.

(II) If a project's installed capacity as of December 31, 1998, is less than 75 percent of the nameplate capacity as stated in the power purchase contract, the power purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the product of the five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive, and the ratio of installed capacity as of December 31 of the previous year, but not to exceed contract nameplate capacity, to the installed capacity as of December 31, 1998.

(iii) The production incentive is payable only with respect to the kilowatthours delivered in a particular month that exceeds the corresponding five-year average calculated pursuant to clause (ii).

(2) Rebates, buydowns, or equivalent incentives for emerging renewable technologies.

(3) Customer credits for renewables not under contract with a utility.

(4) Customer education.

(5) Incentives for reducing fuel costs that are confirmed to the satisfaction of the Energy Commission at solid fuel biomass energy facilities in order to provide demonstrable environmental and public benefits, including but not limited to, air quality.

(6) Solar thermal generating resources that enhance the environmental value or reliability of the electricity system and that require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for purposes of this paragraph.

(7) Specified fuel cell technologies, if the Energy Commission makes all of the following findings:

(A) The specified technologies have similar or better air pollutant characteristics than renewable technologies in the investment plan.

(B) The specified technologies require financial assistance to become commercially viable by reference to wholesale generation prices.

(C) The specified technologies could contribute significantly to the infrastructure development or other innovation required to meet the long-term objective of a self-sustaining, competitive supply of renewable energy.

(8) Existing wind-generating resources, if the Energy Commission finds that the existing wind-generating resources are a cost-effective source of reliability and environmental benefits compared with other eligible sources, and that the existing wind-generating resources require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for the purposes of this paragraph.

(d) The commission shall establish a cap on the aggregate amount of funds which may be awarded to public entities from the program which provides customer credits for renewables. The intent of the cap is to assure adequate funding of credits for residential and small commercial customers.

(e) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to this article shall be transferred to the Renewable Resource Trust Fund of the Energy Commission, to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 31, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall also include an evaluation of and report to the Legislature regarding the appropriateness and structure of a mandatory state purchase of renewable energy. On or before March 31, 2006, the Energy Commission shall prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012. No moneys may be expended in the years covered by these plans without further legislative action.

§ 399.7. Public-interest research and development programs; funding

(a) In order to ensure that prudent investments in research, development and demonstration of energy efficient technologies continue to produce substantial economic, environmental, public health, and reliability benefits, it is the policy of this state and the intent of the Legislature that funds made available, upon appropriation, for energy related public interest research, development and demonstration programs shall be used to advance science or technology that are not adequately provided by competitive and regulated markets.

(b) Notwithstanding any other provision of law, moneys collected for public-interest research, development and demonstration pursuant to this section shall be transferred to the Public Interest Research, Development, and Demonstration Fund of the Energy Commission to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 1, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall address the recommendations of the PIER Independent Review Panel Report, dated March 2000, to either transform the RD&D program within the Energy Commission, or to administer it through, or in cooperation with, an external organization. The initial investment plan shall include criteria that will be used to determine that a project provides public benefits to California that are not adequately provided by competitive and regulated markets. On or before March 31, 2006, the Energy Commission shall prepare an investment plan addressing the application of moneys collected between January 1, 2007, and January 1, 2012. No moneys may be expended in the years covered by these plans without further legislative action.

(c) In lieu of the commission retaining funds authorized pursuant to Section 381 for investments made by electrical corporations in public interest research, development, and demonstration projects for transmission and distribution functions, up to 10 percent of the funds transferred to the Energy Commission pursuant to subdivision (b) shall be awarded to electrical corporations for public interest research, development, and demonstration projects for transmission and distribution functions consistent with the policies and subject to the requirements of Chapter 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code.

§ 399.8. Charges and rate components; collection and allocation of funds; creation of review panel; report

(a) In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature that prudent investments in energy efficiency, renewable energy, and research, development and demonstration shall continue to be made.

(b)(1) Every customer of an electrical corporation, shall pay a nonbypassable system benefits charge authorized pursuant to this article. The system benefits charge shall fund energy efficiency, renewable energy, and research, development and demonstration.

(2) Local publicly owned electric utilities shall continue to collect and administer system benefits charges pursuant to Section 385.

(c)(1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, through January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

(2) This rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. If the amounts specified in paragraph (1) of subdivision (d) are not recovered fully in any year, the commission shall reset the rate component to restore the unrecovered balance, provided that the rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).

(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:

(1) Two hundred twenty-eight million dollars ($228,000,000) per year in total for energy efficiency and conservation activities, one hundred thirty-five million dollars ($135,000,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars ($62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.

(e) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381 and 383, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(f)(1) On or before January 1, 2004, the Governor shall appoint an independent review panel including, but not limited to, members with expertise on the energy service needs of large and small electricity consumers, system reliability issues, and energy-related public policy. On or before January 1, 2005, the panel shall prepare and submit to the Legislature and the Energy Commission a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded under this section. Reasonable costs associated with the review in each of the three program categories, including technical assistance, may be charged to the relevant program category under procedures to be developed by the commission for energy efficiency and by the Energy Commission for renewable energy and research development and demonstration.

(2) The report shall also assess all of the following:

(A) Whether ongoing programs are consistent with the statutory goals.

(B) Whether potential synergies among the program categories described in paragraph (1) that could provide enhanced public value have been identified and incorporated in the programs.

(C) If established targets for increased renewable generation are likely to be achieved.

(D) What changes should be made to result in a more efficient use of public resources.

(3) The report shall also compare the Energy Commission's programs with efforts undertaken by other states and assess, as an alternative, the relative costs and benefits of adopting a tradable minimum renewable energy requirement in California. The evaluation shall include recommendations intended to optimize renewable resource development at the least cost.

(4) For energy efficiency programs, the report shall include an evaluation of all of the following:

(A) The net benefits secured for residential customers, taking into account both public and private costs, including improvements in that customer group's ability to avoid or reduce consumption of relatively costly peak electricity.

(B) Whether the programs provide a balance of benefits to all sectors that contribute to the funding.

(C) The extent to which competition in energy markets including, but not limited to, load participation in ancillary services markets, and improvements in technology affect the continuing need for such programs.

(D) The status and growth of the private, competitive energy services industry that provides energy efficiency services and other energy products to customers.

(E) The commercial availability of any new technologies that reduce electricity demands during high-priced periods.

(F) Customers' willingness and ability to reduce consumption or adopt energy efficiency measures without program support.

(G) The extent to which the programs have delivered cost-effective energy efficiency not adequately provided by markets and as a result have reduced energy demand and consumption.

(H) The relative cost-effectiveness of program expenditures compared to other current or potential expenditures to enhance system reliability.

(5) The report shall include specific recommendations aimed at assisting the Legislature in determining whether to change or eliminate the collection of the system benefits charge on or after January 1, 2007.

(6) The panel may update and revise the report as needed.

(g) Promptly after receiving the panel's report, the commission shall convene a proceeding to address implementation of the panel's energy efficiency recommendations.

(h) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

§ 399.9. Low-income funding provisions; jurisdiction of commission

(a) No part of this article shall be construed to alter or affect the low-income funding provisions set forth in Section 382. Programs provided to low-income electricity customers, including but not limited to, targeted energy efficiency services and the California Alternative Rates for Energy Program shall continue to be funded as set forth in Section 382.

(b) Nothing in this article shall be construed to affect the jurisdiction of the commission over electric distribution service.

Article 16. California Renewables Portfolio Standard Program

§ 399.11. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) In order to attain a target of 20 percent renewable energy for the State of California and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the California Public Utilities Commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of renewable energy resources may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to ~~Sections 383.5 and 445~~ Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

§ 399.12. Definitions

For purposes of this article, the following terms have the following meanings:

(a) "Eligible renewable energy resource" means an electric generating facility that is one of the following:

(1) The facility meets the definition of "in-state renewable electricity generation ~~technology" in Section 383.5~~ facility" in Section 25741 of the Public Resources Code.

(2) A geothermal generation facility originally commencing operation prior to September 26, 1996, shall be eligible for purposes of adjusting a retail seller's baseline quantity of eligible renewable energy resources except for output certified as incremental geothermal production by the Energy Commission, provided that the incremental output was not sold to an electrical corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The output of a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. Output from such facilities shall be eligible only for the purpose of adjusting a retail seller's baseline quantity of eligible renewable energy resources.

(b) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(~~b~~c) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires. Nothing on this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing power consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electrical utility as defined in subdivision (d) of Section 9604.

(~~c~~d) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.

§ 399.13. Certification of renewable energy resources; design and implementation of accounting system; allocation and award of supplemental energy payments

The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (a) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that renewable energy output is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, and for verifying retail product claims in this state or any other state. In establishing the guidelines governing this system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Allocate and award supplemental energy payments pursuant to ~~Section 383.5~~ Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to eligible renewable energy resources to cover above-market costs of renewable energy.

§ 399.14. Procurement plans

(a) The commission shall direct each electrical corporation to prepare renewable energy procurement plans as described in paragraph (3) to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(1)(A) The commission shall not require an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until the commission determines either of the following:

(i) The electrical corporation has attained an investment grade credit rating as determined by at least two major rating agencies.

(ii) The electrical corporation is able to procure eligible renewable energy resources on reasonable terms, those resources can be financed if necessary, and the procurement will not impair the restoration of an electrical corporation's creditworthiness. This provision shall not apply before April 1, 2004, for any electrical corporation that on June 30, 2003, is in federal court under Chapter 11 of the federal bankruptcy law.

(B) Within 90 days of the commission's determination as provided in subparagraph (A), an electrical corporation shall conduct solicitations to implement a renewable energy procurement plan. The determination required by this paragraph shall apply only to the requirements established pursuant to this article. The requirements established for an electrical corporation pursuant to Section 454.5 shall be governed by that section.

(2) Not later than six months after the effective date of this section, the commission shall adopt, by rule, for all electrical corporations, all of the following:

(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources. In order to ensure that the market price established by the commission pursuant to subdivision (c) of Section 399.15 does not influence the amount of a bid submitted through the competitive solicitation in a manner that would increase the amount ratepayers are obligated to pay for renewable energy, and in order to ensure that the bid price does not influence the establishment of the market price, the electrical corporation shall not transmit or share the results of any competitive solicitation for eligible renewable energy resources until the commission has established market prices pursuant to subdivision (c) of Section 399.15.

(B) A process that provides criteria for the rank ordering and selection of least-cost and best-fit renewable resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources.

(C) Flexible rules for compliance including, but not limited to, permitting electrical corporations to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years.

(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators.

(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include, but is not limited to, all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of renewable generation resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Provisions for employing available compliance flexibility mechanisms established by the commission.

(C) A bid solicitation setting forth the need for renewable generation of each deliverability characteristic, required online dates, and locational preferences, if any.

(4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration.

(5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) The commission shall review and accept, modify, or reject each electrical corporation's renewable procurement plan 90 days prior to the commencement of renewable procurement pursuant to this article by the electrical corporation.

(c) The commission shall review the results of a renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition amongst the bidders, the commission shall direct the electrical corporation to renegotiate such contracts or conduct a new solicitation.

(d) If an electrical corporation fails to comply with a commission order adopting a renewable procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance.

(e) Upon application by an electrical corporation, the commission may authorize another entity to enter into contracts on behalf of customers of the electrical corporation for deliveries of eligible renewable energy resources to satisfy the annual portfolio standard obligations, subject to similar terms and conditions applicable to an electrical corporation. The commission shall allow the procurement entity to recover reasonable costs through retail rates subject to review and approval.

(f) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable resources, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

(g) For purposes of this article, "procure" means that a utility may acquire the renewable output of electric generation facilities that it owns or for which it has contracted. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to ~~Section 383.5~~ Sections 25742 and 25743 of the Public Resources Code, including, but not limited to, work performed to qualify, receive, or maintain production incentives or supplemental energy payments is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

§ 399.15. Annual procurement targets; conditions; implementation; market price

(a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of output from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, if sufficient funds are made available pursuant to paragraph (2), and Section~~s~~ 399.6 and ~~383.5~~ Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to cover the above-market costs of eligible renewables, and subject to all of the following:

(1) An electric corporation shall not be required to enter into long-term contracts with eligible renewable energy resources that exceed the market prices established pursuant to subdivision (c) of this section.

(2) The Energy Commission shall provide supplemental energy payments from funds in the New Renewable Resources Account in the Renewable Resource Trust Fund to eligible renewable energy resources pursuant to ~~Section 383.5~~ Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, consistent with this article, for above-market costs. Indirect costs associated with the purchase of eligible renewable energy resources, such as imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades shall not be eligible for supplemental energy payments, but shall be recoverable by an electrical corporation in rates, as authorized by the commission.

(3) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each electrical corporation based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and, to the extent applicable, adjusted going forward pursuant to subdivision (a) of Section 399.12.

(b) The commission shall implement annual procurement targets for each electrical corporation as follows:

(1) Beginning on January 1, 2003, each electrical corporation shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017. An electrical corporation with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of such resources in the following year.

(2) Only for purposes of establishing these targets, the commission shall include all power sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(3) In the event that an electrical corporation fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the electrical corporation shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall if sufficient funds are made available pursuant to paragraph (2), and Section~~s~~ 399.6 and ~~383.5~~ Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to cover the above-market costs of eligible renewables.

(4) If supplemental energy payments from the Energy Commission, in combination with the market prices approved by the commission, are insufficient to cover the above-market costs of eligible renewable energy resources, the commission shall allow an electrical corporation to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments.

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with renewable generators, in consideration of the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to the electrical corporation's general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

(3) The value of different products including baseload, peaking, and as-available output.

(d) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

(e) The commission shall consult with the Energy Commission in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

§ 399.16. Out-of-state electric generating facility; consideration as eligible renewable energy resource

The ~~commission~~ Energy Commission may consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets the criteria described in Section 399.12 and all of the following requirements:

(a) It is located so that it is, or will be, connected to the Western Electricity Coordinating Council (WECC) transmission system.

(b) It is developed with guaranteed contracts to sell its generation, and demonstrates delivery of energy, to a retail seller or the Independent System Operator.

(c) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the State Energy Resources Conservation and Development Commission pursuant to subdivision (b) of Section 399.13.

PUBLIC UTILITIES CODE - DIVISION 1

Part 1, Chapter 2.5 - Public Utilities Commission Reimbursement Fees – Section 445 et seq.

§ 454.5. Electrical corporations; procurement plans

(a) The commission shall specify the allocation of electricity, including quantity, characteristics, and duration of electricity delivery, that the Department of Water Resources shall provide under its power purchase agreements to the customers of each electrical corporation, which shall be reflected in the electrical corporation's proposed procurement plan. Each electrical corporation shall file a proposed procurement plan with the commission not later than 60 days after the commission specifies the allocation of electricity. The proposed procurement plan shall specify the date that the electrical corporation intends to resume procurement of electricity for its retail customers, consistent with its obligation to serve. After the commission's adoption of a procurement plan, the commission shall allow not less than 90 days before the electrical corporation resumes procurement pursuant to this section.

(b) An electrical corporation's proposed procurement plan shall include, but not be limited to, all of the following:

(1) An assessment of the price risk associated with the electrical corporation's portfolio, including any utility-retained generation, existing power purchase and exchange contracts, and proposed contracts or purchases under which an electrical corporation will procure electricity, electricity demand reductions, and electricity-related products and the remaining open position to be served by spot market transactions.

(2) A definition of each electricity product, electricity-related product, and procurement related financial product, including support and justification for the product type and amount to be procured under the plan.

(3) The duration of the plan.

(4) The duration, timing, and range of quantities of each product to be procured.

(5) A competitive procurement process under which the electrical corporation may request bids for procurement-related services, including the format and criteria of that procurement process.

(6) An incentive mechanism, if any incentive mechanism is proposed, including the type of transactions to be covered by that mechanism, their respective procurement benchmarks, and other parameters needed to determine the sharing of risks and benefits.

(7) The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission's review of proposed contracts and subsequent approval or rejection thereof. The electrical corporation shall propose alternative procurement choices in the event a contract is rejected.

(8) Procedures for updating the procurement plan.

(9) A showing that the procurement plan will achieve the following:

(A) The electrical corporation will, in order to fulfill its unmet resource needs and in furtherance of Section 701.3, until a 20 percent renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1 percent per year of the electricity sold by the electrical corporation is generated from renewable energy resources, provided sufficient funds are made available pursuant to Section 399.6, to cover the above-market costs for new renewable energy resources.

(B) The electrical corporation will create or maintain a diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reductions products.

(10) The electrical corporation's risk management policy, strategy, and practices, including specific measures of price stability.

(11) A plan to achieve appropriate increases in diversity of ownership and diversity of fuel supply of nonutility electrical generation.

(12) A mechanism for recovery of reasonable administrative costs related to procurement in the generation component of rates.

(c) The commission shall review and accept, modify, or reject each electrical corporation's procurement plan. The commission's review shall consider each electrical corporation's individual procurement situation, and shall give strong consideration to that situation in determining which one or more of the features set forth in this subdivision shall apply to that electrical corporation. A procurement plan approved by the commission shall contain one or more of the following features, provided that the commission may not approve a feature or mechanism for an electrical corporation if it finds that the feature or mechanism would impair the restoration of an electrical corporation's creditworthiness or would lead to a deterioration of an electrical corporation's creditworthiness:

(1) A competitive procurement process under which the electrical corporation may request bids for procurement-related services. The commission shall specify the format of that procurement process, as well as criteria to ensure that the auction process is open and adequately subscribed. Any purchases made in compliance with the commission-authorized process shall be recovered in the generation component of rates.

(2) An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical corporation's performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.

(3) Upfront achievable standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to the execution of the bilateral contract for the transaction. The commission shall provide for expedited review and either approve or reject the individual contracts submitted by the electrical corporation to ensure compliance with its procurement plan. To the extent the commission rejects a proposed contract pursuant to this criteria, the commission shall designate alternative procurement choices obtained in the procurement plan that will be recoverable for ratemaking purposes.

(d) A procurement plan approved by the commission shall accomplish each of the following objectives:

(1) Enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(2) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and assure that each contract was administered in accordance with the terms of the contract, and contract disputes which may arise are reasonably resolved.

(3) Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing accounts, not less than semiannually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement balancing account does not exceed 5 percent of the electrical corporation's actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the 5 percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission consistent with the objectives of this section.

(4) Moderate the price risk associated with serving its retail customers, including the price risk embedded in its long-term supply contracts, by authorizing an electrical corporation to enter into financial and other electricity-related product contracts.

(5) Provide for just and reasonable rates, with an appropriate balancing of price stability and price level in the electrical corporation's procurement plan.

(e) The commission shall provide for the periodic review and prospective modification of an electrical corporation's procurement plan.

(f) The commission may engage an independent consultant or advisory service to evaluate risk management and strategy. The reasonable costs of any consultant or advisory service is a reimbursable expense and eligible for funding pursuant to Section 631.

(g) The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

(h) Nothing in this section alters, modifies, or amends the commission's oversight of affiliate transactions under its rules and decisions or the commission's existing authority to investigate and penalize an electrical corporation's alleged fraudulent activities, or to disallow costs incurred as a result of gross incompetence, fraud, abuse, or similar grounds. Nothing in this section expands, modifies, or limits the State Energy Resources Conservation and Development Commission's existing authority and responsibilities as set forth in Sections 25216, 25216.5, and 25323 of the Public Resources Code.

(i) An electrical corporation that serves less than 500,000 electric retail customers within the state may file with the commission a request for exemption from this section, which the commission shall grant upon a showing of good cause.

(j)(1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after the date of enactment of the act adding this section, the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851. SEC. 3. Nothing in this act is intended to imply that procurement of electricity from third parties in a wholesale transaction is the preferred method of fulfilling an electrical corporation's obligation to serve its customers at just and reasonable rates.

§ 464. Recovery of expenditures

(a) Reasonable expenditures by transmission owners that are electrical corporations to plan, design, and engineer reconfiguration, replacement, or expansion of transmission facilities are in the public interest and are deemed prudent if made for the purpose of facilitating competition in electric generation markets, ensuring open access and comparable service, or maintaining or enhancing reliability, whether or not these expenditures are for transmission facilities that become operational.

(b) The commission and the Electricity Oversight Board shall jointly facilitate the efforts of the state's transmission owning electrical corporations to obtain authorization from the Federal Energy Regulatory Commission to recover reasonable expenditures made for the purposes stated in subdivision (a).

(c) Nothing in this section alters or affects the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs. 791a, et seq.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by an electrical corporation and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by a gas corporation, consistent with this code.

PUBLIC UTILITIES CODE - DIVISION 1

Part 1, Chapter 4 - Regulation of Public Utilities - Section 701 et seq.

Article 1. Generally

§ 701.1. Legislative findings; calculation of cost effectiveness of energy resources; emission values; alternatives to new power plant capacity.

(a) The Legislature finds and declares that, in addition to other ratepayer protection objectives, a principal goal of electric and natural gas utilities' resource planning and investment shall be to minimize the cost to society of the reliable energy services that are provided by natural gas and electricity, and to improve the environment and to encourage the diversity of energy sources through improvements in energy efficiency and development of renewable energy resources, such as wind, solar, biomass, and geothermal energy.

(b) The Legislature further finds and declares that, in addition to any appropriate investments in energy production, electrical and natural gas utilities should seek to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution that offer equivalent or better system reliability, and which are not being exploited by any other entity.

(c) In calculating the cost effectiveness of energy resources, including conservation and load management options, the commission shall include, in addition to other ratepayer protection objectives, a value for any costs and benefits to the environment, including air quality. The commission shall ensure that any values it develops pursuant to this section are consistent with values developed by the State Energy Resources Conservation and Development Commission pursuant to Section 25000.1 of the Public Resources Code. However, if the commission determines that a value developed pursuant to this subdivision is not consistent with a value developed by the State Energy Resources Conservation and Development Commission pursuant to subdivision (c) of Section 25000.1 of the Public Resources Code, the commission may nonetheless use this value if, in the appropriate record of its proceedings, it states its reasons for using the value it has selected.

(d) In determining the emission values associated with the current operating capacity of existing electric powerplants pursuant to subdivision (c), the commission shall adhere to the following protocol in determining values for air quality costs and benefits to the environment. If the commission finds that an air pollutant that is subject to regulation is a component of residual emissions from an electric powerplant and that the owner of that powerplant is either of the following:

(1) Using a tradable emission allowance, right, or offset for that pollutant, which (A) has been approved by the air quality district regulating the powerplant, (B) is consistent with federal and state law, and (C) has been obtained, authorized, or acquired in a market-based system.

(2) Paying a tax per measured unit of that pollutant.

The commission shall not assign a value or cost to that residual pollutant for the current operating capacity of that powerplant because the alternative protocol for dealing with the pollutant operates to internalize its cost for the purpose of planning for and acquiring new generating resources.

(e)(1) The values determined pursuant to subdivision (c) to represent costs and benefits to the environment shall not be used by the commission, in and of themselves, to require early decommissioning or retirement of an electric utility powerplant that complies with applicable prevailing environmental regulations.

(2) Further, the environmental values determined pursuant to subdivision (c) shall not be used by the commission in a manner which, when such values are aggregated, will result in advancing an electric utility's need for new powerplant capacity by more than 15 months.

(f) This subdivision shall apply whenever a powerplant bid solicitation is required by the commission for an electric utility and a portion of the amount of new powerplant capacity, which is the subject of the bid solicitation, is the result of the commission's use of environmental values to advance that electric utility's need for new powerplant capacity in the manner authorized by paragraph (2) of subdivision (e). The affected electric utility may propose to the commission any combination of alternatives to that portion of the new powerplant capacity that is the result of the commission's use of environmental values as authorized by paragraph (2) of subdivision (c). The commission shall approve an alternative in place of the new powerplant capacity if it finds all of the following:

(1) The alternative has been approved by the relevant air quality district.

(2) The alternative is consistent with federal and state law.

(3) The alternative will result in needed system reliability for the electric utility at least equivalent to that which would result from bidding for new powerplant capacity.

(4) The alternative will result in reducing system operating costs for the electric utility over those which would result from the process of bidding for new powerplant capacity.

(5) The alternative will result in equivalent or better environmental improvements at a lower cost than would result from bidding for new powerplant capacity.

(g) No provision of this section shall be construed as requiring an electric utility to alter the dispatch of its powerplants for environmental purposes.

(h) No provision of this section shall prelude an electric utility from submitting to the commission any combination of alternatives to meet a commission-identified need for new capacity, if such a submission is otherwise authorized by the commission.

(i) No provision of this section shall be construed to change or alter any provision of commission decision 92-04-045, dated April 22, 1992.

Article 2. Rates

§ 740.3. Low-emission vehicles; policies to promote development of equipment and infrastructure; public hearings

(a) The commission, in cooperation with the State Energy Conservation and Development Commission, the State Air Resources Board, air quality management districts and air pollution control districts, regulated electrical and gas corporations, and the motor vehicle industry, shall evaluate and implement policies to promote the development of equipment and infrastructure needed to facilitate the use of electric power and natural gas to fuel low-emission vehicles. Policies to be considered shall include both of the following:

(1) The sale-for-resale and the rate-basing of low-emission vehicles and supporting equipment such as batteries for electric vehicles and compressor stations for natural gas fueled vehicles.

(2) The development of statewide standards for electric vehicle charger connections and compressed natural gas vehicle fueling connections, including installation procedures and technical assistance to installers.

(b) The commission shall hold public hearings as part of its effort to evaluate and implement the new policies considered in subdivision (a), and shall provide a progress report to the Legislature by January 30, 1993, and every two years thereafter, concerning policies on rates, equipment, and infrastructure implemented by the commission and other state agencies, federal and local governmental agencies, and private industry to facilitate the use of electric power and natural gas to fuel low-emission vehicles.

(c) The commission's policies authorizing utilities to develop equipment or infrastructure needed for electric-powered and natural gas-fueled low-emission vehicles shall ensure that the cost and expenses of those programs are not passed through to electric or gas ratepayers unless the commission finds and determines that those programs are in the ratepayers' interest. The commission's policies shall also ensure that utilities do not unfairly compete with nonutility enterprises.

§ 740.6. Participation in pilot program to identify and counsel low-income persons and groups eligible for rate discounts and weatherization benefits

(a) The commission may authorize investor-owned-gas and electric utilities to match grants provided to nonprofit agencies and local governments to participate in the Department of Economic Opportunity's pilot program to identify and counsel low-income individuals and group facilities that are eligible to receive rate discounts and weatherization benefits offered by those utilities. The amount of utility matching funds for the pilot program shall be limited to a statewide total of three hundred thousand dollars ($300,000). The commission shall require that utility expenditures for those purposes be recoverable in rates.

(b) If federal funds become available for low-income energy assistance or weatherization programs that may be secured with matching funds from states or utilities, the commission may authorize investor-owned gas and electric utilities to match those federal funds, and shall require that utility expenditures for those purposes be recoverable in rates.

§ 740.8. Interests, defined

As used in Section 740.3, "interests" of ratepayers, short- or long-term, mean direct benefits that are specific to ratepayers in the form of safer, more reliable, or less costly gas or electrical service.

§ 747.5. Utility service; pricing policies; review; report

The commission shall review its policies concerning pricing of utility service and shall assess whether the pricing policies promote the pursuit of energy efficiency by customers, and shall report its assessment to the Legislature as soon as practicable.

§ 749. Cooperative programs with local school districts; conservation of electricity and gas; programs and incentives

Public utilities shall develop programs in cooperation with local school districts in reducing their electricity and gas bills through conservation and improvements in efficiency. Utilities may offer to school districts on a priority basis, and school districts may utilize, any programs or incentives for commercial customers developed by the utility and approved by the commission, including rebates, loan programs and incentives for the installation of efficient lighting, heating, or cooling systems.

Article 10. Natural Gas Surcharge

§ 890. Surcharge on natural gas

(a) On and after January 1, 2001, there shall be imposed a surcharge on all natural gas consumed in this state. The commission shall establish a surcharge to fund low-income assistance programs required by Sections 739.1, 739.2, and 2790 and cost-effective energy efficiency and conservation activities and public interest research and development authorized by Section 740 and not adequately provided by the competitive and regulated markets. Upon implementation of this article, funding for those programs shall be removed from the rates of gas utilities.

(b)(1) Except as specified in Section 898, a public utility gas corporation, as defined in subdivision (b) of Section 891, shall collect the surcharge imposed pursuant to subdivision (a) from any person consuming natural gas in this state who receives gas service from the public utility gas corporation.

(2) A public utility gas corporation is relieved from liability to collect the surcharge insofar as the base upon which the surcharge is imposed is represented by accounts which have been found to be worthless and charged off in accordance with generally accepted accounting principles. If the public utility gas corporation has previously paid the amount of the surcharge it may, under regulations prescribed by the State Board of Equalization, take as a deduction on its return the amount found to be worthless and charged off. If any accounts are thereafter collected in whole or in part, the surcharge so collected shall be paid with the first return filed after that collection. The commission may by regulation promulgate other rules with respect to uncollected or worthless accounts as it determines to be necessary to the fair and efficient administration of this part.

(c) Except as specified in Section 898, all persons consuming natural gas in this state that has been transported by an interstate pipeline, as defined in subdivision (c) of Section 891, shall be liable for the surcharge imposed pursuant to subdivision (a).

(d) The commission shall annually determine the amount of money required for the following year to administer this chapter and fund the natural gas related programs described in subdivision (a) for the service territory of each public utility gas corporation.

(e) The commission shall annually establish a surcharge rate for each class of customer for the service territory of each public utility gas corporation. A customer of an interstate gas pipeline, as defined in Section 891, shall pay the same surcharge rate as the customer would pay if the customer received service from the public utility gas corporation in whose service territory the customer is located. The commission shall determine the total volume of retail natural gas transported within the service territory of a utility gas provider, that is not subject to exemption pursuant to Section 896, for the purpose of establishing the surcharge rate.

(f) The commission shall allocate the surcharge for gas used by all customers, including those customers who were not subject to the surcharge prior to January 1, 2001.

(g) The commission shall notify the State Board of Equalization of the surcharge rate for each class of customer served by an interstate pipeline in the service territory of a public utility gas corporation.

(h) The State Board of Equalization shall notify each person who consumes natural gas delivered by an interstate pipeline of the surcharge rate for each class of customer within the service territory of a public utility gas corporation.

(i) The surcharge imposed pursuant to subdivision (a) shall be in addition to any other charges for natural gas sold or transported for consumption in this state. Effective on July 1, 2001, the surcharge imposed pursuant to this article shall be identified as a separate line item on the bill of a customer of a public utility gas corporation.

(j) Notwithstanding subdivision (a), public utility gas corporations shall continue to collect in rates those costs of programs described in subdivision (a) of Section 890 that are uncollected prior to the operative date of this article.

§ 891. Definitions

(a) "Gas utility" means any public utility gas corporation or interstate pipeline as defined in this section.

(b) "Public utility gas corporation" means a public utility gas corporation as defined in Section 216.

(c) "Interstate pipeline" means any entity that owns or operates a natural gas pipeline delivering natural gas to consumers in the state and is subject to rate regulation by the Federal Energy Regulatory Commission.

(d) Each gas utility shall notify the State Board of Equalization of its status under this section. Each person who consumes natural gas delivered by an interstate pipeline shall annually register with the State Board of Equalization. The State Board of Equalization may require any documentation that it determines to be necessary to implement this article.

§ 892. Revenue from surcharge; paid to State Board of Equalization in form of remittances

The revenue from the surcharge imposed pursuant to this article and collected by a public utility gas corporation shall be paid to the State Board of Equalization in the form of remittances. Persons consuming natural gas delivered by an interstate pipeline shall pay the surcharge to the State Board of Equalization in the form of remittances. The board shall transmit the payments to the Treasurer who shall deposit the payments in the Gas Consumption Surcharge Fund, which is hereby created in the State Treasury.

§ 892.1. Surcharges due quarterly

The surcharges imposed by this part and the amounts thereof required to be collected by public utility gas corporations are due quarterly on or before the last day of the month next succeeding each calendar quarter.

§ 892.2. Filing of quarterly returns

On or before the last day of the month following each calendar quarter, a return for the preceding quarterly period shall be filed with the State Board of Equalization in such form as the board may prescribe. A return shall be filed by every public utility gas corporation, and by every person consuming, as defined in this article, natural gas transported by a provider other than the public utility gas corporation. The return shall be signed by the person required to file the return or by his or her duly authorized agent.

§ 893. Administration of surcharge

The State Board of Equalization shall administer the surcharge imposed pursuant to this article in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.

§ 894. Collection of unpaid surcharges

The State Board of Equalization may collect any unpaid surcharge imposed pursuant to this article.

§ 895. Appropriation of funds

Notwithstanding Section 13340 of the Government Code, funds in the Gas Consumption Surcharge Fund are continuously appropriated, without regard to fiscal years, as follows:

(a) To the commission or an entity designated by the commission to fund programs described in subdivision (a) of Section 890.

(b) To pay the commission for its costs in carrying out its duties and responsibilities under this article.

(c) To pay the State Board of Equalization for its costs in administering this article.

§ 896. Consumption

"Consumption" means the use or employment of natural gas. Consumption does not include the use or employment of natural gas to generate power for sale, the sale or purchase of natural gas for resale to end users, the sale or use of gas for enhanced oil recovery, natural gas utilized in cogeneration technology projects to produce electricity, or natural gas that is produced in California and transported on a proprietary pipeline. Consumption does not include the consumption of natural gas which this state is prohibited from taxing under the United States Constitution or the California Constitution.

§ 897. Contracts approved by commission; impact on rights and obligations

Nothing in this article impairs the rights and obligations of parties to contracts approved by the commission, as the rights and obligations were interpreted as of January 1, 1998.

§ 898. Home weatherization services and rate assistance for low-income customers; published tariffs

Notwithstanding Section 890, a municipality, district, or public agency that offers in published tariffs home weatherization services, rate assistance for low-income customers, or programs similar to those described in subdivision (a) of Section 890, shall not be required to collect a surcharge pursuant to this article from customers within its service territory. A municipality, district, or public agency shall be required to collect a surcharge pursuant to this article from customers served by the municipality, district, or public agency outside of its service territory unless the commission determines that the entity offers those customers services similar to those offered by gas utilities as described in subdivision (a) of Section 890.

§ 899. Application to gas customers exempt by § 898

Sections 890 and 892 do not apply to any gas customer of a municipality, district, or public agency exempted by Section 898 from collecting a surcharge.

§ 900. Programs for low-income persons

The commission shall determine the most efficient and cost-effective way to provide programs pursuant to Sections 739.1, 739.2, and 2790 in a consistent manner statewide by utility provider service territory. In determining the most cost-effective way to provide service that benefits persons eligible for low-income programs, the commission shall consider factors, including, but not limited to, outreach efforts to reach the targeted population and the types of discounts and services that should be provided by each utility. On or before July 1, 2001, the commission shall develop and implement efficient and cost-effective programs pursuant to Sections 739.1, 739.2, and 2790. The commission may conduct compliance audits to ensure compliance with any commission order or resolution relating to the implementation of programs pursuant to Sections 739.1, 739.2, and 2790, and may conduct financial audits.

PUBLIC UTILITIES CODE - DIVISION 1

Part 1, Chapter 5 - Certificates of Public Convenience and Necessity - Section 1001 et seq.

Article 1. Specified Utilities

§ 1001. Construction or extension of facilities; certificate requirements; interference with another utility;

No railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation, water corporation, or sewer system corporation shall begin the construction of a street railroad, or of a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.

This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable.

§ 1002. Certification factors

(a) The commission, as a basis for granting any certificate pursuant to Section 1001 shall give consideration to the following factors:

(1) Community values.

(2) Recreational and park areas.

(3) Historical and aesthetic values.

(4) Influence on environment, except that in the case of any line, plant, or system or extension thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (Chapter 55 (commencing with Section 4321) of Title 42 of the United States Code) or similar state laws in the other state, the commission shall not consider influence on the environment unless any emissions or discharges therefrom would have a significant influence on the environment of this state.

(b) With respect to any thermal powerplant or electrical transmission line for which a certificate is required pursuant to the provisions of Division 15 (commencing with Section 25000) of the Public Resources Code, no certificate of public convenience and necessity shall be granted pursuant to Section 1001 without such other certificate having been obtained first, and the decision granting such other certificate shall be conclusive as to all matters determined thereby and shall take the place of the requirement for consideration by the commission of the four factors specified in subdivision (a) of this section.

§ 1002.5. Natural gas pipeline construction; additional capacity; certificate of convenience

In issuing a certificate of convenience and necessity for additional natural gas pipeline capacity proposed for construction within this state, the commission shall consider the state's need to provide sufficient and competitively priced natural gas supplies for both present and anticipated future residential, industrial, commercial, and utility demand. When it finds that it is in the state's best interests to do so, the commission shall expeditiously issue certificates of convenience and necessity for those additional natural gas pipeline capacity projects.

§ 1003. Electrical and gas corporations; applications for certificates authorizing new construction not subject to power facility and site certification; additional information

Every electrical and every gas corporation submitting an application to the commission for a certificate authorizing the new construction of any electric plant, line or extension, or gas plant, line, or extension, not subject to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code, shall include all of the following information in the application in addition to any other required information:

(a) Preliminary engineering and design information on the project. The design information provided for thermal electric plants shall include preliminary data regarding the operating characteristics of the proposed plant, including, but not limited to, the annual capacity factor, availability factor, and the heat rate for each year of the useful life of the plant, line, or extension.

(b) A project implementation plan showing how the project would be contracted for and constructed. This plan shall show how all major tasks would be integrated and shall include a timetable identifying the design, construction, completion, and operation dates for each major component of the plant, line, or extension.

(c) An appropriate cost estimate, including preliminary estimates of the costs of financing, construction and operation, including fuel, maintenance, and dismantling or inactivation after the useful life of the plant, line, or extension.

(d) A cost analysis comparing the project with any feasible alternative sources of power. The corporation shall demonstrate the financial impact of the plant, line, or extension construction on the corporation's ratepayers, stockholders, and on the cost of the corporation's borrowed capital. The cost analyses shall be performed for the projected useful life of the plant, line, or extension, including dismantling or inactivation after the useful life of the plant, line, or extension.

(e) A design and construction management and cost control plan which indicates the contractual and working responsibilities and interrelationships between the corporation's management and other major parties involved in the project. This plan shall also include a construction progress information system and specific cost controls.

§ 1003.5. Applications for certificates authorizing new construction subject to power facility and site certification; additional information

Every electrical and gas corporation submitting an application to the commission for a certificate authorizing the new construction of an electric plant, line, or extension, or gas plant, line, or extension, which is subject to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code, shall include in the application the information specified in subdivisions (b), (c), and (e) of Section 1003, in addition to any other required information. The corporation may also include in the application any other information specified in Section 1003.

§ 1005. Issuance of certificate; terms and conditions

(a) The commission may, with or without hearing, issue the certificate as prayed for, or refuse to issue it, or issue it for the construction of a portion only of the contemplated street railroad line, plant, or system, or extension thereof, or for the partial exercise only of the right or privilege, and may attach to the exercise of the rights granted by the certificate such terms and conditions, including provisions for the acquisition by the public of the franchise or permit and all rights acquired thereunder and all works constructed or maintained by authority thereof, as in its judgment the public convenience and necessity require; provided, however, upon timely application for a hearing by any person entitled to be heard thereat, the commission, before issuing or refusing to issue the certificate, shall head a hearing thereon.

(b) When the commission issues a certificate for the new construction of a gas or electric plant, line, or extension, the certificate shall specify the operating and cost characteristics of the plant, line, or extension, including, but not limited to, the size, capacity, cost, and all other characteristics of the plant, line, or extension which are specified in the information which the gas and electrical corporations are required to submit, pursuant to Section 1003 or 1003.5.

§ 1005.5. Issuance of certificate; construction of addition or extension of plant; maximum cost; application for increases or to discontinue construction

(a) Whenever the commission issues to an electrical or gas corporation a certificate authorizing the new construction of any addition to or extension of the corporation's plant estimated to cost greater than fifty million dollars ($50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility. The commission shall determine the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

(b) After the certificate has been issued, the corporation may apply to the commission for an increase in the maximum cost specified in the certificate. The commission may authorize an increase in the specified maximum cost if it finds and determines that the cost has in fact increased and that the present or future public convenience and necessity require construction of the project at the increased cost; otherwise, it shall deny the application.

(c) After construction has commenced, the corporation may apply to the commission for authorization to discontinue construction and recover those costs which were reasonably and prudently incurred. After a showing to the satisfaction of the commission that the present or future public convenience and necessity to longer require the completion of construction of the project, the commission may authorize discontinuance of construction and the recovery of those construction costs which were reasonable and prudent.

(d) In any decision establishing rates for an electrical or gas corporation reflecting the reasonable and prudent costs of the new construction of any addition to or extension of the corporation's plant, when the commission has found and determined that the addition or extension is used and useful, the commission shall consider whether or not the actual costs of construction are within the maximum cost specified by the commission.

§1006. Construction without certificate; cease and desist order

When a complaint has been filed with the commission alleging that a public utility of the class specified in Section 1001 is engaged or is about to engage in construction work without having secured from the commission a certificate of public convenience and necessity as required by this article, the commission may, with or without notice, make its order requiring the public utility complained of to cease and desist from such construction until the commission makes and files its decision on the complaint or until the further order of the commission.

PUBLIC UTILITIES CODE - DIVISION 1

Part 1, Chapter 9 – Judicial Review – Section 1756 – 1767

§ 1756. Writ of review

(a) Within 30 days after the commission issues its decision denying the application for a rehearing, or, if the application was granted, then within 30 days after the commission issues its decision on rehearing, or at least 120 days after the application is granted if no decision on rehearing has been issued, any aggrieved party may petition for a writ of review in the court of appeal or the Supreme Court for the purpose of having the lawfulness of the original order or decision or of the order or decision on rehearing inquired into and determined. If the writ issues, it shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified.

(b) The petition for review shall be served upon the executive director of the commission either personally or by service at the office of the commission.

(c) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date when the commission mails the decision or grant to the parties to the action or proceeding.

(d) The venue of a petition filed in the court of appeal pursuant to this section shall be in the judicial district in which the petitioner resides. If the petitioner is a business, venue shall be in the judicial district in which the petitioner has its principal place of business in California.

(e) Any party may seek from the Supreme Court, pursuant to California Rules of Court, an order transferring related actions to a single appellate district.

(f) No order or decision arising out of a commission proceeding under Section 854 shall be reviewable in the court of appeal pursuant to subdivision (a) if the application for commission authority to complete the merger or acquisition was filed on or before December 31, 1998, by two telecommunications-related corporations including at least one which provides local telecommunications service to over one million California customers. These orders or decisions shall be reviewed pursuant to the Public Utilities Code in existence on December 31, 1998.

(g) This section shall become operative on January 1, 2001.

§ 1756.2. Appearance by commissioner

In any proceeding reviewing an order or decision of the commission in the Supreme Court or court of appeal, the commission may appear and be heard as a party.

§ 1757. Scope of review

(a) No new or additional evidence shall be introduced upon review by the court. In a complaint or enforcement proceeding, or in a ratemaking or licensing decision of specific application that is addressed to particular parties, the review by the court shall not extend further than to determine, on the basis of the entire record which shall be certified by the commission, whether any of the following occurred:

(1) The commission acted without, or in excess of, its powers or jurisdiction.

(2) The commission has not proceeded in the manner required by law.

(3) The decision of the commission is not supported by the findings.

(4) The findings in the decision of the commission are not supported by substantial evidence in light of the whole record.

(5) The order or decision of the commission was procured by fraud or was an abuse of discretion.

(6) The order or decision of the commission violates any right of the petitioner under the Constitution of the United States or the California Constitution.

(b) Nothing in this section shall be construed to permit the court to hold a trial de novo, to take evidence other than as specified by the California Rules of Court, or to exercise its independent judgment on the evidence.

(c) This section shall become operative on January 1, 2001.

§ 1757.1. Scope of review; complaint, enforcement, or other adjudicatory proceeding

(a) In any proceeding other than a proceeding subject to the standard of review under Section 1757, review by the court shall not extend further than to determine, on the basis of the entire record which shall be certified by the commission, whether any of the following occurred:

(1) The order or decision of the commission was an abuse of discretion.

(2) The commission has not proceeded in the manner required by law.

(3) The commission acted without, or in excess of, its powers or jurisdiction.

(4) The decision of the commission is not supported by the findings.

(5) The order or decision was procured by fraud.

(6) The order or decision of the commission violates any right of the petitioner under the Constitution of the United States or the California Constitution.

(b) No new or additional evidence shall be introduced upon review by the court. The findings and conclusions of the commission on findings of fact shall be final and shall not be subject to review except as provided in this article. The questions of fact shall include ultimate facts and findings and conclusions of the commission on reasonableness and discrimination.

(c) This section shall become operative on January 1, 2001.

§ 1758. Appearances; entry of judgment; application of Code of Civil Procedure provisions

(a) The commission and each party to the action or proceeding before the commission may appear in the review proceeding. Upon the hearing the Supreme Court or court of appeal shall enter judgment either affirming or setting aside the order or decision of the commission.

(b) The provisions of the Code of Civil Procedure relating to writs of review shall, so far as applicable and not in conflict with this part, apply to proceedings instituted in the Supreme Court or court of appeal under this article.

(c) Under this article, the Supreme Court may review decisions of the court of appeal in the manner provided for other civil actions.

(d) This section shall become operative on January 1, 2001.

§ 1759. Jurisdiction

(a) No court of this state, except the Supreme Court and the court of appeal, to the extent specified in this article, shall have jurisdiction to review, reverse, correct, or annul any order or decision of the commission or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties, as provided by law and the rules of court.

(b) The writ of mandamus shall lie from the Supreme Court and from the court of appeal to the commission in all proper cases as prescribed in Section 1085 of the Code of Civil Procedure.

§ 1760. Constitutional questions

Notwithstanding Sections 1757 and 1757.1, in any proceeding wherein the validity of any order or decision is challenged on the ground that it violates any right of petitioner under the United States Constitution or the California Constitution, the Supreme Court or court of appeal shall exercise independent judgment on the law and the facts, and the findings or conclusions of the commission material to the determination of the constitutional question shall not be final.

§ 1761. Stays or suspensions

(a) Any stay or suspension of an order or decision of the commission shall be granted only in accordance with this article and the rules of court.

(b) A stay may be issued against any order or decision of the commission, other than an order or decision increasing or decreasing rates or changing a rate classification.

§ 1762. Stay or suspension orders; hearing; contents; temporary stay pending hearing

(a) Except as provided in this section, no order staying or suspending an order or decision of the commission shall be made by the Supreme Court or court of appeal except upon five days' notice and after hearing. If the order or decision of the commission is stayed or suspended, the order suspending it shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto.

(b) The specific finding made pursuant to subdivision (a) shall certify that great or irreparable damage would otherwise result to the petitioner and specify the nature of the damage.

(c) The Supreme Court or court of appeal may grant a temporary stay restraining the operation of the commission order or decision, other than an order or decision authorizing an increase or decrease in rates or changing a rate classification, at any time before the required hearing and determination of the application for a stay when, in the opinion of the court, irreparable loss or damage would result to petitioner unless the temporary stay is granted. The temporary stay shall remain in force only until the hearing determination of the application for a stay upon notice. The hearing of the application for a stay shall be given precedence and assigned for hearing at the earliest practicable day after the expiration of the notice.

§ 1763. Temporary stay; grounds; contents

(a) No temporary stay shall be granted by the Supreme Court or court of appeal unless it clearly appears from specific facts shown by the verified petition that immediate and irreparable injury, loss, or damage will result to the application before notice can be served and hearing had on a motion for a stay as provided in this article.

(b) Every temporary stay shall be endorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it appears to be irreparable and why the order was granted without notice, and shall by its terms expire within a time after entry not to exceed 10 days as the court may fix, unless within the time so fixed the order is extended for a like period for good cause shown and the reasons for the extension entered of record.

(c) In case a temporary stay in granted without notice, the matter of the issuance of a stay shall be set down for hearing at the earliest possible time, and when it comes up for hearing the party obtaining the temporary stay shall proceed with the application for a stay. If the party does not so proceed, the court shall dissolve the temporary stay.

§ 1764. Suspending bond; impounding of disputed collections

In case the order or decision of the commission is stayed or a temporary stay granted, the order of the Supreme Court or court of appeal shall not become effective until a suspending bond is executed and filed with and approved by the court, payable to the people of the State of California and sufficient in amount and security to insure the prompt payment by the party petitioning for the review, of all damages caused by the delay in the enforcement of the order or decision of the commission and of all money which any person or corporation may be compelled to pay pending the review of the proceedings for transportation, transmission, product, commodity, or service in excess of the charges fixed by the order or decision of the commission, in case the order or decision is sustained.

§ 1765. Repealed.

§ 1766. Rate amounts or classifications; stays or suspensions; orders or decision set aside by reviewing court

(a) Under no circumstance shall the Supreme Court or court of appeal stay or suspend any order or decision by the commission authorizing an increase or decrease in rates or changing any rate classification.

(b) If a commission order or decision authorizing any increase or decrease in rates, or changing any rate classification, is set aside by the Supreme Court or court of appeal, the matter shall be referred back to the commission for further action consistent with the order of the court. The commission, in taking this further action, shall not authorize refunds, and any relief ordered by the commission that shall have the effect of increasing or decreasing rates shall be prospective only.

§ 1767. Preference of actions and proceedings

All actions and proceedings under this part and all actions or proceedings to which the commission or the people of the State of California are parties in which any question arises under this part, or under or concerning any order or decision of the commission, shall be preferred over, and shall be heard and determined in preference to, all other civil business except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the attorney of the commission in any action or proceeding in which he is allowed to intervene.

§ 2774.6. Development of program for residential and commercial customer air-conditioning load control; goal

The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall develop a program for residential and commercial customer air-conditioning load control, as an element of each electrical corporation's tariffed service offerings paid for with electric rates. The goal of the program shall be to contribute to the adequacy of electricity supply and to help customers reduce their electric bills in a cost-effective manner. The program may include peak load reduction programs for residential and commercial air-conditioning systems, if the commission determines that the inclusion would be cost-effective.

PUBLIC UTILITIES CODE - DIVISION 1

Part 2, Chapter 7 - Private Energy Producers - Section 2801 et seq.

§ 2827. Electric utilities; net energy metering; contracts with eligible customer-generators; conditions; annualized measurement

(a) The Legislature finds and declares that a program to provide net energy metering for eligible customer-generators is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, and reduce interconnection and administrative costs for electricity suppliers.

(b) As used in this section, the following definitions apply:

(1) "Electric service provider" means an electric corporation, as defined in Section 218, a local publicly owned electric utility, as defined in Section 9604, or an electrical cooperative, as defined in Section 2776, or any other entity that offers electrical service. This section shall not apply to a local publicly owned electric utility, as defined in Section 9604 of the Public Utilities Code, that serves more than 750,000 customers and that also conveys water to its customers.

(2) "Eligible customer-generator" means a residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, is interconnected and operates in paralled with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(3) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. An additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the customer-generator, at the expense of the electric service provider, and the additional metering shall be used only to provide the information necessary to accurately bill or credit the customer-generator pursuant to subdivision (e), or to collect solar or wind electric generating system performance information for research purposes. If the existing electrical meter of an eligible customer-generator is not capable of measuring the flow of electricity in two directions, the customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter. An eligible customer-generator who already owns an existing solar or wind turbine electrical generating facility, or a hybrid system of both, is eligible to receive net energy metering service in accordance with this section.

(4) "Wind energy co-metering" means any wind energy project greater than 50 kilowatts, but not exceeding one megawatt, where the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period is as described in subdivision (h). Wind energy co-metering shall be accomplished pursuant to Section 2827.8.

(5) "Co-energy metering" means a program that is the same in all other respects as a net energy metering program, except that the local publicly owned electric utility, as defined in Section 9604, has elected to apply a generation-to-generation energy and time-of-use credit formula as provided in subdivision (i).

(6) "Ratemaking authority" means, for an electrical corporation as defined in Section 218, or an electrical cooperative as defined in Section 2776, the commission, and for a local publicly owned electric utility as defined in Section 9604, the local elected body responsible for regulating the rates of the local publicly owned utility.

(c)(1) Every electric service provider shall develop a standard contract or tariff providing for net energy metering, and shall make this contract available to eligible customer-generators, upon request, on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds one-half of 1 percent of the electric service provider's aggregate customer peak demand.

(2) On an annual basis, beginning in 2003, every electric service provider shall make available to the ratemaking authority information on the total rated generating capacity used by eligible customer-generators that are customers of that provider in the provider's service area. For those electric service providers who are operating pursuant to Section 394, they shall make available to the ratemaking authority the information required by this paragraph for each eligible customer-generator that is their customer for each service area of an electric corporation, local publicly owned electric utility, or electrical cooperative, in which the customer has net energy metering. The ratemaking authority shall develop a process for making the information required by this paragraph available to energy service providers, and for using that information to determine when, pursuant to paragraph (3), a service provider is not obligated to provide net energy metering to additional customer-generators in its service area.

(3) Notwithstanding paragraph (1), an electric service provider is not obligated to provide net energy metering to additional customer-generators in its service area when the combined total peak demand of all customer-generators served by all the electric service providers in that service area furnishing net energy metering to eligible customer-generators exceeds one-half of 1 percent of the aggregate customer peak demand of those electric service providers.

(d) Electric service providers shall make all necessary forms and contracts for net metering service available for download from the Internet.

(e)(1) Every electric service provider shall ensure that requests for establishment of net energy metering are processed in a time period not exceeding that for similarly situated customers requesting new electric service, but not to exceed 30 working days from the date the electric service provider receives a completed application form for net metering service, including a signed interconnection agreement from an eligible customer-generator and the electric inspection clearance from the governmental authority having jurisdiction. If an electric service provider is unable to process the request within the allowable

timeframe, the electric service provider shall notify both the customer-generator and the ratemaking authority of the reason for its inability to process the request and the expected completion date.

(2) Electric service providers shall ensure that requests for an interconnection agreement from an eligible customer-generator are processed in a time period not to exceed 30 working days from the date the electric service provider receives a completed application form from the eligible customer-generator for an interconnection agreement. If an electric service provider is unable to process the request within the allowable timeframe, the electric service provider shall notify the customer-generator and the ratemaking authority of the reason for its inability to process the request and the expected completion date.

(f)(1) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that does not provide distribution service for the direct transactions, the service provider that provides distribution service for an eligible customer-generator is not obligated to provide net energy metering to the customer.

(2) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier, and the customer is an eligible customer-generator, the service provider that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering in an amount set by the ratemaking authority.

(g) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility, except that eligible customer-generators shall not be assessed standby charges on the electrical generating capacity or the kilowatthour production of an eligible solar or wind electrical generating facility. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer-generator's net kilowatthour consumption over a 12-month period, without regard to the customer-generator's choice of electric service provider. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or any other charge that would increase an eligible customer-generator's costs beyond those of other customers who are not customer-generators in the rate class to which the eligible customer-generator would otherwise be assigned if the customer did not own, lease, rent, or otherwise operate an eligible solar or wind electrical generating facility are contrary to the intent of this section, and shall not form a part of net energy metering contracts or tariffs.

(h) For eligible residential and small commercial customer-generators, the net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible residential or small commercial customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and at each anniversary date thereafter, be billed for electricity used during that period. The electric service provider shall

determine if the eligible residential or small commercial customer-generator was a net consumer or a net producer of electricity during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider exceeds the electricity generated by the eligible residential or small commercial customer-generator during that same period, the eligible residential or small commercial customer-generator is a net electricity consumer and the electric service provider shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible residential or small commercial customer-generator's consumption shall be calculated as follows:

(A) For all eligible customer-generators taking service under tariffs employing "baseline" and "over baseline" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatthours generated shall be valued at the same price per kilowatthour as the electric service provider would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatthours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatthour as the electric service provider would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under tariffs employing "time of use" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. When those same customer-generators are net generators during any discrete time of use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) For all residential and small commercial customer-generators and for each billing period, the net balance of moneys owed to the electric service provider for net consumption of electricity or credits owed to the customer-generator for net generation of electricity shall be carried forward as a monetary value until the end of each 12-month period. For all commercial, industrial, and agricultural customer-generators the net balance of moneys owed shall be paid in accordance with the electric service provider's normal billing cycle, except that if the commercial, industrial, or agricultural customer-generator is a net electricity producer over a normal billing cycle, any excess kilowatthours generated during the billing cycle shall be carried over to the following billing period as a monetary value, calculated according to the procedures set forth in this section, and appear as a credit on the customer-generator's account, until the end of the annual period when paragraph (3) shall apply.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed

any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.

(4) The electric service provider shall provide every eligible residential or small commercial customer-generator with net electricity consumption information with each regular bill. That information shall include the current monetary balance owed the electric service provider for net electricity consumed since the last 12-month period ended. Notwithstanding this subdivision ~~(e)~~, an electric service provider shall permit that customer to pay monthly for net energy consumed.

(5) If an eligible residential or small commercial customer-generator terminates the customer relationship with the electric service provider, the electric service provider shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation, according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(6) If an electric service provider providing net metering to a residential or small commercial customer-generator ceases providing that electrical service to that customer during any 12-month period, and the customer-generator enters into a new net metering contract or tariff with a new electric service provider, the 12-month period, with respect to that new electric service provider, shall commence on the date on which the new electric service provider first supplies electric service to the customer-generator.

(i) Notwithstanding any other provisions of this section, the following provisions shall apply to an eligible customer-generator with a capacity of more than 10 kilowatts, but not exceeding one megawatt, that receives electrical service from a local publicly owned electric utility, as defined in Section 9604, that has elected to utilize a co-energy metering program unless the electric service provider chooses to provide service for eligible customer-generators with a capacity of more than 10 kilowatts in accordance with subdivisions (g) and (h):

(1) The eligible customer-generator shall be required to utilize a meter, or multiple meters, capable of separately measuring electricity flow in both directions. All meters shall provide "time-of-use" measurements of electricity flow, and the customer shall take service on a time-of-use rate schedule. If the existing meter of the eligible customer-generator is not a time-of-use meter or is not capable of measuring total flow of energy in both directions, the eligible customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is both time-of-use and able to measure total electricity flow in both directions. This subdivision shall not restrict the ability of an eligible customer-generator to utilize any economic incentives provided by a government agency or the electric service provider to reduce its costs for purchasing and installing a time-of-use meter.

(2) The consumption of electricity from the electric service provider shall result in a cost to the eligible customer-generator to be priced in accordance with the standard rate charged to the eligible customer-generator in accordance with the rate structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility. The generation of electricity provided to the electric service provider shall result in a credit to the eligible customer-generator and shall be priced in accordance with the generation component, established under the applicable structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility.

(3) All costs and credits shall be shown on the eligible customer-generator's bill for each billing period. In any months in which the eligible customer-generator has been a net consumer of electricity calculated on the basis of value determined pursuant to paragraph (2), the customer-generator shall owe to the electric service provider the balance of electricity costs and credits during that billing period. In any billing period in which the eligible customer-generator has been a net producer of electricity calculated on the basis of value determined pursuant to paragraph (2), the electric service provider shall owe to the eligible customer-generator the balance of electricity costs and credits during that billing period. Any net credit to the eligible customer-generator of electricity costs may be carried forward to subsequent billing periods, provided that an electric service provider may choose to carry the credit over as a kilowatt hour credit consistent with the provisions of any applicable tariff, including any differences attributable to the time of generation of the electricity. At the end of each 12-month period, the electric service provider may reduce any net credit due to the eligible customer-generator to zero.

(j) A solar or wind turbine electrical generating system, or a hybrid system of both, used by an eligible customer-generator shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. A customer-generator whose solar or wind turbine electrical generating system, or a hybrid system of both, meets those standards and rules shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

(k) If the commission determines that there are cost or revenue obligations for an electric corporation, as defined in Section 218, that may not be recovered from customer-generators acting pursuant to this section, those obligations shall remain within the customer class from which any shortfall occurred and may not be shifted to any other customer class. Net-metering and co-metering customers shall not be exempt from the public benefits charge. In its report to the Legislature, the commission shall examine different methods to ensure that the public benefits charge remains a nonbypassable charge.

(l) A net metering customer shall reimburse the Department of Water Resources for all charges that would otherwise be imposed on the customer by the commission to recover bond-related costs pursuant to an agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, as well as the costs of the department equal to the share of the department's estimated net unavoidable power purchase contract costs attributable to the customer. The commission shall incorporate the determination into an existing proceeding before the commission, and shall ensure that the charges are nonbypassable. Until the commission has made a determination regarding the nonbypassable charges, net metering shall continue under the same rules, procedures, terms, and conditions as were applicable on December 31, 2002.

(m) In implementing the requirements of subdivisions (k) and (l), a customer-generator shall not be required to replace its existing meter except as set forth in paragraph (3) of subdivision (b), nor shall the electric service provider require additional measurement of usage beyond that which is necessary for customers in the same rate class as the eligible customer-generator.

(n) On or before January 1, 2005, the commission shall submit a report to the Governor and the Legislature that assesses the economic and environmental costs and benefits of net metering to customer-generators, ratepayers, and utilities, including any beneficial and adverse effects on public benefit programs and special purpose surcharges. The report shall be prepared by an independent party under contract with the commission.

(o) It is the intent of the Legislature that the Treasurer incorporate net energy metering and co-energy metering projects undertaken pursuant to this section as sustainable building methods or distributive energy technologies for purposes of evaluating low-income housing projects.

§ 2827.5. Legislative findings and declarations

The Legislature finds and declares that the repeal of the provisions of the net metering program for large customers merely reflects a legislative desire to revisit and more closely evaluate the cumulative value and effect of the state's policy regarding renewable energy sources on the economics of investment in solar and wind sources for large net metering customers and to ensure further legislative discussion regarding this issue.

§ 2827.7. Generation eligible for net energy metering; terms in effect

Generation eligible for net energy metering that has all local and state permits required to commence construction on or before December 31, 2002, and has completed construction on or before September 30, 2003, shall be entitled, regardless of any change in customer or ownership of the energy system, for the life of the installation, to the net energy metering terms in effect on the date the local and state permits were acquired.

§ 2827.8. Provisions applying eligible customer-generator utilizing wind energy co-metering with capacity of more than 50 kilowatts, but not exceeding one megawatt

Notwithstanding any other provisions of this article, the following provisions apply to an eligible customer-generator utilizing wind energy co-metering with a capacity of more than 50 kilowatts, but not exceeding one megawatt, unless approved by the electric service provider.

(a) The eligible customer-generator shall be required to utilize a meter, or multiple meters, capable of separately measuring electricity flow in both directions. All meters shall provide "time-of-use" measurements of electricity flow, and the customer shall take service on a time-of-use rate schedule. If the existing meter of the eligible customer-generator is not a time-of-use meter or is not capable of measuring total flow of energy in both directions, the eligible customer-generator is responsible for all expenses involved in purchasing and installing a meter that is both time-of-use and able to measure total electricity flow in both directions. This subdivision shall not restrict the ability of an eligible customer-generator to utilize any economic incentives provided by a government agency or the electric service provider to reduce its costs for purchasing and installing a time-of-use meter.

(b) The consumption of electricity from the electric service provider for wind energy co-metering by an eligible customer-generator shall be priced in accordance with the standard rate charged to the eligible customer-generator in accordance with the rate structure to which the customer would be assigned if the customer did not use an eligible wind electrical generating facility. The generation of electricity provided to the electric service provider shall result in a credit to the eligible customer-generator and shall be priced in accordance with the generation component, excluding surcharges to cover the purchase of power by the Department of Water Resources, established under the applicable structure to which the customer would be assigned if the customer did not use an eligible wind electrical generating facility.

§ 2827.9. Net energy metering pilot program for eligible biogas digester customer-generator

(a)(1) The Legislature finds and declares that a pilot program to provide net energy metering for eligible biogas digester customer-generators would enhance the continued diversification of California's energy resource mix and would encourage the installation of livestock air emission controls that the State Air Resources Board believes may produce multiple environmental benefits.

(2) The Legislature further finds and declares that the net energy metering pilot program authorized pursuant to this section for eligible biogas digester customer-generators, which nets out generation charges against generation charges on a time of use basis, furthers the intent of Chapter 7 of the Statutes of 2001, First Extraordinary Session, by facilitating the implementation of energy efficiency programs in order to reduce consumption of energy, reduce the costs associated with energy demand, and achieve a reduction in peak electricity demand.

(b) As used in this section, the following definitions apply:

(1) "Electrical corporation" means an electrical corporation, as defined in Section 218.

(2)(A) "Eligible biogas digester customer-generator" means a customer of an electrical corporation that meets both of the following criteria:

(i) Uses a biogas digester electrical generating facility with a capacity of not more than one megawatt that is located on or adjacent to the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is sized to offset part or all of the eligible biogas digester customer-generator's own electrical requirements.

(ii) Is the recipient of local, state, or federal funds, or who self-finances pilot projects designed to encourage the development of eligible biogas digester electrical generating facilities.

(3) "Eligible biogas digester electrical generating facility" means a generating facility used to produce electricity by either a manure methane production project or as a byproduct of the anaerobic digestion of bio-solids and animal waste.

(4) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the difference between the electricity generated by an eligible biogas digester customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a time of use meter capable of registering the flow of electricity in two directions. If the existing electrical meter of an eligible biogas digester customer-generator is not capable of measuring the flow of electricity in two directions, the eligible biogas digester customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a time of use meter.

(c) Every electrical corporation shall, not later than 60 days from the effective date of this section, file with the commission a standard tariff providing for net energy metering for eligible biogas digester customer-generators, consistent with this section. Every electrical corporation shall make this tariff available to eligible biogas digester customer-generators upon request, on a first come, first serve basis, until the total cumulative rated generating capacity used by the eligible biogas digester customer-generators equals 5 megawatts within the service territory of the electrical corporation. The combined statewide cumulative rated generating capacity used by the eligible biogas digester customer-generators in the service territories of all three electrical corporations in the state may not exceed 15 megawatts.

(d) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if the customer was not an eligible biogas digester customer-generator, except as set forth in subdivision (e). Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible biogas digester customer-generator's costs beyond those of other customers in the rate class to which the eligible biogas digester customer-generator would otherwise be assigned are contrary to the intent of this legislation, and shall not form a part of net energy metering tariffs.

(e) The net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized metering calculation:

(1) The eligible biogas digester customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible biogas digester customer-generator's system with an electrical corporation, and at each anniversary date thereafter, be billed for electricity used during that period. The electrical corporation shall determine if the eligible biogas digester customer-generator was a net consumer or a net producer of electricity during that period. For purposes of determining if the biogas digester customer-generator was a net consumer or a net producer of electricity during that period, the electrical corporation shall aggregate the electrical load of a dairy operation under the same ownership, including, but not limited to, the electrical load attributable to milking operations, milk refrigeration, and water pumping located on property adjacent or continuous to the dairy. Each aggregated account shall be billed and measured according to a time of use rate schedule.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electrical corporation exceeds the electricity generated by the eligible biogas digester customer-generator during that same period, the eligible biogas digester customer-

generator is a net electricity consumer and the electrical corporation shall be owed compensation for the eligible biogas digester customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible biogas digester customer-generator's consumption shall be calculated as follows:

(A) The generation charges for any net monthly consumption of electricity shall be calculated according to the terms of the tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible biogas digester customer-generator. When those eligible biogas digester customer-generators are net generators during any discrete time of use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electrical corporation would charge for retail kilowatthour sales for generation, exclusive of any surcharges, during that same time of use period. If the eligible biogas digester customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (4) of subdivision (b) shall apply. All other charges, other than generation charges, shall be calculated in accordance with the eligible biogas digester customer-generator's applicable tariff and based on the total killowatthours delivered by the electrical corporation to the eligible biogas digester customer-generator. To the extent that charges for transmission and distribution services are recovered through demand charges in any particular month, no standby reservation charges shall apply in that monthly billing cycle.

(B) The net balance of moneys owed shall be paid in accordance with the electrical corporation's normal billing cycle.

(3) At the end of each 12-month period, where the electricity generated by the eligible biogas digester customer-generator during the 12-month period exceeds the electricity supplied by the electrical corporation during that same period, the eligible biogas digester customer-generator is a net electricity producer and the electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The eligible biogas digester customer-generator shall not be owed any compensation for those excess kilowatthours.

(4) If an eligible biogas digester customer-generator terminates service with the electrical corporation, the electrical corporation shall reconcile the eligible biogas digester customer-generator's consumption and production of electricity during any 12-month period.

(f) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

§ 2827.10. "Electrical corporation", "eligible fuel cell electrical generating facility", "eligible fuel cell customer-generator" and "net energy metering" defined; responsibilities with respect to terms

(a) As used in this section, the following terms have the following meanings:

(1) "Electrical corporation" means an electrical corporation, as defined in Section 218.

(2) "Eligible fuel cell electrical generating facility" means a facility that includes the following:

(A) Integrated powerplant systems containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy.

(B) An inverter and fuel processing system where necessary.

(C) Other plant equipment, including heat recovery equipment, necessary to support the plant's operation or its energy conversion.

(3) "Eligible fuel cell customer-generator" means a customer of an electrical corporation that meets all the following criteria:

(A) Uses a fuel cell electrical generating facility with a capacity of not more than one megawatt that is located on or adjacent to the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid while the grid is operational or in a grid independent mode when the grid is nonoperational, and is sized to offset part or all of the eligible fuel cell customer-generator's own electrical requirements.

(B) Is the recipient of local, state, or federal funds, or who self-finances projects designed to encourage the development of eligible fuel cell electrical generating facilities.

(C) Uses technology that meets the definition of an "ultra-clean and low-emission distributed generation" in subdivision (a) of Section 353.2.

(4) "Net energy metering" has the same meaning as that term is defined in Section 2827.9.

(b) Every electrical corporation shall, not later than March 1, 2004, file with the commission a standard tariff providing for net energy metering for eligible fuel cell customer-generators, consistent with this section. Every electrical corporation shall make this tariff available to eligible fuel cell customer-generators upon request, on a first-come-first-served basis, until the total cumulative rated generating capacity used by the eligible fuel cell customer-generators equals 45 megawatts within the service territory of the electrical corporation for an electrical corporation with a peak demand above 10,000 megawatts, or equals 22.5 megawatts within the service territory of the electrical corporation for an electrical corporation with a peak demand of 10,000 megawatts or below. The combined statewide cumulative rated generating capacity used by the eligible fuel cell customer-generators in the service territories of all electrical corporations in the state may not exceed 112.5 megawatts.

(c) In determining the eligibility for the cumulative rated generating capacity within an electrical service area, preference shall be given to facilities which, at the time of installation, are located in a community with significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities of minority populations or low-income populations, or both, based on the ambient air quality standards established pursuant to Section 39607 of the Health and Safety Code.

(d) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the customer would be assigned if the customer was not an eligible fuel cell customer-generator. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible fuel cell

customer-generator's costs beyond those of other customers in the rate class to which the eligible fuel cell customer-generator would otherwise be assigned are contrary to the intent of the Legislature in enacting the act adding this section, and may not form a part of net energy metering tariffs.

(e) The net metering calculation shall be carried out in accordance with Section 2827.9.

(f) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

PUBLIC UTILITIES CODE - DIVISION 1.5

California Consumer Power and Conservation Financing Authority Act – Section 3300 et seq.

CHAPTER 1. General Provisions and Definitions

§ 3300. Legislative findings and declarations

The Legislature finds and declares that in order to furnish the citizens of California with reliable, affordable electrical power, to ensure sufficient power reserves, to assure stability and rationality in California's electricity market, to encourage energy efficiency and conservation as well as the use of renewable energy resources, and to protect the public health, welfare, and safety, the state needs to finance, purchase, lease, own, operate, acquire, or otherwise provide financial assistance for public and private facilities for the generation and transmission of electricity and for renewable energy, energy efficiency, and conservation programs.

§ 3301. Short title

This division shall be known and may be cited as the California Consumer Power and Conservation Financing Authority Act.

§ 3302. Definitions

As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) "Act" means the California Consumer Power and Conservation Financing Authority Act.

(b) "Authority" means the California Consumer Power and Conservation Financing Authority established pursuant to Section 3320 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given by law.

(c) "Board" means the Board of Directors of the California Consumer Power and Conservation Financing Authority.

(d) "Bond purchase agreement" means a contractual agreement executed between the authority and an underwriter or underwriters and, where appropriate, a participating party, whereby the authority agrees to sell bonds issued pursuant to this division.

(e) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue or grant anticipation notes; certificates of indebtedness; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for state and federal income taxation purposes.

(f) "Commission" means the Public Utilities Commission.

(g) "Cost," as applied to a program, project or portion thereof financed under this division, means all or any part of the cost of construction, improvement, repair, reconstruction, renovation, and acquisition of all lands, structures, improved or unimproved real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery and equipment; financing charges; the costs of any environmental mitigation; the costs of issuance of bonds or other indebtedness; interest prior to, during, and for a period after, completion of the project, as determined by the authority; provisions for working capital; reserves for principal and interest; reserves for reduction of costs for loans or other financial assistance; reserves for maintenance, extension, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial, appraisal, and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project, enterprise, or program or incidental to the completion or financing of any project or program.

(h) "Electrical corporation" has the same meaning as that term is defined in Section 218.

(i) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(j) "Enterprise" means a revenue-producing improvement, building, system, plant, works, facilities, or undertaking used for or useful for the generation or production of electric energy for lighting, heating, and power for public or private uses. Enterprise includes, but is not limited to, all parts of the enterprise, all appurtenances to it, lands, easements, rights in land, water rights, contract rights, franchises, buildings, structures, improvements, equipment, and facilities appurtenant or relating to the enterprise.

(k) "Financial assistance" in connection with a project, enterprise or program, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, and

contributions of money, property, labor, or other things of value, as may be approved by resolution of the board; the purchase or retention of authority bonds, the bonds of a participating party for their retention or for sale by the authority, or the issuance of authority bonds or the bonds of a special purpose trust used to fund the cost of a project or program for which a participating party is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by this division; bonds for which the authority has provided a guarantee or enhancement; or any other type of assistance determined to be appropriate by the authority.

(l) "Fund" means the California Consumer Power and Conservation Financing Authority Fund.

(m) "Loan agreement" means a contractual agreement executed between the authority and a participating party that provides that the authority will loan funds to the participating party and that the participating party will repay the principal and pay the interest and redemption premium, if any, on the loan.

(n) "Local publicly owned electric utility" has the same meaning as that term is defined in Section 9604.

(o) "Participating party" means either of the following:

(1) Any person, company, corporation, partnership, firm, federally recognized California Indian tribe, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financial assistance from the authority for the purpose of implementing a project or program in a manner prescribed by the authority.

(2) Any subdivision of the state or local government, including, but not limited to, departments, agencies, commissions, cities, counties, nonprofit corporations, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions, that has, or proposes to acquire, an interest in a project, or that operates or proposes to operate a program under Section 3365, and that makes application to the authority for financial assistance in a manner prescribed by the authority.

(p) "Program" means a program that provides financial assistance, as provided in Article 6 (commencing with Section 3365).

(q) "Project" means plants, facilities, equipment, appliances, structures, expansions, and improvements within the state that serve the purposes of this division as approved by the authority, and all activities and expenses necessary to initiate and complete those projects described in Article 5 (commencing with Section 3350) and Article 7 (commencing with Section 3368), of Chapter 3.

(r) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, rents, fees and charges, and all other income or receipts derived by the authority from an enterprise, or by the authority or a participating party from any other financing arrangement undertaken by the authority or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the authority or a participating party.

(s) "State" means the State of California.

§ 3304. Exemption from Administrative Procedure Act

Any action taken pursuant to this division is exempt from the Administrative Procedure Act, as defined in Section 11370 of the Government Code.

CHAPTER 2. Purpose of The California Consumer Power And Conservation Financing Authority

§ 3310. Exercise of powers; purposes

The authority may only exercise its powers pursuant to Article 4 (commencing with Section 3340) of Chapter 3 for the following purposes:

(a) Establish, finance, purchase, lease, own, operate, acquire, or construct generating facilities and other projects and enterprises, on its own or through agreements with public and private third parties or joint ventures with public or private entities, or provide financial assistance for projects or programs by participating parties, to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, and to ensure a sufficient and reliable supply of electricity for California's consumers at just and reasonable rates.

(b) Finance programs, administered by the Energy Commission, the commission, and other approved participating parties for consumers and businesses to invest in cost-effective energy efficient appliances, renewable energy projects, and other programs that will reduce the demand for energy in California.

(c) Finance natural gas transportation and storage projects under Article 7 (commencing with Section 3368) of Chapter 3.

(d) Achieve an adequate energy reserve capacity in California within five years of the effective date of this division.

(e) Provide financing for owners of aged, inefficient, electric powerplants to perform necessary retrofits to improve the efficiency and environmental performances of those powerplants.

CHAPTER 3. The California Consumer Power and Conservation Financing Authority

Article 1. Creation of the Authority

§ 3320. Creation and responsibilities of the Authority

(a) There is hereby created in the state government the California Consumer Power and Conservation Financing Authority, which shall be responsible for administering this division.

(b) The authority shall implement the purposes of Chapter 2 (commencing with Section 3310), and to that end finance projects and programs in accordance with this division, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

Article 2. Board of Directors

§ 3325. Board of directors; membership; terms; "quorum"; appointment of chairperson; expenses

(a) The authority shall be governed by a five-member board of directors that shall consist of the following persons:

(1) Four individuals appointed by the Governor, subject to confirmation by the Senate. These four members shall have considerable experience in power generation, natural gas transportation or storage, energy conservation, financing, or ratepayer advocacy.

(2) The State Treasurer.

(b)(1) For the initial term, the appointed members shall serve staggered terms as follows:

(A) The member appointed first shall serve a term of four years.

(B) The member appointed second shall serve a term of three years.

(C) The member appointed third shall serve a term of two years.

(D) The member appointed fourth shall serve a term of one year.

(2) The second and any subsequent terms shall be for four years.

(c) A quorum is necessary for any action to be taken by the board. Three of the members shall constitute a quorum, and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d)(1) The chairperson of the board shall be appointed by the Governor. This position shall be a full-time, paid position.

(2) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars ($100) for each full day of attending meetings of the authority.

§ 3326. Board of Members subject to Political Reform Act of 1974; liability insurance

(a) The members of the board shall be subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) of the Government Code, and all other applicable provisions of law.

(b) The board may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by the fiduciary.

§ 3327. Open meetings

Meetings of the board shall be open to the public and shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

§ 3328. Applicability of California Public Records Act

The California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) applies to all records of the authority.

Article 3. Chief Executive Officer

§ 3330. Duties of chief executive officer

The chief executive officer shall manage and conduct the business and affairs of the authority and the fund subject to the direction of the board. Except as otherwise provided in this section, the board may assign to the executive director, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under this division. Any action involving final approval of any bonds, notes, loans, or other financial assistance shall require the approval of a majority of the members of the board.

Article 4. Powers of the Authority

§ 3340. Powers

The authority is authorized and empowered to do any of the following:

(a) Adopt an official seal.

(b) Sue and be sued in its own name.

(c) Employee or contract with officers and employees to administer the authority. The authority may contract for the services of a chief executive officer, who shall serve at the pleasure of the board. If the chief executive officer contracts for the services of any other officer or employee, the contract shall be subject to the approval of the board.

(d) Exercise the power of eminent domain.

(e) Adopt rules and regulations for the regulation of its affairs and the conduct of its business.

(f) Do all things generally necessary or convenient to carry out its powers under, and the purposes of, this division.

§ 3341. Powers in connection with purposes of division

In connection with the purposes of this division, the authority may do any or all of the following:

(a) Issue bonds, from time to time, as further provided in Chapter 5 (commencing with Section 3380.1), to pay all or part of the cost of any enterprise, project, or program, or to otherwise carry out the purposes of this division.

(b) Enter into joint powers agreements with eligible public agencies pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(c) Subject to any statutory or constitutional limitation on their use, do any of the following as may, in the determination of the authority, be necessary or convenient for the successful development, conduct, or financing of a project, program, or enterprise, or for carrying out the purposes of this division:

(1) Engage the services, including, without limitation, the services of private consultants; attorneys; financial professionals and advisors; engineers; architects; construction, land use and environmental experts; and accountants, to render professional and technical assistance and advice.

(2) Contract for engineering, architectural, accounting, or other services of appropriate state agencies.

(3) Pay the reasonable costs, including, without limitation, costs of consulting engineers, architects, accountants, and construction, land use, and environmental experts

employed by the authority or any participating party. Except as otherwise provided in Section 3341.5, those costs shall be recovered from participating parties.

(d) Acquire, lease, take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state, as the authority determines to be necessary or convenient for an enterprise or the financing of a project, upon terms and conditions the authority considers to be reasonable.

(e) Make, receive, or serve as a conduit for the making of, or otherwise provide for, grants, contributions, guarantees, insurance, credit enhancements or liquidity facilities, or other financial enhancements to a participating party as financial assistance for a project or program. The sources may include bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grants and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account, or any other source of money, property, labor, or other things of value.

(f) Make loans to any participating party, either directly or by making a loan to a lending institution or other financial intermediary, in connection with the financing of a project or program in accordance with an agreement between the authority and a participating party, either as a sole lender or in participation with other lenders.

(g) Make loans to any participating party, either directly or by making a loan to a lending institution, in accordance with an agreement between the authority and the participating party to refinance indebtedness incurred by the participating party in connection with projects undertaken and completed prior to any agreement with the authority or expectation that the authority would provide financing, either as a sole lender or in participation with other lenders. The power generated by those projects shall be subject to the terms and conditions specified by the authority in the agreement and pursuant to Section 3351.

(h) Mortgage all or any portion of the authority's interest in a project or enterprise and the property on which any project or enterprise is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(i) Assign or pledge all or any portion of the authority's interest in assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a participating party to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds.

(j) Lease the project being financed to a participating party, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined by the authority; purchase any or all of the project; or, upon payment of all the indebtedness incurred by the authority for the financing of the project, the authority may convey, any or all of the project to the lessee or lessees. The power generated by those projects shall be subject to the terms and conditions specified by the authority in the agreement and pursuant to Section 3351.

(k)(1) Issue, obtain, or aid in obtaining, from any department or agency of the United States, from other agencies of the state, or from any private company, any insurance or guarantee to or for, or any letter or line of credit regarding, the payment or repayment of interest or principal, or both, or any part thereof, on any bond, loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this division.

(2) Outwithstanding any other provision of this division, enter into any agreement, contract or other instrument regarding any insurance, guarantee, letter or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating party.

(3) Assign any insurance, guarantee, letter or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(l) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the authority's bonds or a participating party's obligations to the authority, including, but not limited to, bonds of a participating party purchased by the authority for retention or sale, with funds or moneys that are legally available and that are due or payable to the participating party by reason of any grant, allocation, apportionment, or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally available to the participating party, the authority, or the state or any agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof; and in the event of written notice that the participating party has not paid or is in default on its obligations to the authority, direct the Controller to withhold payment of those funds or moneys from the participating party over which it is or will be custodian and to pay the same to the authority or its assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt to the authority or its assignee, until the default has been cured and the amounts then due and unpaid have been paid to the authority or its assignee, or until arrangements satisfactory to the authority have been made to cure the default.

(m) Purchase, with the proceeds of the authority's bonds, bonds issued by, or for the benefit of, any participating party in connection with a project, pursuant to a bond purchase agreement or otherwise. Bonds purchased pursuant to this division may be held by the authority, pledged or assigned by the authority, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority, and notwithstanding any other provision of law, may be bought by the authority at private sale.

(n) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds.

§ 3341.1. Powers of the authority in connection with an enterprise

In connection with an enterprise, the authority may do any or all of the following:

(a) Acquire any enterprise by gift, purchase, or eminent domain as necessary to achieve the purposes of the authority pursuant to Sections 3310 and 3352.

(b) Construct or improve any enterprise. By gift, lease, purchase, eminent domain, or otherwise, it may acquire any real or personal property, for an enterprise, except that no property of a state public body may be acquired without its consent. The authority may sell, lease, exchange, transfer, assign, or otherwise dispose of any real or personal property or any interest in such property. It may lay out, open, extend, widen, straighten, establish, or change the grade of any real property or public rights-of-way necessary or convenient for any enterprise.

(c) Operate, maintain, repair, or manage all or any part of any enterprise, including the leasing for commercial purposes of surplus space or other space that is not economic to use for such enterprise.

(d) Adopt reasonable rules or regulations for the conduct of the enterprise.

(e) Prescribe, revise, and collect charges for the services, facilities, or energy furnished by the enterprise. The charges shall be established and adjusted so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the authority financing such enterprise as the same shall become due and payable, (2) create and maintain reserves, including, without limitation, operating and maintenance reserves and reserves required or provided for in any resolution authorizing, or trust agreement securing such bonds, and (3) pay operating and administrative costs of the authority.

(f) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

§ 3341.2. Powers of authority in connection with a project

In connection with a project, the authority may do any or all of the following:

(a) Determine the location and character of any project to be financed under this division.

(b) Acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate any project to be financed under this division.

(c) Contract with any participating party for the construction of a project by such participating party.

(d) Enter into leases and agreements, as lessor or lessee, with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, equipment, and facilities of any kind or character.

(e) Establish, revise, charge and collect rates, rents, fees and charges for a project. The rates, rents, fees, and charges shall be established and adjusted in respect of the aggregate rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the authority financing such project as the same shall become due and payable, (2) create and maintain reserves, including, without limitation, operating and maintenance reserves and reserves required or provided for in any resolution authorizing, or trust agreement securing such bonds, and (3) pay operating and administrative costs of the authority.

(f) Enter into contracts of sale with any participating party covering any project financed by the authority.

(g) As an alternative to leasing or selling a project to a participating party, finance the acquisition, construction, or installation of a project by means of a loan to the participating party.

(h) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

§ 3341.5. Equitable apportionment of authority's administrative costs and expenses

In connection with the purposes of this division, the authority shall charge and equitably apportion among participating parties or other public or private entities the authority's administrative costs and expenses, including operating and financing-related costs incurred in the exercise of the powers and duties conferred by this division, except to the extent that those costs are related to one of the authority's own enterprises or projects, in which case costs shall be included in the cost of generating that electricity as provided in Section 3351.

§ 3342. Exercise of fiscal powers

The fiscal powers granted to the authority by this division may be exercised without regard or reference to any other department, division, or agency of the state, except the Legislature or as otherwise stated in this division. This division shall be deemed to provide an alternative method of doing the things authorized by this division, and shall be regarded as supplemental and additional to powers conferred by other laws.

§ 3343. Personal liability on issurance of bonds

No member of the board or any person executing bonds of the authority pursuant to this division shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

§ 3344. Payment of expenses; debt; liability or obligation

All expenses incurred in carrying out this division shall be payable solely from funds provided under the authority of this division and no liability or obligation shall be imposed upon the State of California and, none shall be incurred by the authority beyond the extent to which moneys shall have been provided under this division. Under no circumstances shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under this division.

§ 3345. Authority's operating budget; review and appropriation

The authority's operating budget shall be subject to review and appropriation in the annual Budget Act. For purposes of this section, the authority's operating budget shall include the costs of personnel, administration, and overhead.

§ 3346. Preparation of report regarding activities and expenditures

The authority shall, on or before January 1 of each year, prepare and submit to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house that considers appropriations, a report regarding its activities and expenditures pursuant to this division.

§ 3347. Evaluation of effectiveness of Authority's efforts by Bureau of State Audits

The Bureau of State Audits shall perform an evaluation of the effectiveness of the authority's efforts in achieving its purposes as described in Section 3310. The evaluation shall include recommendations as to whether there is a continued need for the authority beyond January 1, 2007. The evaluation shall be submitted to the Governor and the Legislature on or before January 1, 2005.

Article 5. Generation Facilities

§ 3350. Financing additional generation facilities; forecasts of supply and demand

In evaluating the the eligibility for financing of additional generation facilities, the authority shall utilize the Energy Commission's and the Independent System Operator's, or their successor's, information relating to the need for additional generating facilities and their forecasts of electric supply and demand for the state.

§ 3351. Providing electricity; cost; state need

(a) All generation-related projects and enterprises financed pursuant to this division shall provide electricity to the consumers of this state at the cost of generating that electricity, including the costs of financing those projects or enterprises. To the extent that electricity is not needed in the state, or that it is financially advantageous to California consumers, the electricity may be sold outside the state at just and reasonable rates.

(b) If a participating party is an electrical corporation, the commission shall determine the cost of generating electricity and to which entities the electricity is sold.

(c) If a participating party is a local publicly owned electric utility seeking to provide electricity to consumers in its service territory, the governing board of that utility shall determine the cost of generating electricity and to which entities the electricity is sold.

(d) If neither subdivision (b) nor subdivision (c) applies, the authority shall determine the cost of generating electricity and to which entities the electricity is sold, consistent with subdivision (a).

§ 3352. Supplement to private and public sector power supplies

In addition to the other powers provided in this division, the activities of the authority under this article are intended to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, consistent with achieving reasonable energy capacity reserves within five years of the effective date of this division.

§ 3353. Authority to receive and act on applications for financial assistance

The authority shall have the authority to receive and act on applications for financial assistance from owners of existing powerplants whose owners or operators commit to undertake capacity expansion through facility retrofits, new construction, or both, that will improve the efficiency and environmental performance of generation facilities.

§ 3354. Compliance with public works and public agencies

All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

§ 3355. Nuclear and hydroelectric facilities; authorization

The authority may not invest in any nuclear facilities or develop additional hydroelectric facilities without first receiving specific statutory authorization to do so on a project-by-project basis.

§ 3356. Least cost electric supply policy

(a) If the authority determines under Section 3350 that additional electric generation supply is required to meet the purposes of this division, the authority may undertake the following activities to ensure that the authority, or any participating party, is able to build, own, and operate generation facilities as part of a least cost electric supply policy:

(1) Identify suitable sites for the construction of generation facilities, taking into account fuel supply, interconnection, community, and environmental factors.

(2) Secure rights to the sites identified, including, but not limited to, fee simple acquisition, leaseholds, or options.

(3) Conduct any studies that may be necessary to construct and operate generation facilities at the site, including, but not limited to, environmental, engineering, or feasibility studies.

(4) Conduct, in coordination with the Energy Commission, all applicable public and community involvement processes.

(5) Apply for permits, licenses, or other local, state, or federal approvals, including, but not limited to, compliance with the applicable procedures of the Energy Commission.

(b) The authority may request proposals from qualified participating parties to purchase, lease, or otherwise acquire sites for the purpose of developing generation facilities that will provide the lowest cost power to consumers over the life of the facilities, consistent with Section 3351.

(c) The authority shall comply with all applicable air quality laws and regulations and the Warren-Alquist State Energy Resources Conservation and Development Act (Division 15 (commencing with Section 25000) of the Public Resources Code).

Article 6. Renewable Energy and Conservation

§ 3365. Loan to participating parties to assist California consumers and businesses; purposes

The authority may provide loans, utilizing up to one billion dollars ($1,000,000,000) of the bond authority, under terms and conditions approved by the authority, to any participating party, which shall use that loan to make loans available to California consumers and businesses for all of the following purposes:

(a) The purchase of consumer appliances and home improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

(b) The purchase or lease of business equipment and facility improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

(c) Any other electric or natural gas energy conservation program or any program for the use of renewable energy resources, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

§ 3366. Condition of loan receipt; comprehensive marketing program

As a condition of receipt of a loan pursuant to Section 3365, a participating party shall be required to conduct a comprehensive marketing program that makes consumers aware of the availability of these financial assistance programs, and to provide appropriate security for repayment of the loan, including, without limitation, a pledge to the authority of consumer and business loan repayments collected through utility bills, as applicable and a certification that the duration of a loan will not exceed the useful life of a purchase.

§ 3367. Certification of equipment or improvement

The authority shall require that any equipment or improvement financed by a loan made pursuant to this article shall be certified as having been installed or completed.

§ 3367.5. Consumer protection plan

The authority may require that a participating party utilize a consumer protection plan for screening qualified contractors who serve consumers under this article.

Article 7. Natural Gas

§ 3368. Report on capacity of state's natural gas transportation and storage system

(a) The commission, in consultation with the Energy Commission, shall prepare and submit to the authority and to the Legislature, within 90 days of the effective date of the act adding this section, a report on the present, planned, and required future capacity of the state's natural gas transportation and storage system to provide adequate, seasonally reliable amounts of competitively priced natural gas to residential, commercial, and industrial customers, including, but not limited to, electric generating plants.

(b) The authority may provide financing for natural gas transportation or storage projects recommended to it by the commission. In recommending a project to the authority, the commission shall ensure that the project is in the public interest.

(c) Nothing in this section prevents the commission from acting on its own authority to direct gas corporations within its jurisdiction to construct, or facilitate the construction or operation, by the owners or operators of pipelines not within the jurisdiction of the commission, of, natural gas transportation and storage facilities as the commission determines to be needed to provide adequate, seasonally reliable amounts of competitively priced natural gas to residential, commercial, and industrial customers, including, but not limited to, electric generating plants.

Article 8. Energy Resource Investment Plan

§ 3369. Energy Resources Investment Plan

(a) Within 180 days of the effective date of this division, the authority, in consultation with the Energy Commission and the Independent System Operator, shall develop an Energy Resource Investment Plan and submit that plan to the Governor and the Joint Legislative Budget Committee and the chairs of the policy committees with jurisdiction over energy policy in the State of California.

(b) The Energy Resource Investment Plan shall take into account California's anticipated energy service needs for both electricity and natural gas over the next decade. The plan shall address issues regarding adequacy of supply, storage, reliability of service, grid congestion, and environmental quality. In developing the investment plan, the authority shall compare the costs of various energy resources, including a comparison of the costs and benefits of demand reduction strategies with the costs and benefits of additional generation supply. The plan shall acknowledge the potential volatility of fossil fuel prices and the value of resources that avoid that price risk.

(c) The plan shall outline a strategy for cost-effective energy resource investments, using the financing powers provided to the authority by this division. The plan may recommend changes to the specific expenditure authority granted in this division in order to carry out the investment strategy contained in the plan.

(d) The plan shall be developed with input from interested parties at scheduled public hearings of the authority. The authority should adopt the plan by majority vote of the board at a public meeting. The authority shall update the plan on a regular basis as determined by the authority.

(e) All investments made by the authority under this division shall be consistent with the strategy outlined in the Energy Resource Investment Plan. Nothing in this section shall preclude the authority from exercising its powers prior to the adoption of the initial Energy Resource Investment Plan.

(f) The authority shall be the agency responsible for ensuring that the investment strategy outlined in the Energy Resource Investment Plan is implemented. To that end, the authority may, on its own or through a partnership with a participating party, make those investments necessary to ensure that the plan is implemented.

Article 9. Agencies Relation to Other State Energy Oversight

§ 3369.5. Review of roles, function and duties of other state energy oversight agencies; consolidation

Nothing in this division shall be construed to obviate the need to review the roles, functions, and duties of other state energy oversight agencies and, where appropriate, change or consolidate those roles, functions, and duties. To achieve that efficiency, the Governor may propose to the Legislature a Governmental Reorganization Plan, pursuant to Section 8523 of the Government Code and Section 6 of Article V of the Constitution.

CHAPTER 4. California Consumer Power and Conservation Financing Authority Fund

§ 3370. Creation of California Consumer Power and Conservation Financing Authority Fund

(a) There is hereby created in the State Treasury the California Consumer Power and Conservation Financing Authority Fund for expenditure by the authority for the purpose of implementing the objectives and provisions of this division. For the purposes of subdivision (e), or as necessary or convenient to the accomplishment of any other purpose of the authority, the authority may establish within the fund additional and separate accounts and subaccounts.

(b) The assets of the fund shall be available for the payment of the salaries and other expenses charged against it in accordance with this division.

(c) Except as provided under Section 3345, all moneys in the fund that are not General Fund moneys are continuously appropriated to the authority and may be used for any reasonable costs which may be incurred by the authority in the exercise of its powers under this division.

(d) The fund, on behalf of the authority, may borrow or receive moneys from the authority, or from any federal, state, or local agency or private entity, to create reserves in the fund as provided in this division and as authorized by the board.

(e) The authority may pledge any or all of the moneys in the fund (including in any account or subaccount) as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this division.

(f) The authority, may, from time to time, direct the Treasurer to invest moneys in the fund that are not required for the authority's current needs, including proceeds from the sale of any bonds, in any securities permitted by law as the authority shall designate. The authority also may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of the Government Code, excepting the Surplus Money Investment Fund.

CHAPTER 5. Bonds

§ 3380.1. Authority to incur indebtedness and issue securities; renewal; maximum amount

For the purposes provided in this division, the authority is authorized to incur indebtedness and to issue securities of any kind or class, at public or private sale by the Treasurer, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues. The authority may issue bonds for the purposes of this division in an amount not to exceed five billion dollars ($5,000,000,000), exclusive of any refundings.

§ 3380.2. Authority in connection with the issurance of bonds

In connection with the issuance of bonds, in addition to the powers otherwise provided in this division, the authority may do all of the following:

(a) Issue, from time to time, bonds payable from and secured by a pledge of all or any part of the revenues in order to finance the activities authorized by this division, including, without limitation, an enterprise or multiple enterprises, a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties, and to sell those bonds at public or private sale by the Treasurer, in the form and on those terms and conditions as the Treasurer, as agent for sale, shall approve.

(b) Pledge all or any part of the revenues to secure bonds and any repayment or reimbursement obligations of the authority to any provider of insurance or a guarantee of liquidity or credit facility entered into to provide for the payment or debt service on any bond.

(c) Employ and compensate bond counsel, financial consultants, underwriters, and other advisers determined necessary and appointed by the Treasurer in connection with the issuance and sale of any bond.

(d) Issue bonds to refund or purchase or otherwise acquire bonds on terms and conditions as the Treasurer, as agent for sale, shall approve.

(e) Perform all acts that relate to the function and purpose of the authority under this division, whether or not specifically designated in this chapter.

§ 3381. Bonds as legal investments and securities

Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds. The bonds issued under this division are securities that may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state, including, without limitation, local agencies, schools, and pension funds, for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

§ 3382. Authorization to obtain loans

The authority is authorized to obtain loans from the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code. These loans shall be subject to the terms negotiated with the Pooled Money Investment Board, including, but not limited to, a pledge of authority bond proceeds or revenues.

§ 3383. Bonds; debt or liability of the state or political subdivisions; obligations

Bonds issued under this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the faith and credit of the state or of any political subdivision, other than the authority, but shall be payable solely from the funds herein provided therefor. All bonds issued under this division shall contain on the face thereof a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California or any local agency is pledged to the payment of the principal of or interest on this bond." The issuance of bonds under this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

CHAPTER 6. Termination Provisions

§ 3384. Financing or approval of new programs

The authority may not finance or approve any new program, enterprise, or project on or after January 1, 2007, unless authority to approve such an activity is granted by statute enacted on or before January 1, 2007.

PUBLIC UTILITIES CODE - DIVISION 4.8

Weatherization services for low-income customers - section 9500 et seq.

§ 9500. Weatherization services for low-income customers; definitions

(a) Each publicly owned electric and gas utility that provides the energy for space heating for low-income customers shall also provide home weatherization services for those customers if a significant need for those services exists in the utility's service territory, as determined by the utility, taking into consideration both the cost-effectiveness of the services and the public policy of reducing financial hardships facing low-income households. Publicly owned utilities shall not have to duplicate low-income home weatherization services provided by gas and electrical corporations serving the same service territory.

(b)(1) For purposes of this section, "weatherization" includes, where feasible, any of the following measures for any dwelling unit:

(A) Attic insulation.

(B) Caulking.

(C) Weatherstripping.

(D) Low flow showerhead.

(E) Waterheater blanket.

(F) Door and building envelope repairs which reduce air infiltration.

(2) Each publicly owned electric and gas utility shall provide as many of these measures as it determines to be feasible and cost-effective for each eligible low-income dwelling unit.

(c) "Weatherization" may also include other building conservation measures, energy-efficient appliances, and energy education programs determined by the utility to be feasible, taking into consideration both the cost-effectiveness of the measures and the public policy of reducing the financial hardships facing low-income households.

§ 9501. Development and implementation of weatherization program for low-income customers

Each publicly owned electric and gas utility shall develop and implement its low-income home weatherization program, in consultation with gas and electrical corporations and the Department of Economic Opportunity, to avoid duplication and to ensure the most efficient use of public and private resources. For ratemaking purposes, gas and electrical corporation expenditures for consultation and coordination shall be recoverable from ratepayers, subject to the Public Utilities Commission's authority to determine the reasonableness of the amount of the expenditures.

§ 9502. Status reports of weatherization program for low-income customers

On or before December 1, 1994, and on a biennial basis thereafter, each publicly owned electric and gas utility shall submit a report to the State Energy Resources Conservation and Development Commission describing the status of their low-income weatherization programs required by Sections 9500 and 9501. Thereafter, as part of the biennial conservation report prepared pursuant to Section 25401.1 of the Public Resources Code, the commission shall report to the Legislature summarizing publicly owned utility efforts to comply with Sections 9500 and 9501.

REVENUE AND TAXATION CODE - DIVISION 2

Part 5, Vehicle License Fee – section 10759.5

§ 10759.5. Exemption from market value determination; incremental costs of certain light-duty motor vehicles propelled by alternative fuels

(a) For purposes of determining the vehicle license fee imposed by this part, there are exempted from the determination of market value, the incremental costs of new light-duty motor vehicles propelled by alternative fuels, and certified by the State Air Resources Board as producing emissions that meet the emission standard for ultra-low-emission vehicles or lower as defined by the board. This exemption shall apply to the subsequent payments of the vehicle license fee.

(b) For purposes of this section, “incremental cost” means the amount determined by the State Energy Resources Conservation and Development Commission as the reasonable difference between the cost of the motor vehicle defined in subdivision (a) and the cost of a comparable gasoline or diesel fuel vehicle. This determination shall constitute the maximum incremental cost for purposes of the exemption in subdivision (a), and may be reduced by the actual sales price of the vehicle. The actual incremental cost shall be stated in the contract for sale or lease with the purchaser, and shall be reported to the commission quarterly.

(c) This section shall become operative on January 1, 1999, and shall remain in effect only until January 1, 2009, and as of that date is repealed.

§ 17053.84. Credit again net tax; purchase and installation of solar or wind energy system

(a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(b) For each taxable year beginning on or after January 1, 2004, and before January 1, 2006, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) "Applicable dollar amount" means four dollars and fifty cents ($4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, 2006.

(2) "Solar energy system" means a solar energy device, in the form of either a photovoltaic or wind-driven system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) A credit may be allowed under this section with respect to only one solar energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(4) No credit may be allowed under this section unless the solar energy system is actually used for purposes of producing electricity and primarily used to meet the taxpayer's own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit shall be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar energy system is first placed in service in this state, the amount of credit allowed by this section for that solar energy system shall be recaptured by adding that credit amount to the net tax of the taxpayer for the taxable year in which the solar energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, 2006, and as of that date is repealed.

REVENUE AND TAXATION CODE – DIVISION 2

Part 10, Chapter 3 – Computation of taxable income – Section 17138.1

§ 17138.1. Amounts received as rebate, voucher or other financial incentive issued by energy or utility commissions or local publicly owned electric utility for expenses paid or incurred for purchase or installation of enumerated devices

Gross income does not include any amount received as a rebate, voucher, or other financial incentive issued by the California Energy Commission, the Public Utility Commission, or a local publicly owned electric utility, as defined in subdivision (d) of Section 9604 of the Public Utilities Code, for any expenses paid or incurred by a taxpayer for the purchase or installation of any of the following devices:

(a) A thermal system as defined in Section 25600 of the Public Resources Code.

(b) A solar system as defined in Section 25600 of the Public Resources Code.

(c) A wind energy system device that produces electricity.

(d) A fuel cell generating system, as described in the California Energy Commission's Emerging Renewable Resources Account Guidebook, that produces electricity.

REVENUE AND TAXATION CODE - DIVISION 2

Part 11, Chapter 3.5 – Tax Credits – Section 23684

§ 23684. Credit against tax; purchase and installation of solar or wind energy system

(a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(b) For each taxable year beginning on or after January 1, 2004, and before January 1, 2006, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) "Applicable dollar amount" means four dollars and fifty cents ($4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, 2006.

(2) "Solar energy system" means a solar energy device, in the form of either a photovoltaic or wind-driven system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) A credit may be allowed under this section with respect to only one solar energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(4) No credit may be allowed under this section unless the solar energy system is actually used for purposes of producing electricity and is primarily used to meet the taxpayer's own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit may be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar energy system is first placed in service in this state, the amount of credit allowed by this section for that solar energy system shall be recaptured by adding that credit amount to the tax of the taxpayer for the taxable year in which the solar energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, 2006, and as of that date is repealed.

REVENUE AND TAXATION CODE – DIVISION 2

Part 11, Chapter 6 – Gross Income – Section 24308.1

§ 24308.1. Amounts received as rebate, voucher or other financial incentive issued by energy or utility commissions or local publicly owned electric utility for expenses paid or incurred for purchase or installation of enumerated devices

Gross income does not include any amount received as a rebate, voucher, or other financial incentive issued by the California Energy Commission, the Public Utility Commission, or a local publicly owned electric utility, as defined in subdivision (d) of Section 9604 of the Public Utilities Code, for any expenses paid or incurred by a taxpayer for the purchase or installation of any of the following devices:

(a) A thermal system as defined in Section 25600 of the Public Resources Code.

(b) A solar system as defined in Section 25600 of the Public Resources Code.

(c) A wind energy system device that produces electricity.

(d) A fuel cell generating system, as described in the California Energy Commission's Emerging Renewable Resources Account Guidebook, that produces electricity.

REVENUE AND TAXATION CODE - DIVISION 2

Part 19, Energy Resources Surcharge Law - Section 40001 et seq.

§ 40016. Rate

(a) A surcharge is imposed on the consumption in this state of electrical energy purchased from an electric utility on and after ~~January 1, 1975, at the rate of one-tenth mill ($0.0001) per kilowatt-hour,~~ January 1, 2003, at the rate of three-tenths mill ($0.0003) per kilowatt-hour, or at the rate determined pursuant to subdivision (b).

~~(b) On and after July 1, 1983, the surcharge rate is that fixed by the State Board of Equalization which is in effect on that date, except as the Legislature may lower that rate.~~

(b) The Energy Commission shall fix the rate at a public meeting in each November for each calendar year starting the following January. Under no circumstances may the rate fixed exceed three-tenths mill ($0.0003) per kilowatt-hour. If the commission fails to fix the rate in any November, the surcharge shall continue at the rate in effect during that November.

§ 40182. Refunds; energy resources programs account; legislative intent; appropriations from account to be made by annual budget act

All money deposited in the Energy Resources Surcharge Fund under this part shall upon order of the Controller be drawn therefrom and transferred to pay the refunds authorized by this part. The balance shall be transferred to the Energy Resources Programs Account, which is hereby created in the General Fund.

It is the intent of the Legislature that the funds in the Energy Resources Programs Account be used for ongoing energy programs and energy projects deemed appropriate by the Legislature, including, but not limited to, the activities of the State Energy Resources Conservation and Development Commission.

Notwithstanding any other provisions of law to the contrary, all appropriations from the Energy Resources Programs Account shall be made by the annual Budget Act.

UNEMPLOYMENT INSURANCE CODE

Part 1, Chapter 2 – Powers and Duties – Section 9618

§ 9618. Solar training program

(a) The department shall administer a solar training program. The department shall coordinate with the Division of Apprenticeship Standards and the State Contractors' License Board to ensure solar energy product and service providers in California possess and maintain the necessary skills, training, and certification.

(b) Elements of the training program shall include, but need not be limited to, all of the following:

(1) The science of photovoltaics and small scale solar thermal technologies.

(2) The design of solar systems.

(3) The installation of solar systems.

(4) Permitting of solar systems.

(5) Safety.

(6) System and component certification.

(7) State and federal incentive programs.

VEHICLE CODE - DIVISION 3

Chapter 1, Article 8.4 - Special Interest License Plates - section 5060 et seq.

Senate Bill 314 passed in 1993 (Chapter 1159) added section 5062 to the Vehicle Code. This section authorizes CALSTART, a nonprofit consortium dedicated to the development and commercialization of advanced transportation technologies, to undertake a special environmental "Blue Sky" license plate program. The purpose of the program is to facilitate the purchase and use of clean fuel vehicles, as defined by Vehicle Code section 257. Vehicle Code section 5062 sets out the requirements for issuing these special license plates.

VEHICLE CODE - DIVISION 3

Vehicle Code – Sections 5205.5 and 21655.9 et seq.

§ 5205.5. Ultra-low and super ultra-low emission vehicles

~~(a) For the purposes of implementing Section 21655.9, beginning July 1, 2000, and through December 31, 2003, the department, in consultation with the Department of the California Highway Patrol, shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for actual costs incurred pursuant to this section, distinctive decals, labels, or other identifiers for vehicles that meet California's ultra-low emission vehicle (ULEV) standard for exhaust emissions and the federal ILEV evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations, in a manner that clearly distinguishes them from other vehicles.~~

~~(b) For the purposes of implementing Section 21655.9, beginning January 1, 2004, and through December 31, 2007, the department shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for actual costs incurred pursuant to this section, distinctive decals, labels, and other identifiers for vehicles that meet California's super ultra-low emission vehicle (SULEV) standard for exhaust emissions and the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in~~

~~Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations, in a manner that clearly distinguishes them from other vehicles.~~

~~(c) The department shall include a summary of the provisions of this section on each motor vehicle registration renewal notice, or on a separate insert, if space is available and the summary can be included without incurring additional printing or postage costs.~~

~~(d) The Governor may remove individual high-occupancy vehicle (HOV) lanes, or portions of those lanes, during periods of peak congestion from the ILEV access provisions provided in subdivisions (a) and (b), following a finding by the Department of Transportation as follows:~~

~~(1) The lane, or portion thereof, exceeds a level of service C, as discussed in subdivision (b) of Section 65089 of the Government Code.~~

~~(2) The operation or projected operation of the vehicles described in subdivisions (a) and (b) in these lanes, or portions thereof, will significantly increase congestion.~~

~~The finding also shall demonstrate the infeasibility of alleviating the congestion by other means, including, but not limited to, reducing the use of the lane by noneligible vehicles, further increasing vehicle occupancy, or adding additional capacity.~~

~~(e) For purposes of subdivisions (a) and (b), the Department of the California Highway Patrol shall design and specify the placement of the decal, label, or other identifier on the vehicle. Each decal, label, or other identifier issued for a vehicle shall display a unique number, which number shall be printed on, or affixed to, the vehicle registration.~~

~~(f) If the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under its jurisdiction to any vehicle pursuant to Section 30101.8 of the Streets and Highways Code, it shall also grant the same toll-free and reduced-rate passage to vehicles displaying a valid ULEV or SULEV identifier issued by the department pursuant to subdivisions (a) and (b).~~

~~(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.~~

(a) For the purposes of implementing Section 21655.9, the department shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for the actual costs incurred pursuant to this section, distinctive decals, labels, and other identifiers that clearly distinguish the following vehicles from other vehicles:

(1) A vehicle that meets California's super ultra-low emission vehicle (SULEV) standard for exhaust emissions and the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations.

(2) A vehicle that was produced during the 2004 model year or earlier and meets California ultra-low emission vehicle (ULEV) standard for exhaust emissions and the federal ILEV standard.

(3) A hybrid vehicle or an alternative fuel vehicle that meets California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions and has a 45 miles per gallon or greater fuel economy highway rating.

(4) A hybrid vehicle that was produced during the 2004 model year or earlier and has a 45 miles per gallon or greater fuel economy highway rating, and meets California's ultra-low emission vehicle (ULEV), super ultra-low emission vehicle (SULEV), or partial zero-emission vehicle (PZEV) standards.

(b) Neither an owner of a hybrid vehicle that meets the AT PZEV standard, with the exception of a vehicle that meets the federal ILEV standard, nor an owner of a hybrid vehicle described in paragraph (4) of subdivision (a), is entitled to a decal, label, or other identifier pursuant to this section unless, and until, the federal government acts to approve the use of high-occupancy vehicle lanes by vehicles of the types identified in paragraph (3) or (4) of subdivision (a), regardless of the number of occupants.

(c) The department shall include a summary of the provisions of this section on each motor vehicle registration renewal notice, or on a separate insert, if space is available and the summary can be included without incurring additional printing or postage costs.

(d) The Department of Transportation shall remove individual high-occupancy vehicle (HOV) lanes, or portions of those lanes, during periods of peak congestion from the access provisions provided in subdivision (a), following a finding by the Department of Transportation as follows:

(1) The lane, or portion thereof, exceeds a level of service C, as discussed in subdivision (b) of Section 65089 of the Government Code.

(2) The operation or projected operation of the vehicles described in subdivision (a) in these lanes, or portions thereof, will significantly increase congestion. The finding also shall demonstrate the infeasibility of alleviating the congestion by other means, including, but not limited to, reducing the use of the lane by noneligible vehicles, or further increasing vehicle occupancy.

(e) The State Air Resources Board shall publish and maintain a listing of all vehicles eligible for participation in the programs described in this section. The board shall provide that listing to the department.

(f) For purposes of subdivision (a), the Department of the California Highway Patrol and the department, in consultation with the Department of Transportation, shall design and specify the placement of the decal, label, or other identifier on the vehicle. Each decal, label, or other identifier issued for a vehicle shall display a unique number, which number shall be printed on, or affixed to, the vehicle registration.

(g)(1) For purposes of subdivision (a), the department shall issue no more than 75,000 distinctive decals, labels, or other identifiers that clearly distinguish the vehicles specified in paragraphs (3) and (4) of subdivision (a).

(2) The department shall notify the Department of Transportation immediately after the date on which the department has issued 50,000 decals, labels, and other identifiers under this section for the vehicles described in paragraphs (3) and (4) of subdivision (a).

(3) The Department of Transportation shall determine whether significant high-occupancy vehicle lane breakdown has occurred throughout the state, in accordance with the following timeline:

(A) For lanes that are nearing capacity, the Department of Transportation shall make the determination not later than 90 days after the date provided by the department under paragraph (2).

(B) For lanes that are not nearing capacity, the Department of Transportation shall make the determination not later than 180 days after the date provided by the department under paragraph (2).

(4) In making the determination that significant high-occupancy vehicle lane breakdown has occurred, the Department of Transportation shall consider the following factors in the HOV lane:

(A) Reduction in level of service.

(B) Sustained stop-and-go conditions.

(C) Slower than average speed than the adjacent mixed flow lanes.

(D) Consistent increase in travel time.

(5) After making the determinations pursuant to subparagraphs (A) and (B) of paragraph (3), if the Department of Transportation determines that significant high-occupancy vehicle lane breakdown has occurred throughout the state, the Department of Transportation shall immediately notify the department of that determination, and the department, on the date of receiving that notification, shall discontinue issuing the decals, labels, or other identifiers for the vehicles described in paragraphs (3) and (4) of subdivision (a).

(h) If the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under its jurisdiction to any vehicle pursuant to Section 30102.5 of the Streets and Highways Code, it shall also grant the same toll-free and reduced-rate passage to a vehicle displaying an identifier issued by the department pursuant to paragraph (1) or (2) of subdivision (a) and to a vehicle displaying a valid identifier issued by the department pursuant to paragraph (3) or (4) of subdivision (a) if either of the following apply:

(1) The vehicle is registered to an address outside of the region identified in Section 66502 of the Government Code.

(2) If the vehicle is registered to an address inside the region, the owner of the vehicle complies with subdivision (i) unless subdivision (j) is applicable.

(i) An owner of a vehicle specified in paragraph (3) or (4) of subdivision (a) whose vehicle is registered to an address in the region identified in Section 66502 of the Government Code and who seeks a vehicle identifier under subdivision (a) shall obtain an account to operate within the automatic vehicle identification system described in Section 27565 of the Streets and Highways Code and shall submit to the department a form, approved by the department and issued by the Bay Area Toll Authority, that contains the vehicle owner's name, the license plate number and vehicle identification number of the vehicle, the vehicle make and year model, and the automatic vehicle identification system account number, as a condition to obtaining a vehicle identifier pursuant to subdivision (a) that allows for the use of that vehicle in high-occupancy vehicle lanes regardless of the number of occupants.

(j) If the automatic vehicle identification system readers on all high-occupancy vehicle lanes on all of the toll bridges identified in subdivision (a) of Section 30910 of the Streets and Highways Code are not fully operational and fully funded with bridge tolls controlled by the Bay Area Toll Authority within 90 days of the federal government approval described in subdivision (b), then subdivision (i) shall not be applicable and both of the following shall apply:

(1) The Metropolitan Transportation Commission, acting as the Bay Area Toll Authority, shall grant toll-free and reduced-rate passage to all vehicles displaying an identifier issued by the department pursuant to subdivision (a).

(2) The department shall not require documentation that the owner of a vehicle registered to an address in the region identified in Section 66502 of the Government Code has obtained an automatic vehicle identification system account as a condition to the issuance of an identifier under subdivision (a).

(k) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

§ 21655.9. Low emission vehicles; use of high-occupancy vehicle lanes

(a) Whenever the Department of Transportation authorizes or permits exclusive or preferential use of highway lanes or highway access ramps for high-occupancy vehicles pursuant to Section 21655.5, the use of those lanes or ramps shall also be extended to vehicles that are issued distinctive decals, labels, or other identifiers pursuant to Section 5205.5 regardless of vehicle occupancy or ownership.

(b) No person shall drive a vehicle described in subdivisions (a) and (b) of Section 5205.5 with a single occupant upon a high-occupancy vehicle lane pursuant to this section unless the decal, label, or other identifier issued pursuant to Section 5205.5 are properly displayed on the vehicle, and the vehicle registration described in Section 5205.5 is with the vehicle.

(c) No person shall operate or own a vehicle displaying a decal, label, or other identifier, as described in Section 5205.5, if that decal, label, or identifier was not issued for that vehicle pursuant to Section 5205.5. A violation of this subdivision is a misdemeanor.

(d) If the provisions in Section 5205.5 authorizing the department to issue decals, labels, or other identifiers to hybrid and alternative fuel vehicles are repealed, vehicles displaying those decals, labels, or other identifiers shall not access high-occupancy vehicle lanes without meeting the occupancy requirements otherwise applicable to those lanes.

(~~d~~e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

VEHICLE CODE – DIVISION 12

Parking Violations - § 22511.1

§ 22511.1. Zero-emission vehicle parking stalls or spaces; unauthorized parking or obstructing; display of decal

(a) A person may not park or leave standing any vehicle in a stall or space designated pursuant to Section 22511 unless a valid zero-emission vehicle decal identification issued pursuant to Section 22511 is displayed on that vehicle.

(b) A person may not obstruct, block, or otherwise bar access to parking stalls or spaces described in subdivision (a) except as provided in subdivision (a).

(c) A person shall not display a decal issued pursuant to Section 22511 on a vehicle that does not use electricity as the motive power.

VEHICLE CODE - DIVISION 12

Chapter 5, Article 16 - Methanol or Ethanol Fueled Vehicles - Section 28110 et seq.

§ 28113. Light-duty and medium-duty motor vehicles operated for compensation to transport persons; low-emission vehicle requirements

(a) Every light-duty and medium-duty motor vehicle operated for compensation to transport persons in an air quality management district or air pollution control district, which does not meet all applicable state ambient air quality standards, shall be a low-emission vehicle, as defined by regulation of the State Air Resources Board. If the vehicle is capable of operating on more than one fuel, it shall be operated within any nonattainment area to the maximum extent practicable either on the designated clean fuel on which the low-emission vehicle was certified or on any other fuel designated by the State Air Resources Board as a substitute fuel for the designated clean fuel. Any air quality management district or air pollution control district may

adopt regulations for the enforcement of this section which are consistent with regulations of the State Air Resources Board.

(b) As used in this section, "motor vehicle operated for compensation to transport persons" includes a taxi cab, bus, airport shuttle vehicle, transit authority or transit district vehicle, or a vehicle owned by a private entity providing transit service under contract with a transit district or transportation authority.

(c) As used in this section, "light-duty" has the same meaning as defined in Section 39035 of the Health and Safety Code.

(d) As used in this section, "medium-duty" has the same meaning as defined in Section 39037.5 of the Health and Safety Code.

(e) This section applies to all new light-duty motor vehicles purchased on or after January 1, 1997, and to all new medium-duty vehicles purchased on or after January 1, 1998.

§ 28114. Heavy-duty vehicles operated by transit authority, etc.; compliance with emission standards

(a) Every heavy-duty vehicle operated by a transit authority or transit district, or owned by a private entity providing transit service under contract with a transit district or transportation authority, and used to transport persons for compensation shall meet the emission standards adopted by the State Air Resources Board pursuant to Section 43806 of the Health and Safety Code.

(b) As used in this section, "heavy-duty" has the same meaning as defined in Section 39033 of the Health and Safety Code.

(c) This section applies to all new heavy-duty motor vehicles purchased on or after January 1, 1996, and all new or replacement engines purchased on or after January 1, 1996, for use in heavy-duty vehicles.

WATER CODE

Water - § 12949.6

§ 12949.6. Seawater and brackish water desalination; report to legislature; Water Desalination Task Force; composition of task force

(a) Not later that July 1, 2004, the Department of Water Resources shall report to the Legislature on potential opportunities for the use of seawater and brackish water desalination in California. The report shall evaluate impediments to the use of desalination technology and shall examine what role, if any, the state should play in furthering the use of desalination in California.

(b) The department shall convene a task force, to be known as the Water

Desalination Task Force, to advise the department in implementation of subdivision (a), including making recommendations to the Legislature regarding the following:

(1) The need for research, development and demonstration projects for more cost effective and technologically efficient desalination processes.

(2) The environmental impacts of brine disposal, energy use related to desalination, and large-scale ocean water desalination.

(3) An evaluation of the current regulatory framework of state and local rules, regulations, ordinances, and permits to identify the obstacles and methods to creating an efficient siting and permitting system.

(4) Determining a relationship between existing electricity generation facilities and potential desalination facilities, including an examination of issues related to the amounts of electricity required to maintain a desalination facility.

(5) Ensuring desalinated water meets state water quality standards.

(6) Impediments or constraints, other than water rights, to increasing the use of desalinated water both in coastal and inland regions.

(7) The economic impact and potential impacts of the desalination industry on state revenues.

(8) The role that the state should play in furthering the use of desalination technology in California.

(9) An evaluation of a potential relationship between desalination technology and alternative energy sources, including photovoltaic energy and desalination.

(c)(1) The task force shall be convened by the department and be comprised of one representative from each of the following agencies:

(A) The department.

(B) The California Coastal Commission.

(C) The State Energy Resources Conservation and Development Commission.

(D) The California Environmental Protection Agency.

(E) The State Department of Health Services.

(F) The Resources Agency.

(G) The State Water Resources Control Board.

(H) The CALFED Bay-Delta Program.

(I) The Department of Food and Agriculture.

(J) The University of California.

(K) The United States Department of Interior, if that agency wishes to participate.

(2) The task force shall also include, as determined by the department, one representative from a recognized environmental advocacy group, one representative from a consumer advocacy group, one representative of local agency health officers, one representative of a municipal water supply agency, one representative of urban water wholesalers, one representative from a regional water control board, one representative from a groundwater management entity, one representative of water districts, one representative from a nonprofit association of public and private members created to further the use of desalinated water, one representative of land development, and one representative of industrial interests.

(d) The sum of $600,000 is hereby appropriated from the Bosco-Keene Renewable Resources Investment Fund to the department for the purpose of establishing the task force and preparing the report required in subdivision (a).

UNCODIFIED LAWS

UNCODIFIED LAWS

ASSEMBLY BILL NO. 4420
(Chapter 1506, Statutes of 1988)

§ 1. The Legislature finds that recent projections regarding global warming trends raise long-range energy, economic, and environmental planning issues for the State of California. Preliminary studies indicate that global warming is caused in part by energy generation and consumption. These studies also show that global warming will cause significant problems in energy supply and generation, raise the level of the ocean, increase winter flooding and the need for water storage facilities by reducing mountain snowpack, and create other changes in the state's physical environment.

The Legislature therefore finds that the state should study the intensity and effects of global warming in order to anticipate and address adverse impacts to California.

§ 2. The State Energy Resources Conservation and Development Commission, in consultation with the State Air Resources Board, the University of California, the Department of Water Resources, and the Department of Food and Agriculture, shall conduct a study and report to the Legislature and the Governor on or before June 1, 1990, on how global warming trends may affect California's energy supply and demand, economy, environment, agriculture, and water supplies.

The study shall include recommendations for avoiding, reducing, and addressing the impacts on the energy supply and demand, economy, environment, agriculture, and water supply which are identified. The commission shall coordinate the study and any research it conducts with the research efforts of federal, state, academic, and industry research projects and may secure funding for the commission's study and research from these sources where feasible.

ASSEMBLY CONCURRENT RESOLUTION NO. 160
(Resolution Chapter 147, Statutes of 1988)

WHEREAS, California is dependent upon nonrenewable fossil-fuels as the largest fuel source for the generation of electricity, making ratepayers vulnerable to sudden rate increases due to disruptions in foreign supply and price fluctuations; and

WHEREAS, Facilities for the generation of electricity can have significant consequences, including, but not limited to, air and water pollution, creation of hazardous wastes, harm to wildlife, vegetation, and agriculture, and socioeconomic and land use impacts; and

WHEREAS, Certain energy resources, fuels, and technologies available to energy planners create fewer adverse environmental impacts than others and increase the security of electricity supplies; and

WHEREAS, California has abundant energy resources within its own boundaries, and development of these resources contributes to local economic development, employment, and statewide energy security and reliability; and

WHEREAS, California law supports diversification of generation resources, fuels, and technologies to achieve security from supply and price disruptions, as well as to enhance the efficient use of fossil fuels and minimize adverse environmental impacts; and

WHEREAS, California law governing siting and planning for electrical generation facilities requires consideration and balancing of factors, including the preservation of environmental quality, the conservation of resources, maintenance of a sound economy, protection of public health and safety, and state and service area growth and development; and

WHEREAS, The State Energy Resources Conservation and Development Commission has adopted policies which address the importance of increasing fuel diversity in the electricity system, increasing the security of electricity supplies, minimizing adverse environmental impacts associated with powerplant projects, and encouraging powerplant development which enhances state and local economic development; and

WHEREAS, The Federal Public Utilities Regulatory Policy Act of 1978 (P.L. 95-617) required state public utility commissions to establish a pricing mechanism for electric power sold to public utilities companies by qualifying facilities; and

WHEREAS, The Public Utilities Commission has established a standard offer contract mechanism which includes bidding for utility power sales contracts; and

WHEREAS, The bidding mechanism does not account for environmental impacts, or vulnerability to future rate increases or supply disruptions because of overreliance on a limited number of energy resources, fuels, and technologies; and

WHEREAS, The State Energy Resources Conservation and Development Commission is analyzing the importance and value of these characteristics to the utility system; and

WHEREAS, The State Energy Resources Conservation and Development Commission may develop recommendations regarding how to incorporate these considerations into the standard offer contract and competitive bidding mechanisms; and

WHEREAS, The Public Utilities Commission will consider these issues in the upcoming standard offer update proceeding; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Public Utilities Commission, using its existing resources, in its standard offer update proceedings, and the State Energy Resources Conservation and Development Commission, using its existing resources, in its resource assessment and supply policies, take into account the benefits of nonprice factors such as those provided by energy resources, fuels, and technologies that enhance energy resource, fuel, or technology diversity, including, but not limited to, solar, wind, geothermal, biomass, conservation, and load management; create minimal regional environmental impacts; enhance local or statewide employment and economic development; utilize renewable energy sources; contribute to enhanced energy efficiency and

conservation of natural resources; maximize system reliability and dependability; or otherwise reduce vulnerability to future rate increases; and be it further

Resolved, That the State Energy Resources Conservation and Development Commission inform the Legislature in writing on or before December 1, 1989, how the benefits of the nonprice factors enumerated in this resolution have been taken into account in its resource assessment, supply policies, and any other relevant proceeding; and be it further

Resolved, That the Public Utilities Commission inform the Legislature in writing on or before December 1, 1989, how the benefits of the nonprice factors enumerated in this resolution have been taken into account in its standard offer update proceeding and any other relevant proceeding; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Public Utilities Commission and the State Energy Resources Conservation and Development Commission.

ASSEMBLY JOINT RESOLUTION NO. 65

(Resolution Chapter 116, Statutes of 1988)

WHEREAS, There is in California a diverse group of private businesses and public agencies which are buyers and sellers of electricity in bulk transactions, and which seek to interact in a marketplace for this purpose within the context of applicable federal and state laws and regulations for the purpose of mutually advantageous electricity purchase and sale transactions; and

WHEREAS, The State Energy Resources Conservation and Development Commission and the Public Utilities Commission are in favor of an evaluation of market opportunities and the creation of a common market structure to facilitate the purchase and sale of electricity in California, and these agencies are engaged in ongoing studies of the bulk transmission of electricity on both a state and regional basis; and

WHEREAS, There currently exists in California an electrical transmission system that efficiently carries electricity from existing generation facilities and that is generally well adapted to facilitating bulk electricity transactions between buyers and sellers, although, to efficiently handle bulk transactions on an increasing basis, the existing system may require improvements; and

WHEREAS, Existing transmission systems are currently being utilized for a wide variety of electricity transactions but are not being used to promote market-based electricity transactions as effectively as could be, because increasing demand for transmission access is exceeding the capability of systems to accommodate all requests for transmission, because the technical expertise needed for effective utilization is not widely shared, and mechanisms for resolving disputes over financing and constructing improvements are inadequate; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature requests all appropriate state and federal agencies of government to support and continue the studies currently in progress relative to electrical

transmission system improvements to facilitate bulk transmission of electrical power, to expedite resolution of any disputes that may arise between buyers, sellers, and transmitters of electricity concerning utilization of transmission systems, and to facilitate the construction of necessary new facilities, to the end that sellers and buyers of bulk electrical power have genuine opportunities to transact business in a free and competitive marketplace; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Federal Energy Regulatory Commission, to the Public Utilities Commission, and to the State Energy Resources Conservation and Development Commission.

SENATE BILL NO. 2431

(Chapter 1457, Statutes of 1988)

§ 1. (a) The Legislature hereby finds and declares that establishing a high-voltage electricity transmission system capable of facilitating bulk power transactions for both firm and nonfirm energy demand, accommodating the development of alternative power supplies within the state, ensuring access to regions outside the state having surplus power available, and reliably and efficiently supplying existing and projected load growth, are vital to the future economic and social well-being of California.

(b) The Legislature further finds and declares that the construction of new high-voltage transmission lines within new rights-of-way may impose financial hardships and adverse environmental impacts on the state and its residents, so that it is in the interests of the state, through existing licensing processes, to accomplish all of the following:

(1) Encourage the use of existing rights-of-way by upgrading existing transmission facilities where technically and economically justifiable.

(2) When construction of new transmission lines is required, encourage expansion of existing rights-of-way, when technically and economically feasible.

(3) Provide for the creation of new rights-of-way when justified by environmental, technical, or economic reasons as determined by the appropriate licensing agency.

(4) Where there is a need to construct additional transmission capacity, seek agreement among all interested utilities on the efficient use of that capacity.

§ 2. The State Energy Resources Conservation and Development Commission, in consultation with the Public Utilities Commission, shall prepare and submit a report to the Legislature, on or before November 30, 1990, setting forth the locations of existing and projected electrical transmission rights-of-way used and maintained by electric utilities, including, but not limited to, rights-of-way used for interstate transmission and those used for intrastate transmission for the next 5, 12, and 20 years. The report shall be adopted at a public hearing. The purpose of the report is to facilitate effective long-term transmission line corridor planning. The findings and recommendations in the report shall be considered by the State

Energy Resources Conservation and Development Commission in the development and adoption of the electricity report prepared pursuant to Section 25308 of the Public Resources Code. The report shall include, but not be limited to, all of the following:

(1) A study of whether the state should create transmission rights-of-way, with particular regard to a trans-Sierra corridor and additional rights-of-way for other new bulk and area transmission lines, excluding any consideration of distribution lines, and whether the state should operate or control these rights-of-way, if established.

(2) An analysis of the costs and the benefits of creating new transmission rights-of-way for electric utilities and for the state and counties. This analysis shall include, but not be limited to, land management issues, environmental impacts, and the projected assessment of the effectiveness and costs of state ownership and operation as compared to private ownership and operation.

(3) Recommendations for those policy options which would create transmission rights-of-way in a cost-effective and efficient manner and which would minimize harmful environmental and operational impacts.

(4) Recommendations for the effective planning and development of rights-of-way for transmission lines, excluding any consideration of distribution lines.

(5) An addendum affording an opportunity for the expression of dissenting views.

(b) The report shall also include, but not be limited to, all of the following:

(1) Base case projections, which shall include an outline of the reporting approach and key assumptions, including demand forecasts, fuel prices, and ratepayer impacts.

(2) Alternative scenarios, which shall include consideration of out-of-region energy assessments, out-of-state energy assessments, new utility development, construction of additional resources in this state, and a consideration of energy transactions involving new transmission lines proposed for construction.

(3) Strategic engineering issues, including consideration of the need or desirability of sharing of transmission lines and facilities by privately owned and publicly owned electric utilities, flexibility, future transmission capacity, reliability and soundness of design, and routing of a proposed transmission line with respect to current and future land uses.

(4) Electric utility transmission plans, including consideration of any relevant reports prepared by an electric utility pursuant to General Order No. 131 of the Public Utilities Commission projected over a 10-year period, and information submitted by utilities pursuant to Sections 25300 and 25301 of the Public Resources Code.

(5) New technological breakthroughs which may make the transmission of electricity more efficient and reduce the need for new rights-of-way for transmission lines.

(6) An assessment of the extent to which existing transmission capacity will serve as a reliable alternative to new transmission lines without a requirement by the public agency having jurisdiction over the existing lines that access to those existing lines be provided under reasonable terms and conditions to public utilities requiring transmission services.

(c) In preparing the report required by this section, the State Energy Resources Conservation and Development Commission shall consult with, and seek advice from, the following agencies and organizations and from any additional parties which the commission deems necessary:

(1) The California Form Bureau and other land use organizations.

(2) The County Supervisors Association of California.

(3) The California Municipal Utilities Association.

(4) Public utilities.

(5) The Sierra Club and other environmental groups.

(6) The Untied States Forest Service.

(7) The Untied States Bureau of Land Management.

(8) The Department of Fish and Game.

(9) The Department of Forestry and Fire Protection.

(10) Affected counties.

(11) The Western Interstate Energy Board.

(12) The Western Systems Coordinating Council.

(13) The Western Systems Power Pool.

(d) The State Energy Resources Conservation and Development Commission shall furnish a copy of the final draft report to every agency and organization listed in subdivision (c) and to any other interested party for written comment at least 30 days prior to adoption of the final report. The State Energy Resources Conservation and Development Commission shall afford the Public Utilities Commission an opportunity to have its comments published in the final report. The State Energy Resources Conservation and Development Commission may permit additional comments to be included or summarized. The State Energy Resources Conservation and Development Commission shall hold a public hearing prior to adoption of the final report.

(e) The report required by this section shall exclude any consideration of state acquisition of existing rights-of-way.

SENATE BILL NO. 2519
(Chapter 1551, Statutes of 1988)

§ 1. (a) The Legislature finds and declares as follows:

(1) One of the primary obligations of public utilities, including both privately owned and publicly owned electrical utilities, is to provide reliable service with due regard to public safety.

(2) A number of scientific studies are beginning to indicate that electromagnetic fields associated with electrical utility facilities may present a significant cancer risk.

(3) These studies show that exposure to electromagnetic fields may be related to an increased incidence of leukemia and other cancers in children.

(4) It is also possible that exposure to electromagnetic fields may be related to an increased risk of cancer for electrical utility workers.

(b) It is, therefore, the intent of the Legislature in enacting this act to require that further investigation and research be undertaken to establish whether exposure to electromagnetic fields caused by electrical utility generating and transmission facilities presents an unreasonable cancer risk, and whether legislation is needed to reduce that risk.

§ 2. The Public Utilities Commission, in cooperation with the State Department of Health Services, shall, on or before March 15, 1989, with due consideration to any research already performed by, or under contract for, the commission; after consulting with representatives of state agencies, including, but not limited to, the State Energy Resources Conservation and Development Commission, the federal government, other states, academia, the electric utility industry, and public interest groups; and after holding public meetings in San Francisco, Los Angeles, and other communities selected by the commission; prepare and submit a report to the Legislature on its findings on all of the following matters:

(a) A comprehensive description of any cancer or other medical risks determined to be associated with exposure to electromagnetic fields caused by electrical utility facilities. The commission shall accompany this description with a summary and bibliography of all completed and ongoing research projects and studies, including those undertaken by the federal government, other states, academic institutions, and the electric utility industry, that are identified by the commission and the department as being associated with cancer or other medical risks which may be related to exposure to electromagnetic fields.

(b) A description of any higher incidence of leukemia or other cancers experienced by children who reside or attend schools in close proximity to electrical utility facilities.

(c) A description of any increased incidence of cancer for workers employed by electrical utilities.

(d) A listing of high-priority research projects that still need to be undertaken to identify cancer or other medical risks which may be related to exposure to electromagnetic fields.

§ 3. The Public Utilities Commission and the State Department of Health Services shall jointly conduct the high-priority research projects identified in the report submitted pursuant to Section 2 of this act. Subject to the overall coordination of the commission, the department shall design and manage the research projects identified in the report required by Section 2 of this act. The department shall select qualified research personnel and oversee the review process to assure that the design, conduct, and analysis of the research are of high quality and applicable to regulatory needs. As part of its research program, the commission and department shall do the following:

(a) Coordinate its research efforts with similar federal, state, academic, and industry research projects, and, where feasible, secure funding from the entities funding that research to supplement the state's research efforts.

(b) On or before December 1, 1990, submit a report to the Legislature on the status of the joint research program, on additional research funding needs, if any, and on recommendations, if any, for legislation to limit exposure to electromagnetic fields.

§ 4. For purposes of conducting the study and research program and for preparing the reports, as required by Sections 2 and 3 of this act, the Public Utilities Commission shall calculate a fee to be paid by every electrical corporation and publicly owned electrical utility in this state with operating revenues over twenty-five million dollars ($25,000,000) per year, in the proportion that each utility's total distribution of electricity to its customers bears to the total distribution of electricity statewide, in a sufficient amount that the total of all fees so calculated does not exceed two million dollars ($2,000,000). The Public Utilities Commission shall report to the State Energy Resources Conservation and Development Commission the amount of fees calculated for payment by publicly owned electric utilities. The Public Utilities Commission shall then collect the calculated fees from electrical corporations, and the State Energy Resources Conservation and Development Commission shall collect the fees from publicly owned electric utilities. All fees so collected shall be deposited in the State Department of Health Services Electromagnetic Fields Study Fund, which is hereby created in the State Treasury. The money in the fund is hereby continuously appropriated, until June 30, 1992, to the department for purposes of its expenses and the expenses of the Public Utilities Commission under Sections 2 and 3 of this act.

§ 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction and because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SENATE CONCURRENT RESOLUTION NO. 100
(Resolution Chapter 122, Statutes of 1988)

WHEREAS, The Legislature has recently provided supplemental funding to the State Energy Resources Conservation and Development Commission for the purpose of conducting demonstration programs to determine the feasibility and air quality impacts of methanol and other alternative fuels; and

WHEREAS, The Legislature has directed the South Coast Air Quality Management District to promote the use of cleaner-burning alternative fuels, and the district has recently adopted a clean fuels program to investigate and implement clean fuels strategies; and

WHEREAS, The State Air Resources Board has significant knowledge and authority with respect to the health effects of diesel emissions, as well as regulatory control of emissions from diesel-powered vehicles and diesel fuel composition; and

WHEREAS, It is in the public interest that diesel fuel quality regulations and alternative fuel demonstration programs be designed and implemented so as to achieve the maximum feasible reduction in diesel emissions in the most cost-effective manner, taking into consideration both the costs of controls and the benefits to public health, visibility, and the environment; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Energy Resources Conservation and Development Commission, the South Coast Air Quality Management District, and the State Air Resources Board, in consultation with diesel engine manufacturers and representatives of operators of diesel-powered vehicles, are hereby requested, to the extent that this issue is not already addressed in the study being conducted pursuant to the requirements of Section 5 of Chapter 1326 of the Statutes of 1987, to develop and, where feasible, implement a common strategy to achieve the maximum feasible reduction in public exposure to diesel emissions in a cost-effective manner, through the most appropriate combinations of the following: cleaner burning alternative fuels, including, but not limited to, methanol, compressed natural gas, liquid petroleum gas, and electricity; engine modifications and control devices; dual fuel systems; diesel fuel composition specifications and requirements; improved inspection and maintenance programs; and emissions standards for new motor vehicles and diesel-powered equipment; and be it further

Resolved, That these agencies are hereby requested to submit to the appropriate policy and fiscal committees of the Legislature a progress report on the results of their respective activities and future plans to reduce public exposure to diesel emissions not later than March 31, 1989; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the State Energy Resources Conservation and Development Commission, the South Coast Air Quality Management District, and the State Air Resources Board.

ASSEMBLY CONCURRENT RESOLUTION NO. 40
(Resolution Chapter 140, Statutes of 1989)

WHEREAS, California's homes and businesses use natural gas as the fuel of choice for home and space heating; many farms, factories, offices, and commercial establishments use natural gas as the fuel of choice for the heat applied in their processes; oil producers and refiners and heavy manufacturers use natural gas as the fuel of choice in their industrial processes; and electric utilities and cogenerators use natural gas as the fuel of choice for electricity generation in this state; and

WHEREAS, Nearly 40 percent of California's total energy supply is produced by burning natural gas, making this state the second largest market for natural gas in the United States; and

WHEREAS, Natural gas is a cornerstone of an air quality program that attempts to achieve air quality improvements in this state through increased utilization of clean fuels; and

WHEREAS, Security of supply for the natural gas resources consumed in California is a critical element in maintaining the well-being of California's people and their economy; and

WHEREAS, California buyers procure 85 percent of the natural gas they consume from sources outside of this state's borders, scattered over most of the North American continent, and are benefited by easy access to producers of natural gas in all producing regions of North America; and

WHEREAS, A reliable, efficient, and economical delivery system for transporting gas from all producing areas into California is an essential element in maintaining supply security and in sustaining the opportunities for this state in the continentwide competition for gas supplies; and

WHEREAS, At the present, various applications are pending for the right to construct gas pipeline facilities to and into this state before the Federal Energy Regulatory Commission; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the policy of the State of California is to support and encourage the issuance of permits for the construction of interstate pipeline facilities that comply with applicable state and federal laws regulating environmental quality for the transportation of natural gas to customers for use within this state, in order that California gas customers have the broadest array of options for the procurement of the gas they consume; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, and the Federal Energy Regulatory Commission.

SENATE BILL NO. 227

(Chapter 1291, Statutes of 1989)

§ 1. The Legislature hereby finds and declares that the development of energy technologies that diversify the sources of energy supply and reduce reliance on conventional fuels is essential to the continued growth of the California economy. The Legislature further finds and declares that solar energy systems can assist in meeting the state's energy needs while reducing the long-term use of conventional fuels and reducing adverse environmental impacts. The Legislature further finds and declares that tax credit incentives for the evelopment of solar energy systems are necessary to achieve these public policy objectives.

The Legislature further finds and declares that it is necessary to protect public taxpayer moneys by ensuring that tax credits are directed only to those solar energy systems which further the public policy objectives of the Legislature by requiring that the State Energy Resources Conservation and Development Commission adopt guidelines and criteria that establish eligibility requirements for the credits, and by requiring that no credit for a solar energy system over 10 megawatts may be claimed unless the commission first finds that the solar energy system qualifies under those guidelines and criteria.

§ 9. The State Energy Resources Conservation and Development Commission shall report the environmental and fiscal benefits and the fiscal cost of this act to the Legislature no later than January 1, 1992.

SENATE CONCURRENT RESOLUTION NO. 7

(Resolution Chapter 20, Statutes of 1989)

WHEREAS, The Legislature finds and declares that the state's energy development and conservation sectors are critical to the health and welfare of California's economy and environment; and

WHEREAS, Since its inception in 1975, the State Energy Resources Conservation and Development Commission (Energy Commission) has been given extensive responsibilities by the Legislature with regard to powerplant siting, energy supply and demand forecasting, energy conservation, and alternative energy technology development; and

WHEREAS, The Energy Commission shares responsibility for energy related functions with over 20 other state governmental agencies, departments, offices, boards, and commissions, including, but not limited to, the Public Utilities Commission, the Environmental Affairs Agency, the Department of General Services, the Energy Extension Service, the Department of Conservation, the State Lands Commission, the California Waste Management Board, the California Alternative Energy Source Financing Authority, the Department of Water Resources, the State Water Resources Control Board, and the State Air Resources Board, which has resulted in significant fragmentation, duplication, overlap, and confusion in the formulation and execution of state energy related functions; and

WHEREAS, Emerging energy-related issues facing the state in the 21st century, not fully contemplated at the time the Energy Commission was established, need to be examined more fully, particularly in the areas of air quality, transportation, and other environmental management issues; and

WHEREAS, In its most recent biennial report to the Governor and the Legislature on California's Energy Outlook, the Energy Commission recommended that California's current energy related functions be examined and evaluated with a view towards possible reform; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) The Joint Committee on Energy Regulation and the Environment is hereby created, authorized, and directed to study the appropriate role of the State Energy Resources Conservation and Development Commission, and other state authorized agencies, departments, offices, boards, and commissions with energy related functions, to promote the efficient operation of energy development and conversation programs while furthering environmental protection and to report thereon to the Legislature, including in the report its recommendations for appropriate legislation.

(2) The joint committee shall consist of the Chairperson of the Senate Committee on Energy and Public Utilities and the Chairpersons of the Assembly Committee on Natural Resources and the Assembly Committee on Utilities and Commerce, along with two other members of the Senate appointed by the Senate Committee on Rules, and one other member of the Assembly appointed by the Speaker of the Assembly. The chairperson of the joint committee shall be appointed by the Senate Committee on Rules. The vice chairperson of the joint committee shall appointed by the Speaker of the Assembly.

(3) The joint committee shall employ a project director who shall generally be responsible for the activities of the committee. The joint committee shall also be assisted, to the extent possible, by the staff of the Senate Committee on Energy and Public Utilities.

(4) The chairperson of the joint committee shall appoint a technical advisory panel, consisting of agencies or individuals, public or private, with expertise in government organizational management and energy and environmental policy, for the purpose of assisting the committee in developing recommendations on alternatives for reorganizing energy regulatory activities within state government to promote the efficient operation of energy development and conservation programs while furthering environmental protection. The technical advisory panel shall be under the supervision of the chairperson of the joint committee, and the joint committee's project director.

(5) The joint committee shall have the following additional powers and duties:

(a) All of the rights, duties, and powers conferred upon investigative committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to the committee and its members.

(b) To contract, subject to the Joint Rules, with any agencies or individuals, public or private, that it determines to be necessary for the provision of expert services, studies, and reports to the committee that will be assist it to carry out the purposes for which it is created.

(c) To do any and all other things necessary or convenient to enable it to fully and adequately exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

(6) The joint committee shall submit its final report to appropriate standing committees of the Senate and the Assembly, containing its findings and recommendations dealing with the subject matter of this resolution, on or before March 15, 1990. It is authorized to act during the 1989-90 Regular Session of the Legislature, including any recess, and until January 31, 1991.

(7) The Senate Committee on Rules may make money available from the Senate Contingent Fund for expenses of the committee and its members and staff. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the rules committee. The joint committee shall, within 15 calendar days following the adoption of this measure, present its budget to the Joint Rules Committee for its review and comment.

SENATE CONCURRENT RESOLUTION NO. 43

(Resolution Chapter 170, Statutes of 1989)

WHEREAS, On March 24, 1989, the Exxon Valdez ran aground in Prince William Sound in Alaska while on route to Los Angeles, resulting in a 10 million gallon (250,000 barrel) crude oil spill, the largest spill in U.S. history; and

WHEREAS, As a result of this catastrophic oil spill, the Port of Valdez was closed temporarily, causing a brief disruption of shipments of Alaska crude oil to California; and

WHEREAS, After the oil spill accident, the federal government declared there was no reason to tap the Strategic Petroleum Reserve to make up for temporary shortages, and stated that West Coast crude oil inventories were sufficient to compensate for the brief disruption; and

WHEREAS, Subsequently, the State Energy Resources Conservation and Development Commission activated its Energy Shortage Contingency Plan to assess the interruption of Alaska oil shipments to California refineries, and concluded that the resumption of crude oil shipments from Valdez, coupled with actions taken by oil companies to use reserve inventories and procure alternate supplies, allowed oil companies to continue to meet their obligations; and

WHEREAS, Notwithstanding the availability of alternate crude oil supplies, selected companies invoked the "force majeure" clause in their supply contracts and declared the Alaska oil spill an "act of God," which justified a reduction of crude oil deliveries to refinery customers; and

WHEREAS, the supply reduction triggered increased buying of available supplies which contributed to the quickest and greatest single wholesale price increase in the history of the U.S. gasoline market; and

WHEREAS, The price of gasoline has a profound impact on California's consumers and the state's economy, demonstrated by the fact that in 1986, Californians drove over 200 billion miles and used over 12 billion gallons of gasoline, with miles traveled and gas consumed increasing annually since that time; and

WHEREAS, California motorists are now paying significantly higher prices at the gas pump and are being told by oil industry representatives that these price increases are due to several reasons, including the Alaska oil spill, increased world crude oil prices, added gasoline demand, and other production accidents; and

WHEREAS, This sharp surge in gasoline prices appears to be unwarranted given the plentiful oil supplies available for California refining needs; and

WHEREAS, The Legislature is concerned that the oil spill disaster may have been used as an excuse to panic the oil market and exploit consumers; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Attorney General is requested to conduct an investigation and report to the Legislature by December 30, 1990, if the Attorney General determines that, as a result of oil industry fraud or negligence, the state's motorists are entitled to receive a refund from improper oil overcharges and consumer price gouging; and be it further

Resolved, That the Attorney General is also requested to conduct a fraud and antitrust investigation and report to the Legislature by December 30, 1990, if the Attorney General determines that certain oil companies, wholesalers, distributors, independent refiners, and other members of the oil industry exploited the Alaska oil spill disaster and violated state law, and should be subject to civil or criminal penalties; and be it further

Resolved, That the State Energy Resources Conservation and Development Commission, as part of its California Energy Shortage Contingency Planning authority, is required to investigate the Alaska oil spill incident and its effect on oil supplies, as well as the recent fire and damage to the Chevron refinery in Richmond, California, which may further disrupt refinery output, and report to the Legislature by December 30, 1990, on recommended action which the state should take to alleviate possible supply shortages and to mitigate price increases associated with temporary disruptions in oil supplies; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Attorney General, and the Chairperson of the State Energy Resources Conservation and Development Commission.

ASSEMBLY BILL NO. 4082
(Chapter 1289, Statutes of 1990)

§ 1. The State Building Standards Commission, in conjunction with all agencies involved in the adoption of state building standards and the interested public, shall conduct a comprehensive review of state building standards and statutes relating to state building standards beginning January 1, 1991, and continuing through December 31, 1992. The review shall determine if the standards and statutes continue to be necessary, if they continue to carry out the goals for which they were established and if they are the most efficient and effective means of meeting their stated goals.

The review shall identify obsolete language and standards which can be deleted from the State Building Standards Code to minimize wherever possible the use of state amendments to the model codes. The commission shall take steps necessary to delete the obsolete language and standards during the review.

The review shall encompass all regulations affecting design and construction, except those contained in Title 25 of the California Code of Regulations. The commission shall take steps necessary to remove the building standards from other sections of the California Code of Regulations upon complete of the review, with the exception of those building standards adopted by the Occupational Safety and Health Standards Board pursuant to subdivision (b) or (c) of Section 142.3 of the Labor Code.

The review shall include an evaluation of the existing regulations and procedures governing public petition for adoption, amendment, or repeal of any building standard or administrative regulation that pertains to building standards. The review shall identify existing procedures which act as barriers to the public's ability to actively exercise the right to petition. The commission shall revise and supplement the regulations governing public petition to ensure that the process is open and responsive to public concerns. The commission shall take steps necessary to adopt the new public petition regulations in conjunction with the 1991 triennial edition of the State Building Standards Code.

It is the intent of the Legislature that this review not be used to change the meaning of any existing statute or regulation relating to handicapped accessibility requirements.

§ 2. There is hereby appropriated to the State Building Standards Commission for purposes of this act an amount up to two hundred thousand dollars ($200,000) to be paid equally from the following funds:

(a) The California State Board of Architectural Examiners Fund established and authorized pursuant to Sections 5601 and 5602 of the Business and Professions Code.

(b) The Contractors' License Fund established pursuant to Section 7135 of the Business and Professions and Professions Code.

(c) The Professional Engineer's and Land Surveyor's Fund established pursuant to Section 6797 of the Business and Professions Code.

(d) The Hospital Building Account in the Architecture Public Building Fund established pursuant to Section 15047 of the Health and Safety Code.

(e) The School Building Program Account in the Architecture Public Building Fund consisting of those fees credited to the Architecture Public Building Fund pursuant to Section 39147 of the Education Code.

SENATE BILL NO. 539

(Chapter 1369, Statutes of 1990)

§ 1. The Legislature hereby finds and declares the following:

(a) The maintenance and expansion of existing utility conservation programs, and the adoption of new conservation programs, could contribute significantly to the successful implementation of a long-term, least-cost energy plan for the citizens of California.

(b) To promote additional energy conservation measures, the Public Utilities Commission should provide an opportunity for conservation to compete on a fair and reasonable basis with generating resources to fulfill future utility resource needs.

(c) To promote additional utility financed conservation programs, the Public Utilities Commission should establish a pilot program to provide incentives for utilities to invest in conservation programs.

SENATE BILL NO. 2045

(Chapter 349, Statutes of 1990)

§ 1. The Legislature finds and declares all of the following:

(a) The residential housing sector uses 30 percent of the electricity and gas consumed in California.

(b) More than 60 percent of the homes in California were built prior to the required use of energy efficiency standards in new buildings, and these existing homes represent is significant part of the statewide demand for energy.

(c) While the State Energy Resources Conservation and Development Commission has a comprehensive program to reduce energy use in schools, hospitals, and local government facilities that were constructed before the required use of energy efficiency standards, the commission has no comparable program to reduce energy use in existing homes.

(d) California homeowners need state guidance, such as home energy rating and labeling programs, to make informed decisions on cost-effective options to improve the energy efficiency of their existing homes.

(e) In addition to lowering energy utility bills, home energy rating and labeling information for existing homes could benefit homeowners by increasing the marketability of their homes at the time of sale.

(f) Housing retrofits encouraged by home energy rating and labeling programs could also help reduce air pollution through energy conservation.

(g) It is in the interest of the State of California to undertake pilot projects and establish guidelines as soon as practicable for the utilization of home energy rating and labeling programs.

SENATE BILL NO. 2103
(Chapter 791, Statutes of 1990)

§ 1. The Legislature finds and declares all of the following:

(a) In response to concerns about air quality in California, in 1987 the Legislature enacted a law creating the Advisory Board on Air Quality and Fuels to evaluate and make recommendations regarding the necessity and feasibility for using mandates or incentives to facilitate the introduction of clean transportation fuels in California.

(b) In October 1989, the board issued a report to the Legislature which concluded that the use of alternative fuels will provide improvements in air quality beyond what is achievable from conventionally fueled vehicles using the most advanced emissions controls.

(c) The board also concluded that the current state of vehicle technology looks promising for electric-powered and compressed natural gas-fueled vehicles, along with other alternative fuel technologies.

(d) In its recommendations for mandates and incentives, the board urged the Public Utilities Commission to work with the regulated electric and natural gas utilities and with the State Energy Conservation and Development Commission to evaluate policies for developing equipment and infrastructure that may be needed to facilitate the use of electric power and compressed natural gas to fuel low-emission vehicles.

(e) It is in the interest of the State of California to provide incentives for the development and market penetration of clean fuel vehicles, including electric-powered and compressed natural gas-fueled vehicles, to assist in the attainment and maintenance of healthful air quality, and to provide transportation fuel security through a diversity of alternative fuels.

(f) State policies to encourage electric and gas utilities to enter into ventures to promote the commercialization of electric-powered and compressed natural gas-fueled vehicles should ensure that the costs and expenses of implementing commercialization programs are not passed through to electric or gas ratepayers unless the Public Utilities Commission finds and determines that those programs are in the ratepayers' interest. State policies should also ensure that utilities do not unfairly compete with nonutility enterprises.

§ 3. The sum of one hundred eighteen thousand dollars ($118,000) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund to the Public Utilities Commission for startup costs for implementing this act for the 1990-91 fiscal year.

SENATE BILL NO. 2600

(Chapter 1611, Statutes of 1990)

§ 1. (a) The Legislature finds and declares as follows:

(1) In may areas of the state, motor vehicles with conventional gasoline and diesel combustion engines are responsible for more air pollution than any other single source.

(2) Improved technology has made the use of low-emission vehicles feasible for use in the state.

(3) It is in California's best interests to encourage the use of low-emission vehicles because they are expected to result in a substantial decrease in vehicle-created air pollution.

(4) In first enacting Sections 17052.11 and 23603 of the Revenue and Taxation Code, the Legislature recognized that tax credit incentives should be offered to individuals and corporations who convert their vehicles to the use of ethanol or methanol.

(b) It is the intent of the Legislature in enacting this act to provide similar tax incentives for the use of other types of low-emission vehicles, such as those powered by compressed natural gas, liquified petroleum gas, and electricity. It is further the intent of the Legislature that these tax incentives also be available to purchasers of new vehicles which are factory equipped to qualify as low-emission vehicles as defined in Section 39037.05 of the Health and Safety Code. The Legislature intends that this act will also promote the early construction of the refueling infrastructure necessary to support the rapidly increasing numbers of low-emission vehicles on the state's roads and highways.

§ 4. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Energy Resources Conservation and Development Commission for administrative costs incurred pursuant to this act.

§ 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

ASSEMBLY BILL NO. 218

(Chapter 428, Statutes of 1991)

§ 1. The Public Utilities Commission, in coordination with the Energy Resources Conservation and Development Commission, shall conduct an investigation, including workshops, on propane service, rates and safety, and on the use of propane as a clean transportation fuel. The commission shall report the results of the workshops and its recommendations regarding regulation of propane service, rates, and safety, and the use of propane as a clean transportation fuel, to the Legislature on or before December 31, 1992.

§ 2. The sum of sixty-four thousand dollars ($64,000) is appropriated from the Public Utilities Commission Reimbursement Account to the Public Utilities Commission for the purposes of this act.

ASSEMBLY BILL NO. 2105
(Chapter 1036, Statutes of 1991)

§ 3. Section 9 of Chapter 1291 of the Statutes of 1989 is amended to read:

§ 9. The State Energy Resources Conservation and Development Commission shall report on the environmental and fiscal benefits and the fiscal cost of the credit allowed pursuant to Sections 17052.5 and 23601.5 of the Revenue and Taxation Code, as amended by the act amending this section, to the Legislature no later than June 1, 1993. The State Energy Resources Conservation and Development Commission may obtain the information needed to prepare this study from the Franchise Tax Board and taxpayers who apply for the credit allowed pursuant to Sections 17052.5 and 23601.5 of the Revenue and Taxation Code.

§ 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, unless otherwise specifically provided, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1991.

ASSEMBLY BILL NO. 2198
(Chapter 1225, Statutes of 1991)

§ 2. Every major publicly owned electric utility, as determined by the Energy Resources Conservation and Development Commission, shall report to that commission on or before July 1, 1992, on the level and technological diversity achieved through its electric resource acquisition programs. The report which shall be prepared as part of the commission's annual electrical resources report, shall include a description of policies which affected the fuel and technology mix resulting from the utility resource acquisitions programs and the need for changes to those policies to ensure that diverse resources are acquired in the future. The commission shall report to the Legislature on or before August 15, 1992, summarizing the reports received pursuant to this section.

ASSEMBLY BILL NO. 2236
(Chapter 862, Statutes of 1991)

§ 1. The Public Utilities Commission shall not increase, or approve an increase in, rates for electric services for agricultural and, if applicable, pumping customers by an amount more than the system average rate increase before June 1, 1992.

The State Energy Resources and Development Commission shall conduct an analysis of the economic implications of higher rates to agricultural class customers and the various alternatives available to them to reduce their electricity demands or to develop alternative, less expensive, power sources, and shall submit the analysis to the Legislature before June 1, 1992.

SENATE CONCURRENT RESOLUTION NO. 13

(Resolution Chapter 18, Statutes of 1991)

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) The Joint Committee on Energy Regulation and the Environment, which was created by Resolution Chapter 20 of the Statutes of 1989, may act during the 1991-92 Regular Session of the Legislature, including any recess, until June 30, 1991.

(2) The Senate Committee on Rules may make money available from the Senate Contingent Fund for expenses of the committee and its members and staff. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the rules committee. The joint committee shall, within 15 calendar days following the adoption of this measure, present its budget to the Joint Rules Committee for its review and comment.

SENATE CONCURRENT RESOLUTION NO. 42

(Resolution Chapter 104, Statutes of 1991)

WHEREAS, The Legislature, in passing the Warren-Alquist State Energy Resources Conservation and Development Act (Division 15 (commencing with Section 25000) of the Public Resources Code), established that it is the policy of the State of California to promote all feasible means of improving energy efficiency; and

WHEREAS, The Legislature, in passing the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988), is committed to improving ambient air quality throughout the state and ensuring the state's compliance with federal clean air standards; and

WHEREAS, Achievement of these two goals requires energy efficient technologies, practices, and procedures that provide for the efficient use of natural resources and provide environmental benefits; and

WHEREAS, Energy efficient technologies are expected to reduce energy costs, reduce the environmental impact of existing and new energy facilities, improve industrial and commercial productivity and competitiveness, and assist the state in meeting air quality regulations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That it is the policy of the State of California to encourage the development and use of environmentally clean, cost-effective, energy efficient technologies that provide for the efficient use of natural resources; and be it further

Resolved, That all state agencies regulating energy or environmental activities shall encourage and facilitate the state's energy utilities in developing, demonstrating, promoting, and using technologies, and in purchasing energy, consistent with the policy.

SENATE CONCURRENT RESOLUTION NO. 50

(Resolution Chapter 132, Statutes of 1991)

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) The Joint Committee on Energy Regulation and the Environment, which was created by Resolution Chapter 20 of the Statutes of 1989, may act during the 1991-92 Regular Session of the Legislature, including any recess, until June 30, 1992.

(2) The Senate Committee on Rules may make money available from the Senate Contingent Fund for expenses of the committee and its members and staff. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the rules committee. The joint committee shall, within 15 calendar days following the adoption of this measure, present its budget to the Joint Rules Committee for its review and comment.

ASSEMBLY BILL NO. 2744

(Chapter 1337, Statutes of 1992)

§ 1. (a) The Legislature hereby finds and declares that the underground storage of natural gas promotes the conservation of natural gas; enables the stockpiling of gas reserves for orderly withdrawal in periods of peak demand; makes natural gas resources more readily available to residential, commercial, and industrial customers of this state; provides a better year-round market to the various gas fields serving the state; fosters the creation of a competitive gas market for gas transmission services; and enhances gas on gas competition, thereby lowering gas prices for consumers. In addition, the use of exhausted oil facilities as underground gas storage facilities converts what otherwise is a wasted resource into a productive resource.

(b) The Legislature further finds and declares that while it is evident that underground gas storage facilities are a promising resource for California's energy and economic needs, present economic and institutional constraints impede in investments in new underground gas storage facilities. The primary institutional barrier that discourages investment in these projects is the inability of suppliers of storage services to compete in an open and competitive market and to achieve fair returns on their investments as dictated by that market.

(c) The Legislature also finds and declares that, in light of the increasing level of competition in the natural gas industry, resulting primarily from the removal of federal regulation of natural gas prices at the wellhead and the implementation of open-access transportation service on interstate natural gas pipelines, increased access to stand-alone storage services will greatly increase the benefits resulting from the availability of underground natural gas storage. Through the unbundling of public utility storage services and the opportunity for storage services to be provided at market-based rates, an open and competitive market for storage services will be created. The Legislature further finds that unbundling of storage services will ensure that the costs of unbundled storage capacity will be completely separated from the costs of the public utilities' other services, and that none of the costs of

unbundled storage capacity will be recovered in the rates charged by public utilities for other services, such as gas transportation and sales services.

(d) Therefore, the Legislature urges the Public Utility Commission to do the following:

(1) Proceed to expeditiously order the provision of unbundled storage service by the existing public utilities of the State of California.

(2) Encourage the development of independent gas storage companies by proceeding to expeditiously adopt rules and regulation to facilitate the interconnection of these independent gas storage companies with the existing public utilities, including reasonable transportation tariffs to ensure that customers can transport gas to and from such independent gas storage facilities on a competitive basis. Further, the commission should take into account the benefits to customers provided by expanded gas storage capacity in allocating the costs of these interconnections. To the extent the commission finds that utility natural gas customers may not benefit, those costs should be recovered from the beneficiaries, including independent underground gas storage companies. The commission in its proceedings should take into account potential stranded costs for core and noncore customers.

(3) Consider a regulatory scheme that allows both unbundled public utility gas storage service and independent gas storage companies the ability to charge market-based rates.

(4) Give expedited consideration to applications for a certificate of public convenience and necessity filed by independent gas storage companies so as to enable these companies to commence operations at a time reasonably proximate to the initiation of unbundled public utility gas storage service. Further, the commission should take appropriate consideration of the costs and benefits of a competitive gas storage market in making determinations of the public convenience and necessity in these cases.

(5) Ensure that costs borne by core customers as a result of these storage proceedings are commensurate with the benefits that core customers receive.

(e) The Public Utilities Commission is requested to report to both houses of the Legislature no later than July 1, 1993, explaining what steps the commission has taken to foster the development of a competitive natural gas storage market, including, but not limited to, a description of all commission orders, decision, rules, or regulations effecting the unbundling of public utility gas storage services, the rates charged for these services, and the amount of such services utilized by customers. In addition, the commission is requested in the report to describe the actions it has taken in connection with the development of independent gas storage companies, including, but not limited to, the issuance of certificates of public convenience and necessity, the approval of transportation tariffs, and orders providing for the interconnection of these independent gas storage facilities with the facilities of existing public utilities.

§ 2. Notwithstanding any other provision of law, the Director of Finance may authorize transfers from reserve funds in the Transportation Rate Fund (Section 5005, Public Utilities Code), Public Utilities Commission Utilities Reimbursement Account (Section 402, Public Utilities Code), or the Public Utilities Commission Transportation Reimbursement

Account (Section 403, Public Utilities Code) for support of the Public Utilities Commission. The total of all transfers pursuant to this section shall not exceed five million dollars ($5,000,000).

SENATE BILL NO. 1207

(Chapter 769, Statutes of 1992)

§ 1. The Legislature finds and declares all of the following:

(a) There is a growing need to encourage energy efficiency measures that will help homeowners, rental property owners, and renters to use energy efficiently, preserve environmental quality, increase energy security, reduce energy utility bills, and make housing more affordable in California.

(b) To increase the energy efficiency and the affordability of homes in California, homeowners, owners of rental properties, renters, purchasers, real estate agents, lenders, appraisers, and others need to know which energy efficiency measures can reduce energy utility bills, and how much those measures will cost.

(c) Home energy ratings can provide information necessary to encourage homeowners, owners of rental properties, and renters to make informed decisions on cost-effective options to improve home energy efficiency.

(d) It is the policy of this state to facilitate the development and implementation of a statewide home energy rating program as soon as practical.

ASSEMBLY BILL 1338

(Chapter 1178, Statutes of 1993)

§1. The Legislature finds and declares as follows:

(a) Up to five hundred million dollars ($500,000,000) in revenue bonds is permitted to finance the cost of energy-efficient equipment at certain specified public buildings, including California state universities and colleges, and community colleges.

(b) To date, two issues of Energy Efficiency Revenue Bonds totaling one hundred seventeen million eight hundred ten thousand dollars ($117,810,000) have been authorized by the Public Works Board.

(c) The balance of three hundred eighty-two million one hundred ninety thousand dollars ($382,190,000) may be authorized until January 1, 2000.

(d) Publicly funded schools that include kindergarten through grade 12 are experiencing serious budget constraints.

(e) These schools are large energy users and significant opportunities exist to reduce energy consumption by cost-effective measures, including the replacement of inefficient heating, lighting, and cooling equipment with energy-efficient equipment. Significant opportunities also exist to reduce water consumption by cost-effective measures.

(f) It is in the interest of the people of the State of California to implement all cost-effective energy efficient measures in publicly funded schools that include kindergarten through grade 12.

(g) It is therefore the intent of the Legislature to include publicly funded schools that include kindergarten through grade 12, or any portion of those grades, in the Energy Efficiency Revenue Bond program to enable them to finance appropriate conservation measures, as defined in subdivisions (e) and (g) of Section 15814.11 of the Government Code.

(h) Utilities have in place conservation and efficiency programs that schools may utilize in conjunction with proceeds of Energy Efficiency Revenue Bonds.

ASSEMBLY BILL NO. 1890

(Chapter 854, Statutes of 1996)

§ 1. (a) The Legislature finds and declares that the restructuring of the California electricity industry has been driven by changes in federal law intended to increase competition in the provision of electricity. It is the intent of the Legislature to ensure that California's transition to a more competitive electricity market structure allows its citizens and businesses to achieve the economic benefits of industry restructuring at the earliest possible date, creates a new market structure that provides competitive, low cost and reliable electric service, provides assurances that electricity customers in the new market will have sufficient information and protection, and preserves California's commitment to developing diverse, environmentally sensitive electricity resources.

(b) It is the intent of the Legislature to provide the legislative foundation for transforming the regulatory framework of California's electric industry in ways that meet the objectives stated in subdivision (a). It is the further intent of the Legislature that during a limited transition period ending March 31, 2002, to provide for all of the following:

(1) Accelerated, equitable, nonbypassable recovery of transition costs associated with uneconomic utility investments and contractual obligations.

(2) An immediate rate reduction of no less than 10 percent for residential and small commercial ratepayers.

(3) The financing of the rate reduction through the issuance of "rate reduction bonds" that create no new financial obligations for liabilities for the State of California.

(4) An anticipated result through implementation of this act of a subsequent, cumulative rate reduction for residential and small commercial customers of no less than 20 percent by April 1, 2002.

(5) A "fire wall" that protects residential and small business customers from paying for statewide transition cost policy exemptions required for reasons of equity or business development and retention.

(6) Protection of the interests of utility employees who might otherwise be economically displaced inn a restructured industry.

(c) It is the intent of the Legislature to direct the creation of a proposed new market structure featuring two state chartered, nonprofit market institutions: a Power Exchange charged with providing an efficient, competitive auction to meet electricity loads of exchange customers, open on a nondiscriminatory basis to all electricity providers; and an Independent System Operator with centralized control of the statewide transmission grid, charged with ensuring the efficient use and reliable operation of the transmission system. A five-member Oversight Board comprised of three gubernatorial appointees, an appointee of the Senate Committee on Rules and an appointee of the Speaker of the Assembly will oversee the two new institutions and appoint governing boards that are broadly representative of California electricity users and providers. It is the further intent of the Legislature to direct the Independent System Operator to seek federal authorization to perform its functions and to be able to secure the generation and transmission resources needed to achieve specified planning, and operational reserve criteria. It is the further intent of the Legislature to require development of maintenance standards that will reduce the potential for outages and secure participation in the operation of the Independent System Operator by the state's independent local publicly owned utilities.

(d) It is the intent of the Legislature to protect the consumer by requiring registration of certain sellers, marketers, and aggregators of electricity service, requiring information to be provided to consumers, and providing for the compilation and investigation of complaints. It is the further intent of the Legislature to continue to fund low-income ratepayer assistance programs, public purpose programs for public goods research, development and demonstration, demand-side management and renewable electric generation technologies in an unbundled manner.

(e) It is the intent of the Legislature that electrical corporations shall, by June 1, 1997, or on the earliest possible date, apply concurrently for financing orders from the Public Utilities Commission and rate reduction bonds from the California Infrastructure and Economic Development Bank in amounts sufficient to achieve a rate reduction in the most expeditious manner for residential and small commercial customers of not less than 10 percent for 1998, and continuing through March 31, 2002.

SENATE BILL NO. 90

(Chapter 905, Statutes of 1997)

§ 1. (a) The Legislature hereby finds and declares that the purpose of revenues collected by electrical corporations pursuant to paragraph (3) of subdivision (c) of Section 381 of the Public Utilities Code is to assist in-state operation and development of existing and new and emerging renewable resource technologies, and to secure for the state the environmental, economic, and reliability benefits that development and continued operation of those new and emerging technology resource facilities will provide. The transition period for restructuring California's electrical services industry, as generally provided for in Chapter 854 of the Statutes of 1996, poses a unique set of circumstances for these particular public goods programs, making it necessary, therefore, to provide legislative guidance for the reasonable allocation of revenues collected pursuant to Section 381 of the Public Utilities Code.

(b)(1) The Legislature further finds and declares that, to accomplish the financial transactions intended by Chapter 854 with respect to the in-state operation and development of existing and new and emerging renewable resource technologies, it is necessary for the state to act in a fiduciary capacity for the disbursement of revenues collected by electrical corporations for those purposes.

(2) It is the intent of the Legislature that state agencies acting in such a fiduciary capacity in the disbursement of revenues collected by electrical corporations specifically for renewable resource technologies shall not exercise administrative discretion in the disbursement of those revenues that is inconsistent with the allocation mechanisms authorized by this act or the authority under which those revenues are otherwise collected.

§ 8. (a) Notwithstanding paragraph (5) of subdivision (a) of Section 374 of the Public Utilities Code, the Lower Tule River Irrigation District may request an allocation from the State Energy Conservation and Development Commission pursuant to paragraph (1) of subdivision (a) of Section 374 of the Public Utilities Code if the district meets both of the following requirements:

(1) The district complies with the provisions of paragraph (1) of subdivision (a) of Section 374.

(2) The district receives no direct or indirect benefit pursuant to paragraph (3) of subdivision (a) of Section 374 of the Public Utilities Code.

(b) The commission shall, within 30 days from the effective date of this section, assess the viability of the request for an allocation that is authorized pursuant to this section in accordance with the requirements of paragraph (1) of subdivision (a) of Section 374, to determine if the request is consistent with the criteria previously applied by the commission in its decision of March 26,1997, regarding the implementation of Section 374 of the Public Utilities Code (Docket No. 96-IRR-1890).

(c) For purposes of achieving an orderly, equitable phasein of all authorized allocations within the service territory of the electrical corporation in which the district is located, the commission, in accordance with subparagraph (B) of paragraph (1) of subdivision (a) of Section 374 of the Public Utilities Code, may make adjustments to the phasein of allocations that have been previously authorized.

SENATE BILL NO. 252

(Chapter 479, Statutes of 1997)

§ 1. The Energy Resources Conservation and Development Commission, in consultation with the Public Utilities Commission, shall evaluate the net economic benefits that may be achieved by aggregation of electrical loads in small rural counties containing 250,000 persons or less. The evaluation shall include, but is not limited to, the feasibility and benefits of different forms of aggregation, including aggregation of county government electrical loads, aggregation of individual consumer's electrical loads, multicounty load aggregation, and the extent to which proximity of aggregated loads is significant in achieving economic benefits. On or before July 1, 1998, the Energy Resources Conservation and Development Commission shall submit a report to the Regional Council of Rural Counties and to the Chairs of the Senate

Committee on Energy, Utilities and Communications and the Assembly Committee on Utilities and Commerce, conveying its assessment of options for electrical load aggregation in small rural counties and legislation, if any, which may be necessary to achieve any identified potential net economic benefits that are attributable to electrical load aggregation.

ASSEMBLY BILL NO. 2098
(Chapter 963, Statutes of 2000)

§ 1. The State Energy Resources Conservation and Development Commission, in consultation with the State Fire Marshal, shall study the feasibility of financing, constructing, and maintaining a new pipeline, or utilizing or expanding the capacity of existing pipelines, to transport motor vehicle fuel or its components from the Gulf Coast to California. The study shall assess the viability of pipeline transportation to directly or indirectly increase California's supply of gasoline that complies with California's fuel specification regulations and the potential impact on gasoline prices, the environment, and other issues identified by the commission. The study shall include a discussion of the ways in which the state may facilitate the use of a pipeline to transport motor vehicle fuel or its components into California, including any federal or state funds or tax credits that could be used to assist in constructing the new pipeline or expanding the capacity of existing pipelines. The study shall be conducted in conjunction with any other studies required by acts enacted during the 2000 portion of the 1999-2000 Regular Session dealing with gasoline prices, and shall be submitted to the Legislature and the Attorney General by January 31, 2002.

SENATE BILL NO. 84
(Chapter 6, Second Extraordinary Session, 2001)

§ 3. (a) For the purpose of providing matching grants for backup battery systems for traffic control signals retrofitted with light-emitting diodes pursuant to Section 25403.8 of the Public Resources Code, the sum of ten million dollars ($10,000,000) shall be reallocated to the State Energy Resources Conservation and Development Commission from funds appropriated in Chapter 8 of the Statutes of the 2001-02 First Extraordinary Session for the purposes of Article 4 (commencing with Section 15350) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code. The State Energy Resources Conservation and Development Commission may not expend more than 5 percent of the amount available for expenditure pursuant to this subdivision for administrative costs in carrying out the grant program.

(b) On or before June 1, 2004, the State Energy Resources Conservation and Development Commission shall submit a report to the Governor and the Legislature on the expenditures made pursuant to subdivision (a), including grant awards and program activities.

SENATE BILL NO. 1976
(Chapter 850, Statutes of 2002)

§ 1. The Legislature finds and declares all of the following:

(a) Californians can significantly increase the reliability of the electricity system and reduce the level of wholesale electricity prices by reducing electricity usage at peak times through a variety of measures designed to reduce electricity consumption during those periods.

(b) Dynamic pricing, including real-time pricing, provides incentives to reduce electricity consumption in precisely those hours when supplies are tight and provides lower prices when wholesale prices are low.

(c) The State of California, through Assembly Bill 29 of the 2001-02 First Extraordinary Session, has already invested thirty-five million dollars ($35,000,000) in real-time metering systems for customers who consume greater than 200 kilowatts.

(d) Real-time pricing integrates information technology into the energy business, and creates new markets for communications, microelectronic controls, and information.

(e) Electricity consumption for air conditioning purposes during peak demand periods significantly contributes to California's electricity shortage vulnerability during summer periods.

(f) It is the intent of the Legislature to promote energy conservation and demand reduction in the State of California.

§ 2. (a) On or before September 30, 2003, the State Energy Resources Conservation and Development Commission, in consultation with the Public Utilities Commission, shall report to the Legislature and the Governor regarding the feasibility of implementing real-time pricing, critical peak pricing, and other dynamic pricing tariffs for electricity in California, as strategies which can either reduce peak demand or shift peak demand load to off-peak periods.

(b) The report shall consider all of the following:

(1) How wholesale real-time prices would be calculated and made available to customers.

(2) Options for day-ahead and hour-ahead retail prices.

(3) Options for incorporating demand responsiveness into the wholesale competitive market and operations of the California Independent System Operator.

(4) Options for ensuring customer protection under a real-time, critical peak, and other dynamic pricing scenarios, including identifying potentially disadvantaged groups who may be disproportionately vulnerable to the impact of volatile prices and suggestions for effective safeguards for those customers.

(5) A summary of current cooperative activities to further implementation of price responsive demand among appropriate state agencies.

(6) A listing of existing statutes and other regulatory barriers that could constrain the implementation of price responsive demand, or are redundant with price responsive demand.

(7) Identification of means to ensure consumer protection.