

CALIFORNIA
ENERGY
COMMISSION

INITIAL STUDY/PROPOSED NEGATIVE DECLARATION

FOR REGULATIONS ESTABLISHING AND
IMPLEMENTING A GREENHOUSE GASES
EMISSION PERFORMANCE STANDARD
FOR LOCAL PUBLICLY OWNED ELECTRIC
UTILITIES

STAFF REPORT

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Arnold Schwarzenegger, Governor

CALIFORNIA ENERGY COMMISSION

Gary Collord
Principal Author

Chris Tooker
Manager
**SPECIAL PROJECTS AND
PLANNING OFFICE**

Terry O'Brien
Deputy Director
**ENERGY FACILITY SITING
DIVISION**

B.B. Blevins
Executive Director

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ABSTRACT

The Legislature enacted SB 1368 to reduce consumer exposure to the risk of future greenhouse gases emissions control costs and potential exposure to related reliability problems in electricity supplies. The legislation establishes Sections 8340 and 8341 of the Public Utilities Code, requiring the California Energy Commission (Commission), in consultation with the California Public Utilities Commission (CPUC) and the California Air Resources Board, to establish a greenhouse gases emission performance standard and implementing regulations for all long-term baseload generation commitments made by local publicly owned electric utilities.

The legislation directs the Energy Commission to establish the performance standard consistent with the rate of greenhouse gases emitted per megawatt-hour by natural gas-fired combined-cycle combustion turbine baseload generation. The law requires that the Energy Commission's standard be consistent with that adopted by the CPUC for investor owned utilities in a companion proceeding.

This report contains the Initial Study and Negative Declaration prepared pursuant to the California Environmental Quality Act (CEQA) to support the Commission's adoption of the proposed regulations.

KEY WORDS

Senate Bill 1368, publicly owned electric utilities, emission performance standard, greenhouse gases, initial study, negative declaration

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EXECUTIVE SUMMARY

Due to concerns regarding the effects of global warming and the likelihood of future federal greenhouse gas emissions regulations, the Legislature enacted Senate Bill (SB) 1368 to reduce consumer exposure to the risk of future pollution control costs and potential exposure to related reliability problems in electricity supplies. The Legislature concluded that to have an impact on climate change, goals for reducing greenhouse gas emissions must be applied to the state's electricity consumption and its production.

As the western states' largest electricity consumer, California must provide clear guidance on greenhouse gases emissions performance standards for electricity procurement. A policy and an emissions performance standard applicable to long-term electricity procurement by all of the state's load-serving entities is necessary to meet the state's goals for reducing greenhouse gas emissions.

SB1368 establishes Sections 8340 and 8341 of the Public Utilities Code, requiring the California Energy Commission (Energy Commission), along with the California Public Utilities Commission (CPUC) and the California Air Resources Board, to establish a greenhouse gases emission performance standard and implement regulations for all long-term baseload generation commitments made by local publicly owned electric utilities.

The legislation directs the Energy Commission to establish the performance standard as one not exceeding the rate of greenhouse gases emitted per megawatt-hour associated with natural gas-fired combined-cycle combustion turbine baseload generation. The law requires that the Energy Commission's standard be consistent with that adopted by the CPUC for investor-owned utilities in a companion proceeding. The implementing regulations are required to include a greenhouse gases emission performance standard and an output-based methodology for calculating and enforcing the emission performance standard. The Energy Commission proposes adopting the proposed regulations to comply with Public Utilities Code Sections 8340 and 8341.

This report contains the Initial Study and Negative Declaration prepared under the California Environmental Quality Act to support the Energy Commission's adoption of the proposed regulations.

PROPOSED NEGATIVE DECLARATION

Pursuant to Title 14, California Code of Regulations, Sections 15070 and 15071, and pursuant to the California Energy Commission's Rules of Practice and Procedure (Cal. Code Regs., Title 20, Section 1101 et seq.), the California Energy Commission does prepare, make, declare, and publish this Negative Declaration for Regulations Establishing and Implementing a Greenhouse Gases Emission Performance Standard for Local Publicly Owned Electric Utilities.

Title and Short Description of Project: Regulations Establishing and Implementing a Greenhouse Gases Emission Performance Standard for Local Publicly Owned Electric Utilities.

The Energy Commission proposes adopting regulations that will prohibit California's local publicly owned electric utilities (POUs) from entering into long-term financial commitments with certain power plants for baseload power generation that exceed a numerical emissions performance standard for greenhouse gases. The proposed regulations also include provisions that describe the types of power procurement commitments subject to the standard and regulations, and establish a compliance evaluation and enforcement mechanism for the state's POUs.

Location of Project: The proposed regulations will be applicable to any POU within the State of California. In addition to purchasing power generated within the state, California's POUs import portions of their electricity from out-of-state generating units located within the Western Regional Coordinating Council (WECC) territory. Therefore, a proposed project could potentially result in impacts in California and possibly in other areas within the WECC territory. This territory includes all or part of 11 western states, 2 Canadian provinces, and Baja California, Mexico.

Based upon the Initial Study, the Energy Commission finds that there is no substantial evidence, in light of the whole of the record before the Energy Commission, that the project may have a significant effect on the environment. As a result, the Energy Commission finds that the Regulations Establishing and Implementing a Greenhouse Gases Emission Performance Standard for Local Publicly Owned Electric Utilities will result in no significant adverse impact. The following initial study analysis and checklist provide the basis to support adoption of the proposed finding and Negative Declaration.

Further information about the contents and scope of the Initial Study or the proposed project may be obtained by contacting Gary Collord, [gcollord@energy.state.ca.us] California Energy Commission, 1516 9th Street, Sacramento, CA 95814, Phone (916) 651-9006.

INITIAL STUDY

PROJECT DESCRIPTION AND ENVIRONMENTAL SETTING

Proposed Project

The Energy Commission proposes adopting regulations that will prohibit California's local publicly owned electric utilities (POUs) from entering into long-term financial commitments with certain power plants that exceed a numerical emissions performance standard for carbon dioxide (CO₂). The proposed regulations also include provisions that describe the types of power procurement commitments subject to the standard and regulations and establish a compliance evaluation and enforcement mechanism for the state's POUs. These provisions are discussed in more detail below.

Emissions Performance Standard (EPS)

The proposed regulations set the greenhouse gases EPS at 1,100 pounds of carbon dioxide (CO₂) per megawatt hour. This standard of performance for baseload generation, which is the same as that adopted by the CPUC for investor-owned utilities in its Final Decision issued on January 25, 2007, was reached by evaluating the performance of existing combined-cycle natural-gas baseload power plants throughout the West.

Special attention was paid to the performance of units within California, and the standard was set so that new, efficient units in adverse conditions such as high altitude or hot temperatures would not be precluded by a standard that was too restrictive. The CPUC and the Energy Commission decided to limit the standard to CO₂ emissions because this pollutant makes up the overwhelming majority of greenhouse gas emissions from power plants and currently provides the most reliable and efficient measure of greenhouse gas emissions.

The EPS is based on an evaluation of the CO₂ emissions from natural gas-fired, combined-cycle facilities, but the standard itself is fuel-neutral. With certain fuel and facility exceptions specified in the regulations, the EPS applies to any type of fossil-fuel based power plant. The proposed EPS forms the crux of the regulations and is specifically required by Senate Bill (SB) 1368.

Affected Public Utilities

SB 1368 defines local publicly owned electric utilities as those defined by Public Utilities Code Section 9604:

- A municipality or municipal corporation operating as a "public utility" furnishing electric service as provided in Section 10001;
- A municipal utility district furnishing electric service formed pursuant to Division 6 (commencing with Section 11501);

- A public utility district furnishing electric services formed pursuant to the Public Utility District Act set forth in Division 7 (commencing with Section 15501);
- An irrigation district furnishing electric services formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code; or
- A joint powers authority that includes one or more of these agencies and that owns generation or transmission facilities, or furnishes electric services over its own or its member's electric distribution system.

Affected Procurements

Under SB 1368, the EPS applies to any long-term financial commitment entered into by a POU with a baseload power plant with limited exceptions. As described in the proposed regulations, a POU triggers application of the EPS when it enters into a covered procurement. Under the proposed regulations, a covered procurement is a financial commitment in either a new ownership investment or a new or renewed contract with a baseload power plant for a term of five years or longer.

A “new ownership investment” includes: investments in new power plant construction; investments in additional generating capacity at deemed-compliant power plants that increase the rated capacity by 50 megawatts (MW) or more; a new or additional ownership interest in existing power plants; or any investment in non-deemed compliant power plants with a POU ownership interest that extends the life of a generating unit by five years or more, increases the plant’s rated capacity by more than 10 percent, or converts a non-baseload power plant to a baseload facility.

A “new or renewed contract” includes POU commitments (including leases) for procuring electricity, with a term of five years or more, with baseload generating power plants not deemed compliant with the regulations; or with specific generating units added to a deemed-compliant baseload power plant that have increased the power plant’s rated capacity by 50 MW or more.

Compliance Monitoring and Enforcement

The proposed regulations require that, within 10 business days of entering into a covered procurement, the POU will provide a compliance filing to the Energy Commission attesting that the contract is compliant with the EPS. In particular, the compliance filing must attest to the following: 1) that the governing body has reviewed and approved the covered procurement and compliance filing in a public meeting; 2) that the compliance filing does not contain a material misstatement or omission of fact; 3) that the covered procurement complies with these regulations; and 4) that the covered procurement contains contractual terms that would void the contract and terminate all energy deliveries if the

Energy Commission finds that the covered procurement does not comply with these regulations.

This information will be used by Energy Commission staff to evaluate compliance with the proposed regulations. The proposed regulations also create a compliance investigation process to ensure compliance can be verified and remedied, if necessary, after a commitment has been made or found compliant or exempt from the standard by the POU.

Proposed Regulations

Refer to Appendix A for a complete text of the proposed regulations.

Environmental Setting and Location

The proposed regulations apply to any POU located in California and, as discussed above, establish certain limits on the procurement of electricity by these entities. California's utilities, both public and private, currently import about one quarter of their electricity from out-of-state generating units within the Western Regional Coordinating Council (WECC) territory, including coal, hydropower, natural gas, and nuclear power plants located throughout the West.¹ Therefore, any environmental effects from the proposed project are not necessarily limited to California but could also occur anywhere within the WECC territory. This territory includes all or part of 11 western states, 2 Canadian provinces, and Baja California, Mexico.

POTENTIAL ENVIRONMENTAL EFFECTS

Energy Resources

As discussed above, the proposed project will prohibit the state's POUs from entering into long-term financial commitments with existing or new baseload power generating facilities that do not comply with the proposed EPS. This may result in the POUs electing, upon renewal or expiration of existing contracts or when securing additional power resources, to enter into short-term contracts with facilities that may or may not comply with the EPS or to shift their long-term contracts to facilities that comply with the EPS.

Using this approach, Energy Commission staff anticipates that the POUs will still be able to procure sufficient energy resources from the market's existing supply of electrical power to meet their existing needs. As a result, the proposed project is not expected to place significant additional demands on existing energy generation or transmission facilities or require the expansion or development of new energy generation or transmission facilities.

¹ The amount and percentage of imported power varies from year to year and does not include power imported from out-of-state facilities owned by California's utilities.

The need for additional electrical generation in California will largely be driven by population and economic growth. Energy Commission staff anticipates the POU's will need an additional 1,000 to 1,200 MW of baseload generation over the next five years. Staff expects that most of this need will be met by the development or acquisition of renewable energy resources as the POU's work to meet their Renewables Portfolio Standard commitments.

The need for additional baseload power resources over the next 20 years is expected to be in the 2,500 to 3,000 MW range, with more than half of this additional need arising from load growth. To meet these longer-term needs, the project could cause the POU's to shift more of their power procurements toward facilities that comply with the EPS. Energy Commission staff believes sufficient compliant baseload power facilities will be available within the WECC territory to accommodate this potential shift due to the availability of more efficient gas turbines and the continuing development of renewable resources.

Such a shift could potentially increase demands on existing power plants, or encourage expansion/development of new power plants using cleaner energy sources, such as natural gas. Any increased demands on available natural gas resources, however, are expected to be met by planned natural gas development in the WECC territory and imports of liquefied natural gas.

However, the impacts of the proposed project on the development of additional generating capacity beyond five years is speculative since SB 1368 directs the Energy Commission to reevaluate and continue, modify, or replace the EPS when enforceable greenhouse gases emissions limits are established and implemented by the California Air Resources Board as required by Assembly Bill (AB) 32. Depending on how AB 32 is implemented, it may supplant the EPS entirely or increase the availability of EPS-compliant generation resources.

Air Quality

The proposed project is not expected to adversely affect the level of local or regional criteria air pollutants. Some energy generating technologies that emit greenhouse gases in excess of the proposed EPS (for example, current-technology coal-fired power plants) also emit high levels of criteria pollutants. So far as the proposed regulations may reduce the demand for power plants using those technologies, they may result in a net reduction of potential greenhouse gases and other harmful air pollutant emissions that might otherwise occur.

Conclusion and Recommendation

Staff evaluated the potential environmental effects of the project on the issue areas outlined in the CEQA checklist, below. Staff found the project would have no significant adverse environmental impacts. The overall consequences of the proposed project may be positive for the environment, especially with respect to future air quality impacts. Therefore, no mitigation measures are proposed.

CALIFORNIA ENVIRONMENTAL QUALITY ACT CHECKLIST

Project title:	Regulations Establishing and Implementing a Greenhouse Gases Emission Performance Standard for Local Publicly Owned Electric Utilities
Lead agency name and address	California Energy Commission 1516 Ninth Street Sacramento, California 95814
Contact person and phone number:	Gary Collord, SB 1368 CEQA Project Manager, Energy Facilities Siting Division, Special Projects Office (916) 651-9006
Project Description	Senate Bill 1368 requires the Energy Commission to establish and adopt a greenhouse gases emission performance standard (EPS) and governing regulations for long-term baseload power generation commitments made by the state's local publicly owned electric utilities (POUs). The regulations require an output-based methodology for calculating and enforcing the EPS. The underlying purpose of the legislation is to reduce greenhouse gas emissions from in-state and out-of-state electricity generation supplied to California.

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on aesthetics.				
II. AGRICULTURE RESOURCES -- In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert prime farmland, unique farmland, or farmland of statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use or a Williamson Act contract?				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of farmland to non-agricultural use?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on agricultural resources.				
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities. Therefore, the project is not expected to adversely affect local or regional air quality standards or increase criteria pollutants. The proposed project could potentially shift the type and location of power procured by the state's POU's from non-compliant facilities to facilities that comply with the EPS. The project may also discourage further development or expansion of power-generating facilities not compliant with the EPS. Because energy facilities that emit greenhouse gases in excess of the proposed EPS may also emit high levels of criteria air pollutants, the proposed project may result in a net reduction of future greenhouse gases and other harmful air quality emissions.				
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on biological resources.				
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on cultural resources.				
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on geology and soils.				
VII. ENERGY -- Would the project:				
a) Use exceptional amounts of fuel or energy?				X
b) Increase demand upon existing sources of energy, or require the development of new sources of energy?			X	
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, is not expected to require the development of new energy sources. Sufficient electrical power is available from the market's existing supply to meet the needs of the state's POUs. Additionally, it's anticipated that the near-term needs (next five years) of the POU's for additional baseload resources will be met by developing or acquiring renewable energy resources to satisfy Renewables Portfolio Standard requirements. Beyond this period, the project could potentially cause the POUs to shift their procurement of electrical power from non-compliant facilities to facilities that comply with the EPS. Energy Commission staff believes sufficient compliant baseload power facilities exist within the Western Energy Coordinating Council (WECC) territory to accommodate this shift. Such a shift, however, could potentially increase demands on existing power plants or encourage expansion/development of new power plants using cleaner energy sources such as natural gas. Any increased demands on natural gas supplies could be satisfied by planned natural gas development in the WECC territory and imports of liquefied natural gas.				
VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:				
a) Create a significant hazard to the public or the environment through the routine				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
transport, use, or disposal of hazardous materials?				
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on hazards and hazardous materials.				
IX. HYDROLOGY AND WATER QUALITY – Would the project:				
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
uses for which permits have been granted)?				
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, that would result in substantial erosion or siltation on- or off-site?				X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?				X
e) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on hydrology or water quality.				
X. LAND USE AND PLANNING – Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on land use and planning.				
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on mineral resources.				
XII. NATURAL RESOURCES -- Would the project result in:				
a) Significant increase in the rate of use of any natural resources?				X
b) Significant depletion of any non-renewable natural resource?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on natural resources.				
XIII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above existing levels without the project?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on noise.				
XIV. POPULATION AND HOUSING – Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on population and housing.				
XV. PUBLIC SERVICES -- Would the project:				
Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				X
Fire protection?				X
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on public services.				
XVI. RECREATION -- Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on recreation.				
XVII. TRANSPORTATION AND TRAFFIC – Would the project:				
a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on transportation and traffic.				
XVIII. UTILITIES AND SERVICE SYSTEMS -- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements				X

Issues	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
and resources, or are new or expanded entitlements needed?				
e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the providers' existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
Energy Commission staff has determined that the proposed project will not necessitate the expansion or development of additional power generation or transmission facilities and, therefore, will have no adverse impact on utilities and service systems.				
XIX. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?				X
Implementation of the proposed project is expected to have a less than significant impact on energy resources and no adverse impact on the other issues listed in this matrix. The cumulative effects of the proposed project may reduce the potential for future development or expansion of electrical power generating facilities that do not comply with the proposed EPS and promote development of cleaner energy sources. This may reduce the potential amount of greenhouse gases and criteria pollutant emissions that might otherwise occur. Staff has considered the project's effects on air quality, energy sources, water quality and hydrology, and other issues and determined the proposed project will not result in any significant adverse environmental impacts.				

DETERMINATION:

On the basis of this evaluation:

X	I find that the proposed project WILL NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

CONSISTENCY WITH ZONING, DEVELOPMENT PLANS AND OTHER LAND USE CONTROLS

The proposed project does not necessitate the expansion of existing, or construction of additional, power generating or power transmission facilities and therefore is consistent with existing development plans, zoning and other land use controls.

REFERENCES

California Energy Commission, *2005 Environmental Performance Report of California's Electrical Generation System*. Staff Report in support of the 2005 Integrated Policy Report Proceeding. June 2005.

California Energy Commission, *A Preliminary Environmental Profile of California's Imported Electricity*. Staff Report in support of the 2005 Environmental Performance and Integrated Policy Report. June 2005.

California Energy Commission, *Implementation of SB 1368 Emission Performance Standard*. Staff Issue Identification Paper in support of the SB 1368 Greenhouse Gas Proceeding. November 2006.

California Energy Commission, *Staff-Proposed Regulations for Implementing the Greenhouse Gases Emission Performance Standard for Local Publicly-Owned Electric Utilities*. Staff White Paper in support of the SB 1368 Greenhouse Gas Proceeding. January 2007.

California Energy Commission, *Renewables Portfolio Standard Eligibility Guidebook*, Second Edition. December 2006. CEC-300-2006-007ED2SD.

California Public Utilities Commission, *"Interim Opinion on Phase 1 Issues: Greenhouse Gas Emissions Performance Standard."* Decision 07-01-039, January 25, 2007. Rulemaking 06-04-009.

Appendix A

Energy Commission's Proposed Regulations

Chapter 11. Greenhouse Gases Emission Performance Standard

Article 1. Provisions Applicable to Power Plants 10 MW and Larger

§ 2900 Scope

§ 2901 Definitions

§ 2902 Greenhouse Gases Emission Performance Standard

§ 2903 Compliance with the Emission Performance Standard

§ 2904 Annual Average Carbon Dioxide Emissions

§ 2905 Annual Average Electricity Production

§ 2906 Substitute Energy

§ 2907 Qualifying Facilities

§ 2908 Public Notice

§ 2909 Compliance Filings

§ 2910 Compliance Review

§ 2911 Compliance Investigation

§ 2912 Case-by-Case Review for Reliability or Financial Exemptions

Article 2. Provisions Applicable to Power Plants Under 10 MW (Reserved)

Article 1. Provisions Applicable to Power Plants 10 MW and Larger

§ 2900 Scope

This Article only applies to covered procurements involving power plants 10MW and larger.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Sections 8340 and 8341 Public Utilities Code.

§ 2901 Definitions

- (a) "Annualized plant capacity factor" means the ratio of the annual amount of electricity produced, measured in kilowatt hours, divided by the annual amount of electricity the power plant could have produced if it had been operated at its maximum permitted capacity, expressed in kilowatt hours.
- (b) "Baseload generation" means electricity generation from a power plant that is designed and intended to provide electricity at an annualized capacity factor of at least 60 percent.
- (c) "Combined-cycle natural gas" means a power plant that employs a combination of one or more natural gas turbines and one or more steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

- (d) “Covered procurement” means:
 - (1) A new ownership investment in a baseload generation power plant, or
 - (2) A new or renewed contract commitment, including a lease, for the procurement of electricity with a term of five years or greater by a local publicly owned electric utility with:
 - (A) a baseload generation power plant, unless the power plant is deemed compliant, or
 - (B) any generating units added to a deemed-compliant baseload generation power plant that combined result in an increase of 50 MW or more to the power plant’s rated capacity.
- (e) “Deemed-compliant power plant” means any combined cycle natural gas power plant that was in operation, or for which the Commission had granted a certificate pursuant to Chapter 6 of the Warren-Alquist State Energy Resources Conservation and Development Act on or before June 30, 2007.
- (f) “Dispatchable renewable resource” means any renewable resource that is not an intermittent renewable resource.
- (g) “Generating unit” means any combination of physically connected generator(s), reactor(s), boiler(s), combustion turbine(s), or other prime mover(s) operated together to produce electric power.
- (h) “Intermittent renewable resource” means a solar, wind, or run-of-river hydroelectricity power plant.
- (i) “Local publicly owned electric utility” means a “local publicly owned electric utility” as defined in Public Utilities Code Section 9604.
- (j) “New ownership investment” means:
 - (1) Any investments in construction of a new power plant;
 - (2) The acquisition of a new or additional ownership interest in an existing power plant previously owned by others;
 - (3) Any investment in generating units added to a deemed-compliant power plant, if such generating units result in an increase of 50 MW or more to the power plant’s rated capacity; or
 - (4) Any investment in an existing, non-deemed compliant power plant owned in whole or part by a local publicly owned electric utility that:
 - (A) is designed and intended to extend the life of one or more generating units by five years or more;
 - (B) results in an increase of greater than 10 percent in the rated capacity of the power plant; or
 - (C) is designed and intended to convert a non-baseload generation power plant to a baseload generation power plant.
- (k) “Permitted capacity” means the rated capacity of the power plant unless the maximum output allowed under the operating permit is the effective constraint on the maximum output of the power plant.
- (l) “Power plant” means a facility for the generation of electricity, and is:
 - (1) a single generating unit; or
 - (2) multiple generating units that meet the following conditions:
 - (A) the generating units are co-located;

- (B) each generating unit utilizes the same fuel and generation technology;
and
- (C) one or more of the generating units are operationally dependent on another.
- (m) “Rated capacity” means the power plant’s maximum rated output. For combustion or steam generating units, rated capacity means generating capacity and shall be calculated pursuant to Section 2003.
- (n) “Specified contract” means a contract that only provides for electricity from one or more identified power plant(s).
- (o) “System energy” means energy purchased from unspecified resources.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Sections 8340 and 8341, Public Utilities Code.

§ 2902 Greenhouse Gases Emission Performance Standard

- (a) The greenhouse gases emission performance standard (EPS) applicable to this chapter is 1100 pounds (0.5 metric tons) of carbon dioxide (CO₂) per megawatt hour (MWh) of electricity.
- (b) Unless otherwise specified in this Article, no local publicly owned electric utility shall participate in a covered procurement if greenhouse gases emissions from the power plant(s) subject to the covered procurement exceed the EPS.
- (c) For purposes of applying the EPS to contracts with multiple power plants, each specified power plant must be treated individually for the purpose of determining the annualized capacity factor and net emissions, and each power plant must comply with the EPS.
- (d) The term of a contract shall be determined by including the length of time from the date of first delivery through the date of last delivery, even if there are intervening periods during which there are no deliveries.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2903 Compliance with the Emission Performance Standard

- (a) Except as provided in Subsection (b), a power plant’s compliance with the EPS shall be determined by dividing the power plant’s annual average carbon dioxide emissions in pounds by the power plant’s annual average net electricity production in MWh. This determination shall not be based on full-load heat rates. Capacity factors, heat rates, and corresponding emissions rates shall reflect the expected operations of the power plant.
- (b) The following types of power plants are determined to be compliant with the EPS:

- (1) Except as otherwise specified, any in-state or out-of-state power plant identified in Public Resources Code Section 25741(a)(1) and (3), as specified by guidelines adopted pursuant to Public Resources Code Section 25747(a), except for hybrid systems;
- (2) Power plants using only biomass fuels that would otherwise be disposed of utilizing open burning, forest accumulation, spreading, composting, uncontrolled landfill, or landfill utilizing gas collection with flare or engine. Biomass includes but is not limited to agricultural waste, wood waste, and landfill gas;
- (3) Hydroelectric power plants; or
- (4) Nuclear power plants.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Sections 25741 and 25747, Public Resources Code; Section 8341, Public Utilities Code.

§ 2904 Annual average carbon dioxide emissions

- (a) Except as provided in Subsections (b) and (c), a power plant's annual average carbon dioxide emissions are the amount of carbon dioxide produced on an annual average basis by each fuel used in any component directly involved in electricity production, including, but not limited to, the boiler, combustion turbine, reciprocating or other engine, and fuel cell. The fuels used in this calculation shall include, but are not limited to, primary and secondary fuels, backup fuels, and pilot fuels, and the calculation shall assume that all carbon in the fuels is converted to carbon dioxide. Fuels used in ancillary equipment, including, but not limited to, fire pumps, emergency generators, and vehicles shall not be included.
- (b) For power plants not eligible for Renewables Portfolio Standard certification that use biomass fuels in combination with other fuel(s), the power plant's annual average carbon dioxide emissions are the amount of carbon dioxide produced on an annual average basis by all fuels used other than biomass, biogas, or landfill gas.
- (c) For covered procurements that employ geological formation injection for CO₂ sequestration, the annual average carbon dioxide emissions shall not include the carbon dioxide emissions that are projected to be successfully sequestered. The EPS for such power plants shall be determined based on projections of net emissions over the life of the power plant. Carbon dioxide emissions shall be considered successfully sequestered if the sequestration project meets the following requirements:
 - (1) Includes the capture, transportation, and geologic formation injection of CO₂ emissions;
 - (2) Complies with all applicable laws and regulations; and
 - (3) Has an economically and technically feasible plan that will result in the permanent sequestration of CO₂ once the sequestration project is operational.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2905 Annual average electricity production

- (a) Except as provided in Subsection (b), a power plant's annual average electricity production in MWh shall be the sum of the net electricity available for all of the following: use onsite or at a host site in a commercial or industrial process or for sale or transmission from the power plant.
- (b) For the purposes of calculating compliance with the EPS, a cogeneration power plant's annual average electricity production is the sum of the MWh of electricity produced and the useful thermal energy output expressed in MWh.
 - (1) Useful thermal energy output means:
 - (A) For a topping cycle cogeneration power plant, the thermal energy that:
 - (i) is made available to an industrial or commercial process, including, but not limited to, the net of any heat contained in condensate return or makeup water;
 - (ii) is used in a heating application, including, but not limited to, space or domestic hot water heating; or
 - (iii) is used in a space cooling application, including, but not limited to, thermal energy used by an absorption chiller.
 - (B) For a bottoming cycle cogeneration power plant, including, but not limited to, industrial waste-heat powered generators, the thermal energy used by an industrial process and any fuel used for supplemental firing.
 - (2) The useful thermal energy output shall be converted into a MWh equivalent using the standard engineering conversion factor of 3.413 MMBtu per MWh (or 3,413 Btu per kWh).

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2906 Substitute Energy

- (a) Except as provided for below, a contract with a term of five years or more that includes the purchase of system energy is not compliant with the EPS.
- (b) A new contract for covered procurement from identified power plants may contain provisions for the seller to substitute deliveries of energy under any of the following circumstances:
 - (1) The substitute energy only comes from one or more identified power plants, each of which is EPS-compliant.
 - (2) For specified contracts with non-renewable resources or dispatchable renewable resources, or a combination of each, system energy purchases for each identified power plant are permitted up to 15 percent of forecast energy production of the identified power plant over the term of the

contract, provided that the contract only permits the seller to purchase system energy under either of the following conditions:

- (A) The identified power plant is unavailable due to a forced outage, scheduled maintenance or other temporary unavailability for operational or efficiency reasons; or
 - (B) To meet operating conditions required under the contract, including, but not limited to, provisions for the number of start-ups, ramp rates, or minimum number of operating hours.
- (3) For specified contracts with intermittent renewable resources, the amount of system energy is limited such that total purchases under the contract, whether from the intermittent renewable resource or from system energy, do not exceed the total expected output of the identified renewable power plant over the term of the contract.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2907 Qualifying Facilities

The emission performance standard shall not apply to any qualifying small power production facility or qualifying cogeneration facility, as defined by 16 U.S.C. Section 796 (17) and (18), that is the subject of an obligation to purchase pursuant to 16 U.S.C Section 824a-3.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2908 Public Notice

Each local publicly owned electric utility shall post notice in accordance with Government Code Section 54950 et seq. whenever its governing body will deliberate in public on a covered procurement.

- (a) At the posting of the notice of a public meeting to consider a covered procurement, the local publicly owned electric utility shall notify the Energy Commission of the date, time and location of the meeting so the Energy Commission may post the information on its website. This requirement is satisfied if the local publicly owned electric utility provides the Energy Commission with the uniform resource locator (URL) that links to this information.
- (b) Upon distribution to its governing body of information related to a covered procurement's compliance with the EPS, for its consideration at a noticed public meeting, the publicly owned electric utility shall make such information available to the public and shall provide the Energy Commission with an electronic copy of the document for posting on the Energy Commission's website. This requirement is satisfied if the local publicly owned electric utility

provides the Energy Commission with the URL that links to the documents or information regarding other manners of access to the documents.

- (c) For a covered procurement involving a new or renewed contract with a term of five years or more, the documentation made publicly available at the time of posting pursuant to Subsections (a) and (b) shall include at a minimum:
 - (1) A description of the terms of the contract and option(s) to extend the contract;
 - (2) A description and identification of the power plant(s) providing energy under the contract, including, but not limited to, power generation equipment and fuel type;
 - (3) A description of the design or operation of the power plant(s) so as to indicate whether or not the power plant(s) operates to supply baseload generation;
 - (4) An explanation as to how the contract is compliant with the EPS; and
 - (5) Supporting documents or information that allow for assessment of compliance with the standard, including, but not limited to, staff assessments and reports to the local publicly owned electric utility's governing body, planned or historical production and fuel use data, and applicable historical continuous emissions monitoring data.
- (d) For a covered procurement involving a new ownership investment, the documentation made available at the time of posting pursuant to Subsections (a) and (b) shall include at a minimum:
 - (1) For new construction or purchase of an existing generating unit or power plant, a description and identification of the planned power plant or the purchased asset specifying the power generating equipment, power source, such as fuel type, wind, or biomass, all supplemental fuel sources, and all available historical production and fuel use data;
 - (2) For an incremental investment that is a covered procurement as defined in Section 2901(d), a description of the modifications to the unit(s) and their impact on generation capacity, carbon dioxide emissions, and planned operation.
 - (3) For non-renewable resources, the heat rate or carbon dioxide emissions profile of the power plant and the source of this information.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code; Section 54950, Government Code.

§ 2909 Compliance Filings

Within ten (10) business days after a local publicly owned electric utility enters into a covered procurement, the local publicly owned electric utility shall submit a compliance filing to the Energy Commission regarding the covered procurement. The compliance filing shall contain one paper copy with original signature and one electronic copy of the following:

- (a) An attestation, signed under penalty of perjury by an agent of the local publicly owned electric utility authorized by its governing body to sign on its behalf, that:
 - (1) the governing body has reviewed and approved in a noticed public meeting both the covered procurement and the compliance filing;
 - (2) based on the governing body's knowledge, information or belief, the compliance filing does not contain a material misstatement or omission of fact;
 - (3) based on the governing body's knowledge, information or belief, the covered procurement complies with this Article; and
 - (4) the covered procurement contains contractual terms or conditions specifying that the contract or commitment is void and all energy deliveries shall be terminated no later than the effective date of any Energy Commission decision pursuant to Section 2910 that the covered procurement fails to comply with this Article.
- (b) The documentation for the covered procurement as listed in Section 2908(c) if the covered procurement is a new or renewed contract or 2908(d) if the covered procurement is a new ownership investment.
- (c) For any covered procurement utilizing carbon sequestration pursuant to Section 2904(c), documentation demonstrating that Subsections 2904(c)(1)-(3) have been met.
- (d) For any covered procurement that permits system energy purchases, the source data and methodology the local publicly owned electric utility used in developing the level of expected output from the identified power plants, in order to demonstrate that the limits for system energy purchases were properly established.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2910 Compliance Review

The executive director shall review each compliance filing and make a recommendation to the full Energy Commission on whether the covered procurement complies with this Article. The executive director may, within 14 days after receipt of a compliance filing, notify the local publicly owned electric utility in writing that the compliance filing was not complete, and shall specify what information is missing from the filing. The Energy Commission shall consider the executive director's recommendation and shall, within 30 days after receipt of a complete compliance filing, issue a decision on whether the covered procurement described in the compliance filing complies with this Article.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2911 Compliance Investigation

The Energy Commission may on its own motion, or as a result of a request from any person, including, but not limited to, a member of the public, staff, or other agency, conduct a complaint or investigation proceeding, or both, pursuant to Chapter 2, Article 4, to determine a local publicly owned electric utility's compliance with this chapter. In conducting such a proceeding, the Energy Commission may require the production of information and documents beyond those made available to the public during consideration of the covered procurement or submitted with the compliance filing, including, but not limited to, contracts, staff assessments and reports to the utility's governing board, land use and air quality permits, continuous emissions monitoring data, and other information or documents that may aid in assessing compliance with this chapter.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2912 Case-by-Case Review for Reliability or Financial Exemptions

(a) A local publicly owned electric utility may petition the Energy Commission for an exemption from application of this chapter to a covered procurement that would not comply with the EPS. In order to qualify for an exemption, the local publicly owned electric utility must demonstrate that:

- (1) the covered procurement is necessary to address system reliability concerns; or
- (2) extraordinary circumstances, catastrophic events, or threat of significant financial harm will arise from implementation of this chapter due to unforeseen circumstances not previously contemplated in the establishment of this Article.

(b) Upon receipt of a petition, the executive director shall review and make a recommendation to the full Energy Commission on whether to grant the petition. The executive director may, within 14 days after receipt of a petition, notify the local publicly owned electric utility in writing of any additional information needed to review the petition. The Energy Commission shall consider the executive director's recommendation and shall issue a decision on whether to grant the petition within 30 days after receipt of the complete petition.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

Article 2. Provisions Applicable to Power plants Under 10 MW (Reserved)