CALIFORNIA
ENERGY
COMMISSION

California Code of Regulations

Title 20. Public Utilities and Energy

Division 2. State Energy Resources Conservation and Development Commission

REGULATIONS

AUGUST 2013
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EDMUND G. BROWN JR., *Governor*

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CALIFORNIA CODE OF REGULATIONS

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[Current as of August 2013]

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Division 2.
State Energy Resources
Conservation and Development Commission

Chapter 1. General Provisions

Article 1. Construction of Regulations

§ 1001. Interpretation.

The regulations in this chapter supplement the Warren-Alquist State Energy Resources Conservation and Development Act (Division 15 of the Public Resources Code).

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25213, Public Resources Code.

§ 1002. Service on the Commission.

Service of process may be made on the commission by personal service on the chairman, the executive director, or chief counsel, or as otherwise provided by law addressed as follows:

Energy Resources Conservation and Development Commission
1516 Ninth Street
Sacramento, CA 95814
Attn: Chief Counsel

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25218(c), Public Resources Code.

§ 1003. Computation of Time.

The time in which any act provided by these regulations is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday as defined in Sections 10 and 12 of the Code of Civil Procedure and then such day is also excluded.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 10 and 12, Code of Civil Procedure.

§ 1004. Partial Invalidity. [Repealed]

§ 1005. Use and Effect. [Repealed]

§ 1006. Service on the Commission. [Renumbered]

Note: Authority cited: Sections 25213, 25218(e), and 25218(f), Public Resources Code. Reference: Section 25218(c), Public Resources Code.

§ 1007. Computation of Time. [Renumbered]

Note: Authority cited: Sections 25213, 25218(e), and 25218(f), Public Resources Code. Reference: Sections 11120-11131, Government Code; Sections 25209-25703, not consecutive, Public Resources Code.

Chapter 2. Rules of Practice and Procedure

Article 1. Commission Meetings

§ 1101. Scope.

This article only applies to meetings conducted under Public Resources Code Section 25214.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1102. Meetings -Scheduling.

(a) The commission shall meet at least once every month.

(b) The time and place of meetings may be set by resolution of the commission, by written petition of a majority of the members, or by written call of the chairman. The chairman may, for good cause, change the starting time or place, reschedule, or cancel any meeting.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1103. Notice and Agenda.

(a) Time and Distribution. Notices shall be given to all members, ex officio members, the public adviser, to all parties to proceedings on the agenda, and to all persons who request in writing such notice.

(b) Agenda. The agenda shall be prepared by the executive director and shall include any item proposed by any member, the public adviser or the executive director.

(c) Emergencies. In all public emergency cases, every member and ex officio member and the public adviser shall be notified in person, by telephone, or by telegram.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25214 and 25217(a), Public Resources Code; and Section 11125, Government Code.

§ 1104. Meetings.

(a) Presiding Member. The chairman shall preside over all meetings of the commission at which he is present. In his or her absence, the vice chairman shall preside. If neither the chairman nor the vice chairman is in attendance, the member present who has the greatest seniority on the Commission shall preside. The presiding member may yield the chair.

(b) Robert's Rules of Order. Except as otherwise provided by this article and except when all the members present indicate otherwise, meetings of the commission shall be conducted pursuant to the latest edition of Robert's Rules of Order. Failure to comply with this subsection shall not invalidate any action of the commission.

(c) Order of Agenda. The presiding member may determine the order in which agenda items shall be considered.

(d) Consent Calendar. The agenda may include an item designated “the consent calendar.”

(1) The consent calendar shall include only those matters for which there appears to be no controversy. The consent calendar shall contain any such matter specified for inclusion by the person proposing the agenda item. A brief description of each matter on the consent calendar shall be included in the agenda.

(2) At the request of any member, any matter shall be removed from the consent calendar and may be considered at the same meeting as a separate item of business.

(3) After an opportunity for the requests to remove matters from the consent calendar has been given, a vote shall be taken on the consent calendar. If three members vote to approve the consent calendar, each matter on the consent calendar shall be approved and shall have the same force and effect as it would have if approved as a separate agenda item.

(e) Public Comments. Any person may submit comments in writing on any agenda item. Any person submitting such comments shall, if possible, provide the commission with either twelve paper copies of such comments, or one paper copy and electronic copies in the number, media and format specified in Section 1209.5 in advance of the meeting at which it is to be considered.

Any person present and so desiring shall be given an opportunity to make oral comments on any agenda item; provided however, that the presiding members may limit or preclude such comments as necessary for the orderly conduct of business.

Note: Authority cited: Section 25218, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1105. Permanent Record.

(a) The commission shall keep minutes of its meetings. Minutes shall be approved by the full commission and, upon approval, shall be signed by the chairman or other person designated by the chairman. Signed minutes shall be the original evidence of actions taken at any meeting, including the text of any resolutions adopted.

(b) Commission public meetings shall be recorded by stenographic reporter or electronic recording or both. The transcripts or recordings shall be kept at least one year and shall be available to the public for review at the commission's main office and such other offices as the commission may designate.

(c) Any person may photograph or record any public meeting of the commission so long as it does not disrupt the orderly conduct of business.

(d) Any person may petition the commission to correct a transcript of his own statements. Such petition shall be made within sixty days after the transcript has been made available to the public at the commission's main office. The commission shall consider any such petition as an item on the consent calendar pursuant to Section 1104(c) of these regulations.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25214, Public Resources Code.

Article 2. General Provisions

§ 1200. Scope.

Except as otherwise specifically indicated, the provisions of this article shall apply to all proceedings and hearings held before the commission or a committee thereof.

Note: Authority cited: Sections 25218(e) and 25218(f), Public Resources Code. Reference: Section 25214, Public Resources Code

§ 1201. Definitions.

The following definitions shall apply unless otherwise indicated:

(a) "Staff" means the staff of the State Energy Resources Conservation and Development Commission.

(b) "Respondent" means any person named in a complaint, pursuant to Section 1231 of these regulations, and alleged to be in violation of any regulation, order, decision, or statute adopted, administered, or enforced by the commission, and any person who is the subject of a complaint proceeding pursuant to Sections 1230 and 1231 of these regulations.

(c) "Complainant" means any person who files a complaint, pursuant to section 1231 of these regulations, alleging the violation of any regulation, order, decision, or statute adopted, administered, or enforced by the commission.

(d) "Intervenor" means any person who has been granted leave to intervene pursuant to these regulations.

(e) "Party" means any applicant, respondent, complainant, or intervenor, and the staff of the commission.

(f) "Presiding member" means the chairman of the commission or any member of the commission designated to preside over any proceeding pursuant to Section 1204 of these regulations.

(g) "Comment" means any oral or written statement made by any person, not under oath, in any proceeding before the commission.

(h) "Testimony" means any oral or written statement made under oath in any proceeding before the commission.

(i) "Witness" means any person who offers testimony in any proceeding before the commission.

(j) "Docket Unit" means the Docket Unit of the Energy Resources Conservation and Development Commission.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1202. Right of Any Person to Comment.

(a) Any person present and so desiring shall be given an opportunity to make oral comments on the subject matter of a proceeding; provided, however, that the presiding member may limit such comments as necessary for the orderly conduct of business. Except as otherwise provided, persons desiring to make oral comments are encouraged to notify the presiding member or the public adviser at least two (2) days prior to the hearing at which such comments are to be made.

(b) Any person desiring to submit written comments to the commission concerning the subject matter of a proceeding shall submit copies of such comments pursuant to Section 1209 of these regulations. Persons are encouraged to submit such comments at least five (5) days prior to the hearing, unless otherwise provided by order. Written comments shall be filed with the Docket Unit of the Energy Resources Conservation and Development Commission; provided, however, that during the actual conduct of a hearing, written comments may be filed with the presiding member.

COMMENT: The right to comment is not the limit of public participation in commission proceedings. For example, Section 1226 of these regulations provides the opportunity for persons to submit sworn testimony on specified issues in rulemaking and informational hearings, while Section 1227 provides a mechanism whereby persons interested in a proceeding may be permitted to ask or answer additional questions either orally or in writing. In addition, in those proceedings requiring greater formality, and in all adjudicatory proceedings, the commission permits intervention in the proceeding.
Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1203. Powers of the Chairman.

In addition to all other powers conferred by this article, the chairman or presiding member designated pursuant to Section 1204 shall have the power to:

(a) Request and secure such information as is relevant and necessary in carrying out the purposes of the proceeding.

(b) Issue subpoenas and subpoenas duces tecum at the direction of the commission, on his motion or upon application of any party. The application of a party shall be supported by a declaration of good cause.

(c) Regulate the conduct of the proceedings and hearings, including, but not limited to, disposing of procedural requests, admitting or excluding evidence, receiving exhibits, designating the order of appearance of persons making oral comments or testimony, and continuing the hearings.

(d) Set the time and place of hearings.

(e) Cancel a scheduled hearing or meeting. To the extent feasible, notice shall be given of any cancellation and the staff in consultation with the public adviser shall inform known interested participants by the most expeditious means possible.

(f) For good cause shown, and upon proper notice, shorten or lengthen the time required for compliance with any provision of these regulations.

Note: Authority cited: Sections 25213 and 25539, Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1204. Designation of Committees and Presiding Member; Quorum.

(a) Committees shall be designated in accordance with Public Resources Section 25211. During committee proceedings a presiding member shall exercise the powers and duties conferred on the chairman by this article.

(b) A quorum of a committee is one member.

(c) The commission may at any time withdraw any matter from a committee to allow consideration of the matter by the full commission.

(d) If a presiding member is unavailable during any portion of the proceedings, he may delegate his responsibilities to the second member of the committee.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25211, Public Resources Code.

§ 1205. Designation of Hearing Officer; Responsibilities.

The chairman may designate a hearing officer to assist a committee in the conduct of any proceeding held pursuant to this Division.

The Commission may authorize a hearing officer to preside over proceedings held pursuant to this Division, except for site certification proceedings pursuant to Chapter 5, Articles 1 through 5 of these regulations, Biennial Report proceedings, and rulemaking proceedings. In site certification proceedings pursuant to Chapter 5, Articles 1 through 5, of these regulations, a hearing officer may take evidence in the temporary absence of a Commission member as provided in Public Resources Code section 25211.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25211 and 25217, Public Resources Code

§ 1206. Representatives.

Any person may designate any other person, except those prohibited by Section 25205(d), Public Resources Code, to represent him or her for any purpose under this subchapter.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25205(d), Public Resources Code.

§ 1207. Intervenors.

(a) Any person may file with the Docket Unit or the presiding committee member a petition to intervene in any proceeding. The petition shall set forth the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the

petitioner desires to participate in the proceedings, and the name, address, and telephone number of the petitioner.

(b) n a power plant siting case, the petition shall be filed no later than the Prehearing Conference or 30 days prior to the first hearing held pursuant to sections 1725, 1748, or 1944 of this Chapter, whichever is earlier, subject to the exception in subsection (c) below. The petitioner shall also serve the petition upon the Applicant.

(c) The presiding member may grant leave to intervene to any petitioner to the extent he deems reasonable and relevant, but may grant a petition to intervene filed after the deadline provided in subdivision (b) only upon a showing of good cause by the petitioner. Any person whose petition is granted by the presiding member shall have all the rights and duties of a party under these regulations.

(d) Any petitioner who has been denied leave to intervene by the presiding member may appeal the decision to the full commission within fifteen (15) days of the denial. Failure to file a timely appeal will result in the presiding member's denial becoming the final action on the matter.

(e) Any petitioner may withdraw from any proceeding by filing a notice to such effect with the Docket Unit or presiding committee member.
Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1208. Conferences; Purpose; Notice; Order.

The presiding member or hearing officer may hold a conference with the parties, the public adviser, the chief counsel, and any other persons interested in the proceeding, at any time he deems necessary, for the purpose of formulating the issues, organizing the questioning of witnesses, determining the number of witnesses, providing for the exchange of exhibits or prepared statements, and such other matters as may expedite the orderly conduct of the proceedings. The public adviser may, upon request, present the views submitted by persons interested in the proceeding who are unable to attend.

(a) The conference shall be publicly noticed and the notice served in person or by mail on all parties at least ten (10) days before the conference.

(b) The presiding member may enter an order which specifies issues or states any other matter to aid in the orderly conduct of the hearing, and may, upon agreement of all the parties, accept stipulations of law or fact.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1209. Form of Submissions.

(a) Except for drawings, photographs, maps, diagrams, charts, graphs, or similar documents and exhibits, all formal paper filings and accompanying materials submitted to the commission pursuant to these regulations shall be typewritten or printed on paper eight and one-half (81/2) inches wide and eleven (11) inches long. To the extent possible, all attachments thereto, including drawings, photographs, maps, diagrams, charts, graphs, and similar documents, and all other exhibits, shall be folded to the same size. To the extent possible, no

document should be larger than eleven (11) inches wide and seventeen (17) inches long unfolded. Documents should be printed on both sides of the page. Clear, permanently legible copies made by any reproduction process may be submitted. Pages shall be bound securely and shall be consecutively numbered. Formal filings may also be submitted electronically. Electronic copies shall be in the number, media, and format specified in Section 1209.5.

(b) All filings and accompanying materials, including exhibits not attached to other materials, shall show the following on a title page or cover:

(1) the title of the proceedings before the commission;

(2) the docket number, if any, assigned by the commission;

(3) the nature of the material;

(4) the name, address, and telephone number of the person submitting the material.

(c) Unless otherwise specified in these regulations or required by the commission or the executive director, any person submitting written materials in connection with a proceeding before the commission shall provide twelve (12) paper copies thereof, including one original paper copy. The Docket Unit shall photocopy and distribute submitted material in the normal course. Alternatively, a person may provide one original paper copy and electronic copies in the number, media and format specified in Section 1209.5.

(d) Unless otherwise specified in these regulations all materials filed with the commission shall be filed with the Docket Unit. The executive director shall assure the proper distribution of such materials and shall assure that all materials submitted to the commission shall be made available at the Docket Unit to the public in accordance with provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1 of the Government Code, and commission regulations.

(e) Unless otherwise stated in these regulations, in other applicable law, or by order of the commission or a committee thereof, a document is filed, received, or similarly submitted when it is delivered in paper or electronic format to the Docket Unit.

(f) Filing pursuant to this section does not satisfy the requirement that a party serve a copy of its documents on every other party in a proceeding, contained in section 1210.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25223, Public Resources Code.

§ 1209.5. Electronic Filing.

(a) Electronic documents may be submitted in any of the following media in the number of copies specified:

(1) Two CD-ROMs (read only);

(2) Two magnetic diskettes;

(3) One internet e-mail; or

(4) Any other media and number of copies authorized by the Executive Director.

(b) The format version used must be noted on the media. Charts, graphs, drawings, maps, and photographs should be incorporated within the document, but may be included in an appendix. Maps and photographs may be submitted as paper copies in the number specified by the executive director.

(c) Electronic documents shall be provided in the Portable Document Format (PDF), or its equivalent, as determined by the executive director.

(1) The executive director may waive the format requirement if it is shown to constitute an undue burden on the submitter of a document. A written request for a waiver may be submitted to the executive director at any time prior to the filing of a document. The request shall include a description of each such document and a discussion of the reasons why the format specified in (c) above is an undue burden. The requesting party may not file the electronic document while such a request is pending. If a request is granted, the executive director shall specify the format allowed. The executive director shall act on all such requests within 15 days.

(d) Documents shall be delivered to the Dockets Unit in one of the following ways:

(1) by personal delivery to the Dockets Unit;

(2) by electronic transfer (e-mail) of smaller documents (5MB maximum file size) to: docket@energy.state.ca.us;

(3) by first class mail, or other equivalent delivery service, with postage prepaid; or

(4) in any other delivery method approved by the Executive Director.

(e) Data the submitter considers confidential must be filed as a separate document with an application for confidential designation pursuant to Section 2505.

Note: Authority cited: Sections 25216.5(a) and 25218(e), Public Resources Code. Reference: Section 25223, Public Resources Code.

§ 1210. Filing by Parties.

(a) Unless otherwise provided by the presiding member, a paper copy of all written material filed by any party in a proceeding shall be served in person or by first class mail, or other equivalent delivery service, with postage prepaid, on every other party to the proceeding, except where a party requests an electronic copy when available. Any party so requesting shall be served with an electronic copy in a manner pursuant to section 1209.5 regarding electronic filings.

(b) The Docket Unit shall promulgate and make available a list which shall include the names and addresses of all parties to a proceeding.

(c) Any filing by a party shall include a proof of service in compliance with subsection (a) of this section.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1211. Submission of Exhibits; Filing.

Any exhibits, including charts, graphs, maps, and other documents relevant to testimony or comments may be submitted to the presiding member at any hearing, or, subject to the discretion of the presiding member, filed with the Docket Unit at any time before the close of the proceeding.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1212. Rules of Evidence.

The following rules of evidence shall apply to any adjudicatory proceeding of the commission and in such other proceedings as the commission may determine by order.

(a) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant noncumulative evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(b) Oral or written testimony offered by any party shall be under oath.

(c) Subject to the exercise of the lawful discretion of the presiding committee member as set forth in Section 1203(c), each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matters relevant to the issues in the proceeding, and to rebut evidence against such party. Questions of relevance shall be decided by the presiding committee member.

(d) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objections in civil actions.

The presiding member may establish such additional rules as necessary for the orderly conduct of the proceeding.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1213. Official Notice.

During a proceeding the commission may take official notice of any generally accepted matter within the commission's field of competence, and of any fact which may be judicially noticed by the courts of this state. Parties to a proceeding shall be informed of the matters to be noticed, and those matters shall be noted in the record, or attached thereto. Any party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1214. Record and Transcript.

The presiding member shall cause a formal record of the proceedings to be made. The record shall consist of the official minutes or a transcript of each hearing or conference held during the proceedings, all pleadings, written testimony, and briefs submitted by any party, any order entered pursuant to Section 1208(b), all questions and answers of witnesses submitted pursuant to Section 1225, any exhibits accepted into the record pursuant to Section 1211, any written comments submitted pursuant to Section 1202(b), and the record of all ex parte contacts filed pursuant to Section 1216 of these regulations, together with such other items as the presiding member may direct. The presiding member may cause a transcript of any conference held pursuant to Section 1208 to be made and entered into the record.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1215. Interlocutory Orders and Appeals.

(a) During proceedings before a committee, a party may request that a ruling of the committee or presiding member be issued in the form of a written order. Any such request shall be made no later than five calendar days following the ruling.

(b) Any party may petition the full commission to review any order prepared pursuant to subsection (a) of this section. Any such petition shall be filed within ten days of the date of the order being issued; provided, however, that rulings of the presiding member or committee may not be appealed during the course of hearings or conferences except in extraordinary circumstances where prompt decision by the commission is necessary to prevent detriment to the public interest. In such instances, the matter shall be referred forthwith by the presiding member to the commission for determination.

(c) Unless the commission acts upon questions referred by the presiding member to the commission or upon a petition to review an order of the presiding member or committee within thirty (30) days after the referral or filing of the petition, whichever is later, such referrals or petitions shall be deemed to have been denied. The commission may act by formally denying the petition or by vacating or amending the committee order.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1216. Ex Parte Contacts.

(a) The ex parte provisions of Article 7 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code (sections 11430.10 et seq.) apply to all adjudicative proceedings conducted by the commission. For purposes of this section “presiding officer” means all commissioners and all hearing advisors.

(b) An adviser to a commissioner or any other member of a commissioner's own staff shall not be used in any manner that would circumvent the purposes and intent of this section.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 11430.10-11430.80, Government Code; and Section 25210, Public Resources Code.

§ 1217. Informal Hearings.

The commission may choose to implement the informal hearing procedures identified in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code (sections 11445.10 et seq.) when conducting an adjudicative proceeding.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 11445.10-11455.60, Government Code; and Section 25210, Public Resources Code.

§ 1218. Ex Parte Contacts. [Renumbered]

Note: Specific reference: Section 25500 et seq., Public Resources Code.

§ 1219. Interim Regulations for Adjudicatory Procedure. [Repealed]

Note: Authority cited: Section 11400.21, Government Code. Reference: Section 11400.21, Government Code.

Article 3. Rulemaking and Informational Hearings

§ 1220. Scope.

(a) "Rulemaking proceedings" shall include any hearings designed for the adoption, amendment, or repeal of any rule, regulation, or standard of general application, which implements, interprets or makes specific any provision of Division 15 of the Public Resources Code or any other statute enforced or administered by the commission.

(b) "Informational proceedings" shall include any hearings designed to gather and assess information to assist the commission in formulating policies; informing the public of commission actions; or obtaining public comment and opinion.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1221. Petitions.

(a) Any person may petition the commission to request rulemaking hearings. Such petition shall include:

(1) the name, address, and telephone number of the petitioner;

(2) the substance or nature of the regulation, amendment, or repeal requested;

(3) the reasons for the request;

(4) reference to the authority of the commission to take the action requested.

(b) Such petition shall be filed with the executive director who shall within seven (7) days after its filing determine whether the petition contains the information specified in subsection (a).

(1) If the executive director determines that the petition is complete, he or she shall so certify in writing and shall inform the petitioner.

(2) If the executive director determines that the petition is not complete, it shall be returned to the petitioner accompanied by a statement of its defects. The petitioner may correct the petition and resubmit it at any time.

(c) Upon certification by the executive director, the commission shall, within thirty (30) days from the filing of the petition, deny the petition, stating the reason for the denial in writing, or grant the petition, directing the staff to prepare an appropriate order pursuant to section 1222 of these regulations.

(d) Nothing in this section shall operate to limit the opportunity of any member of the public to be heard at commission meetings and hearings, as provided by section 25214 of the Public Resources Code.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 11347 and 11347.1, Government Code.

§ 1222. Commission Orders.

(a) The commission may, upon its own motion or upon granting a petition filed pursuant to section 1221 of these regulations, adopt an order to institute a rulemaking proceeding in accordance with the procedures of Sections 11346.4, 11346.5 11346.7, and 11346.8 of the Government Code.

(b) The commission may, upon its own motion, adopt an order to institute an informational proceeding. The order shall include:

(1) the date of the first hearing;

(2) a statement indicating whether the commission or a committee thereof will hold additional hearings on the matter;

(3) a statement of the authority pursuant to which the hearing is ordered, and a reference to any code sections or other provisions of law pursuant to which the information is to be gathered or disseminated;

(4) a statement of the nature and purpose of the proceedings;

(5) a statement requiring the presence and participation of such persons as the commission may direct, consistent with the nature and purpose of the proceedings.

(c) In addition to the requirements of subsections (a) and (b) of this section, every order instituting hearings pursuant to this section shall contain:

(1) a statement informing members of the public of the function and availability of the public adviser;

(2) a statement indicating the time during which written comments will be received, and the manner by which such comments shall be filed;

(3) a statement that any person may make oral comments on the subject of the proceeding;

(4) a statement setting forth additional procedures deemed necessary by the commission and not inconsistent with these regulations. Such pro cedures may include one or more provisions contained in section 1212 of these regulations.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25210 and 25214, Public Resources Code.

§ 1223. Notice.

(a) Notice of a rulemaking proceeding shall be given in accordance with Government Code Section 11346.4.

(b) At least fourteen (14) days prior to the first hearing in an informational proceeding ordered pursuant to Section 1222(b), the executive director shall cause notice of the hearing to be mailed to every person who requested such notice in writing, to every person requested to participate in such proceedings, and to any person who the executive director, in conjunction with the public adviser, determines to be concerned with the subject matter of the proceeding.

(c) In addition to the requirements of subsections (a) and (b) of this section, notice of additional hearings shall be required at least ten (10) days prior to the commencement of such hearings.

(d) Nothing in this section shall preclude the commission from publishing notice in such additional forms or media as the executive director, in conjunction with the public adviser, may prescribe.

(e) A copy of the order adopted pursuant to Section 1222 of these regulations shall accompany the initial notice prepared and mailed pursuant to this section, unless a copy of the order has been previously mailed to those persons who would receive such notice.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1224. Use of Testimony.

(a) The commission, or a committee thereof, may require by order instituting hearings, prehearing conference order, or other proper notice that evidence on specified issues of fact or matters of technical expertise be presented as sworn testimony. Such requirements shall not preclude unsworn oral or written comments from being offered in the proceeding.

(b) The presiding member may require that prepared written testimony or other evidence be submitted in advance of any hearing, for the purpose of facilitating the orderly consideration of issues at the hearing.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25211, Public Resources Code.

§ 1225. Questioning.

(a) Questions from commissioners or staff are in order at any time. At the close of an oral statement, the presiding member may allow other persons to question a witness or person presenting a statement; provided, however, that persons not submitting sworn testimony shall not be compelled to answer such additional questions without their consent.

(b) The presiding member may, at his discretion, limit the time and scope of oral questioning.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1226. Use of Testimony. [Renumbered]

§ 1227. Questioning. [Renumbered]

Article 4. Complaints and Investigations (Refs & Annos)

§ 1230. Scope.

(a) Complaint proceedings shall include any adjudicatory proceeding in which the commission determines whether to sanction, or take other appropriate action against, a person for an alleged violation of any statute, order, decision, or regulation adopted, administered, or enforced by the commission, including but not limited to a proceeding pursuant to Public Resources Code section 25534.1. Investigation proceedings shall include any adjudicatory proceeding in which the commission determines the applicability of any statute, order, decision, or regulation adopted, administered, or enforced by the commission. A single proceeding may involve both a complaint and an investigation.

(b) Standing committees to exercise the complaint or investigatory functions of the commission may be established pursuant to Section 1204(a). The order establishing a committee shall designate the area of commission jurisdiction over which a committee shall exercise the complaint or investigatory function.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1231. Complaints and Requests for Investigation; Filing.

Any person, including but not limited to the commission staff or the owner or operator of a powerplant or transmission line, may file a complaint alleging a violation of a statute, regulation, order, program, or decision adopted, administered, or enforced by the commission. Any complaints alleging noncompliance with a commission decision adopted pursuant to Public Resources Code section 25500 et seq. must be filed solely in accordance with section 1237. Any person may also file a request for investigation, including a request for a jurisdictional determination regarding a proposed or existing site and related facilities.

(a) A complaint or request for investigation shall be filed with the Chief Counsel of the commission.

(b) The complaint or request for investigation shall include:

(1) the name, address, and telephone number of the person filing the complaint (complainant) or request for investigation (petitioner);

(2) the name, address, and telephone number of the person allegedly violating the statute, regulation, order, or decision (respondent) or, in the case of a request for a jurisdictional investigation, the name, address, and telephone number of the person owning or operating, or proposing to own or operate, the project which is the subject of the request for investigation (respondent);

(3) a statement of the facts upon which the complaint or request for investigation is based;

(4) a statement indicating the statute, regulation, order, or decision upon which the complaint or request for investigation is based;

(5) the action the complainant or petitioner desires the commission to take;

(6) the authority under which the commission may take the action requested;

(7) a statement by the complainant or petitioner specifically listing the names and addresses of any other individuals, organizations, and businesses which the complainant or petitioner knows or has reason to believe would be affected by the relief sought; and

(8) a declaration under penalty of perjury by the complainant or petitioner attesting to the truth and accuracy of any factual allegations contained in the complaint or request for investigation. If any of the applicants are corporations or business associations, the declaration shall be dated, signed, and attested to by an officer thereof. Where a declaration is filed on behalf of a joint venture or proposed joint venture, all members of the joint venture or proposed joint venture shall date, sign, and attest to the declaration.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1232. Complaints and Requests for Investigation; Commission Response.

(a) Within 30 days after the receipt by the Chief Counsel of a complaint or request for investigation, the committee, or if none has been assigned, the chairman, shall:

(1) dismiss the matter upon a determination of insufficiency or lack of merit of the pleadings, specifying whether the dismissal is with or without prejudice; or

(2) serve the complaint or request for investigation by certified mail, return receipt requested, upon the respondent. All other persons identified in Section 1231(b)(7) shall be served by first class mail. In addition, the committee, or if none has been assigned, the chairman, may take additional steps to notify other individuals, organizations, and businesses which the committee or the chairman has reason to believe would be adversely affected by a decision. When serving the complaint, the committee, or if none has been assigned, the chairman, shall also provide a copy of the commission's governing procedure, including a statement whether the provisions of Government Code section 11400 et seq. are applicable to the proceeding.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1233. Answers to Complaints and Requests for Investigation.

(a) The respondent shall file and serve an answer with the complainant or petitioner, the commission, and all persons identified in Sections 1231(b)(7) and 1232(a)(2) within 21 days after service of the complaint or request for investigation pursuant to Section 1232(a)(2).

(b) The answer shall include:

(1) an admission or denial of each material allegation;

(2) an explanation of any defenses raised by the respondent; and

(3) a declaration as provided in Section 1231(b)(8).

(c) Where the petitioner seeks clarification of the jurisdictional status of its own project, no answer shall be required.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1233.5. Staff Assessment.

If the entity filing the complaint or request for investigation is other than the commission staff, the committee, or if none has been assigned, the chairman, may direct commission staff to prepare a written assessment of the complaint or request for investigation and the answer. The staff assessment shall be filed and served by first class mail on complainant or petitioner, the commission, and all persons identified in Sections 1231(b)(7) and 1232(a)(2) within 7 days of service of the answer provided pursuant to Section 1233.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.

§ 1234. Notice and Hearing.

(a) The hearing shall be scheduled to commence no sooner than 21 days after receipt of the answer and no later than 90 days after the receipt by the General Counsel of the complaint or request for investigation. The hearing may be scheduled before the full commission, a committee designated by the commission, or a hearing officer assigned by the chairman at the request of the committee as provided in Section 1205.

(b) The commission shall provide written notice by first class mail to all petitioners, respondents and persons identified in Sections 1231(b)(7) and 1232(a)(2) no fewer than 14 days before the first hearing on the matter. The notice shall contain:

(1) the names and addresses of all named complainants, petitioners, and respondents;

(2) a statement concerning the nature of the complaint or request for investigation, with an identification of the statute, regulation, order, or decision at issue;

(3) an explanation of the action the commission may take;

(4) the date, place, and time of any hearing in the matter; and

(5) a statement concerning the availability of the public adviser.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.

§ 1235. Proposed Decision.

If the matter is heard before an assigned committee or hearing officer, appointed pursuant to Section 1205, the committee or hearing officer shall make its recommendation to the full commission in the form of a written proposed decision within 21 days following the close of hearings held pursuant to Section 1234.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.

§ 1236. Commission Decision.

(a) Upon consideration of a proposed decision from a committee or hearing officer, the commission shall, to the extent reasonably possible, prepare a decision within 21 days of the filing of the proposed decision that:

(1) adopts, modify, or reject the proposed decision; or

(2) remands the matter to the committee or hearing officer for further hearings; or

(3) reopens the evidentiary record and itself conduct further hearings.

(b) When considering a proposed decision from a committee or hearing officer, the commission may limit presentations by all participants to written and oral submissions based upon the existing evidentiary record.

(c) In cases where the commission, rather than a committee or hearing officer hears the case, to the extent reasonably possible, the commission shall make a decision within 21 days following the close of hearings.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.

§ 1236.5. Public Participation and Intervention.

To the extent deemed relevant by the presiding member, any person may testify or comment during a complaint or investigatory hearing. A person may request to become a formal party by intervening by following the procedures identified in Section 1207.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.

§ 1237. Post-Certification Complaints.

(a) Any person must file any complaint alleging noncompliance with a commission decision adopted pursuant to Public Resources Code section 25500 and following solely in accordance with this section. All such complaints shall be filed with the Docket Unit and submitted to the designated compliance project manager for investigation and shall include the following information:

(1) the name, address, and telephone number of the person filing the complaint (complainant);

(2) the name, address, and telephone number of the person owning or operating, or proposing to own or operate, the project which is the subject of the complaint;

(3) a statement of facts upon which the complaint is based;

(4) a statement indicating the statute, regulation, order, decision, or condition of certification upon which the complaint is based;

(5) the action the complainant desires the commission to take;

(6) the authority under which the commission may take the action requested, if known; and

(7) a declaration under penalty of perjury by the complainant attesting to the truth and accuracy of the statement of facts upon which the complaint is based.

(b) Upon completion of the investigation of the alleged noncompliance, the commission staff shall file a report with the Docket Unit and with the committee assigned pursuant to section 1204 to hear such complaints, or the chairman if none has been assigned, setting forth the staff's conclusions. The report shall be filed no later than 30 days after the receipt by the designated compliance project manager of the complaint and shall be provided to the complainant, project developer, and other interested persons.

(c) If the commission staff is the complainant, it shall file a report with the Docket Unit and with the appropriate committee, detailing the noncompliance and explaining any steps taken to attempt to remedy the noncompliance. The committee shall act on the report in accordance with subsection (e).

(d) Any person may submit written comments on the complaint or staff report within 14 days after issuance of the staff report.

(e) Within 30 days after issuance of the staff report, the committee shall:

(1) dismiss the complaint upon a determination of insufficiency of the complaint or lack of merit;

(2) issue a written decision presenting its findings, conclusions or order(s) after considering the complaint, staff report, and any submitted comments; or

(3) conduct hearings to further investigate the matter and then issue a written decision.

(f) If either the project owner or the complainant is not satisfied with the committee decision, they may appeal to the full commission within 14 days after issuance of the decision. The commission, within 30 days of receipt of the appeal and at a noticed business meeting or hearing, shall issue an order sustaining the committee's determination, modifying it, overturning it, or remanding the matter to the committee for further hearings.

Note: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25362(b), 25500, 25534, 25534.1, 25900 and 25967, Public Resources Code.

§ 1238 Decision and Sanctions. [Repealed]

Chapter 3. Data Collection

Article 1. Quarterly Fuel and Energy Reports

§ 1301 Title.

The Reports described in this Article shall be known as the Quarterly Fuel and Energy Reports.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code; and Sections 9615 and 9620, Public Utilities Code.

§ 1302 Rules of Construction and Definitions.

(a) Rules of Construction.

(1) Where the context requires, the singular includes the plural and the plural includes the singular.

(2) The use of “and” in a conjunctive position means that all elements in the provision must be complied with, or must exist to make the provision applicable. Where compliance with one or more elements suffices, or where existence of one or more elements make the provision applicable, “or” (rather than “and/or”) is used.

(b) Definitions. In this Article, the following definitions apply unless the context clearly requires otherwise:

(1) “California offshore lands” means all lands under California state jurisdiction pursuant to subdivision (a)(2) of 43 U.S.C. Section 1301.

(2) “Cogenerator” means a power plant that produces (1) electricity; and (2) useful thermal energy for industrial, commercial, heating, or cooling purposes.

(3) “Company” means any person, firm, association, organization, partnership, business trust, corporation, or public entity, or any subsidiary, parent, affiliate, department, or agency thereof.

(4) “Control area” means an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the Western Electricity Coordinating Council.

(5) “Core customer” means a natural gas customer that consumes less than 20,800 therms of natural gas per month.

(6) “Customer” means an active billed account, of a UDC, an LSE, or a gas utility.

(A) “Bundled customer” means an end-user who receives generation services from the same LSE from which it receives distribution services.

(B) “Unbundled customer” means an end-user who receives generation services from one LSE and distribution services from a UDC that is a separate entity from that LSE.

(7) “Customer Classification Code” means NAICS codes and the following codes:

(A) RE0000 for residential service;

(B) 925190 for streetlighting service;

(B) 221311 for water supply service;

(D) 221312 for irrigation system service; and

(E) 999999 for unclassified service.

(8) “Customer sector” means the following:

(A) residential customer sector: private households, including single and multiple family dwellings, plus NAICS code 81411;

(B) commercial building customer sector: NAICS codes 115, 2372, 326212, 42, 44-45, 48841, 493, 512, 516, 518, 519, 52-55, 561, 61, 62 (excluding 62191), 71, 72, 81 (excluding 81411), and 92 (excluding 92811);

(C) other commercial customer sector: NAICS codes 221 (excluding 22131), 48 (excluding 48841), 49 (excluding 493), 515, 517, 562, 62191, and 92811;

(D) industry customer sector: NAICS codes 11331, 31-33, 511, and 54171;

(E) other industry customer sector: NAICS codes 21 and 23 (excluding 2372);

(F) agriculture customer sector: NAICS codes 111, 112, 113 (excluding 11331), and 114;

(G) water pumping customer sector: NAICS code 22131;

(H) street lighting customer sector: lighting of streets, highways, other public thoroughfares, other outdoor area lighting, and traffic control lighting.

(9) “Customer group” means the following:

(A) residential: customers consuming electricity for residential purposes;

(B) commercial: customers consuming electricity for commercial purposes;

(C) industrial: customers consuming electricity for industrial purposes; and

(D) other: customers consuming electricity for other purposes.

(10) "Demand" means the rate at which electricity is delivered by generation, transmission, and distribution systems, measured in units of watts or standard multiples thereof, (e.g., 1,000 Watts = 1 kilowatt, 1000 kilowatt = 1 megawatt) or the rate at which natural gas, measured as million cubic feet per day, is consumed by the customer.

(11) "Distribution service" means those services provided by a UDC when it constructs, maintains, and utilizes power lines and substations to transmit electrical energy within its distribution service area to end-users.

(12) "Distribution service area" or "UDC service area" means the geographic area where a UDC distributes, or has distributed during an applicable reporting period, electricity to consumers.

(13) "EIA" means the Energy Information Administration of the United States Department of Energy.

(14) "Electric generator" means a machine that converts mechanical energy into electrical energy; or a device that converts non-mechanical energy to electricity directly, including without limitation photovoltaic solar cells and fuel cells.

(15) "Electric transmission system owner" means an entity, or where there is more than one owner, the majority of plurality owners or the managing partner, that owns an interconnected group of lines and associated equipment for the movement or transfer of electric energy between points of supply and points at which it is transformed for delivery to customers or is delivered to other electric systems.

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

(17) "End user" means any company that consumes electricity or natural gas for its own use and not for resale.

(18) "Executive Director" means the Executive Director of the Commission, or his or her designee.

(19) "Fuel cost" means the delivered cost of fuel consumed by an electric generator, expressed in dollars.

(20) "Fuel use" means the amount of fuel, expressed in both physical units such as cubic foot, barrel, or ton, and in heat content such as Btus, used for gross generation, or for any other purpose related to the operation of an electric generator including without limitation providing spinning reserve, start-up, or flame stabilization.

(21) “Gas processor” means any company that extracts, in California, natural gas liquids from natural gas produced from California reservoirs.

(22) “Gas retailer” means any company that (a) sells natural gas to end users or customers located in California, (b) produces and consumes natural gas on-site in California (except for gas consumed for gathering, processing, or compressing purposes), or (c) produces natural gas at one site and consumes natural gas at another site that is in California and that is owned or controlled by the company.

(23) “Gas service area” means the geographic area where a gas utility distributes, or has distributed during an applicable reporting period, natural gas to customers.

(24) “Gas utility” means any company that is (a) engaged in, or authorized to engage in, distributing or transporting natural gas or natural gas liquids, and that is (b) either owned or operated by a governmental public entity or regulated by the California Public Utilities Commission.

(25) “Generation service” means those services provided by an LSE when it procures electrical energy for consumption by its end-user customers.

(26) “Gross generation” means the total amount of electricity produced by an electric generator.

(27) “Hourly demand” means demand integrated over a single clock hour, measured in megawatt hours.

(28) “Hourly load” means the chronological sequence of hourly demands for a specified subset of, or for all customers of, an LSE for a specified interval of time.

(29) “Hourly sector load” means the hourly load of customer sectors measured at customer meters. Hourly sector data does not include losses.

(30) “Hourly system load” means the hourly load of a UDC or a control area, measured at power plants and at interconnections. Hourly system load includes losses.

(31) “Interchange” means electric power or energy that flows from one control area to another control area.

(32) “Interstate pipeline” means any pipeline that crosses a state border and that is under the regulatory authority of the Federal Energy Regulatory Commission or its successors.

(33) “Interstate pipeline company” means a company that owns or operates an interstate pipeline that delivers natural gas to California at the state's border or inside California's borders.

(34) “Load-serving entity” or “LSE” means any company that (a) sells or provides electricity to end users located in California, or (b) generates electricity at one site and consumes electricity at another site that is in California and that is owned or controlled by the company. LSE does not include the owner or operator of a cogenerator.

(35) “Local publicly-owned electric utility” or “local publicly owned electric utility” has the same definition as provided in Public Utilities Code section 9604.

(36) “Losses” means electricity that is lost, primarily as waste heat, as a natural part of the process of transmitting electricity from power plants to end-users.

(37) “Major customer sector” means the following:

(A) “residential major customer sector,” which means residential customer sector;

(B) “commercial major customer sector,” which means commercial building customer sector;

(C) “industrial major customer sector”, which means the sum of industry customer sector, and other industry customer sector; and

(D) "other major customer sector", which means the sum of agriculture customer sector, other commercial customer sector, street lighting customer sector, and water pumping customer sector.

(38) "Monthly system peak demand" means the highest system hourly demand in a calendar month.

(39) "Nameplate capacity" means the full-load continuous rating of an electric generator or a power plant under specific conditions as designated by the manufacturer.

(40) "Natural gas liquids" means liquid products that are produced at natural gas processing facilities and that are gaseous at reservoir temperatures and pressures but are recoverable by condensation or absorption.

(41) "Natural gas sales" means the amount of natural gas sold by a Gas Retailer to a customer.

(42) "Net generation" means gross generation less plant use by an electric generator for auxiliary equipment.

(43) "Noncore customer" means a natural gas customer that is not a core customer.

(44) "North American Industry Classification System" or "NAICS" means the system of classification for business establishments set forth in the North American Industry Classification System United States Manual of 2002 (Executive Office of the President, Office of Management and Budget, Washington, D.C.), and as revised for 2007 pursuant to 71 Fed. Reg. 28532 (May 16, 2006).

(45) "NAICS Code" means the applicable 6-digit (unless otherwise specified) code in the NAICS for the entity being classified.

(46) "Outer continental shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in 43 U.S.C. Section 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(47) "Peak demand" means the highest hourly integrated net energy for load within a certain period (e.g., in a month, a season, or a year).

(A) For a UDC, peak demand is the sum of all net energy for load, within a specific operating hour, for all LSEs providing generation services within a UDC's service area.

(B) For each LSE, peak demand is the sum of all net energy for load, including assignable losses, within a specific operating hour for the specific customers to which the LSE provides generation services.

(C) "Net energy for load" means generation energy injected into a specific electrical system, plus energy received from other systems less energy delivered to other systems through interchange. It includes losses, but excludes energy required to operate storage facilities or plant use by a generator.

(48) "Person" means an individual human being.

(49) "Plant use" means the electricity used in the operation of an electric generator, or the electricity used for pumping at pumped storage power plants.

(50) "Power plant" means a plant located in California or a California control area that contains one or more prime movers, one or more electric generators, and appropriate auxiliary equipment.

(51) "Power plant owner" means any company that owns a power plant, or, where there is more than one owner, the majority or plurality owner or the managing partner.

(52) "Prime mover" means the engine, gas turbine, steam turbine, water wheel, or other machine that produces the mechanical energy that drives an electric generator; or a device that converts non-mechanical energy to electricity directly, including without limitation photovoltaic solar cells and fuel cells.

(53) "Stocks" means quantities of oil, natural gas, or natural gas liquids representing actual measured inventories corrected to 60 degrees Fahrenheit less basic sediment and water where an actual physical measurement is possible. Stocks include domestic and foreign quantities held at facility and in transit thereto, except those in transit by a pipeline.

(54) "Submitted" means, with regard to data, a report, or an application that must be submitted by a specified date, that the data is received at the Commission by that date and that the data, report, or application is complete, accurate, and in compliance with the applicable requirements of this Article and with the forms and instructions specified under Section 1303 and 1342.

(55) "Tolling Agreement" means a contractual arrangement whereby the buyer of electricity agrees to provide specified amounts of natural gas to a power plant for conversion to specified amounts of electric energy over a specified period of time.

(56) "Utility distribution company" or "UDC" means an electric utility, or a business unit of an electric utility, that distributes electricity to customers.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25100-25141, 25216, 25216.5, 25300, 25301, 25302, 25302.5, 25303, 25324, 25330 et seq., 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code; and Sections 9615 and 9620, Public Utilities Code.

§ 1303. General Rules for All Reports.

(a) Submittal of Reports. Each entity subject to reporting requirements identified in this Article shall also submit to the Commission all of the applicable data and reports listed in this Section.

(b) Forms and Instructions. The data and reports shall be submitted on forms, and in accordance with instructions for the forms, specified by the Executive Director, which may include without limitation a requirement that the data or reports be submitted in electronic format generally or in a specific electronic format. The Executive Director shall consult with interested companies before specifying forms and instructions adopted by the Energy Commission.

(c) Monthly Reports and Data. Unless provided otherwise, data or reports referred to as "monthly" shall be submitted for the previous month on the 15th day of each month.

(d) Quarterly Reports and Data. Unless provided otherwise, data or reports referred to as "quarterly" shall be submitted for the previous calendar quarter on the 15th day of February, May, August, and November. Quarterly data or reports may, as specified in this Article, be required to contain data on a month-by-month basis.

(e) Annual Reports and Data. Unless provided otherwise, data or reports referred to as "annual" or "annually" shall be submitted for the previous calendar year on the 15th day of February. Annual data or reports may, as specified in this Article, be required to contain data on a month-by-month or quarter-by-quarter basis. Publicly-owned utilities that operate on a fiscal year basis may chose to provide annual reports containing financial information and data submissions containing financial information within 75 days of the close of the fiscal year in lieu of providing those reports and data on the 15th day of February.

(f) Extension of Deadlines Specified in this Article. The company responsible (or delegated the responsibility under Section 1303(g)) for submitting data, a report, or an application may apply for and receive from the Executive Director an extension of the deadlines established in this Article. The Executive Director shall act on an application within five business days after it is received at the Commission. The Executive Director's decision may be appealed to the full Commission; the Commission shall act on an appeal within 14 days after the appeal is received; the Commission may summarily deny an appeal without a hearing. An extension, which shall be no more than 30 days, shall be granted if:

(1) The company submits and the Commission receives, no later than 15 days before the data, report, or application is due an application that includes:

(A) the full legal name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the company submitting the application;

(B) the name, address of the principal place of business, telephone number, fax number, and e-mail address of the person employed by the company submitting the application, who should be contacted with questions about the application;

(C) the name of the report and the Sections of these regulations applicable to the data, report, or application;

(D) the reasons why the company believes the data, report, or application cannot be, or may not be able to be, submitted on time;

(E) the measures the company is taking to complete the data, report, or application on time or as soon thereafter as possible;

(F) the date the company believes the data, report, or application will be submitted; and

(G) a declaration executed under penalty of perjury of the laws of the State of California stating:

1. the full legal name, address of the principal place of business, telephone number, fax number, and e-mail address of both the person executing the declaration and the company submitting the application, and the title of the person;

2. that the person executing the declaration is authorized to do so and to submit the application on behalf of the company; and

3. that the matters contained in the application are, to the best of the person's knowledge and belief and based on diligent investigation, true, accurate, complete, and in compliance with these regulations.

(2) the Executive Director finds that there is good cause for an extension and that the data, report, or application is likely to be submitted by the extended due date.

(g) Any company designated in this Article as required to submit data or a report may delegate to another company the submittal of the data or report if the delegatee agrees, but in any event the company designated in this Article shall be responsible for the timely, accurate, and complete submittal of the data or report and an authorized employee thereof shall execute the declaration required by Section 1303(l)(8).

(h) Previously-submitted Data or Reports. If any of the data required to be included in a report is exactly the same as the data included in a previous report submitted by the same company, the current report need not contain that data if it refers to the previously-submitted data in sufficient specificity to allow the data to be found and retrieved easily.

(i) Submittal of Alternative Data, Reports, or Format. The company responsible (or delegated the responsibility under Section 1303(g)) for submitting data or a report under this Article may apply for and receive from the Executive Director authorization to submit, in lieu of the required data or report, another collection of data assembled and prepared by the company for a purpose other than compliance with this Article, or to submit data not in accordance with the forms and instructions specified under Section 1303(b). The Executive Director shall act on an application within 20 days after it is received by the Commission. If the application is granted, then the company may submit updated alternative data for each subsequent report without the need for a subsequent application. The Executive Director's decision may be appealed to the full Commission; the Commission shall act on an appeal within 14 days after the appeal is received; the Commission may summarily deny an appeal without a hearing. The Executive Director may revoke authorization at any time for any reason. An application shall be granted if:

(1) The company submits and the Commission receives, no later than 30 days before the data or report is due, an application that includes:

(A) the full legal name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the company submitting the application and of the entity to which the alternative collection of data was or will be submitted;

(B) the name, address of the principal place of business, telephone number, fax number, and e-mail address of the person employed by the company submitting the data or report, who should be contacted with questions about the application;

(C) the name of the report and the Sections of these regulations applicable to the data or report;

(D) the name, date, and if applicable publication number of the alternative collection of data;

(E) the reasons why the company believes that the alternative collection of data meets each applicable requirement of this Section and all other sections in this Article; and

(F) a declaration executed under penalty of perjury of the laws of the State of California stating:

1. the full legal name, address of the principal place of business, telephone number, fax number, and e-mail address of both the person executing the declaration and the company submitting the application, and the title of the person;

2. that the person executing the declaration is authorized to do so and to submit the application on behalf of the company; and

3. that the matters contained in the application are, to the best of the person's knowledge and belief and based on diligent investigation, true, accurate, complete, and in compliance with these regulations.

(2) the Executive Director finds that compliance with these regulations and the needs of the Commission, other entities, and the public will not be harmed by granting of the application.

(j) Parents, Subsidiaries, and Affiliates. Except to the extent allowed by Section 1303(g), if a company required to submit data or a report is a parent, subsidiary, or affiliate of another company, the former company shall submit the data or report only for its own activities and not for the activities of the parent, subsidiary, or affiliate.

(k) Multiple Reports. A company may submit under one cover data or reports required by more than one section in this Article, if the data or report required by each section is identified in a table of contents and in the document and the data or report is clearly separated from data or reports required by other sections.

(l) Data Required in All Reports. Each report required by this Article shall include, in addition to the data specified in those sections, the following:

(1) the full legal name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the company submitting the report;

(2) the name, address of the principal place of business, telephone number, fax number, and e-mail address of the person employed by the company submitting the report, who should be contacted with questions about the report;

(3) the full legal name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the company responsible for submitting the data or report;

(4) the date on which the report is being submitted;

(5) the time period or periods that the report covers;

(6) an indication of the status of the company responsible for submitting the report: i.e., power plant owner, LSE, UDC, control area operator, gas utility, gas retailer, gas processor, or interstate pipeline company;

(7) the sections of this Article applicable to the report; and

(8) a declaration that is executed under penalty of perjury of the laws of the State of California, and that is executed by an authorized employee of the company responsible for submitting the report, stating:

(A) the name, address of the principal place of business, telephone number, fax number, and e-mail address of both the person executing the declaration and the company responsible for submitting the report, and the title of the person;

(B) that the person executing the declaration is authorized to do so and submit the report on behalf of the company responsible for submitting the report; and

(C) that the matters contained in the report are, to the best of the person's knowledge and belief and based on diligent investigation, true, accurate, complete, and in compliance with these regulations.

(m) Accuracy of Customer Classification Coding.

(1) Electricity and natural gas sales data reported pursuant to Sections 1306(a) and 1308(c) shall be accurately classified by Customer Classification code. Data shall be deemed accurately classified if, based on a random sample comparing (I) the Customer Classification code used for classification under Section 1306(a) or 1308(c) used for general customer record keeping to (II) an independently-derived Customer Classification code known to be accurate for each non-residential establishment in the sample, 99% of customer accounts, weighted by energy, are correctly classified at the major customer sector level and 90% of customer accounts, weighted by energy, are correctly classified at the 4-digit Customer Classification code level.

(2) If the Executive Director believes that sales data provided by a UDC or gas utility is not accurately classified by Customer Classification code, he or she may require the appropriate UDC or gas utility to conduct a study of the UDC or gas utility's records to verify the

accuracy of the Customer Classification coding of the data submitted to the Commission. The study shall be provided to the Commission within three months of the date of the Executive Director's notification of the requirement for a study. If the study reveals that the accuracy requirements contained in subdivision (m)(1) of this section are not being met, the UDC or gas utility shall submit a plan to correct the Customer Classification Coding to allow it to meet those accuracy requirements. Such plan shall be submitted within six months of the date of the Executive Director's notification of the requirement for a study and shall contain the following:

(A) an identification of the measures needed to ensure that the accuracy requirements contained in subdivision (m)(1) of this section are met; and

(B) a commitment to implement the measures identified in subdivision (m)(2)(A) above no later than one year from the date of the Executive Director's notification of the requirement for a study.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code; and Sections 9615 and 9620, Public Utilities Code.

§ 1304. Power Plant Reports.

(a) Reports by Power Plant Owners. Each power plant owner shall submit all of the data and reports required by this subsection for each power plant that has a nameplate capacity of one megawatt or more, and that it owns or owned during the reporting period. For the purposes of this subsection, all of the wind turbines in an power plant shall be collectively considered as one single electric generator.

(1) Each Report: Power Plant Identification. The following data shall be submitted for each power plant with every quarterly, or annual report:

(A) name of the power plant;

(B) identification number of the power plant assigned by the Commission;

(C) facility code of the power plant assigned by the EIA;

(D) address where the power plant is physically located: street address, city, county, state and zip code;

(E) if the power plant operator is not the power plant owner, the power plant operator's full legal name and address of principal place of business including the street address, city, state, and zip code;

(F) nameplate capacity of the power plant;

(G) if the power plant is a cogenerator, the Customer Classification code of the entity to which the power plant supplies waste heat;

(H) if the power plant supplies electricity directly to an entity on site, the Customer Classification code of the entity;

(I) if the power plant was sold during the reporting period;

1. the settlement date of the power plant sale;

2. the buyer's and the seller's full legal names and addresses including street address, city, state, and zip code; and

3. the name, address including street address, city state, and zip code, and telephone number of the contact persons for the buyer and seller; and

(J) for each electric generator in the power plant:

1. the identification number assigned by the power plant owner;

2. nameplate capacity of the electric generator and, if the prime mover is a wind turbine, the total number of the turbines reflected in the nameplate capacity;

3. the date electricity was first generated by the electric generator;

4. the operating status of the electric generator during the reporting period, such as operating, standby, cold standby, on test, maintenance, out of service, indefinite shutdown, or retired;

5. if the electric generator was retired during the reporting period, the retirement date;

6. an identification of the prime mover that drives the electric generator; and

7. an indication whether the primer mover is part of a combined-cycle unit.

(2) Generation and Fuel Use Data.

(A) For power plants with nameplate capacity of one megawatt or more and less than ten megawatts, the following data shall be submitted annually:

1. gross generation of each electric generator, in megawatt hours;

2. net generation of each electric generator, in megawatt hours;

3. fuel use, by fuel type, of each electric generator;

4. fuel use, by fuel type, for useful thermal energy production and electricity generation of each cogenerator;

5. electricity in megawatt hours, consumed on site by the power plant owner, other than for plant use, classified by Customer Classification Code;

6. sales for resale, in megawatt hours; and

7. for cogenerators providing thermal energy to commercial end users or industrial end-users, sales of electricity to those end users, classified by Customer Classification Code, in megawatt hours, excluding sales to the wholesale market or LSEs.

(B) For power plants with nameplate capacity of ten megawatts or more and less than fifty megawatts, the following data shall be submitted quarterly:

1. monthly gross generation of each electric generator, in megawatt hours;

2. monthly net generation of each electric generator, in megawatt hours;

3. monthly fuel use, by fuel type, of each electric generator;

4. monthly fuel use, by fuel type, for useful thermal energy production and electricity generation of each cogenerator;

5. monthly electricity in megawatt hours, consumed on site by the power plant owner, other than for plant use, classified by Customer Classification Code;

6. monthly sales for resale, in megawatt hours; and

7. for cogenerators providing thermal energy to commercial end users or industrial end-users, monthly sales of electricity to those end users, classified by Customer Classification Code, in megawatt hours, excluding sales to the wholesale market or LSEs.

(C) For power plants with nameplate capacity of fifty megawatts or more, the following data shall be submitted quarterly:

1. monthly gross generation of each electric generator, in megawatt hours;

2. monthly net generation of each electric generator, in megawatt hours;

3. monthly fuel use, by fuel type, of each electric generator;

4. monthly fuel use, by fuel type, for useful thermal energy production and electricity generation of each cogenerator;

5. monthly electricity in megawatt hours, consumed on site by the power plant owner, other than for plant use, classified by Customer Classification Code;

6. monthly sales for resale, in megawatt hours;

7. for cogenerators providing thermal energy to commercial end users or industrial end-users, monthly sales of electricity to those end users, classified by Customer Classification Code, in megawatt hours, excluding sales to the wholesale market or LSEs.

8. monthly fuel cost by fuel type of each electric generator, except for the cost of fuel provided to the generator through a tolling agreement. If fuel is provided to the generator through a tolling agreement, indicate the portion of the fuel use identified in subdivision (a)(2)(C)(4) that is provided to the generator through the tolling agreement.

(3) The following environmental information related to power plant operations shall be reported annually:

(A) Environmental information related to water supply and water / wastewater discharge.

1. Water Supplies: Owners of power plants with a generating capacity of 20 megawatts and greater shall submit copies of reports or filings required by regulations, permit, or contract conditions that identify any of the following information for the previous calendar year:

a. a description of the type of cooling technology being used for each unit within a power plant;

b. the name of the water supplier(s) under contract to provide water to the power plant, if applicable, or the name of the water source as assigned by the U.S. Geological Survey on its 7.5-minute map series. Or, if well water is used, provide the well identification number and location as specified in the California Department of Water Resources, Water Facts, Issue No. 7, "Numbering Water Wells in California", June 2000.

c. the daily average and daily maximum water use volumes in gallons for all power plant purposes;

d. the monthly and annual amounts of water used for all power plant purposes in acre-feet; and

e. the metering technology used to measure and track water use at the power plant and the frequency at which meter readings are recorded (hourly, daily, weekly, monthly or annually).

2. Wastewater Discharges: Owners of power plants with a generating capacity of 20 megawatts and greater shall submit copies of reports or filings required by regulations, permit, or contract conditions that identify any of the following information for the previous calendar year:

a. a description of the physical and chemical characteristics of the source water or the wastewater discharge, including any information prepared with the approved test methodology and detection limits specified by the U.S. Environmental Protection Agency in 40 CFR s136.3 for analyzing the constituents in wastewater.

b. the wastewater disposal system(s) used at the power plant for discharges related to power plant cooling and operations, the manufacturer(s), and the year of installation;

c. the measures taken, and the devices installed on the wastewater disposal system's outfall, to control pollution discharges to municipal systems, receiving waters or land;

d. the name of the utility or organization receiving the wastewater discharge, if applicable, or the name of the receiving water as assigned by the U.S. Geological Survey on its 7.5-minute map series;

e. the monthly and annual totals of wastewater that are created from power plant operations in acre-feet; and

f. the daily average and daily maximum waste water discharge volumes in gallons.

(B) Environmental information related to biological resources: Owners of power plants with a generating capacity of one megawatt or greater shall submit copies of reports or filings required by regulations, permit, or contract conditions that identify any of the following information for the previous calendar year:

1. documentation of the "take" of terrestrial, avian and aquatic wildlife subject to legal protection under California Fish & G. Code s 2050 et seq., 16 U.S.C.A. s 1371 et seq., 16 U.S.C.A. s 1531 et seq., and 16 U.S.C. A. s 668 et seq. that occurred as a result of operation of the power plant.

2. documentation and identification of the biomass (by weight) and species composition of fishes and marine mammals killed by impingement on the intake screens of each once-through cooling system;

(C) Copies of any written notification provided by any state or federal regulatory agency to the owner of a power plant with a generating capacity of one megawatt or more that operation of the power plant has created a violation of an applicable statute, regulation, or permit condition related to environmental quality or public health during the previous calendar year, or that there is an ongoing investigation regarding a potential violation at the time that the data identified in this subdivision is required to be filed with the commission.

(b) Reports by UDCs. Each UDC shall report the following data for each power plant that has a generating capacity of 100 kilowatts or more, located in the UDC's service area. The report shall be submitted on January 31 and July 31 each year, but if information for an existing plant has already been provided pursuant to this section, and is unchanged, the filing need only identify the date on which the information was previously provided.

(1) name;

(2) facility code assigned by the EIA;

(3) nameplate capacity in megawatts;

(4) voltage at which the power plant is interconnected with the UDC system or transmission grid;

(5) address where the power plant is physically located, including the street address, city, state, and zip code;

(6) power plant owner's full legal name and address of principal place of business, including the street address, city, state, and zip code;

(7) longitude and latitude, expressed to the nearest degree, if available;

(8) operating mode (e.g., independent power producer, cogeneration, dispatched as part of a demand side management program, parallel operation with utility deliveries in order to achieve premium power reliability, customer-dispatched to reduce delivered energy charges, peak shaving, emergency/backup/interruptible);

(9) technology type (e.g., combined cycle, combustion turbine, microturbine, internal combustion engine, photovoltaic, wind turbine, fuel cell);

(10) interconnection agreement type (e.g., interconnection agreements required by interconnection standards adopted in California Public Utilities Commission D.00-12-037 and in modifications to that decision, net energy metering agreement); and

(11) fuel type (e.g., natural gas, biogas, diesel, solar, wind.)

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code.

§ 1305. Control Area Operator Reports.

Each control area operator with California end users inside its control area, including without limitation the California Independent System operator, shall submit the following data:

(a) Monthly Reports on Monthly System Peak Demand: monthly system peak demand in the control area, and the date and hour of the monthly system peak demand.

(b) Quarterly Reports on Interconnections:

(1) the names of all other control areas with which the control area is interconnected;

(2) the names of all interconnections with other control areas; and

(3) the operating voltages of all such interconnections expressed in kilovolts.

(c) Quarterly Reports on Interchanges:

(1) the name of each control area with which the control area operator scheduled interchanges;

(2) for each month, electricity, expressed in megawatt hours that was scheduled to be delivered from each control area identified in Section 1305(b)(1) into the control area operator's control area;

(3) for each month, electricity, expressed in megawatt hours that was scheduled to be delivered from the control area operator's control area to each control area identified in Section 1305(b)(1);

(4) for each month, electricity, expressed in megawatt hours that was delivered from each control area identified in Section 1305(b)(1) into the control area operator's control area; and

(5) for each month, electricity, expressed in megawatt hours that was delivered from the control area operator's control area to each control area identified in Section 1305(b)(1).

(d) UDCs Operating within a Control Area. Each year, each control area operator shall provide the following information for the prior calendar year:

(1) a list of the UDCs providing distribution services within the control area as of the December 31 of the prior calendar year;

(2) mail and e-mail address for each UDC identified in subdivision (d)(1) of this section;

(3) a list of the UDCs that began or ceased providing distribution services within the control area, and the date on which those changes occurred; and

(4) for each control area that reported changes pursuant to subdivision (d)(3) of this section, the following information shall be provided:

(A) updates to data series reported by the control area operator to the commission pursuant to Article 1 and Article 2 of this Chapter that are necessary to ensure that the Commission possesses a continuous series for that data for the three previous calendar years for the control area as defined at the close of the prior calendar year, and

(B) copies of all data submitted by the control area operator to WECC as part of WECC's Control Area Certification Procedure, adopted December 5, 2003.

(e) Annual Reports:

(1) hourly loads for all of the electricity consumption and losses in the control area; and

(2) if the definition of control area changed during the previous year, provide the date of the change, describe the nature of the change, and explain how this change affected the identification of hourly loads in subdivision (e)(1) of this section.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code.

§ 1306. LSE and UDC Reports, and Customer Classification Reports.

(a) Quarterly UDC Reports.

(1) Each UDC shall report the number of customers, revenue expressed in dollars, volume expressed in kWh for all electricity sold or delivered by the UDC during each of the previous three months as follows:

(A) sales to bundled customers classified by county, retail rate class, and customer classification code; and

(B) deliveries to unbundled customers classified by county, retail rate class, and customer classification code.

(2) for purposes of complying with subdivision (a)(1) of Section 1306, the following requirements shall apply:

(A) revenue for bundled customers is the aggregation of generation and non-generation costs, and excludes city or local taxes;

(B) revenue for unbundled customers is the aggregation of all non-generation costs, and excludes city or local taxes; and

(C) retail rate class is the general level of rate class used by UDC. Any rate schedule excluded from retail rate classes shall be reported as an aggregated amount classified by county and customer classification code.

(3) each UDC shall provide an electronic file with a list of the retail rate classes provided in subdivision (a)(1) of this section, including a description of each retail rate class.

(4) Quarterly UDC Reports. Each UDC that provides distribution services for other LSEs shall report quarterly to the Commission the following information:

(A) name of each LSE;

(B) business address of each LSE; and

(C) sales of electricity, expressed in kilowatt hours, by each LSE in the UDC's service area for each month of the preceding quarter.

(b) Quarterly LSE Reports. LSEs not reporting under 1306(a), shall report the following:

(1) number of customers during each of the previous three months, classified by UDC, county, and major customer sector or customer group;

(2) revenue, defined as the aggregation of all costs plus profits, received by an LSE from its end-use customers in providing generation services, and expressed in dollars during each of the previous three months, classified by UDC, county, and major customer sector or customer group; and

(3) volume expressed in kWh, for all electricity sold by the LSE during each of the previous three months, classified by UDC, county, and major customer sector or customer group.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code.

§ 1307. Gas Utility and Gas Retailer Reports and Customer Classification Reports.

(a) Quarterly Gas Retailer Reports. Each gas retailer that does not report pursuant to 1308(c), shall report quarterly the following:

(1) Natural Gas Sales.

(A) monthly natural gas sales expressed in millions of therms;

(B) monthly number of customers; and

(C) monthly revenue expressed in dollars, including commodity charges, adjustments, and any other charges billed for gas sold.

(2) The information provided in subdivisions (a)(1)(A), (B), and(C) above shall be classified by county, month, and major customer sector or customer group.

(b) Gas Retailer Information to the Commission. For each gas retailer that sells natural gas to customers in the gas utility's gas service area, the gas utility shall report quarterly to the Commission:

(1) name of the gas retailer;

(2) business address of the gas retailer; and

(3) sales of natural gas, expressed in thousand cubic feet or therms, to customers in the gas utility's service area;

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code.

§ 1308. Quarterly Gas Utility and Electric Generator Tolling Agreement Reports.

(a) Monthly natural gas receipts. Each gas utility shall report quarterly all natural gas received by the gas utility for each of the previous three months, expressed in thousand cubic feet or therms; and the average heat content of the natural gas received, expressed in Btu per cubic feet; each classified by all of the following:

(1) How received: purchased, transported for others, or withdrawn from storage;

(2) Where and from whom the natural gas was received, according to the following entities and locations:

(A) Pipeline locations at the California Border

(1) El Paso Natural Gas at Topock

(2) El Paso Natural Gas at Blythe

(3) Transwestern Pipeline at Needles

(4) PG&E Gas Transmission - Northwest at Malin

(5) Other California Border Receipt Points (Designate)

(B) Instate locations

(1) Kern River Gas Transmission/Mojave Pipeline at Kern River Station

(2) Kern River Gas Transmission /Mojave Pipeline at Wheeler Ridge

(3) Kern River Gas Transmission/Mojave Pipeline at Hector Road

(4) PG&E at Wheeler Ridge

(5) California Production at Wheeler Ridge

(6) Kern River Gas Transmission at Daggett

(7) Rainbow compression station

(8) Dana Point compression station

(9) Other interconnect points

(C) California Production

(1) California onshore production received into the gas utility system

(2) California offshore lands production received into the gas utility system

(3) California outer continental shelf production received into the gas utility system.

(b) Monthly Natural Gas Sendout. Each gas utility shall report all natural gas delivered by the gas utility for each of the previous three months, expressed in thousand cubic feet or therms; and the average heat content of the natural gas delivered, expressed in Btu per cubic feet; each classified by all of the following:

(1) Core Customer Deliveries.

(A) Each Major Customer Sector (designate)

(B) Natural gas used to generate electricity when waste heat is used for industrial or commercial processes.

(C) Natural gas used to generate electricity when waste heat is used for industrial or commercial processes other than enhanced oil recovery.

(D) Natural gas used to generate electricity when waste heat is not used for industrial or commercial processes.

(E) Other (designate by Customer Classification code)

(2) Noncore Customer Deliveries

(A) Each Major Customer Sector (designate)

(B) Natural gas used to generate electricity when waste heat is used for industrial or commercial processes.

(C) Natural gas used to generate electricity when waste heat is used for industrial or commercial processes other than enhanced oil recovery.

(D) Natural gas used to generate electricity when waste heat is not used for industrial or commercial processes.

(E) Other (designate by Customer Classification code)

(3) Delivery to other utilities through the following delivery points:

(A) Kern River Station

(B) Wheeler Ridge

(C) Rainbow compression station

(D) Dana Point compression station

(E) Other points (designate)

(4) Delivery to Interstate Pipelines through the following delivery points:

(A) Kern River Station

(B) Wheeler Ridge

(C) Hector Road

(D) Daggett

(E) Other points (Designate)

(5) Delivery to International Pipelines

(A) Otay Mesa into Mexico

(B) Calexico into Mexico

(C) Other points (designate)

(6) For Storage Injection

(A) Gas utility-owned storage

(B) Non-gas utility-owned storage

(7) Losses and Unaccounted for

(c) Monthly Natural Gas Delivery.

(1) Each gas utility shall report the number of customers, delivery revenue expressed in dollars, volume expressed in therms, and natural gas average heat content expressed in Btu per cubic feet, for all natural gas sold or transported by the gas utility during each of the previous three months as follows:

(A) sales to core customers, excluding cogeneration customers, by county and NAICS code;

(B) sales to core cogeneration customers by county and NAICS code;

(C) sales to noncore customers, excluding cogeneration customers, by county and NAICS code;

(D) sales to noncore cogeneration customers by county and NAICS code;

(E) transport to core customers, excluding cogeneration, by county and NAICS code;

(F) transport to core customers for cogeneration, by county and NAICS code;

(G) transport to noncore customers, excluding cogeneration, by county and NAICS code, and

(H) transport to noncore customers for cogeneration by county and NAICS code.

(2) For purposes of subdivision (c)(1) of Section 1308, revenue for both sales and transport shall be expressed in dollars, in aggregate, and shall include commodity costs and all non-commodity components of the utility's rates, including without limitation, costs of receiving, transporting, distributing, injecting to storage, recovering from storage, administration, regulatory, public purpose programs, energy market restructuring transition costs, and balancing accounts.

(d) Natural Gas Tolling Agreements. Each LSE that has entered into a tolling agreement to provide natural gas to the owner or operator of an electric generator with a capacity of 50 MW or more for the operation of that generator shall report the following for each of the previous three months and for each electric generator:

(1) amount of natural gas delivered expressed in therms;

(2) the price of the natural gas delivered pursuant to subdivision (d)(1) of this section; and

(3) the location of the delivery identified in subdivision (d)(1) of this section.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code.

§ 1309. Quarterly Interstate Pipeline Company Reports.

(a) Each interstate pipeline company shall report all natural gas receipts from sources inside California's border for each month during the previous quarter, expressed in thousand cubic feet or therms; and for each source of such natural gas, the average heat content of the natural gas received, expressed in Btu per cubic foot; each classified by:

(1) California production

(2) Kern River Station

(3) Hector Road

(4) Daggett

(5) Wheeler Ridge

(6) Other (designate)

(b) Each interstate pipeline company shall report for each month during the previous quarter the following for residential customers and for each group of non-residential customers that have the same Customer Classification code, each further subdivided by county and for each month:

(1) natural gas deliveries expressed in thousand cubic feet or therms; and

(2) number of customers.

(c) Each interstate pipeline shall report for each month during the previous quarter all natural gas volumes delivered by such company to locations in California or at the California border, expressed in thousand cubic feet or therms, and the average heat content of the natural gas delivered, expressed in Btu per cubic foot; each classified by:

(1) Natural gas utilities (designate).

(2) Interstate Pipelines (designate).

(3) Delivery Points.

(A) Topock

(B) Needles

(C) Blythe

(D) Malin

(E) Wheeler Ridge

(F) Hector Road

(G) Daggett

(H) Kern River Station

(I) Other (Designate)

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code.

§ 1310. Natural Gas Processor Reports.

Each natural gas processor shall report quarterly:

(a) by month for each of the previous three months,

(b) by plant, and

(c) for each of the following products:

(1) Methane

(2) Ethane

(3) Propane

(4) Normal Butane

(5) Isobutane

(6) Pentanes Plus

(d) the following data:

(1) stocks at the beginning of the month;

(2) receipts during the month;

(3) inputs during the month

(4) production during the month;

(5) shipments during the month;

(6) plant fuel use and losses for processing during the month;

(7) stocks at the end of the month.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300-25303, 25401, 25401.2, 25403, 25403.5, 25602 and 25604, Public Resources Code.

§ 1311. Energy Efficiency Program Data Collection from Local Publicly-Owned Utilities.

Beginning in 2008, and every year thereafter, each local publicly-owned utility shall report no later than March 15 to the Commission its annual investments in energy efficiency and demand reduction programs for its previous fiscal year. The report shall include at least:

(a) for electric energy efficiency programs:

(1) a description of each program by category (residential, nonresidential, new construction, cross-customer, and other);

(2) expenditures by program category, identified as administrative costs, delivery costs, incentive and installation costs, and evaluation, measurement, and verification costs;

(3) expected and actual annual energy and peak demand savings by program category; and

(4) an explanation of how these energy efficiency programs were determined to be cost-effective.

(b) for demand reduction programs:

(1) a description of each program;

(2) expenditures associated with each program;

(3) expected demand reduction, and any actual reduction from the programs, and

(4) an explanation of how these demand reduction programs were determined to be cost-effective.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5 and 25300-25303, Public Resources Code; and Section 9615, Public Utilities Code.

§ 1312. Trade Secrets.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25223, Public Resources Code.

§ 1313. Accuracy Report.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25005.5, 25216.5(d), 25300, 25301, 25305, 25308, 25309, 25310, 25320-25323 and 25401, Public Resources Code.

Article 2. Forecast and Assessment of Energy Loads and Resources

§ 1340. Scope.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25005.5, 25216(a), 25216(b), 25216.5(d), 25301, 25302 and 25303, Public Resources Code.

§ 1341. Rules of Construction and Definitions.

The rules of construction and definitions in Section 1302 of Article 1 of this chapter apply to this Article.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25302.5, 25303, 25324 and 25330 et seq., Public Resources Code; and Sections 9615 and 9620, Public Utilities Code.

§ 1342. General Requirements for Preparation of Planning Reports and Supporting Survey and Load Metering Data Collection Requirements.

(a) Reports Must Be Submitted. Each entity subject to reporting requirements identified in this Article shall also submit to the Commission the applicable data set forth in this Section.

(b) Forms and Instructions. The data shall be submitted according to instructions for forms, specified by the Executive Director, consistent with and contained in Sections 1342, 1343 and 1344. The instructions may include without limitation a requirement that the data be submitted in electronic format generally or in a specific electronic format.

(c) Extensions of deadlines specified in this Article. The person responsible (or delegated the responsibility in this Article) for submitting a report may apply for and receive from the Executive Director an extension of the deadlines established in this Article. The Executive Director shall act on an application within five business days after it is received at the Commission. The Executive Director's decision may be appealed to the full Commission; the Commission shall act on an appeal within 14 days after the appeal is received; the Commission may summarily deny an appeal without a hearing. An extension shall be granted for no more than 30 days, if:

(1) The company submits and the Executive Director receives, no later than 15 days before the report is due, an application that includes:

(A) the full legal name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the company submitting the application for an extension;

(B) the name, address of the principal place of business, telephone number, fax number, and e-mail address of the person employed by the company submitting the report, who should be contacted with questions about the application for an extension;

(C) the name of the report and the sections of these regulations applicable to the report;

(D) the reasons why the report cannot be, or may not be able to be, submitted on time, and the date the report will be submitted;

(E) the measures the company is taking to complete the report on time or as soon thereafter as possible; and

(F) a declaration executed under penalty of perjury under the laws of the State of California stating:

1. the full legal name, address of the principal place of business, telephone number, fax number, and e-mail address of both the person executing the declaration and the company submitting the application;

2. that the person executing the declaration is authorized to do so and to submit the application on behalf of the company; and

3. that the matters contained in the application are, to the best of the person's knowledge and belief and based on diligent investigation, true, accurate, complete, and in compliance with these regulations.

(2) The Executive Director finds that good cause exists for an extension and that the report is likely to be submitted by the extended due date.

(d) Date of "Submittal." A report under this Article is "submitted," for purposes of these regulations, when it is received at the Commission and it is complete, accurate, and in compliance with the applicable requirements and forms and instructions specified in this Article.

(e) Delegation of Reporting Duty. The company designated in subsection (a) as required to submit a report may delegate to another company the submittal of the report if the delegatee agrees, but in any event the company designated in subsection (a) shall be responsible for the timely, accurate, and complete submittal of the report.

(f) Submittal of Previous Report. If the data included in a report is exactly the same as the data contained in a previously submitted report from the same company, the current report need only reference the previously submitted data in sufficient detail to allow its easy retrieval.

(g) Submittal of Alternative Data, Reports, or Format. The company responsible (or delegated the responsibility in this Article) for submitting data or a report may apply for and receive from the Executive Director authorization to submit, in lieu of the required data or report: another collection of data assembled and prepared for a purpose other than compliance with this Article, or submit data not in accordance with the forms and instructions specified in this Article.

(1) The Executive Director shall act on an application for the submission of alternative data within 20 days after it is received by the Commission.

(2) If the application is granted for the submission of alternative data, then the company may submit the alternative data for each report required in this Article without the need for a subsequent application, if the alternative data contains all of the data required by this Article as applicable and is current for the time period or periods specified in those sections.

(3) The Executive Director's decision may be appealed to the full Commission; the Commission shall act on an appeal within 14 days after the appeal is received; the Commission may summarily deny an appeal without a hearing. The Executive Director may revoke authorization to submit alternative data at any time for any reason.

(4) An application for the submission of alternate data shall be granted if:

(A) The company submits and the Executive Director receives, no later than 30 days before the report is due, an application that includes:

1. the full legal name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the company submitting the application to provide alternative data;

2. the name, address of the principal place of business, telephone number, fax number, and e-mail address of a contact person who can answer questions about the application for submission of alternative data;

3. the name of the report and the sections of these regulations applicable to the report;

4. the reasons why the alternative collection of data meets each applicable requirement of this Article; and

5. a declaration executed under penalty of perjury under the laws of the State of California stating:

a. the full legal name, address of the principal place of business, telephone number, fax number, and e-mail address of both the person executing the declaration and the company submitting the application;

b. that the person executing the declaration is authorized to submit the application on behalf of the company; and

c. that the matters contained in the application are, to the best of the person's knowledge and belief and based on diligent investigation, true, accurate, complete, and in compliance with these regulations.

(B) The Executive Director finds that good cause exists for granting the application to submit alternative data. That determination shall include a finding that compliance with these regulations and the needs of the Commission, other entities and the public will not be harmed by the granting of the application.

(h) Information Required in All Reports. Each report required by this Article, in addition to the data specified in the applicable section, must include the following:

(1) the name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the company submitting the report;

(2) the name, address of the principal place of business, telephone number, fax number, and e-mail address of a contact person who can answer questions about the report;

(3) the name, address of the principal place of business, telephone number, fax number, e-mail address, and website address of the person responsible for submitting the report;

(4) if the company submitting a report has divisions, departments, subsidiaries, or similar entities covered by the report, the report shall include the name of each entity and reflect the activities of each entity;

(5) the date the report is being submitted;

(6) the time period or periods that the report covers;

(7) the status of the company responsible for submitting the report: i.e., UDC, LSE, electric transmission system owner, electric generator owner, interstate pipeline company, or gas utility, (if the company operates more than one type of entity, the report shall state the type of entity the report is being submitted for and list the other entities that the company represents);

(8) a declaration executed under penalty of perjury of the laws of the State of California, and that is executed by an authorized employee of the company responsible for submitting the report, stating:

(A) the full legal name, address of the principal place of business, telephone number, fax number, and e-mail address of both the person executing the declaration and the company responsible for submitting the report;

(B) that the person executing the declaration is authorized to submit the report on behalf of the company; and

(C) that the matters contained in the report are, to the best of the person's knowledge and belief and based on diligent investigation, true, accurate, complete, and in compliance with these regulations.

(i) Techniques Required; Replicable Results. All data submitted under this Article shall be:

(1) gathered, organized, analyzed, and reported using standard, generally-accepted, and documented professional statistical, engineering, data-gathering, and other appropriate techniques;

(2) presented in sufficient detail to allow replication of the results by the Commission staff and by other experts in the field; and

(3) accompanied by the following:

(A) complete identifications of the sources of all data;

(B) complete descriptions of all assumptions used; and

(C) complete identifications and descriptions of all methodologies used.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25302.5, 25303, 25324 and 25330 et seq., Public Resources Code; and Section 9620, Public Utilities Code.

§ 1343. Energy End User Data: Survey Plans, Surveys, and Reports.

(a) Each UDC that has experienced a peak electricity demand of 1000 MW or more in both the two calendar years preceding the required data filing date, and each natural gas utility that has delivered 100 billion cubic feet of gas per year in both of the two calendar years preceding the required data filing date shall complete the survey plans, surveys, and reports described in this Section, unless exempt as described under the Compliance Option described under subsection (f).

(b) Survey Plans and Plan Approval.

(1) Submittal of Survey Plans. For each survey a utility or UDC is required to perform under this Section, the utility or UDC must complete and submit to the Commission a plan for conducting the survey that is consistent with subsections (b) through (e) of this Section. This plan is due one year before survey data is due under subsection (d) and shall describe, at a minimum:

(A) the purpose, scope, and design of the survey project;

(B) the data to be collected, including all data required by subsection (b);

(C) the methods and schedules to be followed;

(D) the format for presenting the results;

(E) the use of contractors to assist in the project;

(F) the estimated cost of the project, nature of funding source, and regulatory authority to complete the study;

(G) what confidential data will be used in the study; how confidentiality will be maintained during the conduct of the survey; any special confidentiality protection needed for types of data not explicitly addressed by Chapter 7, Article 2 of this Division; and

(H) the means for ensuring that the data are representative of the entire end user population located within the utility distribution company service area. The Commission shall presume that the results are representative if the design satisfies all of the following requirements:

1. The survey is designed to achieve end-use saturation estimates accurate to within plus or minus 5 percent at a 95 percent confidence level;

2. The survey design includes methods to reduce non-response bias, including repeated contacts of non-respondents;

3. The survey design includes methods to ensure and verify that results are representative of the end user population; and

4. Survey methods (such as mail, telephone, or on-site data collection methods) are appropriate to the complexity and amount of data requested.

(2) Commission Approval of Plans. The Commission shall evaluate each survey plan in light of the requirements set forth in this Section, and shall approve any plan that meets the requirements of this Section. During this evaluation, the Commission staff may recommend improvements or amendments to enhance the value, reliability, or relevance of the survey results to energy demand forecasting and analysis. The Commission shall approve or disapprove a submitted plan, including a revised plan, within 60 days of its submission. If the Commission disapproves of a plan, it shall specify the plan's deficiencies in writing. Within 30 days of receiving survey plan disapproval, the utility or UDC shall submit to the Commission a revised plan correcting the specified deficiencies.

(3) The surveys shall be conducted in accordance with the approved survey plan. If changes to the survey plan become necessary, the utility or UDC shall notify the Commission in writing before those changes are implemented. If the Commission objects to the changes, it shall notify the utility or UDC within ten working days of its receipt of those changes. If the Commission does not respond, the amended plan will be accepted.

(c) Data Collection Requirements. Each utility or UDC shall complete surveys of end-users in the residential, commercial, and industrial major customer sectors within its distribution service area every four years, carried out in accordance with the plan approved under subsection (b). Major customer sectors shall be defined pursuant to Section 1302 of this Chapter, except that NAICS code 324 may be excluded from the industrial customer sector. The data collected by the surveys shall include, without limitation, all of the following:

(1) For all customers:

(A) presence and characteristics of energy-using equipment;

(B) installed energy efficiency measures;

(C) building management controls, and measures designed to shift load;

(D) presence and type of any metering and telemetry equipment used to meter energy use;

(E) presence, type, and characteristics of any energy-producing equipment or fuel supply;

(F) electric and gas retailer identification or type of provider;

(G) location of the building surveyed, identified by zip code;

(H) patterns of behavior and appliance and equipment operation affecting energy use and load profiles; and

(I) building characteristics, including wall construction, foundation, number of stories, square footage of the building, and characteristics of windows.

(2) For the residential customer sector:

(A) building type (single family, multifamily, or mobile home) and vintage of building, and

(B) demographic characteristics of occupants, including income, primary language spoken in the home, level of educational attainment, number of persons by age group, and race or ethnic group.

(3) For the commercial building customer sector:

(A) type of business identified by industrial classification code, and

(B) occupancy profile, including number of employees and hours of operation.

(4) For the industrial major customer sector:

(A) type of industry identified by industrial classification code;

(B) number of employees;

(C) annual monetary value of shipments; and

(D) energy-using production processes used by the facility.

(5) Corollary data for all surveys:

(A) all accounting records, customer identifiers, and associated data that are necessary for analysis and development of weights to expand respondent data to the population;

(B) for interval metered accounts, 8760 hours of energy consumption data for each sampled premise. For other accounts, twelve months of energy consumption data for each sampled premise; and

(C) for each survey where the survey plan includes a load metering element, load metering data for each metered, sampled account.

(d) Delivery of Data and Documentation. Each utility or UDC shall provide to the Commission all data required by subsection (c), and a Survey Methodology Report, according to the schedule below. The Survey Methodology Report shall describe the procedures that were followed for the survey, including the survey instrument, sample design, sample selection and implementation process, coding procedures, how the survey as implemented differs from the survey plan, and all other information needed for subsequent analyses of the data.

(1) Residential customer sector: on or before July 1, 2003, and on or before July 1 of every fourth year thereafter.

(2) Commercial building customer sector: on or before July 1, 2004, and on or before July 1 of every fourth year thereafter.

(3) Industrial major customer sector: On or before July 1, 2006, and on or before July 1 of every fourth year thereafter.

(e) Data Analysis Reports

(1) Residential End Use and Saturation Reports. Each utility or UDC shall submit, within six months after the residential sector survey data are due under subsection (d), the following reports based on analysis of the survey data:

(A) the Residential End Use Report shall provide estimates of average energy consumption for each major end use by housing type and vintage. The estimates shall be derived from load metering, engineering or conditional demand analysis techniques, which shall be described in the report; and

(B) the Residential Saturation Report shall document the percentage of households using electricity, natural gas, or other type of energy for each appliance or end use, by housing type and vintage;

(2) Commercial Building Floor Space Stock and Saturation Reports. Each utility or UDC shall submit, within six months after the commercial building sector survey data are due, the following reports based on an analysis of the survey data:

(A) the Floor Space Stock Report shall provide estimates of current year commercial building floor space stock, measured in square footage, by building type and vintage; and

(B) the Commercial Saturation Report shall document the percentage of commercial floor space using electricity, natural gas, or other type of energy for each end use, by commercial building type and vintage.

(f) Data Collection and Analyses Compliance Option. In lieu of the requirements contained in subsection (b) through (e) of this Section, a utility or UDC may participate in projects identified by the Commission as satisfying the corresponding data collection and analyses elements of this Section.

(1) Participation requirements:

(A) may include a funding contribution from each utility or UDC in the amount determined by the Commission to be reasonably necessary to fulfill the data collection objectives of this Section; and

(B) shall require participating utilities or UDCs to provide certain data to the Commission, including, but not limited to, accounting records and geographic identifiers required for designing, selecting, and properly weighting the sample, individual energy consumption histories for sampled accounts, and load metering data that the Executive Director identifies as required for a given project pursuant to Public Resources Code Section 25216.5.

(2) The Commission shall notify utilities or UDCs of project participation opportunities, including the applicable customer sector, schedule and participation requirements for the project consistent with Section1343. This notification shall occur at least eighteen months before compliance is due.

(3) A utility or UDC shall be in compliance with the corresponding elements of subsections (b) through (e) of this Section for the customer sector identified by the Commission if it meets the following conditions:

(A) the utility or UDC responds in writing to the Commission's notification of a project participation opportunity within 60 days, requesting to use the compliance option. In its response, the utility or UDC shall agree to comply with the Commission's participation requirements;

(B) the utility or UDC submits to the Commission, according to the schedule described in this Section, the information and data for conducting surveys and performing subsequent analyses identified by the Executive Director as necessary to conduct the survey; and

(C) the utility or UDC transfers funding to the Commission in the amount determined by the Commission to be reasonably necessary to fulfill the data collection objectives of this Section.

(4) The Commission shall approve or disapprove the utility's or UDC's request to use the compliance option within 30 days of its submission.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302 and 25303, Public Resources Code.

§ 1344. Load Metering Reports.

(a) Annual LSE Customer Load Data by Hour. Beginning March 15, 2008, and every year thereafter, each LSE that has experienced a peak electricity demand of 200 megawatts or more in both of the two calendar years preceding the filing date shall submit annual load data, including losses, for every hour of the previous calendar year for its customers to which it provides generation services, separated by UDC service area in accordance with the following:

(1) Hourly load data and analyses shall be developed and compiled from actual load metering, or using valid statistical estimating techniques when actual measurements are infeasible;

(2) Load metering shall be conducted in an accurate and reliable manner;

(3) Hourly load data shall be delivered to the Commission in electronic form;

(b) Annual Distribution System Load Data by Hour. Beginning March 15, 2008, and every year thereafter, each UDC that has experienced a peak electricity demand of 200 megawatts or more in both of the two calendar years preceding the filing date shall submit its annual distribution system load data for every hour of the previous calendar year in accordance with the following:

(1) Hourly system load data and analyses shall be developed and compiled from actual load metering or from valid statistical estimating techniques when actual measurements are infeasible;

(2) Load metering shall be conducted in an accurate and reliable manner;

(3) Hourly system load data shall be delivered to the Commission in electronic form;

(4) Hourly loads shall be submitted in two formats: (1) the composite of the hourly loads (the composite of customer loads plus distribution losses) for all LSEs supplying electricity in the UDC's distribution service area, and (2) format (1) expanded to include hourly transmission losses for each hour.

(c) Hourly Load Estimates by Customer Sector. Beginning September 1, 2007, and every year thereafter, each UDC that has experienced a peak electricity demand of 1000 megawatts or more in both of the two calendar years preceding the filing date shall submit its hourly sector load estimates by customer sector for the previous calendar year in accordance with the following:

(1) The hourly sector load estimates shall, at a minimum, include identification of each of the following components:

(A) residential customer sector;

(B) commercial customer sector (including commercial building customer sector and other commercial customer sector);

(C) industry customer sector and other industry customer sector);

(D) agriculture customer sector;

(E) water pumping customer sector;

(F) street lighting customer sector;

(G) unclassified customer sector; and

(H) losses.

(2) The samples used to develop hourly load estimates for each sector shall be designed to insure that estimates are accurate to within +10 percent of the monthly sector load coincident with system peak, and with 90 percent confidence.

(3) The hourly sector load estimates shall be delivered to the Commission in electronic form.

(d) Monthly Distribution System Load Data by Hour. Beginning March 15, 2008, and every month thereafter, each UDC that has experienced a peak electricity demand of 2000 megawatts or more in both of the two calendar years preceding the filing date shall submit its distribution system load data for every hour of the previous month in accordance with the following:

(1) Hourly system load data and analyses shall be developed and compiled from actual load metering or from valid statistical estimating techniques when actual measurements are infeasible;

(2) Load metering shall be conducted in an accurate and reliable manner;

(3) Hourly system load data shall be delivered to the Commission in electronic form;

(4) Hourly loads shall include all distribution and transmission system losses.

(e) Annual Electric Transmission System Peak Load Data by hour and subarea. Beginning June 1, 2008, and every year thereafter, each Electric Transmission System Owner that has experienced a peak electricity demand of 2000 megawatts or more in both of the two calendar years immediately preceding the filing date shall submit its hourly load data by subarea for every hour of the previous calendar year in accordance with the following:

(1) Hourly load data and analyses shall be developed and compiled from actual load metering or from valid statistical estimating techniques when actual measurements are infeasible;

(2) Load metering shall be conducted in an accurate and reliable manner;

(3) Hourly load data shall be delivered to the Commission in electronic form;

(4) An electronic file containing geographic identifiers of the subarea shall be included;

(5) Subareas are climate zones or geographic subdivisions of the transmission system area used by the transmission system owner for transmission system expansion plan studies, including studies of local deliverability of load, prepared for the control area operator or governing body.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302 and 25303, Public Resources Code.

§ 1345. Demand Forecasts.

Each LSE and gas utility shall submit its 10-year demand forecast according to forms and instructions adopted by the Commission.

(a) UDC Electricity Demand Forecasts. Each UDC demand forecast shall include:

(1) A description and map of the UDC service area, including a discussion of any recent or expected changes to the service area;

(2) Presentation of the demographic and economic assumptions that under-lie the forecast, including assumptions about geographic changes in the distribution service area or movement of customers to or from other LSEs;

(3) Forecasted demand for each year of the forecast for the UDC's bundled customers, and for all customers for whom the UDC provides distribution services, each accounting for conservation reasonably expected to occur, beginning with the year in which the forecast is submitted, including:

(A) annual energy and peak demand;

(B) Hourly loads; and

(C) The annual energy demand forecast and peak demand forecast presented by major customer sector.

(4) Plausibility, sensitivity, and alternative economic scenario analyses;

(5) Estimation of the additional cost-effective conservation potential and the impact of possible methods to achieve this potential, and a description of each conservation activity carried out by the UDC and those proposed for future implementation;

(6) UDCs that are also Electric Transmission System Owners shall provide forecast load data for transmission subareas, as defined in Section 1344(e)(5), and

(7) Additional information and analysis consistent with these regulations as required in the forms and instructions adopted by the Commission.

(b) Non-UDC LSE Electricity Demand Forecasts. The demand forecast for each LSE that is not a UDC shall include:

(1) Presentation of the demographic and economic assumptions that under-lie the forecast, including assumptions about movement of customers to or from other LSEs;

(2) Forecasted demand for each year of the forecast, accounting for conservation reasonably expected to occur, beginning with the year in which the forecast is submitted, by UDC distribution service area, including:

(A) Annual energy and peak demand;

(B) Hourly loads; and

(C) The annual energy demand forecast and peak demand forecast presented by major customer sector or customer group.

(3) Additional information and analysis consistent with these regulations as required in the forms and instructions adopted by the Commission.

(c) Each gas utility shall submit the following:

(1) A description and map of the gas utility service area and, if different, the area for which the gas utility forecasts demand;

(2) Presentation of the demographic and economic assumptions that under-lie the forecast, including assumptions about geographic changes in the service area or movement of customers to or from other utilities;

(3) Forecasted demand for each year of the forecast, accounting for conservation reasonably expected to occur, beginning with the year in which the forecast is submitted, including:

(A) Annual and monthly energy demand, and annual peak demand; and

(B) The annual energy forecast and peak forecast presented by major customer sector.

(4) Plausibility, sensitivity, and alternative economic scenario analyses;

(5) Estimation of the additional cost-effective conservation potential and the impact of possible methods to achieve this potential, and a description of each conservation activity carried out by the gas utility and those proposed for future implementation; and

(6) Additional information and analysis consistent with these regulations as required in the forms and instructions adopted by the Commission.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25302.5 and 25303, Public Resources Code.

§ 1346. Electricity Resource Adequacy.

Beginning in 2007, each LSE shall annually submit quantitative documentation of its load forecasts and resource plans, and narrative descriptions of its procurement activities that will enable it to have adequate electricity supplies to serve forecasted loads.

(a) LSEs under the jurisdiction of the California Public Utilities Commission for resource adequacy purposes pursuant to Public Utilities Code section 380 shall submit the following information for a period of twelve months following the starting date for which the information is requested:

(1) monthly energy and peak load forecasts segregated by UDC service areas in which the LSE serves end-user customers, including:

(A) base forecast;

(B) customer count projections:

(C) estimated monthly capacity savings and adjustments to peak load forecasts that are expected from energy efficiency programs, interruptible load programs, price-sensitive demand response programs, and distributed generation program that have been classified as load reduction impacts;

(2) resources owned, under the control of, or otherwise available to the LSE to meet monthly peak loads. Include the following information:

(A) physical location (control area) of all generation capacity;

(B) for contracts, specify whether or not the capacity or energy is unit-contingent;

(C) for imports into a control area in which the LSE provides generation services to end-users, the scheduling point(s) for such capacity or energy;

(D) for demand response program impacts, the nature of the program(s) expected to provide load reductions; and

(E) indication of whether the resource is intended to satisfy any local capacity requirements.

(3) deliverability and dispatchability restrictions on generating resources, including:

(A) any terms of deliverability that may limit the dependable capacity of the LSE's generation supplies, including firm transmission rights over interties between control areas at the time of its peak load; and

(B) the terms of ownership or dispatchability that limit the deliverability of generation supplies to serve the LSE's load under monthly peak conditions, including call options, non-firm energy, hydrological conditions, and emission limits.

(4) for the most recent calendar year, historic hourly loads, and for each month, peak demand and resource utilization to satisfy customer demand, operating reserves, and other planning obligations of that month.

(b) LSEs not under the jurisdiction of the California Public Utilities Commission for resource adequacy purposes shall submit the following information for a period of twelve months following the starting date for which the information is requested:

(1) monthly energy and peak load forecasts, including:

(A) base forecast;

(B) customer count projections;

(C) adjustments to the base forecast from the impacts of all demand side management, demand response programs, and customer generation programs and other programmatic activities affecting demand;

(2) resources, under the control of, or otherwise available to the LSE to meet monthly peak loads described by their attributes, including but not limited to the following:

(A) the physical location of all generation capacity;

(B) for contracts whether or not the product is unit contingent;

(C) for imports into a UDC service area, the scheduling point(s) of the energy and any transmission rights applicable to the capacity or energy; and

(D) for demand response program impacts, the nature of the program(s) expected to provide load reductions;

(3) for the most recent calendar year, historic hourly loads, and for each month, peak demand and resource utilization to satisfy customer demand, operating reserves, and other planning obligations of that month;

(4) a detailed description of all adequacy and long-term reliability requirements that control area operators or planning entities have identified as applicable to the LSE, including, but not limited to:

(A) terms of existing tariffs and agreements that identify the specific nature of resource adequacy requirements that an LSE must satisfy;

(B) planning margins for capacity or energy, or other elements of standardized evaluations of the balance between loads and reserve requirements, and resources, established by the Western Electricity Coordinating Council for resource adequacy purposes, if any;

(C) any unit commitment and dispatch obligations imposed by control area operators or other entities operating interconnected electric transmission systems that the LSE meets with generation it owns or controls;

(D) deliverability restrictions, dispatchability provisions, or transmission contingencies that affect the LSE's ability to rely upon specific resources that might affect reliability of service; and

(E) the strategy that the LSE intends to pursue in order to achieve, and once accomplished maintain, the level of resource adequacy it has determined to be appropriate for its customers.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25302.5 and 25303, Public Resources Code; and Section 9620, Public Utilities Code.

§ 1347. Resource Plans.

Each LSE shall submit its 10-year resource plan for meeting forecasted demand according to forms and instructions adopted by the Commission.

(a) Resource Plans from LSEs that are UDCs. The resource plan shall be consistent with the forecasted demand documented according to the requirements of s1345(a) and shall include:

(1) A tabulation of forecasted demand and expected supply resources for each year of the forecast beginning with the year in which the resource plan is submitted;

(2) A description of existing and projected sources of supply, including generating projects and purchases from other utilities or elsewhere, specifying construction and operation costs, fuel sources and costs, capacity factors, water consumption, and environmental impacts and mitigation measures; and

(3) Additional information and analyses consistent with these regulations, including narrative descriptions of the criteria used to develop the resource plan, alternative resource plans, and resource mix preferences, as required in the forms and instructions adopted by the Commission.

(b) Resource Plans from LSEs that are not UDCs. The resource plan shall be consistent with the forecasted demand documented according to the requirements of s1345(b) and shall include:

(1) A tabulation of forecasted demand and expected supply resources for each year of the forecast beginning with the year in which the resource plan is submitted;

(2) A description of existing and projected sources of supply, including generating projects and purchases from other utilities or elsewhere, specifying construction and operation costs, fuel sources and costs, capacity factors, water consumption, and environmental impacts and mitigation measures; and

(3) Additional information and analyses consistent with these regulations, including narrative descriptions of the criteria used to develop the resource plan, alternative resource plans, and resource mix preferences, as required in the forms and instructions adopted by the Commission.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25302.5 and 25303, Public Resources Code.

§ 1348. Pricing and Financial Information.

Each LSE, interstate pipeline company, and gas utility shall submit, according to forms and instructions adopted by the Commission, a 10-year forecast of energy prices.

(a) Each LSE that is not a UDC shall submit a forecast of retail electricity prices.

(b) Each LSE that is also a UDC shall submit a forecast of retail electricity prices. These LSEs must also submit the financial variables and assumptions used to derive their forecast.

(c) Each gas utility company and interstate pipeline company shall submit a forecast of retail gas prices.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302 and 25303, Public Resources Code.

§ 1349. Electric Transmission System Plan and Corridor Information.

(a) Each electric transmission system owner shall submit a description of its existing electric transmission system, and its most recent transmission expansion plan and documentation of all input assumptions on which the plan is based. The electric transmission system description and transmission expansion plan shall include:

(1) The transfer capabilities of transmission lines or transmission paths within and into the transmission owner's service area.

(A) An identification of the planned upgrades to transmission lines and paths into the transmission owner's service area, including:

1. Descriptions of the upgrade, including costs, benefits, schedules, maps, and the impact of the upgrade on transfer capabilities; and

2. Descriptions of the alternatives considered in developing the transmission expansion plan.

(B) An identification of maintenance activities or construction that could have a significant impact on transfer capabilities (i.e., a major reduction in transfer capability or an extended period of outage or derating) affecting the transmission owner's service area.

(2) Operational or other transmission constraints within the transmission owner's service area, including:

(A) Descriptions of the operational or other constraints and the causes thereof;

(B) An identification of planned upgrades within the transmission owner's service area to relieve operational or other transmission constraints, including:

1. Descriptions of the upgrades, including costs, benefits, schedules, maps, and the impact of the upgrades on transfer capabilities;

2. Descriptions of the alternatives considered in developing the transmission expansion plan.

(C) An identification of maintenance activities or construction that could have a significant impact on transfer capabilities (i.e., a major reduction in transfer capability or an extended period of outage or derating) affecting the transmission owner's service area.

(b) Each electric transmission system owner shall submit an identification of its transmission corridor needs, including maps and descriptions of existing or proposed corridors, that is consistent with its current transmission expansion plan, along with an identification of future corridor needs that have been identified beyond the timeframes of the current expansion plan up to 20 years in the future.

(c) For purposes of this section, the following definitions apply:

(1) Transmission constraint means a limitation on a transmission element that may be reached during normal or contingency system operations.

(2) Transfer capability means the measure of the ability of interconnected electric systems to move or transfer power in a reliable manner from one area to another over transmission lines (or paths), consistent with any existing procedures developed by the Western Electricity Coordinating Council and the North American Electric Reliability Council.

(3) Transmission corridor means the geographic area necessary to accommodate the construction and operation of one or more high-voltage electric transmission lines.

(4) Transmission path means an individual transmission line or a set of transmission lines that limits the reliable transfer or movement of electric power from one area to another.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25303, 25324 and 25330 et seq., Public Resources Code.

§ 1350. Exemptions.

(a) A small LSE or small gas utility need not comply with the reporting requirements identified in §§ 1345, 1347, and 1348 of this Article if it provides the information required by §1346.

(b) For purposes of this section, the following definitions apply:

(1) "Small LSE" means an LSE that has experienced a peak electricity demand of less than 200 MW in both of the two calendar years preceding the required filing date.

(2) "Small gas utility" means a gas utility that has delivered 50 billion cubic feet of natural gas or less to end use customers in both of the two calendar years preceding the required filing date.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25302.5 and 25303, Public Resources Code.

§ 1351. Requests for Information.

(a)(1) At any time after the filing of a submittal required by this Article, the executive director may make a written request to the filing utility for such information as is necessary for a complete staff analysis of the filing, including in such request the time and manner of utility response.

(2) If the information is not provided, or if the executive director believes that the information will not be provided within a reasonable time, the general counsel may petition the commission for an order securing the information.

(b) This section shall not limit the authority of any persons to obtain information pursuant to any other provision of law.

Note: Authority cited: Sections 25213, 25218(e) and 25320, Public Resources Code. Reference: Sections 25005.5, 25216, 25216.5, 25300, 25301, 25302, 25302.5, 25303 and 25324, Public Resources Code.

Article 3. Petroleum Information Reports

§ 1361. Title.

The reports described in Section 25354 of the Public Resources Code and this article shall be known as the Petroleum Information Reports.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference cited: Sections 25352 and 25354(e), Public Resources Code.

§ 1362. Definitions: General.

For purposes of this article, all terms are to be construed in a manner consistent with their common commercial usage, absent an express indication to the contrary.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1363. Definitions: Specific.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1363.1. Definitions: Specific Petroleum and Non-Petroleum Products.

(a) "Aviation Fuels" mean aviation gasoline and aviation jet fuel.

(b) "Aviation Gasoline" (Finished Aviation Gasoline) means all special grades of gasoline for use in aviation reciprocating or piston engines.

(c) "Aviation Jet Fuel" means a quality kerosene product with an average specific gravity of 40.7 API, and ten percent distillation temperature of 400 degrees Fahrenheit and an end-point of 572 degrees Fahrenheit. Aviation Jet Fuel includes Commercial and Military Jet Fuel.

(1) "Commercial Jet Fuel" includes products known as Jet A, Jet A-1 and Jet B.

(2) "Military Jet Fuel" includes products known as JP-5 and JP-8.

(d) "Bio-Diesel" means a diesel fuel substitute or diesel fuel additive or extender typically made from the oils of soybean, rapeseed, or sunflower or animal tallow that is blended with traditional diesel fuel or used in a neat fuel application. Bio-Diesel can also be made from hydrocarbons derived from agricultural products such as rice hulls. A blend of two percent bio-diesel and 98 percent traditional diesel is referred to as Bio-Diesel B2. A blend of five percent bio-diesel and 95 percent traditional diesel is referred to as Bio-Diesel B5. A blend of 20 percent bio-diesel and 80 percent traditional diesel is referred to as Bio-Diesel B20. Bio-Diesel B100 is 100 percent bio-diesel.

(e) "Crude Oil (Domestic)" means a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Also included is lease condensate moving to a refinery. Drips are also included, but topped crude oil and other unfinished oils are excluded. Natural gas liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded where identifiable. Domestic crude oil is petroleum produced in the 50 states or from the "Outer Continental Shelf" as defined in 43 U.S.C. 1331, which is incorporated herein by reference, and includes synthetic crude such as, but not limited to, those derived from shale oil and tar sands.

(f) "Crude Oil (Foreign)" means a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remain liquid at atmospheric pressure after passing through surface separating facilities. Drips are also included, but topped crude oil and other unfinished oils are excluded. Natural gas liquids produced at natural gas processing plants and

mixed with crude oil are likewise excluded. Foreign crude oil is petroleum produced outside of the United States and includes Athabasca hydrocarbons (oil or tar sands).

(g) "Distillates" mean distillate fuel oil without kerosene and other middle distillates not reported elsewhere.

(h) "Distillate Fuel Oil" means a general classification for one of the petroleum fractions produced in conventional distillation operations. It includes diesel fuels and fuel oils. Distillate Fuel Oil includes products known as No. 1, No. 2 and No. 4 diesel fuel and products known as No. 1, No. 2 and No. 4 fuel oils.

(1) "No. 1 Distillate" means a light petroleum distillate used as either a diesel fuel (see No. 1 Diesel Fuel) or a fuel oil (see No. 1 Fuel Oil).

(A) "No. 1 Diesel Fuel" means light distillate fuel oil with a distillation temperature of 550 degrees Fahrenheit at the 90-percent point.

(B) "No. 1 Fuel Oil" means a light distillate fuel oil with a distillation temperature of 400 degrees Fahrenheit at a ten percent recovery point and 550 degrees Fahrenheit at a 90 percent point.

(2) "No. 2 Distillate" means petroleum distillate used as either a diesel fuel (see No. 2 Diesel Fuels) or a fuel oil (see No. 2 Fuel Oil).

(A) "No. 2 Diesel Fuel" means fuel with distillation temperatures of 500 degrees Fahrenheit at a ten percent recovery point and 640 degrees Fahrenheit at a 90 percent recovery point.

(B) "EPA Low Sulfur No. 2 Diesel Fuel (EPA Highway Diesel)" means No. 2 diesel fuel with a sulfur level no higher than 0.05 percent by weight (500 ppm).

(C) "EPA Off-Road No. 2 Diesel Fuel (EPA Off Road Diesel)" means No. 2 diesel fuel with a sulfur level greater than 0.0015 percent by weight (15ppm) and less than 0.05 percent by weight (500 ppm).

(D) "CARB Low Sulfur No. 2 Diesel Fuel (CARB Diesel)" means No. 2 diesel fuel with a sulfur level no higher than 0.05 percent by weight (500 ppm) and with an aromatic hydrocarbon content limited to ten percent by volume.

(E) "EPA Ultra Low Sulfur No. 2 Diesel Fuel (EPA Highway ULS Diesel)" means No. 2 diesel fuel with a sulfur level no higher than 0.0015 percent by weight (15 ppm).

(F) "CARB Ultra Low Sulfur No. 2 Diesel Fuel (CARB ULS Diesel)" means No. 2 diesel fuel with a sulfur level no higher than 0.0015 percent by weight (15 ppm) and with an aromatic hydrocarbon content limited to ten percent by volume.

(G) "High Sulfur No. 2 Diesel Fuel" means No. 2 diesel fuel with a sulfur level above 0.05 percent by weight (500ppm).

(H) "No. 2 Fuel Oil (Heating Oil)" means distillate fuel oil with a distillation temperature of 400 degrees Fahrenheit at a ten percent recovery point and 640 degrees Fahrenheit at a 90 percent recovery point.

(3) "No. 4 Fuel Oil" means distillate fuel oil made by blending distillate fuel oil and residual fuel oil stocks. It includes No. 4 diesel fuel.

(i) "Finished Motor Gasoline" means a complex mixture of relatively volatile hydrocarbons with or without small quantities of additives having a boiling point between 122 and 158 degrees Fahrenheit at a ten percent recovery point, and 365 to 374 degrees Fahrenheit at a 90 percent recovery point. Finished Motor Gasoline includes conventional gasoline, all oxygenated gasoline, and all reformulated gasoline, but excludes aviation gasoline.

(1) "Conventional Gasoline" (not classified as oxygenated or reformulated gasoline) means types of finished gasoline that do not contain any oxygenates. These fuels include:

(A) "Arizona Conventional Gasoline" means finished motor gasoline formulated as identified in Arizona Administrative Code R20-2-701.9, which is incorporated herein by reference, for use in motor vehicles.

(B) "Nevada Conventional Gasoline" means finished motor gasoline formulated as identified in Nevada Administrative Code 590.065, which is incorporated herein by reference, for use in motor vehicles.

(C) "Other Conventional Gasoline" means conventional gasoline other than Arizona or Nevada Conventional Gasoline.

(2) "Oxygenated Gasoline" (not classified as reformulated gasoline outside of California, Arizona or Nevada) means finished motor gasoline that contains an oxygenate. This type of finished gasoline is primarily used during the winter months in regions of the United States that are not in compliance with carbon monoxide standards. These fuels include:

(A) "EPA Winter Oxygenated Gasoline" means a finished gasoline containing a minimum of 1.8 percent oxygen by weight that is formulated as identified in Code of Federal Regulations, tit. 40, § 80.2(rr), which is incorporated herein by reference.

(B) "Arizona Winter Gasoline" means a finished gasoline formulated as identified in Arizona Administrative Code R20-2-701.3, which is incorporated herein by reference, containing ten percent ethanol by volume. The unfinished base gasoline, prior to blending with ethanol, is referred to as Arizona Blendstock for Oxygenate Blending (AZRBOB).

(C) "Nevada Winter Gasoline" means finished gasoline containing ten percent ethanol by volume as identified in Clark County Air Quality Regulations § 53.1 and 53.2, which is incorporated herein by reference. The unfinished base gasoline, prior to blending with ethanol, is referred to as Nevada Blendstock for Oxygenate Blending in Las Vegas (LVBOB).

(3) "Reformulated Gasoline" means finished motor gasoline formulated to reduce emissions of various criteria pollutants from motor vehicles. These fuels include:

(A) "California Reformulated Gasoline (CaRFG)" means finished motor gasoline formulated as identified in California Code of Regulations, tit. 13, §§ 2260-2262.7, which are

incorporated herein by reference. This category excludes California Reformulated gasoline Blendstock for Oxygenate Blending (CARBOB).

(B) "EPA Reformulated Gasoline (RFG)" means finished motor gasoline. This category includes oxygenated fuels program reformulated gasoline (OPRG) but excludes Reformulated gasoline Blendstock for Oxygenate Blending (RBOB).

(C) "Arizona Cleaner Burning Gasoline (Arizona CBG)" means finished motor gasoline formulated as identified in Arizona Administrative Code R20-2-701.3, which is incorporated herein by reference. This category excludes Arizona Reformulated gasoline Blendstock for Oxygenate Blending (AZRBOB).

(D) "Nevada Cleaner Burning Gasoline (NVCBG)" means finished motor gasoline formulated as identified in Clark County Air Quality Regulations § 54, Definitions, which is incorporated herein by reference. This category excludes Nevada's Cleaner Burning Gasoline Blendstock for Oxygenate Blending (CBGBOB).

(j) "Kerosene" means a petroleum distillate with a boiling point between 300 to 500 degrees Fahrenheit, a flash point higher than 100 degrees Fahrenheit a gravity range from 40 to 46 API and a burning point between 150 and 175 degrees Fahrenheit.

(k) "Liquefied Petroleum Gases" mean a group of hydrocarbon-based gases derived from crude oil refining or natural gas fractionation. They include ethane, ethylene, propane, propylene, normal butane, butylene, isobutane, and isobutylene.

(l) "Marine Fuels" are generally used by ocean-going marine vessels such as, but not limited to tugboats, harbor ships and recreational marine boats, to fuel their primary and auxiliary compression ignition engines,. Marine fuel types may be categorized as distillate, intermediate or residual per the following grades and names:

(1) "Marine Fuels - Distillate Type" means Gas Oil or Marine Gas Oil. This definition includes products known as "DMX, "DMA," "DMB" and "DMC."

(2) "Marine Fuels - Intermediate Type" means Marine Diesel Fuel or Intermediate Fuel Oil (IFO). This definition includes products known as IFO 180 and IFO 380.

(3) "Marine Fuels - Residual Type" means Fuel Oil or Residual Fuel Oil. This definition includes products known as CARB diesel and CARB ULS diesel.

(4) "Marine Fuels - Low Sulfur" type means distillates with a sulfur level no higher than 0.05 percent by weight (500ppm).

(m) "Motor Gasoline Blending Components" mean components used for blending or compounding into finished motor gasoline. These components include, but are not limited to, reformulated gasoline blendstock for oxygenate blending (CARBOB and RBOB), oxygenates (alcohols and ethers), and gasoline blending components.

(1) "Reformulated Gasoline Blendstocks for Oxygenate Blending" means a base gasoline designed to be blended with an oxygenate to comply with federal or state air quality regulations. These fuels include:

(A) "California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)" means unfinished motor gasoline formulated as identified in Cal. Code of Regulations, tit. 13, § 2266.5, which is incorporated herein by reference.

(B) "EPA Reformulated Gasoline Blendstocks for Oxygenate Blending (RBOB)" means unfinished motor gasoline formulated as identified in Code of Federal Regulations, tit. 40, § 80.2(kk), which is incorporated herein by reference.

(C) "Arizona Reformulated Gasoline Blendstocks for Oxygenate Blending (AZRBOB)" means unfinished motor gasoline formulated as identified in Arizona Administrative Code, R20-2-701.4, which is incorporated herein by reference.

(D) "Cleaner Burning Gasoline Blendstock for Oxygenate Blending (CBGBOB)" means unfinished motor gasoline formulated as identified in Clark County Air Quality Regulations § 54, Definitions, which is incorporated herein by reference.

(2) "Oxygenates" mean ethers and alcohols that increase the amount of oxygen in gasoline. Common ethers include ETBE, MTBE and TAME. These oxygenates include:

(A) "Ethyl Tertiary Butyl Ether (ETBE)" means an oxygenate blendstock, formed by the catalytic etherification of isobutylene with ethanol, intended for gasoline blending.

(B) "Methyl Tertiary Butyl Ether (MTBE)" means an oxygenate blendstock, formed by the catalytic etherification of isobutylene with methanol, intended for gasoline blending.

(C) "Tertiary Amyl Methyl Ether (TAME)" means an oxygenate blendstock, formed by the catalytic etherification of isoamylene with methanol, intended for gasoline blending.

(D) "Ethyl Alcohol (Fuel Ethanol)" means an anhydrous denatured aliphatic alcohol intended for gasoline blending.

(3) "Gasoline Blending Component" means a product used to blend with gasoline and includes:

(A) "Alkylate" means a branched paraffin compound formed by the catalytic reaction of isobutane with light olefins, such as ethylene, propylene, butylene, and amylene.

(B) "Hydrocrackate" means a high-octane product made in a catalytic hydrocracking unit.

(C) "Isomerate" means a high-aromatics, high-octane product made in an isomerization unit.

(D) "Iso-octane" means a pure hydrogenated form of di-isobutylene, with an average blending octane of 100, not commingled with other types of alkylates.

(E) "Iso-octene" means a pure dimerized form of isobutylene, with an average blending octane of 106, not commingled with other types of alkylates.

(F) "Natural gasoline" means a mixture of liquid hydrocarbons (mostly pentanes and heavier hydrocarbons) extracted from natural gas. It includes isopentane.

(G) "Reformate" means high-aromatics, high-octane product made in a reformer.

(H) "Toluene" means an aromatic hydrocarbon.

(I) "Other Gasoline Blending Components" mean all other gasoline blending components, including butane, butenes, catalytically cracked gasoline, coker gasoline, hexane, mixed xylene, pentane, pentane mixture, polymer gasoline, raffinate, straight-run gasoline, straight-run naphtha, thermally cracked gasoline and transmix containing gasoline.

(n) "Naphtha Jet Fuel" means fuel in the heavy naphtha boiling range with an average specific gravity of 52.8 API and 20 to 90 percent distillation temperatures of 290 to 470 degrees Fahrenheit.

(o) "Natural Gas Liquids" mean all liquid products separated from natural gas in gas processing or cycling plants. These include natural gas plant liquids and lease condensate:

(1) "Natural Gas Plant Liquids" means hydrocarbons in natural gas that are separated as liquids at downstream gas processing plants or at fractionating and cycling plants. Products obtained include liquefied petroleum gases and pentanes plus.

(2) "Lease Condensate" means a mixture consisting primarily of pentanes and heavier hydrocarbons recovered as a liquid from natural gas in lease separation facilities. Lease condensate excludes natural gas plant liquids, such as butane and propane, that are recovered in downstream natural gas processing plants or facilities.

(p) "Petroleum Coke" means a solid residue that is the final product of the condensation process in cracking. It consists primarily of highly polycyclic aromatic hydrocarbons very poor in hydrogen. Calcination of petroleum coke can yield almost pure carbon or artificial graphite suitable for production of carbon or graphite electrodes, structural graphite, motor brushes, dry cells, etc. This type of product is referred to as calcined coke. Petroleum coke is also designated as Marketable and Catalyst:

(1) "Marketable Petroleum Coke" means petroleum coke that is produced by a coker at a refinery.

(2) "Catalyst Petroleum Coke" means petroleum coke that is produced from a fluidized coker at a refinery.

(q) "Petroleum Products" mean, but are not limited to, finished motor gasoline, distillate, marine fuel, kerosene, biodiesel, aviation gasoline, aviation jet fuel, reformulated blendstocks for oxygenate blending, gasoline blending components, residual fuel oil, petroleum coke, liquefied petroleum gases, liquefied natural gas, synthetic fuel and unfinished oil.

(r) "Residual Fuel Oil" means a general classification for heavier oils, known as No. 5 and No. 6 fuel oils, that remain after the distillate fuel oils and lighter hydrocarbons are distilled away in refinery operations. No. 5 is generally used in steam-powered vessels in government service and onshore power plants. No. 6 fuel oil includes Bunker C fuel oil and is generally used for the production of electric power, space heating, vessel bunkering, and various industrial purposes.

(s) "Synthetic Fuel" means a fuel derived from feedstock such as coal, oil shale, tar sands, biomass, or natural gas, including gas-to-liquid (GTL) fuels.

(t) "Transmix" means the resultant mixture that is created by the commingling of two different petroleum products, at their interface zone, during transport in a petroleum products pipeline.

(u) "ULS Diesel" means ultra low sulfur diesel fuel.

(v) "Unfinished Oils" means all oils requiring further processing at a refinery. Unfinished oils include naphthas and lighter oils, kerosene and light gas oils, heavy gas oils, and residuum.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1363.2. Definitions: Specific Definitions for Purposes of Reporting Requirements.

"Adjusted Dealer Tank Wagon (ADTW)" means the delivered wholesale transaction price for gasoline transported by tanker truck to a retail dealer or franchisee that has been adjusted to reflect the "net cost" to the retail dealer or franchisee such that all rebates or other discounts are subtracted from the original dealer tank wagon (DTW) price to reflect the net cost of the gasoline to the retail dealer or franchisee.

"Airport retail fuel outlet" refers to a facility that stores and dispenses petroleum products, typically jet fuel and aviation gasoline for use in private and/or commercial aircraft. Airport refueling operations that provide refueling services to military aircraft are excluded from this definition.

"API" means the American Petroleum Institute.

"Average Throughput" means the liquid volume transported by a pipeline during a specific period divided by the number of days in that period.

"Barrel" means a unit of liquid measurement that consists of 42 U.S. gallons.

"Bulk Terminal" means a storage and distribution facility not open to the public that is used primarily for wholesale marketing of petroleum products and oxygenates with a minimum storage capacity of 50,000 barrels.

"Bunkering" means the physical transfer of marine fuels from one marine vessel to another marine vessel.

"CARB" means the California Air Resources Board.

"Cardlock Retail Fuel Outlet" means a facility, normally unattended by any operator, that dispenses refined petroleum products to consumers as a sole or predominant activity of their business operation.

"CEC" means the California Energy Resources and Conservation Development Commission or the California Energy Commission.

"Central Coast Region" means a geographic area in California that includes the counties of Monterey, San Benito, San Luis Obispo and Santa Barbara.

"Crude Oil Pipeline System" means a facility that receives its supply from pipeline gathering systems, tanker or barge, and has its terminals located at a refinery or waterside terminal and from which crude oil is shipped directly to one or more refineries in California or transported out of state. A crude oil pipeline system includes all points of origin, terminals, working tank storage capacity, and points of interconnection with crude oil pipeline systems operated by others.

"Dealer Tank Wagon (DTW)" means a delivered wholesale price for gasoline transported by tanker truck to a retail fuel outlet.

"Desert Region" means a geographic area in California that includes the counties of Riverside and San Bernardino.

"Ending Inventory" means the quantity (measured in thousands of barrels) of crude oil, petroleum products or oxygenates that is held as stocks at a refinery, bulk plant, public storage facility or tank farm at the end of a designated reporting period.

"EPA" means the United States Environmental Protection Agency.

"Exchange" means a transaction in which title or interest in petroleum products or crude oil stocks are transferred between firms in return for other petroleum products or crude oil stocks.

"Exporter" means a firm that is the owner of record at the point of loading for crude oil, petroleum products or oxygenates destined for export from California and has exported 20,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year.

"Exports" mean crude oil, petroleum products or oxygenates transported to destinations outside of California by means of marine vessel, rail car, tanker truck, or pipeline.

"Firm" means any person or entity engaged in any activity included in the Cal. Code of Regulations, Title 20, Public Utilities and Energy Division 2, Chapter 3, Article 3, Section 1361 et seq.

"Franchisee" means a retailer or distributor authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

"Gross Production" means total crude oil production, including all crude oil consumed in the production process.

"Hypermart Retail Fuel Outlet" means a facility, normally attended by one or more operators, that dispenses refined petroleum products to consumers as a subset of their primary business activity. The predominant business activity consists of the sale to ultimate consumers of non-petroleum goods and services.

"Importer" means a firm that is owner of record at the point of discharge for crude oil, petroleum products or oxygenates imported to California and has imported 20,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year. Importer also includes firms delivering 5,000 gallons or more of non-California fuels to a site in California by tanker trucks.

"Imports" include crude oil, petroleum products, oxygenates and non-California fuels that are transported to California from destinations originating outside of California by means of marine vessel, rail car, tanker truck, or pipeline.

"Independent Retail Fuel Outlet Operator" means a firm, other than a Refiner or Major Petroleum Products Marketer, that owns or leases a retail fuel outlet, that is engaged in the trade or business of purchasing refined petroleum products and reselling these products to consumers without substantially changing the form of these products.

"Lease" means a crude oil or natural gas producing property.

"Lease Storage Facilities" mean storage tanks used to accumulate crude oil from producing properties prior to first sale or shipment.

"Los Angeles Basin Region" means a geographic area of California that includes the counties of Los Angeles, Orange and Ventura.

"Major Crude Oil Producer" means an operator or firm that produces crude oil in California, California tidelands or the Outer Continental Shelf adjacent to California tidelands in an amount greater than 20,000 barrels during any month of the current or preceding calendar year.

"Major Crude Oil Storer" means a firm or public storage facility, excluding refiners, that owns or operates a tank farm that stores or processes more than 50,000 barrels of crude oil at any time during the current or preceding calendar year.

"Major Crude Oil Transporter" means a firm that owns or operates a trunk pipeline and that has transported 20,000 barrels or more during any one month of the current or preceding calendar year. End users and public storage facilities that transport crude oil only between facilities owned or leased by such end users for their own use are not considered major crude oil transporters.

"Major Petroleum Products Marketer" means a firm that sells or sold 20,000 barrels or more of petroleum products during any month of the current or preceding calendar year, excluding service stations or truck stops. An electric utility shall not be considered a major petroleum products marketer unless it has sold or otherwise disposed of, other than through its own consumption, 20,000 barrels or more of petroleum products per month during any four months of the current or preceding calendar year.

"Major Petroleum Products Storer" means a facility that produced or received into storage a minimum of 50,000 barrels of any combination of petroleum products or oxygenates during any month of the current or preceding calendar year.

"Major Petroleum Products Transporter" means a firm that owns or operates a petroleum product pipeline, trucks, tankers, barges or railroad cars, and that transported 20,000 barrels or more of petroleum products during any month of the current or preceding calendar year. End users that transport products only between facilities owned or leased by such end users for their own use shall not be considered major petroleum products transporters. Public storage facilities that transport petroleum product only between their owned and operated storage, terminal, or warehousing operations shall not be considered major petroleum product transporters.

"Marina Retail Fuel Outlet" means a facility, normally attended by one or more operators, that dispenses refined petroleum products to ultimate consumers for use in recreational or commercial marine craft. A marina retail fuel outlet does not include businesses that dispense marine fuels by the bunkering process.

"Marine Exports" mean crude oil, petroleum products or oxygenates that are transported to destinations outside of California by means of a marine vessel.

"Marine Facility Operator" means an operator of a facility of any kind, other than a marine vessel or tank barge that is used for the purposes of importing, exporting, storing, handling, transferring, processing, refining or transporting crude oil or petroleum products. A Marine Facility Operator does not include the person or entity that owns the land where the marine facility is located unless the person or entity is involved in the operation of the marine facility.

"Marine Fuels Distributor" means one of the following: a firm that owns or operates marine vessels that are used wholly or in part to deliver 20,000 barrels or more of marine fuels during any month of the current or previous year to other marine vessels or a firm that delivers 20,000 barrels or more of marine fuels to marine vessels during any month of the current or previous year from storage tanks rather than from marine vessels. The transfer of these marine fuels is referred to as bunkering.

"Marine Imports" mean crude oil, petroleum products or oxygenates transported to California from destinations originating outside of California by means of a marine vessel.

"Marine Vessel" is a waterborne tanker or barge used to convey crude oil, petroleum products or oxygenates.

"Maximum Storage Tank Capacity" means the maximum volume of crude oil, petroleum product or oxygenate that can be safely discharged into an individual storage tank without exceeding the high level design limits.

"Maximum Throughput" means the maximum liquid volume that may be transported through a pipeline for an indefinite period without damaging any pipeline equipment.

"Mountain Region" means a geographic area in California that includes the counties of Alpine, Amador, Calaveras, El Dorado, Inyo, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sierra, Siskiyou, Trinity and Tuolumne.

"Non-California Fuel" means finished motor gasoline and No. 2 diesel fuel that does not meet CARB standards sold in California at retail locations that dispense transportation fuels.

"Non-California Fuel Transporter" means a firm that owns or operates tanker trucks that are used wholly or in part to deliver 5,000 gallons or more of fuels that do not meet CARB regulations to retail locations in California during any month of the current or previous year.

"North Coast Region" means a geographic area in California that includes the counties of Del Norte, Humboldt, Lake and Mendocino.

"Northern California Region" means a geographic area in California that includes the counties of Santa Cruz, Santa Clara, San Mateo, San Francisco, Merced, Stanislaus, Alameda, San Joaquin, Tuolumne, Calaveras, Mono, Alpine, Amador, Sacramento, Solano, Napa, Marin, Sonoma, Yolo, El Dorado, Placer, Sutter, Colusa, Lake, Mendocino, Glenn, Butte, Nevada, Sierra, Yuba, Plumas, Tehama, Lassen, Shasta, Trinity, Humboldt, Del Norte, Siskiyou, Mariposa, Madera, Modoc, Contra Costa, San Luis Obispo, Kern, Inyo, Tulare, Kings, Monterey, San Benito and Fresno.

"Number of Sites" means the number of different locations for a specified region of California that receive DTW fuel during a reporting period.

"OPEC" means the Organization of the Petroleum Exporting Countries. The countries belonging to this organization are subdivided into the following geographic regions:

(a) "Middle East OPEC" means the countries of Iran, Iraq, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates.

(b) "Non-Middle East OPEC" means the countries of Algeria, Libya, Nigeria and Venezuela.

"Operator" means any person drilling, maintaining, operating, pumping, or in control of any well as defined by the California Public Utilities Commission or by the California Department of Conservation's Division of Oil and Gas, & Geothermal Resources.

"PIIRA" means the Petroleum Industry Information Reporting Act.

"Pipeline" means a crude oil pipeline system or product pipeline system.

"Pipeline Exports" mean crude oil, petroleum products or oxygenates that are transported to destinations outside of California by means of a pipeline.

"Pipeline Imports" means crude oil, petroleum products or oxygenates that are transported to California from destinations originating outside of California by means of a pipeline.

"Pipeline Gathering System" means a pipeline system that collects crude oil from lease storage facilities and delivers it to a crude oil pipeline system.

"Pipeline Storage Tanks" means a storage facility owned by a pipeline firm and located at the points of origin and at terminals of pipeline segments used to maintain normal pipeline operations.

"PPM" means parts per million.

"Producing Property" means property that produced crude oil during the reporting period in an amount as to require reporting of production to the California Department of Conservation's Division of Oil and Gas, & Geothermal Resources.

"Product Pipeline System" means a system that transports petroleum products from refineries or bulk terminals or marine facilities to other terminals or interconnections with other pipelines; a product pipeline system does not include interconnections within a terminal facility or those lines connecting public storage facilities to one another. A product pipeline system includes all points of origin, terminals, working tank storage capacity and points of interconnection with product pipeline systems operated by others.

"Public Storage Facility" means a public liquid bulk storage, terminal, or warehousing operation for hire in which the owner or operator of the facility has no ownership interest in any of the materials stored on contract with its customers.

"Rail Car" means a railroad car that is used to transport crude oil, petroleum products or oxygenates via a network of railroad tracks.

"Rail Exports" mean crude oil, petroleum products or oxygenates that are transported to destinations outside of California by means of rail.

"Rail Imports" mean crude oil, petroleum products or oxygenates that are transported into California from destinations originating outside of California by means of rail.

"Receipts" mean delivery of crude oil, petroleum products or oxygenates into storage tanks located at the refinery, bulk plant, public storage facility or tank farm for the specified reporting period from tanker truck, marine vessel, rail car or pipeline.

"Refiner" means a firm that produces or alters products or blends to manufacture liquid hydrocarbons from oil and gas field gases, recovers liquefied petroleum gases incident to petroleum refining or produces fuel ethanol and sells those products to resellers, retailers, reseller/retailers or ultimate consumers.

"Refinery" means a facility, regardless of processing capacity, that manufactures transportation fuel products including, but not limited to, finished petroleum products, unfinished products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and oxygenates and fuel ethanol.

"Refinery Fuel Use and Losses During the Month" means all fuel consumed at the reporting facility except non-processing losses (spills, fire losses, contamination, etc.).

"Refinery Storage Facility" means storage located on a refinery site or operated in conjunction with a refinery that primarily receives its petroleum product directly from a refiner.

"Retail Fuel Outlet" means an individual business location that dispenses refined petroleum products or alternative fuels to ultimate consumers.

"Retailer" means a firm that carries on the trade or business of purchasing refined petroleum products and reselling them to ultimate consumers without substantially changing their form.

"Sacramento Valley Region" means a geographic area in California that includes the counties of Butte, Colusa, Glenn, Sacramento, Shasta, Sutter, Tehama, Yolo and Yuba.

"San Diego Region" means a geographic area in California that includes the counties of Imperial and San Diego.

"San Francisco Bay Area Region" means a geographic area in California that includes the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma.

"San Joaquin Valley Region" means a geographic area in California that includes the counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, San Joaquin, Stanislaus and Tulare.

"Service Station" means a retail fuel outlet, normally attended by one or more operators, that dispenses refined petroleum products to ultimate consumers as the sole or predominant activity of their business operation.

"Southern California Region" means a geographic area in California that includes the counties of Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Imperial.

"Stocks" mean volumes of crude oil, petroleum products or oxygenates (corrected to 60 degrees Fahrenheit less basic sediment and water) of domestic origin held at refineries, bulk plants, public storage facilities or tank farms. Crude oil and petroleum products in transit by pipeline are excluded. Stocks include foreign stocks held at refineries, bulk plants, public storage facilities or tank farms only after entry through Customs for domestic consumption. Stocks of foreign origin held in bond and/or in transit by pipeline are excluded.

"Support Staff," for purposes of this article, include temporary independent contractors hired by the CEC for the sole purpose of performing PIIRA data entry. Support staff will be subject to all PIIRA confidentiality requirements.

"Tank Farm" means a facility, not available for public storage, used for the storage of crude oils, petroleum products or oxygenates with total combined storage capacity of 50,000 barrels or more which receives crude oil, petroleum products and oxygenates by tanker truck, marine vessel, rail car or pipeline and does not contain lease storage facilities.

"Tank Heel" means the volume of crude oil, petroleum product or oxygenate that remains in a storage tank at the lowest operable level.

"Tanker Truck" means a motorized vehicle with an attached storage vessel that is used to transport crude oil, petroleum products, oxygenates or non-California fuels overland.

"TEOR" means thermally enhanced oil recovery.

"Terminal Operator" means a firm that owns, leases or operates a bulk terminal, tank farm or public storage facility and provided storage services of 50,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year and includes refiners.

"Truck Stop Retail Fuel Outlet" means a facility, normally attended by one or more operators, that is accessible to operators of heavy duty on-road motor vehicles and dispenses refined petroleum products to ultimate consumers as a sole or predominant activity of their business operation.

"Usable Storage Tank Capacity," when used in connection with crude oil or petroleum product pipeline systems, bulk terminals, tank farms and public storage facilities, means the total liquid storage volume less that volume that cannot be used for normal operations (tank heel, basic sediment, and water, corrected to 60 degrees Fahrenheit).

"U.S.C." means United States Code.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1364. Reporting Periods.

(a) For purposes of this article, and unless otherwise indicated, each calendar week for the reporting period shall start on Friday for those entities required by section 1366 to file weekly reports. Weekly reports filed pursuant to the article shall be submitted no later than five (5) calendar days following the close of the weekly reporting period for which the information is submitted. Reports shall be deemed submitted as of the date of the postmark, facsimile or electronic transmittal, provided the report is properly and legibly completed.

(b) For purposes of this article, and unless otherwise indicated, each calendar month, beginning with the first calendar month of the year following the effective date of this article, shall be a reporting period for those entities required by Section 1366 to file monthly reports. Monthly reports filed pursuant to this article shall be submitted not later than the thirtieth (30th) day following the close of the reporting period for which the information is submitted. Reports shall be deemed submitted as of the date of postmark, facsimile or electronic transmittal, provided that the report is properly and legibly completed.

(c) Annual reports required by this article shall be submitted not later than February 15 of each year and shall contain the information required by Section 1366 for the preceding calendar year.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1365. Information Requirements; General.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1365.1. Information Requirements; General Reporting Requirements.

Each firm submitting one or more Petroleum Information Reports pursuant to the provisions of this article shall include the following information at the beginning of each report:

(1) The name of the company;

(2) The company address;

(3) The name and telephone number of one or more persons to whom questions regarding the company's report may be directed;

(4) The name of every subsidiary, division, joint venture, or other company for which the company is reporting; and

(5) The reporting period and reporting date for which the information is being submitted.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1365.2. Information Requirements; Other Reporting Requirements.

The CEC may need to obtain PIIRA information for the performance of its responsibilities that is not reported through weekly, monthly or annual reporting requirements pursuant to Public Resources Code section 25354(f). In such an event, the CEC may solicit for this information through facsimile, electronic mail, telephone, letter, or conversation. Information obtained in this manner will be subject to the provisions of Public Resources Code section 25362 and afforded the same protection as other data provided under PIIRA pursuant to Public Resources Code Section 25364(b).

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25354, 25362 and 25364, Public Resources Code.

§ 1366. Requirement to File.

(a) Each refiner, as defined in Section 1363.2, shall file weekly reports for each California refinery containing all of the information specified in Appendix A, Section I.

(b) Each refiner, importer, exporter and major petroleum products transporter, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section II.

(c) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section III.

(d) Each refiner, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section IV.

(e) Each refiner, as defined in Section 1363.2, shall file monthly reports for each California refinery containing all of the information specified in Appendix B, Section I.

(f) Each refiner, as defined in Section 1363.2, shall file monthly reports for each California refinery containing all of the information specified in Appendix B, Section II.

(g) Each refiner, importer, exporter, non-California fuel transporter, marine fuels distributor and major petroleum products transporter, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section III.

(h) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section IV.

(i) Each refiner, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section V.

(j) Each refiner as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section VI.

(k) Each major petroleum products marketer, as defined in Section 1363.2, required to file Form EIA782B published by the United States Department of Energy shall file monthly reports containing all of the information specified in Appendix B, Section VI.

(l) Each refiner, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section I.

(m) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section II.

(n) Each major crude oil transporter, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section III, for each crude oil pipeline system.

(o) Each major petroleum products transporter, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section IV, for each petroleum product pipeline system.

(p) Each major crude oil producer, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section V.

(q) Each refiner, major petroleum products marketer and independent retail fuel outlet operator, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VI.

(r) Each refiner, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VII.

(s) Each refiner, terminal operator, major petroleum products storer and marine facility operator, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VIII.

(t) Unless otherwise indicated, if a company, by its various activities, satisfies two or more of the definitions in Section 1363.2, it shall file a separate report for each such activity.

(u) Any company required by this article to submit Petroleum Information Reports, which company contains divisions, departments, or subsidiary companies, shall report on behalf of all such divisions, departments, or subsidiaries, provided that such divisions, departments, or subsidiaries would otherwise be required to report pursuant to the provisions of this article.

(v) All reports required by this section shall be on such form and in such format as the Executive Director may require, except as provided below.

(w) Any person required by this article to submit Petroleum Information Reports may in lieu thereof, submit a report made to any other government agency, provided that the requirements of Public Resources Code Section 25354(g) are satisfied, provided that the Executive Director of the CEC approves in writing to the applicant that the alternative submittal of substitute report information is acceptable and provided that such substitute report is expressed in identical units to those required by this article.

(x) Any person or company required by this article to submit Petroleum Information Reports in a specific form designated by the CEC may in lieu thereof, electronically submit the required information in a different format, provided that the Executive Director of the CEC approves in writing to the applicant that the alternative format of submittal is acceptable.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354(a), (b), (f), Public Resources Code.

§ 1367. Form and Format of Reports.

The Executive Director of the CEC may specify the format for the various reports required by this article. The Executive Director of the CEC may additionally provide forms or other instructions to facilitate the filing or analysis of the information required by this article. The Executive Director of the CEC shall provide thirty days notice prior to specifying or modifying any form or format.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1368. Refiners and Marketers Projections.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354(c), Public Resources Code.

§ 1368.1. Financial Information.

Each major oil producer, refiner, and major marketer required by the United States Government to file a SEC 10-K form shall annually submit to the CEC the following financial information:

(1) A copy of the firm's most recent annual report, with all, supplements, to be submitted concurrently with the release of such documents to the company's shareholders; and

(2) Report No. SEC 10-K, submitted annually to the Securities and Exchange Commission, to be submitted to the CEC concurrently with submission to the Securities and Exchange Commission.

§ 1368.5. Integrated Oil Refiners' Annual Forecasts.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354(d), Public Resources Code.

§ 1368.8. Financial Information.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25356(a) and 25358(b), (c), Public Resources Code.

§ 1369. Duty to Preserve Data.

Every company that is required by Section 25354 and this article to submit records to the CEC shall preserve such data and records as are presently within its control and are necessary to compile all information required to be supplied under this article. The company shall be relieved of the duty to preserve the records and data pertaining to any week, month and year for which it has supplied the CEC with the information specified in this article.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1370. Confidential Information.

(a) CEC staff and support staff assigned to collect or analyze data submitted in confidence, pursuant to this article, will hold unaggregated PIIRA data confidential.

(b) Any person required by the provisions of this article to submit Petroleum Information Reports may request that data or information be held in confidence. Such requests shall identify on an item-by-item basis, the specific data or information to be kept confidential. The CEC shall treat the specific data or information for which confidentiality has been requested in the manner described in Public Resources Code Section 25364.

(c) Any person, including the staff of the CEC, may request unaggregated data contained in any Petroleum Information Report, and for which confidentiality has been requested, be publicly disclosed. Whenever the CEC receives a request for disclosure of unaggregated data or information for which confidentiality has been requested, or otherwise proposes to publicly disclose unaggregated data or information for which confidentiality has been requested, the CEC shall notify in writing the person submitting the information of such request or proposal.

(d) Upon receipt of notice that a request or proposal for disclosure has been made, the person claiming confidentiality shall respond in writing within 10 working days with a statement, on an item-by-item basis, describing why it considers the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by its companies and the industry, and the potential for and type of competitive hardship that would result from disclosure of the information. The person claiming confidentiality may include in its written response a request that a Committee of the CEC conduct a closed hearing on the request or proposal for disclosure.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25364, Public Resources Code.

§ 1371. Failure to Provide Information.

The CEC may, after notifying any person of the failure to provide information pursuant to Sections 1361-1369, take such action to secure the information as is authorized by any provision of law, including, but not limited to, Public Resources Code Section 25362.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25358(c) and 25362, Public Resources Code.

Appendix A

Information Requirements for Monthly Reports

I. California Refiners' Weekly Reports shall contain all of the information specified below:

A. All of the information specified on the form EIA800 published by the United States Department of Energy.

B. All of the information specified on the CEC form W800. Specifically, net production and stocks of motor gasolines, blending components and distillate fuel oils..

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354, Public Resources Code.

II. California Imports, Exports, and Intrastate Movements Weekly Reports shall contain all of the information specified on the CEC form W700. Specifically, the information detailed below in subsections A through E for crude oil, finished motor gasoline, gasoline blendstocks, oxygenates, distillates, and aviation fuels.

A. Imports into California of crude oil, petroleum products and oxygenates by marine vessel for each weekly reporting period in thousands of barrels by specific product type, discharge date and California discharge port.

B. Exports from California of crude oil, petroleum products and oxygenates by marine vessel for each weekly reporting period in thousands of barrels by specific product type, load date and California load port.

C. Exports from California of crude oil, petroleum products and oxygenates by pipeline for each weekly reporting period in thousands of barrels by each specific product type, product regrades, product code, pipeline name, and delivery terminal name.

D. Imports into California of crude oil, petroleum products and oxygenates by rail for each weekly reporting period in thousands of barrels by specific product type, discharge date and discharge location. Imported volumes from individual rail cars of identical product type and identical point of origin can be aggregated if the product is discharged on the same date.

E. Exports from California of crude oil, petroleum products and oxygenates by rail for each weekly reporting period in thousands of barrels by specific product type, load date and California load location. Exported volumes from individual rail cars of identical product type and identical intended destination can be aggregated if the product is loaded on the same date.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(i), Public Resources Code.

III. California Major Petroleum Product Storer and Terminal Weekly Reports shall contain all of the information specified on CEC form W08. Specifically the information detailed below in subsections A through C for crude oil, finished gasoline blended with ethanol, other motor gasolines, gasoline blendstocks, oxygenates, distillates, aviation fuels, liquefied petroleum gases, crude oil, and other petroleum products.

A. Production of finished motor gasoline blended with ethanol by weekly reporting period, in thousands of barrels for each California terminal location, including California refineries that blend such type of motor gasoline for dispensing at truck loading racks within the refinery gate.

B. Production of finished motor gasoline blended with ethanol manufactured for use in Arizona and Nevada, by weekly reporting period, in thousands of barrels for each California terminal location, whereby such type of motor gasoline is dispensed for purpose of export by truck to destinations in either Arizona or Nevada.

C. Receipts and ending inventories of specified petroleum products for each weekly reporting period, in thousands of barrels, for each California terminal location.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(i), Public Resources Code.

IV. California Dealer Tank Wagon Price Weekly Reports shall contain all of the information specified on CEC form W900. Specifically, these reports shall contain the information detailed below in subsections A through D for each grade (regular, mid-grade and premium) of finished gasoline.

A. Weighted average dealer tank wagon price that is based on all wholesale transactions for gasoline delivered to final destination during the reporting period for each specified region of California. The delivered prices used in the calculation, referred to as "weighted average dealer tank wagon prices," shall reflect the volume-weighted dealer tank wagon (DTW) prices for each specific region of California for the reporting period.

B. Number of individual delivery sites used in the calculation for the reporting period, rather than the total number of deliveries, for each specified region of California. A refiner shall be exempt from supplying the required information for a specific region of California if that refiner delivers to 10 sites or less during any reporting period.

C. The high and low DTW prices reported for each grade of gasoline for each region specified of California during the reporting period.

D. Volume of finished gasoline, in thousands of gallons, delivered within each of the regions of California defined by Section 1363.2 during the reporting period.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(i), Public Resources Code.

Appendix B

Information Requirements for Monthly Reports

I. California Refiners' Monthly Reports shall contain all of the information specified below:

A. All of the information specified on Form EIA810 published by the United States Department of Energy.

B. All of the information specified on CEC Form M810. Specifically, stocks at the beginning and end of the month and receipts, inputs, production and shipments, on-site fuel uses and losses of motor gasolines, blending components and distillate fuel oils during the month.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(h) and (i), Public Resources Code.

II. California Refinery Monthly Fuel Use Reports shall contain all of the information specified on CEC form M13. Specifically, this report shall contain the information detailed below in subsections A through F for fuel, electricity, and steam consumed for all purposes at each California refinery.

A. Quantity of fuel, both purchased and produced, that is consumed each month for every California refinery. Fuels shall consist of crude oil, distillate type fuel oil, residual type fuel oil, liquefied petroleum gas, still gas, marketable petroleum coke, and catalyst petroleum coke. These fuels shall be reported in units of barrels.

B. Quantity of purchased natural gas each month for every California refinery. Natural gas shall be reported in units of thousands of cubic feet.

C. Quantity of purchased coal each month for every California refinery. Coal shall be reported in units of short tons.

D. Quantity of electricity purchased each month for every California refinery. Electricity shall be reported in units of thousands of kWh. Electricity generated by the refinery and consumed at the refinery shall not be included in this monthly total.

E. Quantity of purchased steam that is consumed each month for every California refinery. Steam shall be reported in units of thousands of pounds. Steam produced by the refinery and consumed at the refinery shall not be included in this monthly total.

F. Quantity of other types of purchased fuels, not specified in subsections A through E, that are consumed each month for every California refinery. These other fuels shall be reported in units of measurement that are in common usage for each fuel.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(b), Public Resources Code.

III. California Imports, Exports, and Intrastate Movements Monthly Reports shall contain all of the information specified on CEC form M700. Specifically, this report shall contain

the information detailed below in subsections A through J for finished motor gasoline, gasoline blendstocks, oxygenates, distillates, non-California fuels, aviation fuels, liquefied petroleum gases, crude oil, and other petroleum products.

A. Imports into California of crude oil, petroleum products and oxygenates by marine vessel for each monthly reporting period, in thousands of barrels, by specific product type, discharge date and California discharge port. The port of origin, country/state of origin and name of the vessel used to import each specific cargo of crude oil, petroleum product or oxygenate shall also be provided.

B. Exports from California of crude oil, petroleum products and oxygenates by marine vessel for each monthly reporting period, in thousands of barrels, by specific product type, load date and California load port. The intended destination port, destination country/state and name of the vessel used to export each specific cargo of crude oil, petroleum product or oxygenate shall also be provided.

C. Intrastate movements within California of crude oil, petroleum products and oxygenates by marine vessel, for each monthly reporting period, in thousands of barrels. For each outbound intrastate marine movement that is shipped, the vessel name, load date, California load port and intended California destination port shall be provided for each specific product type. For each inbound intrastate marine movement that is received, the vessel name, discharge date, California discharge port and California port(s) of origin for the cargo shall be provided for each specific product type.

D. Exports from California of crude oil, petroleum products and oxygenates by pipeline for each monthly reporting period, in thousands of barrels, by each specific product type, product code, pipeline name, and delivery terminal name. Product re-grades should also be provided, if applicable.

E. Distribution of non-California fuels by tanker truck for each monthly reporting period in thousands of gallons by specific product type, delivery date, California delivery city and business name of the delivery location. Distribution of non-California fuels obtained from outside California shall be deemed an import and shall also include the city of origin for the non-California fuel. Distribution of non-California fuels obtained from inside California shall be deemed an intrastate movement and shall also include the California city of origin.

F. Imports into California of crude oil, petroleum products and oxygenates by tanker truck for each monthly reporting period in thousands of gallons by each specific product type, discharge date, discharge location, country of origin and state of origin.

G. Exports from California of crude oil, petroleum products and oxygenates by truck for each monthly reporting period, in thousands of gallons, by each specific product type, load date, load location, country of destination and state of destination. Exported volumes from individual trucks of identical product type and identical intended destination can be aggregated if the product is loaded on the same date.

H. Distribution of marine fuels from one marine vessel to another marine vessel or from storage tanks to marine vessels, (referred to as bunkering) for each monthly reporting period in thousands of barrels. For each bunkering movement, the vessel name, load date, California load port, flag designation of receipt vessel and discharge location shall be provided for each specific type of marine fuel.

I. Imports into California of crude oil, petroleum products and oxygenates by rail for each monthly reporting period, in thousands of barrels, by each specific product type, discharge date, discharge location, country of origin and state of origin. Imported volumes from individual rail cars of identical product type and identical point of origin can be aggregated if the product is discharged on the same date.

J. Exports from California of crude oil, petroleum products and oxygenates by rail for each monthly reporting period, in thousands of barrels, by each specific product type, load date, load location, intended country of destination and intended state of destination. Exported volumes from individual rail cars of identical product type and identical intended destination can be aggregated if the product is loaded on the same date.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(a), Public Resources Code.

IV. California Major Petroleum Product Storer and Terminal Monthly Reports shall contain all of the information specified on CEC form M08. Specifically, this report shall contain the information detailed below in subsections A through C, for finished gasoline blended with ethanol, other motor gasoline, gasoline blendstocks, oxygenates, distillates, aviation fuels, marine fuels, liquefied petroleum gases, crude oil, and other petroleum products.

A. Production of finished motor gasoline blended with ethanol, by monthly reporting period, in thousands of barrels, for each California terminal location, including California refineries that blend such type of motor gasoline for dispensing at truck loading racks within the refinery gate.

B. Production of finished motor gasoline blended with ethanol manufactured for use in Arizona and Nevada by monthly reporting period, in thousands of barrels, for each California terminal location. This requirement only applies to motor gasoline that is dispensed for purpose of export by truck to destinations in either Arizona or Nevada.

C. Receipts and ending inventories of specified petroleum products for each monthly reporting period, in thousands of barrels, for each California terminal location.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(b)(2) and (e), Public Resources Code.

V. California Dealer Tank Wagon Price Monthly Reports shall contain all of the information specified on CEC form M900. Specifically, this report shall contain the information detailed below in subsections A through D, for each grade (regular, mid-grade and premium) of finished gasoline.

A. Weighted average adjusted dealer tank wagon price that is based on all wholesale transactions for gasoline delivered to final destination during the reporting period for each specified region of California. The delivered prices used in the calculation, referred to as "adjusted dealer tank wagon prices", shall reflect the "net cost" to the retail dealer or franchisee such that all rebates or discounts are subtracted from the original dealer tank wagon (DTW) price. These average adjusted DTW prices shall be volume-weighted calculations for each specified region of California, by each grade of gasoline, during the reporting period.

B. Number of individual delivery sites used in the calculation for the reporting period, rather than the total number of deliveries, for each specified region of California. A refiner shall be exempt from supplying the required information for a specific region of California that the refiner delivers to 10 sites or less during any reporting period.

C. The high and low DTW prices reported for each grade of gasoline, by each specific region of California, during the reporting period.

D. Volume of finished gasoline (in thousands of gallons) delivered within each of the regions of California defined by Section 1363.2 during the reporting period.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(h), Public Resources Code.

VI. California Monthly Sales Reports shall contain all of the information specified on CEC form M782B. Specifically, this report shall contain the information detailed below in subsections A through H for specified petroleum products.

A. Volumes and average price of each grade of finished motor gasoline dispensed during the reporting period through retail sales transactions at company operated outlets and retail sales to other end users.

B. Volumes and average price of each grade of finished motor gasoline dispensed during the reporting period through dealer tank wagon sales transactions.

C. Volumes and average price of each grade of finished motor gasoline dispensed during the reporting period through branded, unbranded and bulk wholesale sales transactions.

D. Volumes and average price of each grade of CARBOB dispensed during the reporting period through bulk wholesale sale transactions.

E. Volumes and average price of specified distillates, propane and aviation fuels dispensed during the reporting period, through retail sales transactions at company operated-outlets and retail sales transactions, to residential, commercial-institutional, and industrial end users.

F. Volumes and average price of specified distillates, propane and aviation fuels dispensed during the reporting period through branded, unbranded and bulk wholesale sales transactions.

G. Volumes and average price of propane dispensed during the reporting period through wholesale sale transactions to petrochemical end users.

H. Volumes and average price of specified residual fuels dispensed during the reporting period through retail and wholesale sales transactions.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(h), Public Resources Code.

Appendix C

Information Requirements for Annual Reports

I. California Refiners' Annual Reports shall contain the information specified below. Unless otherwise indicated, all quantities of crude oil, oxygenates or petroleum products shall be expressed in thousands of barrels.

A. All of the information on refinery capacity from Form EIA820 published by the United States Department of Energy.

B. All of the information necessary to complete the California Refiner Annual Report (CEC form A04) as specified in this subsection. Information on the method of shipment of motor gasoline, aviation fuels, distillate fuels, residual fuels, and unfinished oils, expressed as the percentage of total shipments of each such product transported by pipeline, tanker, barge, truck, and railroad. The total of all such percentages shall equal one hundred percent for each product.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354(b)(5), Public Resources Code.

II. California Major Petroleum Product Storer Annual Tank Reports shall contain all of the information specified on CEC form A08. Specifically, these reports shall contain all of the information detailed below in subsections A through B, for each refinery and terminal location.

A. For each storage location the reporting party shall identify each individual tank, along with the tank type, product type in storage at the time of the report, physical maximum capacity, tank heel and the net usable capacity.

B. Product types shall include crude oil, unfinished oils, finished motor gasoline, gasoline blendstocks, oxygenates, distillates, aviation fuels, marine fuels, liquefied petroleum gases and other petroleum products.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(b)(2), Public Resources Code.

III. California Major Crude Oil Transporters' Annual Reports shall contain all of the information specified on CEC form A03. Specifically, these reports shall contain all of the information detailed below in subsections A through F for each separate crude oil pipeline system:

A. Pipeline storage tank capacity, subcategorized by:

1. Total storage volume; and

2. Usable storage tank capacity.

B. Pipeline utilization information as follows:

1. Maximum throughput (nominal pipeline capacity) in thousands of barrels per stream day;

2. Average throughput in thousands of barrels per calendar day.

C. Method of receipt to each crude oil pipeline system (from pipeline gathering systems, pipeline systems operated by others, tankers or barges.

D. Deliveries from each crude oil pipeline system (to refineries, tankers, barges, pipeline systems operated by others, and out of state receivers.

E. A map(s) in editable electronic form formatted to print no smaller than 11 inches by 17 inches and a description of each crude oil pipeline system, including oil field flow lines, pipeline gathering systems, all pipeline diameters, the location and a description of all points of origin and all terminals and points of interconnections with pipeline systems operated by others, and an indication of whether the pipelines are heated or unheated. The description shall contain such additional information as the reporting firm deems relevant to a thorough understanding of the pipeline system.

F. A submittal of electronic information for each pipeline system in a geographic information system (GIS) format.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(b)(1), Public Resources Code.

IV. California Major Petroleum Products Transporters' Annual Reports shall contain all of the information specified in CEC form A06. Specifically, these reports shall contain all of the information detailed below in subsections A through E for each separate petroleum product pipeline system.

A. Pipeline storage tank capacity subcategorized by:

1. Total storage volume; and

2. Usable storage tank capacity.

B. Pipeline utilization information for all petroleum products transported as follows:

1. Maximum throughput (nominal pipeline capacity) in thousands of barrels per stream day,

2. Average throughput in thousands of barrels per calendar day.

C. Location of origin of receipts (from refinery storage facilities or other product pipelines), and a description of shipments from the pipeline system (to California terminals, to other product pipeline systems or to out-of-state purchasers) for motor gasoline, aviation fuels, distillates, and residual fuels.

D. A map(s) in editable electronic form formatted to print no smaller than 11 inches by 17 inches and a description of each petroleum product pipeline system, including the location of all points of origin, all terminals and points of interconnection with other pipelines, and such other information as the reporting firm deems relevant to a thorough understanding of the pipeline system.

E. A submittal of electronic information for each pipeline system in a geographic information system (GIS) format.

Note: Authority cited: Sections 25213, 25218(e) and 25354, Public Resources Code. Reference: Section 25354(b)(1), Public Resources Code.

V. California Major Crude Oil Producers' Annual TEOR Fuel Consumption and TEOR Steam Use Reports shall contain all of the information specified on CEC forms A14 and A14X. Specifically, these reports shall contain the monthly use, as fuel, of crude oil and natural gas (including the quantity of steam) for thermally enhanced oil recovery in the following oil fields:

Arroyo Grande
Belridge North
Belridge South
Casmalia
Cat Canyon
Coalinga
Cymric
Edison
Fruitvale
Guadalupe
Kern Bluff
Kern Front
Kern River
Lost Hills
McKittrick
Midway Sunset
Mt. Poso
Newport, West
Oxnard
Placentia
Poso Creek
San Ardo
Santa Maria Valley
Huntington Beach
Wilmin gton
Yorba Linda
Combined usage for all other fields

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354(b)(3), Public Resources Code.

VI. California Retail Fuel Outlet Survey Annual Report shall contain all of the information specified on CEC form A15. Specifically, these reports shall contain information on retail fuel outlets owned or leased by each company as detailed below in subsections A through E.

A. Each reporting company shall provide the following general business information for each retail fuel outlet; brand name, facility name (if unbranded), physical address, telephone number and normal hours of operation.

B. Each reporting company shall provide type of ownership designation for each retail fuel outlet, such as: company owned/company operated, company owned/dealer operated, dealer owned/dealer operated for all branded outlets and independently owned and operated for all unbranded outlets.

C. Each reporting company shall provide a general operation description information for each retail fuel outlet, such as: service station, cardlock facility, hypermart, marina, airport or truck stop.

D. Each reporting company shall provide fuel-related information for each retail fuel outlet, such as: number and capacity of fuel storage tanks and total sales by each fuel type and grade for the reporting period.

E. Each reporting company shall provide business amenity information for each retail fuel outlet, such as the presence of a: kiosk, convenience store, restaurant/fast food outlet, supermarket/general store, pharmacy, discount store, automotive repair service bay or car wash.

Note: Authority cited: Section 25354, Public Resources Code. Reference: Section 25354(f), Public Resources Code.

VII. Each Refiner shall submit Flow Diagrams for each of their facilities in California on an annual basis. Flow Diagrams shall be submitted in an editable electronic form formatted to print no smaller than 11 by 17 inches. Flow Diagrams shall provide a diagram of the refinery that illustrates the number, diversity and interconnection of individual process units at each refinery location. Flow diagrams are not intended to be spatially accurate. Minor ancillary equipment associated with each process unit (such as pumps, blowers, meters, etc.) are not required to be depicted. The Flow Diagram submitted for each refinery location shall include an attachment that contains an explanation of all abbreviations and acronyms used in the Flow Diagram. The attachment to the Flow Diagram shall also include all information relevant for a general understanding of the refinery. In addition, each Flow Diagram shall also contain information detailed below in subsections A through E.

A. Individual process unit identification and interconnection to other process units.

B. Maximum throughput capacity during the previous calendar year in thousands of barrels per stream day for each process unit depicted.

C. Actual throughput capacity during the previous calendar year in thousands of barrels per calendar day for each process unit depicted.

D. Interconnections depicted between process units shall include identification of all intermediate and final petroleum products, including inputs of petroleum products external from the refinery.

E. Average flow rates during the previous calendar year in thousands of barrels per calendar day for each interconnection depicted between process units.

Note: Authority cited: Section 25354, Public Resources Code. Reference: Section 25354(f), Public Resources Code.

VIII. Each refiner, terminal operator, major petroleum products storer and marine facility operator, shall submit Site Maps for each of their facilities in California on an annual basis. Site Maps shall be submitted in an editable electronic form formatted to print no smaller than 11 by 17 inches. Each Site Map shall provide a plan view of their facility that illustrates all structures, roadways, process equipment, storage tanks, and associated facility information that is relevant to the site. Site maps are intended to be spatially accurate and shall include a scale for reference. The Site Map submitted for each facility shall include an attachment that contains an explanation of all abbreviations and acronyms used in the Site Map. In addition, each Site Map shall also contain information detailed below in subsections A through D.

A. Identification of all process units at each refinery location and a separate written description of the primary function of each process unit.

B. Identification of all major individual ancillary equipment at each refinery location (such as cogeneration facilities) and a separate written description of the primary function of all ancillary equipment.

C. Identification of all storage tanks at each terminal and tank farm location that correspond with the CEC form A08.

D. Identification of all storage tanks and major marine equipment at each marine facility. Major marine equipment shall include loading arms, on-shore pumps, main petroleum pipelines, and any other equipment or conveyance relevant to a thorough understanding of the marine facility.

Note: Authority cited: Section 25354, Public Resources Code. Reference: Section 25354(b) and (f), Public Resources Code.

Article 4. Wind Performance Reporting Systems

§ 1381. Title and Purpose.

The purpose of this article is to specify performance reporting requirements for operators of specified wind energy projects and for entities which purchase electricity from the projects and to identify requirements for the Commission to publish the information.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c) and 25605, Public Resources Code.

§ 1382. Definitions.

For the purposes of this article, the following definitions shall apply unless the Commission has clearly indicated otherwise in these regulations:

(a) "Contingency Costs": the costs which may be paid by investors after the initial investment, but which are not paid out of project revenues. Contingency costs may include such costs as turbine repairs or annual insurance fees paid during the reporting year.

(b) "Cumulative Number of Turbines Installed": the cumulative total number of turbines of a given model installed by the end of the reporting period.

(c) "Electricity Produced (kWh)": the total kilowatt hours actually produced by all of the turbines of a particular turbine model contained within the wind project where the electricity is delivered to a wind power purchaser for sale during the reporting period.

(d) "Name of Wind Project": the name used for the project in any prospectus, offering memorandum, or sales literature.

(e) "Number of Turbines Installed During Reporting Period": the number of additional turbines installed during the calendar quarter of the reporting period.

(f) "Project Cost": the total cost of the turbines installed during the reporting period Project cost includes all debt and equity investment in the project (including non-recourse notes) and should be comparable to the project cost shown in the offering memorandum, prospectus or sales literature published by the developer.

(g) "Projected Annual Production Per Turbine (kWh)": the annual average kWh production, by model, predicted by the developer in its prospectus, offering memorandum, or sales literature. This figure may be revised annually prior to the first reporting quarter of each year and shall be based upon average site specific wind distributions and the wind turbine power curves.

(h) "Projected Quarterly Production Per Turbine (kWh)": the quarterly breakdown of the Projected Annual Production Per Turbine.

(i) "Rotor (M^2)": the rotor swept area in square meters for each turbine model.

(j) "Size (kW)": the turbine manufacturer's published kW rating at a specific miles per hour (mph) with wind speed shown in parentheses.

(k) "Turbine Model": the common or manufacturer's name for the turbine if that is a commonly used term for the model of a specific rotor (M^2) and size (kW).

(l) "Wind Power Purchaser": any electricity utility or other entity which purchases electricity from a wind project, as defined in this section.

(m) "Wind project": one or more wind turbine generators installed in California with a combined rated capacity of 100 kW or more, the electricity from which is sold to another party.

(n) "Wind Project Operator": any developer or operator who directly receives payments for electricity from the wind power purchaser.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c) and 25605, Public Resources Code.

§ 1383. Reporting Period.

For the purposes of this article, and unless otherwise indicated, the reporting period shall be each calendar quarter, beginning with the first quarter following the effective date of this article. Quarterly reports filed pursuant to this article shall be submitted not later than the forty-fifth day following the close of each reporting period. Reports shall be deemed submitted as of the date of postmark, provided that the report is properly and legibly completed.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d, 25601(c) and 25605, Public Resources Code.

§ 1384. Requirements to File.

The information required by this article shall be submitted to the Commission by wind project operators and wind power purchasers. Reports shall be made on forms prescribed by order of the Commission and according to instructions accompanying the forms. A copy of the wind project prospectus, offering memorandum, and other sales literature shall accompany the initial report. All reports must be verified by a responsible official of the firm filing the report. Requests for confidentiality may be filed pursuant to 20 Cal. Admin. Code Section 2501 et seq.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c) and 25605, Public Resources Code.

§ 1385. Information Requirements: Wind Project Operators.

Each operator firm submitting information pursuant to the provisions of this article shall include the following:

(1) Name of wind project

(2) Name and address of operator

(3) Name and phone number of contact person at operator's firm

(4) Operator's name as shown on power purchase contract (if different than 2 above)

(5) Name of wind power purchaser

(6) Purchase contract number

(7) Resource area and county

(8) Dates of reporting period

(9) Turbine model

(10) Cumulative number of turbines installed

(11) Number of turbines installed during reporting period

(12) Rotor (M^2)

(13) Size (kW) at stated wind speed

(14) Project cost

(15) Additional project contingency costs for which investors may be responsible

(16) Projected quarterly production per turbine (kWh)

(17) Projected annual production per turbine (kWh)

(18) Electricity produced (kWh)

(19) Turbine manufacturer's name and address

(20) Operator comments, if any.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c) and 25605, Public Resources Code.

§ 1386. Information Requirement: Wind Power Purchaser.

Each wind power purchaser submitting information pursuant to the provisions of this article shall include the following:

(1) Name of purchaser's firm

(2) Name and phone number of contact person at purchaser's firm

(3) Date of report

(4) Name of wind project operator

(5) Number of contract with wind project operator

(6) kWh's produced during reporting period

(7) Dates of reporting period

(8) The maximum MW's which the operator can deliver to the purchaser as specified in the power sales agreement.

(9) Purchaser comments, if any.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c) and 25605, Public Resources Code.

§ 1387. Publication of Data.

The Commission staff shall compile and distribute, on a quarterly basis, the information reported by wind project operators and purchasers. Cost data will be published by the Commission in an aggregated form to the extent necessary to assure confidentiality. The final publication of each year shall combine the performance data for that year. The publication shall designate the name of any wind project operator from whom performance data is not received.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c) and 25605, Public Resources Code.

§ 1388. Failure to Provide Information.

The Commission may, after notifying any person of the failure to provide information pursuant to this article, take such action to secure the information as is authorized by any provision of law, including, but not limited to, Public Resources Code Section 25900.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c), 25605(e) and 25900, Public Resources Code.

§ 1389. Exemptions.

Operators of wind projects of less than 100 kW rated capacity or operators who do not offer electricity for sale are exempt from this article.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(d), 25601(c) and 25605, Public Resources Code.

Article 5. Electricity Generation Source Disclosure

§ 1390. Scope.

The regulations in this Article implement the disclosure and reporting requirements established in Article 14 (commencing with section 398.1) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

Note: Authority cited: Section 25213, Public Resources Code; and Sections 398.3-398.5, Public Utilities Code. Reference: Sections 25216, 25216.5, Public Resources Code; and Sections 398.1-398.5, Public Utilities Code.

§ 1391. Definitions.

(a) "Claim that identifies any of a retail provider's electricity sources as different from net system power" or "claim of specific purchases" means any statement that is made to consumers by a retail provider for the purpose of marketing any electricity product and that contains either:

(1) a reference to use of an eligible renewable to generate, in part or in whole, the electricity product offered for sale by the retail provider, other than disclosure of net system power; or

(2) a statement that a specific attribute of the electricity product related to the generator creates an environmental effect.

(b) "Electricity product" means the electrical energy produced by a generating facility that a retail seller offers to sell to consumers in California under terms and conditions specific to an offer or to a tariff. It does not include the provision of electric services on site, sold through an over-the-fence transaction, as defined in Section 218 of the Public Utilities Code, or sold or transferred to an affiliate, as defined in Section 372(a) of the Public Utilities Code.

(c) "Eligible renewable" means a technology other than a conventional power source, as defined in Section 2805 of the Public Utilities Code, that uses one of the following energy sources, provided that a power source utilizing more than 25 percent fossil fuel may not be included:

(1) Biomass and waste. For purposes of these regulations, "biomass and waste" means the power source that is comprised of combustible residues or gasses from logging, forest products manufacturing, agricultural and orchard crops, waste products from livestock and poultry operations and food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, landfill, and waste tires converted to electrical energy.

(2) Geothermal. For purposes of these regulations, "geothermal" means the power source that is thermal energy naturally produced within the earth that is converted to electrical energy in boilers and/or turbines.

(3) Small hydroelectric. For purposes of these regulations, "small hydroelectric" means the power source created when water flows from a higher elevation to a lower elevation and that is converted to electrical energy in one or more generators at a single facility, the sum capacity of which does not exceed 30 megawatts.

(4) Solar. For purposes of these regulations, "solar" means the power source that is comprised of radiation from the sun that is directly or indirectly converted to electrical energy.

(5) Wind. For purposes of these regulations, "wind" means the power source created by movement of air that is converted to electrical energy in a wind turbine.

(d) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(e) "Facility" means one or all generating units at an electric generating station.

(f) "Fuel type attribute" means the fuel or technology type used to generate a quantity of kilowatt hours, specified using the categories identified in subsections (d)(1)(A) and (B) of section 1393, and subsection (b)(3)(C) of section 1392.

(g) "Generating facility output" means the electrical energy and/or fuel type attribute, denominated in kilowatt hours, that is produced by a specific generating facility.

(h) "Generating unit" means a device that converts mechanical, chemical, electromagnetic, or thermal energy into electricity and that:

(1) has an electric output capable of being separately identified and metered;

(2) is located within the Western Systems Coordinating Council interconnected grid; and

(3) is capable of producing electrical energy in excess of a generation station's internal power requirements.

(i) "Generator" means the initial seller of electrical energy produced by a generating unit.

(j) "Independent System Operator" or "ISO" means the entity that is subject to the requirements of Section 345 et seq. of the Public Utilities Code.

(k) "Large hydroelectric" means the power source created when water flows from a higher elevation to a lower elevation and that is converted to electrical energy in one or more generators at a single facility, the sum capacity of which exceeds 30 megawatts.

(l) "Local publicly owned electric utility that does not utilize the Independent System Operator" means any of the following entities that owns generation facilities that are not individually metered by the ISO: (1) a municipality or municipal corporation operating as a public utility district furnishing electric services ; (2) an irrigation district furnishing electric services; or (3) a joint powers authority that includes one or more of the entities identified in (1) or (2) and that owns generation or transmission facilities, or furnishes electric services over its own or its members' electric distribution system.

(m) "Net electricity generated" means electricity generated by any generating facility, less any generation used on-site, sold through an over-the-fence transaction, as defined in Section 218 of the Public Utilities Code, or sold or transferred to an affiliate as defined in Section 372(a) of the Public Utilities Code.

(n) "Out-of-State power" means power generated entirely outside the state which is sold for wholesale or retail purposes in California.

(o) "Pool" means an entity into which multiple generators deliver generating facility output and out of which multiple retail providers purchase generating facility output, such that buyer and seller may not have knowledge of each other's identities. The amount of electrical energy delivered into and purchased from the pool must be equal, and the amount of fuel type attribute delivered into the pool must be equal to or greater than the amount of fuel type attribute purchased from the pool.

(p) "Product-specific written promotional materials that are distributed to consumers" means any paper, electronic, or other media that contain words pertaining to a specific electricity product being advertised or offered and that are distributed to consumers or made available over the Internet. It does not include advertisements and notices in general circulation media.

(q) "Report electronically" means to provide files in either a database or spreadsheet format that can be read by the most recent version of either Microsoft™ Excel or Microsoft™ Access.

(r) "Retail supplier" or "retail provider" means an entity that offers an electricity product for sale to retail consumers in California.

(s) "Scheduling Coordinator" means any entity certified by the Independent System Operator for the purposes of undertaking the functions specified in Section 2.2.6 of the Independent System Operator Tariff. (Restated and Amended Tariff of the California Independent System Operator Corporation, August 15, 1997.)

(t) "Specific purchase" means a transaction in which generating facility output is traceable to specific generating facilities and which provides commercial verification that the generating facility output claimed has been sold once and only once to retail consumers.

(u) "System Operator" means the Independent System Operator as defined in subsection (h) of this section, or a local publicly owned electric utility that does not utilize the Independent System Operator, as defined in subsection (j) of this section.

Note: Authority cited: Section 25213, Public Resources Code; and Sections 398.3-398.5, Public Utilities Code. Reference: Sections 25216 and 25216.5, Public Resources Code; and Sections 398.1-398.5, Public Utilities Code.

§ 1392. Generation Disclosure.

(a) Method and Timing of Submissions

(1) All submissions to the System Operator required by subsection (a)(2) of this section must be provided to the System Operator by the generator, either directly or through a Scheduling Coordinator.

(2) Each generator that provides meter data to a System Operator, either directly or through a Scheduling Coordinator, shall report the information specified in subsection (b) of this section to the System Operator within forty-five days of the end of each calendar quarter beginning with the quarter ending December 31, 1998.

(b) Content and Format of Submissions to the System Operator

(1) General Information:

(A) Name and telephone number of person to contact about the submission;

(B) Generator name, address, and an identification number provided by the System Operator, or in the event that the System Operator does not provide an identification number to the generator, by the Energy Commission;

(C) For each generating facility that generates electrical energy consumed in California, the generating facility name, location, either by street address or by longitude and latitude, and an identification number provided by the U.S. Energy Information Agency, or, in the event that the U.S. Energy Information Agency does not provide an identification number to the generating facility, by the Energy Commission.

(2) Generation Information: Generators shall report electronically the electricity generated in kilowatt hours by hour by each generating facility, in each month of the preceding quarter.

(3) Fuel Information:

(A) For generating facilities using only one type of fuel, generators shall report electronically the type of fuel consumed in the preceding quarter.

(B) For generating facilities using more than one fuel type, generators shall report electronically the fuel consumed in each month of the preceding quarter as a percentage of the total fuel used for electricity generation.

(C) Fuel shall be reported in the following categories:

1. Eligible renewable, which shall be reported in the following subcategories:

a. Biomass and waste

b. Geothermal

c. Small hydroelectric

d. Solar

e. Wind

2. Coal

3. Natural gas

4. Large hydroelectric

5. Nuclear

6. Other

(c) System Operator Responsibilities

(1) Subject to the limitations described in subsection (c)(2) of this section, all data provided to the System Operator pursuant to subsection (b) of this section will be reported electronically to the Energy Commission either by providing a computer disk containing the information, or by providing electronic access to the information. This access shall be provided to the Energy Commission within 60 days of the end of each calendar quarter.

(2) Limitations on Energy Commission Access:

(A) The System Operator is not required to provide the Energy Commission with any information submitted under subsection (b)(3) of this section that specifies the amount of fuel consumed at a generating facility.

(B) The System Operator is not required to provide the Energy Commission with any information submitted under subsection (b)(3) of this section for out-of-state power.

(d) The following requirements apply to generation and fuel information that is reported for any generation that is sold in an electricity product for which a claim of specific purchases is made.

(1) The generation and fuel information must be reported from individually metered generating facilities.

(2) If generation or fuel information for electrical energy that is sold in an electricity product for which a claim of specific purchases is made is not reported pursuant to subsection (a) of this section, the generator shall report electronically the information specified in subsection (d)(2)(A)-(C) of this section to the Energy Commission by March 1 of each year beginning in 1999 for each generating facility that generated such electrical energy in California. If the information is provided to the Energy Commission in another filing, the generator may submit a statement identifying the filing and section of the filing in which the information is contained in lieu of a separate filing pursuant to this subsection.

(A) General Information:

1. Name and telephone number of person to contact about the submission;

2. Generator name, address, and an identification number provided by the System Operator, or in the event that the System Operator does not provide an identification number to the generator, by the Energy Commission;

3. For each generating facility, the generating facility name, location, either by street address or by longitude and latitude, and an identification number provided by the U.S. Energy Information Agency, or, in the event that the U.S. Energy Information Agency does not provide an identification number to the generating facility, by the Energy Commission.

(B) Net electricity generated by the generating facility in kilowatt hours in the previous calendar year; and

(C) Type of fuel consumed by the generating facility as a percentage of electricity generation in the previous calendar year, using the categories specified in subsection (b)(3)(C) of this section.

(3) When a retail provider's claim of specific purchases mandates that a generator comply with the reporting requirements of subsection (d)(2) of this section, the retail provider shall inform the generator that he or she must comply with these reporting requirements.

Note: Authority cited: Section 25213, Public Resources Code; and Sections 398.3 and 398.5, Public Utilities Code. Reference: Sections 25216 and 25216.5, Public Resources Code; and Sections 398.3 and 398.5, Public Utilities Code.

§ 1393. Retail Disclosure to Consumers.

(a) For purposes of this section, the following definitions apply:

(1) "Annual disclosure" means the annual disclosure required under Public Utilities Code section 398.4(l).

(2) "General disclosures" means the disclosures required under Public Utilities Code section 398.4(b) and (c).

(3) "Marketing disclosure" means the disclosure required under Public Utilities Code section 398.4(b).

(4) "Net system power" means the fuel mix adopted by the Energy Commission pursuant to Public Utilities Code section 398.5(f).

(5) "Power content label" means the information disclosed to consumers pursuant to the format requirements of this section.

(6) "Quarterly disclosure" means the disclosure required under Public Utilities Code section 398.4(c).

(7) "Eligible renewable" means eligible renewable as defined in section 1391 of this article.

(b) Pursuant to Section 398.4 of the Public Utilities Code, each retail provider shall disclose to consumers the fuel mix of each electricity product offered, using the schedule and format specified in this section. For each electricity product, the retail provider shall do the following:

(1) A retail provider that makes a claim of specific purchases shall:

(A) Disclose the projected fuel mix for the electricity product in the current calendar year in its general disclosures as described in subsection (e) of this section; and

(B) Separately disclose the fuel mix for net system power in its general disclosures, as described in subsection (e) of this section; and

(C) Disclose the fuel mix for the electricity product that was sold during the previous calendar year in its annual disclosure, as described in subsection (e) of this section.

(2) A retail provider that does not make any claims of specific purchases shall:

(A) Disclose the fuel mix for the electricity product to be sold in the current calendar year in its general disclosures as the fuel mix for net system power, as described in subsection (e) of this section; and

(B) Separately disclose the fuel mix for net system power in its general disclosures, as described in subsection (e) of this section; and

(C) Not make an annual disclosure.

(c) Each retail provider shall disclose the information required in this section to consumers according to the following schedule:

(1) Marketing disclosures shall be provided in all product-specific written promotional materials that are distributed to consumers, as defined in subsection (p) of section 1391 of these regulations.

(2) Quarterly disclosures shall be provided by United States mail to consumers of the electricity product and the Energy Commission by the end of the first complete billing cycle for each quarter, beginning with the January 1999 quarter, using the power content label. For

purposes of this section, quarters shall begin in January, April, July, and October of each year. Retail providers may provide quarterly disclosures to consumers via the Internet provided that the consumer has consented to receiving Internet notice in lieu of service by United States mail.

(3) Annual disclosures shall be provided by United States mail to consumers of the electricity product and to the Energy Commission on or before April 15 of each year beginning in 1999. Retail providers may provide annual disclosures to consumers via the Internet, provided that the consumer has consented to receiving Internet notice in lieu of service by United States mail.

(d) Each retail provider shall disclose the following information in all power content labels about the fuel mix of the electricity product and of net system power:

(1) The power content labels containing general disclosures shall meet the following requirements:

(A) Fuel mix information shall be provided using the following fuel type categories and in the following order, rounded to the nearest percent:

1. Eligible renewable

2. Coal

3. Large hydroelectric

4. Natural gas

5. Nuclear

6. Other

(B) The retail provider shall include the following subcategories within the eligible renewable category, provided however, that the retail provider is not required to display the fuel mix percentages for these subcategories in general disclosures for a product for which a claim of specific purchases was made:

1. Biomass and waste

2. Geothermal

3. Small hydroelectric

4. Solar

5. Wind

(C) Calculation

1. For each electricity product for which no claim of specific purchases has been made, the fuel mix displayed shall be identical to that displayed for net system power. For each electricity product for which a claim of specific purchases has been made, the percentage of

each fuel type category or subcategory that is specified shall be calculated by adding the contribution from each specific purchase in the electricity product to the contribution from all other purchases, if any, for that fuel type category or subcategory, as shown by the following formula: $w_1(x) + w_2(y)$.

a. "w_1" is the percentage of electricity in this electricity product the retail provider expects to provide through specific purchases;

b. "x" is the percentage contribution for a given fuel category or subcategory to total specific purchases for that electricity product;

c. "w_2" is the percentage of electricity in the electricity product the retail provider expects to provide through sources other than specific purchases; and

d. "y" is the percentage contribution for the fuel category or subcategory to the net system power fuel mix.

2. For purposes of this calculation, the contribution from all other sources shall be calculated using only the most-recently adopted fuel mix of net system power.

(2) If a retail provider makes a claim of specific purchases, the annual disclosure shall consist of the fuel mix of the electricity product sold to consumers during the previous calendar year. In addition, if the percentage of any fuel type category or subcategory contained in any general disclosure made during the previous calendar year for that electricity product varies by more than plus or minus five percentage points from the percentage provided in the annual disclosure, the fuel mix information displayed in the general disclosure that varies the most from this annual disclosure shall be displayed.

(A) For purposes of subsection (d)(2) of this section, the general disclosure that varies the most from this annual disclosure is the general disclosure for which the sum of the squares of the differences between the percentage points identified for each fuel category or subcategory in the general disclosure and in this annual disclosure, as represented by the calculation $\sum(x_i-y_i)^2$, is greatest, where "x_i" is the percentage contribution for fuel category or subcategory "i" listed in a general disclosure and "y_i" is the percentage contribution for fuel category or subcategory "i" for the annual disclosure, for "i" equals all fuel categories and subcategories.

(B) If the fuel mix information for the electricity product contained in a general disclosure is required to be displayed pursuant to subsection (d)(2), the retail provider shall also provide an explanation of why there is a difference between the information contained in the general disclosure and the information contained in the annual disclosure.

(e) Each retail provider shall provide general and annual disclosures for each electricity product offered using a power content label. The power content label shall use the following format:

(1) All information contained in the power content label shall appear in one place without other intervening material.

(2) Location of the power content label.

(A) If the retail provider offers materials that consist of more than one page, the power content label or a note telling the consumer where the power content label can be found, shall appear on the cover page or the first facing page. If a note is used to tell the consumer where the power content label can be found, the note shall appear in a type size no smaller than 10 point.

(B) Notwithstanding the provisions of subsection (e)(2)(A) of this section, if the promotional materials pertain to more than one electricity product and contain multiple pages, the power content label for each product may appear on the page discussing that electricity product.

(3) The power content label shall be set off in a box by use of hairlines which shall be all black or one color type such that the lines are conspicuous.

(4) All information within the power content label shall utilize:

(A) A single sans serif font;

(B) At least one point space between two lines of text;

(C) Kerning such that letters never touch one another;

(D) A type size no smaller than 10 point, except that the footnotes and subheadings may be in a type size no smaller than 8 point; and

(E) Black type or type that is a color easily distinguishable from the background color.

(5) At the bottom of the box containing the power content label, the following note shall appear: "For specific information about this electricity product, contact [Company Name]. For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer", where "Company Name" is the name of the retail provider. This note shall appear in a type size no smaller than 8 point, and shall be set off from the upper portion of the box by a hairline.

(6) The power content label containing general disclosures shall appear in the following format:

(A) The information shall be presented under the identifying heading of "Power Content Label" which shall be in bold, uppercase letters, set in a type size larger than all other type size in the power content label.

(B) Fuel mix information for the electricity product or products being sold and for net system power shall be displayed in a table format, and shall be organized as follows:

1. The first row of the table shall contain column headings. Headings shall appear in reverse type against a solid background.

2. A solid bar shall be displayed immediately below the last row of the table.

3. The first row of the first column shall display a heading of "Energy Resources", bolded and in all capital letters. Subsequent rows shall display fuel type categories and subcategories, as specified in subsection (d)(1) of this section. The category names shall be displayed in bold, and subcategory names for the eligible renewable category shall be unbolded, indented, and shall display a hyphen immediately before the name of the subcategory. The final row of this column shall read "total" in all upper case letters and in bold.

4. The second column shall display the fuel mix information for the electricity product being sold. The first row of the second column shall display a heading of the product name, bolded and in all capital letters. Immediately next to the product name in the first row of the second column shall be a footnote marker, directing the reader to the footnote specified in subsection (e)(6)(C)(1). Immediately below the product name shall be the subheading "(projected)". The subsequent rows of the column shall display the fuel mix information for the electricity product being sold. The fuel mix information shall be rounded to the nearest percent, expressed using a percent sign, and may, but need not, include the percentages for the eligible renewable subcategories. The final row for this column shall read "100%." The percentages for the categories shall be aligned and displayed in bold, and the percentages for the eligible renewable subcategories, if any, shall be aligned to the right of the percentages for the categories. If the retail provider is not making a claim of specific purchases for this electricity product, the fuel mix information displayed for the electricity product shall be identical to that displayed for net system power.

5. Power content labels containing marketing disclosures may contain other columns to the right of the second column to display fuel mix information for other products being sold by the retail provider. Each of these columns shall be in the same format specified in subsection (e)(6)(B)(4) of this section. If fuel mix information for other products is provided, each product name shall be immediately followed by a footnote marker, directing the reader to the footnote specified in subsection (e)(6)(C)(1).

6. The column farthest to the right shall contain information about the fuel mix of net system power. The first row of the column shall contain the heading "[Year] CA Power Mix", bolded and in all capital letters, where [Year] refers to the year for which the most recently-adopted fuel mix of net system power is available. Immediately next to the heading "[Year] CA Power Mix" shall be a footnote marker, directing the reader to the footnote specified in subsection (e)(6)(C)(2). Immediately below the heading shall be the subheading "(for comparison)". The subsequent rows of the column shall display the fuel mix information for net system power most recently adopted by the Energy Commission, including the percentages for the eligible renewable subcategories. The fuel mix information contained in this column shall be in unbolded type, and the percentages for the fuel type categories shall be aligned, and the percentages for the eligible renewable subcategories shall be aligned to the right of the percentages for the categories. The final row for this column shall read "100%."

(C) Footnotes shall appear at the bottom of the power content label as follows:

1. The first footnote shall read, "[percentage A] % of [Product Name] is specifically purchased from individual providers.", where "Percentage A" is the percentage of electricity in this electricity product the retail provider expects to provide through specific purchases, and "Product Name" is the name of the electricity product. If fuel mix information for more than one product is provided in the power content label, the footnote shall list for each electricity product the percentages of the product that the retail provider expects to provide through specific purchases.

2. The second footnote shall read, "Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year."

(D) An example of a power content label that meets the requirements for general disclosures made by a retail provider that makes a claim of specific purchases is shown in Appendix A-1 to these regulations. An example of a power content label that meets the requirements for general disclosures made by a retail provider that does not make a claim of specific purchases is shown in Appendix A-2 to these regulations. An example of a power content label that meets the requirements for general disclosures for more than one product is shown in Appendix A-3 to these regulations.

(7) Each retail provider shall provide a power content label containing an annual disclosure for each electricity product for which it made a claim of specific purchases during the previous calendar year, using the following format:

(A) The information shall be presented under the identifying heading of "Power Content Label" which shall be bolded and in all capital letters, set in a type size larger than all other type size in the power content label. Immediately beneath this heading shall be a subheading "Annual Report of Actual Electricity Purchases for [Product Name] in [Year]", where "Product Name" is the name of electricity product whose fuel mix is being disclosed, and "Year" is the previous calendar year. This subheading shall be set in a type size larger than the type size used to display the fuel mix information, but smaller than the type size used for the heading, and the product name shall be in bold.

(B) The fuel mix of the electricity product sold to consumers in the previous calendar year shall be displayed in a table format, and shall be organized as follows:

1. The first row of the table shall contain column headings. Headings shall appear in reverse type against a solid background.

2. A solid bar shall be displayed immediately below the last row of the table.

3. The first row of the first column shall display a heading of "Energy Resources", bolded and in all capital letters. Subsequent rows shall display fuel type categories and subcategories, as specified in subsection (d)(1) of this section. The category names shall be displayed in bold, and subcategory names for the eligible renewable category shall be unbolded, indented, and shall display a hyphen immediately before the name of the subcategory. The final row of this column shall read "total" in all upper case letters and in bold.

4. The second column shall display the fuel mix information for the electricity product sold during the previous calendar year. The first row of the column shall contain the heading "Actual Power Mix", bolded and in all capital letters. The subsequent rows of the column shall display the fuel mix information for the electricity product sold during the previous calendar year, using the categories and subcategories specified in subsection (d)(1) of this section. The fuel mix information for the categories contained in this column shall be in bolded type, with the percentages aligned. The fuel mix information for the eligible renewable subcategories shall be in unbolded type and the percentages shall be aligned to the right of the percentages for the categories. The final row for this column shall read "100%", in bolded type.

(C) Comparison of General Disclosures to Annual Disclosure

1. If the percentage of any fuel type category or subcategory contained in any general disclosure made during the previous calendar year for that electricity product varies by more than plus or minus five percentage points from the percentage provided in the annual disclosure, a third column shall be displayed on the power content label.

a. If a third column is required, it shall contain the fuel mix information displayed in the general disclosure that varies the most from this annual disclosure. The first row of the third column shall contain the heading "Projected Power Mix", bolded and in all capital letters. Immediately next to the heading "Actual Power Mix" shall be a footnote marker, directing the reader to the footnote specified in subsection (e)(7)(C)1.c. The subsequent rows shall display the fuel mix information for the electricity product displayed in the general disclosure that varies the most from this annual disclosure. This information shall be displayed in the format specified in subsection (e)(6)(B)4. of this section.

b. The general disclosure that varies the most from this annual disclosure is defined in subsection (d)(2)(A) of this section.

c. Immediately below the last row in the power content label, the retail provider shall provide a footnote containing an explanation of why there is a difference between the information contained in the general disclosure and the information contained in the annual disclosure.

2. If no percentage of any fuel type category or subcategory contained in any general disclosure made during the previous calendar year varies by more than plus or minus five percentage points from the percentage in the electricity product sold, the following statement shall be displayed immediately below the last row in the power content label: "For each category, the percentage [Company Name] projected for [year] was within plus or minus five percentage points of the actual percentage.", where "Company Name" is the name of the retail provider, and "year" means the previous calendar year. The company name shall be bolded.

(D) An example of a power content label that meets the requirements for an annual disclosure not requiring inclusion of any previous year's general disclosures is shown in Appendix A-4 to these regulations. An example of a power content label that meets the requirements for an annual disclosure requiring inclusion of a previous year's general disclosure is shown in Appendix A-5 to these regulations.

Note: Authority cited: Section 25213, Public Resources Code; and Section 398.4, Public Utilities Code. Reference: Sections 25216 and 25216.5, Public Resources Code; and Section 398.4, Public Utilities Code.

§ 1394. Annual Submission to the Energy Commission.

(a) Retail Provider Report.

(1) On or before March 1 of each year, each retail provider who made a claim of specific purchases during the previous calendar year shall provide a filing to the Energy Commission, providing the information identified in subsections (a)(2)(A)-(D) below for each electricity product for which such a claim was made.

(A) Retail providers must provide this information on spreadsheet forms provided by the Energy Commission, and each page must include the Retail Energy Supplier Registration Identification Number provided by the California Public Utilities Commission or, if one is not provided, a unique identification number assigned by the Energy Commission.

(B) The retail provider must provide one paper copy, with an original signature, and, if feasible, must also provide the information electronically.

(C) The report must include an attestation, signed by an authorized agent of the retail provider under penalty of perjury, that the generating facility output claimed by the retail provider as a specific purchase during the previous calendar year was sold once and only once to retail customers of that retail provider, and that the information provided in the report is true and correct.

(D) All fuel type attribute information shall be provided using the fuel type categories identified in subsections (d)(1)(A) and (B) of section 1393.

(E) Retail providers may provide the information specified in subsections (a)(2)(A)-(D) of this section by providing a reference to the date and title of a filing made to the Energy Commission containing the information specified in that subsection.

(2) Informational Requirements.

(A) Purchases

1. For each source of generating facility output being claimed as a specific purchase, the retail provider must include the following information: facility name or pool name, fuel type, facility or pool number (a facility number will be provided by the U.S. Energy Information Agency (EIA), or, if one is not provided, by the Energy Commission, and pool number will be provided by the Energy Commission), certificate number of any certificates issued pursuant to Appendix B of these regulations (if any), gross kilowatt hours purchased, kilowatt hours resold or consumed on-site, and the resultant calculation of net specific purchases. The retail provider shall also identify kilowatt hours of generic purchases, kilowatt hours of generic purchases resold or consumed on-site, and the resultant calculation of net generic purchases. This information shall be provided on the current version of Schedule 1 prepared by the Energy Commission.

2. Retail providers who are claiming specific purchases obtained from a pool must reference a filing made no later than March 1 of the current calendar year to the Energy Commission by the pool that includes the following information:

a. For each generator that provided generating facility output into the pool, the facility name, fuel type, facility number provided by U.S. Energy Information Agency (EIA) or, if one is not provided, a unique identification number assigned by the Energy Commission, certificate number of any certificates issued pursuant to Appendix B of these regulations (if any), and total number of kilowatt hours provided into the pool. This information shall be provided on the current version of Schedule 3 prepared by the Energy Commission.

b. For each purchase of generating facility output from the pool, the amount of kilowatt hours purchased by each purchaser by fuel type. If the purchaser is also a retail provider, include the Retail Energy Supplier Registration Identification number provided by the

California Public Utilities Commission or, if one is not provided, a unique identification number assigned by the Energy Commission. This information shall be provided on the current version of Schedule 4 prepared by the Energy Commission.

(B) Retail Sales: The retail provider filing shall include each product name, the kilowatt hours sold for each product from specific purchases by fuel type, the kilowatt hours sold for each product from sources other than specific purchases, and total retail sales. This information shall be provided on the current version of Schedule 2A prepared by the Energy Commission.

(C) Comparison of Purchases and Sales: The retail provider filing shall include total net purchases, consistent with subdivision (a)(2)(A) above, minus total retail sales for all products, consistent with subdivision (a)(2)(B) above, and an explanation of any discrepancies between total net purchases and total retail sales. This information shall be provided on the current version of Schedule 2B prepared by the Energy Commission.

(D) Power Content Label: The retail provider shall provide to the Energy Commission a copy of each promotional disclosure provided to customers pursuant to subsection (c)(1) of subsection 1393 that varies from any quarterly disclosure provided in that calendar year. In addition, the retail provider shall also provide a copy of any quarterly label provided to customers pursuant to subsection (c)(2) of section 1393 that was not provided to the Energy Commission at the time it was provided to customers.

(b) Agreed-upon Procedures

(1) By June 1 of each year, any retail provider who made a claim of specific purchases during the previous calendar year shall provide a report prepared by an auditor who has conducted the procedures identified in Appendix C of these regulations. The report shall contain a summary of the results of the procedures and a proof of service of the annual power content label and the quarterly labels for the previous calendar year upon all customers.

(2) A retail provider that is a public agency providing electric services is not required to comply with the provisions of subdivision (b)(1) if that public agency offers only one electricity product to its customers and if the board of directors of the public agency approves at a public meeting the submission to the Energy Commission of an attestation of the veracity of the annual report.

(c) The Energy Commission may on its own motion, or as a result of a request from a member of the public or other agency, investigate electricity transactions claimed as specific purchases to determine whether the transactions are traceable to specific generating facilities and whether they provide commercial verification that the electricity source claimed has been sold once and only once to retail consumers. In conducting its investigation, the Energy Commission may require the production of the service lists used to comply with the requirements of subsection (b) of this section, as well as commercial documents, such as contracts, invoices, the verification procedures performed pursuant to subsection (b) of this section, and attestations.

Note: Authority cited: Section 25213, Public Resources Code; and Section 398.5, Public Utilities Code. Reference: Sections 25216 and 25216.5, Public Resources Code; and Section 398.5, Public Utilities Code.

Appendix A-1

Sample power content label showing a product for which the retail supplier is claiming some specific purchases. In this example, the product is 50% from specific purchases and 50% from non-specific purchases (for which net system power is claimed), and the most recent net system power calculation is for 1999.

POWER CONTENT LABEL

Eligible Renewable	**56%**	12%
-Biomass & Waste	-	2%
-Geothermal	-	5%
-Small hydroelectric	-	3%
-Solar	-	<1%
-Wind	-	2%
Coal	**10%**	20%
Large Hydroelectric	**10%**	20%
Natural Gas	**16%**	31%
Nuclear	**8%**	16%
Other	**<1%**	<1%
TOTAL	**100%**	100%

* 50% of **Product Name** is specifically purchased from individual suppliers.
**Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.

For specific information about this electricity product, contact **Company Name**. For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer

Appendix A-2

Sample power content label showing a product for which the retail supplier is not claiming specific purchases. In this example, the most recent net system power calculation is for 1999.

POWER CONTENT LABEL

Eligible Renewable	**12%**	12%
-Biomass & Waste	2%	2%
-Geothermal	5%	5%
-Small hydroelectric	3%	3%
-Solar	<1%	<1%
-Wind	2%	2%
Coal	**20%**	20%
Large Hydroelectric	**20%**	20%
Natural Gas	**31%**	31%
Nuclear	**16%**	16%
Other	**<1%**	<1%
TOTAL	**100%**	100%

* 0% of **Product Name** is specifically purchased from individual suppliers.
**Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.

For specific information about this electricity product, contact **Company Name**. For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer.

Appendix A-3

Sample power content label showing multiple electricity products. In this example, the most recent net system power calculation is for 1999.

POWER CONTENT LABEL

Eligible Renewable	**56%**	**12%**	12%
-Biomass & Waste	-	2%	2%
-Geothermal	-	5%	5%
-Small hydroelectric	-	3%	3%
-Solar	-	<1%	<1%
-Wind	-	2%	2%
Coal	**10%**	**20%**	20%
Large Hydroelectric	**10%**	**20%**	20%
Natural Gas	**16%**	**31%**	31%
Nuclear	**8%**	**16%**	16%
Other	**<1%**	**<1%**	<1%
TOTAL	**100%**	**100%**	100%

* 50% of **Product Name 1** and 0% of **Product Name 2** is specifically purchased from individual suppliers.
**Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.

For specific information about this electricity product, contact **Company Name**. For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer.

Appendix A-4

Sample annual report to customers for the case where actual purchases do not differ by more than five percentage points in any fuel category or subcategory.

POWER CONTENT LABEL

Annual report of actual electricity purchases for **Product Name** in 1999

Eligible Renewable	**53%**
-Biomass & Waste	3%
-Geothermal	20%
-Small hydroelectric	3%
-Solar	7%
-Wind	20%
Coal	**8%**
Large Hydroelectric	**12%**
Natural Gas	**20%**
Nuclear	**7%**
Other	**0%**
TOTAL	**100%**

For each category, the percentage **Company Name** projected for 1999 was within ±5 percentage points of the actual percentage.

For specific information about this electricity product, contact **Company Name**. For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer.

Appendix A-5

Sample annual report to customers for the case where actual purchases differ from projected fuel mix by more than five percentage points in one or more fuel categories or subcategories.

POWER CONTENT LABEL

Annual report of actual electricity purchases
for **Product Name** in 1999

Eligible Renewable	**49%**	**56%**
-Biomass & Waste	3%	-
-Geothermal	15%	-
-Small hydroelectric	3%	-
-Solar	7%	-
-Wind	11%	-
Coal	**10%**	**8%**
Large Hydroelectric	**14%**	**12%**
Natural Gas	**19%**	**17%**
Nuclear	**8%**	**7%**
Other	**0%**	**0%**
TOTAL	**100%**	**100%**

* [explanation for why projected power mix varied from actual purchases]

For specific information about this electricity product, contact **Company Name**. For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer.

Appendix B

Energy Commission Certificate Program

(a) This subsection describes the Energy Commission certificate program, in which a retail provider may use certificates created by Energy Commission software to demonstrate that it has purchased the right to claim a specified quantity of generating facility output from a specific facility.

(b) The Energy Commission certificate program shall consist of the following elements:

(1) The Energy Commission will make its certificates software available to generators within the Western Systems Coordinating Council that do not sell their generating facility output to an investor-owned utility under the terms of a contract entered into prior to September 24, 1996 under the Public Utilities Regulatory Policies Act of 1978. This software creates facility-specific certificates that contain the following information: the serial number of each certificate issued, the kilowatt hours associated with each certificate, the name of the generator, the generating facility identification number provided by the U.S. Energy Information Agency or, if one is not provided, a unique identification number assigned by the Energy Commission, the quarter in which the electrical energy identified on the certificate was generated, the fuel type used to generate the kilowatt hours, and a signature block for the generator.

(2) Each generator that wishes to obtain a copy of the certificates software shall provide to the Energy Commission the following information: the generating facility name, the generating facility identification number provided by the U.S. Energy Information Agency or, if one is not provided, a unique identification number assigned by the Energy Commission, the address of the generating facility, the name and telephone number of a designated contact for the generator, and the fuel or technology type and capacity of the generating facility. After receiving this information, the Energy Commission will provide the generator with a copy of its certificates software and a series of certificate numbers to be used for each generating facility identified by the generator.

(3) Each retail provider that owns a certificate created by the Energy Commission's certificates software may use that certificate to support a claim of specific purchases in its annual retail provider report pursuant to the terms of this program. The retail provider shall include the serial number(s) of the certificates for generation being claimed.

(4) In the annual report prepared pursuant to Public Utilities Code §398.5(e), the Energy Commission will find that certificates created by the Energy Commission's certificates software verify that the retail provider who provided the certificates has purchased the right to claim the generating facility output from the specific facility identified on the certificates, provided the generator has done all of the following:

(A) Ensure that the total amount of generation in each quarter is equal to or greater than the amount of kilowatt hours identified in the certificates issued in that quarter.

(B) Provide the following information to the Energy Commission no less frequently than the fifteenth day after the end of each quarter: total generation during the previous quarter of each facility, the serial numbers of all certificates created by the generator during the previous quarter for each facility, and the amount of kilowatt hours identified in each such certificate.

(C) Provide, upon Energy Commission request, independent third-party readings of the facility meter. Generators must keep copies of meter reads for two years after the generation occurs.

Appendix C

Agreed-Upon Procedures

(a) This Appendix describes the agreed-upon procedures that retail providers claiming specific purchases shall use to comply with the requirements of subsection (b)(1) of section 1394 of these regulations. These procedures shall be performed for each electricity product for which a claim of specific purchases was made during the previous calendar year, unless the exemption identified in subsection (b)(2) of section 1394 is applicable. The procedures in subsections (c)(1), and (c)(2) of this Appendix are applicable to all transactions relating to the fuel mix of the product, and the procedures in subsection (c)(3) are applicable to the power content labels disclosing the fuel mix of the product. The procedures described in subsection (c)(4) are also applicable to transactions in which the purchase of generating facility output is traced from a specific generating facility to a retail customer through a pool.

(b) The retail provider must engage an independent accountant or certified internal auditor to perform the procedures identified in subsection (c) below, in accordance with the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Attestation Engagements, Section 600 or under Statements on Auditing Standards, Section 622. The accountant shall provide a report to the Energy Commission no later than June 1 of each year summarizing the results of the procedures.

(1) The accountant must be a Certified Public Accountant in good standing with the American Institute of Certified Public Accountants or a Certified Internal Auditor in good standing with the Institute of Certified Internal Auditors.

(2) The accountant or auditor may use sampling techniques following the guidance set forth in the AICPA AU Section 350, *Audit Sampling*, provided that the sample size is determined using a confidence level of 90 percent, a tolerable deviation of 10 percent, and an expected deviation rate of 3 percent, and the total population size is determined. The program participant will need to determine the population size (estimates are acceptable). The sample size shall be determined by using a statistical sampling program, and sample selection shall be made on a random basis using a random number generator. In any event, no more than 50 percent (50%) of the selected transactions may relate to any one month unless more than 50 percent (50%) of the population relates to the same month. All parameters and deviations used and the sample size must be described in the report. If the accountant chooses not to use sampling techniques, testing of 100 percent (100%) of the population must be performed.

(c) Agreed-Upon Procedures

(1) Purchases: The auditor shall review the information used to prepare Schedules 1 and 2B, and perform the procedures identified below, noting any exceptions.

(A) The auditor shall agree the specific purchases and resales/self-consumption by facility or pool name, unique identification number, certificate numbers of any certificates issued pursuant to Appendix B of these regulations, if any, and kilowatt hours and fuel type from the information used to prepare Schedule 1 to Schedule 1. The auditor shall agree the generic purchases and resales/self-consumption from the information used to prepare Schedule 1 to Schedule 1. The auditor shall also test the mathematical accuracy of Schedule 1.

(B) The auditor shall select a sample of purchases from the information used to prepare Schedule 1 using the sampling guidelines discussed in subsection (b)(2) of this Appendix, and for each purchase in the sample perform the following procedures:

1. Agree the facility or pool name, unique identification number, certificate number of any certificates issued pursuant to Appendix B of these regulations, if any, kilowatt hours and the fuel type from the invoice (or from the Energy Commission) to the information used to prepare Schedule 1.

2. For facilities owned by the retail provider, agree the kilowatt hours with meter readings made by an independent third party, or confirm that the retail provider has another internal auditing procedure that assures facility production agrees to production claims.

3. Agree the date of generation from the invoice to the reporting period of the information used to prepare Schedule 1.

(C) The auditor shall agree the net kilowatt hours purchased shown on Schedule 1 to net purchases shown on Schedule 2B. Note as an exception if any explanation of the difference in net purchases and sales was improperly excluded.

(2) Sales: The auditor shall review the information used to prepare Schedule 2A, and perform the procedures identified below, noting any exceptions.

(A) Agree sales by fuel type and by product from the information used to prepare Schedule 2A to Schedule 2A. The auditor shall also check the mathematical accuracy of Schedule 2A.

(B) Select a sample of sales from the information used to prepare Schedule 2A, using the sampling guidelines discussed in subsection (b)(2), and agree the sales to customers by fuel type and product to the billing statement.

(3) Labels

(A) The auditor shall obtain copies of all quarterly and promotional labels for the previous year, and compare the percentages by fuel type in these disclosures to the percentages by fuel type calculated per subsection (d)(1)(C)(1) of section 1393 using the data supplied in Schedule 2A, noting any exceptions.

(B) The auditor shall obtain a copy of the annual power content label provided to customers for each product pursuant to subsection (e)(7) of section 1393. The auditor shall calculate the fuel and technology mix of the total annual retail sales for the product using the

information provided in Schedule 2A and the equation found in subsection (d)(1)(C) of section 1393. The auditor shall then compare these percentages to those identified for the actual power mix on the annual label. The auditor shall note any exceptions greater than 1%.

(C) The auditor shall determine if the absolute value of the percentage point difference for any fuel type identified on the annual label and any projected disclosure is greater than five percentage points, and, if so, whether the annual label displays a "Projected Power Mix" column that identifies the projected disclosure that varies the most from the actual fuel mix and a footnote explaining the reason for the discrepancy between the projected and actual fuel mix. The projected disclosure that varies the most from the actual fuel mix is determined pursuant to subsections (d)(2)(A) and (B) of section 1393.

(4) Pools

(A) Purchases: The auditor shall obtain the information used to prepare Schedule 3, and perform the procedures identified below, noting any exceptions.

1. The auditor shall agree the purchases by facility name, unique identification number, certificate number of any certificates issued pursuant to Appendix B of these regulations, if any, and kilowatt hours and fuel type from the information used to prepare Schedule 3 to Schedule 3. The auditor shall also test the mathematical accuracy of Schedule 3.

2. The auditor shall select a sample of purchases from the information used to prepare Schedule 3 using the sampling guidelines discussed in subsection (b)(2), and for each purchase perform the following procedures:

a. Agree the facility name, unique identification number, certificate number of any certificates issued pursuant to Appendix B of these regulations, if any, and kilowatt hours and fuel type from the invoice to the information used to prepare Schedule 3.

b. For facilities owned by the retail provider, agree the kilowatt hours with meter readings made by an independent third party, or confirm that the retail provider has another internal auditing procedure that assures facility production agrees to production claims.

c. Agree the date of generation from the invoice to the reporting period of the information used to prepare Schedule 3.

(B) Sales: The auditor shall obtain the information used to prepare Schedule 4, and perform the procedures identified below, noting any exceptions.

1. The auditor shall agree the sales by purchaser and by fuel type and kilowatt hours from the information used to prepare Schedule 4 to Schedule 4. The auditor shall also test the mathematical accuracy of Schedule 4.

2. The auditor shall select a sample of sales from the information used to prepare Schedule 4 using the sampling guidelines discussed in subsection (b)(2), and for each sales compare kilowatt hours of fuel type to a copy of the billing statement and any other records.

Article 6. Qualified Departing Load CRS Exemptions

§ 1395. Scope.

The regulations in this Article implement the California Energy Commission (Commission) role in providing assessments and forecast of energy related matters within the state. The regulations set forth the mechanism and process for reporting of information by Departing Load customers requesting Cost Responsibility Surcharge (CRS) exemptions. The regulations set forth the mechanism and process for the Commission to assess and track eligibility of Departing Load customers for CRS Exemptions. The information obtained under these regulations will be incorporated into the Integrated Energy Policy Report (IEPR) in order to assess and forecast the impacts of CRS and CRS exemptions on the deployment of distributed generation.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301 and 25320, Public Resources Code.

§ 1395.1. Rules of Construction and Definitions.

The rules of construction and definitions in Section 1302 of Article 1 of this Chapter, and the definitions set forth in this Section, apply to this Article.

(a) "Backup Generation" means electricity generated by a Customer on a temporary basis in order to replace the generation lost from that Customer's normal supply source, usually the Electric Utility where the customer resides.

(b) "Best Available Control Technology" or "BACT" means the maximum degree of emissions reduction achievable after taking into account energy, economic, and environmental impacts, as set forth in Health and Safety Code Section 40405. The local air district where the generation is located usually makes the BACT determination.

(c) "Bonds" means the California Department of Water Resources (CDWR) Power Supply Revenue Bonds, Series 2002A-2002E, issued by the State of California on October 23, 2002, and November 7, 2002. The Bonds were issued for the purpose of repaying the State's General Fund for procuring electricity on behalf of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company from January 17, 2001 to December 31, 2002.

(d) "CARB" means the California Air Resources Board.

(e) "CPUC" means the California Public Utilities Commission.

(f) "Cogeneration" means the sequential use of energy for the production of electrical and useful thermal energy, as set forth in Public Utilities Code section 218.5.

(g) "Cost Responsibility Surcharge" or "CRS" means energy cost obligations consistent with CPUC Decision 03-04-030 and subsequent CPUC decisions. CRS-related costs are recoverable from eligible customers on a cents-per-kilowatt-hour basis and include the following components:

(1) Costs associated with Southern California Edison Company's Historical Procurement Charge;

(2) Costs associated with repayment of bonds for the procurement of power by the CDWR for purchases made between January 17, 2001 and December 31, 2002;

(3) Costs associated with the power contracts entered into by the CDWR on behalf of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company for procurement beginning January 1, 2003; and

(4) Cost associated with the Tail Competition Transition Charge, as defined in Public Utilities Code section 367(a).

(h) "CRS Exemption" means the avoidance of the payment of one or more of the CRS components, as defined in subsection (g) of this section, if a customer is eligible.

(i) "CRS Exemption Queue" or "Queue" means the list of CRS Exemption requests either placed or pending placement in order of receipt, for approval of a CRS Exemption within the appropriate Megawatt Cap.

(j) "Commission" means the California Energy Resources Conservation and Development Commission.

(k) "Customer" means an electric utility customer that has any portion of load qualifying as Departing Load, and is seeking a CRS Exemption or placement in the Queue to receive a future CRS Exemption.

(l) "Customer Generation" means any type of generation that (1) is dedicated wholly or in part to serve a specific customer's load; and (2) relies on non-utility or dedicated utility distribution wires rather than the utility grid, to serve the customer, the customer's affiliates and/or tenant's, and not more than two other persons or corporations. Those two persons or corporations must be located on site or adjacent to the real property on which the generator is located.

(m) "Departing Load" means those portions of the utility customer's electric load for which the customer: discontinues or reduces its purchase of bundled or direct access service from the utility; purchases or consumes electricity supplied and delivered by Customer Generation to replace the utility or direct access (DA) purchases; and remains physically located at the same location or elsewhere within the utility's service territory as of April 3, 2003. Reduction in load qualifies as Departing Load only to the extent that such load is subsequently served with electricity from a source other than a utility. This definition of departing load does not include the following:

(1) Changes in usage occurring in the normal course of business resulting from changes in business cycles, termination of operations, departure from the utility service territory, weather, reduced production, modifications to production equipment or operations, changes in production or manufacturing processes, fuel switching, enhancement or increased efficiency of equipment or performance of existing Customer Generation equipment, replacement of existing Customer Generation equipment with new power generation equipment of similar size, installation of demand-side management equipment or facilities, energy conservation efforts, or other similar factors.

(2) New customer load or incremental load of an existing customer where the load is being met through a direct transaction with Customer Generation and the transaction does not otherwise require the use of transmission or distribution facilities owned by the utility.

(3) Load temporarily taking service from a Back-up Generation unit during emergency conditions called by the utility, the California Independent System Operator, or any successor system operator.

(4) Municipally-owned utilities or irrigation districts.

(5) Changes in the distribution of load among accounts at a customer site with multiple accounts, load resulting from the reconfiguration of distribution on the customer side of the site, provided that the customer changes do not result in a discontinuance or reduction of service from the Electric Utility at that location.

(6) Load that physically disconnects from the grid. This definition is intended to be consistent with CPUC utility tariffs and related subsequent CPUC decisions.

(n) "Departing Load CRS Information Form" or "Form" means the document containing pertinent information from the Customer necessary for the Commission to determine whether or not a Customer is eligible for a CRS Exemption.

(o) "Development Plan" or "Plan" means a detailed schedule for anticipated construction and interconnection activities. The Plan shall include a list of all permits and approvals that the Customer will need to obtain before interconnection will occur, and the anticipated time it will take for the Customer to obtain each of the permits and approvals.

(p) "Electric Utility" means an investor owned utility. In this case, Electric Utility refers to Pacific Gas and Electric Company, Southern California Edison Company, or San Diego Gas and Electric Company, depending on the service territory where the Customer Generation is located.

(q) "IEPR" means the Commission's Integrated Energy Policy Report.

(r) "Full CRS Exemption" means that a Customer is exempt from paying surcharges associated with the CRS defined in subsection (g) of this section.

(s) "Megawatt Cap" means the total amount of Departing Load, expressed in megawatts, eligible for a CRS Exemption, consistent with the Cap levels determined by the CPUC.

(t) "Net Energy Metering" shall have the same definition as set forth in Public Utilities Code section 2827(b)(3).

(u) "Partial CRS Exemption" means that a Customer is exempt from paying certain components of the CRS as defined in subsection (g) of this section, but do not qualify for a Full CRS Exemption. The extent that a Customer may be eligible for an exemption is based on the criteria set forth in Section 1395.3(d) of this Article.

(v) "Ultra Clean and Low-Emissions Distributed Generation" shall have the same definition as set forth in Public Utilities Code Section 353.2.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301 and 25320, Public Resources Code.

§ 1395.2. Departing Load CRS Information Form or Form.

(a)(1) The Commission shall prepare, and make available to Customers, in conjunction with each Electric Utility a Departing Load CRS Information Form (Form). The Form shall provide information necessary to assess eligibility for a CRS exemption.

(2) The Form shall include, but not be limited to, the following information:

(A) Customer name;

(B) Contact information, such as phone number and email address;

(C) Address (including street number, street name, city, and zip code);

(D) Capacity of Customer Generation unit;

(E) Estimated annual Departing Load

(F) Type of technology;

(G) Anticipated interconnection date; and

(H) Proposed Project Development Plan and any anticipated activities that may delay the project beyond 12 months from submission of the Customer's application.

(b) Each Electric Utility may develop forms that substantially meet the criteria set forth in section (a)(2) of this section, and make such forms available to customers within its service territory for purposes of providing the information necessary to include a Customer in the CRS Exemption Queue. The Commission shall approve any Electric Utility forms and modifications to such forms at least 30 days prior to any formal use of the forms by the Electric Utility.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301 and 25320, Public Resources Code.

§ 1395.3. Process for Assessing Eligibility for CRS Exemptions, and Reporting Requirements.

(a) The Customer shall submit a Form to the Electric Utility and the Commission.

(b) The Electric Utility shall:

(1) Conduct an initial review and determine whether the Form is complete.

(A) If the Form is incomplete, the Electric Utility shall notify the Customer within 10 calendar days after receipt of the Form that additional information is needed to process the request for a CRS Exemption. The notification shall indicate which portion(s) of the Form require supplemental information.

(B) If the Form is complete, then the Electric Utility shall within 10 calendar days after receipt of the Form:

1. Provisionally categorize each project;

2. Identify the conditions that must be met to receive final project categorization; and

3. Transmit the completed Form with provisional project categorization to the Commission, with a copy to the Customer serving as official notification.

(2) Automatically grant Full CRS Exemptions, if the Customer is:

(A) Eligible for participation in the CPUC's Self Generation Incentive Program up to 1 megawatt;

(B) Eligible for participation in the Commission's Renewable Energy Program up to 1 megawatt; or

(C) A Net Energy Metering Customer.

(3) Send the Commission and the Customer confirmation in writing of the Full CRS Exemption granted within 10 calendar days from issuance of the automatic exemption. The Commission shall incorporate the CRS Exemption into the queuing process for purposes of tracking the appropriate megawatt cap.

(c) Upon receipt of a completed Form with provisional project categorization from the Electric Utility, the Commission shall:

(1) Review the completed Form and assess whether the Customer is eligible for a CRS Exemption and if there is space available under the appropriate Megawatt Cap.

(2) Make the initial assessment of eligibility based on the information provided. This initial assessment shall be designated to the appropriate Commission Committee assigned to matters concerning distributed generation or departing load.

(3) Not include in the Queue any CRS Exemption request that is considered Backup Generation or diesel-fired Customer Generation, as these forms of generation do not qualify for a CRS Exemption.

(4) Not include in the queue a CRS Exemption request if the Customer does not meet the criteria outlined in section (d) of this section. If the Commission does not include a CRS Exemption request in the Queue it shall provide written notification to the Customer and the Electric Utility within 10 calendar days of rejecting the request.

(5) Place all qualifying Customers within the Queue. Customers that qualify for an exemption are those placed in the Queue within the appropriate Megawatt Cap as determined by the CPUC.

(d) The Commission shall place all Customers in the Queue based on technology categorization, and date of Form submittal. The Commission shall assess whether a Partial

CRS Exemption for each Customer submitting a Form should be in included in the Queue based on either the nameplate rating or estimated annual Departing Load. The amount of Departing Load and categorization will be utilized in maintaining an accurate account of available Megawatts in the Queue. The categorization of technology type is as follows:

(1) Ultra Clean and Low-Emissions Distributed Generation Over One Megawatt.

(2) Other Customer Generation not qualifying under (d)(1) of this section, subject to meeting air district BACT standards and the following megawatt caps:

(A) 600 megawatts by the end of 2004, of which 10 megawatts are reserved for University of California or the California State University System;

(B) 500 additional megawatts by July of 2008, of which 80 megawatts are reserved for University of California or the California State University System; and

(C) 400 additional megawatts thereafter, of which 75 megawatts are reserved for University of California or the California State University.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301 and 25320, Public Resources Code.

§ 1395.4. CRS Exemption Queue and Procedures for Updating the Queue.

(a) A CRS Exemption Queue (Queue) shall be established by the Commission and be based on a first-come, first-served basis, utilizing the criteria outlined in Section 1395.3 and the information provided in the Form. Forms shall be date-stamped upon receipt by the Commission.

(b) The Commission shall maintain the Queue in electronic format with aggregated totals posted on the Commission website. The Commission website will list general information about each request including the size of the exemption, technology type and general location. The identification and specific location of a Customer applying for a CRS Exemption shall be deemed confidential.

(c) The Commission shall track all Forms and assess Customer eligibility for a CRS Exemption. Once eligibility is established, the Commission shall place the Customer request in the CRS Exemption Queue, subject to the applicable Megawatt Cap.

(1) If the Customer request falls within the Megawatt Cap:

(A) The Commission will notify the Electric Utility and the Customer within 10 calendar days of placing the Customer in the Queue.

(B) The Commission will notify the Customer of rank within the Queue and whether the Customer will receive a Partial CRS Exemption.

(C) The Customer will have 12 months from the date of placement in the Queue to interconnect with the grid. If the Customer does not believe it will be able to connect within the 12-month timeframe, then it must submit a Development Plan (Plan) to the Commission in order to demonstrate that the Customer is actively progressing in the permitting and/or construction of

the project. The Commission may request additional information after the initial 12-month period to ensure continuing active progress by the Customer in conformance with the Development Plan.

(2) If the Customer request does not fall within the Megawatt Cap, the Commission will:

(A) Notify the Electric Utility and Customer that the request does not fall within the Megawatt Cap; and

(B) Place the Customer request in the Queue ranked in order of receipt.

(d) The Commission will update the Queue weekly in order to ensure timely and efficient Customer access to CRS Exemption information. In doing so the Commission shall:

(1) Remove CRS Exemption requests if a Customer does not commence operation within 12 months from the date a CRS Exemption request is placed in the Queue, if the Customer does not demonstrate sufficient compliance with a Plan submitted to the Commission at the time the exemption is listed in the Queue, or if the Customer otherwise ceases to meet the requirements for a CRS Exemption.

(2) Incorporate any changes to the Megawatt Cap as deemed appropriate.

(e) The Electric Utility shall notify the Commission when an eligible Customer commences operation of its generating facilities.

(f) The Commission shall develop a monitoring process in order to ensure that information provided in the Queue will help accurately assess the amount and type of Customer Generation being deployed in the Electric Utility service territories. The Commission will develop monitoring procedures to ensure Customer Generation continues to meet the requirements for exemption once listed in the Queue, and to ensure that the utilities are complying with provisions of these regulations in a timely manner.
Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301 and 25320, Public Resources Code.

§ 1395.5. Extension Requests, Other Substantive Changes, and Requests to Evaluate Additional Information.

(a) Substantive changes require prior notice to the appropriate Commission Committee and will be considered if requested in writing. Each request must describe the need for the change or extension of time, and must document the following:

(1) Circumstances beyond the control of the Customer that prevent the system from commencing operation as described in the Form.

(2) The Customer had no knowledge or reason to know that the commencement of operation would not occur until after the requested date stated in the Form.

(3) There are no other known obstacles in the way of completing the project within the requested extension period.

(b) Any request for extension of time must be based on good cause and demonstrate circumstances beyond the control of the Customer, unless the Customer provided a Plan to the Commission at the time the Departing Load was listed in the Queue.

(c) Customers that disagree with the Commission's assessment of categorization may request a re-evaluation of the information provided in the Form, or submit additional information to supplement or clarify information provided in the Form for purposes of requesting a re-categorization of the Customer's placement in the Queue.

(d) Any request for extension of time or re-evaluation of categorization must be filed at least 30 days prior to the expiration of the Customer's place in the Queue, or 30 days from notification of the Customer's categorization within the Queue.

(e) The Commission shall notify the Customer of its final assessment in writing within 30 days from the receipt of the request for an extension of time or re-categorization. The Customer will not be removed from the Queue until a final assessment by the Commission has been made pursuant to this section.

Note: Authority cited: Sections 25213 and 25128(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301 and 25320, Public Resources Code.

§ 1395.6. Incorporation of Information and Impacts of CRS and CRS Exemptions into IEPR.

(a) The Commission shall utilize information received by Customers, the Electric Utilities, and the Queue to assess impacts of CRS on deployment of Customer Generation, grid reliability, air quality, and the environment.

(b) The assessments and forecasts made pursuant to subsection (a) of this section shall be incorporated into the Commission's IEPR along with any recommendations as to the benefits or detriments of CRS and CRS Exemptions to statewide energy resource planning, including progress or implementation of the Distributed Generation Strategic Plan adopted by the Commission in June 2002.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301 and 25320, Public Resources Code.

Chapter 4. Energy Conservation

Article 1. Energy Building Regulations

§ 1401. Scope.

Note: Authority cited: Sections 25402 and 25402.1, Public Resources Code. Reference: Sections 25402 and 25402.1, Public Resources Code

§ 1402. Definitions.

Note: Authority cited: Sections 25402 and 25402.1, Public Resources Code. Reference: Sections 25402 and 25402.1, Public Resources Code.

§ 1403. Permit, Certificate, Informational, and Enforcement Requirements for Designers, Installers, Builders, Manufacturers, and Suppliers.

Note: Authority cited: Section 25402, Public Resources Code. Reference: Section 25402, Public Resources Code.

§ 1404. Exceptional Designs.

See Section 1409 for approval of calculation methods and Alternative Component Packages.

Note: Authority cited: Sections 25402 and 25402.1, Public Resources Code. Reference: Sections 25402 and 25402.1, Public Resources Code.

§ 1405. Enforcement by the Commission.

Note: Authority cited: Section 25402.1, Public Resources Code. Reference: Section 25402.1, Public Resources Code.

§ 1406. Locally Adopted Energy Standards.

Note: Authority cited: Section 25402.1, Public Resources Code. Reference: Section 25402.1 Public Resources Code.

§ 1407. Interpretations.

Note: Authority cited: Section 25402.1, Public Resources Code. Reference: Section 25402.1, Public Resources Code.

§ 1408. Exemption.

Note: Authority cited: Section 25402.1, Public Resources Code. Reference: Section 25402.1, Public Resources Code.

§ 1409. Calculation Methods and Alternative Component Packages.

Note: See Section 1404 for approval of exceptional designs.

Note: Authority cited: Section 25402.1, Public Resources Code. Reference: Section 25402.1, Public Resources Code.

§ 1410. Procedures for Consideration of Applications Under Sections 1404, 1406, 1408, and 1409.

Note: Authority cited: Section 25402.1, Public Resources Code. Reference: Section 25402.1, Public Resources Code.

Article 2. Nonresidential Building Standards

§ 1451. Energy Insulation Standards for Nonresidential Buildings.

Note: Authority cited: Sections 25213, 25218(e), Public Resources Code. Reference: Section 25402(a), Public Resources Code; Sections 19878-19878.8, Health and Safety Code.

Article 3. Standards For Insulating Material

§ 1551. Application and Scope.

The provisions of this article shall apply only to urea formaldehyde foam (field applied) and the insulation levels required when insulation is installed in existing buildings.

Note: Authority cited: Sections 25910, 25911, Public Resources Code. Reference: Sections 25910, 25911, Public Resources Code.

§ 1552. Definitions.

For purposes of this article, the following definitions shall apply:

(a) "ANSI" means the American National Standards Institute.

(b) "ASTM" means the American Society for Testing and Materials.

(c) "Insulating material" or "insulation" means any material listed in Section 1551(b) of this article and placed within or contiguous to a wall, ceiling, roof, or floor of a room or building, or contiguous to the surface of any appliance or its intake or outtake mechanism, for the purpose of reducing heat transfer or reducing adverse temperature fluctuations of the building room or appliance.

(d) "Manufacturer" means any person who either:

(1) produces insulating material in the final composition either for use in the form sold or to be further dimensionally modified; or

(2) in the case of polyurethane, polyisocyanurate and urea formaldehyde foam formed at the installation site, produces the primary components of the material.

"Manufacturer" shall not include any building contractor or any other person whose sole activity is to install insulation at the installation site.

(e) "Urea formaldehyde foam" means a cellular plastic insulation material generated in a continuous stream by mixing the components which are a urea formaldehyde resin, air and a foaming agent.

Note: Authority cited: Sections 25910, 25911, Public Resources Code. Reference: Sections 25910, 25911, Public Resources Code.

§ 1553. Urea Formaldehyde Foam Field Applied.

(a) Limitation on Sale. Urea formaldehyde foam is unsafe for use as insulation. Sale within the State of California of urea formaldehyde foam insulation is prohibited.

(b) Exemption. Notwithstanding any other provision of this article, a manufacturer of the primary components of urea formaldehyde foam insulation may apply for certification as provided in Section 1555 of this article. Such certification statement shall indicate compliance with the following standards:

(1) Composition. The material shall consist of cellular plastic generated in a continuous stream by mixing the components which are a urea formaldehyde resin, air, and a foaming agent. The material shall be suitable for filling closed cavities through small holes and suitable also for filling open cavities by trowelling during foaming prior to enclosure.

(2) Thermal Performance. The effective thermal performance, incorporating a derating value, shall be determined according to the method described in 42 Fed. Reg. pages 55143-55148.

(3) Resistance to Combustion. Surface burning characteristics shall be determined according to the ANSI/ASTM E84-79, and shall not exceed the following values:

Flame spread.....25

Smoke developed..... 450

Test specimens shall be aged for 45 days at 70° ± 5° and 35 to 40 percent relative humidity before testing.

(4) Free Formaldehyde Content of Dry Foam. The free formaldehyde content of the dry foam shall be less than 0.01 percent formaldehyde by weight when tested as specified in paragraph (f)(8), published in 45 Fed. Reg. page 63801, except that the specimens to be tested shall also be aged for 56 days at 24 ± 5°C (75 ± 10°F) and 50 ± 10 percent relative humidity in an uncovered beaker.

(5) Corrosiveness. The material shall be tested and meet the criteria for corrosiveness as specified in 45 Fed. Reg. pages 63786-63810.

(6) Density. The material shall be tested and meet the criteria for density as specified in 45 Fed. Reg. pages 63786-63810.

(7) Shrinkage. The material shall be tested and meet the criteria for shrinkage as specified in 45 Fed. Reg. pages 63786-63810, except that the material shall not shrink more than 2.0 percent in any direction.

(8) Volume Resistivity. The material shall be tested and meet the criteria for volume resistivity as specified in 45 Fed. Reg. 63786-63810.

(9) Identification. Resin and foaming agent containers shall be marked with conditions of proper storage and the derated R-value and shrinkage of the prepared foam as certified by the manufacturer.

(10) Safety Information. Installers of urea formaldehyde foam insulation shall present the following safety notice to the purchasers of the foam prior to the signing of the contract for installation. The notice shall be printed in a minimum of 8-point type size. One copy of the notice signed by the purchaser shall be immediately given to the purchaser, one copy shall be retained by the installer, and one copy shall be mailed by the installer to the Executive Director of the Energy Commission within 48 hours after installation of the insulation is completed.

Manufacturers shall make all sales of urea foam insulation components expressly subject to the application restrictions listed in the notice described in the following figure ("Urea Formaldehyde Foam Insulation Safety Notice”).

UREA FORMALDEHYE FORM INSULATION SAFETY NOTICE

The Federal Panel on Formaldehyde has concluded that formaldehyde should be presumed to pose a carcinogenic (cancer) risk for humans. Formaldehyde gas may also cause eye, nose, and throat irritation, coughing, shortness of breath, skin irritation, nausea, headaches, and dizziness. People with respiratory problems or allergies may suffer more serious reactions, especially people allergic to formaldehyde. Women who are pregnant or planning to become pregnant should not be exposed to this product.

The symptoms may appear immediately, or not until months after installation.

This product may release formaldehyde gas into your home or building over a long period of time. In some instances the formaldehyde gas cannot be controlled by ventilation or other means. Application of this product is restricted to exterior sidewalls in both residential and commercial/industrial buildings. A four mil thickness plastic polyethylene vapor barrier, or equivalent plastic sheeting vapor barrier, shall be installed between the urea formaldehyde foam insulation and the interior space of the home or building in all applications.

If you have health concerns, call your doctor. Also, call the installer or manufacturer of the material.

(PLEASE PRINT OR WRITE LEGIBLY)

PURCHASER NAME OR NAMES _____

PURCHASER ADDRESS _____ CITY _____ ZIP _____

PURCHASERS PHONE NUMBER Home ( ) _____ Work ( ) _____

LOCATION OF INSTALLATION IF DIFFERENT FROM ABOVE

LOCATION ADDRESS _____ CITY _____ZIP _____

The Purchaser acknowledges he or she has read and understands this notice.

Signed X _____ Date _____

Signed X _____ Date _____

THE FOLLOWING INFORMATION IS TO BE COMPLETED BY THE INSTALLING CONTRACTOR

CONTRACTOR'S NAME _____

CONTRACTOR'S ADDRESS _____ CITY _____ ZIP _____

CONTRACTOR'S STATE LICENSE NUMBER _____

NAME OF MANUFACTURER _____

MANUFACTURER'S ADDRESS _____ CITY _____ ZIP _____

MANUFACTURER'S PHONE NUMBER ( ) _____

TEMPERATURE OF OUTSIDE AIR AT START OF INSTALLATION_____°F

	BATCH NUMBER	EXPIRATION DATE	TEMPERATURE (START OF INSTALLATION)
RESIN	_____	_____	_____°F
FOAMING AGENT	_____	_____	_____°F

STEPS THE INSTALLING CONTRACTOR MUST FOLLOW

1. The installing contractor is responsible for mailing this completed notice to the following address within 48 hours after completion of installation.

Mail one copy to:

EXECUTIVE DIRECTOR, MS #39
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814

2. Give one copy to the Purchaser.
3. The installing contractor shall keep one copy of this completed notice for a period of not less than three years.

(c) Severability of Provisions. If any provision of Section 1553(a) or 1553(b), or the application thereof to any person or circumstances, is held invalid, the remaining provisions, or the application of such provisions to other persons or circumstances, shall not be affected thereby.

Note: Authority cited: Section 25911, Public Resources Code. Reference: Section 25911, Public Resources Code.

§ 1554. Approval of Testing Laboratories. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25915(a) and 25921, Public Resources Code.

§ 1555. Certification. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25921 and 25921.1, Public Resources Code.

§ 1556. Quality Assurance. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25921.1, Public Resources Code.

§ 1557. Identification. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25921, Public Resources Code.

§ 1558. Inspections. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25926, Public Resources Code.

§ 1559. Performance Tests. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25926, Public Resources Code.

§ 1560. Costs of Inspection and Testing. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25926, Public Resources Code.

§ 1561. Enforcement. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25931, Public Resources Code.

§ 1562. Release of Information. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25223 and 25921.1, Public Resources Code.

§ 1563. Liability. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25926 and 25931, Public Resources Code.

§ 1564. Insulating Existing Buildings.

(a) On or after March 25, 1982, if insulating material is installed in an existing building, in any of the applications specified in California Administrative Code, Title 24, Section 2-5305, the installing contractor shall certify that the amount of insulation installed meets or exceeds the requirements of Section 2-5305 for that application. Such certification shall be made on completion of the installation by posting in a conspicuous location a certificate signed under penalty of perjury. The certificate shall state the manufacturer's name and material identification, the thermal resistance (R-value) of the newly installed insulation, the estimated R-value of the original insulation, the total R-value, and (in application of loose fill insulation) the minimum contractor installed weight per square foot. This installed weight per square foot shall conform with the manufacturer's installed design density per square foot at the manufacturer's labeled R-value.

(b) Water Heater Insulation Kits. No water heater insulation kit shall be sold, on or after March 25, 1982, unless it has a thermal resistance of at least R-6 and is so identified.

Each water heater insulation kit sold shall include instructions which are equivalent to the Department of Energy standard practice for the installation of insulation on gas-fired, oil-fired, and electric resistance water heaters, 44 Fed. Reg. pages 64703-64705.

Note: Authority cited: Section 25910, Public Resources Code. Reference: Section 25910, Public Resources Code.

§ 1565. Interpretation. [Repealed]

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25920 and 25922, Public Resources Code.

Article 4. Appliance Efficiency Regulations

§ 1601. Scope.

This Article applies to the following types of new appliances, if they are sold or offered for sale in California, except those sold wholesale in California for final retail sale outside the state and those designed and sold exclusively for use in recreational vehicles, or other mobile equipment. Each provision applies only to units manufactured on or after the effective date of the provision.

Note: For the applicability of these regulations to appliances installed in new building construction, see Sections 110 and 111 of Part 6 of Title 24 of the California Code of Regulations.

(a) Refrigerators, refrigerator-freezers, and freezers that can be operated by alternating current electricity, including but not limited to refrigerated bottled or canned beverage vending machines, automatic commercial ice-makers, refrigerators with or without doors, freezers with or without doors, walk-in coolers, walk-in freezers, and water dispensers, but excluding the following types:

(1) consumer products with total refrigerated volume exceeding 39 ft^3;

(2) commercial refrigerators, commercial refrigerator-freezers, and commercial freezers with total refrigerated volume exceeding 85 ft^3; except that walk-in coolers and walk-in freezers are not excluded;

(3) blast chillers; and

(4) automatic commercial ice makers with a harvest rate less than 50 lbs./24 hours and automatic commercial ice makers with a harvest rate greater than 2500 lbs./24 hours.

(b) Room air conditioners, room air-conditioning heat pumps, packaged terminal air conditioners, and packaged terminal heat pumps.

(c) Central air conditioners, which are electrically-powered unitary air conditioners and electrically-powered unitary heat pumps, except those designed to operate without a fan; and gas-fired air conditioners and gas-fired heat pumps.

(d) Spot air conditioners, evaporative coolers, ceiling fans, ceiling fan light kits, whole house fans, residential exhaust fans, and dehumidifiers.

(e) Vented gas space heaters and vented oil space heaters, vented and unvented infrared gas heaters, electric residential boilers, and gas-fired combination space-heating and water-heating appliances.

Note: See Health and Safety Code Section 19881 for restrictions on the sale of unvented gas space heaters and unvented oil space heaters.

(f) Water heaters, including but not limited to hot water supply boilers.

(g) Gas pool heaters, oil pool heaters, electric resistance pool heaters, heat pump pool heaters, residential pool pump and motor combinations, replacement residential pool pump motors, and portable electric spas.

(h) Plumbing fittings, which are showerheads, lavatory faucets, kitchen faucets, metering faucets, replacement aerators, wash fountains, tub spout diverters, and commercial pre-rinse spray valves.

(i) Plumbing fixtures, which are water closets and urinals.

(j) Fluorescent lamp ballasts that are designed to:

(1) operate at nominal input voltages of 120 or 277 volts,

(2) operate with an input current frequency of 60 Hertz, and

(3) be used with T5, T8, or T12 lamps; and mercury vapor lamp ballasts.

(k) Lamps, which are federally-regulated general service fluorescent lamps, federally-regulated incandescent reflector lamps, state-regulated general service incandescent lamps, general service lamps, and includes GU-24 base lamps.

(l) Emergency lighting, which is illuminated exit signs.

(m) Traffic signal modules and traffic signal lamps.

(n) Luminaires, which are torchieres, metal halide luminaires, portable luminaires, under-cabinet luminaires, and includes luminaires with GU-24 socket and base configurations and GU-24 adaptors.

(o) Dishwashers that are federally-regulated consumer products.

(p) Clothes washers that are federally-regulated consumer products; and commercial clothes washers.

(q) Clothes dryers that are federally-regulated consumer products.

(r) Cooking products that are federally-regulated consumer products; and food service equipment.

(s) Electric motors, excluding definite purpose motors, special purpose motors, and motors exempted by the U.S. Department of Energy under 42 U.S.C. Section 6313(b).

(t) Low voltage dry-type distribution transformers that are designed to operate at a frequency of 60 Hertz, and that have a rated power output of not less than 15 kVa.

(u) Power supplies, which are single voltage external AC to DC and AC to AC power supplies included with other retail products, and single voltage external AC to DC or AC to AC power supplies sold separately excluding power supplies that are classified as devices for human use under the Federal Food, Drug, and Cosmetic Act and require U.S. Food and Drug Administration listing and approval as a medical device.

(v) Televisions with a screen area not greater than 1,400 square inches, and consumer audio and video equipment, which are compact audio products, digital versatile disc players, and digital versatile disc recorders.

(w) Battery charger systems.

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c), 25402.5.4 and 25960, Public Resources Code.

§ 1602. Definitions.

(a) General.

In this Article the following definitions apply. If a term is not defined here, the applicable definition in NAECA, EPAct, EISA, or the test methods listed in Section 1604 shall apply where it is reasonable to do so.

"AC" means alternating current.

"Accessible place" means a place on an appliance that can be easily seen without the need for tools to remove any covering.

"Active mode" means a condition in which an energy-using product

(1) is connected to a main power source;

(2) has been activated; and

(3) provides one or more main functions.

"AHAM" means the Association of Home Appliance Manufacturers.

"AHRI" means the Air-Conditioning, Heating, and Refrigeration Institute.

"ANSI" means the American National Standards Institute.

"Approved industry certification program" means an appliance certification program that the Executive Director has determined, pursuant to Section 1603(b):

(1) is operated by an appliance manufacturer trade association or other entity approved by the Executive Director;

(2) is accredited by ANSI or ISO, or has received from a nationally-recognized entity an approval that provides substantially similar guarantees of substantive and procedural reliability and accuracy; and

(3) provides:

(A) an internet-accessible listing of appropriate energy performance information that is updated at least every 6 months;

(B) testing of appliances according to applicable test methods and accurate reporting of test results;

(C) listings that:

1. include no appliance not meeting an applicable federal standard,

2. clearly and distinctly indicate which appliances meet the applicable federal standard but do not meet an applicable California standard, which shall be identified, and

3. where there is no federal standard, clearly and distinctly indicate which appliances do not meet an applicable California standard which shall be identified; and

(D) verification of manufacturer-submitted data;

(E) an appropriate procedure for program participants to challenge listed information; and

(F) compatibility with the database described in Section 1606(c).

"ASHRAE" means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

"ASME" means the American Society of Mechanical Engineers, International.

"Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current and waveform) for starting and operating.

"Ballast efficacy factor" means the ratio of the relative light output to the power input of fluorescent lamp ballast, as determined using the applicable test method in Section 1604(j).

"Basic model" of a federally-regulated consumer product means "basic model" as defined in 10 CFR Section 430.2 (2008). "Basic model" of any other appliance means all units of a given type of appliance (or class thereof) that are manufactured by one manufacturer, that have the same primary energy source, and that do not have any differing electrical, hydraulic, physical, or functional characteristics that affect energy consumption.

"Basic model" of a federally-regulated electric motor, as defined in 10 CFR Section 431.12 (2008), means all units of a given type of electric motor (or class thereof) manufactured by a single manufacturer, and which have the same rating, have electrical characteristics that are essentially identical, and do not have any differing physical or functional characteristics which affect energy consumption or efficiency. For the purpose of this definition, "rating" means one of the 113 combinations of an electric motor's horsepower (or standard kilowatt equivalent), number of poles, and open or enclosed construction, with respect to which 10 CFR Section 431.25 (2008) prescribes nominal full load efficency standards.

"Basic model" of a distribution transformer, as defined in 10 CFR 431.92 (2008), means a group of models of distribution transformers manufactured by a single manufacturer, that have the same insulation type (i.e., liquid-immersed or dry-type), have the same number of phases (i.e., single or three), have the same standard kVA rating, and do not have any differentiating electrical, physical, or functional features that affect energy consumption. Differences in voltage and differences in basic impulse insulation level (BIL) rating are examples of differentiating electrical features that affect energy consumption.

"Btu" means British thermal unit.

"^{o}C" means degrees Celsius.

"cfm" means cubic feet per minute.

"CFR" means Code of Federal Regulations.

“CIE” means the International Commission on Illumination.

“Color rendering index (CRI)” means the measured degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature, as determined using the applicable test method in Section 1604(k).

“Commission” means the California Energy Commission.

“Consumer product” means any article, other than an automobile, as defined in 49 U.S.C. Section 32901(a)(3):

(1) of a type which in operation consumes, or is designed to consume, energy or, with respect to showerheads, faucets, water closets, and urinals, water; and which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

(2) without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual, except that such term includes fluorescent lamp ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals distributed in commerce for personal or commercial use or consumption.

“CSA” means CSA International, which is also known as Canadian Standards Association International.

“Database” means the database established pursuant to Section 1606(c).

“Date of sale” means the day when the appliance is physically delivered to the buyer.

“DC” means direct current.

“Design standard” means a prescriptive standard, such as a ban on constant burning pilots or a requirement that a clothes washer have a particular feature.

“Directory” means a directory, a supplement thereto, or a part of a directory or supplement.

“EISA” means the Energy Independence and Security Act of 2007.

“Electric resistance heating” means the production of heat by passing electric current through a resistive element.

“Electronic ballast” means a device that uses semiconductors as the primary means to control lamp starting and operation.

“Energy efficiency standard” means a performance standard expressed in numerical form, such as energy factor, EER, or thermal efficiency.

“EPAct” means the Energy Policy Act of 1992, 42 U.S.C. Section 6311 et seq.

“Executive Director” means the Executive Director of the Commission or his or her designee.

“^{o}F” means degrees Fahrenheit.

“Federally-regulated appliance” means an appliance that is federally-regulated commercial and industrial equipment or a federally-regulated consumer product.

“Federally-regulated commercial and industrial equipment” means commercial and industrial equipment for which there exists a test method and an energy conservation standard prescribed by or under EPAct.

“Federally-regulated consumer product” means a consumer product for which there exists a test method and an energy conservation standard prescribed by or under NAECA.

“fpm” means feet per minute.

“FSTC” means Pacific Gas and Electric Company's Food Service Technology Center.

“Gallon (g)” means U.S. liquid gallon.

“Gas” means natural gas or liquefied petroleum gas.

“gpm” means gallons per minute.

“HI” means the Hydraulic Institute.

“HI-A” means the Hydronics Institute Section of AHRI.

“High intensity discharge (HID) lamp” means an electric-discharge lamp in which:

(1) the light-producing arc is stabilized by bulb wall temperature; and

(2) the arc tube has a bulb wall loading in excess of 3 Watts/cm2, including such lamps that are mercury vapor, metal halide, and high-pressure sodium lamps.

“HP” means horsepower.

“IAPMO” means the International Association of Plumbing and Mechanical Officials.

“Identifiers”, when referenced in relation to Table X data submittal requirements, means those fields shown in Table X for each specific appliance type that, when taken in combination for a specific model of a specific appliance type, represent the criteria for designating a model. At a minimum, each specific appliance type's model “identifiers” will include (a) manufacturer, (b) brand, and (c) model number. Individual appliance types may include additional fields as identifiers. All identifiers are represented in Table X by an asterisk (“*”). For purposes of compliance with Section 1606(e)(1), the identifiers represent fields that cannot be modified.

“ISO” means the International Organization for Standardization.

“kW” means kilowatt.

“kWh” means kilowatt-hour.

“Light emitting diode (LED)” means a p-n junction solid state device, the radiated output of which is a function of the physical construction, material used, and exciting current of the device. The output of a light-emitting diode may be in:

(1) the infrared region;

(2) the visible region; or

(3) the ultraviolet region.

“LPG” or “LP-gas” means liquefied petroleum gas, and includes propane, butane, and propane/butane mixtures. “average lamp efficacy (LPW)”

“LPW” (lumens per watt) means “average lamp efficacy (LPW)” as defined in Section 1602(k) of this Article.

“Luminaire” means a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

“Manufacturer” means any person engaged in the original production or assembly of an appliance. For plumbing fittings, federally-regulated general service fluorescent lamps, federally-regulated incandescent reflector lamps, and state-regulated general service incandescent lamps, “manufacturer” also means a private brand packager or reassembler.

“Model” means any collection of appliance units to which the manufacturer has assigned the same model number.

“Model number” means a combination of letters, digits, or characters representing the manufacturer, brand, design, or performance of an appliance. In the case of electric motors, “model number” refers to the designation of a “basic model”, as defined in 10 C.F.R. Section 431.12 (2008), in a manner specified by the Executive Director.

“NAECA” means the National Appliance Energy Conservation Act, 42 U.S.C. Section 6291 et seq.

“NEMA” means the National Electrical Manufacturers Association.

“Non-federally-regulated appliance” means an appliance that is neither federally-regulated commercial and industrial equipment nor a federally-regulated consumer product.

“NSF International” means the National Sanitation Foundation, International.

“OSA” means the Optical Society of America.

“Other mobile equipment” means transportation machinery including but not limited to cars, trucks, trains, airplanes, boats, and buses, but excluding mobile homes and manufactured homes.

“Ozone-depleting substance” means any substance that has been found by the United States Environmental Protection Agency to act as a catalyst in the breaking down of ozone, 03, into molecular oxygen, 02.

“Performance standard” means a standard that specifies a minimum level of energy or water efficiency or a maximum level of energy or water consumption of an appliance.

“Power factor” means the ratio of the real power to the apparent power.

“Private brand packager” means any person or entity that buys products from a manufacturer, packages them using its own brand name, and distributes them for sale using its own brand name.

“Reassembler” means any person or entity that buys products from a manufacturer, modifies them, and distributes them for sale using its own brand name.

“Recreational vehicle” means a van or utility vehicle used for recreational purposes.

“RPM” means revolutions per minute.

“Secretary” means the Secretary of the United States Department of Energy (U.S. DOE).

“Stand-by mode” means the condition in which an energy-using product:

(1) is connected to a main power source; and

(2) offers one or more of the following user-oriented or protective functions:

(A) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer.

(B) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

“Statement,” as used in Section 1606, means a single and complete line of data for a specific model and end-use, containing all the data required in Table X for that appliance type.

“UL” means Underwriters Laboratories, Inc.

“UPS” means uninterruptible power supply.

“U.S.C.” means the United States Code.

“UUT” means unit under test.

(b) Refrigerators, Refrigerator-Freezers, and Freezers.

“Adjusted total volume” means the sum of (i) the fresh food compartment volume as defined in HRF-1-1979 in cubic feet, and (ii) the product of an adjustment factor and the net freezer compartment volume as defined in HRF-1-1979, in cubic feet.

“All-refrigerator” means an electric refrigerator which does not include a compartment for the freezing and long time storage of food at temperatures below 32° F. (0.0^{o} C.). It may include a compartment of 0.50 cubic feet capacity (14.2 liters) or less for the freezing and storage of ice.

“Anti-sweat heater” means a device incorporated into the design of a refrigerator or refrigerator-freezer to prevent the accumulation of moisture on exterior surfaces of the cabinet under conditions of high ambient humidity.

“Automatic commercial ice-maker” means a factory-made assembly that is shipped in one or more packages that consists of a condensing unit and ice-making section operating as an integrated unit, that makes and harvests ice, and that may store or dispense ice.

“Automatic defrost system” or “automatic defrost” means a system in which the defrost cycle is automatically initiated and terminated, with resumption of normal refrigeration at the conclusion of the defrost operation. The system automatically prevents the permanent formation of frost on all refrigerated surfaces. Nominal refrigerated food temperatures are maintained during the operation of the automatic defrost system.

“Blast chiller” means a refrigerator designed to cool food products from 140° F to 40° F within four hours.

“Bottle-type water dispenser” means a water dispenser that uses a bottle or reservoir as the source of potable water.

“Buffet table” means a commercial refrigerator, such as a salad bar, that is designed with mechanical refrigeration and that is intended to receive refrigerated food, to maintain food product temperatures, and for customer service.

“Chest freezer” means a freezer to which access is gained through a top-opening door.

“Commercial refrigerator, commercial freezer, or commercial refrigerator-freezer” means refrigeration equipment that:

(1) is not a federally regulated consumer product, within the meaning of 10 CFR Part 430, Section 430.2 (2008);

(2) is not designed and marketed exclusively for medical, scientific, or research purposes;

(3) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

(4) displays or stores merchandise and other perishable materials horizontally, semi-vertically, or vertically;

(5) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

(6) is designed for pull-down temperature applications or holding temperature applications; and

(7) is connected to a self-contained condensing unit or to a remote condensing unit.

"Compact freezer" means a freezer that has total volume less than 7.75 ft^3 rated volume, as determined using 10 CFR, Part 430, Appendix B1 of Subpart B (2008), and that is 36 inches or less in height.

"Compact refrigerator" means a refrigerator that has total volume less than 7.75 ft^3 rated volume, as determined using 10 CFR, Part 430, Appendix A1 of Subpart B (2008), and that is 36 inches or less in height.

"Compact refrigerator-freezer" means a refrigerator-freezer that has total volume less than 7.75 ft^3 rated volume, as determined using 10 CFR, Part 430, Appendix A1 of Subpart B (2008), and that is 36 inches or less in height.

"Cube type ice" means ice that is fairly uniform, hard, solid, usually clear, and generally weighs less than two ounces (60 grams) per piece, as distinguished from flake, crushed, or fragmented ice.

"Drawer unit" means a residential refrigerator, residential freezer, or residential refrigerator-freezer, one or more of whose externally-accessed compartments are drawers.

"Envelope" of a walk-in cooler or walk-in freezer means the walls and ceiling of the walk-in cooler or walk-in freezer but not the doors or floors.

"Flake ice" means ice produced by freezing a thin layer of water on a refrigerated cylinder and removing by a scraper.

"Freezer" means a cabinet that is designed as a unit for the freezing and storage of food, beverages, or ice at temperatures of 0^oF or below and that has a source of refrigeration requiring an energy input.

"Freezer compartment" means a compartment designed for the freezing and storage of food, beverages, or ice at temperatures below 8^oF.

"Freezer volume" means net freezer compartment volume as defined in ANSI/AHAM HRF-1-1979.

"Harvest rate" means the amount of ice (at 32^oF) in pounds produced per 24 hours.

"Holding temperature application" means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

"Ice cream cabinet" means a reach-in cabinet commercial freezer that has top, or top and side, doors that are hinged or sliding and that is designed for the storage or dispensing of ice cream or similar foods.

"Ice-cream freezer" means a commercial freezer that is designed to operate at or below -5^oF (-21^oC) and that the manufacturer designs, markets, or intends for the storing, displaying, or dispensing of ice cream.

“Ice-making head” means automatic commercial ice makers that do not contain integral storage bins, but are generally designed to accommodate a variety of bin capacities. Storage bins entail additional energy use not included in the reported energy consumption figures for these units.

“Integrated average temperature” means the average temperature of all test package measurements taken during the test as determined using the applicable test method in Section 1604(a).

“Internal freezer refrigerator” means a refrigerator that includes a compartment contained within the refrigerator cabinet that is designed for the short-term storage of food at temperatures below 32° F.

“Kitchen unit” means a compact refrigerator, with or without an internal freezer, integrated with other appliances or facilities, including but not limited to microwave ovens, sinks, and electric cooktops.

“Manual defrost system” means a defrost system in which the defrosting action for refrigerated surfaces is initiated or terminated manually.

“Milk, beverage, and ice cream cabinet” means a reach-in cabinet commercial refrigerator-freezer that has top, or both top and side, doors that are hinged or sliding and that is designed for the storage or dispensing of milk or other beverages, and ice cream or similar foods.

“Milk or beverage cabinet” means a reach-in cabinet commercial refrigerator that has top, or both top and side, doors that are hinged or sliding and that is designed for the storage or dispensing of milk or other beverages.

“Non-commercial freezer” means (1) a freezer that is a federally-regulated consumer product or (2) a freezer exceeding 30 ft^3 but not exceeding 39 ft^3 that is a consumer product.

“Non-commercial refrigerator” means a refrigerator that is a federally-regulated consumer product or a wine chiller that is a consumer product.

“Non-commercial refrigerator-freezer” means a refrigerator-freezer that is a federally-regulated consumer product.

“Partial automatic defrost system” means a defrost system in which the defrosting action for refrigerated surfaces in the refrigerator compartment is initiated and terminated automatically and the defrosting action for refrigerated surfaces in the freezer is initiated manually.

“Pass-through cabinet” means a commercial refrigerator or commercial freezer with hinged or sliding doors on both front and rear of the refrigerator or freezer.

“Point of use water dispenser” means a water dispenser that uses a pressurized water utility connection as the source of potable water.

“Preparation table” means a commercial refrigerator with a countertop refrigerated compartment with or without cabinets below, and with self-contained refrigeration equipment.

“Pull-down temperature application” means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90°F, can cool those beverages to an average stable temperature of 38°F in 12 hours or less.

“Reach-in cabinet” means a commercial refrigerator, commercial refrigerator-freezer, or commercial freezer with hinged or sliding doors or lids, but excluding roll-in or roll-through cabinets and pass-through cabinets.

“Refrigerated bottled or canned beverage vending machine” means a commercial refrigerator that cools bottled or canned beverages and dispenses them upon payment.

“Refrigerated multi-package beverage vending machine” means a refrigerated beverage vending machine that is able to display and dispense at least 20 discrete types of beverages.

“Refrigerator” means a cabinet that is designed for the refrigerated storage of food, including but not limited to solid food and wine, beer, and other beverages, at temperatures above 32°F, and that has a source of refrigeration requiring an energy input. It may include a compartment for the freezing and storage of food at temperatures below 32°F, but it does not provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8°F.

“Refrigerator compartment” means a compartment designed for the refrigerated storage of food, including but not limited to solid food and wine, beer, and other beverages, at temperatures above 32°F.

“Refrigerator volume” means fresh food compartment volume as defined in ANSI/AHAM HRF-1-1979.

“Refrigerator-freezer” means a cabinet that

(1) consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of food, including but not limited to solid food and wine, beer, and other beverages, at temperatures above 32°F;

(2) has at least one of the compartments designed for the freezing and storage of food or ice at temperatures below 8°F that may be adjusted by the user to a temperature of 0°F or below; and

(3) has a source of refrigeration requiring an energy input.

“Remote,” in reference to any refrigerator, freezer, refrigerator-freezer, reach-in cabinet, pass-through cabinet, roll-in or roll-through cabinet, walk-in cooler, or walk-in freezer means an appliance that:

(1) receives refrigerant fluid from a condensing unit located externally to its cabinet assembly; and

(2) is capable of being purchased and installed with different types of compressor or condenser, so that its efficiency depends on the type of compressor or condenser applied by the purchaser, installer, or user.

“Remote condensing unit” means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

“Roll-in or roll-through cabinet” means a commercial refrigerator or commercial freezer that allows wheeled racks of product to be rolled into or through the refrigerator or freezer.

“Self-contained condensing unit” means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

“Self-contained freezer” means a freezer that has the condensing unit mounted in or on the freezer cabinet.

“Self-contained refrigerator” means a refrigerator that has the condensing unit mounted in or on the refrigerator cabinet.

“Self-contained refrigerator-freezer” means a refrigerator-freezer that has the condensing unit mounted in or on the refrigerator-freezer cabinet.

“Standard vendible capacity” means the maximum quantity of standard product that can be dispensed from one full loading of a refrigerated bottled or canned beverage vending machine without further reload operations when used as recommended by the manufacturer.

“Total volume” means the sum of refrigerator volume and freezer volume.

“Undercounter cabinet” means a reach-in cabinet commercial refrigerator or reach-in cabinet commercial freezer that has no worktop surface and that is intended for installation under a separate counter.

“Upright freezer” means a freezer to which access is gained through a side-opening door.

“Walk-in cooler” means an enclosed storage space refrigerated to temperatures above 32°F that can be walked into and has a total chilled storage area of less than 3,000 square feet. “Walk-in cooler” does not include products designed and marketed exclusively for medical, scientific, or research purposes.

“Walk-in freezer” means an enclosed storage space refrigerated to temperatures at or below 32°F that can be walked into and has a total chilled storage area of less than 3,000 square feet. “Walk-in freezer” does not include products designed and marketed exclusively for medical, scientific, or research purposes.

“Water dispenser” means a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means.

“Wine chiller” means a refrigerator designed for the cooling and storage of wine.

“Worktop table” means a counter-height commercial refrigerator or freezer with a worktop surface.

(c) Air Conditioners.

“Air conditioner” means an appliance that supplies cooled air to a space for the purpose of cooling objects within the space.

“Air-cooled air conditioner” means an air conditioner using an air-cooled condenser.

“Air-source heat pump” means an appliance that consists of one or more factory-made assemblies, that includes an indoor conditioning coil, a compressor, and a refrigerant-to-air heat exchanger, and that provides heating and cooling functions.

“Casement-only room air conditioner” means a room air conditioner with an encased assembly designed for mounting in a casement window with a width of 14.8 inches or less and a height of 11.2 inches or less.

“Casement-slider room air conditioner” means a room air conditioner with an encased assembly designed for mounting in a sliding or casement window with a width of 15.5 inches or less.

“Casement window” means a window that opens on hinges at the side.

“Central air conditioner” means an air conditioner that is capable of cooling only by refrigeration and is not a room air conditioner or a packaged terminal air conditioner.

“Central air-conditioning heat pump” means a central air conditioner that is capable of cooling and heating by refrigeration.

“Coefficient of performance (COP)” means the ratio of the produced cooling effect of an air conditioner or heat pump (or its produced heating effect, depending on the mode of operation) to its net work input, when both the cooling (or heating) effect and the net work input are expressed in identical units of measurement, as determined using the applicable test method in Section 1604(b) or 1604(c).

“Compressor motor nominal horsepower” means the horsepower of a compressor motor as listed on the compressor motor's nameplate.

“Compressor power” means the rate of electrical consumption of a compressor, in watts.

“Computer-room air conditioner” means a central air conditioner specifically designed for use in data processing areas, maintaining an ambient temperature of approximately 72°F and a relative humidity of approximately 52 percent.

“Cooling capacity” means a measure of the ability of an air conditioner to remove heat from an enclosed space, as determined using the applicable test method in Section 1604(b) or 1604(c).

“db” means dry bulb.

“Energy efficiency ratio (EER)” means the ratio of the produced cooling effect of an air conditioner or heat pump to its net work input, expressed in Btu/watt-hour, as determined using the applicable test method in Section 1604(b) or 1604(c).

“Evaporatively-cooled air conditioner” means an air conditioner whose refrigerating system has an evaporatively-cooled condenser.

“Gas-fired air-conditioner” means an air conditioner which utilizes gas as the primary fuel.

“Gas-fired heat pump” means a heat pump which utilizes gas as the primary fuel.

“Ground source closed-loop heat pump” means an appliance that (1) consists of one or more factory-made assemblies; (2) includes an indoor conditioning coil with air moving means, a compressor, and a refrigerant-to-ground heat exchanger; and (3) provides heating, cooling, or heating and cooling functions.

“Ground water-source heat pump” means an appliance that (1) consists of one or more factory-made assemblies; (2) includes an indoor conditioning coil with air moving means, a compressor, and a refrigerant-to-water heat exchanger; and (3) provides heating, cooling, or heating and cooling functions.

“Heat pump” means an appliance, other than a packaged terminal heat pump, that consists of one or more assemblies; that uses an indoor conditioning coil, a compressor, and a refrigerant-to-outdoor air heat exchanger to provide air heating; and that may also provide air cooling, dehumidifying, humidifying, circulating, or air cleaning.

“Heating seasonal performance factor (HSPF)” means the total space heating required during the space heating season, expressed in Btu's, and divided by the total electrical energy consumed by the heat pump system during the same season, expressed in watt-hours, as determined using the applicable test method in Section 1604(c).

“Indoor fan electrical input” means the electrical input required for the operation of an indoor fan, in watts.

“Indoor fan motor nominal horsepower” means the horsepower of an indoor fan motor as listed on the fan motor's nameplate.

“Indoor fan motor type” means the internal construction design of a motor.

“Integrated part load value (IPLV)” means part load efficiency, as determined using the applicable test method in Section 1604(c).

“Outdoor fan electrical input” means the electrical input required for the operation of an outdoor fan, in watts.

“Outdoor fan motor nominal horsepower” means the horsepower of an outdoor fan motor as listed on the fan motor's nameplate.

“Packaged terminal air conditioner” means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for

mounting through the wall and that is industrial equipment. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder's choice of hot water, steam, or electricity.

“Packaged terminal heat pump” means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source, that has a supplementary heating source available, with the choice of hot water, steam, or electric resistant heat, and that is industrial equipment.

“Premium motor” means a premium motor as defined in NEMA Premium™: Product Scope and Nominal Efficiency Levels (2001).

“Room air conditioner” means a factory-encased air conditioner that is designed (1) as a unit for mounting in a window, through a wall, or as a console, and (2) for delivery without ducts of conditioned air to an enclosed space.

“Room air-conditioning heat pump” means a room air conditioner that is capable of heating by refrigeration.

“Seasonal energy efficiency ratio (SEER)” means the total heat removed from the conditioned space during the annual cooling season, expressed in Btu's, divided by the total electrical energy consumed by the air conditioner or heat pump during the same season, expressed in watt-hours, as determined using the applicable test method in Section 1604(c).

“Single package central air conditioner” means a central air conditioner in which all the major assemblies are enclosed in one cabinet.

“Single package heat pump” means a heat pump in which all the major assemblies are enclosed in one cabinet.

“Single package vertical air conditioner” means air-cooled commercial package air conditioning and heating equipment that:

(1) is factory-assembled as a single package that:

(A) has major components that are arranged vertically;

(B) is an encased combination of cooling and optional heating components; and

(C) is intended for exterior mounting on, adjacent interior to, or through an outside wall;

(2) is powered by a single- or three-phase current;

(3) may contain one or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and

(4) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means.

“Single package vertical heat pump” means a single package vertical air conditioner that:

(1) uses reverse cycle refrigeration as its primary heat source; and

(2) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas.

"Small duct, high velocity system" means a heating and cooling product that contains a blower and indoor coil combination that:

(1) is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220-350 cfm per rated ton of cooling; and

(2) when applied in the field, uses high velocity room outlets generally greater than 1000 fpm which have less than 6.0 square inches of free area.

"Space constrained product" means a central air conditioner or heat pump:

(1) that has rated cooling capacities no greater than 30,000 BTU/hr;

(2) that has an outdoor or indoor unit having at least two overall exterior dimensions or an overall displacement that:

(A) are (is) substantially smaller than those of other units that are

1. currently installed in site-built single family homes, and

2. of a similar cooling, and, if a heat pump, heating, capacity, and

(B) if increased, would certainly result in a considerable increase in the usual cost of installation or would certainly result in a significant loss in the utility of the product to the consumer; and

(3) of a product type that was available for purchase in the United States as of December 1, 2000.

"Split system central air conditioner" means a central air conditioner in which one or more of the major assemblies are separate from the others.

"Split system heat pump" means a unitary heat pump in which one or more of the major assemblies are separate from the others in a central air conditioner or a central air conditioning heat pump.

"Standard motor" in a central air conditioner or a central air-conditioning heat pump means a motor that is not a premium motor.

"Thermostatic expansion valve (TXV)" means a refrigerant metering valve, installed in an air conditioner or heat pump, which controls the flow of liquid refrigerant entering the evaporator in response to the super heat of the gas leaving it.

"Through-the-wall air conditioner and heat pump" means a central air conditioner or heat pump that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and:

(1) is manufactured prior to January 23, 2010;

(2) is not weatherized;

(3) is clearly and permanently marked for installation only through an exterior wall;

(4) has a rated cooling capacity no greater than 30,000 Btu/hr;

(5) exchanges all of its outdoor air across a single surface of the equipment cabinet; and

(6) has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface described in paragraph (5) of this definition.

"Unitary air conditioner" means a central air conditioner consisting of one or more factory-made assemblies that include an evaporator or cooling coil and an electrically-driven compressor and condenser combination.

"Unitary heat pump" means a central air conditioning heat pump that consists of one or more factory-made assemblies, including an indoor conditioning coil, a compressor, and an outdoor coil, that provides a heating function, and that may provide a cooling function.

"Water-cooled air conditioner" means an air conditioner whose refrigerating system has a water-cooled condenser.

"Water-source heat pump" means an appliance that (1) consists of one or more factory-made assemblies; (2) includes an indoor conditioning coil, a compressor, and a refrigerant-to-water heat exchanger; and (3) provides heating and cooling functions.

"wb" means wet bulb.

"Year-round air conditioner" means an appliance that contains an air conditioner and a furnace in the same cabinet.

(d) Spot Air Conditioners, Evaporative Coolers, Ceiling Fans, Ceiling Fan Light Kits, Whole House Fans, Residential Exhaust Fans, and Dehumidifiers.

"Airflow" of ceiling fans means the rate of air movement at a specific fan-speed setting expressed in cfm.

"Airflow efficiency" means the ratio of airflow divided by power at a specific ceiling fan-speed setting expressed in cfm/watt.

"Ceiling fan" means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

"Ceiling fan light kit" means equipment designed to provide light from a ceiling fan that can be:

(1) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or

(2) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan.

"Cooling efficiency ratio (CER)" means the efficiency of a spot air conditioner obtained by dividing the sum of the cooling capacity and the fan electrical input, both in Btu per hour by the total electrical input in watts, all as determined using the test method specified in Section 1604(d).

"Dehumidifier" means a self-contained, electrically operated, and mechanically encased assembly consisting of:

(1) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

(2) a refrigerating system, including an electric motor;

(3) an air-circulating fan; and

(4) means for collecting or disposing of the condensate.

"Direct evaporative cooler" means a heat and mass transfer device used to adiabatically cool air passing through the device by the process of evaporating water directly exposed to this air.

"Energy factor for dehumidifiers" means a measure of energy efficiency of a dehumidifier calculated by dividing the water removed from the air by the energy consumed, measured in liters per kWh (l/kWh).

"Evaporative cooler" means an appliance that cools indoor air directly or indirectly by evaporation of water. "Evaporative Cooler" does not include portable or spot evaporative coolers.

"Evaporative cooler efficiency ratio (ECER)" means a measure of the cooling efficiency defined in Table D-1 of Section 1604(d).

"Indirect evaporative cooler" means a heat and mass transfer device used to sensibly cool a primary airstream, without addition of moisture, by means of an evaporatively cooled secondary airstream.

"Input power" of a ceiling fan light kit means the actual total power used by all lamp(s) and ballast(s) of the ceiling fan light kit during operation, expressed in watts and measured using the lamp and ballast packaged with the kit.

"Lamp ballast platform" of a ceiling fan light kit means a pairing of one ballast with one or more lamps that can operate simultaneously on that ballast. A unique platform is defined by the manufacturer and model number of the ballast and lamp(s) and the quantity of lamps that operate on the ballast.

“Lamp lumens” of a ceiling fan light kit means a measurement of luminous flux expressed in lumens and measured using the lamp and ballast shipped with the fixture.

“Low-profile ceiling fan” means a ceiling fan where the motor mounts directly to the ceiling and that cannot be mounted using a down-rod.

“Packaged direct evaporative cooler” means a direct evaporative cooler with an air-moving device that includes the entire water distribution, collection, and recirculation system with pump and piping. “Packaged direct evaporative cooler” does not include portable or spot evaporative coolers.

“Packaged indirect evaporative cooler” means an indirect evaporative cooler with integrated or nonintegrated primary and secondary air passages and provided with both primary and secondary air-moving devices. This device also includes the entire water distribution, collection, and recirculation system with pump and piping.

“Packaged indirect/direct evaporative cooler” means a product incorporating both an indirect evaporative cooler and a direct evaporative cooler, and including the entire water distribution, collection, and recirculation system with pump and piping.

“Portable or Spot Evaporative Cooler” means an evaporative cooler that is non-ducted, not designed for permanent installation, and can be plugged into a standard mains outlet.

“Product capacity for dehumidifiers” means a measure of the ability of a dehumidifier to remove moisture from its surrounding atmosphere, measured in pints collected per 24 hours of continuous operation.

“Residential exhaust fan” means a permanently installed bathroom, kitchen, or utility room ceiling or wall-mounted exhaust fan. “Residential exhaust fan” does not include the exhaust fans included in microwave/oven hood combination units.

“Spot air conditioner” means an air conditioner that discharges cool air into a space and discharges rejected heat back into that space, where there is no physical boundary separating the discharges.

“System efficacy per lamp ballast platform” of a ceiling fan light kit means the ratio of measured lamp lumens expressed in lumens and measured input power expressed in watts.

“Whole house fan” means an exhaust fan that is mounted in the ceiling of a residence that is capable of moving 1,000 cfm or more, and that provides cooling or fresh air.

(e) Gas and Oil Space Heaters and Electric Residential Boilers.

“Annual fuel utilization efficiency (AFUE)” means the efficiency descriptor for furnaces and boilers, as determined using the applicable test method in Section 1604(e) and based on the assumption that all:

(1) weatherized warm air furnaces or boilers are located out-of doors;

(2) warm air furnaces which are not weatherized are located indoors and all combustion and ventilation air is admitted through grill or ducts from the outdoors and does not communicate with air in the conditioned space;

(3) boilers which are not weatherized are located within the heated space.

"Automatic flue damper" means a device installed in the flue outlet or in the inlet of or upstream of the draft control device of an individual, automatically operated, fossil fuel-fired appliance that is designed to automatically open the flue outlet during appliance operation and to automatically close the flue outlet when the appliance is in a standby condition.

"Automatic vent damper" means a device intended for installation in the venting system of an individual, automatically operated, fossil fuel-fired appliance either in the outlet or downstream of the appliance draft control device, which is designed to automatically open the venting system when the appliance is in operation and to automatically close off the venting system when the appliance is in a standby or shutdown condition.

"Boiler" means a space heater that is a self-contained appliance for supplying steam or hot water primarily intended for space-heating. "Boiler" does not include hot water supply boilers.

"Central furnace" means a self-contained space heater designed to supply heated air through ducts of more than 10 inches length.

"Combination space-heating and water-heating appliance" means an appliance that is designed to provide both space heating and water heating from a single primary energy source.

"Combined annual efficiency (CAE)" means [(SHF x $Effy_{hs}$ /100) + (WHF x $Effy_{ss}$/100) + (R x NHF x EF)] divided by [SHF + WHF + (R x NHF)] as defined in the applicable test method in Section 1604(e)(3).

"Combustion efficiency of a space heater" means a measure of the percentage of heat from the combustion of gas or oil that is transferred to the space being heated or lost as jacket loss, as determined using the applicable test method in Section 1604(e).

"Combustion efficiency for a commercial packaged boiler" means the efficiency descriptor for packaged boilers, determined using test procedures prescribed under 10 CFR Section 431.86 (2008) and equals to 100 percent minus percent flue loss (percent flue loss is based on input fuel energy).

"Direct vent system" means a system supplied by a manufacturer which provides outdoor air or air from an unheated space (such as an attic or crawl space) directly to a furnace or vented heater for combustion and for draft relief if the unit is equipped with a draft control device.

"Duct furnace" means a space heater designed to be installed within a duct.

"Energy consumption during standby" means the energy consumed by a gas or oil space heater when the main burner is not operating, not including energy consumption related to associated cooling equipment, and reported in watts, based on a conversion factor of 3.412 Btu per watt-hour.

“Fan type gas space heater” means a space heater in which heat is distributed to the surrounding area through the use of an electric fan.

“Floor furnace” means a self-contained, floor-mounted space heater without ducts.

“Floor-mounted unit heater” means a unit heater designed for mounting on the floor rather than suspension mounting.

“Gravity type gas space heater” means a gas space heater in which heat is distributed to the surrounding area as a result of the differences in densities of cooler and warmer air in the surrounding atmosphere.

“High intensity infrared heater” means an infrared gas space heater that has a radiating surface that operates at or above 1,350^{o} F.

“High static unit heater” means a unit heater that has an integral means for the circulation of air against 0.2 inch or greater static pressure.

“Indoor duct furnace” means a duct furnace designed to operate under sheltered conditions.

“Infrared gas space heater” means a gas space heater that directs a substantial amount of its energy output in the form of infrared energy into the area to be heated.

“Low intensity infrared heater” means an infrared gas space heater that has a radiating surface that operates at less than 1,350^{o} F.

“Low static unit heater” means a unit heater that has an integral means for the circulation of air against less than 0.2 inch static pressure.

“Mobile home furnace” means a direct vent furnace that is designed for use only in mobile homes.

“Non-packaged boiler” means a boiler that is not a packaged boiler.

“Outdoor duct furnace” means a duct furnace designed to function normally under varying outdoor weather conditions.

“Outdoor furnace or boiler” means a furnace or boiler normally intended for installation out-of-doors or in an unheated space (such as an attic or crawl space).

“Output” means the rate of useful heat output when operating under steady state conditions.

“Packaged boiler” means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls, usually shipped in one or more sections and does not include a boiler that is custom designed and field constructed. If the boiler is shipped in more than one section, the sections may be produced by more than one manufacturer, and may be originated or shipped at different times and from more than one location.

“Patio heater” means an infrared gas space heater that is designed for warming outdoor areas using radiant heat.

“Portable infrared heater” means a free-standing infrared gas space heater designed with the intent of being moved from one space to another.

“Power venting” means a venting system that uses a separate fan, either integral to the appliance or attached to the vent pipe, products of combustion.

“Premium motor” means a premium motor as defined in NEMA Premium™: Product Scope and Nominal Efficiency Levels (2001).

“Radiant coefficient” means a measure of efficiency of an infrared heater, as determined using the applicable test method in Section 1604(e).

“Radiant tube-type infrared heater” means a low-intensity infrared gas space heater in which combustion takes place within a tube.

“Room heater” means a free-standing non-recessed space heater.

“Space heater” means an appliance that supplies heat to a space for the purpose of providing warmth to objects within the space.

“Standard motor” of a central gas furnace means a motor that is not a premium motor.

“Standby loss” of a boiler means the sum of the gas used by the pilot (converted to watts), the electricity used by controls, and any other energy used while the boiler is not operating.

“Steam boiler” means a boiler that supplies steam.

“Thermal efficiency” of a space heater means a measure of the percentage of heat from the combustion of gas or oil that is transferred to the space being heated, or in the case of a boiler, to the hot water or steam, as determined using the applicable test methods in Section 1604(e). Thermal efficiency of a commercial warm air furnace equals 100 percent minus percent flue loss, as determined using test procedures prescribed under 10 CFR Section 431.76 (2008).

“Unit heater” means a self-contained, automatically-controlled, vented fan-type gas space heater designed to be installed without ducts, within the heated space.

“Unvented gas space heater” means a gas space heater designed to be used without a vent.

“Unvented oil space heater” means an oil space heater designed to be used without a vent. Note: See Health and Safety Code Section 19881 for restrictions on the sale of unvented gas space heaters and unvented oil space heaters.

“Vented floor furnace” means a self-contained vented heater suspended from the floor of the space being heated, taking air for combustion from outside this space. The vented floor furnace supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

“Vented gas space heater” means a gas space heater designed to be used with a vent.

“Vented home heating equipment” or “vented heater” means a class of home heating equipment, not including furnaces, designed to furnish warmed air to the living space of a residence, directly from the device, without duct connections (except that boots not to exceed 10 inches beyond the casing may be permitted) and includes: vented wall furnace, vented floor furnace, and vented room heater.

“Vented oil space heater” means an oil space heater designed to be used with a vent.

“Vented room heater” means a self-contained, free standing, non-recessed, vented heater for furnishing warmed air to the space in which it is installed. The vented room heater supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

“Vented wall furnace” means a self-contained vented heater complete with grilles or the equivalent, designed for incorporation in, or permanent attachment to, a wall of a residence and furnishing heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

“Wall furnace” means a wall-mounted, self-contained space heater without ducts that exceed 10 inches.

“Water boiler” means a boiler that supplies hot water.

(f) Water Heaters.

“Booster water heater” means a water heater that raises the temperature of the preheated water supplied to the unit typically from 110°F-140°F to 180°F-195°F.

“Energy factor” of a water heater means a measure of overall water heater efficiency, as determined using the applicable test method in Section 1604(f).

“Energy input rate” of a booster water heater means the peak rate at which a booster water heater consumes energy expressed in Btu/hr or kW.

“First-hour rating” means an estimate of the maximum volume of “hot” water that a storage-type water heater can supply within an hour that begins with the water heater fully heated (i.e., with all thermostats satisfied). It is a function of both the storage volume and the recovery rate.

“Heat pump water heater” means a device using the vapor compression cycle to transfer heat from a low-temperature source to a higher temperature sink for the purpose of heating water, including all necessary ancillary equipment, fans, blowers, pumps, storage tanks, piping, and controls.

“Hot water dispenser” means a small electric water heater that has a measured storage volume no greater than 1.0 gallon.

“Hot water supply boiler” means a packaged boiler that is industrial equipment and that:

(1) has an input rating from 300,000 Btu/hour to 12,500,000 Btu/hour and of at least 4,000 Btu/hour per gallon of stored water;

(2) is suitable for heating potable water; and

(3) meets either or both of the following conditions:

(A) it has the temperature and pressure controls necessary for heating potable water for purposes other than space heating; or

(B) the manufacturer's product literature, product markings, product marketing, or product installation and operation instructions indicate that the boilers intended uses include heating potable water for purposes other than space heating.

“Input” means rate of energy consumption.

“Instantaneous water heater” means a water heater that has an input rating of at least 4,000 Btu per hour per gallon of stored water.

“Large water heater” means a water heater that is not a small water heater.

“Maximum gpm (L/min) rating” means the maximum gallons per minute (liters per minute) of hot water that can be supplied by an instantaneous water heater while maintaining a nominal temperature rise of 77o F (42.8^{o} C) during steady state operation.

“Mini-tank electric water heater” means a small electric water heater that has a measured storage volume more than 1.0 gallon and a rated storage volume less than 20 gallons.

“Rated storage volume” means the water storage capacity of a water heater, in gallons (liters), as specified by the manufacturer.

“Recovery efficiency” of a water heater means the ratio of energy delivered to the water to the energy content of the fuel consumed by the water heater, as determined using the applicable test method in Section 1604(f).

“Small water heater” means a water heater that is a gas storage water heater with an input of 75,000 Btu per hour or less, an oil storage water heater with an input of 105,000 Btu per hour or less, an electric storage water heater with an input of 12 kW or less, a gas instantaneous water heater with an input of 200,000 Btu per hour or less, an oil instantaneous water heater with an input of 210,000 Btu per hour or less, an electric instantaneous water heater with an input of 12 kW or less, or a heat pump water heater rated at 24 amps or less.

“Storage water heater” means a water heater that heats and stores water within the appliance at a thermostatically-controlled temperature for delivery on demand, and that has an input less than 4,000 Btu per hour per gallon of stored water.

“Tabletop water heater” means a water heater in a rectangular box enclosure designed to slide into a kitchen countertop space with typical dimensions of 36 inches high, 25 inches deep, and 24 inches wide.

“Thermal efficiency” of a water heater means a measure of the percentage of heat from the combustion of gas or oil that is transferred to the water, as determined using the applicable test method in Section 1604(f).

“Water heater” means an appliance for supplying hot water for purposes other than space heating or pool heating.

(g) Pool Heaters, Portable Electric Spas, Residential Pool Pump and Motor Combinations, and Replacement Residential Pool Pump Motors.

“Capacitor start-capacitor run” means a capacitor start single phase motor that has a capacitor in series with the starting winding.

“Capacitor start-induction run” means a motor that uses a capacitor via the starting winding to start an induction motor, where the capacitor is switched out by a centrifugal switch once the motor is up to speed.

“Coefficient of performance (COP)” of a heat pump pool heater means the ratio of heat output to the total power input in consistent units, as determined using the applicable test method in Section 1604(g).

“Default speed” means the low speed, having a rotation rate that is no more than one-half of the motor's maximum rotation rate.

“Electronically commutated motor (ECM)” means a brushless DC motor that utilizes a permanent magnet rotor and built in inverters.

“Heat pump pool heater” means an air-to-water heat pump pool heater, employing a compressor, water-cooled condenser, and outdoor air coil in a single package assembly.

“Low temperature rating” means the conditions described as “low temperature rating” in Table G of Section 1604(g).

“Multi speed motor” means a motor whose speed may be selected from several different pre-set ranges.

“Nameplate HP” means the HP displayed on the nameplate mounted on the motor.

“Permanent split capacitor (PSC)” means a two-phase motor operated from a single-phase voltage source with a capacitor connected in series with either one of the two windings.

“Pool heater” means an appliance designed for heating non-potable water contained at atmospheric pressure for swimming pools, spas, hot tubs and similar applications.

“Pool pump motor capacity” means a value equal to the product of motor's nameplate HP and service factor.

“Portable electric spa” means a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water.

“Readily accessible on-off switch” of a pool heater means an on-off switch located in a place that can be easily used without the need for tools to remove any covering when the pool heater is on display in a store or when it is installed.

“Replacement residential pool pump motor” means a replacement motor intended to be coupled to an existing residential pool pump that is used to circulate and filter pool water in order to maintain clarity and sanitation.

“Residential pool pump” means an impeller attached to a motor that is used to circulate and filter pool water in order to maintain clarity and sanitation.

“Residential pool pump and motor combination” means a residential pool pump motor coupled to a residential pool pump.

“Residential pool pump motor” means a motor that is used as a replacement residential pool pump motor or as part of a residential pool pump and motor combination.

“Service factor (of an AC motor)” means a multiplier which, when applied to the rated horsepower, indicates a permissible horsepower loading which can be carried under the conditions specified for the service factor.

“Spa conditions rating” means the conditions described as “spa conditions rating” in Table G of Section 1604(g).

“Spa volume” means the actual fill volume of the spa, under normal use, in gallons, as defined in the test method in Section 1604(g)(2)(B).

“Speed” means the number of revolutions of the motor shaft in a given unit of time. Speed is expressed in revolutions per minute (RPM).

“Split phase start” means a motor that employs a main winding with a starting winding to start the motor. After the motor has attained approximately 75 percent of rated speed, the starting winding is automatically disconnected by means of a centrifugal switch or by a relay.

“Standard temperature rating” means the conditions described as “standard temperature rating” in Table G of Section 1604(g).

“Thermal efficiency” of a pool heater means a measure of the percentage of heat from the input that is transferred to the water, as determined using the applicable test method in Section 1604(g).

“Total horsepower (of an AC motor)” means a value equal to the product of the motor's service factor and the motor's nameplate (rated) horsepower.

“Two speed motor” means a motor designed or intended to be operated at one of two preset speeds.

“Variable speed motor” means a motor whose speed can vary continuously over a specified range.

(h) Plumbing Fittings.

“Commercial pre-rinse spray valve” means a hand-held device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

“Faucet” means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

“Flow rate” means the rate of water flow of a plumbing fitting, as determined using the applicable test method in Section 1604(h).

“Kitchen faucet” means a faucet designed for discharge into a kitchen sink.

“Kitchen replacement aerator” means an aerator sold as a replacement, separate from the kitchen faucet to which it is intended to be attached.

“Lavatory” means a basin or bowl designed for washing the face and hands.

“Lavatory faucet” means a plumbing fitting designed for discharge into a lavatory.

“Lavatory replacement aerator” means an aerator sold as a replacement, separate from the lavatory faucet to which it is intended to be attached.

“Leakage rate” means the rate of leakage through a tub spout diverter directly into the bathtub when the diverter is in the diverting position, as determined using the applicable test method in Section 1604(h).

“Lift-type tub spout diverter” means a tub spout diverter that is operated by lifting the control.

“Metering faucet” means a faucet that, when turned on, will gradually shut itself off over a period of several seconds.

“Plumbing fitting” means a showerhead, lavatory faucet, kitchen faucet, metering faucet, lavatory replacement aerator, kitchen replacement aerator, wash fountain, or tub spout diverter.

“psi” means pounds per square inch.

“Pull-type tub spout diverter” means a tub spout diverter that is operated by pulling the control.

“Showerhead” means a device through which water is discharged for a shower bath. Showerhead means any showerhead (including a hand held showerhead), except a safety showerhead.

“Showerhead” means a device through which water is discharged for a shower bath.

“Showerhead-tub spout diverter combination” means a group of plumbing fittings sold as a matched set and consisting of a control valve, a tub spout diverter, and a showerhead.

“Tub spout diverter” means a device designed to stop the flow of water into a bathtub and to divert it so that the water discharges through a showerhead.

“Turn-type tub spout diverter” means a tub spout diverter that is operated by turning the control.

“Wash fountain” means a lavatory faucet designed for simultaneous use by two or more persons.

“Water use” means the quantity of water flowing through a showerhead or faucet, at point of use, determined in accordance with test procedures under Appendix S of subpart B of 10 CFR part 430 (2008).

(i) Plumbing Fixtures.

“Blowout type bowl” means a nonsiphonic type water closet bowl that is designed for a blowout action, and that has an integral flushing rim, a trapway at the rear of the bowl, a visible or concealed jet, a wall outlet, and, if wall mounted, a three bolt hole configuration.

“Blowout water closet” means a water closet with a blowout type bowl.

“Electromechanical hydraulic water closet” means a water closet that utilizes electrically operated devices, such as, but not limited to, air compressors, pumps, solenoids, motors, or macerators in place of or to aid gravity in evacuating waste from the toilet bowl.

“Flushometer tank” means a flushometer valve that is integrated within an accumulator vessel affixed and adjacent to a plumbing fixture inlet so as to cause an effective enlargement of the supply line immediately before the fixture.

“Flushometer tank water closet” means a water closet utilizing a flushometer tank.

“Flushometer valve” means a valve that is attached to a pressurized water supply pipe and that is designed so that when actuated it opens the line for direct flow into the fixture at a rate and predetermined quantity to properly operate the fixture, and then gradually closes in order to provide trap reseal in the fixture and to avoid water hammer. The pipe to which the device is connected is, in itself, of sufficient size that when open shall allow the device to deliver water at a sufficient rate of flow for flushing purposes.

“Gallons per flush (gpf)” means gallons per flush as determined using the applicable test method in Section 1604(i).

“Gravity tank-type water closet” means a water closet that includes a storage tank from which water flows into the bowl by gravity.

“Plumbing fixture” means a water closet or a urinal.

“Prison-type urinal” means a urinal designed and marketed expressly for use in prison-type institutions.

“Prison-type water closet” means a water closet designed and marketed expressly for use in prison-type institutions.

“Trough-type urinal” means a urinal designed for simultaneous use by two or more persons.

“Urinal” means a plumbing fixture that receives only liquid body waste and, on demand, conveys the waste through a trap seal into a gravity drainage system.

“Vacuum-type urinal” means a urinal whose bowl is evacuated by the application of a vacuum.

“Vacuum-type water closet” means a water closet whose bowl is evacuated by the application of a vacuum.

“Water closet” means a plumbing fixture having a water-containing receptor that receives liquid and solid body waste through an exposed integral trap into a gravity drainage system.

“Water use” means the quantity of water flowing through a water closet or urinal at point of use, determined in accordance with test procedures under Appendix T of subpart B of 10 CFR part 430 (2008).

“Waterless urinal” means a urinal designed to be used without the application of water for flushing.

(j) Fluorescent Lamp Ballasts.

“Ballast efficacy factor” means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in ASNI C82.2-1984.

“Cathode heater cut-out circuit design” or “Cathode cut-out circuit design” means a fluorescent lamp ballast design that incorporates a cathode heater cut out device that turns off the cathode heaters in fluorescent lamps once the lamps are ignited and operating.

“Continuous dimming ballast” means a fluorescent lamp ballast that can continuously vary lamp light levels.

“Electronic circuit design” means the type of circuit used in an electronic fluorescent lamp ballast.

“Fluorescent lamp ballast” means a device that is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.

“F34T12 lamp” (also known as a “F40T12/ES lamp”) means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1 1/2 inches in diameter, and conforms to ANSI C78.81-2003 (Data Sheet 7881-ANSI-1006-1).

“F40T12 lamp” means a nominal 40 watt tubular fluorescent lamp that is 48 inches in length and 1 1/2 inches in diameter, and conforms to ANSI C78.81-2003 (Data Sheet 7881-ANSI-1010-1).

“F96T12 lamp” means a a nominal 75 watt tubular fluorescent lamp that is 96 inches in length and 1 1/2 inches in diameter, and conforms to ANSI C78.81-2003 (Data Sheet 7881-ANSI-3007-1).

“F96T12/ES lamp” means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1 1/2 inches in diameter, and conforms to ANSI C78.81-2003 (Data Sheet 7881-ANSI-3006-1).

“F96T12HO lamp” means a nominal 110 watt tubular fluorescent lamp that is 96 inches in length, and 1 1/2 inches in diameter, and conforms to ANSI C78.81-2003 (Data Sheet 7881-ANSI-1019-1).

“F96T12HO/ES lamp” means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1 1/2 inches in diameter, and conforms to ANSI C78.81-2003 (Data Sheet 7881-ANSI-1017-1).

“Instant start ballast” or “slimline instant start ballast” means a fluorescent lamp ballast that allows for instantaneous light production without the use of a starter circuit.

“Magnetic circuit design” means a fluorescent lamp ballast design that uses a magnetic core and coil and that alters the voltage and current, but not the frequency, to the lamp.

“Maximum input watts” means the maximum input wattage to a ballast resulting from the operation of the maximum number of lamps when tested in accordance with input/output measurements in the UL 935 standard for fluorescent lamp ballasts.

“Mercury vapor lamp” means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 PA (approximately 1 atm), including such lamps that are clear, phosphor-coated, and self-ballasted.

“Mercury vapor lamp ballast” means a device that is designed and marketed to start and operate mercury vapor lamps by providing the necessary voltage and current.

“Minimum input watts” means the minimum input watts to a ballast resulting from the minimum number of lamps when tested in accordance with input/output measurements in the UL 935 standard for fluorescent lamp ballasts.

“Power factor” of a fluorescent lamp ballast means the power input divided by the product of ballast input voltage and input current of a fluorescent lamp ballast, as measured under test conditions specified in ANSI C-82.2-1984.

“Power input” means the power consumption in watts of a ballast and its associated fluorescent lamp or lamps, as determined using the applicable test method in Section 1604(j).

“Rapid start ballast” means a fluorescent lamp ballast design that uses a starter circuit to heat the cathodes before and during operation.

“Relative light output” means the light output delivered through the use of a ballast divided by the light output delivered through the use of a reference ballast, expressed as a percent, as determined using the applicable test method in Section 1604(j).

“Replacement ballast” means a ballast that: (1) is manufactured on or before June 30, 2010; (2) is designed for use to replace an existing ballast in a previously installed luminaire; (3) is marked “FOR REPLACEMENT USE ONLY”; (4) is shipped by the manufacturer in packages containing not more than 10 ballasts; and (5) has output leads that when fully extended are a total length that is less than the length of the lamp with which they are intended to be operated.

“Stepped dimming ballast” means a fluorescent lamp ballast that can operate lamps at two or more light output steps.

“T5 lamp” means a tubular fluorescent lamp 5/8 inches in diameter.

“T8 lamp” means a tubular fluorescent lamp 8/8 or 1 inch in diameter.

“T12 lamp” means a tubular fluorescent lamp 12/8 or 1-1/2 inches in diameter.

(k) Lamps.

“Appliance Lamp” means any lamp specifically designed to operate in a household appliance, has a maximum wattage of 40 watts, and is sold at retail, including an oven lamp, refrigerator lamp, and vacuum cleaner lamp; and is designated and marketed for the intended application, with:

(1) the designation on the lamp packaging; and

(2) marketing materials that identify the lamp as being for appliance use.

“Average lamp efficacy (LPW)” means the measured lamp efficacy of fluorescent lamps, general service incandescent lamps, or incandescent reflector lamps, expressed in lumens per watt, as determined using the applicable test method in Section 1604(k).

“Average rated life” means the length of time declared by the manufacturer at which 50 percent of any large number of units of a lamp reaches the end of their individual lives.

“Bi-pin lamp” means a lamp having a base with two pins that is used for tungsten-halogen reflector lamps, low-voltage tungsten-halogen lamps, or fluorescent lamps.

“Black Light Lamp” means a lamp that emits radiant energy in the UV-A band (315-400 nm) and is designated and marketed as a “black light”. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as a black light lamp.

“BPAR incandescent reflector lamp” means a reflector lamp as shown in figure C78.21-278 on page 32 of ANSI C78.21-2003.

“BR incandescent reflector lamp” means a reflector lamp that has:

(1) a bulged section below the bulb's major diameter and above its approximate base line as shown in Figure 1 (RB) on page 7 of ANSI C79.1-1994; and

(2) a finished size and shape shown in ANSI C78.21-1989, including the referenced reflective characteristics in Part 7 of ANSI C78.21-1989.

“BR30” means a BR incandescent reflector lamp with a diameter of 30/8ths of an inch.

“BR40” means a BR incandescent reflector lamp with a diameter of 40/8ths of an inch.

“Bug Lamp” means a lamp that contains a filter to suppress the blue and green portions of the visible spectrum and is designated and marketed as a “bug light”. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a bug lamp.

“Candelabra base incandescent lamp” means a lamp that uses candelabra screw base as described in ANSI C81.61-2006, Specifications for Electric Bases, common designations E11 and E12.

“Clear type lamp” means a general service incandescent lamp with an envelope (commonly referred to as the bulb) that utilizes no diffusive coatings. The filament is plainly visible. The illumination it produces is crisp-edged, with well-defined shadows on the background when an object is positioned in its emissive path. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a clear type lamp.

“Colored fluorescent lamp” means a fluorescent lamp designated and marketed as a colored lamp, and with either of the following characteristics: a CRI less than 40, as determined according to the method given in CIE publication 13.3-1995, or a lamp correlated color temperature less than 2,500K or greater than 6,600K.

“Colored incandescent lamp” means an incandescent lamp designated and marketed as a colored lamp that has:

(1) a CRI of less than 50, as determined according to the test method given in CIE publication 13.3-1995; or

(2) a correlated color temperature less than 2,500K, or greater than 4,600K, where correlated color temperature is computed according to the Journal of Optical Society of America, Vol. 58, pages 1528-1595 (1968).

“Design voltage” with respect to an incandescent lamp means:

(1) the voltage marked as the intended operating voltage;

(2) the mid-point of the voltage range if the lamp is marked with a voltage range; or

(3) 120 V if the lamp is not marked with a voltage or voltage range.

“Enhanced Spectrum” or “Modified Spectrum” lamp, as related to incandescent lamps, means an incandescent lamp that is not a colored incandescent lamp, and, when operated at its rated voltage and wattage:

(1) Has a color point with (x,y) chromaticity coordinates on the Commission Internationale de l'Eclairage (C.I.E.) 1931 chromaticity diagram that lies below the black-body locus, and

(2) Has a color point with (x,y) chromaticity coordinates on the C.I.E. 1931 chromaticity diagram that lies at least 4 MacAdam steps distant from the color point of a clear

lamp with the same filament and bulb shape, operated at the same rated voltage and wattage. The MacAdam steps are defined as referenced in Illuminating Engineering Society of North America LM-16-1993.

The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being “enhanced spectrum,” “modified spectrum,” or a similar designation.

“ER incandescent reflector lamp” means a reflector lamp with an elliptical section below the bulb's major diameter and above its approximate baseline as shown in Figure 1 (RE) on page 7 of ANSI C79.1-1994 and a finished size and shape shown in ANSI C78.21-1989 including the referenced reflective characteristics in part 7 of ANSI C78.21-1989.

“ER30” means an ER incandescent reflector lamp with a diameter of 30/8ths of an inch.

“ER40” means an ER incandescent reflector lamp with a diameter of 40/8ths of an inch.

“Federally-regulated general service fluorescent lamp” means any fluorescent lamp which can be used to satisfy the majority of fluorescent lighting applications but does not include any lamp designed and marketed for the following non-general applications:

(1) fluorescent lamps designed to promote plant growth;

(2) fluorescent lamps specifically designed for cold temperature applications;

(3) colored fluorescent lamps;

(4) impact-resistant fluorescent lamps;

(5) reflectorized or aperture fluorescent lamps;

(6) fluorescent lamps designed for use in reprographic equipment;

(7) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum; or

(8) lamps with a CRI of 87 or greater.

“Federally-regulated general service incandescent lamp” means a standard incandescent or halogen-type lamp that:

(1) is intended for general service applications;

(2) has a medium screw base

(3) has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and

(4) is capable of being operated at a voltage range at least partially within 110 and 130 volts. but does not include the following incandescent lamps:

(A) An appliance lamp.

(B) A black light lamp.

(C) A bug lamp.

(D) A colored lamp.

(E) An infrared lamp.

(F) A left-hand thread lamp.

(G) A marine lamp.

(H) A marine signal service lamp.

(I) A mine service lamp.

(J) A plant light lamp.

(K) A reflector lamp.

(L) A rough service lamp.

(M) A shatter-resistant lamp (including a shatter-proof lamp and a shatter-protected lamp).

(N) A sign service lamp.

(O) A silver bowl lamp.

(P) A showcase lamp.

(Q) A 3-way incandescent lamp.

(R) A traffic signal lamp.

(S) A vibration service lamp.

(T) A G shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002) with a diameter of five inches or more.

(U) A T shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002) and that uses not more than 40 watts or has a length of more than 10 inches.

(V) A B, BA, CA, F, G16 1/2, G-25, G30, S, or M-14 lamp (as defined in ANSI C79.1-2002 and ANSI C78.20-2003) of 40 watts or less.

“Federally-regulated general service lamp” includes:

(1) general service incandescent lamps;

(2) compact fluorescent lamps;

(3) general service light-emitting diode (LED or OLED) lamps; and

(4) any other lamps that the Secretary determines are used to satisfy lighting applications traditionally served by general service incandescent lamps; but does not include any:

(A) lighting application or bulb shape excluded from the definition of "federally-regulated general service incandescent lamp;" or;

(B) general service fluorescent lamp or incandescent reflector lamp.

"Federally-regulated incandescent reflector lamp" (commonly referred to as a reflector lamp) means any lamp in which light is produced by a filament heated to incandescence by an electric current, that:

(1) is not colored or designed for rough or vibration service applications;

(2) contains an inner reflective coating on the outer bulb to direct the light;

(3) has an R, PAR, ER, BR, BPAR, or similar bulb shape with an E26 medium screw base;

(4) has a rated voltage or voltage range that lies at least partially in the range of 115 and 130 volts;

(5) has a diameter that exceeds 2.25 inches; and

(6) has a rated wattage that is 40 watts or higher.

"Fluorescent lamp" means a low pressure mercury electric-discharge source in which a florescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light.

"Frost type lamp" means an inside-frosted lamp producing modest diffusion of the light with little reduction of light output. Any lamp labeled as "standard" or "frosted" is a "frost type lamp."

"Incandescent lamp" means a glass enclosure in which light is produced by a filament of conducting material heated by an electric current.

"Infrared lamp" means a lamp that radiates predominately in the infrared region of the electromagnetic spectrum, and where visible radiation is not of principal interest. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being an infrared lamp.

"Initial performance values" means the photometric and electrical characteristics of the lamp at the end of 100 hours of operation.

"Intermediate base incandescent lamp" means a lamp that uses an intermediate screw base as described in ANSI C81.61-2006, Specifications for Electric Bases, common designation E17.

“Lamp” means an electrical appliance that includes a glass envelope and produces optical radiation for the purpose of visual illumination, designated to be installed into a luminaire by means of an integral lamp-holder. Types of lamps include incandescent, fluorescent, and high intensity discharge (high pressure sodium and metal halide).

“Lamp Efficacy (LE)” means the measured lumen output of a lamp in lumens divided by the measured lamp electrical power in watts expressed in units of lumens per watt (LPW).

“Lamp electrical power input” means the total electrical input to the lamp, including both arc and cathode power where appropriate, at the reference condition, in units of watts.

“Left-handed thread lamp” means a lamp on which the base screws into a lamp socket in a counter-clockwise direction, and screws out of a lamp socket in a clockwise direction.

“Lumen maintenance” means the luminous flux or lumen output at a given time in the life of the lamp and expressed as a percentage of the rated luminous flux or rated lumen output, respectively.

“Marine Lamp” means a lamp specifically designed to operate in a marine application. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a marine lamp or similar designation.

“Marine Signal Lamp” means a lamp specifically designed to provide signals to marine vessels for seaway safety. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a marine signal lamp or similar designation.

“Medium base compact fluorescent lamp” means an integrally ballasted fluorescent lamp with a medium screw base, a rated input voltage range of 115 to 130 volts, and which is designed as a direct replacement for a general service incandescent lamp; however the term does not include:

(1) any lamp that is:

(A) specifically designed to be used for special purpose applications; and

(B) unlikely to be used in general purpose applications, such as the applications described in the definition of “Federally-regulated general service incandescent lamp” in this section; or

(2) any lamp not described in the definition of “Federally-regulated general service incandescent lamp” in this section that is excluded by the Secretary, by rule, because the lamp is:

(A) designed for special applications; and

(B) unlikely to be used in general purpose applications.

“Medium screw base” means an Edison screw base identified with the prefix E-26 in the American National Standard for Electric Lamp Bases, ANSI IEC C81.61-2003.

“Mercury vapor lamp” means a high intensity discharge (HID) lamp, including clear, phosphor-coated, and self-ballasted screw base lamps, in which the major portion of the light is produced by radiation from mercury typically operating at a partial vapor pressure in excess of 100,000 Pa (approximately 1 atm).

“Mercury vapor lamp ballast” means a device that is designed and marketed to start and operate mercury vapor lamps intended for general illumination by providing the necessary voltage and current.

“Mine Service Lamp” means a lamp specifically designed for use in Mine applications. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a mine service lamp or similar designation.

“Nominal lamp wattage” means the lamp wattage stated by the manufacturer on the lamp and on any accompanying documents or packaging.

“Organic light-emitting diode (OLED)” means a thin-film light-emitting device that typically consists of a series of organic layers between two electrical contacts (electrodes).

“Plant Light Lamp” means a lamp that contains a filter to suppress yellow and green portions of the spectrum and is designated and marketed as a “plant light”. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a plant light.

“R20 incandescent reflector lamp” means a reflector lamp that has a face diameter of approximately 2.5 inches, as shown in figure 1(R) on page 7 of ANSI C79.1-1994.

“Rated lumens” means a lamp's lumen value as stated by the manufacturer on the lamp, the lamp's packaging, or the lamp's marketing materials.

“Rated luminous flux” or “rated lumen output” means the initial lumen rating (100 hour) declared by the manufacturer, which consists of the lumen rating of a lamp at the end of 100 hours of operation.

“Rated supply frequency” means the frequency marked on the lamp.

“Rated voltage” means the voltage marked on the lamp. With respect to incandescent lamps, rated voltage means:

(1) the design voltage if the design voltage is 115V, 130V, or between 115V and 130V;

(2) 115V if the design voltage is less than 115V and greater than or equal to 100V and the lamp can operate at 115V; and

(3) 130V if the design voltage is greater than 130V and less than or equal to 150V and the lamp can operate at 130V.

“Rated wattage” means the wattage marked on the lamp. With respect to 4-foot medium bi-pin T8, T10, or T12 lamps, rated wattage means if the lamp is:

(1) listed in ANSI C78.1-1991, the nominal wattage of a lamp determined by the lamp designation in Annex A.2 of ANSI C78.1-1991; or

(2) a residential straight-shaped lamp, the wattage a lamp consumes when operated on a reference ballast for which the lamp is designed; or

(3) neither listed in ANSI C78.1-1991 nor a residential straight-shaped lamp, the wattage a lamp consumes when using reference ballast characteristics of 236 volts, 0.43 amps and 439 ohms for T10 or T12 lamps, or reference ballast characteristics of 300 volts, 0.265 amps, and 910 ohms for T8 lamps.

"Reflector lamp" means a lamp that has a reflective coating applied directly to part of the bulb surface and that reflects light in a forward direction away from the lamp base. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a reflector lamp or similar designation.

"Residential straight-shaped lamp" means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including a straight-shaped fluorescent lamp with medium bi-pin bases of nominal overall length of 48 inches and is either designed exclusively for residential applications; or designed primarily and marketed exclusively for residential applications.

(1) A lamp is designed exclusively for residential applications if it will not function for more than 100 hours with a commercial high-power-factor ballast.

(2) A lamp is designed primarily and marketed exclusively for residential applications if it:

(A) is permanently and clearly marked as being for residential use only;

(B) has a life of 6,000 hours or less when used with a commercial high-power-factor ballast;

(C) is not labeled or represented as a replacement for a fluorescent lamp that is a covered product; and

(D) is marketed and distributed in a manner designed to minimize use of the lamp with commercial high-power-factor ballasts.

(3) A manufacturer may market and distribute a lamp in a manner designed to minimize use of the lamp with commercial high-power-factor ballasts by:

(A) packaging and labeling the lamp in a manner that clearly indicates the lamp is for residential use only and includes appropriate instructions concerning proper and improper use; if the lamp is included in a catalog or price list that also includes commercial/industrial lamps, listing the lamp in a separate residential section accompanied by notes about proper use on the same page; and providing as part of any express warranty accompanying the lamp that improper use voids such warranty; or

(B) using other comparably effective measures to minimize use with commercial high-power-factor ballasts.

“Rough service lamp” means a lamp that:

(1) has a minimum of 5 supports with filament configurations that are C-7A, C-11, C-17, and C-22 as listed in Figure 6-12 of the 9th edition of the IESNA Lighting Handbook, or similar configurations where lead wires are not counted as supports; and

(2) is designated and marketed specifically for ‘rough service’ applications, with:

(A) the designation appearing on the lamp packaging; and

(B) marketing materials that identify the lamp as being for rough service.

“Self-ballasted compact fluorescent lamp” means a compact fluorescent lamp unit that incorporates, permanently enclosed, all elements that are necessary for the starting and stable operation of the lamp, and does not include any replaceable or interchangeable parts.

“Shatter-resistant lamp, shatter-proof lamp, or shatter-protected lamp” means a lamp that:

(1) has a coating or equivalent technology that is compliant with the NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken; and

(2) is designated and marketed for the intended application, with:

(A) the designation on the lamp packaging; and

(B) marketing material that identify the lamp as being shatter-resistant, shatter-proof, or shatter-protected.

“Showcase lamp” means a lamp that has a tubular bulb with a conventional screw base. The longer lamps have filaments with supports similar to linear incandescent lamps. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a showcase lamp.

“Sign service lamp” means a lamp of the vacuum type or gas-filled with sufficiently low bulb temperature to permit exposed outdoor use on high-speed flashing circuits. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a sign service lamp.

“Silver Bowl lamp” means a lamp that has a reflective coating applied directly to part of the bulb surface and that reflects light in a backward direction toward the lamp base. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a silver bowl lamp or similar designation.

“Slimline lamp” means a straight tubular-shaped instant start lamp with single pin bases of nominal overall length of 96 inches and a rated wattage of 52 or more, as defined in ANSI C78.81-2003.

“Soft white type lamp” means a lamp that emits diffuse illumination that produces soft-edged, poorly defined shadows on the background when an object is positioned in its emmissive path. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a soft white lamp.

“Specialty application mercury vapor lamp ballast” means a mercury vapor lamp ballast that:

(1) is designed and marketed for operation of mercury vapor lamps used in quality inspection, industrial processing, or scientific use, including fluorescent microscopy and ultraviolet curing; and

(2) in the case of a specialty application mercury vapor lamp ballast, the label of which:

(A) provides that the specialty application mercury vapor lamp ballast is “For specialty applications only, not for general illumination”; and

(B) specifies the specific applications for which the ballast is designed.

“State-regulated general service incandescent lamp” means a standard incandescent or halogen type lamp that: is intended for general service applications; has a medium screw base; has a wattage rating no less than 25 watts and no greater than 150 watts; has a rated voltage range at least partially within 110 and 130 volts; has a A-15, A-19, A-21, A-23, A-25, PS-25, PS-30, BT-14.5, BT-15, CP-19, TB-19, CA-22, or equivalent shape as defined in ANSI C78.20-2003; and has a bulb finish of the frosted, clear, or soft white type. The following incandescent lamps are not state-regulated general service incandescent lamps: appliance, black light, bug, colored, infrared, left-hand thread, marine, marine signal service, mine service, plant light, reflector, rough service, shatter resistant, sign service, silver bowl, showcase, three-way, traffic signal, and vibration service or vibration resistant.

“State-regulated incandescent reflector lamp” means a lamp that is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, a E26 medium screw base, that has a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that is either:

(1) a BR or ER bulb shape with a diameter 2.25 inches or more;

(2) a R, PAR, BR or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

“Three-way lamp” includes an incandescent lamp that employs two filaments, operated separately and in combination, to provide three light levels. The designation shall be on the lamp packaging, and marketing materials shall identify the lamp as being a three-way lamp.

“U-shaped lamp” means a tubular U-shaped fluorescent lamp with a medium bi-pin base with a nominal overall length between 22 and 25 inches and a rated wattage of 28 or more.

“Vibration service lamp” means a lamp that:

(1) has filament configurations that are C-5, C-7A, or C-9, as listed in Figure 6-12 of the 9th Edition of the IESNA Lighting Handbook or similar configurations;

(2) has a maximum wattage of 60 watts;

(3) is sold at retail in packages of two lamps or less; and

(4) is designated and marketed specifically for vibration service or vibration-resistant applications with:

(A) the designation appearing on the lamp packaging; and

(B) marketing materials that identify the lamp as being vibration service only.

"Voltage range" means a band of operating voltages as marked on an incandescent lamp, indicating that the lamp is designed to operate at any voltage within the band.

(l) Emergency Lighting.

"Average Luminance" means the arithmetic mean of all points measured on a surface.

"Edge-lit exit sign" means an illuminated exit sign in which lettering etched into a glass, plastic, or similar panel is illuminated through the edge of the panel and in which the lettering and the background are luminous.

"Electroluminescent light source" means a solid-state device which produces light when an electric current is passed through a phosphor-impregnated material.

"Face" means an illuminated side of an illuminated exit sign.

"Illuminated exit sign" means a sign that:

(1) is designed to be permanently fixed in place to identify an exit; and

(2) consists of:

(A) a n electrically powered integral light source that illuminates the legend "EXIT" and any directional indicators; and

(B) provides contrast between the legend, any directional indicators, and the background.

"Input power" means the rate of electricity consumption, in watts, of an illuminated exit sign.

"Input power demand" means the amount of power required to continuously illuminate an exit sign model, measured in watts. For exit sign models with rechargeable batteries, input power demand shall be measured with batteries at full charge.

"Luminance" means a measure of the brightness of a luminous surface.

“Luminance contrast” means the relative brightness of an object against its background.

“Matrix illuminated exit sign” means an illuminated exit sign that uses an array of small light sources, such as LEDs, to form the lettering of a sign.

“Maximum to minimum luminance ratio” means the ratio of maximum to minimum luminance where the luminance should be uniform.

“Panel-type exit sign” means an illuminated exit sign in which a translucent panel diffuses a light source and in which both the lettering and background are luminous.

“Photometric measurements” means the measurements of luminance levels made on the face of the sign.

“Stencil illuminated exit sign” means an illuminated exit sign in which an opaque panel conceals the light source and in which only translucent lettering is luminous.

(m) Traffic Signal Modules and Traffic Signal Lamps.

“Power consumption” means the power consumption, in watts, of a traffic signal module or a traffic signal lamp.

“Traffic signal lamp” means a lamp that is designed with lifetime, wattage, focal length, filament configuration, mounting, lamp glass, and lamp base characteristics appropriate for use in traffic signals.

“Traffic signal module for vehicle control” means a standard 8-inch (200 mm) or 12-inch (300 mm) round traffic signal indication that:

(1) consists of a light source, a lens, and all other parts necessary for operation; and

(2) communicates movement messages to drivers through red, amber, green colors.

“Traffic signal module for pedestrian control” means a traffic signal module that conveys movement information to pedestrians.

(n) Luminaires and Torchieres.

“Art work luminaire” means a luminaire designed only to be mounted directly to art work only for the purpose of illuminating that art work.

“Automatic daylight control” is a control that automatically reduces lighting in response to available daylight. This control typically uses photosensors to detect changes in daylight illumination and then change the electric lighting level in response to the daylight changes.

“Color correlated temperature (CCT)” means the color appearance, or actual color of the lamp in accordance with IESNA LM-16-1993.

“Compact fluorescent lamp” means a fluorescent lamp typically designed to replace general service incandescent lamps, but may include sizes that replace conventional linear

fluorescent lamps in smaller luminaires, and are typically less than 24 inches in length. “Fluorescent lamp” is defined in Section 1602(k) of this Article.

“Dedicated fluorescent lamp socket” means one of the ANSI designated type of fluorescent lamp sockets that will accept only a compact or linear fluorescent lamp, and that is used in luminaires where the ballast is permanently installed in the luminaire between the power cord and the lamp socket. “Dedicated fluorescent lamp socket” does not include sockets where the ballast is located between the socket and the lamp, or where the ballast is integrated into the lamp.

“E12 screw-based socket” means an ANSI designation for a screw-base socket commonly referred to as a candelabra screw-base.

“E17 screw-based socket” means an ANSI designation for a screw-base socket commonly referred to as an intermediate screw-base.

“E26 screw-based socket” means an ANSI designation for a screw-base socket commonly referred to as a medium screw-base.

“General lighting application” means lighting that provides an interior or exterior area with overall illumination.

“GU-24” means the designation of a lamp holder and socket configuration, based on a coding system by the International Energy Consortium: “G” indicates the broad type of two or more projecting contacts, such as pins or posts; “U” distinguishes between lamp and holder designs of similar type that are not interchangeable due to electrical or mechanical requirements; and “24” indicates 24 millimeter center to center spacing of electrical contact posts.”

“GU-24 adaptor” means a one-piece device, pig-tail, wiring harness, or other such socket/base attachment that connects to a GU-24 socket on one end and provides a different type of socket or connection on the other end; a GU-24 adaptor does not alter the voltage. A fluorescent ballast with a GU-24 base is not a GU-24 adaptor.

“High frequency electronic ballast” means a fluorescent lamp ballast having an output frequency of no less than 20kHz. “Fluorescent lamp ballast” is defined in Section 1602(j) of this Article.

“Indoor metal halide luminaire” is a metal halide luminaire that is not an outdoor metal halide luminaire.

“Integral control” means a fully functional occupancy sensor or automatic daylight control system for which all required components for an integral control, including control devices, sensors, and wiring, are factory installed, packaged and sold with each individual luminaire, and are integrated into each individual luminaire at the factory in one of the following three methods:

(1) Is integrated directly into the luminaire housing and hardwired to the lighting system; or

(2) Is pre-wired to allow proper functionality between the control and luminaire, and to allow remote mounting of the control. One end of the wiring shall be pre-wired to the

luminaire, and the other end shall be prewired to the control. The wiring may be either a metal or fiber conductor. The wiring may allow temporary disconnection in the field to allow remote mounting of the control; or

(3) Is pre-wired with a wireless radio controlled sensor to allow proper functionality between the control and luminaire, and to allow interaction with the wireless control signal in the lighting system.

"Lamp-ballast system efficiency" means the efficiency of a lamp and ballast combination expressed as a percentage and calculated by dividing the output circuit lamp power by the input circuit power as measured in accordance with ANSI C82.6-2005 (American National Standard for Ballasts for High-Intensity Discharge Lamps - Methods of Measurement).

"LED light engine" or "LED light engine with Integral Heat Sink" (also known as an LED Light Source System) means a subsystem of an LED luminaire that includes one or more LED components, including an LED driver (power source), electrical and mechanical interfaces, and an integral heat sink to provide thermal dissipation. An LED source system may be designed to accept additional components that provide aesthetic, optical, and environmental control (other than thermal dissipation).

"LED luminaire" means a complete lighting unit consisting of an LED light source, meaning one or more LED lamps or LED light engines, together with parts to distribute light, to position and protect the light source, and to connect the light source to the electrical power.

"Luminaire efficacy" for LEDs means the luminous efficacy of the LED luminaire, or of the LED light engine with integral heat sink, when tested in accordance with IESNA LM-79-08.

"Metal halide ballast" means a ballast used to start and operate metal halide lamps.

"Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

"Metal halide lamp fixture" or "Metal halide luminaire" means a light fixture for general lighting application designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

"Occupant sensor, lighting" is a device that automatically reduces lighting or turns lights off soon after an area is vacated.

"Outdoor metal halide luminaire" means a metal halide luminaire that is UL 1598 Wet Location Listed and labeled "Suitable for Wet Locations" as specified by the National Electrical Code 2005, Section 410.4(A).

"Portable floor luminaire" means a portable luminaire designed to be located on the floor and not located on a table, desk, or other structure above the floor.

"Portable luminaire" means a luminaire that has a flexible cord and an attachment plug for connection to a nominal 120-volt, 15- or 20-ampere branch circuit; that allows the user to relocate the luminaire without any rewiring; that are typically controlled with a switch located on the luminaire itself or on the power cord; and that are intended for use in accordance with the

National Electrical Code, ANSI/NFPA 70-2002. Portable luminaire does not include direct plug-in nightlights, sun and heat lamps, aquarium lamps, medical and dental lights, portable electric hand lamps, signs and commercial advertising displays, photographic lamps, germicidal lamps, or portable luminaires for marine use or for use in hazardous locations as defined in the National Electrical Code, ANSI/NFPA 70. Portable luminaire also does not include Christmas tree and decorative lighting outfits or electric candles and candelabras without lamp shades that are covered by the Standard for Christmas Tree and Decorative Outfits, UL 588.

"Portable table luminaire" means a portable luminaire designed to be located on a table, desk, or other structure above the floor.

"Probe-start metal halide ballast" means a ballast that:

(1) starts a probe-start metal halide lamp that contains a third starting electrode (probe) in the arc tube; and

(2) does not generally contain an igniter but instead starts lamps with high ballast open circuit voltage.

"Pulse-start metal halide ballast" means an electronic or electromagnetic ballast that starts a pulse-start metal halide lamp with high voltage pulses. Lamps shall be started by first providing a high voltage pulse for ionization of the gas to produce a glow discharge. To complete the starting process, power shall be provided by the ballast to sustain an arc through a glow-to-arc transition.

"System input power rating" means the operating input wattage of the rated lamp/ballast combination published in manufacturer's catalogs based on independent testing lab reports as specified by "Standards for Luminaire" UL 1598.

"Torchiere" means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

"Under-cabinet luminaire" means a luminaire designed for mounting in, on, under, or within modular office furniture.

"Wall mount adjustable luminaire" means a portable luminaire that is designed only to be mounted on a wall, having no base which will allow the luminaire to stand on a horizontal surface.

(o) Dishwashers.

"Compact dishwasher" means a dishwasher that has a capacity of less than eight place settings plus six serving pieces as specified in ANSI/AHAM DW-1 using 10 CFR, Part 430, Appendix C of Subpart B (2008).

"Cycle" means a sequence of operations of a dishwasher that performs a complete dishwashing operation, and that may include variations or combinations of the functions of washing, rinsing, and drying.

“Dishwasher” means a cabinet-like appliance that with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils, and cooking utensils by chemical, mechanical, or electrical means, and discharges to a plumbing drainage system.

“Energy factor” of a dishwasher means cycles per kWh, as determined using the applicable test method in Section 1604(o).

“Standard dishwasher” means a dishwasher that has a capacity equal to or greater than eight place settings plus six serving pieces as specified in ANSI/AHAM DW-1 using 10 CFR, Part 430, Appendix C of Subpart B (2008).

“Truncated normal cycle” means the normal cycle interrupted to eliminate the power-dry feature after the termination of the last rinse option.

“Water heating dishwasher” means a dishwasher that, as recommended by the manufacturer, is designed for heating cold inlet water (nominal 50° F) or designed for heating water with a nominal inlet water temperature of 120° F. Any dishwasher designated as water-heating (50° F or 120° F inlet water) must provide internal water heating to above 120° F in at least one phase of the normal cycle.

(p) Clothes Washers.

“Automatic clothes washer” means a clothes washer that has a control system that is capable of scheduling a pre-selected combination of operations, such as regulation of water temperature, regulation of the water fill level, and performance of wash, rinse, drain, and spin functions without the need for user intervention subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves.

“Clothes washer” means an appliance designed to clean clothes, utilizing a water solution of soap or detergent and mechanical agitation or other movement.

“Commercial clothes washer” means a soft mount front-loading or soft mount top-loading clothes washer with clothes container compartment no greater than 3.5 ft^3 for horizontal-axis clothes washers, or no greater than 4.0 ft^3 for vertical-axis clothes washers, that is designed for use in (1) applications where the occupants of more than one household will be using it, such as multi-family housing common areas and coin laundries; or (2) other commercial applications.

“Compact clothes washer” means a clothes washer of less than 1.6 ft^3 in clothes container compartment capacity.

“Cycle” means a sequence of operations of a clothes washer that performs a complete washing operation.

“Energy factor” of a clothes washer means ft^3 per kWh per cycle, as determined using the applicable test method in Section 1604(p).

“Front-loading clothes washer” means a clothes washer with the clothes container compartment access located on the front of the machine.

"Modified energy factor (MEF)" of a clothes washer means the quotient of the ft^3 capacity of the clothes container divided by the total clothes washer energy consumption per cycle, with such energy consumption expressed as the sum of the machine electrical energy consumption, the hot water energy consumption, and the energy required for removal of the remaining moisture in the wash load, as determined using the applicable test method in Section 1604(p).

"Other clothes washer" means a class of clothes washer which is not an automatic or semi-automatic clothes washer.

"Semi-automatic clothes washer" means a clothes washer that is the same as an automatic clothes washer except that user intervention is required to regulate the water temperature by adjusting the external water faucet valves.

"Soft mount clothes washer" means a clothes washer that does not require mechanical fastening to a floor for proper operating performance under typical commercial clothes washer applications.

"Standard clothes washer" means a clothes washer of 1.6 ft^3 or more in clothes container compartment capacity.

"Suds-saving" means a feature or option on a clothes washer which allows the user to store used wash water in an external laundry tub for use with subsequent wash loads.

"Top-loading clothes washer" means a clothes washer with the clothes container compartment access located on the top of the machine.

"Water factor" means the quotient of the total weighted per-cycle water consumption divided by the capacity of the clothes washer, determined using the applicable test method in Section 1604(p).

(q) Clothes Dryers.

"Automatic termination control" means a dryer control system with a sensor which monitors either the dryer load temperature or its moisture content and with a controller which automatically terminates the drying process. A mark or detent which indicates a preferred automatic termination control setting must be present if the dryer is to be classified as having an "automatic termination control". A mark is a visible single control setting on one or more dryer controls.

"Clothes dryer" means a cabinet-like appliance that is designed to dry fabrics in a tumble-type drum with forced air circulation and that has a drum and a blower driven by an electric motor.

"Compact clothes dryer" means a clothes dryer with a drum capacity less than 4.4 ft^3.

"Electric clothes dryer" means a clothes dryer whose heat source is electricity.

"Energy factor" of a clothes dryer means pounds of clothes dried per kWh, as determined using the applicable test method in Section 1604(q).

“Gas clothes dryer” means a clothes dryer whose heat source is gas and the drum and blower(s) are driven by an electric motor(s).

“Standard clothes dryer” means a clothes dryer with a drum capacity of 4.4 ft^3 or greater.

(r) Cooking Products and Food Service Equipment.

“Commercial convection oven” means an appliance that is not a consumer product and that is designed for cooking food by forcing hot air over it using a fan in a closed cavity.

“Commercial hot food holding cabinet” means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. “Commercial hot food holding cabinet” does not include heated glass merchandising cabinets, drawer warmers or cook-and-hold appliances.

“Commercial range top” means an appliance that is not a consumer product and that is designed for cooking food by direct or indirect heat transfer from one or more cooking units to one or more cooking containers.

“Conventional cooking top” means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a horizontal surface containing one or more surface units which include either a gas flame or electric resistance heating.

“Conventional oven” means a class of kitchen ranges and ovens which is a household cooking appliance consisting of one or more compartments intended for the cooking or heating of food by means of either a gas flame or electric resistance heating. It does not include portable or countertop ovens which use electric resistance heating for the cooking or heating of food and are designed for an electrical supply of approximately 120 volts.

“Conventional range” means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a conventional cooking top and one or more conventional ovens.

“Convertible cooking appliance” means any kitchen range and oven which is a household cooking appliance designed by the manufacturer to be changed in service from use with natural gas to use with LP-gas, and vice versa, by incorporating in the appliance convertible orifices for the main gas burners and a convertible gas pressure regulator.

“Cook-and-hold” appliance means a multiple-mode appliance intended for cooking food that may be used to hold the temperature of the food that has been cooked in the same appliance.

“Cooking products” means consumer products that are used as the major household cooking appliances. They are designed to cook or heat different types of food by one or more of the following sources of heat: gas, electricity, or microwave energy. Each product may consist of a horizontal cooking top containing one or more surface units or one or more heating compartments. They must be one of the following classes: conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, microwave/conventional ranges, and other cooking products.

“Drawer warmer” means an appliance that consists of one or more heated drawers and that is designed to hold hot food that has been cooked in a separate appliance at a specified temperature.

“Food service equipment” means a commercial hot food holding cabinet, a commercial convection oven, or a commercial range top.

“Heated glass merchandising cabinet” means an appliance with a heated cabinet constructed of glass or clear plastic doors which, with 70% or more clear area, is designed to display and maintain the temperature of hot food that has been cooked in a separate appliance.

“Major cooking component” means either a conventional cooking top, a conventional oven or a microwave oven.

“Microwave/conventional range” means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a microwave oven, a conventional oven, and a conventional cooking top.

“Microwave oven” means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a compartment designed to cook or heat food by means of microwave energy.

“Other cooking products” means any class of cooking products other than the conventional range, conventional cooking top, conventional oven, microwave oven, and microwave/conventional range classes.

“Surface unit” means either a heating unit mounted in a cooking top, or a heating source and its associated heated area of the cooking top, on which vessels are placed for the cooking or heating of food.

(s) Electric Motors.

“Average full load efficiency” means the arithmetic mean of the full load efficiencies of a population of electric motors of duplicate design, where the full load efficiency of each motor in the population is the ratio (expressed as a percentage) of the motor's useful power output to its total power input when the motor is operated at its full rated load, rated voltage, and rated frequency.

“Closed motor” means an enclosed motor.

“Definite purpose motor” means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

“Efficiency” of an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

“Electric motor” has the meaning described in (1)-(3) immediately below:

(1) “Electric motor” means a machine which converts electrical power into rotational mechanical power and which:

(A) is a general purpose motor including but not limited to motors with explosion-proof construction;

(B) is a single speed, induction motor (MG1);

(C) is rated for continuous duty (MG1) operation or is rated duty type S1 (IEC);

(D) contains a squirrel-cage (MG1) or cage (IEC) rotor and has foot-mounting, including foot-mounting with flanges or detachable feet;

(E) is built in accordance with NEMA T-frame dimensions (MG1) or IEC metric equivalents (IEC);

(F) has performance in accordance with NEMA Design A (MG1) or B (MG1) characteristics or equivalent designs such as IEC Design N (IEC); and

(G) operates on polyphase alternating current 60-Hertz sinusoidal power, and:

1. is rated 230 volts or 460 volts, or both, including any motor that is rated at multi-voltages that include 230 volts or 460 volts; or

2. can be operated on 230 volts or 460 volts, or both.

(2) Terms in this definition followed by the parenthetical “MG1” must be construed with reference to provisions in NEMA Standards Publication MG1-1993,Motors and Generators, with Revisions 1, 2, 3, and 4, as follows:

(A) Section I, General Standards Applying to All Machines,part 1, Referenced Standards and Definitions, paragraphs 1.16.1, 1.16.1.1, 1.17.1.1, 1.17.1.2, and 1.40.1 pertain to the terms “induction motor,” “squirrel-cage,” “NEMA Design A,” “NEMA Design B,” and “continuous duty” respectively;

(B) Section I, General Standards Applying to All Machines, Part 4, Dimensions, Tolerances, and Mounting, paragraph 4.01 and Figures 4-1, 4-2, 4-3, and 4-4 pertain to “NEMA T-frame dimensions;”

(C) Section II, Small (Fractional) and Medium (Integral) Machines, Part 11, Dimensions-AC and DC Small and Medium Machines,paragraphs 11.01.2, 11.31 (except the lines for frames 447T, 447TS, 449T and 449TS), 11.32, 11.34 (except the line for frames 447TC and 449TC, and the line for frames 447TSC and 449TSC), 11.35, and 11.36 (except the line for frames 447TD and 449TD, and the line for frames 447TSD and 449TSD), and Table 11-1, pertain to “NEMA T-frame dimensions;” and

(D) Section II, Small (Fractional) and Medium (Integral) Machines, Part 12, Tests and Performance-AC and DC Motors, paragraphs 12.35.1, 12.35.5, 12.38.1, 12.39.1, and 12.40.1, and Table 12-2, pertain both to “NEMA Design A” and “NEMA Design B.”

(3) Terms in this definition followed by the parenthetical “IEC” must be construed with reference to provisions in IEC Standards as follows:

(A) IEC Standard 60034-1 (1996), Rotating Electrical Machines, Part 1: Rating and Performance, with Amendment 1 (1997), Section 3:Duty, clause 3.2.1 and figure 1 pertain to “duty type S1”;

(B) IEC Standard 60050-411 (1996), International Electrotechnical Vocabulary Chapter 411: Rotating Machines, Sections 411-33-Q7 and 411-37-26, pertain to “cage”;

(C) IEC Standard 60072-1 (1991), Dimensions and Output Series for Rotating Electrical Machines-Part 1: Frame Numbers 56 to 400 and Flange Numbers 55 to 1080, clauses 2, 3, 4.1, 6.1, 7, and 10, and Tables 1, 2, and 4, pertain to “IEC metric equivalents” to “T-frame” dimensions; and

(D) IEC Standard 60034-12 (1980), Rotating Electrical Machines, Part 12: Starting Performance of Single-Speed Three-Phase Cage Induction Motors for Voltages Up to and Including 660 V, with Amendment 1 (1992) and Amendment 2 (1995), clauses 1, 2, 3.1, 4, 5, and 6, and Tables I, II, and III, pertain to “IEC Design N.”

“Enclosed motor” means an electric motor constructed so as to prevent the free exchange of air between the inside and outside of the case but not sufficiently closed to be termed airtight.

“General purpose motor” means any motor which is designed in standard ratings with either:

(1) Standard operating characteristics and standard mechanical construction for use under usual service conditions, such as those specified NEMA Standards Publication MG1-1993, paragraph 14.02, “Usual Service Conditions,” (incorporated by reference in 10 CFR section 431.15 (2008)) and without restriction to a particular application or type of application; or

(2) Standard operating characteristics or standard mechanical construction for use under unusual service conditions, such as those specified in NEMA Standards Publication MG1-1993, paragraph 14.03, “Unusual Service Conditions,” (incorporated by reference in 10 CFR section 431.15 (2008)) or for a particular type of application, and which can be used in most general purpose applications.

“General purpose electric motor (subtype I)” means any motor that meets the definition of “General Purpose” as established in the final rule issued by the U.S. Department of Energy entitled “Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors” (10 CFR 431 (2008)), as in effect on December 19, 2007.

“General purpose electric motor (subtype II)” means motors incorporating the design elements of a general purpose electric motor (subtype I) that are configured as one of the following:

(1) A U-Frame Motor.

(2) A Design C Motor.

(3) A close-coupled pump motor.

(4) A Footless motor.

(5) A vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

(6) An 8-pole motor (900 RPM).

(7) A poly-phase motor with voltage of not more than 600 volts (other than 230 or 460 volts).

"IEC" means the International Electrotechnical Commission.

"Input power" means the full-load power input required to operate the motor.

"Multi-voltage electric motor" means an electric motor that is capable of operating at:

(1) 230 volts and another voltage other than 460 volts,

(2) 460 volts and at another voltage other than 230 volts, or

(3) both 230 volts and 460 volts and another voltage.

"Nominal full load efficiency" means, with respect to an electric motor, a representative value of efficiency selected from Column A of Table 12-8, NEMA Standards Publication MG1-1993, (incorporated by reference in 10 CFR section 431.15 (2008)), that is not greater than the average full load efficiency of a population of motors of the same design.

"Open motor" means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

"Special purpose motor" means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

"Total power loss" means that portion of the energy used by an electric motor not converted to rotational mechanical power, expressed in percent.

(t) Distribution Transformers.

"Autotransformer" means a transformer that:

(1) has one physical winding that consists of a series winding part and a common winding part;

(2) has no isolation between its primary and secondary circuits; and

(3) during step-down operation, has a primary voltage that is equal to the total of the series and common winding voltages, and a secondary voltage that is equal to the common winding voltage.

“BIL” means basic impulse isolation level.

“Distribution transformer” means a transformer that:

(1) has an input voltage of 34.5 kV or less;

(2) has an output voltage of 600 V or less;

(3) is rated for operation at a frequency of 60 Hz; and

(4) has a capacity of 10 kVA to 2500 kVA for liquid-immersed units and 15 kVA to 2500 kVA for dry-type units; but

(5) the term “distribution transformer” does not include a transformer that is an:

(A) autotransformer;

(B) drive (isolation) transformer;

(C) grounding transformer;

(D) machine-tool (control) transformer;

(E) nonventilated transformer;

(F) rectifier transformer;

(G) regulating transformer;

(H) sealed transformer;

(I) special-impedance transformer;

(J) testing transformer;

(K) transformer with tap range of 20 percent or more;

(L) uninterruptible power supply transformer; or

(M) welding transformer.

“Drive (isolation) transformer” means a transformer that:

(1) isolates an electric motor from the line;

(2) accommodates the added loads of drive-created harmonics; and

(3) is designed to withstand the additional mechanical stresses resulting from an alternating current adjustable frequency motor drive or a direct current motor drive.

“Efficiency of distribution transformer” means the ratio of power output to power input, expressed as a percent, as determined using the applicable test method in Section 1604(t).

“Grounding transformer” means a three-phase transformer intended primarily to provide a neutral point for system-grounding purposes, either by means of:

(1) a grounded wye primary winding and a delta secondary winding; or

(2) a transformer with its primary winding in a zig-zag winding arrangement, and with no secondary winding.

“Harmonic transformer” means a transformer that is designed to supply loads with higher than normal harmonic current levels and that has a K-rating of K-4 or greater.

“Impedance transformer” means a transformer that has a specified impedance less than 4 percent or greater than 8 percent.

“kVa” means kilovolt-ampere, which is the designation for the apparent power of a circuit.

“Liquid-immersed distribution transformer” means a distribution transformer in which the core and coil assembly is immersed in an insulating liquid.

“Low voltage dry-type distribution transformer” means a distribution transformer that has an input voltage of 600 volts or less, that is air cooled, and that does not use oil as a coolant.

“Machine-tool (control) transformer” means a transformer that is equipped with a fuse or other over-current protection device, and is generally used for the operation of a solenoid, contactor, relay, portable tool, or localized lighting.

“Medium-voltage dry-type distribution transformer” means a distribution transformer in which the core and coil assembly is immersed in a gaseous or dry-compound insulating medium, and which has a rated primary voltage between 601 V and 34.5 kV.

“Nonventilated transformer” means a transformer constructed so as to prevent external air circulation through the coils of the transformer while operating at zero gauge pressure.

“Rectifier transformer” means a transformer that operates at the fundamental frequency of an alternating-current system and that is designed to have one or more output windings connected to a rectifier.

“Regulating transformer” means a transformer with automatic tap changers.

“Sealed transformer” means a transformer designed to remain hermetically sealed under specified conditions of temperature and pressure.

“Special-impedance transformer” means any transformer built to operate at an impedance outside of the normal impedance range for that transformer's kVA rating. The normal impedance range for each kVA rating for liquid-immersed and dry-type transformers is shown in Tables 1 and 2, respectively.

Table T-1-Normal Impedance Ranges for Liquid-Immersed Transformers

Single–phase		Three–phase	
kVA	*Impedance (%)*	*kVA*	*Impedance (%)*
10	1.0–4.5	15	1.0–4.5
15	1.0–4.5	30	1.0–4.5
25	1.0–4.5	45	1.0–4.5
37.5	1.0–4.5	75	1.0–5.0
50	1.5–4.5	112.5	1.2–6.0
75	1.5–4.5	150	1.2–6.0
100	1.5–4.5	225	1.2–6.0
167	1.5–4.5	300	1.2–6.0
250	1.5–6.0	500	1.5–7.0
333	1.5–6.0	750	5.0–7.5
500	1.5–7.0	1000	5.0–7.5
667	5.0–7.5	1500	5.0–7.5
833	5.0–7.5	2000	5.0–7.5
		2500	5.0–7.5

Table T-2-Normal Impedance Ranges for Dry-Type Transformers

Single–phase		Three–phase	
kVA	*Impedance (%)*	*kVA*	*Impedance (%)*
15	1.5–6.0	15	1.5–6.0
25	1.5–6.0	30	1.5–6.0
37.5	1.5–6.0	45	1.5–6.0
50	1.5–6.0	75	1.5–6.0
75	2.0–7.0	112.5	1.5–6.0
100	2.0–7.0	150	1.5–6.0
167	2.5–8.0	225	3.0–7.0
250	3.5–8.0	300	3.0–7.0
333	3.5–8.0	500	4.5–8.0
500	3.5–8.0	750	5.0–8.0
667	5.0–8.0	1000	5.0–8.0
833	5.0–8.0	1500	5.0–8.0
		2000	5.0–8.0
		2500	5.0–8.0

"Testing transformer" means a transformer used in a circuit to produce a specific voltage or current for the purpose of testing electrical equipment.

"Transformer" means a device consisting of two or more coils of insulated wire and that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

"Underground mining distribution transformer" means a medium-voltage-dry-type distribution transformer that is built only for installation in an underground mine or inside equipment for use in an underground mine, and that has a nameplate which identifies the transformer as being for this use only.

"Uninterruptible power supply (UPS) transformer" means a transformer that is used within an uninterruptible power system, which in turn supplies power to loads that are sensitive to power failure, power sags, over voltage, switching transients, line noise, and other power quality factors.

“Welding transformer” means a transformer designed for use in arc welding equipment or resistance welding equipment.

(u) Power Supplies.

“Active mode” for federally regulated external power supplies and state-regulated external power supplies means the mode of operation when an external power supply is connected to the main electricity supply and the output is connected to a load.

“Class A external power supply” that is a federally regulated external power supply means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product and that:

(1) is designed to convert line voltage AC input into lower voltage AC or DC output;

(2) is able to convert to only one AC or DC output voltage at a time;

(3) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load;

(4) is contained in a separate physical enclosure from the end-use product;

(5) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or wiring; and

(6) has nameplate output power that is less than or equal to 250 watts.

The term “Class A external power supply” does not include a device that:

(A) requires Federal Food and Drug Administration listing and approval as a medical device in accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c); or

(B) powers the charger of a detachable battery pack or charges the battery of a product that is fully or primarily motor operated.

“Computer” means an electronic machine which, by means of stored instructions and information, performs rapid, often complex calculations or compiles, correlates, and selects data.

“Digital camera” means an electronic device used to store images in an electronic format rather than storing the images on film.

“Federally regulated external power supply” means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

“Mobile phone” means a telephone that is not a wireline telephone.

“No-load mode” means the mode of operation when a Class A external power supply is connected to the main electricity supply and the output is not connected to a load.

“Personal digital assistant” (PDA) means a lightweight, hand-held computer used as a personal organizer.

“State-regulated external power supply” means a single-voltage external AC to DC or AC to AC power supply that:

(1) is designed to convert line voltage AC input into lower voltage DC or AC output;

(2) is able to convert to only one DC or AC output voltage at a time;

(3) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load;

(4) is contained within a separate physical enclosure from the end-use product;

(5) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring;

(6) does not have batteries or battery packs that physically attach directly (including those that are removable) to the power supply unit;

(7) does not have a battery chemistry or type selector switch and an indicator light; or, does not have a battery chemistry or type selector switch and a state of charge meter;

(8) has a nameplate output power less than or equal to 250 watts.

The term “state-regulated external power supply” does not include a device that is a “Class A external power supply” that is federally regulated.

“Wireline telephone” means a telephone that makes a connection to the telephone network by having a wire from the telephone's base plugged into a telephone jack on the wall, floor, or other location.

(v) Televisions, and Consumer Audio and Video Equipment.

“Aspect ratio” means the ratio of width to height of the viewable screen area. Common examples include 4:3 and 16:9.

“Audio standby-passive mode” means the appliance is connected to a power source, produces neither sound nor performs any mechanical function (e.g. playing, recording) but can be switched into another mode with the remote control unit or an internal signal.

“Automatic brightness control” means an integrated control system that automatically adjusts the brightness of a television based upon ambient lighting conditions.

“Combination TV” means a system in which a television or television monitor and an additional device or devices (including but not limited to a DVD player or VCR) are combined into a single unit in which the additional devices are included in the television casing;

“Compact audio product”, also known as a mini, mid, micro, or shelf audio system, means an integrated audio system encased in a single housing that includes an amplifier and

radio tuner, attached or separable speakers, and can reproduce audio from one or more of the following media: magnetic tape, CD, DVD, or flash memory. “Compact audio product” does not include products that can be independently powered by internal batteries or that have a powered external satellite antenna, or that can provide a video output signal.

“Component TV” means a television composed of two or more separate components (e.g., separate display device and tuner) marketed and sold as a television under one model or system designation. The system may have more than one power cord.

“Computer monitor” means an analog or digital device designed primarily for the display of computer generated signals and that is not marketed for use as a television.

“Digital versatile disc (DVD)” means a laser-encoded plastic medium capable of storing a large amount of digital audio, video, and computer data.

“Digital versatile disc (DVD) player” means a commercially-available electronic product encased in a single housing that includes an integral power supply and for which the sole purpose is the decoding of digitized video signals on a DVD.

“Digital versatile disc (DVD) recorder” means a commercially-available electronic product encased in a single housing that includes an integral power supply and for which the sole purpose is the production or recording of digitized video signals on a DVD. “DVD recorder” does not include models that have an EPG function.

“Digital video recorder (DVR)” means a device which can record video signals onto a hard disk drive or other device that can store the images digitally. “DVR” does not include models that have an EPG function.”

“Download acquisition mode (DAM)” or “Standby-active mode” means the product is connected to a power source, produces neither sound nor a picture, and is downloading channel listing information according to a defined schedule for use by the electronic programming guide, monitoring for emergency messaging/communications or otherwise communicating through a network protocol. The power use in this mode is typically greater than the power requirement in TV standby-passive mode and less than the power requirement in on mode.

“Electronic programming guide (EPG)” means an application that provides an interactive, onscreen menu of TV listings, and that downloads program information from the vertical blanking interval of a regular TV signal.

“Forced menu” means a menu which requires the selection of a display mode by a user upon their first use after the manufacture of the television.

“Integrated occupancy sensor” means a feature built into a television capable of sensing presence and entering TV standby-passive mode or standby-active mode to save energy in an empty room.

“Native vertical resolution” means the physical pixel count for the vertical axis of the television. For example a television with a screen resolution of 1920 x 1080 would have a native vertical resolution of 1080.

“On mode” means the product is connected to a power source and produces sound and a picture. The power requirement in this mode is typically greater than the power requirement in standby-passive and download acquisition modes.

“Point of Deployment (POD)” means a card which enables a TV to have secure conditional access to a cable or satellite system.

“Retail on mode power” is the measurement of on mode power in the most consumptive mode available in a forced menu.

“Screen size” means the diagonal length from one corner to the corner furthest away of the viewable screen area of a television, measured in inches.

“Selected input mode” means the input port(s) selected which the television is using as a source to produce a visible or audible output. These modes are required for televisions with multiple possible inputs including but not limited to coaxial, composite, S-Video, HDMI, and component connectors.

“Television (TV)” means an analog or digital device designed primarily for the display and reception of a terrestrial, satellite, cable, Internet Protocol TV (IPTV), or other broadcast or recorded transmission of analog or digital video and audio signals. TVs include combination TVs, television monitors, component TVs, and any unit that is marketed to the consumer as a TV. “Television (TV)” does not include computer monitors.

“Television monitor” means a TV that does not have an internal tuner/receiver or playback device.

“TV standby-passive mode” means the television is connected to a power source, produces neither sound nor picture but can be switched into another mode with the remote control unit or via an internal signal.

“Video Cassette Recorder (VCR)” means a commercially-available analog recording device that includes an integral power supply and which records television signals onto a tape medium for subsequent viewing.

“Video standby-passive mode” means the appliance is connected to a power source, does not perform any mechanical function (e.g. playing, recording), does not produce video or audio output signals but can be switched into another mode with the remote control unit or an internal signal.

“Viewable screen area” means the continuous total area of a television in square inches which displays a digital or analog video signal and is viewable to a consumer.

(w) Battery Charger Systems.

“Accumulated nonactive energy” means the sum of the energy, in watt-hours, consumed by the battery charger in battery-maintenance mode and standby mode over time periods as defined in the applicable test method in Section 1604(w).

“Active mode” means the condition in which the battery is receiving the main charge, equalizing cells, and performing other one-time or limited-time functions necessary for bringing the battery to the fully charged state.

“Battery” or “battery pack” means an assembly of one or more rechargeable cells intended to provide electrical energy to a consumer product, and may be in one of the following forms: (a) detachable battery: a battery that is contained in a separate enclosure from the consumer product and is intended to be removed or disconnected from the consumer product for recharging; or (b) integral battery: a battery that is contained within the consumer product and is not removed from the consumer product for charging purposes.

“Battery charger system (BCS)” means a battery charger coupled with its batteries or battery chargers coupled with their batteries, which together are referred to as *battery charger systems*. This term covers all rechargeable batteries or devices incorporating a rechargeable battery and the chargers used with them. Battery charger systems include, but are not limited to:

(1) electronic devices with a battery that are normally charged from ac line voltage or dc input voltage through an internal or external power supply and a dedicated battery charger;

(2) the battery and battery charger components of devices that are designed to run on battery power during part or all of their operations;

(3) dedicated battery systems primarily designed for electrical or emergency backup;

(4) devices whose primary function is to charge batteries, along with the batteries they are designed to charge. These units include chargers for power tool batteries and chargers for automotive, AA, AAA, C, D, or 9 V rechargeable batteries, as well as chargers for batteries used in larger industrial motive equipment.

(5) The charging circuitry of battery charger systems may or may not be located within the housing of the end-use device itself. In many cases, the battery may be charged with a dedicated external charger and power supply combination that is separate from the device that runs on power from the battery.

“Battery energy” means the energy, in watthours, delivered by the battery under the specified discharge conditions as determined using the applicable test method in Section 1604(w).

“Battery maintenance mode (maintenance mode)” means the mode of operation when the battery charger is connected to the main electricity supply and the battery is fully charged, but is still connected to the charger.

“Energy ratio” or “nonactive energy ratio” means the ratio of the accumulated nonactive energy divided by the battery energy.

“Multi-port charger” means a battery charger that is capable of simultaneously charging two or more batteries. These chargers also may have multi-voltage capability, allowing two or more batteries of different voltages to charge simultaneously.

"Multi-voltage a la carte charger" means a separate battery charger that is individually packaged without batteries, and is able to charge a variety of batteries of different nominal voltages.

"Standby mode (no-load mode)" means the mode of operation when the battery charger is connected to the main electricity supply and the battery is not connected to the charger.

The following standards are incorporated by reference in Section 1602.

Number	*Title*
FEDERAL TEST METHODS	
CFR, Title 10, Part 430, Subpart B (2008) **CFR, Title 10, Part 431, Subparts B through W (2008)**	
Copies available from:	**SUPERINTENDENT OF DOCUMENTS** **U.S. GOVERNMENT PRINTING OFFICE** **WASHINGTON, DC 20402** **WWW.GPOACCESS.GOV/CFR/**
AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)	
ANSI C78.1–1991 (R1996)	**Dimensional and Electrical Characteristics of Fluorescent Lamps, Rapid Start Types**
ANSI C78.3–1991 (R1996)	**Dimensional and Electrical Characteristics of Fluorescent Lamps, Instant Start and cold Cathode Types**
ANSI C78.21–1989	**Incandescent Lamps — PAR and R Shapes**

ANSI C78.81–2003	American National Standard for Electric Lamp Bases
ANSI C79.1–1994	Nomenclature for Glass Bulbs — Intended for Use with Electric Lamps
ANSI–IEC C81.61–2003	American National Standard for Electric Lamp Bases
ANSI C81.61–2006	Specifications for Electric Bases
ANSI C82.2–1984	Fluorescent Lamp Ballasts, Methods of Measurement
ANSI C82.6–2005	Standard for Ballasts for High–Intensity Discharge Lamps— Methods of Measurement
Copies available from:	AMERICAN NATIONAL STANDARDS INSTITUTE 1819 L STREET, NW, 6TH FLOOR WASHINGTON, DC 20036 WWW.ANSI.ORG PHONE: (202) 293–8020 FAX: (202) 293–9287

ASSOCIATION OF HOME APPLIANCES MANUFACTURERS (AHAM)

ANSI/AHAM DW–1–1992	Household Electric Dishwashers
ANSI/AHAM HRF–1–1979	Household Refrigerators, Combination Refrigerator–Freezers, and Household Freezers
Copies available from:	ASSOCIATION OF HOME APPLIANCE MANUFACTURERS 1111 19TH STREET, NW, SUITE 402 WASHINGTON, DC 20036 WWW.AHAM.ORG PHONE: (202) 872–5955 FAX: (202) 872–9354

ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA)

IESNA LM–16–1993	IES Practical Guide to Colorimetry of Light Sources
IESNA LM–79–08	Approved Method: Electrical and Photometric Measurements of Solid–State Lighting Products
Copies available from:	ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA 120 WALL STREET, 17TH FLOOR NEW YORK, NY 10005–4001 WWW.IESNA.ORG PHONE: 212–248–5000 FAX: 212–248–5017/18

INTERNATIONAL COMMISSION ON ILLUMINATION (CIE)

CIE Publication 13.3 1995	Method of Measuring and Specifying Colour Rendering Properties of Light Sources
Copies available from:	INTERNATIONAL COMMISSION ON ILLUMINATION CIE CENTRAL BUREAU KEGELGASSE 27 A–1030 VIENNA AUSTRIA PHONE: +43 1 714 31 87 0 FAX: +43 1 714 31 87 18 E-MAIL: CIECB@CIE.CO.AT

INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)

IEC 60034–1 (1996)	Rotating Electrical Machines
IEC 60034–12 (1980)	Rotating Electrical Machines, Part 12: Starting Performance of Single–Speed Three–Phase Cage Induction Motors for Voltages Up to and Including 660 V
IEC 60050–411 (1996)	International Electrotechnical Vocabulary Chapter 411: Rotating Machines
IEC 60072–1 (1991)	Dimensions and Output Series for Rotating Electrical Machines–Part 1: Frame Numbers 56 to 400 and Flange Numbers 55 to 1080
Number	*Title*
Copies available from:	INTERNATIONAL ELECTROTECHNICAL COMMISSION 3, RUE DE VAREMBÉ P.O. BOX 131 CH – 1211 GENEVA 20 SWITZERLAND HTTP://WWW.IEC.CH PHONE: +41 22 919 02 11 FAX: +41 22 919 03 00

NATIONAL ELECTRIC CODE (NEC)

ANSI/NFPA 70 2002	National Electrical Code 2002
Copies available from:	NATIONAL FIRE PROTECTION AGENCY 1 BATTERYMARCH PARK QUINCY, MA 02169–7471 WWW.NFPA.ORG PHONE: (617) 770–3000 FAX: (617) 770–0700

NATIONAL ELECTRIC MANUFACTURERS ASSOCIATION (NEMA)

NEMA MG1–1987	Motors and Generators
NEMA MG1–1993	Motors and Generators
NEMA Premium™: Product Scope and Nominal Efficiency Levels (2001)	Motors
Copies available from:	NATIONAL ELECTRIC MANUFACTURERS ASSOCIATION 1300 N. 17TH STREET, SUITE 1847 ROSSLYN, VA 22209 WWW.NEMA.ORG PHONE: (703) 841–3200 FAX: (703) 841–3300

NSF INTERNATIONAL

NSF/ANSI 51	Food Equipment Materials
Copies available from:	NSF INTERNATIONAL STANDARDS DEPARTMENT 789 DIXBORO ROAD P. O. BOX 130140 ANN ARBOR, MI 48113–0140 WWW.NSF.ORG PHONE: (734) 769–8010 FAX: (734) 769–0109

OPTICAL SOCIETY OF AMERICA (OSA)

Journal of Optical Society of America, Volume 58 (1968)

Copies available from:	OPTICAL SOCIETY OF AMERICA 2010 MASSACHUSETTS AVE., N.W. WASHINGTON, D.C. 20036–1012 USA WWW.OSA.ORG PHONE: 202.223.8130 FAX: 202.223.1096

UNDERWRITERS LABS (UL)

UL 588	Standard for Seasonal and Holiday Decorative Products
UL 1598	Standards for Luminaires
Copies available from:	UNDERWRITERS LABORATORIES, INC. 333 PFINGSTEN ROAD NORTHBROOK, IL 60062–2096 WWW.UL.COM PHONE: (847) 272–8800 FAX: (847) 272–8129

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c), 25402.5.4 and 25960, Public Resources Code.

§ 1602.1. Rules of Construction.

(a) Where the context requires, the singular includes the plural and the plural includes the singular.

(b) The use of "and" in a conjunctive provision means that all elements in the provision must be complied with, or must exist in order to make the provision applicable. "Or" (rather than "and/or") is used where compliance with one or more elements suffices, or where the existence of one or more elements makes the provision applicable.

(c) "Shall" is mandatory and "may" is permissive.

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c), and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c), and 25960, Public Resources Code.

§ 1603. Testing: All Appliances.

(a) Testing Requirements. The manufacturer shall cause the testing of units of each basic model of appliance within the scope of Section 1601, using the applicable test method listed in Section 1604 unless otherwise provided in subsection (c) of this section. If the manufacturer of the basic model does not participate in an approved industry certification program for the basic model, or does not apply such a program to test all units under this Article, the testing shall be at a laboratory that the Executive Director determines, under Section 1608(i), that:

(1) has conducted tests using the applicable test method within the previous 12 months;

(2) agrees to and does interpret and apply the applicable test method set forth in Section 1604 precisely as written;

(3) has, and keeps properly calibrated and maintained, all equipment, material, and facilities necessary to apply the applicable test method precisely as written;

(4) agrees to and does maintain copies of all test reports, and provides any such report to the Executive Director on request, for all basic models that are still in commercial production; and

(5) agrees to and does allow the Executive Director to witness any test of such an appliance on request, up to once per calendar year for each basic model.

EXCEPTION 1. To Section 1603(a): This subsection does not apply to any water heater

(1) that is within the scope of 42 U.S.C. sections 6292(a)(4) or 6311(1)(F),

(2) that has a rated storage volume of less than 20 gallons, and

(3) for which there is no federal test method applicable to that type of water heater.

EXCEPTION 2. To Section 1603(a): This subsection does not apply to cooking products that are federally-regulated consumer products.

(b) Approved Industry Certification Programs.

(1) The Executive Director shall, within 30 days of receiving a written request by an entity administering an appliance certification program, determine whether the program meets the criteria in Section 1602(a). If the Executive Director determines that the program meets all the criteria, he or she shall designate the program as an approved industry certification program. The Executive Director shall periodically publish a list of all approved industry certification programs.

(2) The Executive Director shall, within 30 days of receiving a written request, determine whether an approved industry certification program continues to meet the criteria in Section 1602(a). If the Executive Director determines that the program meets all the criteria, the program shall remain on the list of approved industry certification programs published under subparagraph (1). If the Executive Director determines that the program does not meet all the criteria, he or she shall remove the program from the list, and the program shall no longer be an approved industry certification program.

(c) Appliances for Which There Is a Waiver of the Federal Test Method.

(1) If, for a basic model of an appliance, there is in effect a waiver from an otherwise-applicable federal test method granted pursuant to 10 CFR section 430.27 (2005), and the waiver is conditioned on adherence to an alternate test procedure pursuant to 10 CFR section 430.27(l) (2005), then the manufacturer shall cause the testing of units of the basic model using such alternate test procedure, and such alternate test procedure shall be deemed to be the test method listed or specified in Section 1604 for the basic model.

(2) If, for a basic model of an appliance, there is in effect a waiver from an otherwise-applicable federal test method granted pursuant to 10 CFR section 430.27 (2005), and the waiver is not conditioned on adherence to an alternate test procedure pursuant to 10 CFR section 430.27(l) (2005), then the manufacturer shall petition the Executive Director to specify:

(A) an alternative assessment method; if the Executive Director so specifies, then the manufacturer shall cause the testing of units of the basic model of appliance using the alternative assessment method, and such alternative assessment method shall be deemed to be the test method listed or specified in Section 1604 for the basic model; or

(B) that there is no alternative assessment method, because either the basic model has physical characteristics that prevent testing or there is no method that can produce reasonably accurate results; if the Executive Director so specifies, then the manufacturer need not test units of the basic model and it shall be deemed that there is no test method listed or specified in Section 1604 for the basic model.

The manufacturer of the basic model shall obtain a specification from the Executive Director before submitting a statement for the basic model pursuant to Section 1606(a).

NOTE: Authority cited: Sections 25213, 25218(e), 25402(a)-(c), 25553(b) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c), 25553(b) and 25960, Public Resources Code.

§ 1604. Test Methods for Specific Appliances.

(a) Refrigerators, Refrigerator-Freezers, and Freezers.

(1) The test methods for non-commercial refrigerators, non-commercial refrigerator-freezers, and non-commercial freezers, are shown in Table A-1.

Table A-1

Non-Commercial Refrigerator, Refrigerator-Freezer, and Freezer Test Methods

Appliance	*Test Method*
Non–commercial refrigerators, designed for the refrigerated storage of food at temperatures above 32° F and below 39° F, configured for general refrigerated food storage; refrigerator–freezers; and freezers.	10 CFR Sections 430.23(a) (Appendix A1 to Subpart B of Part 430) (2008) and 430.23(b) (Appendix B1 to Subpart B of Part 430) (2008), as applicable
Wine chillers that are consumer products	10 CFR Section 430.23(a) (Appendix A1 to Subpart B of Part 430) (2008) with the following modifications: Standardized temperature as referred to in Section 3.2 of Appendix A1 shall be 55° F (12.8° C). The calculation of test cycle energy expended (ET) in Section 5.2.1.1 of Appendix A1 shall be made using the modified formula: ET=(EP x 1440 x k)/T Where k = 0.85

(2) The test methods for commercial refrigerators, commercial refrigerator-freezers, and commercial freezers are shown in Table A-2.

Table A-2

Commercial Refrigerator, Refrigerator-Freezer, and Freezer Test Methods

Appliance	*Test Method*
Automatic commercial ice–makers	ARI 810–2003 Harvest rate (lbs. of ice/24 hours) shall be reported within 5% of the tested value.
Refrigerated bottled or canned beverage vending machines	ANSI/ASHRAE 32.1–2004 Volume of multi–package units shall be measured using ANSI/AHAM HRF–1 (2004)
Refrigerated buffet and preparation tables	ANSI/ASTM F2143–01
Other commercial refrigerators, refrigrator–freezers, and freezers, with doors	Volume shall be measured using ANSI/AHAM HRF–1–2004. Energy consumption shall be measured using 10 CFR Section 431.64 (2008).
Other commercial refrigerators, refrigerator–freezers, and freezers, without doors	Volume measured using ANSI/AHAM HRF–1–2004. Energy consumption measured using 10 CFR Section 431.64 (2008).

(3) When a refrigerator, refrigerator-freezer, or freezer can be operated using either alternating current electricity or one or more other sources of primary power, the test shall be performed using alternating current electricity only.

(4) The test method for water dispensers is EPA Energy Star Program Requirements for Bottled Water Coolers (2004).

Exception: for units equipped with an integral, automatic timer. Units equipped with an integral, automatic timer shall not be tested using Section 4)D, “Timer Usage,” of the referenced test method.

(5) For the purpose of test procedures for walk-in coolers and walk-in freezers:

(A) The R-value shall be the 1/K factor multiplied by the thickness of the panel.

(B) The K factor shall be based on ASTM test procedure C518-2004.

(C) For calculating the R-value for freezers, the K factor of the foam at 20ºF (average foam temperature) shall be used.

(D) For calculating the R-value for coolers, the K factor of the foam at 55ºF (average foam temperature) shall be used.

(b) Room Air Conditioners, Room Air Conditioning Heat Pumps, Packaged Terminal Air Conditioners, and Packaged Terminal Heat Pumps. The test methods for room air conditioners, room air-conditioning heat pumps, packaged terminal air conditioners, and packaged terminal heat pumps are shown in Table B-1.

Table B-1

Room Air Conditioner, Room Air-Conditioning Heat Pump, Packaged Terminal Air Conditioner, and Packaged Terminal Heat Pump Test Methods

Appliance	*Test Method*
Room air conditioners and room air–conditioning heat pumps	10 CFR Section 430.23(f) (Appendix F to Subpart B of Part 430) (2008) (Cooling) ASHRAE 58–74 (Heating)
Packaged terminal air conditioners and packaged terminal heat pumps	ANSI/ARI 310/380–2004

(c) Central Air Conditioners.

(1) The test methods for central air conditioners are shown in Table C-1.

(2) Air-cooled central air conditioners with rated cooling capacity less than 65,000 Btu per hour that are designed for use either at 230 volts or at another voltage may be tested at 230 volts and the results applied to the other voltages. Central air conditioners that are designed for use either at 208 volts or at another voltage may be tested at 208 volts and the results applied to the other voltages.

(3) Split system central air conditioners and compressor-containing units shall be tested with the non-compressor-containing unit most likely to represent the highest national sales volume for the combined equipment.

Table C-1

Central Air Conditioner Test Methods

Appliance	*Test Method*
Computer room air conditioners	ANSI/ASHRAE 127–2001
Other electric–powered unitary air–conditioners and electric–powered heat pumps	
air–cooled air conditioners and air–source heat pumps	
<65,000 Btu/hr	ANSI/ARI 210/240–2003
≥ 65,000 and < 135,000 Btu/hr	ANSI/ARI 340/360–2004
≥ 135,000 Btu/hr	ANSI/ARI 340/360–2004
evaporatively–cooled air conditioners	
< 65,000 Btu/hr	ANSI/ARI 210/240–2003
≥ 65,000 Btu/hr	ANSI/ARI 340/360–2004
water–source single package and split system heat pumps	ISO 13256–1–1998
water–cooled single–package and split system air conditioners	
< 65,000 Btu/hr	ANSI/ARI 210/240–2003
≥ 65,000 Btu/hr and < 135,000 Btu/hr	ANSI/ARI 340/360–2004
≥ 135,000 Btu/hr	ANSI/ARI 340/360–2004
ground water–source heat pumps	ARI/ISO–13256–1:1998
ground–source closed–loop heat pumps	ARI/ISO–13256–1:1998
Gas–fired air conditioners and gas–fired heat pumps	ANSI Z21.40.4–1996 as modified by CEC, Efficiency Calculation Method for Gas–Fired Heat Pumps as a New Compliance Option (1996)

(d) Spot Air Conditioners, Evaporative Coolers, Ceiling Fans, Ceiling Fan Light Kits, Whole House Fans, Residential Exhaust Fans, and Dehumidifiers.

The test methods for spot air conditioners, evaporative coolers, ceiling fans, ceiling fan light kits, whole house fans, residential exhaust fans, and dehumidifiers are shown in Table D-1.

Table D-1

Spot Air Conditioner, Ceiling Fan, Ceiling Fan Light Kit, Evaporative Cooler, Whole House Fan, Residential Exhaust Fan, and Dehumidifier Test Methods

Appliance	*Test Method*
Spot Air Conditioners	ANSI/ASHRAE 128–2001
Ceiling Fans, Except Low–Profile Ceiling Fans	10 CFR Section 430.23(w) (Appendix U to Subpart B of Part 430) (2008)
Celing Fan Light Kits	10 CFR Section 430.23(x) (Appendix V to Subpart B of Part 430) (2008)
Evaporative Coolers	ANSI/ASHRAE 133–2001 for packaged direct evaporative coolers and packaged indirect/direct evaporative coolers; ANSI/ASHRAE 143–2000 for packaged indirect evaporative coolers; with the following modifications for both test methods: (A) Saturation effectiveness and total power of direct evaporative coolers and cooling effectiveness and total power of indirect evaporative coolers shall be measured at an airflow rate that corresponds to 0.3" external static pressure; (B) indoor dry bulb temperature shall be 80° F; (C) outdoor dry bulb temperature shall be 91° F; (D) outdoor wet bulb temperature shall be 69° F; and (E) Evaporative Cooler Efficiency Ratio (ECER) shall be calculated using the following formula: $ECER = 1.08 * (t_{in} - (t_{db} - \varepsilon * (t_{db} - t_{wb}))) * Q / W$ Where: t_{in} = indoor dry bulb temperature from (B) t_{db} = outdoor dry bulb temperature from (C) t_{wb} = outdoor wet bulb temperature from (D) ε = measured saturation effectiveness divided by 100 or measured cooling effectiveness from (A) Q = measured air flow rate (cfm) from (A) W = measured total power (watts) from (A)
Whole House Fans	HVI–916, tested with manufacturer–provided louvers in place (2005)
Dehumidifiers	10 CFR Section 430.23(z) (Appendix X to Subpart B of Part 430) (2008)
Residential Exhaust Fans	HVI–916 (2005)

(e) Gas Space Heaters and Oil Space Heaters and Electric Residential Boilers.

(1) The test methods for gas space heaters and oil space heaters are shown in Table E-1.

(2) Gas space heaters intended for use either with natural gas or LPG may be tested with natural gas and the results applied to both fuel types.

(3) Combination Space-Heating and Water-Heating Appliances. The test method for combination space-heating and water-heating appliances is ANSI/ASHRAE 124-2007.

Table E-1

Gas and Oil Space Heater Test Methods

Appliance	*Test Method*
Central furnaces	
< 225,000 Btu/hr, single phase	10 CFR Section 430.23(n) (Appendix N to Subpart B of Part 430) (2008)
< 225,000 Btu/hr, three phase	10 CFR Section 430.23(n) (Appendix N to Subpart B of Part 430) (2008) or ANSI Z21.47–2001 (at manufacturer's option)
≥ 225,000 Btu/hr	
gas–fired	ANSI Z21.47–1998
oil–fired	UL 727–1994
Gas infrared heaters	
patio heaters	ASTM F2644–07
gas–fired high–intensity infrared heaters	ANSI Z83.19–2001
gas–fired low–intensity infrared heaters	ANSI Z83.20–2001
Unit heaters	
gas–fired	ANSI Z83.8–2002*
oil–fired	UL 731–1995*
Gas duct furnaces	ANSI Z83.8–2002
Boilers	
< 300,000 Btu/hr	10 CFR Section 430.23(n) (Appendix N to Subpart B of Part 430)(2008)
≥ 300,000 Btu/hr	HI–G BTS–2000
Wall furnaces, floor furnaces, and room heaters	10 CFR Section 430.23(o) (Appendix O to Subpart B of Part 430) (2008)

*To calculate maximum energy consumption during standby, measure the gas energy used in one hour (in BTUs) and the electrical energy used (in watt–hours) over a one–hour period, when the main burner is off. Divide BTUs and watt–hours by one hour to obtain BTUs per hour and watts. Divide BTUs per hour by 3.412 to obtain watts. Add watts of gas energy to watts of electrical energy to obtain standby energy consumption in watts.

(f) Water Heaters.

(1) Small Water Heaters. The test methods for small water heaters are shown in Table F-1.

Table F-1

Small Water Heater Test Methods

Appliance	*Test Method*
Small water heaters that are federally–regulated consumer products	10 CFR Section 430.23(e) (Appendix E to Subpart B of Part 430) (2008)
Small water heaters that are not federally–regulated consumer products	
Gas and oil storage–type < 20 gallons rated capacity	ANSI/ASHRAE 118.2–1993
Booster water heaters	ANSI/ASTM F2022–00 (for all matters other than volume) ANSI Z21.10.3–1998 (for volume)
Hot water dispensers	Test Method in 1604(f)(4)
Mini–tank electric water heaters	Test Method in 1604(f)(5)
All others	10 CFR Section 430.23(e) (Appendix E to Subpart B of Part 430) (2008)

(2) Large water heaters. The test methods for large water heaters are shown in Table F-2:

Table F-2
Large Water Heater Test Methods

Appliance	*Energy Efficiency Descriptor*	*Use Test setup equipment and procedures in subsection labeled "Method of Test" of*	*With these additional stipulations*
Gas–fired Storage and Instantaneous Water Heaters and Hot Water Supply Boilers*	Thermal Efficiency Standby Loss	ANSI Z21.10.3–1998, §2.9** ANSI Z21.10.3–1998, §2.10**	A. For all products, the duration of the standby loss test shall be until whichever of the following occurs first after you begin to measure the fuel and/or electric consumption: (1) The first cutout after 24 hours or (2) 48 hours, if the water heater is not in the heating mode at that time. B. For oil and gas products, the standby loss in Btu per hour must be calculated as follows: SL (Btu per hour) = S (% per hour) x 8.25 (Btu/gal–F) x Measured Volume (gal) x 70(°F).
Oil–fired Storage and Instantaneous Water Heaters and Hot Water Supply Boilers*	Thermal Efficiency Standby Loss	ANSI Z21.10.3–1998, §2.9** ANSI Z21.10.3–1998, §2.10**	
Electric Storage and Instantaneous Water Heaters	Standby Loss	ANSI Z21.10.3–1998, §2.10**	C. For oil–fired products, apply the following in conducting the thermal efficiency and standby loss tests: (1) Venting Requirements—Connect a vertical length of flue pipe to the flue gas outlet of sufficient height so as to meet the minimum draft specified by the manufacturer. (2) Oil Supply—Adjust the burner rate so that: (a) The hourly Btu input rate lies within ±2 percent of the manufacturer's specified input rate, (b) the CO_2 reading shows the value specified by the manufacturer, (c) smoke in the flue does not exceed No. 1 smoke as measured by the procedure in ASTM–D–2156–80, and (d) fuel pump pressure lies within ±10 percent of manufacturer's specifications. D. For electric products, apply the following in conducting the standby loss test: (1) Assume that the thermal efficiency (Et) of electric water heaters with immersed heating elements is 98 percent. (2) Maintain the electrical supply voltage to within ±5 percent of the center of the voltage range specified on the water heater nameplate. (3) If the set up includes multiple adjustable thermostats, set the highest one first to yield a maximum water temperature in the specified range as measured by the topmost tank thermocouple. Then set the lower thermostat(s) to yield a maximum mean tank temperature within the specified range.

*As to hot water supply boilers with a capacity of less than 10 gallons, these test methods became mandatory on October 21, 2005.
**Incorporated by reference, see 10 CFR 431.105 (2008).

(3) Dual-Fuel Models. Water heaters intended for use either with natural gas or LPG may be tested with natural gas and the results applied to both fuel types.

(4) Hot Water Dispensers. The test method for hot water dispensers is as follows:

(A) Connect the hot water dispenser to a water supply, a power supply and a means of measuring energy use. Fill the hot water dispenser with water and apply the power supply. Control the ambient temperature in the laboratory at 77ºF ± 7ºF throughout the test.

(B) Let the unit operate in standby mode for at least 2 complete cycles of thermostat operation, with the thermostat set to 150ºF ± 10ºF as described below.

(C) If the thermostat is adjustable, set it to produce water at 150ºF ± 10ºF, determined by discharging 5 oz. of water into an insulated cup immediately after a thermostat cut out, then measuring its temperature.

(D) If the thermostat is adjustable, and the temperature is not within the tolerance shown in Step B, readjust the thermostat and allow it to operate in standby mode for 2 cycles, measuring the discharge temperature immediately after the second cut out, as described above.

(E) After the thermostat has been properly adjusted, allow the unit to operate in standby mode for a minimum of 2 cycles, then measure the electricity used (in Wh) during the next 24 hours (plus time for first cut out after 24 hours). Begin measuring electricity usage immediately after a thermostat cut out, and end just after the first thermostat cut out after 24 hours. The total length of the test will be somewhat longer than 24 hours, depending on the first cut out after 24 hours. Divide the measured electricity used (in Wh) by the time (in hours), to obtain the standby loss (in watts).

(F) Record the water temperature measured in Step D and the standby loss calculated in Step E.

(5) Mini-Tank Electric Water Heaters. The test method for mini-tank electric water heaters is as follows:

(A) Storage Tank Volume

Determine the storage capacity of the water heater, in gallons, by subtracting the weight of the empty water heater from the weight of the water heater when completely filled with water (with all air eliminated and line pressure applied) and dividing the resulting net weight by the density of water at the measured temperature.

$$V = \frac{Wf - Wt}{\rho}$$

Where:

V = the storage capacity in gallons

Wf = the weight of the water heater when full (lb)

Wt = the weight of the empty water heater (lb)

ρ = the density of the water (lb/gal)

(B) Test Set-Up

1. Insulate the water piping, including heat traps, if provided by the manufacturer, for a length of 4 feet from the connection to the appliance with material having a thermal resistance (R) value of not less than 4ºF x ft2 x hr/Btu. Ensure that the insulation does not contact any water heater surface except at the location where the pipe connections penetrate the appliance jacket.

2. If the manufacturer has not provided a temperature and pressure relief valve, one shall be installed and insulated.

3. Maintain the temperature of the supply water at 70ºF ± 2ºF and the pressure of the water supply between 40 psi and the maximum pressure specified by the manufacturer. The accuracy of the pressure measuring devices shall be within ± 1.0 pound per square inch. The water heater shall be isolated by use of a shut-off valve in the supply line with an expansion tank installed in the supply line downstream of the shutoff valve. There shall be no shut-off means between the expansion tank and the appliance inlet.

4. Before starting testing of the water heater, the setting of the thermostat shall first be obtained by supplying the water in the system at 70ºF ± 2o F and then noting the maximum mean temperature of the water after the thermostat shuts off the electric supply to be 142ºF ± 8ºF.

5. For measuring the energy consumption, instrumentation shall be installed which measures within ± 2 percent. Voltage shall be within ± 10 percent of the rated voltage.

6. Three or more temperature sensing means shall be installed inside the storage tank on the vertical center of each of three or more nonoverlapping sections of approximately equal volume from the top to the bottom of the tank. Each temperature sensing means is to be located as far as possible from any heat source or other irregularity, anodic protective device, or water tank or flue wall. The anodic protective device shall be removed in order to install the temperature sensing means and testing shall be carried out with the device removed. If the temperature sensing means cannot be installed as specified above, placement of the temperature sensing means shall be made at the discretion of the testing agency so that comparable water temperature measurements are obtained. A temperature sensing means, shielded against direct radiation and positioned at the vertical midpoint of a tank-type water heater at a perpendicular distance of approximately 24 inches from the surface of the jacket, shall be installed in the test room.

7. The ambient air temperature of the test room shall be maintained at 75ºF ± 10ºF. The ambient temperature shall not vary more than ± 7.0ºF from the average during the test, temperature readings being taken at 15 minute intervals and averaged at the end of the test.

(C) First Hour Rating, F_{hr}, gallons/hr

Heat the water to mean water temperature of 142ºF ± 8ºF. Draw hot water at 0.6 gpm+0.1 gpm until the mean water temperature drops 25ºF, while recording the water temperature every 5 seconds. Maintain the supply water temperature at 70ºF ± 2ºF. Measure the volume of water drawn, (F_{hr}), which is the first hour rating F_{hr}.

(D) Standby Loss

Fill the water heater with water. Turn on the electric power to the water heater. After the first cut out, allow the water heater to remain in the standby mode until the next cut out. At this time, record the time, ambient temperature and begin measuring the electric consumption. Record the maximum mean tank temperature that occurs after cut out.

Record the mean tank temperature and the ambient air temperature at the end of the first 15 minute interval and at the end of each subsequent 15 minute interval. The duration of this test shall be until the first cut out that occurs after 24 hours.

Immediately after the conclusion of the test, record the total electrical energy consumption, the final ambient air temperature, and the time duration of the standby loss test (t) in hours rounded to the nearest one hundredth of an hour and the maximum mean tank temperature that occurs after cut out. Calculate the average of the recorded values of the mean tank temperatures and of the ambient air temperatures taken at the end of each time interval, including the initial and final values. Determine the difference ($\Delta T3$) between these two averages by subtracting the latter from the former, and the differences $\Delta T4$) between the final and initial mean tank temperatures by subtracting the latter from the former.

Standby Loss (% per hour).

Determine the percentage standby loss using the formula:

$$S = \left[\frac{E \times 3412}{(K)(V)(\Delta T_3)(t)} - \frac{(\Delta T_4)}{(\Delta T_3)(t)(E_r/100)} \right] \times 100$$

Where:

S	= standby loss, percent per hour, expressed as a ratio of the heat loss per hour to the heat content of the stored water above room temperature
K	= 8.25 Btu per gallon °F, the nominal specific heat of water
V	= tank capacity expressed in gallons
3412	= conversion factor, 1 kWh = 3412 Btu
ΔT_3	= difference between the mean tank temperature and the average ambient air temperature, °F
ΔT_4	= difference between the final and initial mean tank temperature, °F
t	= duration of test, hrs.
E	= electrical energy consumption in kWh
E_r	= recovery efficiency, assumed to be 98% for water heaters with immersed heating elements

(E) Calculations

Determine the Recovery Efficiency (E_r) using the following formula:

$$E_r = 1 - \frac{(S \times K \times V \times \Delta T_2)}{(P \times 3412 \text{ Btu/kWh})}$$

Where:

S	= standby loss, hr^{-1}
ΔT_2	= 45° F, the nominal difference between the mean tank temperature and the ambient air temperature during recovery
P	= Rated input, kW
K	= 8.25 Btu per gallon °F, the nominal specific heat of water
V	= tank capacity expressed in gallons
3412	= conversion factor from kWh to Btu/hr

Determine the Standby Loss (W) using the formula:

$$W = S \times K \times V (\Delta T_1) / (3412 \text{ Btu/kWh})$$

Where:

ΔT_1	= 70° F, the nominal difference between mean tank temperature and the average ambient air temperature
S	= standby loss, hr^{-1}
K	= 8.25 Btu per gallon °F, the nominal specific heat of water
V	= tank capacity expressed in gallons
3412	= conversion factor from kWh to Btu/hr

Determine the Daily Water Heating Energy Consumption, (Cwh) using the formula:

$$C_{wh} = \frac{K \times U \times \Delta T_5}{E_r}$$

Where:

U	= 12 gallons, daily water use
ΔT_5	= 72° F, difference in outlet and inlet water temperatures
K	= 8.25 Btu per gallon °F, the nominal specific heat of water
E_r	= recovery efficiency, assumed to be 98%

Determine the Average Hourly Hot Water Storage Energy Consumption, (Cus) using the formula:

$$C_{us} = S \times K \times V \times \Delta T_1$$

Where:

ΔT_1	= 70° F, the nominal difference between the mean tank temperature and the ambient air temperature during standby
S	= standby loss, hr^{-1}
K	= 8.25 Btu per gallon °F, the nominal specific heat of water
V	= tank capacity expressed in gallons

Determine the Average Daily Energy Consumption for Electric Water Heaters, (Cy) using the formula:

$$C_y = C_{wh} + C_{us} \times \frac{24\ \text{hrs}}{\text{day}} - \frac{C_{wh}}{P \times 3412\ \text{Btu/kWh}}$$

Where:

$C_{wh} = \frac{K \times U \times \Delta T_5}{E_r}$

$C_{us} = S \times K \times V \times \Delta T_1$

P = Rated input, kW

3412 = conversion factor from kWh to Btu/hr

Determine the Daily Hot Water Energy Consumption, (Cc) using the formula:

$$C_c = K \times U \times \Delta T_5$$

Where:

K = 8.25 Btu per gallon °F, the nominal specific heat of water

U = 12 gallons, daily water use

ΔT_5 = 72° F, the nominal difference between the outlet and inlet water temperatures

Determine the Annual Energy Consumption, kBtu/year (Eannual) using the formula:

$$E_{annual} = \frac{Cy\ \text{Btu/day} \times 365\ \text{days/yr}}{1000}$$

(F) Report the following values:

Measured Volume, V	=	gallons
First Hour Rating, F_{hr}	=	gallons/hr
Rated electrical input, P	=	kW
Size (overall dimensions)	=	inches (h x w x d)
Recovery Efficiency, E_r	=	%
Standby Loss, S	=	%/hr
Standby Loss	=	watts
Annual Energy Consumption, E_{annual}	=	kBtu

(g) Pool Heaters, Portable Electric Spas, Residential Pool Pump and Motor Combinations, and Replacement Residential Pool Pump Motors.

(1) Test Methods for Pool Heaters.

The test methods for pool heaters are shown in Table G.

Table G
Pool Heater Test Methods

Appliance	*Test Method*		
Gas–fired and oil–fired pool heaters	ANSI Z21.56–1994		
Electric resistance pool heaters	ANSI/ASHRAE 146–1998		
Heat pump pool heaters	ANSI/ASHRAE 146–1998, as modified by Addendum Test Procedure published by Pool Heat Pump Manufacturers Association dated April, 1999, Rev 4: Feb. 28, 2000:		
Reading	*Standard Temperature Rating*	*Low–Temperature Rating*	*Spa Conditions Rating*
Air Temperature			
Dry–bulb	27.0° C (80.6° F)	10.0° C (50.0° F)	27.0° C (80.6° F)
Wet–bulb	21.7° C (71.0° F)	6.9° C (44.4° F)	21.7° C (71.0° F)
Relative Humidity	63%	63%	63%
Pool Water Temperature	26.7° C (80.0° F)	26.7° C (80.0° F)	40.0° C (104.0° F)

(2) Test Method for Portable Electric Spas

The test method for portable electric spas is as follows:

(A) Minimum continuous testing time shall be 72 hours.

(B) The spa shall be filled with water to the halfway point between the bottom of the skimmer basket opening and the top of the spa. If there is no skimmer basket, the spa shall be filled with water to six inches below the top of the spa.

(C) The water temperature shall be 102ºF, ± 2ºF for the duration of the test.

(D) The ambient air temperature shall be 60ºF, ± 3ºF for the duration of the test.

(E) The standard cover that comes with the unit shall be used during the test.

(F) The test shall start when the water temperature has been at 102ºF,± 2ºF for at least four hours.

(G) Record the total energy use for the period of test, starting at the end of the first heating cycle after the stabilization period specified in Section 1604(g)(2)(F), and finishing at the end of the first heating cycle after 72 hours has elapsed.

(H) The unit shall remain covered and in the default operation mode during the test. Energy-conserving circulation functions, if present, must not be enabled if not appropriate for continuous, long-term use. Ancillary equipment including, but not limited to lights, audio systems, and water treatment devices, shall remain connected to the mains but may be turned off during the test if their controls are user accessible.

(I) The measured standby power shall be normalized to a temperature difference of 37° F using the equation,

$$P_{norm} = P_{meas} \frac{\Delta T_{ideal}}{\Delta T_{meas}}$$

Where:

P_{meas} = measured standby power during test (E/t)

$\Delta T_{ideal} = 37^{o}F$

$\Delta T_{meas} = T_{water\ avg} - T_{air\ avg}$

$T_{water\ avg}$ = Average water temperature during test

$T_{air\ avg}$ = Average air temperature during test.

(J) Data reported shall include: spa identification (make, model, S/N, specifications); volume of the unit in gallons; supply voltage; minimum, maximum, and average water temperatures during test; minimum, maximum, and average ambient air temperatures during test; date of test; length of test (t, in hours); total energy use during the test (E, in Wh); and normalized standby power (P_{norm}, in watts).

(3) Test Method for Residential Pool Pumps

The test method for residential pool pumps is as follows:

(A) Reported motor efficiency shall be verifiable by test method IEEE 114-2001 (Corrected).

(B) ANSI/HI 1.6-2000 shall be used for the measurement of pump efficiency.

(C) Three curves shall be calculated:

Curve A: $H = 0.0167 \times F^2$

Curve B: $H = 0.050 \times F^2$

Curve C: $H = 0.0082 \times F^2$

Where:

H is the total system head in feet of water.

F is the flow rate in gallons per minute (gpm).

(D) For each curve (A, B, or C), the pump head shall be adjusted until the flow and head lie on the curve. The following shall be tested and reported (i) for each curve for single-speed pumps or (ii) for each curve at both highest and lowest speeds for two-, multi-, or variable-speed pumps:

1. Motor nominal speed (RPM)

2. Flow (gallons per minute)

3. Power (watts and volt amps)

4. Energy Factor (gallons per watt hour)

Where the Energy Factor (EF) is calculated as:

EF = Flow (gpm) * 60 / Power (watts)

(h) Plumbing Fittings.

(1) The test method for commercial pre-rinse spray valves is ANSI/ASTM F2324-03, provided that adjustable flow-rate units shall be tested at their maximum possible flow rate.

(2) The test method for other plumbing fittings is ANSI/ASME A112.18.1M-1996.

(3) Showerhead-tub spout diverter combinations shall have both the showerhead and tub spout diverter tested individually.

(i) Plumbing Fixtures. The test method for plumbing fixtures is ANSI/ASME A112.19.6-1995.

(j) Fluorescent Lamp Ballasts. The test method for fluorescent lamp ballasts is 10 CFR Section 430.23(q) (Appendix Q to Subpart B of Part 430) (2008).

(k) Lamps.

(1) The test method for federally-regulated general service fluorescent lamps and federally-regulated incandescent reflector lamps is 10 CFR Section 430.23(r) (Appendix R to Subpart B of Part 430) (2008).

(2) The test method for state-regulated general service incandescent lamps and state-regulated incandescent reflector lamps is 10 CFR Section 430.23(r) (Appendix R to Subpart B of Part 430) (2008).

(3) The test method for medium base compact fluorescent lamps is 10 CFR Section 430.23(y) (Appendix W to Subpart B of Part 430) (2008).

(l) Emergency Lighting. The test method for illuminated exit signs is 10 CFR Section 431.204(b) (2008).

(m) Traffic Signal Modules and Traffic Signal Lamps.

(1) The test method for traffic signal modules for vehicle or pedestrian control is 10 CFR Section 431.224 (2008).

(2) There is no test method for traffic signal lamps.

(n) Luminaires and Torchieres.

(1) There is no test method for torchieres.

(2) The test method for metal halide luminaires is ANSI C82.6-2005. Ballasts may be tested separately, outside the luminaire. A sample of at least five ballasts shall be tested for each lamp wattage for which the luminaire and ballasts are rated. The average of these tests shall be used for certification and compliance purposes.

Ballasts efficiency for High Intensity Discharge (HID) luminaire means the efficiency of a lamp and ballast combination expressed as a percentage and calculated by Efficiency = P_{out} / P_{in}, as measured. Pout is the measured operating lamp wattage and Pin is the measured operating input wattage.

The lamp, and the capacitor when it is provided, is to constitute a nominal system in accordance with ANSI C78.43-2005. P_{in} and P_{out} are to be measured after lamps have been stabilized according to Section 4.4 of ANSI C82.6-2005 using a wattmeter with accuracy specified in Section 4.5 of ANSI C82.6-2005 for ballasts with a frequency of 60 Hz and shall have a basic accuracy of ± 0.5 percent at the higher of (a.) three times the output operating frequency of the ballast, or (b.) 2 kHz for ballast with a frequency greater than 60 Hz.

(3) The test method for under-cabinet luminaires is 10 CFR 430.23(q) (2008).

(4) The test methods for LED luminaires using LED lamps and light engines are California Joint Appendix JA8 - 2008, “Testing of Light Emitting Diode Light Sources,” or IES LM-79-08, “Approved Method: Electrical and Photometric Measurements of Solid-State Lighting Products,” at manufacturer's option.

(o) Dishwashers. The test method for dishwashers is 10 CFR Section 430.23(c) (Appendix C to Subpart B of Part 430) (2008).

(p) Clothes Washers. The test methods for clothes washers are shown in Table P-1.

Table P-1
Clothes Washer Test Methods

Appliance	*Test Method*
Clothes washers that are consumer products	10 CFR Section 430.23(j) (Appendix J1 to Subpart B of Part 430) (2008)
Commercial clothes washers	10 CFR Section 430.23(j) (Appendix J1 to Subpart B of Part 430) (2008)

(q) Clothes Dryers. The test method for clothes dryers is 10 CFR Section 430.23(d) (Appendix D to Subpart B of Part 430) (2008).

(r) Cooking Products and Food Service Equipment. The test methods for cooking products that are consumer products, commercial hot food holding cabinets, commercial convection ovens and commercial range tops are shown in Table R.

Table R
Cooking Product and Food Service Equipment Test Methods

Appliance	*Test Method*
Cooking products that are consumer products	10 CFR Section 430.23(i) (Appendix I to Subpart B of Part 430) (2008)
Commercial hot food holding cabinets	ANSI/ASTM F2140–01 (Test for idle energy rate–dry test) and US EPA's Energy Star Guidelines, "Measuring Interior Volume" (Test for interior volume)
Commercial convection ovens	ANSI/ASTM F1496–99 (Test for energy input rate and idle energy consumption only)
Commercial range tops	ANSI/ASTM F1521–96 (Test for cooking energy efficiency only)

(s) Electric Motors. The test method for electric motors is 10 CFR Sections 431.16 (2008), including but not limited to provisions on testing laboratories, recognition of accreditation bodies, and recognition of certification programs.

(t) Distribution Transformers. The test method for distribution transformers is 10 CFR Section 431.193 (Appendix A of Subpart K) (2008).

(u) Power Supplies.

Power Supplies. The test method for Class A federally regulated and state-regulated external power supplies is US EPA "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies" dated August 11, 2004, except that the test voltage specified in Section 4(d) of the test method shall be only 115 volts, 60 Hz.

(v) Televisions, and Consumer Audio and Video Equipment.

(1) The test method for standby-passive mode consumer audio and video equipment is International Electrotechnical Commission (IEC) 62087:2002(E) - "Methods of Measurement for the Power Consumption of Audio, Video, and Related Equipment."

(2) The test method for standby-passive mode for televisions is International Electrotechnical Commission (IEC) 62301:2005, Edition 1.0 "Household Electrical Appliances - Measurement of Standby Power."

(3) The on mode and power factor test method for televisions shall be International Electrotechnical Commission (IEC) 62087:2008(E), Edition 2.0 - “Methods of Measurement for the Power Consumption of Audio, Video, and Related Equipment.” Televisions shall be tested using section 11.6.1: “On mode (average) testing with dynamic broadcast-content video signal.”

(A) Power Factor.

The power factor of the television shall be measured during the on mode test and the reported value shall be the average of power factor measurements taken at one minute intervals simultaneous to IEC 62087:2008(E), Edition 2.0 section 11.6.1 on mode wattage measurements. The measurement of power factor must be accurate to a hundredth of a percent.

(B) Testing Protocols.

A television shall be tested as manufactured without any modifications to screen settings with the exception of televisions manufactured with a forced menu. Televisions manufactured with a forced menu shall be adjusted and tested under the following conditions, 1 or 2, as applicable to the unit being tested.

1. The on mode measurement of a television with a forced menu shall be tested in the “home” mode or the manufacturer's recommended mode for home use. In addition, the on mode of a television shall be measured in the most energy consumptive mode available in the forced menu.

2. If neither a “home” mode nor a manufacturer's recommended mode for home use are available, the television shall be tested in the most consumptive mode available in the forced menu to measure the on mode power.

(C) On Mode Power Consumption.

The on mode power consumption for televisions with and without forced menus, and incorporating automatic brightness controls, shall be calculated as follows:

P_{a1}_broadcast = 0.55 * P = 0.55 * $_{Po_broadcast}$ + 0.45 * $_{Pabc_broadcast}$

Where:

$P_{o_broadcast}$ = on mode power test with 300 lux entering the light sensor

$P_{abc_broadcast}$ = on mode power test with 0 lux entering the light sensor.

(D) Light Measurement Protocols.

All luminance testing shall be performed in dark room conditions. The display screen illuminance measurement (E) in TV standby-passive mode must be less than or equal to 1.0 lux. Measurements should be taken perpendicular to the center of the display screen using a Light Measuring Device (LMD).

Measurements shall be made using a reliable, accurate and reproducible measurement procedure, which takes into account the generally recognized state of the art measurement methods. Measurements shall also be made with the Automatic Brightness Control function, if such a function exists, disabled. If the Automatic Brightness Control function exists and cannot be disabled, then measurements shall be performed with light entering directly into the ambient light sensor at a level between 300 lux and 400 lux.

1. Ensure the television is set to the Home mode, or the default mode as shipped.

2. Immediately following the on mode power testing using the dynamic broadcast-content video signal as outlined in Section 1604(V)(3) display the three bar video signal provided in IEC 62087 Edition 2.0, Section 11.5.5, which displays three bars of white (100%) over a black (0%) background.

3. After the three bar video signal has been displayed for 10 minutes, measure the luminance (L_{home}). See Note 1.

4. Within 1 minute of measuring L_{home}, set the television to Retail mode, or the brightest selectable preset mode, and display the three bar video signal.

5. After the three bar video signal has been displayed for an additional 10 minutes, measure the luminance (L_{high}). See Note 2.

6. Calculate and report the luminance ratio by dividing L_{home} by L_{high}.: Luminance ratio = L_{home}/L_{high}

Note 1: For television sets that are known to stabilize within 10 minutes, this duration may be reduced if the resulting measurement can be shown to be within 2% of the result that would otherwise be achieved using the full 10 minute duration.

Note 2: When possible, measurements of luminance shall be made without changing the LMD's measurement position on the display when switching between the home mode and retail mode. If this is not possible, the tester should replicate the measurement position of the LMD so that measurements in the home-mode and retail-mode are in the same position on the display.

(w) Battery Charger Systems.

(1) Federal Test Method for Battery Chargers. The test method for battery chargers is 10 CFR Section 430.23(aa) (Appendix Y to Subpart B of Part 430) (2008).

(2) California Test Method for Battery Chargers. The test method for battery charger systems is Energy Efficiency Battery Charger System Test Procedure Version 2.2 dated November 12, 2008 and published by ECOS and EPRI Solutions.

The following documents are incorporated by reference in Section 1604.

CALIFORNIA ENERGY COMMISSION TEST METHODS

California Joint Appendix JA8 - 2008	Testing of Light Emitting Diode Light Sources
CEC/Gas-Fired Heat Pumps Exceptional Method (1996)	Efficiency Calculation Method for Gas-Fired Heat Pumps as a New Compliance Option (1996)
Copies available from:	California Energy Commission Energy Hotline 1516 Ninth Street, MS-25 Sacramento, California 95814 Phone: (916) 654-5106 FAX: (916) 654-4304

FEDERAL TEST METHODS

CFR, Title 10, Section 430.23 (2008)

CFR, Title 10, Section 431.64 (2008)

CFR, Title 10, Sections 431.16 (2008)

CFR, Title 10, Section 431.105 (2008)

CFR, Title 10, Section 431.204 (2008)

CFR, Title 10, Section 431.224 (2008)

Copies available from:	Superintendent of Documents U.S. Government Printing Office Washington, DC 20402 www.gpoaccess.gov/cfr/
	EPA Energy Star Program Requirements for Bottled Water Coolers (2004) EPA "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies" August 11, 2004)
Copies available from:	US EPA Climate Protection Partnership ENERGY STAR Programs Hotline &

Distribution
(MS-6202J)
1200 Pennsylvania Ave NW
Washington, DC 20460
www.energystar.gov

AIR-CONDITIONING, HEATING, AND REFRIGERATION INSTITUTE (AHRI)

ANSI/ARI 210/240-2003	Standard for Unitary Air-Conditioning and Air-Source Heat Pump Equipment
ANSI/ARI 310/380-2004	Standard for Packaged Terminal Air-Conditioners and Heat Pumps
ANSI/ARI 320-98	Standard for Water-Source Heat Pumps
ANSI/ARI 340/360-2004	Commercial and Industrial Unitary Air-Conditioning Equipment
ARI 810-2003	Automatic Commercial Ice-Makers
ARI/ISO 13256-1:1998	Standard for Water-Source Heat Pumps
Copies available from:	Air-Conditioning, heating and Refrigeration Institute 4301 North Fairfax Drive, Suite 425 Arlington, VA 22203 www.ahrinet.org Phone: (703) 524-8800 FAX: (703) 528-3816

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

ANSI C78.43-2005	American National Standards for Electric Lamps - Single-Ended Metal Halide Lamps
ANSI C82.6-2005	Ballasts for High Intensity Discharge Lamps - Method of Measurement
ANSI Z21.10.3-1998	Standard for Gas Water Heaters, Volume III, Storage Water Heaters with Input Ratings Above 75,000 Btu per hour, Circulating and Instantaneous
ANSI Z21.40.4-1996	Performance Testing and Rating of Gas-Fired Air-Conditioning and Heat Pump Appliances

ANSI Z21.47-2001	Standard for Gas-Fired Central Furnaces
ANSI Z21.56-1994	Standard for Gas-Fired Pool Heaters
ANSI Z83.8-2002	Standard for Gas Unit Heaters and Gas-Fired Duct Furnaces
ANSI Z83.19-2001	Standard for Gas-Fired High-Intensity Infrared Heaters
ANSI Z83.20-2001	Standard for Gas-Fired Low-Intensity Infrared Heaters
Copies available from:	American National Standards Institute 1819 L Street, NW, 6th Floor Washington DC 20036 www.ansi.org Phone: (202) 293-8020 FAX: (202) 293-9287

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

ASTM C518-2004	Standard Test Method for Steady-State Thermal Transmission Properties
ANSI/ASTM F1496-99	Standard Test Method for Performance of Convection Ovens
ANSI/ASTM F1521-96	Standard Test Methods for Performance of Range Tops
ANSI/ASTM F2022-00	Standard Test Method for Performance of Booster Water Heaters
ANSI/ASTM F2140-01	Standard Test Method for the Performance of Hot Food Holding Cabinets
ANSI/ASTM F2143-01	Standard Test Method for the Performance of Refrigerated Buffet and Preparation Tables
ANSI/ASTM F2324-03	Standard Test Method for Pre-Rinse Spray Valves
ASTM F2644-07	Standard Test Method for Performance of Commercial Patio Heaters
Copies available from:	ASTM 100 Barr Harbor Drive

West Conshohocken, PA 19428-2959
www.astm.org
Phone: (610) 832-9585
FAX: (610) 832-9555

AMERICAN SOCIETY OF HEATING, REFRIGERATING AND AIR-CONDITIONING ENGINEERS (ASHRAE)

ANSI/ASHRAE 32.1-2004	Methods of Testing for Rating Vending Machines for Bottled, Canned, and Other Sealed Beverages
ASHRAE 58-74	Method of Testing Room Air Conditioner Heating Capacity
ANSI/ASHRAE 118.2-1993	Method of Testing for Rating Residential Water Heaters
ANSI/ASHRAE 124-2007	Method of Testing for Rating Combination Space-Heating and Water-Heating Appliances
ANSI/ASHRAE 127-2001	Method of Testing for Rating Computer and Data Processing Room Unitary Air-Conditioners
ANSI/ASHRAE 128-2001	Method of Rating Spot Unitary Air Conditioners
ANSI/ASHRAE 133-2001	Method of Testing Direct Evaporative Air Coolers
ANSI/ASHRAE 143-2000	Method of Test for Rating Indirect Evaporative Coolers
ANSI/ASHRAE 146-1998	Method of Testing and Rating Pool Heaters
Copies available from:	American Society of Heating, Refrigerating and Air-Conditioning Engineers 1791 Tullie Circle N.E. Atlanta, GA 30329 www.ashrae.org Phone: (800) 527-4723 (U.S./Canada) or (404) 636-8400 FAX: (404) 321-5478

AMERICAN SOCIETY OF MECHANICAL ENGINEERS (ASME)

ANSI/ASME A112.18.1M-1996	Plumbing Fixture Fittings
ANSI/ASME A112.19.6-1995	Hydraulic Performance Requirements for

Water Closets and Urinals

Copies available from:

ASME International
Three Park Avenue
New York, NY 10016-5990
www.asme.org
Phone: (800) THE-ASME (U.S./Canada)
95-800-843-2763 (Mexico)
(973) 882-1167 (Outside North America)

ASSOCIATION OF HOME APPLIANCE MANUFACTURERS (AHAM)

ANSI/AHAM HRF-1-1979	Household Refrigerators, Combination Refrigerator-Freezers, and Household Freezers
ANSI/AHAM HRF-1-2004	Energy Performance and Capacity of Household Refrigerators, Refrigerator-Freezers, and Household Freezers
Copies available from:	Association of Home Appliance Manufacturers 1111 19th Street, NW, Suite 402 Washington, DC 20036 www.aham.org Phone: (202) 872-5955 FAX: (202) 872-9354

ECOS CONSULTING

	Energy Efficiency Battery Charger System Test Procedure Version 2.2 dated November12, 2008
Copies available from:	Ecos Consulting 801 Florida Road, # 11 Durango, CO 81301 http://www.efficientproducts.org/ Phone: (970) 259-6801 FAX: (970) 259-8585

HOME VENTILATING INSTITUTE (HVI)

HVI-916 (2005)	Air-flow Test Procedure
Copies available from:	Home Ventilating Institute 1000 N. Rand Rd., Suite 214 Wauconda, IL 60084 www.hvi.org Phone: (847) 526-2010 FAX: (847) 526-3993

HYDRAULIC INSTITUTE (HI)

ANSI/HI 1.6-2000	Centrifugal Pump Tests
Copies available from:	Hydraulic Institute 9 Sylvan Way Parsippany, NJ 07054 http://www.pumps.org/ www.hydraulicinstitute.com Phone: (973) 267-9700 Fax: (973) 267-9055

HYDRONICS INSTITUTE SECTION OF AHRI (HIA)

BTS-2000	Method to Determine Efficiency of Commercial Space Heating Boilers
Copies available from:	Hydronics Institute section of ahri P.O. Box 218 Berkeley Heights, NJ 07922-0218 www.ahrinet.org Phone: (908) 464-8200 FAX: (908) 464-7818

ILLUMINATING ENGINGEERING SOCIETY OF NORTH AMERICA (IESNA)

IESNA LM-79-08	Approved Method: Electrical and Photometric Measurements of Solid-State Lighting Products
Copies available from:	Illuminating Engineering Society of North America 120 Wall Street, 17th Floor New York, NY 10005-4001 www.iesna.org Phone: (212) 248-5000 FAX: (212) 248-5017/18

INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)

IEC 62087 (2002)(E)	Methods of Measurement for the Power Consumption of Audio, Video, and Related Equipment.
IEC 62087:2008(E), Edition 2.0	Methods of Measurement for the Power Consumption of Audio, Video, and Related Equipment

IEC 62301:2005	Household Electrical Appliances - Measurement of Standby Power
Copies available from:	IEC Central Office P.O. Box 131 CH - 1211 GENEVA 20 Switzerland Phone: +41 22 919 02 11

INTERNATIONAL ORGANIZATION FOR STANDARDS (ISO)

ISO 13256-1-1998	Water-source heat pumps-Testing and rating for performance-Part 1: Water-to-air and brine-to-air heat pumps
Copies available from:	ISO Central Secretariat International Organization For Standardization (ISO) Case Postale 56 CH-1211 Geneva 20, Switzerland www.iso.org Phone: +41 22 749 01 11 Fax: +41 22 733 34 30

INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS (IEEE)

IEEE 114-2001 (Corrected)	Standard Test Procedures for Single-Phase Induction Motors
Copies available from:	Institute of Electrical and Electronics Engineers Publications Office 10662 Los Vaqueros Circle PO Box 3014 Los Alamitos, CA 90720-1264 www.ieee.org Phone: (714) 821-8380 Fax: (714) 821-4010

NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION (NEMA)

NEMA TP2-1998	Standard Test Method for Measuring the Energy Consumption of Distribution Transformers
Copies available from:	National Electrical Manufacturers Association 1300 N. 17th Street, Suite 1847 Rosslyn, VA 22209 www.nema.org Phone: (703) 841-3200 FAX: (703) 841-3300

POOL HEAT PUMP MANUFACTURERS ASSOCIATION

	Addendum Test Procedure - April 1999, Rev. 4: Feb. 28, 2000
Copies available from:	Pool Heat Pump Manufacturers Association Jeff Tawney, President c/o Aquacal 2737 24th Street, North St. Petersburg, FL 33713 Phone: (727) 823-5642 Ext. 130

UNDERWRITERS LABORATORIES, INC. (UL)

UL 727-1994	Standard for Safety for Oil-Fired Central Furnaces
UL 731-1995	Standard for Safety for Oil-Fired Unit Heaters
UL 924-1995 (rev. 1999)	Standard for Safety for Emergency Lighting and Power Equipment
Copies available from:	Underwriters Laboratories, Inc. 333 Pfingsten Road Northbrook, IL 60062-2096 www.ul.com Phone: (847) 272-8800 FAX: (847) 272-8129

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c) and 25960, Public Resources Cod

§ 1605. Energy Performance, Energy Design, Water Performance, and Water Design Standards: In General.

(a) California Standards that are the Same as Federal Standards. Section 1605.1 contains standards that are the same as the federal standards contained in, or adopted in regulations pursuant to, NAECA or EPAct.

(1) The standards in Section 1605.1 are applicable as federal law to the sale of appliances in California and the rest of the United States. The standards apply to federally-regulated consumer products and federally-regulated commercial and industrial equipment. Under 42 U.S.C. Sections 6302(a)(5), 6316(a), and 6316(b)(1), which are enforced by the U.S. Department of Energy, no appliance listed in this Section may be sold in the United States unless the appliance complies with the applicable standard listed in this Section as determined using the applicable test method listed in Section 1604, and with all other requirements of federal law.

(2) Each standard in Section 1605.1 is also adopted in this Article as California state law applicable to the sale and offering for sale of appliances in California, if the corresponding federal standard is repealed or becomes inoperable, inapplicable, or otherwise invalid as federal law. Immediately upon the effect of such federal repeal or invalidity the standard becomes effective as California state law, and no appliance previously covered by the federal standard shall be sold or offered for sale in the state unless the appliance complies with the state standard as determined using the applicable test method listed in Section 1604, and with all other requirements of this Article. Provided, however, that if a waiver from federal preemption is required for a standard in Section 1605.1, the state standard takes effect as California state law only on the effective date of a U.S. Department of Energy waiver from federal preemption.

(b) California Standards for Federally-Regulated Appliances. Section 1605.2 contains standards that are exclusively California standards. They are applicable as state law to the sale and offering for sale of appliances in California. Because the standards apply to federally-regulated appliances, they take effect as state law only on (1) the effective date of a U.S. Department of Energy waiver from federal preemption; or (2) one year after removal of federal preemption by action such as a change in federal law, but no earlier than July 1, 2004. When an applicable standard in Section 1605.2 takes effect as state law, no appliance may be sold or offered for sale in California unless the appliance complies with the standard as determined using the applicable test method in Section 1604 (and with all the other applicable requirements of this Article).

(c) California Standards Applicable to Sale and Installation. Section 1605.3 contains standards that are exclusively California standards. They are applicable as state law to the sale or offering for sale of appliances in California. No appliance may be sold or offered for sale in California unless the appliance complies with the applicable standard in Section 1605.3 as determined using the applicable test method listed in Section 1604 (and with all the other requirements of this Article).

(d) Multiple Standards. If more than one standard is shown for an appliance in Section 1605.1, 1605.2, or 1605.3, the appliance shall meet all the standards shown.

(e) Multiple Test Methods. If more than one test method is shown as applicable to a standard in Section 1605.1, 1605.2, or 1605.3, the appliance shall comply with the standard

when tested with each and every individual specified test method, except for those appliances where the appropriate provision in Section 1604 specifically allows a choice of test method at the manufacturer's option.

(f) Multiple Functions. If an appliance can serve more than one function, such as either space-heating and service water-heating then: (1) if the primary function is served by a federally-regulated appliance, the primary function appliance shall meet the applicable standard in Section 1605.1; and (2) if the primary function is served by an appliance that is not a federally-regulated appliance, the primary function appliance shall meet the applicable standard in Section 1605.2 or Section 1605.3; and the secondary function appliances shall meet the applicable standards in Sections 1605.1, 1605.2, and 1605.3. Water heaters that are federally-regulated appliances, and that are contained in combination space-heating and water-heating appliances that are federally-regulated appliances, are required only to meet the standard for the applicable type of water heater, and are not required to meet any standard for space heaters.

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c), and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c), and 25960, Public Resources Code.

§ 1605.1. Federal and State Standards for Federally-Regulated Appliances.

(a) Refrigerators, Refrigerator-Freezers, and Freezers.

(1) Non-Commercial Refrigerators, Non-Commercial Refrigerator-Freezers, and Non-Commercial Freezers. The energy consumption of non-commercial refrigerators designed for the refrigerated storage of food at temperatures above 32° F and below 39° F, configured for general refrigerated food storage, non-commercial refrigerator-freezers, and non-commercial freezers, including internal freezers, drawer units, and kitchen units that are manufactured on or after the effective dates shown shall be not greater than the applicable values shown in Table A-3.

Table A-3

Standards for Non-Commercial Refrigerators, Refrigerator-Freezers, and Freezers Manufactured on or After July 1, 2001

Appliance	*Maximum Energy Consumption (kWh/yr)*
Refrigerators and Refrigerator–Freezers with manual defrost	8.82AV + 248.4
Refrigerator–Freezer — partial automatic defrost	8.82AV + 248.4
Refrigerator–Freezers — automatic defrost with top–mounted freezer without through–the–door ice service and all refrigerators — automatic defrost	9.80AV + 276.0
Refrigerator–Freezers — automatic defrost with side–mounted freezer without through–the–door ice service	4.91 AV + 507.5
Refrigerator–Freezers — automatic defrost with bottom–mounted freezer	4.60AV + 459.0
Refrigerator–Freezers — automatic defrost with top–mounted freezer with through–the–door ice service	10.20AV + 356.0
Refrigerator–Freezers — automatic defrost with side–mounted freezer with through–the–door ice service	10.10AV + 406.0
Upright Freezers with manual defrost	7.55AV + 258.3
Upright Freezers with automatic defrost	12.43AV + 326.1
Chest Freezers and all other Freezers except Compact Freezers	9.88AV + 143.7
Compact Refrigerators and Refrigerator–Freezers with manual defrost	10.70AV + 299.0
Compact Refrigerator–Freezers — partial automatic defrost	7.00AV + 398.0
Compact Refrigerator–Freezers — automatic defrost with top–mounted freezer and compact all refrigerators — automatic defrost	12.70AV + 355.0
Compact Refrigerator–Freezers — automatic defrost with side–mounted freezer	7.60AV + 501.0
Compact Refrigerator–Freezers — automatic defrost with bottom–mounted freezer	13.10AV + 367.0
Compact Upright Freezers with manual defrost	9.78AV + 250.8
Compact Upright Freezers with automatic defrost	11.40AV + 391.0
Compact Chest Freezers	10.45AV + 152.0

AV = adjusted total volume, expressed in ft^3, as determined in 10 CFR, Part 430, Appendices A1 and B1 of Subpart B (2008), which is:
[1.44 x freezer volume (ft^3)] + refrigerator volume (ft^3) for refrigerators;
[1.63 x freezer volume (ft^3)] + refrigerator volume (ft^3) for refrigerator–freezers;
[1.73 x freezer volume (ft^3)] for freezers.

Note: Maximum energy consumption standards for refrigerator–freezers with internal freezers are same as those for refrigerator–freezers with top–mounted freezers.

(2) Commercial Refrigerators, Commercial Refrigerator-Freezers, and Commercial Freezers. The daily energy consumption (in kilowatt hours per day) of each commercial refrigerator, commercial refrigerator-freezer, and commercial freezer with a self-contained condensing unit and manufactured on or after January 1, 2010, shall be not greater than the applicable values shown in Table A-4.

Table A-4

Standards for Commercial Refrigerators, Refrigerator-Freezers, and Freezers Manufactured on or After January 1, 2010

Appliance	*Maximum Daily Energy Consumption (kWh)*
Refrigerators with solid doors	0.10V + 2.04
Refrigerators with transparent doors	0.12V + 3.34
Freezers with solid doors	0.40V + 1.38
Freezers with transparent doors	0.75V + 4.10
Refrigerator/freezers with solid doors	the greater of 0.27AV–0.71 or 0.70
Refrigerators with self–condensing unit designed for pull–down temperature applications	0.126V + 3.51

(3) Automatic Commercial Ice Makers. Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in accordance with section 343 of EPCA (42 U.S.C. 6314) and is manufactured on or after January 1, 2010, shall meet the standard levels set forth in Table A-5.

Table A-5

Standards for Automatic Commercial Ice Makers Manufactured on or After January 1, 2010

Equipment type	*Type of cooling*	*Harvest rate (lbs ice/24 hours)*	*Maximum energy use (kWh/100 lbs ice)*	*Maximum condenser water use*(gal/100 lbs ice)*
Ice Making Head	Water	< 500	7.80–0.0055H	200–0.022H.
Ice Making Head	Water	≥ 500 and <1436	5.58–0.0011H	200–0.022H.
Ice Making Head	Water	≥ 1436	4.0	200–0.022H.
Ice Making Head	Air	< 450	10.26–0.0086H	Not applicable.
Ice Making Head	Air	≥ 450	6.89–0.0011H	Not applicable.
Remote Condensing (but not remote compressor)	Air	< 1000	8.85–0.0038H	Not applicable.
Remote Condensing (but not remote compressor)	Air	≥ 1000	5.1	Not applicable.
Remote Condensing and Remote Compressor	Air	< 934	8.85–0.0038H	Not applicable.
Remote Condensing and Remote Compressor	Air	≥ 934	5.3	Not applicable.
Self Contained	Water	< 200	11. 40–0.019H	191–0.0315H.
Self Contained	Water	≥ 200	7.6	191–0.0315H.
Self Contained	Air	< 175	18.0–0.0469H	Not applicable.
Self Contained	Air	≥ 175	9.8	Not applicable.

H Harvest rate in pounds per 24 hours.
*Water use is for the condenser only and does not include potable water used to make ice.

(4) Walk-In Coolers and Walk-In Freezers. Walk-in coolers and walk-in freezers manufactured on or after January 1, 2009 shall:

(A) have automatic door closers that firmly close all walk-in doors that have been closed to within one inch of full closure, except that this subparagraph shall not apply to doors wider than three feet nine inches or taller than seven feet;

(B) have strip doors, spring hinged doors, or other method of minimizing infiltration when doors are open;

(C) contain wall, ceiling, and door insulation of at least R-25 for coolers and R-32 for freezers, except that this subparagraph shall not apply to glazed portions of doors nor to structural members;

(D) contain floor insulation of at least R-28 for freezers;

(E) for evaporator fan motors of under one horsepower and less than 460 volts, use:

1. electronically commutated motors (brushless direct current motors); or

2. 3-phase motors;

(F) for condenser fan motors of under one horsepower, use:

1. electronically commutated motors;

2. permanent split capacitor-type motors; or

3. 3-phase motors; and

(G) for all interior lights, use light sources with an efficacy of 40 lumens per watt (LPW) or more, including ballast losses (if any), except that light sources with an efficacy of 40 LPW or less, including ballast losses (if any), may be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in cooler or walk-in freezer is not occupied by people.

(5) Walk-In Coolers with Transparent Reach-in Doors and Walk-In Freezers with Transparent Reach-In Doors. In addition to the design standards in Section 1605.1(a)(4), walk-in coolers equipped with transparent reach-in doors and walk-in freezers equipped with transparent reach-in doors and manufactured on or after January 1, 2009 shall also meet the following design standards:

(A) Transparent reach-in doors for walk-in freezers and windows in walk-in freezer doors shall be of triple-pane glass with either heat-reflective treated glass or gas fill;

(B) Transparent reach-in doors for walk-in coolers and windows in walk-in cooler doors shall be either:

1. double-pane glass with heat-reflective treated glass and gas fill; or

2. triple-pane glass with either heat-reflective treated glass or gas fill;

(C) if the appliance has an antisweat heater

1. without antisweat heat controls, the appliance shall have a total door rail, glass, and frame heater power draw of not more than 7.1 watts per square foot (W/ft^2) of door opening (for freezers) and 3.0 watts per square foot (W/ft^2) of door opening (for coolers);

2. with antisweat heat controls, and the total door rail, glass, and frame heater power draw is more than 7.1 watts per square foot (W/ft^2) of door opening (for freezers) and 3.0 watts per square foot (W/ft^2) of door opening (for coolers), the antisweat heat controls shall reduce the energy use of the antisweat heater in a quantity corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

(6) See Section 1605.3(a) for energy efficiency and energy design standards for freezers with volume exceeding 30 ft^3 that are consumer products, wine chillers that are consumer products, commercial refrigerators including but not limited to refrigerated bottled or canned beverage vending machines, commercial refrigerator-freezers, commercial freezers, commercial ice-makers, and water dispensers. Standards in Section 1605.3(a) for commercial refrigerators (not including refrigerated bottled or canned beverage vending machines), commercial refrigerator-freezers, and commercial freezers remain in effect for all models manufactured prior to January 1, 2010.

(b) Room Air Conditioners, Room Air-Conditioning Heat Pumps, Packaged Terminal Air Conditioners, and Packaged Terminal Heat Pumps.

(1) Room Air Conditioners and Room Air-Conditioning Heat Pumps. The EER of room air conditioners and room air-conditioning heat pumps that are manufactured on or after October 1, 2000 shall be not less than the applicable values shown in Table B-2. The EER of room air conditioners and room air-conditioning heat pumps that are labeled for use at more than one voltage shall be not less than the applicable values shown in Table B-2 at each of the labeled voltages.

Table B-2

Standards for Room Air Conditioners and Room Air-Conditioning Heat Pumps

Appliance	*Louvered Sides*	*Cooling Capacity (Btu/hr)*	*Minimum EER*
Room Air Conditioner	Yes	< 6,000	9.7
Room Air Conditioner	Yes	≥ 6,000–7,999	9.7
Room Air Conditioner	Yes	≥ 8,000–13,999	9.8
Room Air Conditioner	Yes	≥ 14,000–19,999	9.7
Room Air Conditioner	Yes	≥ 20,000	8.5
Room Air Conditioner	No	< 6,000	9.0
Room Air Conditioner	No	≥ 6,000–7,999	9.0
Room Air Conditioner	No	≥ 8,000–19,999	8.5
Room Air Conditioner	No	≥ 20,000	8.5
Room Air Conditioning Heat Pump	Yes	< 20,000	9.0
Room Air Conditioning Heat Pump	Yes	≥ 20,000	8.5
Room Air Conditioning Heat Pump	No	< 14,000	8.5
Room Air Conditioning Heat Pump	No	≥ 14,000	8.0
Casement–Only Room Air Conditioner	Either	Any	8.7
Casement–Slider Room Air Conditioner	Either	Any	9.5

(2) Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps. The EER and COP, as applicable, of packaged terminal air conditioners and packaged terminal heat pumps shall be not less than the applicable values shown in Table B-3.

Table B-3

Standards for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps

Appliance	*Mode*	*Cooling Capacity (Btu/hr)*	*Minimum EER or COP*
Packaged terminal air conditioners and packaged terminal heat pumps	Cooling	≤ 7,000	8.88 EER
		> 7,000 and < 15,000	10.0 – (0.00016 x Cap.) EER
		≥ 15,000	7.6 EER
Packaged terminal heat pumps	Heating	Any	1.3 + [0.16 (10.0 – 0.00016 x Cap.)] COP

Cap. = cooling capacity (Btu/hr)

(c) Central Air Conditioners.

(1) Central Air Conditioners Other than Water-Source Heat Pumps Below 240,000 Btu/hr. The EER, SEER, COP, and HSPF, as applicable, of all central air conditioners shall be not less than the applicable values shown in Tables C-2, C-3, C-4, C-5, and C-6.

Exception: to Section 1605.1(c)(1): The standards shown in Tables C-2, C-3, C-4, and C-5 do not apply to single-package vertical air conditioners and single-package vertical heat pumps manufactured on or after January 1, 2010.

Table C-2

Standards for Single Phase Air-Cooled Air Conditioners with Cooling Capacity Less than 65,000 Btu per Hour and Single Phase Air-Source Heat Pumps with Cooling Capacity Less than 65,000 Btu per Hour, Not Subject to EPAct

	Minimum Efficiency			
	Effective January 1, 1995		*Effective January 23, 2006*	
Appliance	*Minimum SEER*	*Minimum HSPF*	*Minimum SEER*	*Minimum HSPF*
Split system air conditioners	10.0	—	13.0	—
Split system heat pumps	10.0	6.8	13.0	7.7
Single package air conditioners	9.7	—	13.0	—
Single package heat pumps	9.7	6.6	13.0	7.7
Space constrained air conditioners—split system	10.0	—	12.0	—
Space constrained heat pumps—split system	10.0	6.8	12.0	7.4
Space constrained air conditioners—single package	9.7	—	12.0	—
Space constrained heat pumps—single package	9.7	6.6	12.0	7.4
Through–the–wall air conditioners — split system[1]	—	—	10.9	
Through–the–wall heat pumps — split system[1]	—	—	10.9	7.1
Through–the–wall air conditioners — single package[1]	—	—	10.6	
Through–the–wall heat pumps — single package[1]	—	—	10.6	7.0
Small duct, high velocity air conditioner systems	—	—	13.0	
Small duct, high velocity heat pump systems	—	—	13.0	7.7

[1] This product class applies to models manufactured prior to January 23, 2010.

Table C-3

Standards for Air-Cooled Air Conditioners and Air-Source Heat Pumps Subject to EPAct
(Standards Effective January 1, 2010 do not apply To Single Package Vertical Air Conditioners)

				Minimum Efficiency		
					Effective January 1, 2010	
Appliance	*Cooling Capacity (Btu/hr)*	*System Type*	*Effective January 1, 1994[1] or January 1, 1995[2]*	*Effective June 15, 2008*	*Air Conditioners*	*Heat Pumps*
Air-cooled unitary air conditioners and heat pumps (cooling mode)	< 65,000*	Split system	10.0 SEER[1]	13.0 SEER		
	< 65,000*	Single package	9.7 SEER[1]	13.0 SEER		
	≥ 65,000 and < 135,000	All	8.9 EER[1]		11.2 EER[3] 11.0 EER[4]	11.0 EER[3] 10.8 EER[4]
	≥ 135,000 and < 240,000	All	8.5 EER[2]		11.0 EER[3] 10.8 EER[4]	10.6 EER[3] 10.4 EER[4]
	≥ 240,000 and < 760,000	All			10.0 EER[3] 9.8 EER[4]	9.5 EER[3] 9.3 EER[4]
Air-cooled unitary air-conditioning heat pumps (heating mode)	< 65,000*	Split system	6.8 HSPF[1]	7.7 HSPF		
	< 65,000*	Single package	6.6 HSPF[1]	7.7 HSPF		
	≥ 65,000 and < 135,000	All	3.0 COP[1]		3.3 COP	
	≥ 135,000 and < 240,000	All	2.9 COP[2]		3.2 COP	
	≥ 240,000 and < 760,000	All			3.2 COP	

* Three phase models only.
[3] Applies to equipment that has electric resistance heat or no heating.
[4] Applies to equipment with all other heating-system types that are integrated into the unitary equipment.

Table C-4
Standards for Evaporatively-Cooled Air Conditioners

		Minimum EER	
Appliance	*Cooling Capacity (Btu per hour)*	*Effective October 29, 2003*	*Effective October 29, 2004*
Evaporatively-cooled air conditioners	< 65,000	12.1	12.1
	≥ 65,000 and < 135,000	11.5[1]	11.5[1]
	≥ 135,000 < 240,000	9.6	11.0

[1]Deduct 0.2 from the required EER for units with heating sections other than electric resistence heat.

Table C-5

Standards for Water-Cooled Air Conditioners and Water-Source Heat Pumps

Appliance	Cooling Capacity (Btu per hour)	Minimum Efficiency: Effective October 29, 2003 Minimum EER	COP	Minimum Efficiency: Effective October 29, 2004 Minimum EER	COP
Water–cooled air conditioners	< 17,000	12.1	—	12.1	—
Water–source heat pumps	< 17,000	11.2	4.2	11.2	4.2
Water–cooled air conditioners	≥ 17,000 and < 65,000	12.1	—	12.1	—
Water–source heat pumps	≥ 17,000 and < 65,000	12.0	4.2	12.0	4.2
Water–cooled air conditioners	≥ 65,000 and < 135,000	11.5[1]	—	11.5	—
Water–source heat pumps	≥ 65,000 and < 135,000	12.0	4.2	12.0	4.2
Water–cooled air conditioners	≥ 135,000 and < 240,000	9.6	—	11.0	—
Water–source heat pumps	≥ 135,000 and < 240,000	99.6	2.9	9.6	2.9

[1]Deduct 0.2 from the required EER for units with heating sections other than electric resistence heat.

Table C-6

Standards for Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps Manufactured on or After January 1, 2010

Appliance	Cooling Capacity (BTU/hr)	System Type	Minimum Efficiency: Cooling Mode	Minimum Efficiency: Heating Mode
Single package vertical air conditioners	< 65,000	Single–phase	9.0 EER	N/A
	< 65,000	3–phase	9.0 EER	N/A
	≥ 65,000 and < 135,000	All	8.9 EER	N/A
	≥ 135,000 and < 240,000	All	8.6 EER	N/A
Single package vertical heat pumps	< 65,000	Single–phase	9.0 EER	3.0 COP
	< 65,000	3–phase	9.0 EER	3.0 COP
	≥ 65,000 and < 135,000	All	8.9 EER	3.0 COP
	≥ 135,000 and < 240,000	All	8.6 EER	2.9 COP

(2) Gas-fired Air Conditioners and Heat Pumps. There is no energy efficiency standard or energy design standard for gas-fired air conditioners or gas-fired heat pumps.

(3) Other Central Air Conditioners. See Sections 1605.2(c) and 1605.3(c) for energy efficiency standards for other central air conditioners.

(d) Spot Air Conditioners, Evaporative Coolers, Ceiling Fans, Ceiling Fan Light Kits, Whole House Fans, Residential Exhaust Fans, and Dehumidifiers.

(1) Ceiling fans. Ceiling fans manufactured on or after January 1, 2007, shall have the following features:

(A) Fan speed controls separate from any lighting controls;

(B) Adjustable speed controls (either more than 1 speed or variable speed);

(C) The capability of reversible fan action, except for:

1. Fans sold for industrial applications;

2. Fans sold for outdoor applications; and

3. Cases in which safety standards would be violated by the use of the reversible mode.

(2) Ceiling fan light kits.

(A) Ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, shall be packaged with screw-based lamps to fill all screw base sockets.

1. The screw-based lamps required under Section 1605.1(d)(2)(A) shall:

a. Meet the ENERGY STAR Program requirements for Compact Fluorescent Lamps, version 3; or

b. Use light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparable configured compact fluorescent lamps meeting the energy conservation standards described in Section 1605.1(d)(2)(A)1.

(B) Ceiling fan light kits with pin-based sockets for fluorescent lamps manufactured on or after January 1, 2007 shall:

1. Meet the ENERGY STAR Program Requirements for Residential Light Fixtures version 4.0 issued by the Environmental Protection Agency; and

2. Be packaged with lamps to fill all sockets.

(C) Ceiling fan light kits with socket types other than those covered in sections 1605.1(d)(2)(A) and 1605.1(d)(2)(B), including candelabra screw base sockets, manufactured on or after January 1, 2009:

1. Shall not be capable of operating with lamps that total more than 190 watts; and

2. Shall be packaged to include the lamps described in Section 1605.1(d)(2)(C)1. with the ceiling fan light kits.

(3) Dehumidifiers. The energy factor for dehumidifiers manufactured on or after the effective dates shown shall be not less than the applicable values found in Table D-2.

Table D-2

Standards for Dehumidifiers

Product capacity (pint/day)	*Minimum energy factor (liters/kWh)* *Effective October 1, 2007*	*Effective October 1, 2012*
25.00 or less	1.00	1.35
25.01–35.00	1.20	1.35
35.01–45.00	1.30	1.50
45.01–54.00	1.30	1.60
54.01–74.99	1.50	1.70
75.00 or more	2.25	2.50

(3) There are no energy efficiency standards or energy design standards for spot air conditioners, evaporative coolers, whole house fans, or residential exhaust fans. There are no efficiency standards for ceiling fans and ceiling fan light kits.

(e) Gas and Oil Space Heaters and Electric Residential Boilers.

(1) Gas Wall Furnaces, Gas Floor Furnaces, and Gas Room Heaters. The AFUE of gas wall furnaces, gas floor furnaces, and gas room heaters shall be not less than the applicable values shown in Table E-2.

Table E-2

Standards for Gas Wall Furnaces, Floor Furnaces, and Room Heaters

Appliance	*Design Type*	*Capacity (Btu per hour)*	*Minimum AFUE (%)*
Wall furnace	Fan	≤ 42,000	73
Wall furnace	Fan	> 42,000	74
Wall furnace	Gravity	≤ 10,000	59
Wall furnace	Gravity	> 10,000 ≤ 12,000	60
Wall furnace	Gravity	> 12,000 ≤ 15,000	61
Wall furnace	Gravity	> 15,000 ≤ 19,000	62
Wall furnace	Gravity	> 19,000 ≤ 27,000	63
Wall furnace	Gravity	> 27,000 ≤ 46,000	64
Wall furnace	Gravity	> 46,000	65
Floor furnace	All	≤ 37,000	56
Floor furnace	All	> 37,000	57
Room heater	All	≤ 18,000	57
Room heater	All	> 18,000 and ≤ 20,000	58
Room heater	All	> 20,000 and ≤ 27,000	63
Room heater	All	> 27,000 and ≤ 46,000	64
Room heater	All	> 46,000	65

(2) Central Gas Furnaces, Central Gas Boilers, Central Oil Furnaces, Central Oil Boilers and Electric Residential Boilers. The AFUE, thermal efficiency, and combustion efficiency, as applicable, of central gas furnaces, central gas boilers, central oil furnaces, and central oil boilers manufactured on or after the effective dates shown shall be not less than the applicable values shown in Tables E-3 and E-4. Electric hot water residential boilers manufactured on or after September 1, 2012 shall meet the design standard shown in Table E-3.

Table E-3

Standards for Gas- and Oil-Fired Central Boilers and Electric Residential Boilers

		Minimum Efficiency (%) *AFUE*		*Combustion Efficiency at Maximum Rated Capacity*
Appliance	*Rated Input (Btu/hr)*	*Effective January 1, 1992*	*Effective September 1, 2012*	*Effective January 1, 1994*
Gas steam boilers with single phase electrical supply	< 300,000	75	80[1]	—
Gas hot water boilers with single phase electrical supply	< 300,000	80	82[1,2]	—
Oil steam boilers with single phase electrical supply	< 300,000	—	82	—
Oil hot water boilers with single phase electrical supply	< 300,000	—	84[2]	—
Electric steam residential boilers		—	NONE	—
Electric hot water residential boilers		—	NONE[2]	—
All other boilers with single phase electrical supply	< 300,000	80	—	—
Gas packaged boilers	≥ 300,000	—	—	80
Oil packaged boilers	≥ 300,000	—	—	83

[1] No constant burning pilot light design standard effective September 1, 2012.
[2] Automatic means for adjusting temperature design standard effective September 1, 2012.

(A) Automatic Means for Adjusting Water Temperature. The automatic means for adjusting the temperature design, shown as footnote 2 in Table E-3 immediately above, means:

1. In General. The manufacturer shall equip each gas, oil, and electric hot water boiler (other than a boiler equipped with a tankless domestic water heating coil) with automatic means for adjusting the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat load produces a corresponding incremental change in the temperature of water supplied.

2. Single Input Rate. For a boiler that fires at one input rate, the requirements of this subparagraph may be satisfied by providing an automatic means that allows the burner or heating element to fire only when the means has determined that the inferred heat load cannot be met by the residual heat of the water in the system.

3. No Inferred Heat Load. When there is no inferred heat load with respect to a hot water boiler, the automatic means described in clauses 1. and 2. shall limit the temperature of the water in the boiler to not more than 140° F.

4. Operation. A boiler described in clause 1. or 2. shall be operable only when the automatic means described in clauses 1, 2, and 3 is installed.

(B) EXCEPTION to Section 1605.1(e)(2): A boiler that is manufactured to operate without any need for electricity or any electric connection, electric gauges, electric pumps, electric wires, or electric devices shall not be required to meet the efficiency standards or design standard that take effect for models manufactured on or after September 1, 2012.

Table E-4

Standards for Gas- and Oil-Fired Central Furnaces

Appliance	*Rated Input (Btu/hr)*	*Minimum Efficiency (%)*	
		AFUE	*Thermal Efficiency*
Mobile home gas and oil central furnaces with single phase electrical supply	**< 225,000**	**75**	**—**
All other gas and oil central furnaces with single phase electrical supply	**< 225,000**	**78**	**—**
Gas central furnaces	**≥ 225,000**	**—**	**80**
Oil central furnaces	**≥ 225,000**	**—**	**81**

(3) Infrared Gas Heaters. There is no energy efficiency standard or energy design standard for infrared gas heaters.

(4) Unit Heaters. Unit heaters manufactured on or after August 8, 2008 shall:

(A) Be equipped with an intermittent ignition device; and

(B) Have power venting or an automatic flue damper. An automatic vent damper is an acceptable alternative to an automatic flue damper for those unit heaters where combustion air is drawn from the conditioned space.

(5) Other Gas and Oil Space Heaters. See Section 1605.3(e) for standards for boilers, central furnaces, duct furnaces, and unit heaters manufactured before August 8, 2008 that are not federally-regulated consumer products or federally-regulated commercial and industrial equipment.

(f) Water Heaters.

(1) Large Water Heaters. The thermal efficiency and standby loss of large water heaters manufactured during the applicable time period shall be not less than the applicable values shown in Table F-3.

Table F-3

Standards for Large Water Heaters Effective October 29, 2003

Appliance	*Input to Volume Ratio*	*Size (Volume)*	*Minimum Thermal Efficiency (%)*	*Maximum Standby Loss*[1,2]
Gas storage water heaters	< 4,000 Btu/hr/gal	any	80	$Q/800 + 110(V_r)^{1/2}$ Btu/hr
Gas instantaneous water heaters	≥ 4,000 Btu/hr/gal	< 10 gal	80	—
		≥ 10 gal	80	$Q/800 + 110(V_r)^{1/2}$ Btu/hr
Gas hot water supply boilers	≥ 4,000 Btu/hr/gal	< 10 gal	80	—
		≥ 10 gal	80	$Q/800 + 110(V_r)^{1/2}$ Btu/hr
Oil storage water heaters	< 4,000 Btu/hr/gal	any	78	$Q/800 + 110(V_r)^{1/2}$ Btu/hr
Oil instantaneous water heaters	≥ 4,000 Btu/hr/gal	< 10 gal	80	—
		≥ 10 gal	78	$Q/800 + 110(V_r)^{1/2}$ Btu/hr
Gas hot water supply boilers	≥ 4,000 Btu/hr/gal	< 10 gal	80	—
		≥ 10 gal	78	$Q/800 + 110(V_r)^{1/2}$ Btu/hr
Electric storage water heaters	≥ 4,000 Btu/hr/gal	any	—	$0.3 + 27/V_m$ %hr

[1] Standby loss is based on a 70° F temperature difference between stored water and ambient requirements. In the standby loss equations, V_r is the rated volume in gallons, V_m is measured volume in gallons, and Q is the nameplate input rate in Btu/hr.
[2] Water heaters and hot water supply boilers having more than 140 gallons of storage capacity are not required to meet the standby loss requirement if the tank surface is thermally insulated to R–12.5, if a standing pilot light is not installed, and for gas–or oil–fired storage water heaters, there is a flue damper or fan–assisted combustion.

(2) Small Water Heaters. The energy factor of all small water heaters that are federally-regulated consumer products, (other than booster water heaters, hot water dispensers, and mini-tank electric water heaters) shall be not less than the applicable values shown in Table F-4.

Table F-4

Standards for Small Federally-Regulated Water Heaters

	Minimum Energy Factor	
Appliance	*Effective April 15, 1991*	*Effective January 20, 2004*
Gas–fired storage–type water heaters	0.62 – (.0019 x V)	0.67 – (.0019 x V)
Oil–fired water heaters (storage and instantaneous)	0.59 – (.0019 x V)	0.59 – (.0019 x V)
Electric storage water heaters (excluding tabletop water heaters)	0.93 – (.00132 x V)	0.97 – (.00132 x V)
Electric tabletop water heaters	0.93 – (.00132 x V)	0.93 – (.00132 x V)
Gas–fired instantaneous water heaters	0.62 – (.0019 x V)	0.62 – (.0019 x V)
Electric instantaneous water heaters (excluding tabletop water heaters)	0.93 – (.00132 x V)	0.93 – (.00132 x V)
Heat pump water heaters	0.93 – (.00132 x V)	0.97 – (.00132 x V)

V = rated volume in gallons.

(3) Booster Water Heaters. There is no energy efficiency standard or energy design standard for booster water heaters.

(4) Other Water Heaters. See Section 1605.3(f) for standards for other water heaters.

(5) Combination Space-Heating and Water-Heating Appliances. See Section 1605.3(e) for standards for combination space-heating and water-heating appliances.

(g) Pool Heaters, Portable Electric Spas, Residential Pool Pump and Motor Combinations, and Replacement Residential Pool Pump Motors.

(1) Energy Efficiency Standard for Gas-Fired Pool Heaters and Oil-Fired Pool Heaters. The thermal efficiency of gas-fired pool heaters and oil-fired pool heaters shall be not less than 78 percent.

(2) Energy Efficiency Standards for Heat Pump Pool Heaters. See Section 1605.3(g) for energy efficiency standards for heat pump pool heaters.

(3) Energy Efficiency Standard for Electric Resistance Pool Heaters. There is no energy efficiency standard for electric resistance pool heaters.

(4) Energy Design Standards for Pool Heaters. See Section 1605.3(g) for energy design standards for pool heaters.

(5) Energy Efficiency Standards for Portable Electric Spas. See Section 1605.3(g) for energy efficiency standards for portable electric spas.

(6) Energy Efficiency Standards and Energy Design Standards for Residential Pool Pump and Motor Combinations and Replacement Residential Pool Pump Motors. See Section 1605.3(g) for energy efficiency standards and energy design standards for residential pool pump and motor combinations and replacement residential pool pump motors.

(h) Plumbing Fittings.

(1) Showerheads, Faucets, Aerators, and Wash Fountains. The flow rate of showerheads, lavatory faucets, kitchen faucets, lavatory replacement aerators, kitchen replacement aerators, wash fountains, and metering faucets shall be not greater than the applicable values shown in Table H-1. Showerheads shall also meet the requirements of ASME/ANSI Standard A112.18.1M-1996, 7.4.4(a).

Table H-1

Standards for Plumbing Fittings

Appliance	*Maximum Flow Rate*
Showerheads	2.5 gpm at 80 psi
Lavatory faucets	2.2 gpm at 60 psi
Kitchen faucets	2.2 gpm at 60 psi
Replacement aerators	2.2 gpm at 60 psi
Wash fountains	$2.2x \frac{\text{rim space (inches)}}{20}$ gpm at 60 psi
Metering faucets	0.25 gallons/cycle
Metering faucets for wash fountains	$0.25x \frac{\text{rim space (inches)}}{20}$ gpm at 60 psi

(2) Showerhead-Tub Spout Diverter Combinations. Showerhead-tub spout diverter combinations shall meet both the standard for showerheads and the standard for tub spout diverters.

(3) Tub Spout Diverters. See Section 1605.3(h) for standards for tub spout diverters.

(4) Commercial Pre-rinse Spray Valves.

(A) The flow rate of commercial pre-rinse spray valves manufactured on or after January 1, 2006 shall be equal to or less than 1.6 gpm at 60 psi.

(B) See Section 1605.3(h) for design standards for commercial pre-rinse spray valves.

(i) Plumbing Fixtures.

The water consumption of water closets and urinals shall be not greater than the values shown in Table I.

Table I

Standards for Plumbing Fixtures

Appliance	*Maximum Gallons per Flush*
Gravity tank–type water closets	1.6
Flushometer tank water closets	1.6
Electromechanical hydraulic water closets	1.6
Blowout water closets	3.5
Trough–type urinals	$\frac{\text{trough length (inches)}}{16}$
Other urinals	1.0

(j) Fluorescent Lamp Ballasts and Replacement Fluorescent Lamp Ballasts.

(1) The ballast efficacy factor of the following types of fluorescent lamp ballasts shall be not less than the applicable values shown in Tables J-1 and J-2, except those fluorescent lamp ballasts (i) designed for dimming to 50 percent or less of maximum output, (ii) designed for use with two F96T12HO lamps, in ambient temperatures of 20° F or less, or (iii) with a power factor of less than 0.90 and designed and labeled for use only in residential buildings are excluded:

(A) replacement fluorescent lamp ballasts manufactured on or before June 30, 2010;

(B) fluorescent lamp ballasts manufactured on or after January 1, 1990;

(C) fluorescent lamp ballasts sold by the manufacturer on or after April 1, 1990; and

(D) fluorescent lamp ballasts incorporated into a luminaire by a luminaire manufacturer on or after April 1, 1991.

Table J-1

Standards for Fluorescent Lamp Ballasts and Replacement Fluorescent Lamp Ballasts

Application for Operation of	*Ballast Input Voltage*	*Total Nominal Lamp Watts*	*Minimum Ballast Efficacy Factor*	
one F40T12 lamp	120 or 277	40	2.29[1]	1.805[2]
two F40T12 lamps	120	80	1.17[1]	1.060[2]
	277	80	1.17[1]	1.050[2]
two F96T12 lamps	120 or 277	150	0.63[1]	0.570[2]
two F96T12HO lamps	120 or 277	220	0.39[1]	0.390[2]

[1] For fluorescent lamp ballasts manufactured on or after April 1, 2005; sold by the manufacturer on or after July 1, 2005; or incorporated into a luminaire by a luminaire manufacturer on or after April 1, 2006.
[2] For fluorescent lamp ballasts designed, marked, and shipped as replacement ballasts.

Table J-2

Standards for Fluorescent Lamp Ballasts[1]

Application for Operation of	*Ballast Input Voltage*	*Total Nominal Lamp Watts*	*Minimum Ballast Efficacy Factor*
one F34T12 lamp	120 or 277	34	2.61
two F34T12 lamps	120 or 277	68	1.35
two F96T12/ES lamps	120 or 277	120	0.77
two F96T12HO/ES lamps	120 or 277	190	0.42

[1] For fluorescent lamp ballasts manufactured on or after July 1, 2009; sold by the manufacturer on or after October 1, 2009; or fluorescent lamp ballasts incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010.

(2) All fluorescent lamp ballasts covered by Tables J-1 or J-2 except replacement fluorescent lamp ballasts shall have a power factor of 0.90 or greater.

(3) Mercury Vapor Lamp Ballasts. Mercury vapor lamp ballasts shall not be manufactured or imported into the United States after January 1, 2008.

(4) There are no energy efficiency standards or energy design standards for ballasts designed to operate T5 lamps, T8 lamps, three T12 lamps, or four T12 lamps.

(k) Lamps.

(1) Federally-Regulated General Service Fluorescent Lamps. The average lamp efficacy and the color rendering index of federally-regulated general service fluorescent lamps shall be not less than the applicable values shown in Table K-1.

Table K-1

Standards for Federally-Regulated General Service Fluorescent Lamps

Appliance	*Nominal Lamp Wattage*	*Minimum Color Rendering Index (CRI)*	*Minimum Average Lamp Efficacy (LPW)*
4–foot medium bi–pin lamps	> 35	69	75.0
	≤ 35	45	75.0
2–foot U–shaped lamps	> 35	69	68.0
	≤ 35	45	64.0
8–foot slimline lamps	> 65	69	80.0
	≤ 65	45	80.0
8–foot high output lamps	> 100	69	80.0
	≤ 100	45	80.0

(2) Federally-Regulated Incandescent Reflector Lamps. The average lamp efficacy of federally-regulated incandescent reflector lamps shall be not less than the applicable values shown in Table K-2, subject to the following.

(A) The standards specified in Table K-2 shall apply with respect to:

1. ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008; and

2. Incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after June 15, 2008.

(B) The standards specified in Table K-2 shall not apply to the following types of incandescent reflector lamps:

1. Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40;

2. Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps; and

3. R20 incandescent reflector lamps rated 45 watts or less.

Table K-2

Standards for Federally-Regulated Incandescent Reflector Lamps

Nominal Lamp Wattage	*Minimum Average Lamp Efficacy (LPW)*
40–50	10.5
51–66	11.0
67–85	12.5
86–115	14.0
116–155	14.5
156–205	15.0

(3) Medium Base Compact Fluorescent Lamps. A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 8, 2007, shall meet the requirements set forth in Table K-3.

Table K-3

Standards for Medium Base Compact Fluorescent Lamps

Factor *Lamp Power (Watts) and Configuration*[1]	*Requirements* *Minimum Efficacy: lumens/watt (Based upon initial lumen data)*[2]
Bare Lamp:	
Lamp Power < 15	45.0
Lamp Power ≥ 15	60.0
Covered Lamp (no reflector)	
Lamp Power < 15	40.0
15 ≥ Lamp Power < 19	48.0
19 ≥ Lamp Power < 25	50.0
Lamp Power ≥ 25	55.0
1,000–hour Lumen Maintenance	The average of at least 5 lamps must be a minimum 90% of initial (100–hour) lumen output @ 1,000 hours of rated life.
Lumen Maintenance	80% of initial (100–hour) rating at 40 percent of rated life (per ANSI C78.5 Clause 4.10).
Rapid Cycle Stress Test	Per ANSI C78.5 and IESNA LM–65 (Clauses 2, 3, 5, and 6) *Exception:* Cycle times must be 5 minutes on, 5 minutes off. Lamp will be cycled once for every two hours of rated life. At least 5 lamps *must meet or exceed* the minimum number of cycles.
Average Rated Lamp Life	≥ 6,000 hours as declared by the manufacturer on the packaging. 80% of rated life, statistical methods may be used to confirm lifetime claims based on sampling performance.

[1] Take performance and electrical requirements at the end of the 100–hour aging period according to ANSI Standard C78.5. The lamp efficacy shall be the average of the lesser of the lumens per watt measured in the base up and/or other specified positions. Use wattages placed on packaging to select proper specification efficacy in this table, not measured wattage. Labeled wattages are for reference only.
[2] Efficacies are based on measured values for lumens and wattages from pertinent test data. Wattages and lumens placed on packages may not be used in calculation and are not governed by this specification. For multi–level or dimmable systems, measurements shall be at the highest setting. Acceptable measurement error is ±3%.

(4) Federally-Regulated General Service Incandescent Lamps and Modified Spectrum General Service Incandescent Lamps. The energy consumption rate of federally regulated general service incandescent lamps and modified spectrum general service incandescent lamps, manufactured on or after the effective dates shown, shall be no greater than the maximum rated wattage shown in Tables K-4 and K-5.

(A) These standards apply to each lamp that: (i) is intended for a general service or general illumination application (whether incandescent or not); (ii) has a medium screw base or any other screw base not defined in ANSI C81.61-2006; (iii) is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and (iv) is manufactured or imported after December 31, 2011.

(B) Each lamp described in Section 1604(k)(4)(A) shall have a color rendering index that is greater than or equal to:

1. 80 for nonmodified spectrum lamps; or

2. 75 for modified spectrum lamps.

Table K-4

Standards for Federally-Regulated General Service Incandescent Lamps

Rated Lumen Ranges	*Maximum Rate Wattage*	*Minimum Rate Lifetime*	*Effective Date*
1490–2600	72	1,000 hours	January 1, 2012
1050–1489	53	1,000 hours	January 1, 2013
750–1049	43	1,000 hours	January 1, 2014
310–749	29	1,000 hours	January 1, 2014

Table K-5

Standards for Federally-Regulated Modified Spectrum General Service Incandescent Lamps

Rated Lumen Ranges	*Maximum Rate Wattage*	*Minimum Rate Lifetime*	*Effective Date*
1118–1950	72	1,000 hours	January 1, 2012
788–1117	53	1,000 hours	January 1, 2013
563–787	43	1,000 hours	January 1, 2014
232–562	29	1,000 hours	January 1, 2014

(5) Candelabra Base Incandescent Lamps and Intermediate Base Incandescent Lamps. The energy consumption rate of federally regulated candelabra base incandescent lamps and intermediate base incandescent lamps, manufactured on or after January 1, 2012, shall be no greater than the maximum rated wattage shown in Tables K-6.

Table K-6

Standards for Federally Regulated Candelabra Base Incandescent Lamps and Intermediate Base Incandescent Lamps

Lamp Base Type	*Maximum Rated Wattage*
Candelabra	60
Intermediate	40

t

(6) See Section 1605.3(k) for energy efficiency standards for state-regulated general service incandescent lamps and state-regulated incandescent reflector lamps.

(*l*) Emergency Lighting.

The input power of an illuminated exit signs manufactured on or after January 1, 2006 shall not exceed five watts per face.

(m) Traffic Signal Modules and Traffic Signal Lamps.

(1) Traffic Signals for Vehicle and Pedestrian Control. Federally regulated traffic signals for vehicle and pedestrian control manufactured on or after January 1, 2006 shall have a nominal wattage and maximum wattage no greater than the values shown in Table M-1, and shall be installed with compatible electrically connected signal control interface devices and conflict monitoring systems.

Table M-1

Standards for Traffic Signals for Vehicle and Pedestrian Control

Appliance	*Maximum Wattage (at 74°C)*	*Nominal Wattage (at 25°C)*
Traffic Signal Module Type:		
12–inch; Red Ball	**17**	**11**
8–inch; Red Ball	**13**	**8**
12–inch; Red Arrow	**12**	**9**
12–inch; Green Ball	**15**	**15**
8–inch; Green Ball	**12**	**12**
12–inch; Green Arrow	**11**	**11**
Pedestrian Module Type:		
Combination Walking Man/Hand	**16**	**13**
Walking Man	**12**	**9**
Orange Hand	**16**	**13**

(2) See Section 1605.3(m) for energy efficiency standards for traffic signal modules for pedestrian control sold or offered for sale in California.

(n) Luminaires and Torchieres.

(1) Torchieres. Torchieres manufactured on or after January 1, 2006 shall consume not more than 190 watts of power and shall not be capable of operating with lamps that total more than 190 watts.

(2) Metal Halide Lamp Fixtures. Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts, manufactured on or after January 1, 2009, shall contain:

(A) A pulse-start metal halide ballast with a minimum ballast efficiency of 88 percent;

(B) A magnetic probe-start ballast with a minimum ballast efficiency of 94 percent; or

(C) A nonpulse-start electronic ballast with:

1. a minimum ballast efficiency of 92 percent for wattages greater than 250 watts; and

2. a minimum ballast efficiency of 90 percent for wattages less than or equal to 250 watts.

(D) This subsection does not apply to any metal halide lamp fixture:

1. with regulated lag ballasts;

2. that uses electronic ballasts that operate at 480 volts; or

3. that (i) are rated only for 150 watt lamps; (ii) are rated for use in wet locations, as specified by the National Electrical Code 2002, Section 410.4(A): and (iii) contain a ballast that is rated to operate at ambient air temperatures above 50° C., as specified by UL 1029-2001.

(3) See Section 1605.3(n) for energy efficiency standards and energy design standards for luminaires, including standards for metal halide luminaires sold or offered for sale in California that are manufactured:

(A) prior to January 1, 2009, or

(B) on or after January 1, 2010.

(o) Dishwashers.

The energy factor, maximum energy use, and maximum water use of dishwashers that are consumer products manufactured on or after the effective dates shown shall meet the applicable values shown in Table O.

Table O

Standards for Dishwashers

Appliance	*Effective May 14, 1994 Minimum Energy Factor (cycles/kWh)*	*Effective January 1, 2010 Maximum Energy Use (kWh/year)*	*Effective January 1, 2010 Maximum Water Use (gallons/cycle)*
Compact dishwashers	**0.62**	**260**	**4.5**
Standard dishwashers	**0.46**	**355**	**6.5**

(p) Clothes Washers.

(1) Energy Efficiency Standards for Residential Clothes Washers. The modified energy factor and water factor of clothes washers manufactured on or after the effective dates shown and that are consumer products shall be not less than the applicable values shown in Table P-2.

Table P-2

Energy Efficiency Standards for Residential Clothes Washers

Appliance	*Minimum Modified Energy Factor Effective January 1, 2007*	*Maximum Water Factor Effective January 1, 2011*
Top–loading compact clothes washers	**0.65**	**—**
Top–loading standard clothes washers	**1.26**	**9.5**
Top–loading, semi–automatic	**N/A[1]**	**—**
Front–loading clothes washers	**1.26**	**9.5**
Suds–saving	**N/A[1]**	**—**

[1]Must have an unheated rinse water option.

(2) Energy Design Standard for Top-Loading Semi-Automatic Clothes Washers and Suds-Saving Clothes Washers. Top-loading semi-automatic clothes washers that are consumer products and suds-saving clothes washers that are consumer products shall have an unheated rinse water option and do not need to meet the Modified Energy Factor standard shown in Table P-2.

(3) Commercial Clothes Washers. Commercial clothes washers manufactured on or after January 1, 2007 shall have a modified energy factor of at least 1.26 and a water consumption factor of not more than 9.5.

(4) Water Efficiency Standards for Clothes Washers. See Section 1605.2(p) for water efficiency standards for clothes washers.

(q) Clothes Dryers.

(1) Energy Efficiency Standards for Gas Clothes Dryers and Electric Clothes Dryers. The energy factor of gas clothes dryers that are consumer products and electric clothes dryers that are consumer products shall be not less than the applicable values shown in Table Q.

Table Q

Standards for Clothes Dryers

Appliance	*Minimum Energy Factor (lbs/kWh)*
Electric, standard clothes dryers	3.01
Electric, compact, 120 volt clothes dryers	3.13
Electric, compact, 240 volt clothes dryers	2.90
Gas clothes dryers	2.67

(r) Cooking Products and Food Service Equipment.

(1) Energy Design Standard for Gas Cooking Products with an Electrical Supply Cord. Gas cooking products that are consumer products and that are equipped with an electrical supply cord shall not be equipped with a constant burning pilot.

(2) Hot Food Holding Cabinets. See Section 1605.3(r) for energy efficiency standards for commercial hot food holding cabinets.

(3) Other Cooking Products and Food Service Equipment. There is no energy efficiency standard or energy design standard for other cooking products or for food service equipment.

(s) Electric Motors.

(1) Standards for Electric Motors. Except as provided in Section 1605.1(s)(2), the nominal full-load efficiency of all electric motors manufactured (alone or as a component of another piece of equipment) after October 24, 1997, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after October 24, 1999, and that are federally-regulated commercial and industrial equipment shall be not less than the applicable values shown in Table S-1.

Table S-1

Standards for Electric Motors

Motor Horsepower/ Standard Kilowatt Equivalent	*Minimum Nominal Full-Load Efficiency*					
	Open Motors			*Closed Motors*		
	6 poles	*4 poles*	*2 poles*	*6 poles*	*4 poles*	*2 poles*
1/0.75	80.0	82.5	...	80.0	82.5	75.5
15/1.1	84.0	84.0	82.5	85.5	84.0	82.5
2 /1.5	85.5	84.0	84.0	86.5	84.0	84.0
3/2.2	86.5	86.5	84.0	87.5	87.5	85.5
5/3.7	87.5	87.5	85.5	87.5	87.5	875
7.5/5.5	88.5	88.5	87.5	89.5	89.5	88.5
10/7.5	90.2	89.5	88.5	89.5	89.5	89.5
15/11	90.2	91.0	89.5	90.2	91.0	90.2
20/15	91.0	91.0	90.2	90.2	91.0	90.2
25/18.5	91.7	91.7	91.0	91.7	92.4	91.0
30/22	92.4	92.4	91.0	91.7	92.4	91.0
40/30	93.0	93.0	91.7	93.0	93.0	91.7
50/37	93.0	93.0	92.4	93.0	93.0	92.4
60/45	93.6	93.6	93.0	93.6	93.6	93.0
75/55	93.6	94.1	93.0	93.6	94.1	93.0
100/75	94.1	94.1	93.0	94.1	94.5	93.6
125/90	94.1	94.5	93.6	94.1	94.5	94.5
150/110	94.5	95.0	93.6	95.0	95.0	94.5
200/150	94.5	95.0	94.5	95.0	95.0	95.0

(A) For purposes of determining the required minimum nominal full load efficiency of an electric motor that has a horsepower or kilowatt rating between two horsepowers or kilowattages shown in Table S-1, each such motor shall be deemed to have a horsepower or kilowatt rating that is listed in Table S-1. The rating that the motor is deemed to have shall be determined as follows:

1. A horsepower at or above the midpoint between the two consecutive horsepowers shall be rounded up to the higher of the two horsepowers;

2. A horsepower below the midpoint between the two consecutive horsepowers shall be rounded down to the lower of the two horsepowers; or

3. A kilowatt rating shall be directly converted from kilowatts to horsepower using the formula, 1 kilowatt = (1/0.746) horsepower, without calculating beyond three significant decimal places, and the resulting horsepower shall be rounded in accordance with Sections 1605.1(s)(1)(A)1. or 1605.1(s)(1)(A)2., whichever applies.

(2) The nominal full-load of those electric motors listed in Table S-2, manufactured on or after December 19, 2010, shall have a nominal full-load efficiency not less than the applicable values shown in the NEMA MG-1 (2006) Tables referenced in Table S-2.

Table S-2

Standards for Electric Motors Manufactured on or After December 19, 2010

Appliance	*Horsepower*	*Minimum Nominal Full–Load Efficiency (as referenced in NEMA MG–1 (2006) Table):*
General purpose electric motors (subtype I)	≥ 1 < 200	Table 12–12
Fire Pump Motors	All	Table 12–11
General purpose electric motors (subtype II)	≥ 1 < 200	Table 12–11
NEMA Design B, general purpose electric motors	> 200 ≤	Table 12–11

(t) Distribution Transformers.

(1) Low-Voltage Dry-Type Distribution Transformers. The efficiency of a low-voltage dry-type distribution transformer manufactured on or after January 1, 2007, shall be not less than that required for their kVA rating as shown in Table T-3. Low-voltage dry-type distribution transformers with kVA ratings not appearing in Table T-3 shall have their minimum efficiency determined by linear interpolation of the kVA and efficiency values immediately above and below that kVA rating.

Table T-3

Standards for Low-Voltage Dry-Type Distribution Transformers

Single phase		Three phase	
kVA	*Efficiency (%)*[1]	*kVA*	*Efficiency (%)*[1]
15	97.7	15	97.0
25	98.0	30	97.5
37.5	98.2	45	97.7
50	98.3	75	98.0
75	98.5	112.5	98.2
100	98.6	150	98.3
167	98.7	225	98.5
250	98.8	300	98.6
333	98.9	500	98.7
		750	98.8
		1000	98.9

[1] Efficiencies are determined at the following reference conditions:
(1) for no–load losses, at the temperature of 20°C, and (2) for load–losses, at the temperature of 75°C and 35 percent of nameplate load.
(Source: Table 4–2 of NEMA Standard TP–1–2002, "Guide for Determining Energy Efficiency for Distribution Transformers.")

(2) Liquid-Immersed Distribution Transformers. The efficiency of a liquid-immersed distribution transformer manufactured on or after January 1, 2010, shall be no less than that required for their kVA rating as shown the table T-4. Liquid-immersed distribution transformers with kVA ratings not appearing in Table T-4 shall have their minimum efficiency level determined by linear interpolation of the kVA and efficiency values immediately above and below that kVA rating.

Table T-4

Standards for Liquid-Immersed Distribution Transformers

Single phase		Three phase	
kVA	*Efficiency (%)*[1]	*kVA*	*Efficiency (%)*[1]
10	98.62	15	98.36
15	98.76	30	98.62
25	98.91	45	98.76
37.5	99.01	75	98.91
50	99.08	112.5	99.01
75	99.17	150	99.08
100	99.23	225	99.17
167	99.25	300	99.23
250	99.32	500	99.25
333	99.36	750	99.32
500	99.42	1000	99.36
667	99.46	1500	99.42
833	99.49	2000	99.46
		2500	99.49

[1] NOTE: All efficiency values are at 50 percent of nameplate–rated load, determined when tested according to the test procedure in Section 1604(t).

(3) Medium-Voltage Dry-Type Distribution Transformers. The efficiency of a medium-voltage dry-type distribution transformer manufactured on or after January 1, 2010, shall be no less than that required for their kVA and BIL rating in Table T-5. Medium-voltage dry-type distribution transformers with kVA ratings not appearing in Table T-5 shall have their minimum efficiency level determined by linear interpolation of the kVA and efficiency values immediately above and below that kVA rating.

Table T-5

Standards for Medium-Voltage Dry-Type Distribution Transformers

	Single phase				*Three phase*		
BIL kVA	*20–45 kV Efficiency*[1] *(%)*	*46–95 kV efficiency*[1] *(%)*	*≥ 96 kV efficiency*[1] *(%)*	*BIL kVA*	*20–45 kV Efficiency*[1] *(%)*	*46–95 kV efficiency*[1] *(%)*	*≥ 96 kV efficiency*[1] *(%)*
15	98.10	97.86		15	97.50	97.18	
25	98.33	98.12		30	97.90	97.63	
37.5	98.49	98.30		45	98.10	97.86	
50	98.60	98.42		75	98.33	98.12	
75	98.73	98.57	98.53	112.5	98.49	98.30	
100	98.82	98.67	98.63	150	98.60	98.42	
167	98.96	98.83	98.80	225	98.73	98.57	98.53
250	99.07	98.95	98.91	300	98.82	98.67	98.63
333	99.14	99.03	98.99	500	98.96	98.83	98.80
500	99.22	99.12	99.09	750	99.07	98.95	98.91
667	99.27	99.18	99.15	1000	99.14	99.03	98.99
833	99.31	99.23	99.20	1500	99.22	99.12	99.09
				2000	99.27	99.18	99.15
				2500	99.31	99.23	99.20

[1] All efficiency values are at 50 percent of nameplate rated load, determined when tested according to the test procedure in Section 1604(t).

(u) Power Supplies.

(1) The energy factor for Class A external power supplies that are federally regulated and manufactured on or after July 1, 2008, shall be not less than the applicable values shown in Table U-1, except that:

(A) The standards in Table U-1 shall not apply to a Class A external power supply that is:

1. manufactured between July 1, 2008 and June 30, 2015; and

2. made available by the manufacturer as a service part or spare part for an end-use product that (i) constitutes the primary load; and (ii) was manufactured before July 1, 2008.

(B) An energy efficiency standard for external power supplies shall not constitute an energy efficiency standard for the separate end-use product to which the external power supplies is connected.

Table U-1

Standards for Class A External Power Supplies That are Federally Regulated

Nameplate Output	*Minimum Efficiency in Active Mode (Decimal equivalent of a Percentage)*
< 1 watt	0.5 * Nameplate Output
≥ 1 and ≤ 51 watts	0.09*Ln(Nameplate Output) + 0.5
> 51 watts	0.85
	Maximum Energy Consumption in No–Load Mode
≤ 250 watts	0.5 watts

Where Ln (Nameplate Output) = Natural Logarithm of the nameplate output expressed in watts.

(2) See Section 1605.3(u) for energy efficiency standards for state-regulated external power supplies.

(v) Consumer Audio and Video Equipment.

See Section 1605.3(v) for energy efficiency standards for consumer audio and video equipment.

(w) Battery Charger Systems.

There are no energy efficiency standards or energy design standards for battery charger systems.

The following documents are incorporated by reference in Section 1605.1.

AMERICAN SOCIETY OF MECHANICAL ENGINEERS (ASME)

ASME/ANSI A112.18.1M–1996	**Plumbing Fixture Fittings**
Copies available from:	ASME INTERNATIONAL THREE PARK AVENUE NEW YORK, NY 10016–5990 WWW.ASME.ORG PHONE: (800) THE–ASME (U.S./CANADA) 95–800–843–2763 (MEXICO) (973) 882–1167 (OUTSIDE NORTH AMERICA)

NATIONAL ELECTRIC MANUFACTURERS ASSOCIATION (NEMA)

NEMA MG1–2006	**Motors and Generators**
NEMA Standard TP–1–2002, Table 4–2	**Guide for Determining Energy Efficiency of Distribution Transformers**
Copies available from:	NATIONAL ELECTRIC MANUFACTURERS ASSOCIATION 1300 N. 17TH STREET, SUITE 1847 ROSSLYN, VA 22209 WWW.NEMA.ORG PHONE: (703) 841–3200 FAX: (703) 841–3300

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c) and 25960, Public Resources Code.

§ 1605.2. State Standards for Federally-Regulated Appliances.

(a) Refrigerators, Refrigerator-Freezers and Freezers.

See Sections 1605.1(a) and 1605.3(a) for energy efficiency standards and energy design standards for refrigeration equipment.

(b) Room Air Conditioners, Room Air Conditioning Heat Pumps, Packaged Terminal Air Conditioners, and Packaged Terminal Heat Pumps.

See Section 1605.1(b) for energy efficiency standards for room air conditioners, room air-conditioning heat pumps, packaged terminal air conditioners, and packaged terminal heat pumps that are federally-regulated consumer products or federally-regulated commercial and industrial equipment.

(c) Central Air Conditioners.

(1) Energy Efficiency Standards for Air-Cooled Air Conditioners and Air-Source Heat Pumps.

(A) The EER, SEER, HSPF, and COP of air-cooled air conditioners and air-source heat pumps except space constrained products shall be not less than the applicable values shown in Table C-7.

(B) Each appliance of a type and cooling capacity covered by Table C-7 shall be equipped with a TXV.

EXCEPTION 1 to Section 1605.2(c)(1)(B): Instead of installing a TXV, a manufacturer may install any other device that is certified by the manufacturer to the Executive Director to result in an EER that is within 90 percent of the rated EER when tested at all of the following conditions:

1. Refrigerant charge at 70 percent of the refrigerant charge specified by the manufacturer of the appliance.

2. Refrigerant charge at 120 percent of the refrigerant charge specified by the manufacturer of the appliance.

3. Airflow at 80 percent of the airflow specified by the manufacturer of the appliance.

EXCEPTION 2 to Section 1605.2 (c)(1)(B): Instead of installing a TXV, a manufacturer may install a sensing mechanism integral to the compressor-containing unit, and a signaling device installed on the outside of the compressor-containing unit that is certified by the manufacturer to perform all of the following:

1. The device shall produce a visible malfunction signal whenever the refrigerant charge is less than 90 percent or greater than 120 percent of the refrigerant charge specified by the manufacturer.

2. The device shall not produce a malfunction signal when the refrigerant charge is between 95 percent and 115 percent of the refrigerant charge specified by the manufacturer.

3. The device shall produce a visible indication of proper charge whenever it is not producing a malfunction signal.

4. The device shall produce visible signals in a form that is accessible to, and readily understood by individuals with no technical training.

5. The device shall perform its tests and meet the above criteria at least once per every 10 hours of air conditioner run time.

6. The device shall provide a visible signal that indicates the status of the refrigerant charge as of the time of the last test.

EXCEPTION 3 to Section 1605.2 (c)(1)(B): Instead of installing a TXV, a manufacturer may install a device whose performance is determined by the Executive Director to be equivalent in energy savings to a TXV.

Table C-7

Standards for Air-Cooled Air Conditioners and Air-Source Heat Pumps

Appliance	*Cooling Capacity (Btu/hr)*	*Minimum Standards* *Effective on the effective date of the US DOE waiver from preemption, should such a waiver be granted*
Single package air–cooled air conditioners	< 65,000	11.0 EER 13.0 SEER
Other air–cooled air conditioners	< 65,000	11.6 EER 13.0 SEER
Single package air–cooled heat pumps	< 65,000	11.6 EER 13.0 SEER 7.7 HSPF
Other air–cooled heat pumps	< 65,000	11.6 EER 13.0 SEER 7.9 HSPF
Air–cooled air conditioners	≥ 65,000 and < 135,000	11.0 EER
Air–source heat pumps	≥ 65,000 and < 135,000	11.0 EER 3.4 at 47° F. COP 2.4 at 17° F. COP
Air–cooled air conditioners	≥ 135,000 and < 240,000	10.8 EER
Air–source heat pumps	≥ 135,000 and < 240,000	10.8 EER 3.3 at 47° F. COP 2.2 at 17° F. COP

(2) See Sections 1605.1(c) and 1605.3(c) for other energy efficiency standards for these and other central air conditioners.

(3) Gas-fired Air Conditioners and Heat Pumps. There is no energy efficiency standard or energy design standard for gas-fired air conditioners or gas-fired heat pumps.

(d) Spot Air Conditioners, Evaporative Coolers, Ceiling Fans, Ceiling Fan Light Kits Whole House Fans, Residential Exhaust Fans, and Dehumidifiers.

(1) See Sections 1605.1(d) for energy design standards for ceiling fans and ceiling fan light kits.

(2) See Sections 1605.1(d) for energy efficiency standards for dehumidifiers.

(3) There are no energy efficiency standards or energy design standards for spot air conditioners, evaporative coolers, whole house fans, or residential exhaust fans. There are no efficiency standards for ceiling fans and ceiling fan light kits.

(e) Gas and Oil Space Heaters and Electric Residential Boilers.

(1) See Sections 1605.1(e) and 1605.3(e) for energy efficiency standards for gas and oil space heaters.

(2) See Section 1605.3(e) for standards for combination space-heating and water-heating appliances.

(f) Water Heaters.

(1) See Sections 1605.1(f) and 1605.3(f) for energy efficiency standards for water heaters.

(2) See Section 1605.3(e) for energy efficiency standards for combination space-heating and water-heating appliances.

(g) Pool Heaters, Portable Electric Spas, Residential Pool Pump and Motor Combinations, and Replacement Residential Pool Pump Motors.

(1) See Sections 1605.1(g) and 1605.3(g) for energy efficiency standards and energy design standards for pool heaters.

(2) See Section 1605.3(g) for energy efficiency standards and energy design standards for portable electric spas and residential pool pump and motor combinations and replacement residential pool pump motors.

(h) Plumbing Fittings.

See Sections 1605.1(h) and 1605.3(h) for water efficiency standards for plumbing fittings.

(i) Plumbing Fixtures.

See Section 1605.1(i) for water efficiency standards for plumbing fixtures that are federally-regulated consumer products.

(j) Fluorescent Lamp Ballasts.

See Section 1605.1(j) for energy efficiency standards for fluorescent lamp ballasts that are federally-regulated consumer products.

(k) Lamps.

See Sections 1605.1(k) and 1605.3(k) for energy efficiency standards for lamps.

(l) Emergency Lighting.

See Section 1605.1(l) for energy efficiency standards for illuminated exit signs.

(m) Traffic Signal Modules and Traffic Signal Lamps.

See Sections 1605.1(m) and 1605.3(m) for energy efficiency standards for traffic signal modules and traffic signal lamps.

(n) Luminaires and Torchieres.

(1) See Section 1605.1(n) for energy efficiency standards and energy design standards for federally regulated metal halide light fixtures manufactured on or after January 1, 2009, and torchieres.

(2) See Section 1605.3(n) for energy efficiency standards and energy design standards for:

(A) metal halide luminaires sold or offered for sale in California that are manufactured

i. prior to January 1, 2009, or

ii. on or after January 1, 2010; and

(B) under cabinet luminaires.

(o) Dishwashers.

See Section 1605.1(o) for energy efficiency standards for dishwashers that are federally-regulated consumer products.

(p) Clothes Washers.

(1) Water Efficiency Standards for Residential Clothes Washers.

The water factor of clothes washers that are consumer products shall be no greater than the applicable values shown in Table P-3.

Table P-3

Water Efficiency Standards for Clothes Washers

Appliance	*Maximum Water Factor (Gallons/cubic foot)*	
	Effective January 1, 2007	*Effective January 1, 2010*
Top–loading clothes washers	**8.5**	**6.0**
Front–loading clothes washers	**8.5**	**6.0**

(2) Water Efficiency Standards for Commercial Clothes Washers. See Section 1605.1(p) for energy efficiency standards and water efficiency standards for clothes washers that are not consumer products.

(3) Energy Efficiency Standards for Clothes Washers. See Section 1605.1(p) for energy efficiency standards and energy design standards for clothes washers.

(q) Clothes Dryers.

See Section 1605.1(q) for energy efficiency standards and energy design standards for clothes dryers that are federally-regulated consumer products.

(r) Cooking Products and Food Service Equipment.

(1) Hot Food Holding Cabinets. See Section 1605.3(r) for energy efficiency standards for commercial hot food holding cabinets.

(2) Gas Cooking Appliances Equipped with an Electrical Supply Cord. See Section 1605.1(r) for energy design standards for gas cooking products with an electrical supply cord.

(3) Other Cooking Products and Food Service Equipment. There is no energy efficiency standard for other cooking products or food service equipment.

(s) Electric Motors.

See Section 1605.1(s) for energy efficiency standards for electric motors that are federally-regulated consumer and industrial equipment.

(t) Distribution Transformers.

See Section 1605.1(t) for energy efficiency standards for low-voltage dry-type distribution transformers, liquid-immersed distribution transformers, and medium-voltage dry-type distribution transformers.

(u) Power Supplies.

(1) See Section 1605.1(u) for energy efficiency standards for Class A external power supplies that are federally regulated and manufactured on or after July 1, 2008.

(2) See Section 1605.3(u) for energy efficiency standards for state-regulated external power supplies.

(v) Consumer Audio and Video Equipment.

See Section 1605.3(v) for energy efficiency standards for consumer audio and video equipment.

(w) Battery Charger Systems.

There are no energy efficiency standards or energy design standards for battery charger systems.

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c) and 25960, Public Resources Code.

§ 1605.3. State Standards for Non-Federally-Regulated Appliances.

(a) Refrigerators, Refrigerator-Freezers, and Freezers.

(1) Energy Efficiency Standard for Wine Chillers. The energy consumption of wine chillers designed and sold for use by an individual shall be no greater than the applicable values shown in Table A-6.

Table A-6

Standards for Wine Chillers

Appliance	*Maximum Annual Energy Consumption (kWh)*
Wine chillers with manual defrost	13.7V + 267
Wine chillers with automatic defrost	17.4V + 344
V = volume in ft^3.	

(2) Energy Efficiency Standard for Freezers. The energy consumption of freezers that exceed 30 ft^3, do not exceed 39 ft^3, are designed and sold for use by an individual consumer, and are manufactured on or after March 1, 2003, shall be no greater than the applicable values shown in Table A-7.

Table A-7

Standards for Freezers that are Consumer Products

Appliance	*Maximum Annual Energy Consumption (kWh)*
Upright Freezers with manual defrost	7.55AV + 258.3
Upright Freezers with automatic defrost	12.43AV + 326.1
Chest Freezers	9.88AV + 143.7

AV = adjusted total volume, expressed in ft^3, which is 1.73 x freezer volume (ft^3).

(3) Energy Design Standard for Lighting of Cabinets and Wine Chillers. Internal illumination of the following appliances, manufactured on or after March 1, 2003, shall be only by (1) T-8 fluorescent lamps with electronic ballasts, or (2) a lighting system that has no fewer lumens per watt than a system using only T-8 fluorescent lamps with electronic ballasts.

(A) remote reach-in cabinets with transparent doors; remote pass-through cabinets with transparent doors; and remote roll-in or roll-through cabinets with transparent doors;

(B) cabinets, without doors; and

(C) wine chillers that are not consumer products.

(4) Energy Design Standards for Walk-In Coolers and Walk-In Freezers.

(A) All Walk-in Coolers and Walk-in Freezers. Walk-in coolers and walk-in freezers manufactured on or after the effective dates shown in Table A-8, and before January 1, 2009 with the applicable motor types shown in Table A-8, shall be manufactured with the required components shown in Table A-8.

Table A-8

Energy Design Standards for Walk-In Coolers and Walk-In Freezers Manufactured Before January 1, 2009

Motor Type	*Effective Date*	*Required Components*
All	January 1, 2006	Automatic door closers that firmly close all reach–in doors
All	January 1, 2006	Automatic door closers on all doors no wider than four foot or higher than seven foot, that firmly close walk–in doors that have been closed to within one inch of full closure
All	January 1, 2006	Envelope insulation > R–28 for Refrigerators
All	January 1, 2006	Envelope insulation > R–36 for Freezers
Condenser Fan Motors < 1 HP	January 1, 2006	(i) Electronically commutated motors, (ii) permanent split capacitor–type motors, (iii) polyphase motors > 1/2 HP, or (iv) motors of equivalent efficiency as determined by the Executive Director
Single–phase Evaporator Fan Motors < 1 HP and < 460 volts	January 1, 2006	(i) Electronically commutated motors or (ii) permanent split capacitor–type motors
Single–phase Evaporator Fan Motors < 1 HP and < 460 volts	January 1, 2008	Electronically commutated motors

(B) Walk-in Coolers and Walk-in Freezers with Transparent Reach-in Doors.

In addition to the requirements in (i), walk-in coolers and walk-in freezers with transparent reach-in doors that are manufactured on or after January 1, 2006 shall meet the following requirements:

1. transparent reach-in doors shall be of triple-pane glass with either heat-reflective treated glass or gas fill;

2. if the appliance has an anti-sweat heater without anti-sweat heat controls, then: the appliance shall have a total door rail, glass, and frame heater power draw of no more than 40 watts (freezers) or 17 watts (refrigerators) per foot of door frame width; and

3. if the appliance has an anti-sweat heater with anti-sweat heat controls, and the total door rail, glass, and frame heater power draw is more than 40 watts (freezers) or 17 watts (refrigerators) per foot of door frame width, then: the anti-sweat heat controls shall reduce the energy use of the anti-sweat heater in an amount corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

(C) Walk-in Coolers and Walk-in Freezers Manufactured on or after January 1, 2009.

See Section 1605.1(a) for design standards for walk-in coolers and walk-in freezers manufactured on or after January 1, 2009.

(5) Energy Efficiency Standard for Reach-in Cabinets, Pass-Through Cabinets, Reach-in or Roll-through Cabinets, and Wine Chillers That Are Not Consumer Products. The daily energy consumption of reach-in cabinets, pass-through cabinets, roll-in or roll-through cabinets manufactured prior to January 1, 2010, refrigerated canned and bottled beverage vending machines, and wine chillers that are not consumer products, manufactured on or after the effective dates shown shall be no greater than the applicable values shown in Table A-9.

(6) Appliances Covered.

(A) Reach-in cabinets include but are not limited to ice cream cabinets; milk or beverage cabinets; and milk, beverage, and ice cream cabinets.

(B) The appliances listed in paragraphs (3) and (5) and Table A-9 do not include preparation tables, refrigerated buffet and preparation tables, or work top tables.

Table A-9

Standards for Reach-In Cabinets, Pass-Through Cabinets, Roll-In or Roll-Through Cabinets Manufactured Prior to January 1, 2010, and Wine Chillers that are Not Consumer Products

		Maximum Daily Energy Consumption (kWh)			
Appliance	*Doors*	*March 1, 2003*	*August 1, 2004*	*January 1, 2006*	*January 1, 2007*
Reach–in cabinets, pass–through cabinets, and roll–in or roll–through cabinets that are refrigerators; and wine chillers that are not consumer products	Solid	0.125V + 4.22	0.125V + 2.76	0.10V + 2.04	0.10V + 2.04
	Transparent	0.172V + 5.78	0.172V + 4.77	0.172V + 4.77	0.12V + 3.34
Reach–in cabinets, pass–through cabinets, and roll–in or roll–through cabinets that are freezers (except ice cream freezers)	Solid	0.398V + 2.83	0.398V + 2.28	0.40V + 1.38	0.40V + 1.38
	Transparent	0.940V + 5.10	0.940V + 5.10	0.940V + 5.10	0.75V + 4.10
Reach–in cabinets, pass–through cabinets, and roll–in or roll–through cabinets that are freezers that are ice cream freezers	Solid	0.398V + 2.83	0.398V + 2.28	0.398V + 2.28	0.39V + 0.82
	Transparent	0.940V + 5.10	0.940V + 5.10	0.940V + 5.10	0.88V + 0.33
Reach–in cabinets that are refrigerator–freezers and that have an adjusted volume (AV) of 5.19 ft^3 or greater	Solid	0.273AV + 2.63	0.273AV + 1.65	0.273AV + 1.65	0.27AV — 0.71
Reach–in cabinets that are refrigerator–freezers and that have an adjusted volume (AV) of less than 5.19 ft^3	Solid or Transparent			0.70	0.70

(7) Energy Efficiency Standard for Refrigerated Canned and Bottled Beverage Vending Machines. The daily energy consumption of refrigerated canned and bottled beverage vending machines, manufactured on or after January 1, 2006 shall be no greater than the applicable values shown in Table A-10.

(8) Energy Design Standard for Refrigerated Canned and Bottled Beverage Vending Machines. Refrigerated canned and bottled beverage vending machines manufactured on or after January 1, 2006 shall be equipped with hard wired controls or software capable of automatically placing the machine into each of the following low power mode states and of automatically returning the machine to its normal operating conditions at the conclusion of the low power mode:

(A) Lighting low power state - lights off for an extended period.

(B) Refrigeration low power state - the average beverage temperature is allowed to rise above 40 degrees F. for an extended period of time.

(C) Whole machine low power state - the lights are off and the refrigeration operates in its low power state.

The low power mode-related controls/software shall be capable of on-site adjustments by the vending operator or machine owner.

10 (Continued)
Standards for Refrigerated Canned and Bottled Beverage Vending Machines

		Maximum Daily Energy Consumption (kWh)	
Appliance	*Doors*	*January 1, 2006*	*January 1, 2007*
Refrigerated canned and bottled beverage vending machines when tested at 90° F ambient temperature except multi–package units	Not applicable	0.55(8.66 + (0.009 x C))	0.55(8.66 + (0.009 x C))
Refrigerated multi–package canned and bottled beverage vending machines when tested at 75° F ambient temperature	Not applicable	0.55(8.66 + (0.009 x C))	0.55(8.66 + (0.009 x C))

V = total volume (ft^3)
AV = Adjusted Volume = [1.63 x freezer volume (ft^3)] + refrigerator volume (ft^3)
C=Rated capacity (number of 12 ounce cans)

(9) Energy Efficiency Standards for Automatic Commercial Ice-Makers. The daily energy use and the daily condenser water use of automatic commercial ice-makers manufactured on or after January 1, 2008 and before January 1, 2010, shall be no greater than the applicable values shown in Table A-11.

Table A-11

Standards for Automatic Commercial Ice-Makers

Equipment Type	*Type of Cooling*	*Harvest Rate (lbs ice/24 hrs)*	*Maximum Energy Use (kWh/100 lbs. Ice)*	*Maximum Condenser Water Use (gallons/100 lbs. ice)*
Ice–Making Head	Water	<500 ≥500 and <1436 ≥1436	7.80–.0055H 5.58–.0011H 4.0	200–.022H 200–.022H 200–.022H
Ice–Making Head	Air	<450 ≥450	10.26–.0086H 6.89–.0011H	Not Applicable Not Applicable
Remote–Condensing (but not remote compressor)	Air	<1000 ≥1000	8.85–.0038H 5.10	Not Applicale Not Applicable
Remote–Condensing and Remote Compressor	Air	<934 ≥934	8.85–.0038H 5.3	Not Applicabe Not Applicable
Self–Contained	Water	<200 ≥200	11.40–.0190H 7.60	191–.0315H 191–.0315H
Self–Contained	Air	<175 ≥175	18.0–.0469H 9.80	Not Applicabe Not Applicable

H = harvest rate in pounds per 24 hours, which shall be reported within 5% of the tested value.
Water use is for the condenser only and does not include potable water used to make ice.

(10) Energy Efficiency Standard for Water Dispensers. The standby energy consumption of bottle-type water dispensers, and point of use water dispensers, dispensing both hot and cold water, manufactured on or after January 1, 2006, shall not exceed 1.2 kWh/day.

(11) Refrigerators without Doors and Freezers without Doors. There are no energy efficiency standards for refrigerators without doors or freezers without doors.

(12) Other Refrigeration Equipment. See Section 1605.1(a) for energy efficiency standards for refrigerators, refrigerator-freezers, and freezers.

(b) Room Air Conditioners, Room Air-Conditioning Heat Pumps, Packaged Terminal Air Conditioners, and Packaged Terminal Heat Pumps.

See Section 1605.1(b) for energy efficiency standards for room air conditioners, room air conditioning heat pumps, packaged terminal air conditioners, and packaged terminal heat pumps that are federally-regulated consumer products or federally-regulated commercial and industrial equipment.

(c) Central Air Conditioners.

(1) Energy Efficiency Standards for Ground Water-Source Heat Pumps and Ground-Source Heat Pumps. The EER and COP for ground water-source heat pumps and ground-source heat pumps manufactured on or after October 29, 2003, shall be not less than the applicable values shown in Table C-8.

Table C-8

Standards for Ground Water-Source and Ground-Source Heat Pumps

Appliance	*Rating Condition*	*Minimum Standard*
Ground water–source heat pumps (cooling)	59° F entering water temperature	16.2 EER
Ground water–source heat pumps (heating)	50° F entering water temperature	3.6 COP
Ground–source heat pumps (cooling)	77° F entering brine temperature	13.4 EER
Ground–source heat pumps (heating)	32° F entering brine temperature	3.1 COP

(2) Energy Efficiency Standards for Computer Room Air Conditioners. The EER of air-cooled, water-cooled, glycol-cooled, and evaporatively-cooled computer room air conditioners manufactured on or after the effective dates shown, shall be not less than the applicable values shown in Tables C-9 and C-10.

Table C-9

Standards for Air-Cooled Computer Room Air Conditioners

		Minimum EER (Btu/watt–hour)			
Appliance	*Cooling Capacity (Btu/hr)*	*Effective January 1, 1988*	*Effective March 1, 2003*	*Effective January 1, 2004*	*Effective January 1, 2006*
Air–cooled computer room air conditioners	< 65,000	8.3	9.3	10.7	11.0
	≥ 65,000 and < 135,000	7.7	8.3	10.4	10.4
	≥ 135,000 and < 240,000	—	7.9	10.2	10.2

Table C-10

Standards for Water-Cooled, Glycol-Cooled, and Evaporatively-Cooled Computer Room Air Conditioners

		Minimum EER (Btu/watt–hour)			
Appliance	*Cooling Capacity (Btu/hr)*	*Effective January 1, 1988*	*Effective March 1, 2003*	*Effective October 29, 2004*	*Effective October 29, 2006*
Water–cooled, glycol–cooled and evaporatively–cooled computer room air conditioners	< 65,000	8.1	8.3	11.1	11.1
	≥ 65,000 and < 135,000	8.4	9.5	10.5	10.5
	≥ 135,000 and < 240,000	—	8.6	8.6	10.0

(3) Energy Efficiency Standards for Large Air-Cooled Unitary Air Conditioners. Air-cooled unitary air conditioners with cooling capacities greater than or equal to 240,000 Btu per hour and less than 760,000 Btu per hour manufactured on or after October 1, 2006 and before January 1, 2010 shall have an Energy Efficiency Ratio (EER) of at least 10.0. See Section

1605.1(c) for energy efficiency standards for air-cooled unitary air conditioners with cooling capacities greater than or equal to 240,000 Btu per hour and less than 760,000 Btu per hour that are manufactured on or after January 1, 2010.

(4) Gas-fired Air Conditioners and Heat Pumps. There is no energy efficiency standard or energy design standard for gas-fired air conditioners or gas-fired heat pumps.

(5) Other Central Air Conditioners. See Sections 1605.1(c) and 1605.2(c) for energy efficiency standards for central air conditioners that are federally-regulated consumer products or federally-regulated commercial and industrial equipment.

(d) Spot Air Conditioners, Evaporative Coolers, Ceiling Fans, Ceiling Fan Light Kits, Whole House Fans, Residential Exhaust Fans, and Dehumidifiers.

(1) See Section 1605.1(d) for energy design standards for ceiling fans and ceiling fan light kits.

(2) See Section 1605.1(d) for energy efficiency standards for dehumidifiers.

(3) There are no energy efficiency standards or energy design standards for spot air conditioners, evaporative coolers, whole house fans, or residential exhaust fans. There are no efficiency standards for ceiling fans and ceiling fan light kits.

(e) Gas and Oil Space Heaters and Electric Residential Boilers.

(1) Boilers, Central Furnaces, Duct Furnaces, and Unit Heaters.

(A) The efficiency of boilers, central furnaces, duct furnaces, and unit heaters shall be no less than, and the standby loss shall be not greater than, the applicable values shown in Tables E-5, E-6, E-7, and E-8. The standards for unit heaters shown in Table E-8 only apply to models manufactured on or before August 8, 2008.

Table E-5

Standards for Boilers

Appliance	*Output (Btu/hr)*	*Minimum AFUE %*	*Standards Minimum Combustion Efficiency %**	*Maximum Standby Loss (watts)*
Gas steam boilers with 3–phase electrical supply	< 300,000	75	—	—
All other boilers with 3–phase elecrical supply	< 300,000	80	—	—
Natural gas, non–packaged boilers	≥ 300,000	—	80	147
LPG Non–packaged boilers	≥ 300,000	—	80	352
Oil, non–packaged boilers	≥ 300,000	—	83	—

*At both maximum and minimum rated capacity, as provided and allowed by the controls.

Table E-6

Standards for Furnaces

Appliance	*Applications*	*Minimum Efficiency %*
Central furnaces with 3–phase electrical supply < 225,000 Btu/hour	Mobile Homes	75 AFUE
	All others	78 AFUE or 80 Thermal Efficiency (at manufacturer's option)

Table E-7

Standards for Duct Furnaces

		Standards		
		Minimum Thermal Efficiency %[1]		
Appliance	*Fuel*	*At maximum rated capacity*	*At minimum rated capacity*	*Maximum Energy Consumption during standby (watts)*
Duct furnaces	Natural gas	80	75	10
Duct furnaces	LPG[2]	80	75	147

[1]As provided and allowed by the controls.
[2]Designed expressly for use with LPG.

Table E-8

Standards for Unit Heaters Manufactured Before August 8, 2008

		Standards		
		Minimum Thermal Efficiency %[1]		
Appliance	*Fuel*	*At maximum rated capacity*	*At minimum rated capacity*	*Maximum Energy Consumption during standby (watts)*
Unit heaters	Natural gas	80	74	10
Unit heaters	LPG[2]	80	74	147
Unit heaters	Oil	81	81	N/A

[1]As provided and allowed by the controls.
[2]Designed expressly for use with LPG.

(B) Natural gas-fired unit heaters and duct furnaces manufactured on or after January 1, 2006, shall have either power venting or an automatic flue damper.

(C) The unit heater design standards set forth in this section shall be effective for models manufactured prior to August 8, 2008. See Section 1605.1(e) for design standards for unit heaters effective for models manufactured on or after August 8, 2008.

(2) Oil Wall Furnaces, Oil Floor Furnaces and Infrared Gas Space Heaters. There are no energy efficiency standards or energy design standards for oil wall furnaces, oil floor furnaces, or infrared gas space heaters.

(3) Combination Space-Heating and Water-Heating Appliances.

(A) If part of a combination space-heating and water-heating appliance is a water heater, that part shall comply with the applicable water heater standards in Sections 1605.1(f) and 1605.3(f).

(B) If part of a combination space-heating and water-heating appliance is a furnace, boiler, or other space heater, that part shall comply with the applicable furnace, boiler, or other space heater standards in Sections 1605.1(e) and 1605.3(e).

(C) Water heaters that are federally-regulated appliances, and that are contained in combination space-heating and water-heating appliances that are federally-regulated appliances, are required only to meet the standard for the applicable type of water heater, and are not required to meet any standard for space heaters.

(4) Other Gas and Oil Space Heaters. See Section 1605.1(e) for standards for gas and oil space heaters that are federally-regulated.

(f) Water Heaters.

(1) Hot Water Dispensers and Mini-Tank Electric Water Heaters. The standby loss of hot water dispensers and mini-tank electric water heaters manufactured on or after March 1, 2003 shall be not greater than 35 watts.

Exception to Section 1605.1(f)(1): Section 1605.3(f)(1) does not apply to any water heater

(1) that is within the scope of 42 U.S.C. sections 6292(a)(4) or 6311(1)(F),

(2) that has a rated storage volume of less than 20 gallons, and

(3) for which there is no federal test method applicable to that type of water heater.

(2) Small Water Heaters that are Not Federally-Regulated Consumer Products. The energy factor of small water heaters manufactured on or after March 1, 2003 that are not federally-regulated consumer products, other than hot water dispensers, booster water heaters, and mini-tank electric water heaters, shall be not less than the applicable values shown in Table F-5.

Exception to Section 1605.1(f)(2): Section 1605.3(f)(2) does not apply to any water heater:

(1) that is within the scope of 42 U.S.C. sections 6292(a)(4) or 6311(1)(F),

(2) that has a rated storage volume of less than 20 gallons, and

(3) for which there is no federal test method applicable to that type of water heater.

Table F-5

Standards for Small Water Heaters that are Not Federally-Regulated Consumer Products

Appliance	*Energy Source*	*Input Rating*	*Rated Storage Volume (gallons)*	*Minimum Energy Factor*[1]
Storage water heaters	Gas	≤ 75,000 Btu/hr	< 20	0.62 – (.0019 x V)
Storage water heaters	Gas	≤ 75,000 Btu/hr	> 100	0.62 – (.0019 x V)
Storage water heaters	Oil	≤ 105,000 Btu/hr	> 50	0.59 – (.0019 x V)
Storage water heaters	Electricity	≤ 12 kW	> 120	0.93 – (.00132 x V)
Instantaneous Water Heaters	Gas	≤ 50,000 Btu/hr	Any	0.62 – (.0019 x V)
Instantaneous Water Heaters	Gas	≤ 200,000 Btu/hr	≥ 2	0.62 – (.0019 x V)
Instantaneous Water Heaters	Oil	≤ 210,000 Btu/hr	Any	0.59 – (.0019 x V)
Instantaneous Water Heaters	Electricity	≤ 12 kW	Any	0.93 – (.00132 x V)

[1]Volume (V) = rated storage volume in gallons.

(3) Energy Efficiency Standards for Combination Space-Heating and Water-Heating Appliances. See Section 1605.3(e)(3) for standards for combination space-heating and water-heating appliances.

(4) Energy Efficiency Standards for Water Heaters. See Section 1605.1(f) for standards for water heaters that are federally-regulated consumer products or federally-regulated commercial and industrial equipment.

(5) Energy Efficiency Standards for Booster Water Heaters. There is no energy efficiency standard or energy design standard for booster water heaters.

(g) Pool Heaters, Portable Electric Spas, Residential Pool Pump and Motor Combinations, and Replacement Residential Pool Pump Motors.

(1) Energy Design Standard for Natural Gas Pool Heaters. Natural gas pool heaters shall not be equipped with constant burning pilots.

(2) Energy Design Standard for All Pool Heaters. All pool heaters shall have a readily accessible on-off switch that is mounted on the outside of the heater and that allows shutting off the heater without adjusting the thermostat setting.

(3) Energy Efficiency Standard for Heat Pump Pool Heaters. For heat pump pool heaters manufactured on or after March 1, 2003, the average of the coefficient of performance (COP) at Standard Temperature Rating and the coefficient of performance (COP) at Low Temperature Rating shall be not less than 3.5.

(4) Energy Efficiency Standards for Gas and Oil Pool Heaters. See Section 1605.1(g) for energy efficiency standards for gas and oil pool heaters that are federally-regulated consumer products.

(5) Residential Pool Pump and Motor Combinations, and Replacement Residential Pool Pump Motors.

(A) Motor Efficiency. Pool pump motors manufactured on or after January 1, 2006 may not be split-phase or capacitor start - induction run type.

(B) Two-, Multi-, or Variable-Speed Capability.

1. Residential Pool Pump and Motor Combinations. Pool pump motors with a capacity of 1 HP or more which are manufactured on or after January 1, 2008, shall have the capability of operating at two or more speeds with a low speed having a rotation rate that is no more than one-half of the motor's maximum rotation rate. Section 1605.3(g)(5)(B)1. applies to models manufactured prior to January 1, 2010.

2. Residential Pool Pump Motors. Residential pool pump motors with a pool pump motor capacity of 1 HP or greater which are manufactured on or after January 1, 2010, shall have the capability of operating at two or more speeds with a low speed having a rotation rate that is no more than one-half of the motor's maximum rotation rate. The pump motor must be operated with a pump control that shall have the capability of operating the pump at least at two speeds. Section 1605.3(g)(5)(B)2. applies to models manufactured on or after January 1, 2010.

3. Pump Controls. Pool pump motor controls manufactured on or after January 1, 2008 that are sold for use with a two- or more speed pump shall have the capability of operating the pool pump at least at two speeds. The control's default circulation speed setting shall be no more than one-half of the motor's maximum rotation rate. Any high speed override capability shall be for a temporary period not to exceed one 24-hour cycle without resetting to default settings.

(6) Portable Electric Spas. The normalized standby power, as defined in Section 1604(g)(2)(I), of portable electric spas manufactured on or after January 1, 2006, shall be not greater than $5(V^{2/3})$ watts where V = the fill volume, in gallons.

(h) Plumbing Fittings.

(1) Tub Spout Diverters. The leakage rate of tub spout diverters shall be not greater than the applicable values shown in Table H-2.

Table H-2

Standards for Tub Spout Diverters

Appliance	*Testing Conditions*	*Maximum Leakage Rate Effective March 1, 2003*
Tub spout diverters	When new	0.01 gpm
	After 15,000 cycles of diverting	0.05 gpm

(2) Showerhead-Tub Spout Diverter Combinations. Showerhead-tub spout diverter combinations shall meet both the standard for showerheads and the standard for tub spout diverters.

(3) Commercial Pre-rinse Spray Valves.

(A) Commercial pre-rinse spray valves manufactured on or after January 1, 2006, shall be capable of cleaning 60 plates in an average time of not more than 30 seconds per plate.

(B) See Section 1605.1(h) for water consumption standards for commercial pre-rinse spray valves.

(4) Other Plumbing Fittings. See Section 1605.1(h) for energy efficiency standards for plumbing fittings that are federally-regulated consumer products.

(i) Plumbing Fixtures.

See Section 1605.1(i) for water efficiency standards for plumbing fixtures that are federally-regulated consumer products.

(j) Fluorescent Lamp Ballasts.

See Section 1605.1(j) for energy efficiency standards for fluorescent lamp ballasts that are federally-regulated consumer products.

(k) Lamps.

(1) Energy Efficiency Standards for State-Regulated General Service Incandescent Lamps.

The lamp electrical power input of state-regulated general service incandescent lamps manufactured on or after the effective dates shown in Table K-7, shall be no greater than the applicable values shown in Table K-7.

Table K-7

Standards for State-Regulated General Service Incandescent Lamps

	Frost or Clear	
	Maximum Power Use (watts)	
Lumens (L)	*January 1, 2006*	*January 1, 2008*
L < 340	(0.0500 * Lumens) + 21	(0.0500 * Lumens) + 21
340 ≤ L < 562	(0.0500 * Lumens) + 21	38
562 ≤ L < 610	(0.0500 * Lumens) + 21	(0.2400 * Lumens) – 97
610 ≤ L < 760	(0.0500 * Lumens) + 21	(0.0500 * Lumens) + 19
760 ≤ L < 950	(0.0500 * Lumens) + 21	57
950 ≤ L < 1013	(0.0500 * Lumens) + 21	(0.2000 * Lumens) – 133
1013 ≤ L < 1040	(0.0500 * Lumens) + 21	(0.0500 * Lumens) + 19
1040 ≤ L < 1300	(0.0500 * Lumens) + 21	71
1300 ≤ L < 1359	(0.0500 * Lumens) + 21	(0.2700 * Lumens) – 280
1359 ≤ L < 1520	(0.0500 * Lumens) + 21	(0.0500 * Lumens) + 19
1520 ≤ L < 1850	(0.0500 * Lumens) + 21	95
1850 ≤ L < 1900	(0.0500 * Lumens) + 21	(0.4200 * Lumens) – 682
L ≥ 1900	(0.0500 * Lumens) + 21	(0.0500 * Lumens) + 21
	Soft White	
	Maximum Power Use (watts)	
Lumens (L)	*January 1, 2006*	*January 1, 2008*
L < 310	(0.0500 * Lumens) + 22.5	(0.0500 * Lumens) + 22.5
310 ≤ L < 514	(0.0500 * Lumens) + 22.5	38
514 ≤ L < 562	(0.0500 * Lumens) + 22.5	(0.2200 * Lumens) – 75
562 ≤ L < 730	(0.0500 * Lumens) + 22.5	(0.0500 * Lumens) + 20.5
730 ≤ L < 909	(0.0500 * Lumens) + 22.5	57
909 ≤ L < 963	(0.0500 * Lumens) + 22.5	(0.2200 * Lumens) – 143
963 ≤ L < 1010	(0.0500 * Lumens) + 22.5	(0.0500 * Lumens) + 20.5
1010 ≤ L < 1250	(0.0500 * Lumens) + 22.5	71
1250 ≤ L < 1310	(0.0500 * Lumens) + 22.5	(0.2500 * Lumens) – 241.5
1310 ≤ L < 1490	(0.0500 * Lumens) + 22.5	(0.0500 * Lumens) + 20.5
1490 ≤ L < 1800	(0.0500 * Lumens) + 22.5	95
1800 ≤ L < 1850	(0.0500 * Lumens) + 22.5	(0.4000 * Lumens) – 625
L ≥ 1850	(0.0500 * Lumens) + 22.5	(0.0500 * Lumens) + 22.5

(2) State-Regulated Incandescent Reflector Lamps.

The average lamp efficacy of state-regulated incandescent reflector lamps manufactured on or after January 1, 2008 shall be not less than the applicable values shown in Table K-8.

Table K-8

Standards for State-Regulated Incandescent Reflector – Lamps

Standards for State–Regulated Incandescent Reflector — Lamps

Rated Lamp Wattage	*Minimum Average Lamp Efficacy (LPW)*
40–50	10.5
51–66	11.0
67–85	12.5
86–115	14.0
116–155	14.5
156–205	15.0

Exceptions to Section 1605.3(k)(2): Section 1605.3(k)(2) does not apply to the following incandescent reflector lamps.

1. ≤ 45 watt R-20 (reflector, 2.5″ diameter)

2. ≤ 50 watt ER-30 (ellipsoidal reflector, 3.75″ diameter)

3. ≤ 50 watt ER-40 (ellipsoidal reflector, 5.00″ diameter)

4. 65 watt ER-40 (ellipsoidal reflector, 5.00″ diameter)

5. ≤ 50 watt BR-30 (bulge reflector, 3.75″ diameter)

6. ≤ 50 watt BR-40 (bulge reflector, 5.00″ diameter)

7. 65 watt BR-30 (bulge reflector, 3.75″ diameter)

8. 65 watt BR-40 (bulge reflector, 5.00″ diameter)

(3) Standards for State-Regulated General Service Incandescent Lamps, General Service Lamps, and Modified Spectrum Incandescent Lamps. The energy consumption rate of state-regulated general service incandescent lamps, general service lamps, and modified spectrum general service incandescent lamps manufactured on or after the effective dates shown in Tables K-9, K-10, and K-11 shall meet the standards shown in Tables K-9, K-10, and K-11.

Table K-9: Standards for State-Regulated General Service Incandescent Lamps - Tier I

Rated Lumen Ranges	*Maximum Rated Wattage*	*Minimum Rated Lifetime*	*Proposed California Effective Date*
1490–2600 Lumens	72 watts	1,000 Hours	Jan, 1, 2011
1050–1489 Lumens	53 watts	1,000 Hours	Jan 1, 2012
750–1049 Lumens	43 watts	1,000 Hours	Jan 1, 2013
310–749 Lumens	29 watts	1,000 Hours	Jan 1, 2013

Table K–10: Standards for State–Regulated General Service Lamps — Tier II

Lumen Ranges	*Minimum Lamp Efficacy*	*Minimum Rated Lifetime*	*Proposed California Effective Date*
All	45 lumens per watt	1,000 Hours	Jan, 1, 2018

(A) These standards apply to each lamp that:

1. is intended for a general service or general illumination application (whether incandescent or not);

2. has a medium screw base or any screw base not defined in ANSI C81.61-2006;

3. is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and

4. is manufactured or imported after December 31, 2010.

(B) Each lamp described in Section 1605.3(k)(3)(A) shall have a color rendering index that is greater than or equal to:

1. 80 for nonmodified spectrum lamps; or

2. 75 for modified spectrum lamps.

Table K-11: Standards for State-Regulated Modified Spectrum General Service Incandescent Lamps - Tier I

Rated Lumen Ranges	*Maximum Rated Wattage*	*Minimum Rated Lifetime*	*Proposed California Effective Date*
1118–1950 Lumens	72 watts	1,000 Hours	Jan 1, 2011
788–1117 Lumens	53 watts	1,000 Hours	Jan 1, 2012
563–787 Lumens	43 watts	1,000 Hours	Jan 1, 2013
232–562 Lumens	29 watts	1,000 Hours	Jan 1, 2013

(4) GU-24 Base Lamps. GU-24 base lamps shall not be incandescent lamps.

(5) See Section 1605.1(k) for energy efficiency standards for federally-regulated lamps.

(l) Emergency Lighting.

Illuminated Exit Signs. See Section 1605.1(l) for energy efficiency standards for illuminated exit signs.

(m) Traffic Signal Modules and Traffic Signal Lamps.

(1) Traffic Signal Modules for Pedestrian Control. The power consumption of traffic signal modules for pedestrian control manufactured on or after January 1, 2006 shall be not greater than the applicable values shown in Table M-2 when tested at the temperatures shown.

Table M-2

Standards for Traffic Signal Modules for Pedestrian Control Sold or Offered for Sale in California

Type	*at 25° C (77° F)*	*At 74° C (165.2° F)*
Hand or 'Don't Walk' sign or countdown.	10 watts	12 watts
Walking Person or 'Walk' sign	9 watts	12 watts

(2) See Section 1605.1(m) for energy efficiency standards for federally regulated traffic signal modules for vehicle control and federally regulated traffic signal modules for pedestrian control.

(n) Luminaires and Torchieres.

(1) Metal Halide Luminaires. Metal halide luminaires, manufactured on or after the effective dates shown in Table N-1, and manufactured before January 1, 2009, shall meet the requirements shown in Table N-1.

Table N-1

Standards for Metal Halide Luminaires Manufactured Before January 1, 2009

Lamp Position	*Lamp Rating*	*Effective Date*	*Requirements*
Vertical (base–up)	150–500 watts	Jan. 1, 2006	Luminaires shall not contain a probe–start metal halide ballast.
Vertical (base–down)	150–500 watts	Jan. 1, 2008	Luminaires shall not contain a probe–start metal halide ballast.
All	150–500 watts	Jan 1, 2008	Luminaires shall not contain a probe–start metal halide ballast.
All	150–500 watts	Jan 1, 2008	Luminaires with metal halide lamps shall contain metal halide ballasts with a minimum ballast efficiency of 88 percent. Exceptions: 1. Luminaires that use electronic ballasts that operate at 480 volts; or 2. Luminaires that meet all of the following criteria: a. rated only for 150 watt lamps; and b. rated for use on wet locations as specified by the National Electrical Code 2002, Section 410.4(a); and c. contain a ballast that is rated to operate at ambient air temperatures above 50° C as specified by UL 1029–2001.

Notes: Luminaires are covered if they are capable of operating lamps within the range of included lamp wattages. Vertical includes products rated only for use within 15° of vertical.

(2) Energy Efficiency Standard for Metal Halide Luminaires. Metal halide luminaires rated at least partially within the range of 150 to 500 watts shall not have probe-start ballasts and shall comply with Section 1605.3(n)(2)(A) as applicable:

(A) The requirements for metal halide luminaires are as follows:

1. Indoor metal halide luminaires manufactured on or after January 1, 2010 shall comply with at least one compliance option of Section 1605.3(n)(2)(B).

2. Indoor metal halide luminaires manufactured on or after January 1, 2015 shall comply with Section 1605.3(n)(2)(B)4, and shall also comply with at least one other compliance option of Section 1605.3(n)(2)(B).

3. Outdoor metal halide luminaires manufactured on or after January 1, 2010, may comply with Section 1605.3(n)(2)(B)3, and shall comply with at least one other compliance option of Section 1605.3(n)(2)(B).

(B) Metal halide luminaires shall meet one of the following compliance options:

1. A minimum ballast efficiency of:

i. 90 percent for 150 to 250 watt lamps; or

ii. 92 percent for 251 to 500 watt lamps.

2. A minimum ballast efficiency of 88 percent and an occupant sensor which is an integral control as defined in Section 1602(n) of this Article, shipped with the factory default setting to automatically reduce lamp power through dimming by a minimum of 40 percent within 30 minutes or less after an area has been vacated;

3. A minimum ballast efficiency of 88 percent and an automatic daylight control which is an integral control as defined in Section 1602(n) of this Article, shipped with the factory default setting to automatically reduce lamp power through dimming by a minimum of 40 percent;

4. A minimum ballast efficiency of 88 percent and a relamping rated wattage within only one of the four wattage bins specified in subsections (i) through(iv) below. The luminaire shall be able to operate lamps within only one of the four wattage bins and shall not be rated for any lamp wattage outside of that wattage bin. The luminaire shall have a permanent, pre-printed factory-installed label that states the relamping rated wattage.

i. 150-160 watts; or

ii. 200-215 watts; or

iii. 290-335 watts

iv. 336-500 watts, provided that when a luminaire is able to operate 336 to 500 watt lamps, the luminaire shall be prepackaged and sold together with at least one lamp per socket, having a minimum lamp mean efficacy of 80 lumens per watt based on published mean lumens and rated lamp power (watts).

EXCEPTIONS to Sections 1605.3(n)(2): The following metal halide lighting systems shall not have probe-start ballasts and are not required to meet the minimum ballast efficiency requirements:

1. Luminaires that use regulated lag ballasts;

2. Luminaires that use electronic ballasts which operate at 480 volts; or

3. Luminaires that meet all three of the following requirements:

a. Are rated for use only with 150 watt lamps, and

b. Are rated for use in wet locations, as specified by the National Electrical Code 2002, Section 410.4(A); and

c. Contain a ballast that is rated to operate at ambient air temperatures above 50 degrees C, as specified by UL 1029-2001.

(3) Energy Efficiency Standards for Under-Cabinet Luminaires. Under-cabinet luminaires that are equipped with T-8 fluorescent lamps and that are designed to be attached to office furniture and that are manufactured on or after January 1, 2006 shall be equipped with ballasts that have a ballast efficacy factor not less than the applicable values shown in Table N-2.

Under-cabinet luminaires that are equipped with GU-24 sockets manufactured on or after January 1, 2010 shall not be rated for use with incandescent lamps of any type, including line voltage or low voltage.

Exception 1 to Section 1605.3(n)(3):

Section 1605.3(n)(3) does not apply to luminaires equipped with T-8 ballasts designed for dimming.

Exception 2 to Section 1605.3(n)(3):

Section 1605.3(n)(3) does not apply to luminaires that are:

(a) specifically and exclusively designed for use in applications where electromagnetic interference from electronic ballasts would interfere with critical, sensitive instrumentation and equipment such as medical imaging devices; and

(b) clearly, legibly, and permanently labeled, in at least 12 point type and in a place likely to be seen by the purchaser and the installer, "This 'luminaire' or 'fixture' is intended exclusively for use in applications where critical, sensitive equipment would be adversely affected by electronic lamp ballast electromagnetic radiation".

Table N-2

Standards for Under-Cabinet Luminaires

Lamp Length (inches)	*Minimum Ballast Efficacy Factor (BEF) for one lamp*	*Minimum Ballast Efficacy Factor (BEF) for two lamps*
≤29	4.70	2.80
≥29 and ≤35	3.95	2.30
≥35 and ≤41	3.40	1.90
≥41 and ≤47	3.05	1.65
≥47	2.80	1.45

(4) Portable Luminaires.

(A) Portable luminaires manufactured on or after January 1, 2010 shall meet one or more of the following requirements:

1. Be equipped with a dedicated fluorescent lamp socket connected to a high frequency electronic ballast contained within the portable luminaire;

2. Be equipped with one or more GU-24 line-voltage sockets and not rated for use with incandescent lamps of any type, including line voltage or low voltage;

3. Be an LED luminaire or a portable luminaire with an LED light engine with integral heat sink, and comply with the minimum requirements shown in Table N-3;

Table N-3

Minimum Requirements for Portable LED Luminaires, and Portable Luminaires with LED Light Engines with Integral Heat Sink

Criteria	*Requirement*
Light Output	≥ 200 lumens (initial)
Minimum LED Luminaire Efficacy	29 lumens/W
Minimum LED Light Engine Efficacy	40 lumens/W
Color Correlated Temperature (CCT)	2700 K through 5000 K
Minimum Color Rendering Index (CRI)	75
Power Factor (for luminaires labeled or sold for residential use)	≥ 0.70

4. Be equipped with an E12, E17, or E26 screw-based socket and be prepackaged and sold together with one screw-based compact fluorescent lamp or screw-based LED lamp for each screw-based socket on the portable luminaire. The compact fluorescent or LED lamps which are prepackaged with the portable luminaire shall be fully compatible with the luminaire controls, meaning that portable luminaires having a dimmer control shall be prepackaged with dimmable compact fluorescent or LED lamps, and portable luminaires having 3-way controls shall be prepackaged with 3-way compact fluorescent or LED lamps. The compact fluorescent lamps which are prepackaged with the luminaires shall also meet the minimum energy efficiency levels established by ENERGY STAR® for compact fluorescent lamps in effect on December 31, 2008. The LED lamps required to be packaged with the luminaire shall comply with the minimum requirements shown in Table N-3;

5. Be equipped with one or more single-ended, non-screw based halogen lamp sockets (line or low voltage), a dimmer control or high low control, and be rated for a maximum of 100W.

EXCEPTIONS to Section 1605.3(n)(4). The following portable luminaires are not required to be prepackaged and sold together with compact fluorescent or LED lamps:

1. Portable Wall Mount Adjustable Luminaires that meet all of the following requirements: Designed only to be mounted on a wall, having no base which will allow the luminaire to stand on a horizontal surface, having an articulated arm, having a maximum overall length of 24 inches in any direction, fitted only with a single E-12, E-17 or E-26 lamp socket per luminaire, and controlled with an integral dimmer. Luminaires manufactured on or before December 31, 2011 shall have a maximum relamping rated wattage of 57 watts, and luminaires manufactured on or after January 1, 2012 shall have a maximum relamping rated wattage of 43 watts, as listed on a permanent pre-printed factory-installed label in accordance with Underwriters Laboratories (UL) 153.

2. Art Work Luminaires that meet all of the following requirements: Designed only to be mounted directly to art work only for the purpose of illuminating that art work, fitted only with E-12 screw-base line-voltage sockets, having no more than three sockets per luminaire, and controlled with an integral high/low switch. Luminaires with a single socket shall have a maximum relamping rated wattage of 25 watts, and luminaires with two or three sockets shall have a maximum relamping rated wattage of 15 watts per

socket, as listed on a permanent pre-printed factory-installed label in accordance with Underwriters Laboratories (UL) 153.

(B) Portable luminaires that have internal power supplies shall have zero standby power when the luminaire is turned off.

(5) GU-24 adaptors. GU-24 adaptors manufactured on or after January 1, 2010 shall not adapt a GU-24 socket to any other line voltage socket.

(6) See Section 1605.1(n) for energy efficiency standards for federally regulated metal halide lamp fixtures manufactured on or after January 1, 2009, and torchieres.

(o) Dishwashers.

See Section 1605.1(o) for energy efficiency standards for dishwashers that are federally-regulated consumer products.

(p) Clothes Washers.

(1) Commercial Clothes Washers. See Section 1605.1(p) for energy efficiency standards and water efficiency standards for commercial clothes washers.

(2) Other Clothes Washers. See Section 1605.1(p) and 1605.2(p) for energy efficiency standards and energy design standards for clothes washers that are federally-regulated consumer products.

(q) Clothes Dryers.

See Section 1605.1(q) for energy efficiency standards and energy design standards for clothes dryers that are federally-regulated consumer products.

(r) Cooking Products and Food Service Equipment.

(1) Energy Standards for Food Service Equipment. There is no energy efficiency standard or energy design standard for food service equipment other than commercial hot food holding cabinets.

(2) Energy Efficiency Standards for Commercial Hot Food Holding Cabinets. The idle energy rate of commercial hot food holding cabinets manufactured on or after January 1, 2006 shall be no greater than 40 watts per cubic foot of measured interior volume.

(3) Cooking Products. See Section 1605.1(r) for the energy design standard for cooking products that are federally-regulated consumer products.

(s) Electric Motors.

See Section 1605.1(s) for energy efficiency standards for electric motors that are federally-regulated commercial and industrial equipment.

(t) Distribution Transformers.

See Section 1605.1(t) for energy efficiency standards for low-voltage dry-type distribution transformers, liquid-immersed distribution transformers, and medium-voltage dry-type distribution transformers.

(u) Power Supplies.

The efficiency in the active mode of state-regulated external power supplies, manufactured on or after the effective dates shown when tested at 115 volts at 60 Hz, shall be not less than the applicable values shown (expressed as the decimal equivalent of a percentage); and the energy consumption in the no-load mode of power supplies manufactured on or after the effective dates when tested at 115 volts at 60 Hz, shown shall be not greater than the applicable values shown in Table U-2 and Table U-3.

EXCEPTION to Section 1605.3(u): A power supply that is made available by a manufacturer directly to a consumer or to a service or repair facility after and separate from the original sale of the product requiring the power supply as a service part, or spare part shall not be required to meet the Standards for Power Supplies in Table U-2 and Table U-3 until five years after the effective dates indicated in Table U-2 and Table U-3.

Table U-2

Standards for State-Regulated External Power Supplies

Effective January 1, 2007 for external power supplies used with laptop computers, mobile phones, printers, print servers, scanners, personal digital assistants (PDAs), and digital cameras.

Effective July 1, 2007 for external power supplies used with wireline telephones and all other applications.

Nameplate Output	*Minimum Efficiency in Active Mode*
0 to < 1 watt	0.49 * Nameplate Output
≥ 1 and ≤ 49 watts	0.09 * Ln(Nameplate Output) + 0.49
> 49 watts	0.84
	Maximum Energy Consumption in No–Load Mode
0 to <10 watts	0.5 watts
≥ 10 to ≤ 250 watts	0.75 watts

Where Ln (Nameplate Output) = Natural Logarithm of the nameplate output expressed in watts.

Table U-3

Standards for State-Required External Power Supplies

Effective July 1, 2008

Nameplate Output	*Minimum Efficiency in Active Mode*
<1 watt	0.5 * Nameplate Output
≥1 and ≤ 51 watts	0.09 * Ln(Nameplate Output) + 0.5
> 51 watts	0.85
	Maximum Energy Consumption in No–Load Mode
Any output	0.5 watts

Where Ln (Nameplate Output) = Natural Logarithm of the nameplate output expressed in watts.

(v) Televisions, and Consumer Audio and Video Equipment.

(1) Consumer Audio and Video Equipment. The power usage of consumer audio and video equipment manufactured on or after the effective dates shown shall be not greater than the applicable values shown in Table V-1. For equipment that consists of more than one individually powered product, each with a separate main plug, the individually powered products shall each have a power usage not greater than the applicable values shown in Table V-1.

Table V-1

Standards for Consumer Audio and Video Equipment

Appliance Type	*Effective Date*	Maximum Power Usage *(Watts)*
Compact Audio Products	January 1, 2007	2 W in Audio standby-passive mode for those without a permanently illuminated clock display 4 W in Audio standby-passive mode for those with a permanently illuminated clock display
Digital Versatile Disc Players and Digital Versatile Disc Recorders	January 1, 2006	3 W in Video standby-passive mode

(2) Televisions. All televisions manufactured on or after the effective dates shall meet the requirements shown in Table V-2.

(3) In addition, televisions manufactured on or after January 1, 2011 shall meet the requirements shown in Sections 1605.3(v)(3)(A) and 1605.3(v)(3)(B) and 1605.3(v)(3)(C) of this Article.

(A) A television shall automatically enter TV standby-passive mode or standby-active mode after a maximum of 15 minutes without video and/or audio input on the selected input mode.

(B) A television shall enter TV standby-passive mode when turned off by remote or integrated button/switch.

(C) The peak luminance of the product in “home” mode, or in the default mode as shipped, shall not be less than 65% of the peak luminance of the “retail” mode, or the brightest selectable preset mode, of the product.

Table V-2

Standards for Televisions

Effective Date	*Screen Size (area A in square inches)*	*Maximum TV Standby-passive Mode Power Usage (watts)*	*Maximum On Mode Power Usage (P in Watts)*	*Minimum Power Factor for (P ≥ 100W)*
January 1, 2006	All	3 W	No standard	No standard
January 1, 2011	A < 1400	1W	P ≤ 0.20 x A + 32	0.9
January 1, 2013	A < 1400	1W	P ≤ 0.12 x A + 25	0.9

(w) Battery Charger Systems.

There are no energy efficiency standards or energy design standards for battery charger systems.

The following standards are incorporated by reference in Section 1605.3.

Number	*Title*

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

ANSI C81.61–2006	Specifications for Electric Bases
Copies available from:	AMERICAN NATIONAL STANDARDS INSTITUTE 1819 L STREET, NW, 6TH FLOOR WASHINGTON, DC 20036 WWW.ANSI.ORG PHONE: (202) 293–8020 FAX: (202) 293–9287

FEDERAL REQUIREMENTS

ENERGY STAR® Program Requirements for CFLs

Copies available from:	US EPA CLIMATE PROTECTION PARTNERSHIP ENERGY STAR® PROGRAMS HOTLINE & DISTRIBUTION (MS–6202J) 1200 PENNSYLVANIA AVE NW WASHINGTON, DC 20460 WWW.ENERGYSTAR.GOV
Copies available from:	SUPERINTENDENT OF DOCUMENTS U.S. GOVERNMENT PRINTING OFFICE WASHINGTON, DC 20402 WWW.ACCESS.GPO.GOV/NARA/CFR

ILLUMINATING ENGINGEERING SOCIETY OF NORTH AMERICA (IESNA)

IESNA LM–79–08	Approved Method: Electrical and Photometric Measurements of Solid–State Lighting Products
Copies available from:	ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA 120 WALL STREET, 17TH FLOOR NEW YORK, NY 10005–4001 WWW.IESNA.ORG PHONE: (212) 248–5000 FAX: (212) 248–5017/18

NATIONAL ELECTRIC CODE (NEC)

ANSI/NFPA 70 2002	National Electrical Code 2002
Copies available from:	NATIONAL FIRE PROTECTION AGENCY 1 BATTERYMARCH PARK QUINCY, MA 02169–7471 WWW.NFPA.ORG PHONE: (617) 770–3000 FAX: (617) 770–0700

UNDERWRITERS LABORATORIES, INC. (UL)

UL 153	Portable Luminaires
UL 1029–2001	Standard for High–Intensity–Discharge Lamp Ballasts
Copies available from:	UNDERWRITERS LABORATORIES, INC. 333 PFINGSTEN ROAD NORTHBROOK, IL 60062–2096 WWW.UL.COM PHONE: (847) 272–8800 FAX: (847) 272–8129

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c), 25402.5.4 and 25960, Public Resources Code.

§ 1606. Filing by Manufacturers; Listing of Appliances in Database.

(a) Filing of Statements.

Each manufacturer shall file with the Executive Director a statement for each appliance that is sold or offered for sale in California. The statement shall contain all of the information described in paragraphs (2) through (4) of this subsection and shall meet all of the requirements of paragraph (1) of this subsection and all other applicable requirements in this Article. For models that are in the active database before November 27, 2002, no information needs to be submitted until (i) any of the characteristics in Table X is changed or (ii) the model is discontinued.

The effective dates of this section shall be the same as the effective dates shown in Section 1605.1, 1605.2 or 1605.3 for appliances for which there is an energy efficiency, energy consumption, energy design, water efficiency, water consumption, or water design standard in Section 1605.1, 1605.2, or 1605.3. For appliances with no energy efficiency, energy consumption, energy design, water efficiency, water consumption, or water design standard in Section 1605.1, 1605.2, or 1605.3, the effective date of this section shall be one year after they are added to Section 1601 of this Article, unless a different effective date is specified.

Exceptions to Section 1606(a): Section 1606(a) is not applicable to:

1. non-commercial cooking products until, as determined by the Executive Director, there takes effect a federal standard or a federal reporting requirement for annual cooking energy consumption or for a similar measure of energy performance, and

2. power supplies, and

3. refrigerators without doors and freezers without doors that are not specifically designed for display and sale of bottled or canned beverages, and

4. walk-in coolers and walk-in freezers, and

5. low-profile ceiling fans.

(1) General Rules.

(A) Format and Categories. Each statement shall be in a format (including but not limited to computer formats) and in categories specified by the Executive Director.

(B) When Different Statements are Required. The Executive Director may establish, modify, and enforce schedules for the submittal of statements where it is reasonably necessary for orderly processing of submittals, for example when manufacturers or third parties often submit many statements simultaneously.

(C) Asterisks in Model Numbers. In filing any statement, the manufacturer may use asterisks as a substitute for letters, numbers, blanks, or other characters in the model number, provided that an asterisk (i) shall be used only for a part of the model number that does not indicate energy consumption, energy efficiency, water consumption, or water efficiency, or a design or feature affecting such efficiency or consumption; (ii) shall represent a single letter,

number, blank, or other character at the asterisk's location in the model number; and (iii) shall not be used for any of the first four letters, numbers, blanks, or other characters in the model number.

(D) Different Functions. Except as provided in Section 1606(a)(1)(G), if the same appliance is sold or offered for sale as more than one type of appliance shown in Table X (for example, if the appliance can serve both water heating and pool heating functions), the manufacturer shall submit a separate statement for each appliance type. Each appliance type for which a statement is submitted must match all the common identifiers shown in Table X.

(E) Multiple Statements. A manufacturer may file statements for more than one appliance in a single submittal to the Executive Director. If a submittal contains statements for more than one appliance, there shall be only one statement for each appliance, except as provided in Sections 1606(a)(1)(D) and 1606(a)(1)(G). The Executive Director shall allow multiple statements to be submitted on the same sheet of paper or in the same electronic file under conditions she or he determines are reasonably necessary to ensure accuracy and compatibility with the database.

(F) Split System Central Air Conditioners. The statement for split system air conditioners shall be for the combination of the compressor-containing unit and the non-compressor-containing unit most likely to represent the highest national sales volume, consistent with Section 1604(c)(3).

(G) Combination Space-Heating and Water-Heating Appliances. Manufacturers of combination space-heating and water-heating appliances shall file two statements for each such appliance. The first statement shall contain the information listed in Table X for combination space-heating and water-heating appliances, and all other information shown in Table X for “all appliances;” and the second statement shall contain the information listed in Table X for the primary function of the appliance according to the determination required by Sections 1605(e) and 1605(f), and containing all other information shown in Table X for “all appliances.” Each appliance type for which a statement is submitted must match all the common identifiers shown in Table X.

(2) Manufacturer Information

(A) The name, address, telephone number, and, if available, fax number, URL (web site) address, and e-mail address of the manufacturer; provided, however, that if a parent entity is filing on behalf of a subsidiary entity, if a subsidiary entity is filing on behalf of a parent entity, or if an affiliate entity is filing on behalf of an affiliate entity, then each entity shall be clearly identified and the information shall be provided for both entities.

(B) The name, address, telephone number, and, if available, fax number and e-mail address of the individual to contact concerning the statement pursuant to Section 1606(a)(4). There shall be only one individual to contact for each category (box) in the “Appliance” column of Table X, except that the individual may, during his or her absence, delegate his or her duties in this regard.

(C) The name, address, telephone number, and, if available, fax number and e-mail address of the person signing the declaration pursuant to Section 1606(a)(4).

(3) Testing and Performance Information.

(A) A statement that the appliance has been tested in accordance with all applicable requirements of Sections 1603 and 1604. If Section 1604 provides more than one test method that may be used, the manufacturer shall identify which method was used.

(B) The name and address and, if available, telephone number, fax number, URL (web site) address, and e-mail address of the laboratory or other institution where the testing required by Sections 1603 and 1604 was performed.

(C) For commercial refrigerators, commercial refrigerator-freezers, commercial freezers, large storage water heaters, and plumbing fittings, the test reports upon which the manufacturer relies in filing information pursuant to paragraph (D) immediately below.

(D) The applicable information listed in Table X; provided, however, that submittal of information marked with "[1]" is voluntary for federally regulated appliances, and that submittal of information marked with "[2]" is voluntary for state-regulated appliances. Where there is text in the "Permissible Answers" column, the information provided must be one of the answers shown. If the text in the "Permissible Answers" column states "other (specify)," the information provided must be a specific response for the "Required Information" category (e.g., a response of "other" is not acceptable).

Exception 1. to Section 1606(a)(3)(D):

Section 1606(a)(3)(D) does not apply to any water heater:

(1) that is within the scope of 42 U.S.C. sections 6292(a)(4) or 6311(1)(F),

(2) that has a rated storage volume of less than 20 gallons, and

(3) for which there is no federal test method applicable to that type of water heater.

Exception 2. to Section 1606(a)(3)(D):

If an appliance has an alternative test procedure pursuant to Section 1603(c)(1), or an alternative assessment method specified pursuant to Section 1603(c)(2)(A), then the statement shall include:

(1) the following information from Table X: Manufacturer's Name, Brand Name, Model Number, and Regulatory Status; and

(2) all information from Table X that is applicable to the appliance and that is produced during the alternative test procedure or the alternative assessment method; and

(3) all other energy performance information produced during the alternative test procedure or the alternative assessment method.

Exception 3. to Section 1606(a)(3)(D):

If the Executive Director has specified that there is no test method for an appliance pursuant to Section 1603(c)(2)(B), then the statement shall include the following information from Table X: Manufacturer's Name, Brand Name, Model Number, and Regulatory Status.

(E) How Tested Data Must Be Reported.

1. For any numerical value required by Table X that is produced by a test specified in Section 1604, the reported value shall be no higher for the value for which the consumer would prefer a high number, and no lower for the value for which the consumer would prefer a low number, than the values obtained by testing; unless different specific instructions are specified in the test method specified in Section 1604.

2. For any numerical value required by Table X that is produced by calculation from measured numerical test results, the reported value shall be no higher for the values where the consumer would prefer a high number than the exact result of the calculation, and no lower than the exact result of the calculation where the consumer would prefer a low number, than the values obtained by calculating, unless different specific instructions are specified in the test method specified in Section 1604.

3. Manufacturers may report:

a. numbers higher than tested values, where the consumer would, all other things being equal, prefer lower values (or is indifferent); and

b. numbers lower than tested values, where the consumer would, all other things being equal, prefer higher values (or is indifferent).

Example: An air conditioner is tested using the appropriate test method specified in Section 1604, and the test method does not include specific instructions about the precision of reporting.

- Cooling capacity is measured as: 36,014 Btu per hour.
- For cooling capacity, consumers prefer higher values.
- The manufacturer may not report any value over 36,014 Btu per hour.
- The manufacturer chooses to report 36,000 Btu per hour.
- Electrical energy use is measured at 3,487 watts.
- For electrical energy use, consumers prefer lower values.
- The manufacturer may not report any value under 3,487 watts.
- The manufacturer chooses to report 3,500 watts.
- Using the data the manufacturer chooses to report, EER = 36,000/3,500 = 10.285714.
- For EER, consumers prefer higher values.
- The manufacturer may not report any value of EER over 10.285714 (if EER is reported with only one decimal place, the maximum value would be 10.2).
- The manufacturer chooses to report EER = 10.2 Btu per watt hour.
- If the manufacturer had chosen to report the cooling capacity as 36,014 Btu per hour, and the electrical energy use as 3,487 watts, the calculated EER would have been 36,014/3,487 = 10.328076. In this case the manufacturer could not report any value of EER over 10.328076 (if EER is reported with only one decimal place, the maximum value would be 10.3).

Table X

Data Submittal Requirements

	Appliance	*Required Information*	*Permissible Answers*
	All Appliances	* Manufacturer's Name * Brand Name * Model Number Regulatory Status	 Federally–regulated consumer product, federally–regulated commercial and industrial equipment, non–federally–regulated
A	Non–Commercial Refrigerators, Non–Commercial Refrigerator–Freezers Non–Commercial Freezers	*Style	Category in Table A–3 (specify).
		*Defrost System	Automatic, manual, partial–automatic
		*Type	Refrigerator, refrigerator–freezer, freezer
		Access[1,2]	Door, drawer, both door and drawer
		Kitchen Unit[1,2]	Yes, no
		Internal Freezer[1,2]	Yes, no
		Wine Chiller	Yes, no
		Chest Refrigerator[1,2]	Yes, no
		Refrigerator Volume	
		Freezer Volume	
		Total Volume	
		Height	
		Width	
		Depth	
		Annual Energy Consumption (low)	
		Annual Energy Consumption (high)	
		Annual Energy Consumption (mean)	
		Anti–sweat Heater Switch	Yes, no
		Refrigerant Type[1,2]	Ozone–depleting, non–ozone–depleting
		Insulation Type[1,2]	Ozone–depleting, non–ozone–depleting
	Self–contained Commercial Refrigerators with doors, Self–contained Commercial Refrigerator–Freezers with doors, Self–contained Commercial Freezers with doors, Self–contained Commercial Refrigerators specifically designed for display and sale of bottled or canned beverages without doors	*Cabinet Style	Ice cream cabinet; milk or beverage cabinet; milk, beverage, or ice cream cabinet; undercounter cabinet; other reach–in cabinet; pass–through cabinet; roll–in or roll–through cabinet; preparation table; buffet table; work top table; wine chiller that is not a consumer product.
		*Defrost System	Automatic, manual, partial–automatic
		*Type	Refrigerator, refrigerator–freezer, with a single refrigeration system, refrigerator–freezer with two refrigeration systems, refrigerator with self–condensing unit designed for pull–down temperature applications, freezer
		*Door Style	Solid hinged, solid sliding, transparent hinged, transparent sliding, none.
		Refrigerator Volume	
		Freezer Volume	
		Total Volume	
		Height	

*"Identifier" information as described in Section 1602(a).
1 = Voluntary for federally–regulated appliances
2 = Voluntary for state–regulated appliances

Appliance	*Required Information*	*Permissible Answers*
	Width	
	Depth	
	Daily Energy Consumption	
	Type of Illumination (reach–in cabinets, pass–through cabinets, roll–in or roll–through cabinets and wine chillers that are not consumer products only) (for those with transparent doors only)	T–8 fluorescent lamps with electronic ballasts, slim line T–12 fluorescent lamps with electronic ballasts, slim line T–12 fluorescent lamps with magnetic ballasts, incandescent lamps, other, none.
	Efficacy LPW (where Type of Illumination is required and is not T–8 fluorescent lamps with electronic ballasts) (for units manufactured on or after March 31, 2003 only)	
	Illumination Wattage	
	Refrigerant Type	Ozone–depleting, non–ozone–depleting
	Insulation Type	Ozone–depleting, non–ozone–depleting
Automatic Commercial Ice–Makers	*Equipment Type	Ice–making head, remote–condensing, self–contained, both remote–condensing and remote–compressor
	*Cooling Type	Air, water
	*Type of Ice Harvested	Cube, flake, crushed, other (specify)
	Harvest Rate	
	Energy Consumption	
	Water Consumption	
Water Dispensers	*Type	Bottle type; Bottle type with compartment,; Pressure type, bubbler; Pressure type with compartment, bubbler; Pressure type, faucet; Pressure type with compartment, faucet, Point–of–Use
	*Condenser Cooling Medium	Air–cooled; Water cooled
	*Style	Free–standing; Flush–to–Wall; Wall Hung; Wall Hung semi–recessed; Remote; Recessed
	*Refrigerated Compartment	
	Temperatures delivered	Cold only, cook (ambient) and cold, hot and cold
	Cooling Capacity (gallons/hour)	
	Heating Capacity (6–oz. cup per hour)	
	Standby Energy Consumption (kWH/day)	
Refrigerators without doors not specifically designed for the display and sale of bottled or canned beverages, Freezers without doors, Walk–in Coolers, and Walk–in Freezers	None	
Refrigerated Bottled or Canned Beverage Vending Machines	Multi–package	Yes, no
	Door Type	Glass front, closed front
	Machine use designation	Indoor, indoor/outdoor
	Daily Energy Consumption at 90° F. Ambient Temperature	

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	Appliance	*Required Information*	*Permissible Answers*
		Daily Energy Consumption at 75° F. Ambient Temperature (for models manufactured on or after January 1, 2006)	
		Type of Illumination	T–8 fluorescent lamps with electronic ballasts, light emitting diodes (LEDs), other (specify design and LPW).
		Standard Vendible Product	Can (specify size in ounces), Bottle (specify size in ounces)
		Standard Vendible Capacity	
		Low Power State – lighting	True, false (if True, also include: Hard–wired controls OR software)
		Low Power State – refrigeration	True, false (if True, also include: Hard–wired controls OR software)
		Low Power State – whole machine	True, false (if True, also include: Hard–wired controls OR software)
		On–Site Adjustable by Operator or Owner	True, false (if True, also include: Hard–wired controls OR software)
		Refrigerant Type	Ozone–depleting, non–ozone–depleting
		Insulation Type	Ozone–depleting, non–ozone–depleting
		Internal volume (multi–package units only)	
B	Room Air Conditioners and Room Air–Conditioning Heat Pumps	*Voltage	
		*Electrical Phase	1, 3
		*Type	Room air conditioner, room air conditioning heat pump, casement–only room air conditioner, casement–slider room air conditioner.
		*Louvered Sides	Yes, no
		Cooling Capacity at 95° F	
		Electrical Input at 95° F	
		Energy Efficiency Ratio (EER) at 95° F	
		Heating Capability	Heat pump, electric resistance heating, heat pump and electric resistance heating, no heating capability
		Heating Capacity (for heat pumps only)	
		Electrical Input (for heat pumps only)	
		Coefficient of Performance (for heat pumps only)	
		Heating Capacity (for models with electric resistance heating only)	
		Electrical Input (for those with electric resistance heating)	
		Refrigerant Type[1]	Ozone–depleting, non–ozone–depleting
	Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps	*Voltage	
		*Electrical Phase	1, 3
		*Type	PTAC, PTHP
		Cooling Capacity at 95° F	
		Electrical Input at 95° F	
		Energy Efficiency Ratio (EER) at 95° F	
		Heating Capability	Heat pump, electric resistance heating, heat pump and electric resistance heating, no heating capability
		Heating Capacity (for models with heating capability only)	
		Electrical Input (for models with heating capability only)	
		Coefficient of Performance (for models with heating capability only)	

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	Appliance	Required Information	Permissible Answers
		Refrigerant Type[1]	Ozone–depleting, non–ozone–depleting
		Indoor Fan Nominal Horsepower[1]	
		Indoor Fan Motor Type[1]	Premium, standard
		Outdoor Fan Nominal Horsepower[1]	
		Outdoor Fan Motor Type[1]	Premium, standard
		Compressor Power[1]	
C	All Central Air Conditioners and Central Air–Conditioning Heat Pumps	*Coil Model Number with which compressor was tested (for split systems only)	
		*Type	Air conditioner, heat pump (heating and cooling), heat pump (heating only), heat pump (cooling only)
		*Energy Source for Cooling	Electricity, natural gas
		*Energy Source for Heating	Gas, oil, electric heat pump, electric resistance, heat pump and electric resistance, none
		*Computer Room Air Conditioner	Yes, no
		*ARI Classification	
		*Voltage	
		*Electrical Phase	1, 3
		Verticial Air Conditioner (for single package models only) (required on or after January 1, 2010)	Yes, No
		Refrigerant Type[1,2]	Ozone–depleting, non–ozone–depleting
		Thermostatic Expansion Valve (for air–source or air–cooled models only)	Yes, no
		Thermostatic Expansion Valve (for air–source or air–cooled models only)[1,2]	Exception 1, Exception 2, Exception 3 [See Section 1605.2(c)(1)(B)], no exception
		Compressor Motor Design	Single–speed, dual–speed, multiple–speed, variable–speed
		Compressor Motor Horsepower[1,2]	
		Compressor Motor Type[1,2]	Premium, standard
		Outdoor Fan Motor Design[1,2]	Single–speed, dual–speed, multiple–speed, variable–speed
		Outdoor Fan Motor Nominal Horsepower[1,2]	
		Outdoor Fan Motor Type[1,2]	Premium, standard
		Outdoor Fan Motor Power Factor (for models with variable speed motors only)[1,2]	
		Indoor Fan Motor Design[1,2]	Single–speed, dual–speed, multiple–speed, variable–speed
		Indoor Fan Motor Nominal Horsepower[1,2]	
		Indoor Fan Motor Type[1,2]	Premium, standard
		Indoor Fan Motor Power Factor (for variable speed motors only)[1,2]	

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Appliance	*Required Information*	*Permissible Answers*
Air–Cooled, Single Package CAC < 65,000 Btu/hour and	Seasonal Energy Efficiency Ratio (SEER)	
	Cooling Capacity at 82° F	
	Electrical Input at 82° F	
Air–Cooled, Split System, CAC < 65,000 Btu/hour	Degradation Coefficient at 82° F	
	Cooling Capacity at 95° F	
	Electrical Input at 95° F	
	Energy Efficiency Ratio (EER) at 95° F	
	Cooling Capacity at 105° F (Voluntary)	
	Electrical Input at 105° F (Voluntary)	
	Energy Efficiency Ratio (EER) at 105° F (Voluntary)	
	Cooling Capacity at 115° F (Voluntary)	
	Electrical Input at 115° F (Voluntary)	
	Energy Efficiency Ratio (EER) at 115° F (Voluntary)	
	Space–constrained Product	Space–constrained; through–the–wall; small duct, high velocity; not space–constrained
Air–Source, Single Package Heat Pumps < 65,000 Btu/hour and	Seasonal Energy Efficiency Ratio (SEER)	
	Cooling Capacity at 82° F	
	Electrical Input at 82° F	
	Degradation Coefficient at 82° F	
	Cooling Capacity at 95° F	
Air–Source Split System Heat Pumps <65,000 Btu/hour	Electrical Input at 95° F	
	Energy Efficiency Ratio (EER) at 95° F	
	Cooling Capacity at 105° F (Voluntary)	
	Electrical Input at 105° F (Voluntary)	
	Energy Efficiency Ratio (EER) at 105° F (Voluntary)	
	Cooling Capacity at 115° F (Voluntary)	
	Electrical Input at 115° F (Voluntary)	
	Energy Efficiency Ratio (EER) at 115° F (Voluntary)	
	Heating Seasonal Performance Factor (HSPF)	
	Heating Capacity	
	Electrical Input	
	Space–constrained Product	Space–constrained; through–the–wall; small duct, high velocity; not space–constrained
Air–Cooled, Single Package CAC ≥ 65,000 and < 760,000 Btu/hour	Cooling Capacity at 95° F	
	Electrical Input at 95° F	

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Appliance	*Required Information*	*Permissible Answers*
Air–Cooled Split System CAC ≥ 65,000 and < 760,000 Btu/hour	Energy Efficiency Ratio (EER) at 95° F	
	Integrated Part Load Value (IPLV) If Applicable	
All Computer Room Air Conditioners	Heating System Type[1,2]	Gas, oil, electric resistance, none
Air–Source, Single Package Heat Pumps ≥ 65,000 Btu/hour and < 240,000 Btu/hour; and	Cooling Capacity at 95° F	
	Electrical Input at 95° F	
	Energy Efficiency Ratio (EER) at 95° F	
	Integrated Part Load Value (IPLV) If Applicable	
Air–Source, Split–System Heat Pumps ≥ 65,000 and < 240,000 Btu/hour	Heating Capacity at 47° F	
	Electrical Input at 47° F	
	Coefficient of Performance (COP) at 47° F	
	Heating Capacity at 17° F	
	Electrical Input at 17° F	
	Coefficient of Performance (COP) at 17° F	
Evaporatively–Cooled Single Package CAC < 240,000 Btu/hour and	Cooling Capacity at 95° F	
	Electrical Input at 95° F	
	Energy Efficiency Ratio (EER) at 95° F	
Evaporatively–Cooled Split System CAC < 240,000 Btu/hour	Integrated Part Load Value (IPLV) If Applicable	
	Heating System Type[1,2]	Gas, oil electric resistance, none
Water–Cooled Single Package CAC < 240,000 Btu/hour and	Compressor Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Indoor Fan Electrical Input (for models ≥ 65,000 Btu/hour only)	
Water–Cooled Split System CAC < 240,000 Btu/hour	Outdoor Fan Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Cooling Capacity at 85° F Entering Water Temperature	
	Electrical Input at 85° F Entering Water Temperature	
	Energy Efficiency Ratio (EER) at 85° F Entering Water Temperature	
	Low Temperature EER at 70° F Entering Water Temperature (for models < 65,000 Btu/hour only)	
	Heating System Type[1]	Gas, oil electric resistance, none
Water–Source, Single Package Heat Pumps < 240,000 Btu/hour and	Compressor Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Indoor Fan Electrical Input (for models ≥ 65,000 Btu/hour only)	
Water–Source Split System Heat Pumps < 240,000 Btu/hour	Outdoor Fan Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Cooling Capacity at 86° F Entering Water Temperature	
	Electrical Input at 86° F Entering Water Temperature	

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Appliance	*Required Information*	*Permissible Answers*
	Energy Efficiency Ratio (EER) at 86° F Entering Water Temperature	
	Heating Capacity at 68° F Entering Water Temperature	
	Electrical Input at 68° F Entering Water Temperature	
	Coefficient of Performance (COP) at 68° F Entering Water Temperature	
Ground Water–Source, Single Package Heat Pumps (< 240,000 Btu/hour except as noted) and	Compressor Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Indoor Fan Electric Input (for models ≥ 65,000 Btu/hour only)	
	Outdoor Fan Electrical Input (for models ≥ 65,000 Btu/hour only)	
Ground Water–Source Split System Heat Pumps (< 240,000Btu/hour except as noted)	Cooling Capacity at 59° F Entering Water Temperature (for all sizes, including but not limited to models ≥ 240,000 Btu/hour)	
	Electrical Input at 59° F Entering Water Temperature (for all sizes, including but not limited to models ≥ 240,000 Btu/hour)	
	Energy Efficiency Ratio (EER) at 59° F Entering Water Temperature (for all sizes, including but not limited to models ≥ 240,000 Btu/hour)	
	Heating Capacity at 50° F Entering Water Temperature (for all sizes, including but not limited to models ≥ 240,000 Btu/hour)	
	Electrical Input at 50° F Entering Water Temperature (for all sizes; including but not limited to models ≥ 240,000 Btu/hour)	
	Coefficient of Performance (COP) at 50° F. Entering Water Temperature (for all sizes, including but not limited to models ≥ 240,000 Btu/hour)	
Ground–Source, Closed–Loop, Single Package Heat Pumps and Ground–Source, Closed–Loop, Split System Heat Pumps	Compressor Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Indoor Fan Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Outdoor Fan Electrical Input (for models ≥ 65,000 Btu/hour only)	
	Cooling Capacity at 77° F Entering Brine Temperature	
	Electrical Input at 77° F Entering Brine Temperature	
	Energy Efficiency Ratio (EER) at 77° F Entering Brine Temperature	
	Heating Capacity at 32° F Entering Brine Temperature	
	Electrical Input at 32° F Entering Brine Temperature	
	Coefficient of Performance (COP) at 32° F Entering Brine Temperature	

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	Appliance	*Required Information*	*Permissible Answers*
	Gas–Fired Air Conditioners and Gas–Fired Heat Pumps	Cooling Capacity – (cooling bin summary)	
		Gas Input While Cooling – (cooling bin summary)	
		Electric Input While Cooling – (cooling bin summary)	
		Cooling COP – Gas	
		Cooling COP – Electric	
		Heating Output – (heating bin summary)	
		Gas Input While Heating – (heating bin summary)	
		Electric Input While Heating – (heating bin summary)	
		Heating COP – Gas	
		Heating COP – Electric	
D	Spot Air Conditioners	*Type	Single package, air–cooled; single package, evaporatively–cooled; split system: air–cooled condensing unit, coil with blower; split system: evaporatively–cooled condensing unit, coil alone; single package, air–cooled (FD); single package, evaporatively–cooled (FD); split system; air–cooled condensing unit, coil with blower (FD); split system; evaporatively–cooled condensing unit, coil alone (FD)
		Cooling Capacity	
		Total Electrical Input	
		Cooling Efficiency Ratio (CER)	
		Fan Electrical Input	
		Refrigerant Type	Ozone–depleting, non–ozone–depleting
	Evaporative Coolers	*Type	Direct, indirect, indirect/direct
		Evaporative Media Saturation Effectiveness (%) (for direct evaporative coolers only)	
		Media Type (for direct evaporative coolers only)	Expanded paper, woven plastic, aspen wood, rigid cellulose, other (specify).
		Cooling Effectiveness (for indirect evaporative coolers only)	
		Total Power (watts)	
		Airflow Rate (CFM)	
		ECER	
	Ceiling Fans, Except Low–Profile Ceiling Fans	CFM (low, medium, high)	
		Watts (low, medium, high)	
		Efficacy (low, medium, high) [CFM/watt]	
		Fan speed controls separate from light controls	True, false
		Adjustable Speed Controls	(Specify) speed, variable
		Reversible Fan Action Capable	Yes, no, Exception [See Section 1605.1(d)(1)(C)]
		Light Source Type	Compact fluorescent, incandescent, other (specify), None
	Low–Profile Ceiling Fans	None	

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	Appliance	*Required Information*	*Permissible Answers*
	Ceiling Fan Light Kits	Socket Type	Medium screw base, pin–based; other (specify)
		Packaged with all appropriate lamps to fill all sockets	Yes, no
		Screw–based Lamps Requirement (Screw–base only)	Meet 1605.1(d)(2)(A)1.a. or b. (specify)
		EnergyStar requirement compliant (pin–based sockets only)	Yes, no
		Operate with lamps totaling more than 190 watts (other socket types only)	Yes, no
	Whole House Fans and Residential Exhaust Fans	*Residential Exhaust Fan Type	Inline single–port, Inline multi–port, Range hood, Bathroom and utility room
		*Whole–House Fan Type	Belt–drive single–fan, Belt–drive dual–fan, Direct–drive single–fan, Direct–drive dual–fan
		Fan Motor Power (watts)	
		Air Flow (CFM)	
		Air Flow Efficiency (CFM/watt)	
	Dehumidifiers	Product capacity (pints per day)	
		Energy Factor	
E	All Space Heaters	*Energy Source	Natural gas, LPG, oil, combination (natural gas and oil), electricity (electric residential boilers only)
		*Burner Type	Induced draft, luminous, injection type, power, pressure
		Constant burning pilot light, (for gas or oil models only)	Yes, no
		*Labeled for Outdoor Installation	Yes, no
		*Electrical Phase	1, 3, none
		Draft Equipment[1,2]	Draft hood, draft diverter, barometric regulator, none
		Off–Cycle Devices	Stack damper, electro–mechanical inlet damper, electro–mechanical flue damper, none
		Flue Gas	Condensing, non–condensing
		Control	Single–stage, two–stage modulating, step modulating
		Fan Motor Design (furnaces only)[1,2]	Single–speed,dual–speed, multiple–speed, variable–speed
		Total Nominal Fan Motor Horsepower (furnaces only)	
		Fan Motor Type (furnaces only)	Premium, standard
		Fan Motor Power Factor (furnaces with variable–speed motors only)[1,2]	
		Pump Motor Design (boilers only). Note: This information is not required for boilers that are not provided with a pump.	Single–speed, dual–speed, multiple–speed, variable–speed
		Total Nominal Pump Motor Horsepower (boilers only). Note: This information is not required for boilers that are not provided with a pump.	
		Pump Motor Type (boilers only). Note: This information is not required for boilers that are not provided with a pump.	Premium, standard
		Pump Motor Power Factor (boilers with variable–speed motors only)[1,2]	
		Nameplate Input Rating	
		Rated Output	

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Appliance	*Required Information*	*Permissible Answers*
Central Furnaces	*Mobile Home	Yes, no
	*Air Flow Direction	Up, Down, Horizontal
	Fan Blower Capacity, High, at 0.5" W.C.[1,2]	
	Fan Blower Capacity, Low, at 0.5" W.C.[1,2]	
	Thermal Efficiency (for models ≥ 225,000 Btu/hour input and for three–phase equipment < 225,000 Btu/hour input for which the manufacturer chooses to test using ANSI Z21.47–2001)	
	Standby Watts [controls, not fan energy] (for models ≥ 225,000 Btu/hour input only)[1,2]	
	Annual Fuel Energy Consumption (for models < 225,000 Btu/hour input only, except for three–phase equipment for which the manufacturer chooses to test using ANSI Z21.47–2001) Annual Fuel Utilization Efficiency [AFUE] (for models < 225,000 Btu/hour input only, except for three–phase equipment for which the manufacturer chooses to test using ANSI Z21.47–2001)	
	Annual Auxiliary Electrical Energy Consumption (for models < 225,000 Btu/hour input only, except for three–phase equipment for which the manufacturer chooses to test using ANSI Z21.47–2001)	
	Thermal Efficiency at Minimum Capacity Provided and Allowed by the Controls (for models ≥ 225,000 Btu/hr input only)[1,2]	
Room Heaters, Floor Furnaces, and Wall Furnaces	*Type	Room heater (vented fan); room heater (gravity); floor furnace (fan); floor furnace (gravity); wall furnace (direct vent fan); wall furnace (direct vent gravity); wall furnace (vented fan); wall furnace (vented gravity)
	Annual Fuel Utilization Efficiency (AFUE)	
	Auxiliary Electric Power (for fan–type heaters only)	
	Average Annual Auxiliary Electrical Energy Consumption (for fan–type heaters only)[1]	
Duct Furnaces and Unit Heaters	*Type	Duct furnace; low static unit heater; high static unit heater; floor–mounted unit heater
	Thermal Efficiency at Maximum Rated Capacity	
	Energy Consumption During Standby	
	Thermal Efficiency at Minimum Rated Capacity	
	Power–Venting	Yes, no
	Automatic Flue Damper	Yes, no
Infrared Gas Space Heaters	*Type	Patio heater, non–patio heater
	Intensity	High, low
	Radiant Tube Type	Yes, no
	Portable	Yes, no

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Appliance	*Required Information*	*Permissible Answers*
	Vented	Yes, no
	Physically Possible to Measure Radiant Coefficient	Yes, no
	Combustion Efficiency (for models using ANSI test method only)	
	Radiant Coefficient (for models using ANSI test method only; for models for which it is physically possible to measure radiant coefficient only)	
	Effective Heating Area (for models using FSTC test method only)	
	Efficiency Index (for models using FSTC test method only)	
Combination Space–Heating and Water–Heating Equipment	*Primary Function	Primary function is space heating, secondary function is domestic water heating; primary function is domestic water heating, secondary function is space heating
	Volume (measured)	
	Volume (rated)	
	Energy Factor (for those models whose primary function is water heating)	
	Effective Space–Heating Efficiency (CA_{AFUE}) (for those models whose primary function is water heating)	
	Annual Fuel Utilization Efficiency (AFUE) (for those models whose primary function is space heating)	
	Effective Water–Heating Efficiency (CA_{EF}) (for those models whose primary function is space heating)	
	Combined Annual Efficiency (CAE)	
Boilers	*Type	Steam, hot water
	Design	copper, cast iron, other
	Automatic means for adjusting water temperature (small hot water boilers only)	Yes, no
	Input at Minimum Capacity[1]	
	Output at Minimum Capacity[1]	
	Combustion Efficiency (for models ≥ 300,000 Btu/hour input only) Thermal Efficiency (for models ≥ 300,000 Btu/hour input and < 2,500,000 Btu/hour input only)	
	Thermal Efficiency (for models ≥ 2,500,000 Btu/hour input only)[1]	
	Standby Loss (for packaged boilers ≥ 300,000 Btu/hour input only)[1]	
	Standby Loss (for nonpackaged boilers ≥ 300,000 Btu/hour input only)[2]	
	Thermal Efficiency at Minimum Capacity Rating (for non–packaged boilers ≥ 300,000 Btu/hour input only)	
	AFUE (for models < 300,000 Btu/hour input only)	

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	Appliance	*Required Information*	*Permissible Answers*
F	All Water Heaters	*Energy Source	Natural gas, LPG, oil, electric resistance, heat pump
		Rated Volume (except booster heaters, hot water dispensers, and large instantaneous water heaters < 10 gallons capacity)	
		Measured Volume (large water heaters only)	
		Rated Input	
		Heat Traps (for storage models only)	Yes, no
		Ozone Depleting Substance in Insulation[1,2]	Yes, no
		Ozone Depleting Substance in Refrigerant (for heat pump water heaters only)[1,2]	Yes, no
		Constant burning pilot light (for large gas and oil models only)	Yes, no
		Mobile Home	Yes, no
	Booster Heaters	Flow Capacity	
		Thermal Efficiency at 100% Capacity with 110° F Water Input Temperature	
	Hot Water Dispensers	Standby Loss	
	Mini-Tank Electric Water Heater	First Hour Rating	
		Height	
		Width at the Point of Greatest Width	
		Depth at the Point of Greatest Depth	
		Recovery Efficiency	
		Standby Loss % per hour	
		Total Standby Loss	
		Annual Energy Consumption	
	Other Small Electric Water Heaters	Annual Energy Consumption[1,2]	
		Tabletop Water Heater	Yes, no
		First Hour Rating	
		Energy Factor	
	Large Electric Water Heaters	Thermal Efficiency (instantaneous models only)	
		Standby Loss, % per hour (except for those models > 140 gallons for which exemption from standby loss standard is claimed). Note: This data requirement is mandatory for all models except large instantaneous models in which the data requirement is voluntary.	
		Standby Loss, watts (except for those models > 140 gallons for which exemption from standby loss standard is claimed)	
		R-value of Insulation (for models > 140 gallons) except those which comply with standby loss standard)	

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	Appliance	*Required Information*	*Permissible Answers*
	Small Gas Water Heaters and Small Oil Water Heaters	First Hour Rating (for storage models only)	
		Maximum Gallons Per Minute (for instantaneous models only)	
		Recovery Efficiency	
		Annual Energy Consumption[1,2]	
		Energy Factor	
		Pilot Light Energy Consumption (for instantaneous models only)	
	Large Gas Water Heaters and Large Oil Water Heaters	Thermal Efficiency	
		Standby Loss, %/hr (except for those models > 140 gallons for which exemption from standby loss standard is claimed). Note: This data requirement is mandatory for all models except large instantaneous models in which the data requirement is voluntary.	
		Standby Loss, Btu/hr (except for those models > 140 gallons for which exemption from standby loss standard is claimed). Note: This data requirement is mandatory for all models except large instantaneous models in which the data requirement is voluntary.	
		Electrical Power During Recovery While Appliance is Heating (for storage models only)	
		Electrical Power During Standby	
		R-value of Insulation (for models > 140 gallons only) for which exemption from standby loss standard is claimed	
		Flue Damper (for models > 140 gallons only)	Yes, no
		Fan Assisted Combustion (for models > 140 gallons only)	Yes, no
		Hot Water Supply Boiler (for instantaneous models with input => 300,000 Btu/hour and <= 12,500,000 Btu/hour only)	Yes, no
	Heat Pump Water Heaters	Current Rating	
		Voltage	
		Energy Factor (for models ≤ 24 amps current rating only)	
		Standby Loss (for models > 24 amps current rating only)	
		Thermal Efficiency (for models > 24 amps current rating and > 4,000 Btu/hour per gallon only)	
		R-value of Insulation (for models > 24 amps current rating only)	
		Refrigerant Type[1,2]	Ozone-depleting, non-ozone-depleting
G	Heat Pump Pool Heaters	Heating Capacity at Standard Temperature Rating	
		Readily-accessible on-off switch	Yes, no
		Coefficient of Performance at Standard Temperature Rating	
		Heating Capacity at Low Temperature Rating	

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Appliance	*Required Information*	*Permissible Answers*
	Coefficient of Performance at Low Temperature Rating	
	Heating Capacity at Spa Conditions Rating	
	Coefficient of Performance at Spa Conditions Rating	
	Refrigerant Type[1,2]	Ozone–depleting, non–ozone–depleting
Other Pool Heaters	Energy Source	Natural gas, LPG, oil, electric resistance
	Readily–accessible on–off switch	Yes, no
	Constant burning pilot light (for gas models)	Yes, no
	Input	
	Thermal Efficiency	
Residential Pool Pump and Motor Combinations and Replacement Residential Pool Pump Motors	Motor Construction	PSC, Capacitor Start–Capacitor Run, ECM, Capacitor Start–induction run, split–phase
	Motor Design	Single–speed, dual–speed, multi–speed, variable–speed
	Frame	
	Speed (in RPM)	
	Motor has Capability of Operating at Two or More Speeds with the Low Speed having a Rotation Rate that is No More than One–Half of the Motor's Maximum Rotation Rate	Yes, no
	Unit Type	Residential Pool Pump and Motor Combination, Replacement Residential Pool Pump Motor
	Pool Pump Motor Capacity	
	Motor Service Factor	
	Motor Efficiency (%)	
	Nameplate Horsepower	
	Flow for Curve 'A' (in gpm)	
	Power for Curve 'A' (in watts)	
	Energy Factor for Curve 'A' (in gallons per watt–hour)	
	Flow for Curve 'B' (in gpm)	
	Power for Curve 'B' (in watts)	
	Energy Factor for Curve 'B' (in gallons per watt–hour)	
	Flow for Curve 'C' (in gpm)	
	Power for Curve 'C' (in watts)	
	Energy Factor for Curve 'C' (in gallons per watt–hour)	
Portable Electric Spas	*Voltage	
	Volume (gallons)	
	Rated Capacity (number of people)	

*"Identifier" information as described in Section 1602(a).
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	Appliance	*Required Information*	*Permissible Answers*
		Normalized Standby Power (watts)	
		Spa Enclosure is Fully Insulated	Yes, no
H	Plumbing Fittings	*Type	Showerhead, lavatory faucet, kitchen faucet, metering faucet, lavatory replacement aerator, kitchen replacement aerator, wash fountain, lift–type tub spout diverter, turn–type tub spout diverter, pull–type tub spout diverter, push–type tub spout diverter
		Flow Rate	
		Pulsating (for showerheads only)	Yes, no
		Rim Space (for wash fountains only)	
		Tub Spout Leakage Rate When New	
		Tub Spout Leakage Rate After 15,000 Cycles	
	Commercial Pre–rinse Spray Valves	Flow Rate (gpm)	
I	Plumbing Fixtures	*Type	Blowout water closet, gravity tank type water closet, electromechanical hydraulic water closet, flushometer tank water closet, urinal, prison–type urinal, prison–type water closet, flushometer valve water closet, trough–type urinal, waterless urinal, vacuum type urinal, vacuum type water closet
		Water Consumption	
		Trough Length (trough–type urinals only)	
J	Fluorescent Lamp Ballasts	*Ballast Input Voltage	120, 277, other (specify)
		*Number of Lamps	
		*Type of Lamp	F34T12, F40T12, F96T12, F96T12/ES, F96T12HO, F96T12HO/ES, other T12 (specify), T5, T8, other (specify)
		Designed for Dimming	Continuous, stepped, no
		Designed for Dimming to 50% or Less of Maximum Output	Continuous, stepped, no
		Power Factor	
		Building Application	Designed but not labeled for use only in residential buildings, designed and labeled for use only in residential buildings, other
		Designed for Use in Ambient Temperatures of ≤ 0° F	Yes, no
		Designed for Use (a) at Ambient Temperatures ≤ –20° F and (b) in an Outdoor Sign (for models with two F96T12HO lamps only)	Yes, no
		Replacement Ballast as Defined in Section 1602(j)	Yes, no
		Maximum Input Watts	
		Minimum Input Watts	
		Ballast Efficacy Factor	
		Relative Light Output	
		Circuit Design	Cathode cut–out, electronic, magnetic
		Start	Instant, rapid
K	Federally–regulated general service fluorescent lamps	*Type	4–foot medium bi–pin general service fluorescent lamp, 2–foot U–shaped general service fluorescent lamp, 8–foot slim line general service fluorescent lamp, 8–foot high output general service fluorescent lamp

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	Appliance	*Required Information*	*Permissible Answers*
		Nominal Lamp Wattage	
		Rated Color Rendering Index	
		Minimum Average Lamp Efficacy (LPW)	
	Federally regulated incandescent reflector lamps, and state regulated incandescent reflector lamps	Nominal Lamp Wattage	
		Minimum Average Lamp Efficacy	
	Federally regulated Medium Screw Base Compact Fluorescent Lamps	Lamp Power (Watts)	
		Minimum Efficacy (LPW)	
		Lamp Configuration	Bare or Covered (no reflector)
		1,000 Hour Lumen Maintenance	Yes, no
		Lumen Maintenance Requirements	Yes, no
		Rapid Cycle Stress Test	Yes, no
		Average Rated Lamp Life	Yes, no
	Federally regulated Medium Screw Base General Service Incandescent Lamps; Medium Screw Based LEDs, OLEDs	Type	General Service Incandescent, LED, OLED
		Voltage Range	
		Rated Lumen Range	
		Maximum Rate Wattage	
		Minimum Rate Lifetime	
		Color Rendering Index	
		Minimum Efficacy (LPW) (required on or after January 1, 2018)	
		Modified Spectrum	Yes, no
		Bulb Finish (incandescent only)	Clear, frost, soft white
		ANSI–designated Bulb Shape	A–15, A–19, A–21, A–23, A–25, PS–25, PS–30, BT–14.5, BT–15, CP–19, TB–19, CA–22
	Federally regulated Candelabra Base and Intermediate Base Incandescent Lamps	Base Type	Candelabra, intermediate
		Maximum Rated Wattage	
	Medium Screw Base Modified Spectrum General Service Incandescent Lamp	Type	
		Rated Voltage	
		Rated Lumen Range	
		Maximum Rate Wattage	
		Minimum Rate Lifetime	
		Color Rendering Index	
	State–regulated general service incandescent lamps	Rated Lumens	
		Rated Lamp Wattage	
		Bulb finish	Clear, frost, soft white
		Average Lamp Efficacy	
		ANSI–designated bulb Shape	A–15, A–19, A–21, A–23, A–25, PS–25, PS–30, BT–14.5, BT–15, CP–19, TB–19, CA–22
L	Emergency Lighting	Light Source Type	LED, electroluminescent, fluorescent, incandescent, other (specify)
		Height of Letters "E, X, T"	
		Width of Letters "E, X, T"	
		Height of Letter "I"	
		Width of Letter "I"	
		Battery Backup	Yes, no
		Number of Faces	

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	Appliance	*Required Information*	*Permissible Answers*
		Sign Format	Edge–lit, panel, matrix, stencil, other (specify)
		Input Power	
		Minimum Luminance of Face	
		Maximum Luminance of Face Average Luminance of Face	
		Maximum to Minimum Luminance Ratio	
		Luminance Contrast	
M	Traffic Signal Modules for Vehicle control	Module Color Module Type	Green, amber, red circular, arrow, lane control–arrow, lane control–X, pedestrian, other (specify)
		Module Size (circular, arrow only)	
		Nominal Wattage at 25° C	
		Maximum Wattage at 74° C	
	Traffic Signal Modules for Pedestrian Control	Module Type	Hand, Walking Person, walk, don't walk, countdown (Specify)
		Power Consumption at 25° C	
		Power Consumption at 74°	
N	Torchieres	*Lamp Type of Upward–Facing Lamp(s)	Screw–based Incandescent, Halogen, Fluorescent Pin–based, Other (specify)
		*Lamp Type of Side Lamp(s)	Screw–based Incandescent, Halogen, Fluorescent Pin–based, Other, None (specify)
		Total Number of Lamp Sockets	
		Maximum Possible Power Demand, All Sockets (watts)	
		Method of Insuring 190 Watt Maximum Power Consumption	Current–limiting Device, Thermal Switch, Other (specify)
	Metal Halide Luminaires	*Lamp Position (orientation)	Vertical Base–Up, Vertical Base–Down, Horizontal, Universal, Other (specify)
		Lamp Rating, low (watts)	
		Lamp Rating, high (watts)	
		Outdoor Luminaire	Yes, no
		Compliance Option Used	≥ 90/92% efficient ballast, ≥ 88% efficient ballast with integral control (Occupancy Sensor), ≥ 88% efficient ballast with integral control (Automatic Daylight Control), ≥ 88% efficient ballast labeled for relamping with only 150–160 watt, 200–215 watt, 290–335 watt, or 336–500 watt lamps
		Ballast Type [only applies to models manufactured on or after January 1, 2006]	Probe–start electronic, probe–start magnetic, pulse–start electronic, pulse–start magnetic, other (specify)
		Minimum Ballast Efficiency (percent)	
		Integral Control Type (for integral control compliance method only)	Occupancy sensor, Automatic daylight control
		Integral Control Method (for integral control compliance method only)	Directly into luminaire housing Packaged and sold pre–wired Integrated wireless radio controlled sensor

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	Appliance	Required Information	Permissible Answers
		Maximum relamping rated wattage on a factory–installed label (watts) (for relamping wattage compliance method only)	
		Packaged with efficient lamps (for relamping wattage compliance method only)	Yes, no
	Under–Cabinet Fluorescent Fixtures (Luminaires)	Lamp Length (inches)	
		Number of Lamps for which Fixture (Luminaire) is Designed	
		Ballast Efficacy Factor	
O	Dishwashers	*Type	Compact, standard
		*Number of place settings	
		Power Consumption Per Cycle	
		Water Heating Dishwasher	Yes, no
		Truncated Normal Cycle Capable	Yes, no
		Energy Factor	
		Maximum Energy Use (required only for models manufactured on or after January 1, 2010)	
		Maximum Water Use (required only for models manufactured on or after January 1, 2010)	
P	Clothes Washers that are federally regulated consumer products	*Type	Front–loading, top loading
		*Controls	Automatic, semi–automatic, other (specify)
		*Axis	Horizontal, vertical
		Suds–Saving	Yes, no
		Combination Washer/Dryer[1]	Yes, no
		Clothes Container Compartment Capacity	
		Power Consumption Per Cycle[1]	
		Water Consumption Per Cycle	
		Energy Factor	
		Water Factor	
		Remaining Moisture Content	
	Clothes Washers that are not federally–regulated consumer products	*Type	Front–loading, top loading
		*Controls	Automatic, semi–automatic, other (specify)
		*Axis	Horizontal, vertical
		Suds–Saving	Yes, no
		Combination Washer/Dryer	Yes, no
		Clothes Container Compartment Capacity	
		Power Consumption Per Cycle	
		Water Consumption Per Cycle	
		Energy Factor	
		Water Factor	

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	Appliance	*Required Information*	*Permissible Answers*
		Remaining Moisture Content (required only on and after January 1, 2004)	
Q	Clothes Dryers	*Energy Source	Gas, electric
		*Drum Capacity	
		*Voltage	120, 240, other (specify)
		Combination Washer/Dryer[1]	Yes, no
		Automatic Termination Control[1]	Yes, no
		Energy Factor	
		Constant Burning Pilot Light (Gas models only)	Yes, no
R	Consumer Product Cooking Products [filing requirements take effect only when there is a federal standard or federal reporting requirement for annual cooking energy consumption (or similar measure of energy performance)]	*Type	Conventional range, conventional cooking top, conventional oven, microwave oven, microwave/conventional range, other (specify)
		*Energy Source	Gas, electric, microwave
		Electrical Supply Cord (for gas models only)	Yes, no
		*Constant Burning Pilot Light	Yes, no
		Annual Cooking Energy Consumption	
			Power Usage in Audio Standby–Passive Mode for Models With a Permanently–Illuminated Clock Display (watts)
		Annual Self–Cleaning Energy	
		Consumption (for conventional ovens only)	
		Total Annual Energy Consumption (for conventional ovens only)	
		Clock Power Consumption (for gas conventional ovens only)	
		Pilot Light Consumption (for gas conventional ovens only)	
		Annual Secondary Energy Consumption (for gas conventional ovens only)	
	Commercial Convection Ovens	Energy Input Rate	
		Idle Energy Consumption Rate	
	Commercial Hot Food Holding Cabinets	Measured Interior Volume (cu. ft.)	
		Energy Input Rate	
		Idle Energy Consumption Rate	
	Commercial Range Tops	Energy Input Rate	
		Cooking Energy Efficiency	
		Test Cooking Vessel Diameter	

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	Appliance		*Required Information*	*Permissible Answers*
S	Electric Motors		Type (data required for Subtype I, Subtype II, Fire Pump and NEMA Design B motors on or after December 19, 2010 only)	NEMA Design A, NEMA Design B, IEC Design N, other equivalent design, Multiple–Designs (two or more of NEMA Design A, NEMA Design B, IEC Design N, other equivalent design), General purpose subtype I, General purpose subtype II, Fire pump motor, NEMA Design B general purpose
			Voltage	230, 460, both 230 and 460, multi–voltage (includes 230 or 460)
			Speed[1]	Single, multiple
			Rated Horsepower	
			Input Power	In kilowatts (kW)
			Air Exchange	Open, enclosed
			Number of Poles	2, 4, 6, 8
			Nominal Full Load Efficiency	
T	Distribution Transformers		Distribution Transformer type (Data required for liquid–immersed and medium–voltage dry–type on or after January 1, 2010 only)	Low–voltage dry–type; liquid–immersed; medium–voltage dry–type
			*Phase	1, 3
			kVa (BIL kVa for medium–voltage dry–type)	
			Rated Output Power	
			Total Loss Power	
			Efficiency (for medium–voltage models, this will be the Efficiency at 20–45 kV)	
			Efficiency 2 (medium voltage models only, Efficiency at 46–95 kV)	
			Efficiency 3 (medium voltage models only, Efficiency at ≥ 96 kV)	
U	Power Supplies		None	
V	Televisions		Type*	CRT, Plasma, LCD, DLP, Rear Projection, Laser, OLED, LCOS
			Viewable Screen Area	
			Screen Size	
			Automatic Brightness Control	Yes, No
			Automatic Brightness Control enabled	Yes, No
			Forced menu	Yes, No
			Native Vertical Resolution	
			Aspect Ratio	
			Integrated Occupancy Sensor	Yes, No
			L_{home}	
			L_{high}	
			Luminance Ratio	
			TV Standby–Passive Mode Power (watts)	
			On Mode Power (watts)	
			Retail On Mode Power (watts)	
			Power Factor	
	Consumer Audio and Video Equipment	Compact Audio Products	Power Usage in Audio Standby–Passive Mode for Models Without a Permanently–Illuminated Clock Display (watts)	
			Power Usage in Audio Standby–Passive Mode for Models With a Permanently–Illuminated Clock Display (watts)	
		Digital Versatile Disc Players and Digital Versatile Disc Recorders	Power Usage in Video Standby–Passive Mode (watts)	
W	Battery Charger Systems		None	

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(4) Declaration.

(A) Each statement shall include a declaration, executed under penalty of perjury of the laws of California, that

1. all the information provided in the statement is true, complete, accurate, and in compliance with all applicable provisions of this Article;

2. if the statement is being filed electronically, that the requirements of Section 1606(g) have been and are being complied with;

3. for appliances for which there is an energy efficiency, energy consumption, energy design, water efficiency, water consumption, or water design standard in Section 1605.1, 1605.2, or 1605.3, that the appliance complies with the applicable standards;

4. the appliance was tested under the applicable test method specified in Section 1604, and, for the following appliances, was tested as follows:

a. for wine chillers that are consumer products, the appliance was tested to 10 CFR Section 430.23(a)(2008) with the modifications referenced in Table A-1;

b. for automatic commercial ice-makers manufactured on or before December 31, 2009, the appliance was tested to ARI 810-2003, and the reported harvest rate is within 5% of the tested value;

c. for multi-package refrigerated bottled or canned beverage vending machines, the volume was measured using ANSI/AHAM HRF-1-2004;

d. for other self-contained commercial refrigerators, refrigerator-freezers, and freezers both with and without doors, the appliance's volume was measured using ANSI/AHAM HRF-1-2004 and the controls of all appliances were adjusted to obtain the product temperatures referenced in Table A-2;

e. for other self-contained commercial refrigerators, refrigerator-freezers, and freezers with doors that are pass-through and roll-through refrigerators and freezers, that the back (loading) doors remained closed throughout the test;

f. for all refrigerators, refrigerator-freezers, and freezers were tested using alternating current electricity only;

g. for all split system central air conditioners and compressor-containing units, these models were tested with the non-compressor containing unit most likely to represent the highest national sales volume for the combined equipment;

h. for all gas-fired air conditioners and gas-fired heat pumps, all appliances were tested to ANSI Z21.40.4-1996 as modified by CEC, Efficiency Calculation method for Gas-Fired Heat Pumps as a New Compliance Option (1996);

i. for evaporative coolers, all appliances were tested to the applicable test method referenced in Table D-1 with the modifications appearing in Table D-1;

j. for whole house fans, all appliances were tested to HVI-916, and were tested with manufacturer-provided louvers in place;

k. for heat pump pool heaters, all appliances were tested using ANSI/ASHRAE 146-1998, as modified by the Addendum Test Procedure published by the Pool Heat Pump Manufacturers Association as referenced in Table G; and

l. for commercial pre-rinse spray valves, all appliances were tested to ANSI/ASTM F2324-03, provided that adjustable flow-rate units be tested at their maximum possible flow rate.

5. all units of the appliance are marked as required by Section 1607, and, for the following appliances, are marked as follows:

a. for all air conditioners, heat pumps, furnaces, boilers, and water heaters that are not subject to NAECA and that comply with the October 29, 2001 provisions in Tables 6.2.1 A through G of ASHRAE/IESNA Standard 90.1-1999, they are marked, permanently and legibly on an accessible and conspicuous place on the unit, with a statement that the equipment complies with the 2001 requirements of ASHRAE Standard 90.1;

b. for all other air conditioners, heat pumps, furnaces, boilers, and water heaters that are not subject to NAECA and that comply with the October 29, 1999 provisions (but not with the October 29, 2001 provisions) in Tables 6.2.1 A through G shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, with a statement that the equipment complies with the 1999 requirements of ASHRAE Standard 90.1;

c. for all distribution transformers, each appliance complies with the labeling requirements of NEMA Standard TP3-2000;

d. for all illuminated exit signs meeting the criteria of Section 1605.1(l), each appliance is marked by the manufacturer with a block E inside a circle; the mark commonly referred to as “Circle E.” The size of the mark shall be commensurate with other markings on the sign, but not smaller than 1/4″;

e. for all torchieres, each unit of torchieres and each package containing a torchiere is marked, permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/8″ on the inner surface of the reflector bowl of the torchiere, and 1/4″ on the packaging, “LAMPS MUST TOTAL NO MORE THAN 190 WATTS-TORCHIERE IS NON-COMPLIANT IF IT IS ABLE TO DRAW MORE THAN 190 WATTS.”;

f. for ceiling fans, each package containing a ceiling fan whose diameter exceeds 50 inches is marked, permanently and legibly on an accessible and conspicuous place on the unit's packaging, in characters no less than 1/4″, the unit's airflow at high, medium, and low speed in CFM, and the unit's air flow efficiency in CFM/watt at high, medium and low speed;

g. for commercial pre-rinse spray valves, each unit is marked, permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/8″, the flow rate of the unit, in gallons-per minute (gpm) at 60 psi;

h. for residential pool pumps, each pool pump is marked permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/4″, with the

nameplate HP of the pump and, if manufactured on or after January 1, 2010, with the statement, “This pump must be installed with a two-, multi-, or variable-speed pump motor controller”;

i. for residential pool pump motors, each pool pump motor is marked permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/4″, with the pool pump motor capacity of the motor.

j. for televisions, each television shall display the on mode power consumption as determined using the test method in Section 1604(v)(3) of this Article and as certified by the manufacturer under the requirements found in Section 1606(a) of this Article;

k. for televisions, any publication, website, document, or retail display that is used for sale or offering for sale a television manufactured on or after January 1, 2011 and which includes a description of the physical dimensions of the television shall include the identical on mode power consumption, in watts, immediately following and in the same font and same font size as the description of the physical dimensions. as filed under the requirements found in Section 1606(a)(3)(D) of this Article.

(B) If the manufacturer is a corporation, partnership, or other business entity, the declaration shall be signed by an individual authorized to make the declaration and file the statement on behalf of the business entity, and the declaration shall contain an affirmation that the individual signing is so authorized.

(C) The declaration shall be submitted and maintained as follows:

1. Statements filed on paper.

a. If the statement is filed by a manufacturer, then the manufacturer shall file a wet-signed paper declaration with the Executive Director and the Executive Director shall keep the declaration.

b. If the statement is filed by a third party under Section 1606(f), then the manufacturer shall file a wet-signed paper declaration with the third party and the third party shall keep the declaration and shall provide it to the Executive Director on request.

2. Statements filed electronically.

a. If the information is filed by a manufacturer, then either:

(i) the manufacturer shall file a wet-signed paper declaration with the Executive Director and the Executive Director shall keep the declaration;

(ii) if the Executive Director has approved the use of a unique digital identifier for this purpose, the manufacturer shall include in the statement a declaration digitally signed under Government Code 16.5 and Title 2, California Code of Regulations, Division 7, Chapter 10 (beginning with Section 22000); or

(iii) the manufacturer shall execute a wet-signed paper declaration, electronically scan and copy the declaration, include the electronic copy of the declaration with the statement filed with the Executive Director, and keep the wet-signed paper declaration and provide it upon

request to the Commission; and the Commission shall keep the electronic copy of the declaration.

b. If the information is filed by a third party under Section 1606(f), then either:

(i) the manufacturer shall file a wet-signed paper declaration with the third party and the third party shall keep the declaration and shall provide it to the Executive Director on request;

(ii) if the Executive Director has approved the use of a unique digital identifier for this purpose, the manufacturer shall execute a declaration digitally signed under Government Code 16.5 and Title 2, California Code of Regulations, Division 7, Chapter 10 (beginning with Section 22000), and provide the electronic declaration to the third party; and the third party shall keep a copy of the electronic declaration and shall provide it to the Executive Director on request; or

(iii) the manufacturer shall execute a wet-signed paper declaration, electronically scan and copy the declaration, include both the wet-signed paper declaration and the electronic copy of the declaration with the electronic information provided to the third party; the third party shall include the electronic copy with information filed with the Executive Director, shall keep an electronic copy, and shall provide the wet-signed paper declaration to the Executive Director upon request; and the Executive Director shall keep a copy of the electronic declaration.

(b) Review of Statements by the Executive Director.

In this subsection, “manufacturer” also includes a third party filing a statement under Section 1606(f).

(1) Determination. The Executive Director shall determine whether a statement is complete, accurate, and in compliance with all applicable provisions of this Article, and whether the appliance for which the statement was submitted complies with all applicable standards in Sections 1605.1, 1605.2, and 1605.3.

(2) Informing Manufacturer and third party of Determination.

(A) The Executive Director shall inform the manufacturer or the third party, as described in Section 1606(f), of the determination within 30 calendar days after receipt by the Executive Director whether it is filed electronically or on paper.

(B) The Executive Director's determination shall be sent to the manufacturer electronically if the statement was filed electronically and either electronically or on paper if the statement was filed on paper.

(3) Nature of Determination.

(A) Statement is Incomplete. If the Executive Director determines that a statement is not complete, or that the statement does not contain enough information to determine whether it is accurate or whether the appliance complies with an applicable standard, the Executive Director shall return the statement to the manufacturer with an explanation of its defects and a request for any necessary additional information. The manufacturer shall refile the statement with all information requested by the Executive Director and with any other information it wants

to file. The Executive Director shall review the refiled statement according to the time limits in Section 1606(b)(2).

(B) Statement is Inaccurate or Appliance Does Not Comply. If the Executive Director determines that the statement is inaccurate or that the appliance does not comply with an applicable standard, the Executive Director shall reject the statement and return it to the manufacturer with an explanation of its defects. The manufacturer may submit a revised statement for the appliance at any time.

(C) Statement is Complete and Accurate and Appliance Complies. If the Executive Director determines that the statement is complete and accurate and that the appliance complies with all applicable standards, the Executive Director shall immediately include the appliance in the database and shall so inform the manufacturer. (Section 1608(a) states that no appliance within the scope of these regulations may be sold or offered for sale in California unless the appliance is in the database.)

(c) Database of Appliance Models.

(1) Creation of Database. The Executive Director shall maintain a database. The database shall consist of two parts:

(A) "Active Database." The active database shall contain, at least, information on all appliances that are currently in production, for which complete and accurate statements have been received pursuant to Section 1606(a), and that have not been removed from the database pursuant to Sections 1606(c)(3), Sections 1606(d)-(e), or 1608(c)-(e).

If basic models are certified using an alternate test procedure established pursuant to Section 1603(c)(1) or for which the Executive Director has made a specification under either Section 1603(c)(2)(A) or Section 1603(c)(2)(B), the Active Database shall contain a second section which shall contain only those basic models for which certification to an applicable alternate test procedure is made.

(B) "Historical Database." The historical database shall contain, at least, information on all appliances that:

1. are no longer in production, for which complete and accurate statements have been received pursuant to Section 1606(a) or

2. have been removed from the active database pursuant to Sections 1606(e)(2) or 1608(c).

(2) Status of Database. The database is the directory published by the Commission within the meaning of Title 24, California Code of Regulations, Part 6, Subchapter 1, Section 100(h). The database in existence on the effective date of this paragraph is the directory referred to in this paragraph, until that existing database is modified by the Executive Director pursuant to this Article.

(3) Confirmation of Database Listings. The Executive Director may, by writing to the most recent address filed pursuant to Section 1606(a)(2)(B), request each manufacturer of an appliance listed in the database to confirm the validity, or to correct in compliance with this Article, all of the information in each of its database listings, including but not limited to the

appliance's compliance with any applicable standard adopted since the most recent filing by the manufacturer. If, within 30 days after the mailing, there is any appliance for which the Executive Director has not received a reply from the manufacturer that confirms the validity of, or corrects, all of the information in the database listing, the Executive Director shall write via certified mail (registered mail to non-U.S. destinations), to the same address. If within 30 days of the latter mailing there is no such reply, the appliance shall be removed from the Active Database and moved into the Historical Database, and it may be presumed that the appliance is no longer in production.

(d) Assessment of Completeness, Accuracy, and Compliance of Manufacturer Statements. Notwithstanding any other provision of these regulations, the Executive Director may at any time challenge the completeness, accuracy, and compliance with the requirements of this Article, of any statement or confirmation filed pursuant to this Section. If the statement is incomplete or inaccurate, or if the Executive Director determines that the statement otherwise fails to comply with any of the requirements of this Article (including but not limited to non-compliance with standards currently in effect, but not in effect when the statement was filed), then he or she shall, ten working days after providing written notice by certified mail (registered mail to non-U.S. destinations) to the person designated in Section 1606(a)(2)(B), remove the appliance from the database described in Section 1606(c).

(e) Modified and Discontinued Appliances.

(1) If any of the characteristics listed in Table X are changed, the manufacturer shall file a statement containing only the identifiers and the modified information for all the characteristics that have been changed for the appliance. Upon receipt of such a statement, the Executive Director shall review the statement under Section 1606(b). If the statement is complete, accurate, in compliance with all applicable standards, the Executive Director shall modify the database accordingly.

(2) After any appliance has ceased being sold or offered for sale in California the manufacturer shall file a statement so stating and only containing the identifiers shown in Table X for the appliance. Upon receipt of such a statement, the Executive Director shall review the statement under Section 1606(b). If the statement is complete, accurate, and in compliance with all applicable provisions of this Article, the Executive Director shall move the appliance from the Active Database to the Historical Database.

(f) Filing by Third Parties.

(1) A third party may file on behalf of a manufacturer the information required by Sections 1606(a)(2), 1606(a)(3), 1606(a)(4), 1606(c)(3), or 1606(e) if:

(A) before or with its first submittal, and at least annually thereafter, the third party submits to the Executive Director, under penalty of perjury, persuasive evidence that:

1. the third party has read and understood all the provisions of this Article, of federal law, and of all other documents applicable to each appliance category in Sections 1601(a)-(w) for which the third party will file information; and

2. the third party is financially and technically capable of complying with the applicable provisions of this Article;

(B) the manufacturer submits to the third party:

1. the information that is required;

2. a declaration under penalty of perjury, and where applicable pursuant to Section 1606(a)(4)(B),

a. that the information is true, complete, accurate, and in compliance with all applicable provisions of this Article, and,

b. for appliances for which there is an energy efficiency, energy consumption, energy design, water consumption, water efficiency, or water design standard in Section 1605.1, 1605.2, or 1605.3, that the model complies with the applicable standards; and

3. an authorization, filed with both the third party and the Commission, for the third party to submit the information to the Commission on behalf of the manufacturer.

(C) the third party submits to the Executive Director, in compliance with the requirements of this Article applicable to manufacturer-filed submittals:

1. the information that is required; and

2. a declaration under penalty of perjury, and where applicable pursuant to Section 1606(a)(4)(B), that:

a. to the best of the third party's knowledge and belief, the information submitted to the Commission is the same as the information submitted by the manufacturer to the third party; the information is true, complete, accurate, and in compliance with all applicable provisions of this Article; and, for appliances for which there is an energy efficiency, energy design, water consumption, or water efficiency standard in Section 1605. 1, 1605.2, or 1605.3, the appliance complies with the applicable standards; and

b. the requirements of Sections 1606(f)(1) are met;

(D) the third party has an agreement with the manufacturer that allows the third party to challenge the truth, accuracy, and completeness of information submitted by the manufacturer to the third party, and to refuse to submit to the Commission information that the third party believes is not truthful, accurate, or complete; and

(E) the third party provides, upon ten days' written notice from the Executive Director, all information provided by the manufacturer and all information relating to any challenges pursuant to Section 1606(f)(1)(D).

(F) This paragraph (F) applies only to the situation in which one manufacturer (designated Manufacturer A here) manufactures an appliance, and another manufacturer (designated Manufacturer B here) wants to be designated as the manufacturer pursuant to Section 1606(a)(2)(A), the first line of Table X, and Section 1607(b)(1). In that situation, Manufacturer A may file as a third party on behalf of Manufacturer B, if:

1. there is compliance with all of the requirements of paragraphs (A)-(E) of Section 1606(f)(1);

2. the names, addresses, telephone numbers, and e-mail addresses of each manufacturer are included in the filing;

3. the filing indicates which manufacturer is acting as Manufacturer A and which manufacturer is acting as Manufacturer B; and

4. within the 12 months before the filing, both manufacturers have jointly submitted to the Commission a statement that both want to make filings pursuant to this paragraph (F).

(2) Whether a manufacturer files information required by this Section by itself or via a third party, the manufacturer remains responsible for the truth, accuracy, completeness, and timeliness of all required filings.

(3) At any time the Executive Director may forbid a third party from making filings for a specified time, allow reinstatement subject to appropriate conditions, and remove affected appliances from the database, if he or she finds that there is noncompliance with an applicable provision of this Article.

(4) If the Executive Director has suspended or revoked the approval of a trade association directory under Section 1606(h)(2)(B), that trade association is prohibited from being approved as a third party until it has obtained re-approval under Section 1606(h)(2)(B).

(5) The provisions of this Article are applicable to all submittals and filings, whether made by a manufacturer directly or by a third party on behalf of a manufacturer.

(g) Electronic Filing.

(1) Unless otherwise stated in this Article, the statements and other submittals required or allowed by this Article shall be filed electronically by all third parties acting under Section 1606(f) so that:

(A) the electronic filing uses a format and characteristics, including without limitation appropriate formatting, that are specified by the Executive Director, and includes a declaration that complies with Section 1606(a)(4);

(B) within three days of the electronic filing being made, an exact paper copy of all declarations required by Sections 1606(a)(4) or 1606(f)(1)(C)2. is executed by a person authorized under the appropriate section to execute it;

(C) for two years from the date of filing the person making the filing keeps the exact paper copies required by paragraph (B) immediately above and provides those copies to the Executive Director upon 10 days' written request.

(2) Any electronic filing constitutes a representation by the person making the filing that:

(A) all applicable requirements of this Article have been met;

(B) the person will electronically acknowledge receipt of all electronic communications concerning the filing from the Executive Director to the person;

(C) all electronic communications concerning the filing from the Executive Director to the person shall be deemed received by the person upon notification to the Executive Director, by the computer from which the Executive Director communication has been sent, that the communication has been sent; and

(D) all electronic communications concerning the filing from the person to the Executive Director shall be deemed received by the Executive Director only upon actual receipt.

(3) At any time the Executive Director may forbid electronic filings by any person, or generically, and may remove affected appliance models from the database, if he or she finds that an applicable requirement of this Article is not being met.

(h) Trade Association Directories.

(1) A paper or electronic directory, or a part thereof, published by an appliance trade association may be used for any purpose that the database established pursuant to Section 1606(c) is used for, if the Executive Director approves the directory, or part thereof, by determining and confirming that:

(A) the trade association is an approved industry certification program for each appliance listed in the directory;

(B) all of the applicable requirements of Section 1606(f) for third party submittals are met for the directory;

(C) the entity submits to the Executive Director:

1. all of the information in the directory, within three working days of the approval of the directory;

2. all of the information in the directory that has changed since the previous submittal, at the end of each month during which there has been any change;

3. a declaration, signed under penalty of perjury of the laws of California, that to the best of the trade association's knowledge and belief:

a. the information in the directory is the same as the information submitted by manufacturers to the trade association;

b. the information is true, complete, accurate, and in compliance with all applicable provisions of this Article;

c. each appliance complies with the applicable standards in Section 1605.1; and

d. for any appliance for which there is a standard in Section 1605.3, that the appliance meets all applicable standards unless the directory states, in a format approved by the Executive Director (including without limitation font, type size, and placement in the directory), that it is illegal in California to sell the appliance or offer it for sale.

(D) for each appliance that is listed in a trade association directory, the directory includes all of the following information, where applicable to the appliance:

manufacturer

brand

model number as it appears on the appliance

type

fuel type

voltage

electrical phase

capacity or other size measurement

input

output

standby consumption, loss, or other similar measurement; and energy efficiency, energy consumption, water efficiency, or water consumption;

(E) the directory contains no appliance in the following categories:

1. an appliance that fails to meet an applicable energy efficiency, energy consumption, energy design, water efficiency, or water consumption standard established in or pursuant to NAECA or EPAct;

2. an appliance for which the manufacturer has stated or certified that the appliance meets an energy efficiency, energy consumption, energy design, water efficiency, or water consumption standard not applicable to it; or

3. an appliance that does not, or an appliance whose manufacturer does not, meet an applicable requirement of this Article, unless the directory states, in a format approved by the Executive Director (including without limitation font, type size, and placement in the directory), that it is illegal in California to sell the appliance or offer it for sale; and

(F) each paper or electronic directory contains the following statement, in at least 20 point bolded type and on the front cover or first page, or in another format and with other characteristics as specified by the Executive Director:

> "This directory [insert parts if appropriate] has been approved by the California Energy Commission (Commission) for determining compliance with its appliance efficiency regulations (Title 20, California Code of Regulations, Sections 1601-1608) and its building standards (Title 24, California Code of Regulations, Part 6). UNLESS INDICATED OTHERWISE, any appliance listed in this directory [insert parts if appropriate] may be sold, offered for sale, or installed in new construction in California. For appliances manufactured by manufacturers participating in this directory, but who have not given authorization for data submittal to the Commission, this directory cannot be used for determining compliance. For information about such appliances, appliances that are beyond the scope of this directory, or appliances produced by manufacturers who do not participate in this directory, please contact the Commission's Building Standards Hotline at 916-654-5106, 800-772-3300 (in California only), or ‹Title24@energy.state.ca.us›. Manufacturers not granting

authorization for data submittal to the Commission as of the publication date of this directory include [list all affected manufacturers]"; and

(G) at the end of each calendar quarter, the trade association provides, at no cost to recipients, an electronic copy of the current directory or supplement or part thereof to the Executive Director and to all California building officials as specified by the Executive Director, and provides to the Executive Director a list of the building officials to whom the directory or supplement was sent.

(2) If the Executive Director at any time determines that an approved trade association directory does not comply with an applicable provision of this Article, or that any information in a trade association directory is substantially incomplete, inaccurate, or not in compliance with an applicable provision of this Article, then:

(A) upon written notice from the Executive Director the trade association shall immediately indicate in the directory, in a format approved by the Executive Director (including without limitation font, type size, and placement in the directory), that it is illegal in California to sell the appliance. In addition, the Executive Director shall remove the appliance from the Commission's database established under Section 1606(c) or indicate in the database that the appliance cannot legally be sold or offered for sale in California. The appliance shall be removed from, or indicated in, the Commission's database and the trade association directory, for at least sixty days, until the end of a proceeding held to consider the matter pursuant to Sections 11445.10-11445.60 of the California Government Code (or, at the third party or affected manufacturer's option, pursuant to Sections 11425.10-11425.60 of the California Government Code); and

(B) the Executive Director may suspend or revoke the approval of the trade association directory; if approval is revoked, the trade association may not seek re-approval for two years after the revocation.

(3) If the Executive Director takes action under Sections 1606(b)(3)(A) or (B), or 1608(c), (d), or (e), he or she shall direct that all trade association directories be modified accordingly.

(4) There may be more than one third-party directory for the same appliance.

(i) Retention of Records

Manufacturers, and third parties or trade associations acting under Sections 1606(a), 1606(f), and 1606(g), shall retain all data, forms, information, and all other records required by this Article concerning each appliance:

(1) for at least 2 years after the manufacturer informs the Executive Director, in writing, of the cessation of production of the appliance; and

(2) in a manner allowing ready access by the Executive Director on request.

The Executive Director shall retain all data, forms, information, and all other records required by this Article concerning each appliance for at least 10 years after the record is initially filed or reconfirmed.

(j) Portable Luminaire Sales Data

Beginning January 1, 2013, portable luminaire manufacturers selling products in California shall submit to the Energy Commission annual unit sales of portable non-screw based halogen luminaires sold in California, by major product class. Data for each calendar year shall be submitted no later than May 1 of the following year.

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c), 25402.5.4 and 25960, Public Resources Code.

§ 1607. Marking of Appliances.

(a) Scope of this Section.

Every unit of every appliance within the scope of Section 1601 shall comply with the applicable provisions of this Section. The effective dates of this section shall be the same as the effective dates shown in Section 1605.1, 1605.2 or 1605.3 for appliances for which there is an energy efficiency, energy consumption, energy design, water efficiency, water consumption, or water design standard in Section 1605.1, 1605.2, or 1605.3. For appliances with no energy efficiency, energy consumption, energy design, water efficiency, water consumption, or water design standard in Section 1605.1, 1605.2, or 1605.3, the effective date of this section shall be January 1, 2006.

(b) Name, Model Number, and Date.

Except as provided in Section 1607(c), the following information shall be permanently, legibly, and conspicuously displayed on an accessible place on each unit;

(1) manufacturer's name or brand name or trademark (which shall be either the name, brand, or trademark of the listed manufacturer specified pursuant to Section 1606(a)(2)(A) or, if applicable, the designated manufacturer specified pursuant to Section 1606(f)(1)(F));

(2) model number; and

(3) date of manufacture, indicating (i) year and (ii) month or smaller (e.g. week) increment. If the date is in a code that is not readily understandable to the layperson, the manufacturer shall immediately, on request, provide the code to the Energy Commission.

(c) Exceptions to Section 1607(b).

(1) For plumbing fixtures and plumbing fittings, the information required by Section 1607(b) shall be permanently, legibly, and conspicuously displayed on an accessible place on each unit or on the unit's packaging.

(2) For lamps, the information required by Section 1607(b) shall be permanently, legibly, and conspicuously displayed on an accessible place on each unit, on the unit's packaging, or, where the unit is contained in a group of several units in a single package, on the packaging of the group.

(3) For fluorescent lamp ballasts, the date of manufacture information required by Section 1607(b)(3) shall indicate (i) year and (ii) three-month or smaller increment. If the date is in a code that is not readily understandable to the layperson, the manufacturer shall immediately, on request, provide the code to the Energy Commission.

(d) Energy Performance Information.

(1) Federally-Regulated Consumer Products.

The marking required by 16 CFR Part 305 (2008) shall be displayed on all units of all federally-regulated consumer products of the following classes:

Refrigerators

Refrigerator-freezers

Freezers

Central air conditioners

Heat pumps

Dishwashers

Water heaters

Room air conditioners

Warm air furnaces

Pool heaters

Clothes washers

Clothes dryers

Fluorescent lamp ballasts

Showerheads

Faucets

Water closets

Urinals

General service fluorescent lamps

General service incandescent reflector lamps

General service incandescent (other than reflector) lamps

Medium-base compact fluorescent lamps

Ceiling fans.

(2) Federally-Regulated Commercial and Industrial Equipment. Each unit of an appliance listed in Table Y that is federally-regulated commercial and industrial equipment shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, with the applicable energy performance information shown in Table Y, and such information shall also be included on all printed material that is displayed or distributed at the point of sale.

Table Y

Requirements for Marking of Federally-Regulated Commercial and Industrial Equipment

Class	*Energy Performance Information*
Split system central air conditioners (on printed material only)	Cooling capacity, SEER, EER
Single package central air conditioners	Cooling capacity, SEER, EER
Split system heat pumps (on printed material only)	Cooling capacity, heating capacity, SEER, EER, HSPF, COP
Single package heat pumps	Cooling capacity, heating capacity, SEER, EER, HSPF, COP
Package terminal air conditioners	Cooling capacity, EER
Package terminal heat pumps	Cooling capacity, heating capacity, EER, COP
Warm air furnaces	Input rating, thermal efficiency
Packaged boilers	Input rating, thermal efficiency, combustion efficiency (combustion efficiency marking requirement applies only to boilers with input ratings greater than 2,500,000 Btu/h.)
Water heaters	Input rating, rated storage volume, measured storage volume, thermal efficiency, standby loss (%/hr), standby loss (Btu/hr)
Hot water supply boilers	Rated input, rated storage volume, measured storage volume, thermal efficiency, standby loss

(3) Air Conditioners, Heat Pumps, Furnaces, Boilers, and Water Heaters. Each unit of air conditioners, heat pumps, furnaces, boilers, and water heaters that are not subject to NAECA and that comply with the provisions in Tables 6.8.1 A through F of ANSI/ASHRAE/IESNA Standard 90.1-2007 shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, with a statement that the equipment complies with the requirements of ASHRAE Standard 90.1.

(4) Distribution Transformers. Each unit of distribution transformers shall comply with the labeling requirements of NEMA Standard TP3-2000.

(5) Illuminated Exit Signs. Each unit of illuminated exit signs meeting the criteria of Section 1605.1(l) that are sold in California (subject to the limitations of Section 1601) shall be marked by the manufacturer with a block E inside a circle; the mark commonly referred to as "Circle E." The size of the mark shall be commensurate with other markings on the sign, but not smaller than 1/4″. Signs not meeting 1605.1(l) shall not be so marked.

(6) Luminaires. Each unit of torchieres and each package containing a torchiere shall be marked, permanently and legibly on an accessible and conspicuous place on the unit,

in characters no less than 1/8″ on the inner surface of the reflector bowl of the torchiere, and 1/4″ on the packaging, “LAMPS MUST TOTAL NO MORE THAN 190 WATTS - TORCHIERE IS NON-COMPLIANT IF IT IS ABLE TO DRAW MORE THAN 190 WATTS.”

(7) Ceiling Fans. Each package containing a ceiling fan whose diameter exceeds 50 inches shall be marked, permanently and legibly on an accessible and conspicuous place on the unit's packaging, in characters no less than 1/4″, the unit's airflow at high, medium, and low speed in CFM, and the unit's air flow efficiency in CFM/watt at high, medium and low speed.

(8) Commercial Pre-Rinse Spray Valves. Each unit of commercial pre-rinse spray valve shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/8″, the flow rate of the unit, in gallons-per minute (gpm) at 60 psi.

(9) External Power Supplies.

(A) Any federally regulated external power supply external power supply manufactured on or after July 1, 2008 shall be clearly and permanently marked in accordance with the External Power Supply International Efficiency Marking Protocol, as referenced in the 'Energy Star Program Requirements for Single Voltage External AC-DC and AC-AC Power Supplies, version 1.1' published by the Environmental Protection Agency.

(B) Any state-regulated external power supply complying with the requirements of Section 1605.3(u) shall be clearly and permanently marked in accordance with the External Power Supply International Efficiency Marking Protocol, as referenced in the 'Energy Star Program Requirements for Single Voltage External AC-DC and AC-AC Power Supplies, version 1.1' published by the Environmental Protection Agency.

(10) Residential Pool Pumps.

(A) Each residential pool pump shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/4″, the nameplate HP of the pump.

(B) Each residential pool pump motor shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/4″, the pool pump motor capacity of the motor.

(C) Two-, multi-, or variable-speed residential pool pumps certified under Section 1606 of this Article on or after January 1, 2010 shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, in characters no less than 1/4″, “This pump must be installed with a two-, multi-, or variable-speed pump motor controller.”

(11) Televisions

(A) Each television shall be marked, permanently and legibly on an accessible and conspicuous place on the unit, in characters of equal size to the largest font used within the menu screen within the television's built in menu, the on mode power consumption, in watts, as determined using the test method in Section 1604(v)(3) of this Article and filed under the requirements found in Section 1606(a)(3)(D) of this Article.

(B) Any publication, website, document, or retail display that is used for sale or offering for sale of a television manufactured on or after January 1, 2011 and which includes a description of the physical dimensions of the television shall include the identical on mode power consumption, in watts, immediately following and in the same font and same font size as the description of the physical dimensions, as filed under the requirements found in Section 1606(a)(3)(D) of this Article.

The following standards are incorporated by reference in Section 1607.

Number	*Title*
FEDERAL MARKING REQUIREMENTS	
CFR, Title 16, Part 305 (2008)	
Copies available from:	**SUPERINTENDENT OF DOCUMENTS U.S. GOVERNMENT PRINTING OFFICE WASHINGTON, D.C. 20402 WWW.GPOACCESS..GOV/CFR/**
	Energy Star Program Requirements for Single Voltage External AC–DC and AC–AC Power Supplies, version 1.1
Copies available from:	**US EPA CLIMATE PROTECTION PARTNERSHIP ENERGY STAR PROGRAMS HOTLINE & DISTRIBUTION (MS–6202J) 1200 PENNSYLVANIA AVE NW WASHINGTON, DC 20460 WWW.ENERGYSTAR.GOV**
AMERICAN SOCIETY OF HEATING, REFRIGERATING AND AIR–CONDITIONING ENGINEERS (ASHRAE)	
ANSI/ASHRAE/IESNA 90.1–2007	**Energy Standard for Buildings Except Low–Rise Residential Buildings**
Copies available from:	**AMERICAN SOCIETY OF HEATING, REFRIGERATING AND AIR–CONDITIONING ENGINEERS 1791 TULLIE CIRCLE N.E. ATLANTA, GA 30329 WWW.ASHRAE.ORG PHONE: (800) 527–4723 (U.S./CANADA) OR (404) 636–8400 FAX: (404) 321–5478**
NATIONAL ELECTRIC MANUFACTURERS ASSOCIATION (NEMA)	
NEMA TP3–2000	**Standard for the Labeling of Distribution Transformer Efficiency**
Copies available from:	**NATIONAL ELECTRIC MANUFACTURERS ASSOCIATION 1300 N. 17TH STREET, SUITE 1847 ROSSLYN, VA 22209 WWW.NEMA.ORG PHONE: (703) 841–3200 FAX: (703) 841–3300**

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c) and 25960, Public Resources Code.

§ 1608. Compliance, Enforcement, and General Administrative Matters.

(a) General Requirements for the Sale or Installation of All Appliances. Any unit of any appliance within the scope of Section 1601 may be sold or offered for sale in California only if:

(1) the appliance appears in the most recent database established pursuant to Section 1606(c), unless the only reason for the appliance's absence from the database is its failure to comply with an applicable standard in Section 1605.1;

(2) the manufacturer has:

(A) tested the appliance as required by Sections 1603 and 1604;

(B) marked the unit as required by Section 1607;

(C) for any appliance for which there is an applicable standard in Section 1605.2 or 1605.3, certified under Section 1606(a) that the appliance complies with the standard;

(3) the unit has the same components, design characteristics, and all other features that affect energy or water consumption or energy or water efficiency, as applicable, as the units that were tested under Sections 1603 and 1604 and for which information was submitted under Section 1606(a); and

(4) for any appliance for which there is an applicable standard in Section 1605.2 or 1605.3, the unit complies with the standard.

Exceptions to Sections 1608(a)(1) and 1608(a)(2)(C) are not applicable to:

1. non-commercial cooking products until, as determined by the Executive Director, there takes effect a federal standard or a federal reporting requirement for annual cooking energy consumption or for a similar measure of energy performance, and

2. power supplies, and

3. refrigerators without doors and freezers without doors that are not specifically designed for display and sale of bottled or canned beverages, and

4. walk-in coolers and walk-in freezers, and

5. low-profile ceiling fans.

(b) Appliances Not in Database.

If the Executive Director determines that an appliance that is not in the database is being sold or offered for sale in California, he or she shall take appropriate legal action to restrain and discourage such sale or offering, including, but not limited to testing units of the appliance at the manufacturer's cost and seeking appropriate judicial action.

(c) All Appliances: Submittal of Reports of Manufacturers' Certification Testing.

(1) For any appliance, the Executive Director may at any time request from a manufacturer a copy of the test report that describes the results of the testing that was performed pursuant to Section 1604 and that provides the basis for the information submitted under Section 1606(a)(3)(D). The request shall be sent to the address or e-mail address designated in Section 1606(a)(2)(B). If the appliance is a commercial refrigerator, commercial

refrigerator-freezer, commercial freezer, large storage water heater, or plumbing fitting, or if the Executive Director includes with the request information that, in his or her opinion, constitutes substantial evidence that the appliance or the manufacturer is not in compliance with an applicable provision of this Article, or that the energy or water performance of the appliance is not as certified under Section 1606(a)(3)(D) or is not as required by an applicable standard in Section 1605.1, 1605.2, or 1605.3, then the manufacturer shall provide a copy of the applicable test report to the Executive Director within 5 days of the manufacturer's receipt of the request.

(2) If the Executive Director does not receive the test report within the required time, the Executive Director shall remove the appliance from the database.

(3) If the test report indicates that the energy or water consumption of the appliance is greater than, or the energy or water efficiency of the appliance is less than, the consumption or efficiency certified by the manufacturer pursuant to Section 1606(a)(3)(D), the Executive Director shall, after providing written notice by certified mail (registered mail to non-U.S. destinations) to the person designated in Section 1606(a)(2)(B), modify the listing of the appliance in the database to reflect accurately the test report.

(4) If the test report indicates that the appliance model does not comply with an applicable standard in Section 1605.1, 1605.2, or 1605.3, the Executive Director shall, ten days after providing written notice by certified mail (registered mail to non-U.S. destinations) to the person designated in Section 1606(a)(2)(B), remove the model from the database.

(d) Inspection by the Executive Director of Appliances Subject to Energy Design and Water Design Standards, and Marking Requirements.

(1) The Executive Director shall periodically inspect appliances sold or offered for sale in the state, to determine whether they conform with the applicable energy design and water design standards of Sections 1605.1, 1605.2, and 1605.3, and with the applicable marking requirements of Section 1607.

(2) Inspection of an appliance shall consist of inspection of one unit.

(A) If the inspection indicates that the unit complies with the applicable energy or water design standards and marking requirements, the matter shall be closed.

(B) If the inspection indicates that the unit does not comply with an applicable energy or water design standard or as applicable marking requirement, the Commission shall undertake a proceeding pursuant to Sections 11445.10-11445.60 of the California Government Code (or, at the manufacturer's option, pursuant to Sections 11425.10-11425.60 of the California Government Code). If the Commission confirms the Executive Director's determination, then he or she shall remove the appliance from the database.

(e) Executive Director's Enforcement Testing of Appliances Subject to Energy Efficiency, Energy Consumption, Water Efficiency, and Water Consumption Standards.

The Executive Director shall periodically cause, at laboratories meeting the criteria of Section 1603(a), the testing of appliance units sold or offered for sale in the state, to determine whether the appliances conform with the applicable standards in Sections 1605.1, 1605.2, and 1605.3, and to determine whether their performance is as reported or certified by the manufacturer pursuant to Section 1606(a). Testing shall be performed as follows:

(1) Initial Test. The Executive Director shall perform an initial test on one unit, using the applicable test procedure specified in Section 1604. Upon completion of the initial test, the Executive Director shall make a determination as follows:

(A) Performance Is No Worse Than Required by Standards and Is No Worse Than as Certified by Manufacturer. If the initial test result indicates that the energy and water consumption of the unit is no greater than, and the energy and water efficiency of the unit is no less than, the consumption or efficiency that is permitted and required by all applicable standards in Section 1605.1, 1605.2, or 1605.3, and that was certified by the manufacturer pursuant to Section 1606(a), the matter shall be closed.

(B) Performance Is Worse Than Required by Standard or Is Worse Than as Certified by Manufacturer. If the initial test result indicates that the energy or water consumption of the unit is greater, or the energy or water efficiency of the unit is less, than the consumption or efficiency that is permitted or required by any applicable standard in Section 1605.1, 1605.2, or 1605.3, or that was certified by the manufacturer pursuant to Section 1606(a), the Executive Director shall perform a second test on a second unit, using the applicable test procedure specified in Section 1604.

(2) Second Test; Mean of Results. If a second test is performed, the Executive Director shall calculate the mean of the results of the initial test and the second test. Upon completion of the second test, the Executive Director shall inform the manufacturer of the results and shall make a determination as follows:

(A) Performance Is No Worse Than Required by Standards and Is No Worse Than as Certified by Manufacturer. If the two test results indicate that the mean energy and water consumption of the two units is no greater than, and the mean energy and water efficiency of the two units is no less than, the consumption and efficiency permitted or required by all applicable standards in Section 1605.1, 1605.2, or 1605.3, and that was certified by the manufacturer pursuant to Section 1606(a), the matter shall be closed.

(B) Performance is As Required by Standard but is Worse Than as Certified by Manufacturer. If the two test results indicate that the mean energy or water consumption of the two units is greater than, or the mean energy or water efficiency of the two units is less than, the consumption or efficiency that was certified by the manufacturer pursuant to Section 1606(a), but that the mean result nevertheless complies with all applicable standards in Section 1605.1, 1605.2, or 1605.3, the Commission shall undertake a proceeding pursuant to Sections 11445.10-11445.60 of the California Government Code (or, at the manufacturer's option, pursuant to Sections 11425.10-11425.60 of the California Government Code). If the Commission determines that the two test results indicate that (1) the mean energy or water consumption of the two units is greater than, or the mean energy or water efficiency of the two units is less than, the consumption or efficiency as reported or certified by the manufacturer pursuant to Section 1606(a), and (2) the mean result nevertheless complies with all applicable standards in Section 1605.1, 1605.2, or 1605.3, then the Executive Director shall modify the listing of the appliance in the database to reflect accurately the Commission's determination.

(C) Performance is Not As Required by Standard. If the two test results indicate that the mean energy or water consumption of the two units is greater than, or the mean energy or water efficiency of the two units is less than, any applicable standard in Section 1605.1, 1605.2, or 1605.3, the Commission shall undertake a proceeding pursuant to Sections 11445.10-11445.60 of the California Government Code (or, at the manufacturer's option, Sections

11425.10-11425.60 of the California Government Code). If the Commission determines that the mean energy or water consumption of the two units is greater than, or the mean energy or water efficiency of the two units is less than any applicable standard, the Executive Director shall remove the appliance from the database established pursuant to Section 1606(c).

(3) Optional Method of Determining Energy or Water Performance. If, at any time before a Commission determination under Section 1608(e)(2)(B) or 1608(e)(2)(C), the manufacturer so chooses, instead of using the mean-of-two-units approach set forth in Sections 1608(e)(1) and 1608(e)(2), the Executive Director shall test the appliance using the sampling method set forth in 10 CFR Part 430, Appendix B to Subpart F (2008) or 10 CFR Part 431, Appendix A to Subpart K (2008), and shall make the determinations under Sections 1608(e)(1) and 1608(e)(2) based on those test results. The manufacturer shall pay for all such testing.

(f) Costs.

Except as otherwise provided in this Article, all costs of initial tests showing results as described in Section 1608(e)(1)(A) or Section 1608(e)(2)(A) shall be borne by the Commission. All costs of all other tests shall be paid by the manufacturer.

(g) Federally-Regulated Appliances.

If:

(1) the appliance tested is a federally-regulated consumer product or federally-regulated commercial and industrial equipment; and

(2) either:

(A) the test results show that the appliance does not comply with an applicable federal standard or other applicable federal requirement; or

(B) the test results are at variance with the results reported by the manufacturer to the U.S. Department of Energy or the U.S. Federal Trade Commission; then, in addition to taking the applicable actions described in Sections 1608(e)(1) and 1608(e)(2), the Executive Director shall inform the appropriate federal agency.

(h) Forms and Formats Specified by Executive Director.

The Executive Director may specify, and require the use of, any particular form or format for the submittal of any data, reports, or other information required by this Article, including but not limited to computer programs or formats.

(i) Executive Director Determinations.

Whenever this Article refers to a finding, conclusion, or other determination by the Executive Director, any person seeking such a determination shall submit to the Executive Director a written request. Within 10 days of receipt of a request, the Executive Director shall either find the request is complete and so inform the applicant, or return the request to the applicant with a statement of what additional information is necessary to make it complete. Within 21 days of receipt of a complete request, the Executive Director shall make a determination, which shall be within the discretion of the Executive Director acting on the basis

of the entire record, which shall be assembled and made publicly available by the Executive Director. Within 10 days of a determination, whether made in response to a request or made on the Executive Director's own initiative, any affected person, including but not limited to the person, if any, who made a request for the determination, may appeal the determination to the Commission in writing. At the same time that the appeal is filed, the appellant shall file all the evidence the appellant wishes the Commission to consider. The Commission Staff and any affected person shall file all the evidence they wish the Commission to consider within 20 days after the appeal is filed. The Commission shall hear and decide the appeal at the next regularly-scheduled business meeting that is at least 30 days after the appeal is filed. At the hearing the Commission may require the filed evidence to be presented under oath and may allow questions and cross-examination from participants.

The following standards are incorporated by reference in Section 1608.

Number	*Title*
FEDERAL SAMPLING METHOD	
CFR, Title 10, Part 430, Appendix B to Subpart F (2008) **CFR, Title 10, Part 431, Appendix A to Subpart K (2008)**	
Copies available from:	**SUPERINTENDENT OF DOCUMENTS** **U.S. GOVERNMENT PRINTING OFFICE** **WASHINGTON, DC 20402** **WWW.GPOACCESS.GOV/CFR/**

Note: Authority cited: Sections 25213, 25218(e), 25402(a)-(c) and 25960, Public Resources Code. Reference: Sections 25216.5(d), 25402(a)-(c) and 25960, Public Resources Code.

Article 5. Load Management Standards

§ 1621. General Provisions.

(a) Purpose. This article establishes electric load management standards pursuant to Section 25403.5 of the Public Resources Code.

These standards establish cost-effective programs which will result in improved utility system efficiency, will lessen or delay the need for new electrical capacity, reduce fuel consumption, and will thereby lower the long-term economic and environmental costs of meeting the State's electricity needs.

(b) Application. Each of the standards in this article applies to the following electric utilities: Los Angeles Department of Water and Power, San Diego Gas and Electric Company, Southern California Edison Company, Pacific Gas and Electric Company, and Sacramento Municipal Utility District.

The California Energy Commission has found these standards to be technologically feasible and cost effective when compared with the costs for new electrical capacity for the above-named electric utilities.

(c) Definitions. In this article, the following definitions apply:

(1) "Utility" means those electric utilities to which the sections of this article apply, as specified in subsection (b).

(2) "Service area" is the geographic area in which the utility supplies electricity to retail customers.

(3) "Rate-approving body" means the California Public Utilities Commission in the case of investor-owned utilities, such as the San Diego Gas and Electric Company, the Southern California Edison Company, and the Pacific Gas and Electric Company. It means the governing body of publicly owned utilities such as the Los Angeles Department of Water and Power, and the Sacramento Municipal Utility District.

(4) "Residential" means any family dwelling within the utility's service area which uses electricity for noncommercial purposes as defined in the utility's terms and conditions of service.

(5) "Water heater" means any residential electric water heater except those which provide hot water to heat space or those which operate within electric dishwashers.

(6) "Central air conditioner" means any residential electric air conditioner which delivers cooled air through ducts to rooms.

(7) "Marginal cost" is the change in current and committed future utility cost that is caused by a customer initiated change in electricity usage. Total marginal cost may be divided into the commonly known categories of marginal energy, marginal capacity, and marginal customer costs, or any other appropriate categories.

(8) "Commercial customers" means those customers of a utility who run any business described in Standard Industrial Classification Groups 40 through 86, and 89 through 99, and which do not treat sewage or manufacture goods or provide other process-oriented services.

(i) "Large commercial customers" are those businesses whose demand for electricity equals or exceeds 500 kilowatts.

(ii) "Small commercial customers" are those businesses whose demand for electricity is less than 500 kilowatts.

(9) "Building type" means the classification of a non-residential building in accordance with the following table:

Building Type	*Description*
1	*Office*
1.1	*Small (0-30,000 sq. ft.)*
1.2	*Med (30,000-200,000 sq. ft.)*
1.3	*Large (200,000 + sq. ft.)*
1.3.1	*Lowrise (two or less stories)*
1.3.2	*Highrise (three or more stories)*
2	*Retail*
2.1	*Retail -General*
2.1.1	*Small (1-9,000 sq. ft.), detached*
2.1.2	*Small (1-9,000 sq. ft.), attached*
2.1.3	*Med(9,000-20,000 sq.ft.), detached*
2.1.4	*Med (9,000-20,000 sq. ft.),attached*
2.1.5	*Med (9,000-20,000 sq. ft.), enclosed mall*
2.1.6	*Large (20,000 + sq. ft.), detached*
2.1.7	*Large (20,000 + sq. ft.), attached*
2.1.8	*Large (20,000 + sq. ft.), enclosed mall*
2.1.9	*Highrise department store (three or more stories)*
2.2	*Retail -Food*
2.2.1	*Small (1-5,000 sq. ft.)*
2.2.2	*Large (5,000 + sq. ft.)*
3	*Restaurants*
3.1	*Fast Food*
3.2	*Sit-down*
4	*Storage Buildings*
4.1	*Conditioned*
4.2	*Unconditioned*
5	*Hotels and Motels*
5.1	*Large (50,000 + sq. ft.)*
5.2	*Small (less than 50,000 sq. ft.)*
6	*Schools*
6.1	*Elementary/pre-schools*
6.2	*Jr. high/high schools*
6.3	*Jr. colleges/trade schools*
6.4	*Colleges/universities*
7	*Public assembly buildings*
7.1	*Auditoriums*
7.2	*Theaters*
7.3	*Sports arenas*
8	*Health care facilities*
8.1	*General hospitals*
8.2	*Research hospitals*
8.3	*Mental hospitals*
8.4	*Convalescent hospitals/homes*
9	*Computer facilities*
10	*Auto repair and service stations*
11	*Miscellaneous*

(10) "Conditioned Space" means the space, within a building which is provided with a positive heat supply or positive method of cooling.

(d) Review and Approval of Utility Submittals. These load management standards require utilities to submit various plans to the Executive Director. All such submittals shall be reviewed by the Executive Director, and shall be subject to approval by the full Commission. The Executive Director shall complete his review of such submittals and shall report to the Commission within thirty calendar days after receipt as to whether the submittal is consistent with the provisions of this article. Within thirty calendar days after the Executive Director renders his report, the Commission shall, following a public hearing, approve or disapprove the submittal. The Commission may also approve a submittal on condition that the utility make specified changes or additions to the submittal, within a reasonable period of time set by the Commission. A conditional approval shall not take effect until the utility makes the specified changes or additions to the submittal under review. The Commission shall approve submittals which are consistent with these regulations and which show a good faith effort to plan to meet program goals for the standards.

If the Commission disapproves a submittal, the utility shall be notified of the specific reasons for such disapproval, and the utility shall submit a revised submittal for review by the Executive Director in accordance with the provisions of this subsection.

(e) Information Requests. In order to facilitate his review of a utility's compliance with the provisions of this article, the Executive Director may request a utility to furnish copies of any information in the utility's possession which is relevant to its implementation of these standards, including any tariff proposals and associated information which it submits to its rate-approving body. The Executive Director may set a reasonable period of time within which the utility must supply the requested information.

If any document which is requested by the Executive Director contains proprietary information or trade secrets, the utility shall only be required to furnish the document to the Executive Director, if the Commission has established procedures, after a public hearing, for the protection of such proprietary information or trade secrets.

(f) Revisions of Approved Plans. Each time a utility significantly revises any plan or part of a plan required by this article, that was previously approved by the Commission, it shall submit this revised plan for review and approval pursuant to subsection (d) above. Such revised plan shall not be valid until it is approved by the Commission.

If the Executive Director believes that new technologies, the state of the economy or other new information warrant revisions to plans which have already been approved, he shall request the utilities to make the appropriate revisions as part of their next annual report or within 90 days, whichever comes later. If the Executive Director issues such a request, the utility shall submit a revised plan for review and approval pursuant to subsection (d) above.

(g) Modifications to Program Goals. If, during the planning or execution of any program required by this article, a utility, despite its best good faith efforts, believes that it cannot achieve one or more of the program goals set forth in the various sections of this article or that a program is not cost-effective, the utility may submit a report to the Commission explaining the reasons therefore, and indicating when the utility believes that it could achieve the program goal or goals, or suggesting alternative goals. If based upon the utility report, or its own studies, the Commission finds that there are good and sufficient reasons for the utility not

being able to achieve the goal or goals, the Commission shall modify any previously approved goal for that utility to one that is feasible and cost-effective for the utility to achieve.

(h) Utility Request for Exemptions.

(1) A utility may, at any time after the effective date of this article, apply to the Commission for an exemption from the obligation to comply with any or all of these standards. Any such application shall set forth in detail the reasons why a denial of the application by the Commission would result in extreme hardship to the utility, or in reduced system reliability and efficiency, or why the standard or standards from which the exemption is sought would not be technologically feasible or cost-effective for the utility to implement. The application shall also set forth the period of time during which the exemption would apply, and shall indicate when the utility reasonably believes the exemption will no longer be needed.

(2) Within 30 days after receipt of any such application, the Commission shall hold a hearing to consider whether there is sufficient information contained in the application to justify further hearings on the merits. If the Commission finds that the application does not contain sufficient information, it shall dismiss the application, and notify the utility f the specific reasons for the dismissal. The utility may thereafter submit a revised application in good faith.

(3) If the Commission finds that the application does contain sufficient information, it shall schedule such further hearings as may be necessary to fully evaluate the application.

(4) If, after holding hearings, the Commission decides to grant an exemption to a utility, the Commission shall issue an order granting exemption. The order shall set forth findings and specific reasons why the exemption is being granted.

(i) Noncompliance. The Executive Director may, after a review of the matter with the utility, file a complaint with the Commission, alleging that the utility is not in compliance with the provisions of this article:

(1) If the utility is not conducting a program in conformance with the provisions of its approved plan;

(2) If the utility fails to provide a required submittal in a timely manner; or

(3) If the utility fails to make requested changes or additions to any such submittal within a reasonable time.

(j) Recovery of Program Costs. In its rate applications, each utility shall seek to recover the full costs associated with conducting each program required by this article from the class of customers which the program most directly affects. The utility shall not be required to commence implementation of any program required by this article until the utility's rate-approving body has approved the tariffs which are a part of any such program and a method for recovering the costs of the program.

(k) Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement to local government entities (i.e., the Los Angeles Department of Water and Power and the Sacramento Municipal Utility District) for the costs of carrying out the programs mandated by these standards, because the Commission has found these standards to be cost-

effective. The savings which these entities will realize as a result of carrying out these programs will outweigh the costs associated with implementing these programs.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25403.5, Public Resources Code.

§ 1622. Residential Load Management Standard.

(a) Application. The provisions of this section are applicable to residential electric water heaters and electric central air conditioners.

(b) Peak Load Cycling Program. The utility shall carry out a peak load cycling program, if such a program has been found to be cost effective for the utility. Under this program, the utility shall offer to install remote load switches in those identified residences in the utility's service area which contain electric water heaters or central air conditioners. The switches shall allow the utility to cycle any of these electric appliances.

(c) Program Implementation. The utility's peak load cycling program shall consist of three phases as follows:

(1) Peak Load Cycling Plan Development Phase. The purpose of this phase is to allow the utility to develop a Peak Load Cycling Plan which will accomplish the program goals set forth in subsection (d) below. The requirements for the plan are specified in subsection (e) below. The utility may conduct experimental Peak Load Cycling Programs prior to approval of its Peak Load Cycling Plan by the Commission. Any such program shall, to the maximum extent feasible, be consistent with the provisions of the Peak Load Cycling Plan which is being developed by the utility or which has been submitted pursuant to Section 1621(d). Any expenditure which the utility makes in connection with any such experimental program prior to the approval of its Peak Load Cycling Plan shall be subject to the approval of the utility's rate-approving body.

(2) Testing and Evaluation Phase. The purpose of this phase is to allow the utility to conduct detailed testing and evaluation of alternative technologies for peak load cycling, of customer acceptance of peak load cycling, and of the benefits of peak load cycling in terms of reduced peak demand, at a low level of implementation. The testing and evaluation phase shall commence as soon as the Commission has approved the utility's Peak Load Cycling Plan and the utility's rate-approving body has approved program-related tariffs and a method for recovering the cost of the program. Once this phase has commenced, it shall last for 28 months.

(3) Systemwide Implementation Phase. The purpose of this phase is to achieve the maximum feasible level of system load reduction in the utility's peak load cycling program. This phase shall commence after the Commission takes action pursuant to subsection (h) below.

While the utility is carrying out these phases of its peak load cycling program, it shall cooperate on an ongoing basis with the Commission Staff in evaluating the relative merits of alternative hardware systems, in determining the optimal approaches for obtaining maximum customer participation in peak load cycling programs, and in improving and refining methodologies for calculating the cost-effectiveness of peak load cycling programs and other load management programs.

(d) Program Goal. The utility's peak load cycling program shall be designed and carried out to achieve the following goals:

(1) By the end of the testing and evaluation phase, the utility shall have installed remote load switches on approximately 8 percent of the total of all identified residential central air conditioners in the utility's service area, except that a utility may install switches on a greater or lesser percentage of those appliances, if, in its peak load cycling plan, the utility provides information which demonstrates that a program goal of more or less than eight percent will be more cost-effective for the utility to implement, and if the Commission approves the utility's plan. The utility shall maintain a level of implementation according to an approved Peak Load Cycling Plan.

(2) By the end of the testing and evaluation phase, the utility shall have installed remote load switches on a sufficient number of residential electric water heaters in the utility's service area to allow the Commission to determine whether it would be cost-effective for the utility to implement a peak load cycling program for residential electric water heaters on a system-wide basis. The utility shall indicate the number of residential electric water heaters which will be subject to this experimental program in its peak load cycling plan as well as the test program methodology for determining cost effectiveness. In carrying out its peak load cycling program for such appliances, the utility shall maintain the level of implementation set forth in its peak load cycling plan.

(e) Peak Load Cycling Plan. No later than eight months after this article becomes effective, the utility shall submit a Peak Load Cycling Plan. This Plan shall show how the utility intends to meet the goal set forth in subsection (d) above. This plan shall, as a minimum, include the following elements of a peak load cycling program.

(1) Objectives -The plan shall describe, in detail, the utility's objectives in pursuing the peak load cycling program. The Plan shall include an assessment of the impact of the peak load cycling program on system reliability, need for new capacity, fuel efficiency, and overall costs.

(2) Organization -The plan shall describe how the utility will organize and manage the peak load cycling program. It shall include organization charts, qualifications for each position and the reporting relationship of the effort to the President or General Manager of the utility. The plan shall describe how the utility intends to recruit and hire the personnel needed to staff the proposed organization.

(3) Schedule and Budget -The plan shall include a detailed schedule for each of the program elements during the testing and evaluation phase. The schedule shall indicate each task required to complete each element, the level of effort assigned to each task, and the beginning and ending dates of each task. The plan shall include the utility's detailed budget for carrying out all elements of the peak load cycling program. It shall display dollars budgeted over time, by task, for personnel, equipment, and outside contractors.

(4) Customer Identification -The plan shall describe how the utility intends to identify those residences in its service area which are equipped with electric water heaters and central air-conditioners. The plan shall also set forth the utility's determinations as to which segment or segments of its customers, and which locations will be selected for inclusion in the testing and evaluation phase of the utility's peak load cycling program. Such determinations shall be based on an analysis of the mix of appliances and those locations for which the peak load cycling

program carried out during the testing and evaluation phase will provide the most cost-effective reductions in peak system load. This analysis shall utilize a sampling technique which assumes that the results of the testing and evaluation phase will serve as an adequate basis for identifying the probable effects of systemwide implementation. The results of this analysis shall be submitted with the plan.

(5) Customer Acceptance -The plan shall describe how the utility intends to assess customer attitudes toward participation in the peak load cycling program. It shall describe how the utility will use this information to tailor both the peak load cycling program and the public education element to encourage customer participation. The plan shall describe how the utility intends to estimate the various levels of customer participation that will occur with various levels of interruptible tariff. This element of the plan shall draw upon the experiences of other utilities in similar programs as well as any primary research that the utility may propose.

(6) Interruptible Tariffs -The plan shall describe how the utility intends to develop and propose interruptible tariffs which will encourage its residential customers to participate in the peak load cycling program. The value of the customer incentives contained in such tariffs shall not exceed the et cost savings to the utility from the customer's participation in the program. These tariffs shall prescribe alternative rates which correspond to different cycling schedules. In addition, the plan shall indicate how the utility, during the testing and evaluation phase, intends to investigate and evaluate alternative methods for recovering the costs associated with the installation of remote load switches on a systemwide basis. Interruptible tariffs which are offered to customers who participate in the program should reflect the differences, in terms of costs to the utility, of any such alternative methods. When the utility submits its Peak Load Cycling Plan, it shall also include its proposed interruptible tariff schedule.

(7) Public Education -The plan shall describe how the utility will inform the public about the peak load cycling program.

(8) Equipment Selection -The plan shall describe how the utility intends to select the equipment needed to carry out the peak load cycling program. It shall describe how the utility will review and evaluate the various types of equipment that are available and how a selection will be made. It shall describe how the utility intends to stay abreast of the state-of-the-art and incorporate technological improvements and cost reductions into its equipment system as these become available. The plan shall describe the steps that the utility will take to assure that the selected equipment is delivered in time to meet specified program goals.

(9) Customer Sign-Up -The plan shall describe the procedures which the utility intends to utilize to solicit customer participation in the peak load cycling program. The plan shall describe how these procedures are reasonably related to the specified program goals.

(10) Equipment Installation and Maintenance -The plan shall describe how the utility intends to install and maintain equipment (including remote load switches) in an economical and professional manner that causes minimum inconvenience and disruption to customers.

(11) Program Operations -The plan shall describe how the utility intends to use remote load switches to meet the purposes in Section 1621(a). It shall describe how the switches will coordinate with system dispatching procedures and equipment. The plan shall describe how the utility intends to respond to customer questions, problems, or complaints about the program.

(12) Program Evaluation -The plan shall describe how the utility intends to evaluate, on an ongoing basis, the quality and performance of each element of the peak load cycling program. It shall describe how evaluations will be made and the results fed back into each element to improve the program on a regular basis. The plan shall include an outline of the reporting formats that the utility intends to use for progress reports to the Commission, and it shall show how the Commission will be notified, in a timely manner, of unexpected delays or difficulties in implementing the program.

(13) Other Information -The plan shall include any other information that the utility deems appropriate for Commission consideration in relation to the peak load cycling program.

Review and approval of Peak Load Cycling Plans shall be carried out in accordance with the provisions of Section 1621(d).

The utility's peak load cycling program shall be carried out in accordance with the provisions of an approved Peak Load Cycling Plan. No later than one month after the Commission has approved a utility's Peak Load Cycling Plan, the utility shall ask its rate-approving body to grant the proposed interruptible tariffs and to approve a method for recovering the costs of the program.

(f) Progress Reports. Within 18 months and within 30 months after the testing and evaluation phase commences pursuant to Section 1622(c)(2), the utility shall submit Progress Reports to the Executive Director. These Reports shall specify the number of appliances subject to this standard, the number of appliances with remote load switches, and the number of appliances on each peak load cycling schedule, and it shall include an evaluation of the technical performance of the remote load switches, an evaluation of the observed impacts, if any, of the use of these switches on utility system operations and on the appliances to which they are connected. These Reports shall indicate the impact of this program on the utility's load duration curve for the previous 12-month period. For each day of the previous year, these reports shall also indicate at what times, how often, and for how long the utility used remote load switches. The second of the two Progress Reports shall recommend to the Commission how the utility's peak load cycling program should be modified, for the purposes of systemwide implementation, in terms of hardware systems, alternative tariff schedules, the mix of appliances subject to this standard, the implementation schedule, long-term program goals, and any other appropriate considerations. The second Progress Report shall also analyze the anticipated impact of systemwide implementation of peak load cycling on the utility's resource plan.

(g) Executive Director's Report. Within two months of receipt of the utility's second Progress Report, the Executive Director shall submit to the Commission a Report on that utility's peak load cycling program, which contains the following information:

(1) His evaluation of the information contained in the utility's two Progress Reports, including the recommendations set forth in the second Progress Report; and

(2) His recommendations with respect to the expanded implementation or termination of remote load switching for each of the two kinds of appliances which are subject to this standard.

(h) Long Range Programs. Within two months after it receives the Executive Director's Report on a utility's peak load cycling program, the Commission shall hold a public

hearing to review the utility's two Progress Reports and the Executive Director's Report. Following this hearing, the Commission shall undertake one or more of the following actions:

(1) Expand the level of implementation of remote load switching for one or both of the kinds of appliances subject to this standard to a level which the Commission determines to be feasible and cost-effective;

(2) Terminate the remote load switching program for one or both of these kinds of appliances; or

(3) Undertake such additional actions which the Commission determines to be necessary and practical to implement the utility's peak load cycling program.

(i) Compliance. A utility shall be in compliance with this standard if:

(1) The Commission has approved the utility's Peak Load Cycling Plan;

(2) The utility is conducting a peak load cycling program in conformance with the provisions of its approved Peak Load Cycling Plan and the provisions of subsection (d) above; and

(3) The utility submits all reports required by this section in a timely manner.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25403.5, Public Resources Code.

§ 1623. Load Management Tariff Standard.

(a) This standard requires that a utility develop marginal cost rates, using a recommended methodology or the methodology approved by its rate-approving body, when it prepares rate applications for retail services, and that the utility submit such rates to its rate-approving body.

(b) Marginal Cost Methodologies and Rates. Within six months after the Marginal Cost Pricing Project Task Force (which is jointly sponsored by the CEC and CPUC under an agreement with the Federal Department of Energy) makes its final report available to the public, and the Commission approves it by resolution, a utility submitting a general rate filing to its rate-approving body shall include marginal cost based rates in such filing which have been developed by using at least one methodology recommended by the Task Force, except that if a utility's rate-approving body has approved a marginal cost methodology, a utility may substitute the approved methodology for one recommended by the Task Force.

If at any time subsequent to the Commission's approval of the Task Force report, the utility's rate-approving body approves a marginal cost methodology which is substantially different from any of the methodologies recommended by the Task Force, the utility shall so inform the Commission, and shall explain the nature of and the reasons for these differences.

In addition to marginal cost based rates which it develops using a methodology recommended by the Task Force report for that utility or approved by its rate-approving body, the utility may also submit marginal cost based rates which it develops using any alternative methodology that it deems appropriate.

The utility may also submit other rates or tariffs which it deems appropriate.

Nothing in this section shall prevent the Commission from recommending the approval of marginal cost methodologies different from those used by a utility to any rate-approving body.

(c) Public Information Program. As soon as a utility's rate-approving body has adopted a tariff in accordance with a recommended or approved marginal cost methodology, the utility shall conduct a public information program which shall inform the affected customers why marginal cost based tariffs are needed, exactly how they will be used and how these tariffs can save the customer money. (d) Compliance. A utility shall be in compliance with this standard if all of the utility's rate applications are prepared in accordance with the provisions of subsection (b) above, and the utility provides informational copies of its applications to the Commission.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25403.5, Public Resources Code.

§ 1624. Swimming Pool Filter Pump Load Management Standard.

(a) Application. The provisions of this section are applicable to electric filter pumps which routinely circulate water through private residential inground or aboveground swimming pools within the utility's service area. It does not apply to pumps used to circulate swimming pool water heated by active solar collectors.

(b) Program. The utility shall undertake a program to encourage its customers to restrict the use of swimming pool filter pumps as follows:

(1) Off-Peak Hours. Customers should operate filter pumps during off-peak hours as determined by the utility for its service area. Customers should run their filter pumps outside of the suggested hours only if the noise from their pumps violates a local noise ordinance, or because their pumps cannot circulate enough water within the suggested hours to properly filter or heat the pool.

(2) Operating Time. Customers should restrict filter pump operation to only two hours daily in winter and four hours daily in summer. However, if the pool water does not remain clear or in proper chemical balance, the customer may increase filter operation time by successive half-hour periods until the water remains clear and properly balanced chemically.

(3) Time Clock. The utility shall encourage its customers to buy time clocks if they do not already have them. The utility may provide time clocks to those of its customers who do not already have them. The utility shall offer its assistance to any customer who seeks aid in setting time clocks.

(c) Program Goals. Within 12 months after the Commission approves a utility's Swimming Pool Filter Pump Plan and the utility's rate-approving body approves a method for recovering the costs of the program, the utility shall have contacted 100 percent of those identified customers to whom the standard applies.

(d) Swimming Pool Filter Pump Plan. No later than six months after this article becomes effective, the utility shall submit a Swimming Pool Filter Pump Plan. This plan shall

indicate how the utility intends to contact, within 12 months after the Commission approves the plan and the rate-approving body approves the program-related expenditures, 100 percent of those identified customers to whom the standard applies and the measures to be undertaken for system wide implementation following the contact period. This plan shall, as a minimum, include the following elements of a filter pump program:

(1) Objectives -The plan shall describe, in detail, the utility's objectives in pursuing the swimming pool filter pump time clock reset program. It shall also include an assessment of the impact of the program on system reliability, need for new capacity, fuel efficiency, and overall costs.

(2) Organization -The plan shall describe how the utility will organize and manage the time clock reset program. It shall include organization charts, qualifications for each position and the reporting relationship of the effort to the President or General Manager of the utility. The plan shall describe how the utility intends to recruit and hire the personnel needed to staff the proposed organization.

(3) Schedule and Budget -The plan shall include a detailed schedule for each of the program elements. The schedule shall indicate each task required to complete each element, the level of effort assigned to each task, and the beginning and ending dates of each task. The plan shall include the utility's detailed budget for carrying out all elements of the time clock reset program. It shall display dollars budgeted over time, by task, for personnel, equipment, education and surveys.

(4) Customer Contact -The plan shall describe how the utility intends to identify those residences in its service area which have in-ground or above-ground pools subject to this standard. The plan shall also describe how the utility intends to contact 100 percent of its identified swimming pool customers, within 12 months after the Commission approves the plan and the utility's rate-approving body approves a method for recovering the costs of the program, in order to solicit their participation in the time clock reset program. In its initial contact with each customer, the utility will provide all pertinent information on the timing and duration of swimming pool filter pump use as well as the benefits of using an automatic time clock to run the pump. The plan shall show how the activities of this element are reasonably related to the program goal.

(5) Public Education -The plan shall describe how the utility expects to inform the public regarding the use of filter pumps and the cost-effectiveness of purchasing or resetting time clocks.

(6) Program Operations -The plan shall describe how the utility intends to cause time clocks to be reset, how resetting will be recorded, and how the utility will provide assistance to any customer who seeks aid in setting or resetting time clocks. If the utility plans personal visits, it shall describe what information will be obtained from each visit. The plan shall describe how the utility expects to determine and demonstrate the cost-effectiveness of purchasing time clocks by pool owners who do not have time clocks. In addition, the plan may describe how the utility will provide time clocks to those of its customers who do not already have them. The plan shall describe how the utility intends to respond to customer questions, problems, or complaints about the program.

(7) Program Evaluation and Reporting -The plan shall describe how the utility intends to conduct annual surveys which will enable the utility to determine when and for how

long its customers actually use their swimming pool filter pumps. Surveys must use generally accepted and statistically valid survey methods. These surveys shall indicate the percentage of the utility's customers to whom the standard applies that are taking part in the filter pump program. The plan shall show how evaluations, including the program's impact on the load duration curve, will be made and the results fed back into each element to improve the program on a regular basis. The plan shall describe how the utility will report progress in implementing the time clock reset program to the Commission. It shall show how the Commission will be notified, in a timely manner, of unexpected delays or difficulties. The plan shall include an outline of the reporting formats that the utility intends to use for annual reports.

(8) Other Information -The plan shall include any other information that the utility deems appropriate for Commission consideration in relation to the time clock reset program.

Review and approval of Swimming Pool Filter Pump Plans shall be carried out in accordance with the provisions of Section 1621(d).

As soon as the Commission has approved a utility's Swimming Pool Filter Pump Plan and the utility's rate-approving body has approved a method for recovering the cost of the program, the utility shall begin its swimming pool filter pump program.

(e) Progress Report. Within 15 months after commencing the program, the utility shall submit a Progress Report to the Commission. This Report shall describe how the utility has conducted its program of 100 percent customer contact. This Report shall also specify the level of voluntary customer participation which the utility has been able to achieve as a result of this program, the extent to which the utility has conducted follow-up contacts with its customers, and shall provide any other relevant information which the utility has obtained as a result of its contact program.

In addition, the Report shall recommend whether this program should be continued or whether it should be discontinued. Within 60 days after its receipt of a utility's Progress Report, the Commission shall hold a public hearing to determine whether the program should be continued or whether it should be discontinued.

(f) Annual Reports. If the Commission determines that the program should be continued, the utility shall submit a report to the Executive Director within 12 months after such determination, and annually thereafter. These Reports shall describe the utility's ongoing program efforts, shall provide the results of annual surveys which will enable the utility to determine when and for how long its customers actually use their swimming pool filter pumps, and shall indicate the impact of this program on the previous year's load duration curve.

(g) Compliance. The utility shall be in compliance with this standard if:

(1) The utility is carrying out its program in accordance with the provisions of an approved Swimming Pool Filter Pump Plan;

(2) Within 12 months after the Commission has approved the utility's Swimming Pool Filter Pump Plan and the rate-approving body has approved a method for recovering the costs of the program, the utility shall have contacted 100 percent of those identified customers to whom the standard applies; and

(3) The utility submits all required reports on time.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 24503.5, Public Resources Code.

§ 1625. Non-Residential Load Management Standard.

(a) Program Goals. The utility's Nonresidential Load Management program shall be designed to achieve, by 1985, a twenty (20) percent improvement in energy efficiency in the following segments of the nonresidential sector and in the following manner:

(1) Large Commercial: The utility shall make its best good faith efforts to conduct energy conservation surveys of 100 percent of its large commercial customers within 36 months after the Commission has approved the utility's Plan for Large Commercial Customers and the utility's rate-approving body has approved a method for recovering the costs of the program.

(2) Small Commercial: Within 24 months after the Commission approves a utility's Plan for Small Commercial Customers, the utility shall have made its best good faith efforts to contact 100 percent of its small commercial customers individually or through trade and community organizations. The utility shall not be required to conduct energy conservation surveys of all such customers.

(b) Plans for Commercial Customers. No later than one year after this standard becomes effective, the utility shall submit an Energy Conservation Plan for Small Commercial Customers, and, no later than six months after this standard becomes effective, the utility shall submit an Energy Conservation Plan for Large Commercial Customers. In these plans, the utility shall describe in detail how it intends to implement commercial load management programs, shall provide a schedule for implementation of these programs, and shall indicate how it intends to report on the success of these programs. Review and approval of these Plans shall be carried out in accordance with the provisions of Section 1621(d). The utility shall implement its Plans in accordance with the schedules contained in the Plans, as soon as the Commission has approved the plans and the rate-approving body has approved a method for recovering the costs of these programs.

(1) Plan for Large Commercial Customers. With the exception of paragraphs (iv), (v) and (vi), which are optional, the plan shall contain all of the elements described below. It shall also contain the service area inventory, the service area energy index and a priority sequence, or it shall contain an alternative method for determining the order in which the utility will conduct Energy Conservation Surveys. Any such alternative method shall be described in detail in the Plan and shall indicate how either the least energy-efficient customers or the customers with the greatest energy-saving potential are surveyed first.

(i) Objectives -The plan shall describe, in detail, the utility's commercial load management program. It shall also include an assessment of the impact of the program on system reliability, need for new capacity, fuel efficiency, and overall costs.

(ii) Organization -The plan shall describe how the utility will organize and manage the commercial load management program. It shall include organization charts, qualifications for each position and the reporting relationship of the effort to the President or General Manager of the utility. The plan shall describe how the utility intends to recruit and hire the personnel needed to staff the proposed organization, and how the utility intends to coordinate its survey work with outside energy management consultants.

(iii) Schedule and Budget -The plan shall include a detailed schedule for each of the program elements. The schedule shall indicate each task required to complete each element, the level of effort assigned to each task, and the beginning and ending dates of each task. The plan shall include the utility's detailed budget for carrying out all elements of the commercial load management program. It shall display dollars budgeted over time, by task, for personnel, equipment, and outside contractors.

(iv) Service Area Inventory -A service area inventory shall provide data on conditioned space, total energy use for all forms of energy supplied by the utility, building type, and SIC code. For each building, the inventory shall identify the area, in square feet, of conditioned space. For each building, the inventory shall identify annual total energy use, in British thermal units (at gross thermal value) per square foot of conditioned space, for all forms of energy which the utility provides the customer. The inventory shall identify each building according to the appropriate Standard Industrial Classification Groups and by building type.

(v) Service Area Energy Index -Using the data obtained in the service area inventory, the utility will calculate the service area energy index for each Standard Industrial Classification Group and building type. This index is the median annual total energy use for buildings of a given Standard Industrial Classification Group or building type.

(vi) Priority Sequence -The utility shall determine the order in which it will conduct Energy Conservation Surveys. It shall utilize a method that considers how efficiently a customer uses energy, or it shall multiply each large commercial customer's conditioned space (in square feet) by the number of Btu's per square foot (if any) by which the customer exceeds his service area energy index. The utility shall then rank, in descending order of excess, those customers which exceed the index. It shall rank customers whose energy use does not exceed the index in descending order of their gross energy use. This ranking establishes the priority sequence.

(vii) Public Education -The plan shall describe how the utility expects to inform commercial customers about the commercial load management program.

(viii) Program Operations -The plan shall describe how the utility intends to carry out the day-to-day operations of the commercial program in accordance with (d) and (e) below. It shall describe how the utility intends to make arrangements with commercial customers to make surveys.

(ix) Program Evaluation and Reporting -The plan shall describe how the utility intends to evaluate, on an ongoing basis, the quality and performance of each element of the commercial load management program. It shall describe how evaluations will be made and the results fed back into each element to improve the program on a regular basis. The plan shall also describe how the utility intends to report progress on implementing the commercial load management program to the Commission. It shall indicate how the Commission will be notified, in a timely manner, of unexpected delays or difficulties. The plan shall include an outline of the reporting formats that the utility intends to use for its annual reports.

(x) Other Information -The plan shall include any other information that the utility deems appropriate for Commission consideration in relation to the commercial load management program.

(2) Plan for Small Commercial Customers. The plan shall contain elements (i), (ii), (iii), (vii), (viii), (ix), and (x) referred to in Subsection (b)(1) above.

(c) Plan for Industrial Customers. The utility may, at its option, expand its commercial load management program to include its industrial customers. If it chooses to do this, the utility shall submit a Plan for Industrial Customers. This plan shall contain the utility's assessment of the potential energy and capacity savings in the industrial sector of its service area on an industry-by-industry basis. This plan shall also describe the steps which the utility will take, by means of surveys or other programs, to achieve these savings, and the time frame in which these steps would be carried out. To the extent applicable, this plan shall contain information similar to that required by elements (i), (ii), (iii), (vii), (viii), (ix), and (x) referred to in subsection (b)(1) above. The Commission shall review any Plan for Industrial Customers to determine whether the proposals set forth in that plan will be cost-effective in achieving the estimated energy and/or capacity savings. If the Commission determines that the plan would be cost-effective to implement, it shall approve the plan.

(d) Energy Conservation Surveys for Large Commercial Customers. The utility or its contractor shall conduct Energy Conservation Surveys for large commercial customers cooperating in the program in descending order of priority sequence. The utility shall begin the surveys as soon as the Commission has approved its Plan for such customers and the utility's rate-approving body has approved a method for recovering the costs of the program. It shall complete these surveys within 36 months after it begins the surveys.

Each Survey shall review the end-uses of electricity at a specific site. It shall identify ways by which the customer can reduce both his total electricity use and his electricity demand during the peak period. Each survey shall as a minimum consider lighting, hot water, heating-ventilating, and cooling-ventilating.

(e) Survey Report. Within 30 days after it has completed an Energy Conservation Survey, the utility or its contractor shall provide the customer with a written report.

This report shall recommend ways in which the customer can shift loads to non-peak hours and save energy, and shall estimate how much money the customer would save should he implement the recommendations. The report shall indicate how the customer might take part in existing or potential utility-conducted load cycling programs, and how he may use solar energy techniques, cogeneration, or other load shifting or load diminishing measures. The report shall also show where further study by other experts might help him save still more energy and money.

The utility will retain a copy of the report, related papers and forms. It will keep these records available for review by the Executive Director, pursuant to Section 1621(e). The Executive Director shall conduct an annual review of quality of utility Surveys.

(f) Resurveys. Each year, the utility or its contractor shall recalculate annual total energy use for any large commercial customer surveyed during the previous year. It shall reenter into its priority sequence those customers which still exceed their service area energy index or it shall determine the order for resurveying its customers in accordance with an approved alternative method. In proper priority sequence, it shall resurvey such customers.

(g) Annual Report. On March 31 of each year, the utility shall submit to the Executive Director its annual report on Energy Conservation Surveys for customers affected by this section covering the previous calendar year. The Executive Director shall prescribe the format for these reports. In its first annual report, the utility shall describe how it initiated the surveys.

In each subsequent report, the utility shall provide the service area inventory or an update thereof, and the service area energy index and the priority sequence or their equivalent based on an approved alternative method. In addition, the report shall include, but need not be limited to, the following:

Number of customers surveyed;

Total energy used by the surveyed customers by Standard Industrial Classification Group and by building type in the 12 months covered by the annual report and 12 months prior to the period of the annual report;

Total kilowatt-hour, kilowatt demand, and coincident kilowatt demand by Standard Industrial Classification Group and by building type of the surveyed customers in the 12 months covered by the annual report and 12 months prior to the period of the annual report;

Net conditioned space of the surveyed customers at the time of the survey and 12 months prior to the survey; and

Expense data for all personnel, overhead, equipment and other items attributed to the survey program.

Each annual report shall describe the status of the utility's program for small commercial customers, and of any optional approved program for industrial customers.

Each annual report shall also indicate the impact of each program covered by this section on the utility's load duration curve for the previous 12 months.

(h) Compliance. The utility will be in compliance with this standard if:

(1) It submits all plans and reports required by this section in a timely manner;

(2) Within 36 months after the Commission has approved the utility's Plan for Large Commercial Customers and the rate-approving body has approved a method for recovering the costs of the program, the utility shall have made its best good faith efforts to conduct energy conservation surveys of 100 percent of its large commercial customers; and

(3) Within 24 months after the Commission has approved the utility's Plan for Small Commercial Customers and the rate-approving body has approved a method for recovering the costs of the program, the utility shall have made its best good faith efforts to contact 100 percent of its small commercial customers individually or through trade and community organizations.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25403.5 and 25406, Public Resources Code.

Article 6. Energy Conservation Assistance Act Regulations

§ 1650. Purpose.

These regulations specify the eligibility criteria and allocation procedures to be followed by the Energy Commission in implementing the Energy Conservation Assistance Act (ECAA), Public Resources Code Sections 25410-25421.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25419, Public Resources Code.

§ 1651. Definitions.

As used in this article:

(a) "Certified energy auditor" is a person who has successfully completed an energy auditor training course cosponsored by the Commission and the California Community Colleges, or who is otherwise certified by the Commission. The Commission shall maintain a current list of such auditors. All energy audits for this program shall be conducted by certified energy auditors.

(b) "Construction completion" is the date of issuance of an occupancy permit.

(c) "ECAA" is the Energy Conservation Assistance Act, Public Resources Code Sections 25410-25421.

(d) "Energy cost savings" is the difference between the amount of a loan recipient's utility bill after an energy conservation project is implemented and the amount of the utility bill had the project not been implemented.

(e) "Energy Use Index" is the value obtained by dividing a building's total annual energy use in Btus by the gross square feet of the building.

(f) "Committee" is the committee of the Commission, designated pursuant to Section 25211 of the Public Resources Code, which shall review all loan applications submitted under the ECAA.

(g) "Gross square feet" is the sum of all heated and cooled floor areas enclosed in a building, calculated from the outside dimensions, or from the centerline of common walls.

(h) "Institutional Conservation Program" is the Energy Conservation Measures and Energy Audits Grant Program for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions, administered by the Department of Energy pursuant to 42 U.S.C. Sections 6371-6372i.

(i) "Long-term care institution" is a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who require skilled nursing or intermediate care and related medical services:

(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital; or

(2) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the state.

(j) "Rehabilitation institution" is a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of:

(1) medical evaluation and services; and

(2) psychological, social, or vocational evaluation and services, undercompetent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the state.

(k) "Residential child care center" is an institution (other than a foster home) operated by a public or nonprofit institution, which is primarily intended to provide full-time residential care with an average length of stay of at least 30 days for at least 10 minor persons who are in the care of such institution as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.

(l) "Simple payback" is the time it takes to recover the cost of an energy conservation project by the resulting energy cost savings. This payback is calculated by dividing the amount of the loan including the interest and other costs associated with the loan, by the estimated annual energy cost savings based upon utility rates in effect at the time of application.

(m) "Streetlight conversion project" is the whole of a proposal to convert a streetlighting system or portion thereof, as provided for by Section 25412.5 of the Public Resources Code.

(n) "Technical audit" is a "technical assistance program," as used in the ECAA.

(o) "Technical auditor" is a person eligible to perform technical audits of this program. The technical auditor must:

(1) Be an engineer registered in the State of California;

(2) Be free from any financial interest which may conflict with the proper performance of the auditor's duties. This qualification includes, but is not limited to, the requirement that the auditor not have a financial interest in or be employed by a vendor or manufacturer of products which a technical audit could recommend.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25211, 25411(b), (m)(1), (m)(2), (m)(4), (r), 25413 and 25419, Public Resources Code.

§ 1652. Loan Cycles.

(a) Scheduling. A loan cycle shall take place when the Commission determines that there are sufficient funds in the Energy Conservation Assistance Account. The Commission shall provide potential applicants with a minimum of 90 days notice to submit applications, unless the purpose of the cycle is to make matching loan monies available to eligible

institutions which have received Institutional Conservation Program energy conservation measure grants. In such case, the Commission shall give the maximum notice possible under the Institutional Conservation Program schedule.

(b) Loan Monies Available. When the Commission gives notice of a loan cycle it shall also announce the types of loans for which it will be accepting applications, loan minimums and maximums, cents per square foot limits for energy audit and energy audit/technical audit loans, and the total loan monies expected to be available for the cycle.

(c) Loan Approval. The committee shall review all loan applications and shall recommend to the Commission applications for approval.

(d) Loan Disapproval. If the committee proposes to recommend disapproval of any loan application, the committee shall advise the applicant in writing of the specific reasons why the application was disapproved.

(e) Appeals. An applicant may appeal a proposed disapproval by filing a petition for appeal with the Commission Docket Unit within 15 days of receiving notification of the proposed disapproval. All appeals shall explain the grounds therefore. All appellants shall be notified of the Commission business meeting at which the Commission shall consider the committee's recommendations for loan approvals and shall have an opportunity to make oral comments at that meeting.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25214 and 25419, Public Resources Code.

§ 1653. Energy Audit and Energy Audit/Technical Audit Loans.

(a) Application Requirements. Energy audit and energy audit/technical audit loan applications shall contain:

(1) A description of the building(s) to be audited, including the gross square feet and date of construction completion for each;

(2) A budget summary for the project(s), including funds budgeted for materials and contracts (including engineering consultant fees);

(3) A proposed project schedule, including dates for project commencement and completion;

(4) Copies of utility bills for the previous twelve consecutive months, or data supplied by the utility(ies) summarizing this information.

(b) Scoring of Applications. Loan applications with the highest Energy Use Index shall be given the highest ranking. Such ranking shall not include any project deemed to be unreasonable because of its cost, economic viability, or technical feasibility.

(c) Audit Report. Within 90 days of the conclusion of an energy audit or energy audit/technical audit financed in whole or in part by ECAA funds, the loan recipient shall submit to the Commission an energy or technical audit report for each building audited with ECAA funds. Such report(s) shall contain the information required by federal law for the Institutional

Conservation Program, and an estimate of the energy and cost savings the recommended changes in maintenance and operating procedures will achieve.

(d) Implementation. Before receiving a loan for an energy audit or energy audit/technical audit, applicants shall promise in good faith to implement all feasible changes to existing maintenance and operating procedures as set forth in the energy audit, so that the loan will be repaid out of energy cost savings.

(e) Repayment. Energy audit and energy audit/technical audit loans shall be repaid within two years, unless the recipient can demonstrate to the Commission that it will not have recovered the amount of the loan through energy cost savings within that time. In such case, the repayment period shall be extended as necessary so that the recipient can repay the loan out of energy cost savings.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25412, 25413, 25417(a) and 25419, Public Resources Code.

§ 1654. Energy Conservation Measure Loans.

(a) Application Requirements. An application for an energy conservation measure loan shall contain:

(1) An energy audit and technical audit report for each building in the application, except that an energy audit report shall not be required for a loan not involving a building. If either report has been previously submitted, the applicant need only update relevant information;

(2) A budget for the project, including funds budgeted for

(A) labor;

(B) engineering;

(C) construction;

(D) material;

(E) equipment;

(F) inspection;

(G) demolition (if applicable); and

(H) removal (if applicable); less equipment salvage value (if applicable).

(3) A proposed project schedule, including dates for project commencement and completion.

(4) A statement that all energy conserving changes to maintenance and operating procedures which are identified in the energy audit or technical audit reports have been or will

be implemented by a specified date, or a written justification for not implementing any procedures so identified;

(5) A statement that the applicant has no intention to close or otherwise dispose of the building within the simple payback of any energy conservation measure for which an ECAA loan is sought.

(b) Scoring of Applications. Energy conservation measure loan applications with the lowest simple paybacks shall be given the highest ranking. Such ranking shall not include any project deemed to be unreasonable because of its cost, economic viability, or technical feasibility.

(c) Central Plants. If an energy conservation measure loan is sought only for a building which is a central plant, separate energy audits must be done on the central plant and each building it serves, but the technical audit need only be conducted for the central plant building.

(d) Preferred Energy Conservation Measures. At the commencement of a loan cycle, the Commission may designate specific energy conservation measures for which, because of their proven energy savings, applicants need only submit an energy audit report for the building(s) involved and a breakdown of the estimated costs and savings for the proposed measures.

(e) Loans to Supplement Project Funding. The Commission may make energy conservation measure loan monies available to eligible institutions for the purpose of supplementing funds secured from other public and private sources.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25412, 25413 and 25419, Public Resources Code.

§ 1655. Streetlight Conversion Project Loans.

(a) Application Requirements. An application for a streetlight conversion loan shall contain the information necessary to demonstrate compliance with the criteria set forth in Public Resources Code Section 25412.5, including:

(1) Whether the applicant purchases its electricity from a utility or operates its own electrical system;

(2) The number, type, wattage, and ballast wattage, if applicable, of all luminaires proposed for conversion;

(3) Estimated conversion costs for each luminaire;

(4) Existing annual operating hours, kilowatt hours, and operating costs for each;

(5) Estimated annual operating hours, kilowatt hours, and operating costs for each, after conversion;

(6) The simple payback of the project;

(7) A budget for the project, including funds budgeted for

(A) labor;

(B) engineering;

(C) construction;

(D) material;

(E) equipment;

(F) inspection; and

(G) removal (if applicable); less equipment salvage value (if applicable).

(8) A proposed schedule including dates of project commencement and completion.

(b) Scoring of Applications. Loan applications with the lowest simple paybacks shall be given the highest ranking. Such ranking shall not include any project deemed to be unreasonable because of its cost, economic viability, or technical feasibility.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25412, 25412.5, 25413 and 25419, Public Resources Code.

Article 7. Regulations for the Geothermal Grant and Loan Program for Local Jurisdiction

§ 1660. Purpose.

This article specifies the criteria and procedures to be followed by the State Energy Resources Conservation and Development Commission in administering the Geothermal Grant and Loan Program for Local Jurisdictions under Sections 3822 and 3823 of the Public Resources Code.

Note: Authority cited: Sections 3822, 25213 and 25218(e), Public Resources Code. Reference: Sections 3820, 3822, 3823 and 25216(c), Public Resources Code.

§ 1661. Definitions.

In this article:

(a) "Committee" means the committee of the commission, appointed under Section 1204 of these regulations and authorized to approve members of the Technical Advisory Committee and to review geothermal grant and loan applications.

(b) "Contingent Award" means financing provided through this program for high-risk resource development activities conditioned upon the outcome of the proposed project. If the project is successful, the contingent award will become a loan and the terms for repayment will be based on the resulting revenues or energy savings. If the project is not successful, the contingent award will become a grant.

(c) "Eligible Applicant" means a local jurisdiction as defined in Public Resources Code Section 3807 that has geothermal resources or is impacted by geothermal development as specified in Public Resources Code Section 3800.

(d) "Eligible activity" means any one of the eleven purposes listed in Public Resources Code Section 3823.

(e) "GRDA" means the Geothermal Resources Development Account established by Public Resources Code Section 3820.

(f) "Mitigation project" means an eligible activity that identifies the adverse environmental or public service impacts of geothermal energy development, or implements measures to reduce or eliminate those impacts.

(g) "Planning project" means an eligible activity that regulates or guides the development and use of geothermal resources.

(h) "Resource development project" means an eligible activity that assesses, develops, or converts a geothermal resource for direct use or electrical generation.

(i) "Technical Advisory Committee" or "TAC" means the group approved by the Committee and composed of staff members, representatives from other state agencies, and representatives from the geothermal industry who review and score all final applications before they are considered by the Committee.

Note: Authority cited: Sections 3822, 25213 and 25218(e), Public Resources Code. Reference: Sections 3800, 3807, 3808, 3820, 3822, 3823, 25211, 25216(c) and 25218(e), Public Resources Code.

§ 1662. Types of Financial Assistance.

(a) The Commission shall distribute funds as a grant, loan, or a contingent award.

(b) Eligible applicants seeking funds for planning projects, mitigation projects, or resource development projects that will not produce revenue or result in energy savings may apply for a grant or loan award.

(c) Eligible applicants seeking funds for resource development projects that may produce revenue or result in energy savings may apply for a contingent award.

(d) The Committee shall review the results of each project funded with a contingent award to determine if the recipient is capable of repaying a loan from the expected revenue or energy savings. The Committee shall review the results when the project is complete; that is, when the resource is developed or when the system is operational after a reasonable test period, which shall include such time as is necessary for the staff to calculate the expected revenues or energy savings.

(1) The Staff shall calculate the expected revenue or energy savings based on actual resource temperatures, flow rates and quality.

(2) The Committee shall submit its recommendations to the Commission for approval.

Note: Authority cited: Sections 3822, 25213 and 25218(e), Public Resources Code. Reference: Sections 3822, 3823 and 25216(c), Public Resources Code.

§ 1663. Terms for Loan Payment.

(a) The Committee shall recommend to the Commission for approval the interest rate at the beginning of each funding cycle, which shall not exceed eight percent.

(1) All loan awards made in any one funding cycle shall bear the same interest rate published in the program opportunity notice for that cycle.

(2) A contingent award that becomes a loan shall carry the interest rate published in the program opportunity notice for the funding cycle during which the contingent award was made.

(b) The Committee shall recommend to the Commission for approval the repayment term for each loan, which shall not exceed six years.

(1) For a loan award, the repayment term shall be determined when the award is made.

(2) For a contingent award that becomes a loan, the repayment term shall be determined when the project is complete. After repayment begins, the Committee may renegotiate the term for Commission approval if revenues or energy savings become insufficient to repay the original loan.

(c) The Committee shall recommend to the Commission for approval the principal for each loan which shall not exceed 80 percent of the project cost.

(1) For a loan award, the principal shall be determined when the award is made.

(2) For a contingent award that becomes a loan, the principal shall be determined when the project is complete. After repayment begins, the Committee may renegotiate the principal for Commission approval if revenues or energy savings become insufficient to repay the original loan.

(d) The Committee shall recommend to the Commission for approval the number of installments for each loan, which shall include at least one annual payment.

(1) For a loan award, the installments shall be determined when the award is made.

(2) For a contingent award that becomes a loan, the installments shall be determined when the project is complete.

Note: Authority cited: Sections 3822, 25213 and 25218(e), Public Resources Code. Reference: Sections 3822, 3823 and 25216(c), Public Resources Code.

§ 1664. Funding Cycle; Schedule.

(a) The funding cycle is the annual period of time during which the Commission solicits applications and makes awards.

(b) The Committee shall initiate the funding cycle by mailing a program opportunity notice to all interested persons on a list established by the Committee in consultation with the Public Adviser.

(c) The Committee shall include in the program opportunity notice the due dates for preapplications and final applications, and the interest rate for loans to be awarded during the funding cycle. Preapplications shall be due no earlier than 45 days after the program opportunity notice is mailed. Final applications shall be due no earlier than 45 days after the due date for preapplications. The Committee may change previously established due dates for preapplications and final applications.

Note: Authority cited: Sections 3822, 25213, 25218(e), Public Resources Code. Reference: Sections 3820, 3822, 3822.1, 25216(c), Public Resources Code.

§ 1665. Application and Award Procedures.

(a) Preapplication Requirements. An applicant shall submit a preapplication for each project proposed under this article. The preapplication shall contain:

(1) a cover page with the applicant's name and mailing address; the names and telephone numbers of the project director, the budget officer, and the project manager; and an abstract of the project.

(2) a budget including estimates for personnel services, operating expenses, professional and consultant services, and construction expenses.

(3) a project narrative describing:

(A) the purpose or objective of the proposed project;

(B) the need for the project;

(C) related activities undertaken;

(D) the benefit to the local community;

(E) other funding sources investigated or secured for the project; and

(F) the anticipated effect of the project on geothermal energy development in the area; and

(G) the products that will result from the project.

(4) A work statement listing and describing the tasks to be undertaken.

(b) Preapplication Review. The purpose of the preapplication is to allow the staff early review of a proposed project. This review shall be used to determine the eligibility of the applicant, to make a preliminary evaluation of the proposed project, and to provide specific direction to improve the project proposal.

(1) The staff shall review all preapplications submitted by the deadline published in the program opportunity notice and shall provide written comments addressing the adequacy of the information.

(2) Any applicant may request a meeting to discuss staff's comments concerning the proposed project.

(c) Final Application Requirements. The final application is the formal submittal to the Commission. The final application shall contain all the matter listed in Section 1665(a) and:

(1) a work schedule showing personnel requirements and a timeline for completing the projects;

(2) a description of all products to be submitted to the commission;

(3) a resolution from the local jurisdiction's governing body authorizing submittal of the application;

(4) evidence of compliance with the California Environmental Quality Act; and

(5) for resource development projects that will directly result in revenue or energy savings, a feasibility study. The study shall include:

(A) a summary of conclusions;

(B) a description of the geothermal project;

(C) a discussion of the quality and availability of the geothermal resource, based on, but not limited to published information, water samplings, temperature and other logs, or flow tests;

(D) a schematic drawing including, but not limited to, well locations, distribution piping, structures, and end use equipment and controls;

(E) a table including, but not limited to a description of any new equipment, itemized capital costs (in current dollars), annual operating costs for the new geothermal system, and annual energy savings (in current dollars and energy units); and a cash flow analysis table including, but not limited to, year-by-year estimates (in current dollars) of the energy cost of existing nongeothermal system, the energy cost associated with the proposed geothermal system, operation and maintenance costs associated with the proposed geothermal system, net energy savings, debt service, and net cash flow.

(d) Final Application Review and Scoring. Staff shall separate all final applications into one of three following project categories: (1) resource development, (2) planning, or (3) impact mitigation. The Technical Advisory Committee shall review and score all final applications using the applicable criteria set forth in Appendix A.

(1) The TAC shall rank the applications based on their scores.

(2) The TAC shall recommend for funding those applications receiving at least 80 out of the maximum 120 points.

(e) Modifications. The TAC, with the approval of the applicant, may modify the application's work statement, schedule, product description, or budget, but may not change the intent of the proposed project. The TAC shall rescore the application without requiring a resubmittal. Any modification shall:

(1) avoid the duplication of work or research;

(2) break the project down into logical steps of development;

(3) reduce administrative requirements;

(4) include tasks that are necessary for the success of the project or to prepare for potential contingencies during project development; or

(5) bring the costs of the project within the bounds of past and current projects of a similar nature and extent.

(f) Committee Review. The TAC shall submit all final applications and its recommendations to the Committee. The TAC's recommendations are not binding on the Committee or on the Commission. The Committee shall review all applications and submit its recommendations to the Commission for approval.

(g) Commission Allocation of Funds. The Commission shall fund at least one project in each category and shall allocate at least 25 percent of the funds available to each project category. The Commission may allocate the remaining funds available to any project category.

(h) Declined Awards. If an applicant declines all or part of an award, the amount declined may be used to supplement an existing award or fund an application rejected because of a lack of funds during the given funding cycle.

(i) Notification. The Staff shall notify all final applicants in writing regarding the TAC's evaluation and scoring before the Commission acts on the Committee's recommendations. For each final application, a scoresheet showing the number of points received from the TAC shall be available to the applicant upon request. Nothing shall prevent an unsuccessful eligible applicant in one funding cycle from submitting an application for an eligible activity in another funding cycle.

Note: Authority cited: Sections 3822, 25213 and 25218(e). Public Resources Code. Reference: Sections 3822, 3823 and 25216(c), Public Resources Code.

Appendix A

Final Application Evaluation Criteria

1. Resources Development Project
a. Economic and Employment Benefit ..... (15 points)
b. Demonstration Value..... (15 points)
c. Payback and Cost Effectiveness ..... (15 points)
d. Proven Extent of the Resource..... (15 points)
e. Likelihood of Success ..... (15 points)
f. Match Contribution..... (15 points)
g. Overriding Issue ..... (30 points)
2. Planning Project
a. Demonstrated Need ..... (15 points)
b. Stimulation of Geothermal Energy Development ..... (15 points)
c. Proven Extent of the Resource ..... (15 points)
d. Public Involvement..... (15 points)
e. Implementation ..... (15 points)
f. Match Contribution ..... (15 points)
g. Overriding Issues ..... (30 points)
3. Impact Mitigation Project
a. Documented Impact..... (15 points)
b. Demonstrated Need ..... (15 points)
c. Availability of Alternatives for Mitigating the Impact ..... (15 points)
d. Match Contribution..... (15 points)
e. Timeliness..... (15 points)
f. Likelihood of Success ..... (15 points)
g. Overriding Issues..... (30 points)

Article 8. California Home Energy Rating System Program

§ 1670. Scope.

These regulations establish the California Home Energy Rating System (herein referred to as HERS) Program pursuant to Public Resources Code Section 25942, including procedures for the training and certification of Raters, and a certification program for home energy rating system organizations (herein referred to as Providers) and for home energy rating services (herein referred to as Rating Systems). The HERS Technical Manual, Publication CEC-400-2008-012, December 2008, which is defined below, shall be incorporated by reference.

The California HERS Program regulations apply to the use of HERS Raters to provide two key services:

(i) Field verification and diagnostic testing as required by Title 24, Part 6.

(ii) Whole-House Home Energy Ratings of newly constructed and existing homes.

NOTE: In the course of providing a California Whole-House Home Energy Rating, a home energy audit is performed. The California HERS Program includes the case where the energy audit portion of the rating

process is completed but a California Whole-House Home Energy Rating score is not designated. When describing that case, these regulations refer to that portion of the rating process as a California Home Energy Audit.

Note: Authority cited: Sections 25213 and 25942, Public Resources Code. Reference: Section 25942, Public Resources Code.

§ 1671. Definitions.

For the purposes of these regulations, the following definitions shall apply:

ACM Manual means the Low-Rise Residential Alternative Calculation Method Approval Manual (Energy Commission Publication CEC-400-2008-002) adopted in Section 10-109(b)(2) of Title 24, Part 1 of the California Code of Regulations.

Building Performance Contractor means a contractor who is certified by a Provider to evaluate the comfort and safety aspects of a home in conjunction with its energy features and its energy consumption in a holistic manner to determine recommendations for the best overall performance of a home for the occupant or owner, and is licensed by the California Contractors State License Board as a current and active class B general building contractor. Either the qualifying individual for the class B license or the employee who is directly responsible to the qualifying individual for the class B license for rating services, audit services, and related construction work is certified as a California Whole-House Home Energy Rater by an Energy Commission-approved Building Performance Contractor program as specified in Section 1674(e).

California Field Verification and Diagnostic Testing Rater means a Rater who has been trained, tested, and certified by a Provider to perform field verification and diagnostic testing of newly constructed homes or alterations to existing homes to verify compliance with the requirements of Title 24, Part 6.

California Home Energy Analyst means a person who works under the direct supervision of a California Whole-House Home Energy Rater and has been trained, tested, and certified by a Provider in accordance with the requirements of Section 1673(a) to perform analysis for a Whole-House Home Energy Rating using an Energy Commission-approved HERS rating software program.

California Home Energy Audit means a process to determine the energy savings and cost-effectiveness of specific measures together with an evaluation of the energy uses listed in Section 1672(d) and a report to present the information used to evaluate the measures and make recommendations for the inclusion of such measures into the home. An audit need not include a Whole-House Home Energy Rating score.

California Home Energy Auditor means a person who has been trained, tested, and certified by a Provider as a California Whole-House Home Energy Rater to provide the information for a California Home Energy Audit.

California Home Energy Inspector means a home inspector who has also been trained, tested, and certified by a Provider and who works under the direct supervision of a California Whole-House Home Energy Rater to gather the data specified in the HERS Technical Manual to enable the development of a California Whole-House Home Energy Rating.

California Whole-House Home Energy Rater means a person who has been trained, tested, and certified by a Provider to properly gather information on the energy consuming features of a home, perform diagnostic testing at the home, evaluate the validity of that information, simulate and perform analysis for a California Whole-House Home Energy Rating or a California Home Energy Audit using an Energy Commission-approved HERS rating software program to estimate the energy consumption of a home using the information gathered on site, and complete all of the cost-effectiveness evaluations described in the HERS Technical Manual.

California Whole-House Home Energy Rating means a process to determine a California Whole-House Home Energy Rating score representing the relative energy efficiency of a newly constructed or existing residential building as compared to the Reference Home.

Certified, as to a Provider and Rating System, means having successfully completed the certification requirements as specified by Section 1674.

Energy Commission means the State of California Energy Resources Conservation and Development Commission, commonly known as the California Energy Commission.

Energy-Rated Home means a newly constructed or existing residential building that has an energy rating pursuant to these regulations.

Executive Director means the Executive Director of the Energy Commission.

Financial Interest means an ownership interest, debt agreement, or employer/employee relationship. Financial interest does not include ownership of less than five percent of the outstanding equity securities of a publicly traded corporation.

HERS Technical Manual or HTM means the HERS Technical Manual, Energy Commission Publication CEC-400-2008-012 (May 2009), and is incorporated by reference.

Independent Entity means having no financial interest in, and not advocating or recommending the use of any product or service as a means of gaining increased business with, firms or persons specified in Section 1673(j).

Note: The definitions of “independent entity” and “financial interest,” together with Section 1673(j), prohibit conflicts of interest between Providers and Raters, or between Providers/Raters and builders/subcontractors.

Net Zero Energy Home means a home that has a net annual Time Dependent Valued (TDV) Energy consumption of zero, accounting for both energy consumption and the use of on-site renewable energy production.

Provider means an organization that administers a home energy rating system in compliance with these regulations (referred to as a “home energy rating service organization” in Section 25942 of the Public Resources Code).

Rater means a person who has been trained, tested, and certified by a Provider to perform one or more of the functions or procedures used to develop a California Whole-House Home Energy Rating, a California Home Energy Audit, or the field verification and diagnostic testing required for demonstrating compliance with the Title 24, Part 6, Building Energy

Efficiency Standards, and who is listed on a Provider's registry in compliance with Section 1673(d).

Rating means a California Whole-House Home Energy Rating, a California Home Energy Audit, or the field verification and diagnostic testing required for verifying compliance with the Title 24, Part 6, Building Energy Efficiency Standards, as specified by these regulations.

Rating System means the materials, analytical tools, diagnostic tools and procedures to produce home energy ratings, and provide home energy rating and field verification and diagnostic testing services (referred to as “home energy rating services” in Section 25942 of the Public Resources Code).

Reference Home means a low-rise residential building similar to the rated house, but for which the energy performance characteristics of each component exactly meet the reference house specifications defined in the HERS Technical Manual.

Service Water Heating means service water heating as defined in Section 101(b) of Title 24, Part 6 of the California Code of Regulations.

Time Dependent Valued (TDV) Energy means the time varying energy used by the building to determine the home energy rating pursuant to these regulations. TDV Energy accounts for the energy used at the building site and consumed in producing and delivering energy to a site, including, but not limited to, power generation, and transmission and distribution losses.

Note: Authority cited: Sections 25213 and 25942, Public Resources Code. Reference: Section 25942, Public Resources Code.

§ 1672. Requirements for Rating Systems.

(a) California Whole-House Home Energy Rating or California Home Energy Audit. A California Whole-House Home Energy Rating or a California Home Energy Audit shall be completed for a home only if the rating or the audit is completed as specified by these regulations and the HERS Technical Manual.

(b) Data Collection.

(1) For ratings of existing homes that produce a California Whole-House Home Energy Rating or a California Home Energy Audit, each rating shall be based on a site inspection of the home that includes data collection and diagnostic testing as specified by the Rating System in conformance with these regulations and the HERS Technical Manual. Each Rating System shall have documented procedures for site inspection and diagnostic testing of Energy-Rated Homes.

(A) The data collection shall be completed by a California Whole-House Home Energy Rater or by a California Home Energy Inspector directly supervised by a California Whole-House Home Energy Rater.

(B) The types and the details of data pursuant to each level of Rater certification shall be collected as specified in the HERS Technical Manual.

(C) The minimum level of data collection for a California Whole-House Home Energy Rating or a California Home Energy Audit shall meet the specifications in the HERS Technical Manual.

(2) For ratings of newly constructed homes that produce a California Whole-House Home Energy Rating, each rating shall be based on data gathered from construction documents as specified in the procedures outlined in the HERS Technical Manual and verified or tested on-site by a California Whole-House Home Energy Rater. California Whole-House Home Energy Ratings may be produced based on sampling of one house out of a group of seven as long as all of the houses in the group have the same energy efficiency and on-site generation measures. These ratings may be produced using the multiple orientation approach specified in the Title 24, Part 6, Building Energy Efficiency Standards. Procedures for initial testing, sampling, resampling, and corrective action specified in the Residential Appendices to Title 24, Part 6, shall be followed.

(3) For ratings of newly constructed homes to establish compliance with Title 24, Part 6, through field verification and diagnostic testing, data shall be collected or specified by the Residential Appendices to Title 24, Part 6. A Rater who collects such data and performs such diagnostic tests shall be certified by the Provider as a California Field Verification and Diagnostic Testing Rater.

(c) Data Analysis Requirements. The analysis to complete a California Whole-House Home Energy Rating or a California Home Energy Audit shall be conducted by either a California Whole-House Home Energy Rater or a California Home Energy Analyst under the direct supervision of a California Whole-House Home Energy Rater.

(d) Energy Uses Rated. Each Rating System shall rate the total combined energy efficiency of the following energy uses of each home rated:

(1) Space heating.

(2) Space cooling.

(3) Service hot water.

(4) Lighting in conditioned space.

(5) Exterior lighting mounted on buildings or lighting in an unconditioned garage.

(6) Electric appliances.

(7) Gas appliances.

(8) Other interior electric and natural gas uses specified in the HERS Technical Manual.

(e) On-site Renewable Generation. If a home has on-site renewable generation whose energy production is modeled as specified in the HERS Technical Manual, two ratings shall be determined, one that rates the house with the on-site generation included in the energy calculations and one that rates the home without considering the on-site generation.

(f) Rating Scale. Each Rating System shall determine a California Whole-House Home Energy Rating score based on the annual TDV Energy of a home on a linear scale where 0 (zero) represents a Net Zero Energy Home and 100 represents the Reference Home. An Energy-Rated Home that uses more energy than the Reference Home shall have a rating of greater than 100. The rating shall be for the combined total of the energy uses specified in Section 1672(d).

(g) Method of Calculating TDV Energy. An hourly energy simulation program approved by the Energy Commission shall be used to calculate the TDV Energy of the Energy-Rated Home and the Reference Home for the purpose of calculating the rating. The method shall use standard weather files for the California climate zones and other modeling rules, procedures, and assumptions as specified in the HERS Technical Manual.

(h) Utility Bill Analysis. Every California Whole-House Home Energy Rating or California Home Energy Audit, where utility bills are available for a period of at least twelve months, shall include a utility bill analysis as specified in the HERS Technical Manual.

(i) Recommendations for Energy Efficiency Improvements. Every California Whole-House Home Energy Rating or California Home Energy Audit shall include a list of cost-effective improvements to the energy efficiency of the home as specified in the HERS Technical Manual.

(j) Greenhouse Gas Emissions. Each California Whole-House Home Energy Rating or California Home Energy Audit shall include an estimate of the carbon dioxide emissions attributable to the projected energy use of a home as specified in the HERS Technical Manual.

(k) HERS Report. The information specified in Sections 1672(a) through (j) shall be presented to the client in the form of a HERS Report for either a California Whole-House Home Energy Rating or a California Home Energy Audit as specified in the HERS Technical Manual.

(l) Field Verification and Diagnostic Testing. The Provider and Rater shall provide field verification and diagnostic testing of energy efficiency improvements as a condition for those improvements to qualify for the Title 24, Part 6, Building Energy Efficiency Standards compliance credit, as required by the Title 24, Part 6, Building Energy Efficiency Standards and Reference Appendices.

(m) Provider and Rater Conduct and Responsibility. Providers and Raters shall not knowingly provide untrue, inaccurate, or incomplete rating information or report rating results that were not conducted in compliance with these regulations. Providers and Raters shall not knowingly accept payment or other consideration in exchange for reporting a rating result that was not in fact conducted and reported in compliance with these regulations.

Note: Authority cited: Sections 25213 and 25942, Public Resources Code. Reference: Section 25942, Public Resources Code.

§ 1673. Requirements for Providers.

(a) Training and Certification Procedures for Raters. Each Provider shall conduct the following Rater training and certification procedures.

(1) Each Provider's training program shall include classroom and field training of applicants for California Whole-House Home Energy Rater certifications, incorporating training in analysis, theory, and practical application in at least the following areas:

(A) Home energy consumption and efficiency data collection, organization and analysis.

(B) Principles of heat transfer.

(C) Building energy feature design and construction practice, including construction quality assurance, on-site renewable generation, and “house as a system” concepts.

(D) Safety practices relevant to home energy auditing procedures and equipment.

(E) Home energy audit procedures.

(F) Energy efficiency effects of building site characteristics.

(G) Types and characteristics of space heating, space cooling, service hot water, and hard wired lighting systems.

(H) Mathematical calculations necessary to utilize the Rating System.

(I) The modeling and use of Energy Commission-approved HERS software required to produce a California Whole-House Home Energy Rating or a California Home Energy Audit and the associated California Home Energy Rating Certificate, California Home Energy Audit Certificate and HERS Report in accordance with the algorithms, procedures, methods, assumptions, and defaults specified in the HERS Technical Manual.

(J) Methods of cost-effectiveness analysis including interest and discount rates, cost-benefit ratios, life cycle cost analysis, calculation of present value, cash flow analysis, payback analysis, and cost estimation.

(K) The function and proper use of diagnostic devices including but not necessarily limited to: duct leakage testing equipment, blower doors, and air flow and pressure measurement devices.

(L) Construction types, equipment types, and their associated energy efficiency ramifications.

(M) Field verification and diagnostic testing requirements of the Title 24, Part 6, Building Energy Efficiency Standards and the Reference Appendices.

(N) Interpretation of prioritized recommendations for efficiency improvements and customized adjustment procedures for specific occupants.

(O) The behavioral, psychological, cultural, and socioeconomic influences on energy consumption of home occupants in the United States and California.

(P) California Home Energy Rating System Program requirements specified in these regulations.

(2) California Home Energy Inspector applicants shall not be required to be trained by the Provider in areas indicated in Sections 1673(a)(1)(H), (I), (J), (K), (M), (N) and (O) but shall be required to receive specific training in the areas indicated in Sections 1673(a)(1)(A) through (G) and general training in Sections 1673(a)(1)(L) and (P).

(3) California Home Energy Analysts applicants shall not be required to be trained by the Provider in Sections 1673(a)(1)(D) and (K) but shall be required to receive specific training in Sections 1673(a)(1)(G), (H), (I), and (J) and general training in Sections 1673(a)(1)(A) to (C), (E), (F), and (L) to (P).

(4) California Field Verification and Diagnostic Testing Raters shall not be required to be trained by the Provider in the areas indicated in Sections 1673(a)(1)(I), (J), (N), and (O) but shall be required to receive specific training in Sections 1673(a)(1)(H) and (K) through (M) and general training in Sections 1673(a)(1)(A) to (G) and (P).

(5) The training for all certifications and Raters shall include thorough instruction in using the Provider's Rating System and database.

(6) The training shall require California Whole-House Home Energy Rater applicants to satisfactorily perform a rating for at least one home that includes field verification and diagnostic testing in the presence and under the direct supervision of the Provider's trainer or Quality Assurance Reviewer. The training shall require California Field Verification and Diagnostic Testing Rater applicants to satisfactorily perform field verification and diagnostic testing for at least one home in the presence and under the direct supervision of the Provider's trainer or Quality Assurance Reviewer. The Provider shall review and approve these ratings for accuracy and completeness.

(7) The Provider shall require each applicant to take an Energy Commission-approved written and practical test that demonstrates his or her competence in all subjects specified in Section 1673(a)(1). The Provider shall retain all results of these tests for five years from the date of the test.

(8) Each Provider may establish an Energy Commission-approved challenge test that evaluates competence in each area addressed by the Provider's training program. If a Rater applicant successfully passes this challenge test, the Provider may waive the classroom training requirement and the written and practical test requirements for that applicant. An applicant who passes this challenge test shall also successfully meet the requirements specified in Section 1673(a)(6).

(9) Programs incorporating Building Performance Contractors shall provide specific training in all areas specified in Section 1673(a)(1). These programs shall be submitted by the Provider for individual review and approval by the Energy Commission.

(b) Rater Agreements. As a condition of Rater registry under Section 1673(d), each Provider shall ensure that a Rater applicant who has met the applicable requirements of Section 1673(a) has entered into an agreement with the Provider to provide home energy rating and field verification and diagnostic services in compliance with these regulations. The agreement shall require Raters to:

(1) Provide home energy rating and field verification services in compliance with these regulations.

(2) Provide true, accurate, and complete data collection, analysis, ratings, and field verification and diagnostic testing.

(3) Not accept payment or consideration in exchange for reporting data gathered for a rating, analytical results used for a rating, or a rating result that was not in fact conducted and reported in compliance with these regulations.

(4) Comply with the conflict of interest requirements as specified in Section 1673(j).

(c) Building Performance Contractor Agreements. To be certified and registered as a Building Performance Contractor, a Provider shall ensure that a Building Performance Contractor applicant has entered into an agreement with the Provider to provide home energy rating services in compliance with these regulations. The agreement shall require Building Performance Contractors to:

(1) Be current and active licensed class B general building contractors and agree to abide by the laws and regulations of the California Contractors State License Board, including, but not limited to, complying with advertising requirements, home improvement contract requirements, and use of properly licensed subcontractors.

(2) Provide home energy rating services in compliance with these regulations.

(3) Provide home energy rating services under these regulations only with Raters certified under an Energy Commission-approved Building Performance Contractor program pursuant to Section 1674(e).

(4) Comply with requirements for the issuance of building permits, state and local building codes, and the other requirements of Section 7110 of the Contractors License Law (Business and Professions Code).

(5) Notify the Provider of any citation, suspension, or revocation actions by the California Contractors State License Board against the contractor.

(d) Rater and Building Performance Contractor Registry. As a condition of Rater registry, each Provider shall certify to the Energy Commission that a Rater applicant has met the requirements of Section 1673(a) and entered into an agreement meeting the requirements of Section 1673(b). As a condition of Building Performance Contractor registry, each Provider shall certify to the Energy Commission that the applicant has met the definition of a Building Performance Contractor and entered into an agreement meeting the requirements of Section 1673(c). The Provider shall maintain a registry of all Raters, persons, or firms that meet these requirements, provide an electronic copy of the registry to the Energy Commission, and make that registry available in printed or electronic form upon written request.

(e) Data Maintenance.

(1) Each Provider shall record and maintain for a period of ten years all data collected for a rating if the data is listed as a required or optional input for the rating in question. This requirement shall apply to data collected from a site visit, from the plans for a newly constructed building, or from a utility bill analysis. All required or optional outputs generated for a rating shall also be recorded.

(2) For homes that have received a field verification rating, the following information shall also be collected and maintained for ten years and may be in an electronic format:

(A) The energy efficiency improvements field verified and diagnostically tested.

(B) Whether or not the builder chose to include the home in a sample for field verification and diagnostic testing as specified in the Residential Appendices to Title 24, Part 6.

(C) Whether or not initial field verification and diagnostic testing as specified in the Residential Appendices to Title 24, Part 6, was conducted on the home.

(D) Whether or not the home in a sample was actually selected and field verified and diagnostically tested as specified in the Residential Appendices to Title 24, Part 6.

(E) Whether or not the home in a sample was actually selected for resampling and field verified and diagnostically tested after a sampling failure was found in the sample as specified in the Residential Appendices to Title 24, Part 6.

(F) Whether or not the home in a sample was field verified and diagnostically tested and corrective action was taken after a resampling failure was found in the sample as specified in the Residential Appendices to Title 24, Part 6.

(G) Whether or not the homeowner declined to have field verification, diagnostic testing, and corrective action taken after occupancy as specified in the Residential Appendices to Title 24, Part 6.

(H) The Certificate of Compliance, the Installation Certificate, and the Certificate of Field Verification and Diagnostic Testing.

(f) Field Verification and Diagnostic Testing Evaluation. Providers shall maintain a database of the information specified in Section 1673(e)(2) for a minimum 10 percent random sample of the homes actually field verified and diagnostically tested annually, or 500 such homes annually, whichever is less. Each Provider shall provide this information annually in electronic form to the Energy Commission for evaluating the effectiveness of field verification and diagnostic testing. If the Energy Commission makes this information public, it will be in aggregated form only. All of this information shall be organized according to climate zones as defined in Section 101(b) of Title 24, Part 6 of the California Code of Regulations.

(g) Data Submittal. Upon the Energy Commission's request, but not more frequently than annually, a Provider shall submit to the Energy Commission information recorded pursuant to Section 1673(e) and provide the Energy Commission ongoing access to the Provider's database. If the Energy Commission makes this information public, it will be in an aggregated form only.

(h) Training Materials Retention. Each Provider shall retain for at least five years after the last date they are used, at least one copy of all materials used to train Raters.

(i) Quality Assurance. Each Provider shall have a quality assurance program that provides for at least the following:

(1) Quality Assurance Staff. The Provider shall have a designated Quality Assurance Manager to oversee the quality assurance process. The Quality Assurance Manager shall appoint as many Quality Assurance Reviewers as necessary to assist with the completion of the tasks outlined in this Subsection 1673(i). The qualifications of the Quality Assurance Manager and the Quality Assurance Reviewers shall be submitted to the Energy Commission.

(2) Initial Review. The Provider shall review and approve for accuracy and completeness the rating documentation for at least the first five homes which a Rater performs after completion of the requirements specified in Section 1673(a)(1) through Section 1673(a)(6), not including those homes rated under the Provider's direct supervision as specified in Section 1673(a)(6).

(3) Quality Assurance for California Whole-House Home Energy Raters and California Field Verification and Diagnostic Testing Raters.

(A) For each Rater, the Provider shall annually evaluate the greater of one rating, randomly selected or one percent of the Rater's past 12 month's total number of ratings (rounded up to the nearest whole number) for each measure tested by the Rater. For Raters that have had at least one quality assurance evaluation for any measure in the past 12 months, this evaluation shall only be required to be done for those measures that have been tested by the Rater at least 10 times in the past 18 months. The Provider shall independently repeat the rating to check whether the rating was accurately completed by the Rater, and determine whether information was completely collected and reported. The Provider also shall conduct the same check on one percent of all ratings conducted through the Provider, selected randomly from the Provider's entire pool of ratings on an ongoing basis. For Energy-Rated Homes using the Building Performance Contractor exception to Section 1673(j)(3), at least five percent of the Energy-Rated Homes shall be evaluated by a Quality Assurance Reviewer.

(B) Raters shall not be informed that a building or installation will be field checked until after they have completed the original rating. The field check shall occur after the submission of the Certificate of Field Verification and Diagnostic Testing for a field verification rating and after the distribution of the HERS Report for a home energy rating.

(C) These evaluations by the Provider's Quality Assurance personnel shall be documented in the Provider's database and include the results of all testing performed by the Provider's Quality Assurance personnel. If the Provider's Quality Assurance personnel determine that the Rater's results did not meet the criteria for truth, accuracy, or completeness of these regulations, then the Provider shall report the quality assurance failure on the Provider's Rater registry and Building Performance Contractor registry websites for a period of six months. In addition, the Provider's Quality Assurance personnel shall evaluate two additional ratings of the failed measure by the same Rater performed in the past 12 months. If a second deficiency is found, then the Rater shall have two percent (rounded up to the nearest whole number) of his ratings of the failed measure evaluated for the next 12 months by all Providers. The Provider's Quality Assurance Manager shall notify other Providers in writing or by electronic mail of Raters that are required to have additional quality assurance verification as required by this provision.

(4) Additional Quality Assurance for Unrated or Untested Buildings or Installations.

(A) For houses or installations passed as part of a sampling group but not specifically field verified or rated by a Rater, the greater of one house or installation or one percent of all unrated or untested buildings or installations in groups sampled by the Rater shall be independently rated or field verified by the Provider's Quality Assurance personnel.

(B) These quality assurance verifications shall be blind tests in that the Provider shall not inform the installer, builder, or the Rater that the specific building or installation will be verified.

(C) The results of these quality assurance verifications shall be entered into the Provider's database. The Provider shall summarize the results of these quality assurance verifications and submit them to the Energy Commission on an annual basis and provide the Energy Commission with ongoing access to the database and associated summaries of the results of these verifications.

(5) Complaint Response System. Each Provider shall have a system for receiving complaints. The Provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that Raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each Provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the Provider and annually report a summary of all complaints and action taken to the Executive Director.

(j) Conflict of Interest.

(1) Providers shall be independent entities from Raters.

(2) Providers and Raters shall be independent entities from the builder and from the subcontractor installer of energy efficiency improvements field verified or diagnostically tested.

(3) Providers and Raters shall be independent entities from any firm or person that performs work on the home for a California Home Energy Audit or a California Whole-House Home Energy Rating. EXCEPTION to Section **1673**(j)(3): California Whole-House Home Energy Raters, who are working as or for a Building Performance Contractor certified under an Energy Commission-approved Building Performance Contractor program as part of a Provider's Rating System as specified in Section 1674(e) of the regulations and in the HERS Technical Manual, shall not be required to be an independent entity from the person(s) or firm(s) performing the work on a home. This exception shall not apply to California Field Verification and Diagnostic Testing Raters performing field verification and diagnostic testing of newly constructed homes or alterations to existing homes to verify compliance with the requirements of Title 24, Part 6.

(k) Improvement Measures Cost Database. Each Provider shall develop and maintain a database of the cost of implementing the efficiency improvement measures specified in the HERS Technical Manual. The database shall contain statewide standardized cost values and regional adjustment factors.

Note: Authority cited: Sections 25213 and 25942, Public Resources Code. Reference: Section 25942, Public Resources Code.

§ 1674. Certification of Providers and Rating Systems.

(a) Application. A person or entity wishing to be certified as a Provider and wishing to have a Rating System certified shall submit four copies of an application to the Energy Commission. The application shall contain:

(1) A complete copy of all rating procedures, manuals, handbooks, Rating System descriptions, and training materials.

(2) A detailed explanation of how the Rating System meets each requirement of Section 1672.

(3) A detailed explanation of how the Provider meets each requirement of Section 1673.

(4) The name, address, and telephone number of the Provider and a statement of where its principal place of business is and where and upon whom service of legal process can be made.

(5) Upon Energy Commission request, if the Provider is a corporation, a copy of the articles of incorporation and the current by-laws.

(6) If the Provider is a partnership, the names, addresses, telephone numbers, and partnership status (for example, general, managing) of all the partners, and a copy of the current partnership agreement.

(7) The names, addresses, telephone numbers, and business relationships of all the Provider's owners, parents, subsidiaries, and affiliates.

(8) A statement that ratings are accurate, consistent, and uniform, utility bill estimates are reasonable, and recommendations on cost-effective energy efficiency improvement measures are reliable.

(9) A statement that the Provider understands and will not knowingly fail to comply with the requirements of these regulations.

(10) A statement under penalty of perjury that all statements in the application are true, provided in the form specified by Section 2015.5 of the Code of Civil Procedure.

(b) Confidentiality of Information. Any Provider who submits the required application information and wishes to have that information treated as confidential in order to limit its disclosure shall, at the time of submitting the information, apply for a confidential designation as specified in Section 2505 of Title 20 of the California Code of Regulations.

(c) Energy Commission Consideration.

(1) The Energy Commission's Executive Director may request additional information from the applicant necessary to complete and evaluate the application.

(2) The Executive Director shall provide a copy of its evaluation to interested persons. The Executive Director may convene a workshop to receive comments from interested persons.

(3) Within 90 business days of receiving the complete application, the Executive Director shall send to the Energy Commission and to the applicant a written recommendation that the Energy Commission certify the Provider and its Rating System or deny that certification.

(4) The Executive Director shall recommend certifying the Provider and Rating System if the Executive Director finds the following:

(A) The Rating System meets all of the requirements of Section 1672.

(B) The Provider meets all of the requirements of Section 1673.

(5) The Energy Commission shall act on the recommendation at its next regularly scheduled Business Meeting that is at least 15 business days after the date that the recommendation was mailed to the applicant.

(6) The Energy Commission shall certify the proposed Provider and Rating System if it confirms the Executive Director's findings in Section **1674**(c)(4).

(7) Upon certification the Energy Commission shall assign the Provider a three-digit identification number.

(d) HERS Rating Software Approval. As part of a Provider's Home Energy Rating System the Provider shall apply for approval of HERS rating software. Application for approval of HERS rating software may be submitted with the application for certification of the Provider and their Rating System or as an amendment to their approval and certification. However, approval of HERS rating software is subject to an independent timeline.

The approval process for HERS rating software shall only begin after Energy Commission approval of the software as compliance software for the Title 24, Part 6, Building Energy Efficiency Standards in accordance with the requirements of the ACM Manual.

(1) f the application for the HERS rating software approval is complete, the Executive Director shall make the application available to interested parties by posting the information on the Energy Commission website for public comments. Comments from interested parties shall be submitted within 60 business days after acceptance of the application or approval of the software as compliance software for the Title 24, Part 6, Building Energy Efficiency Standards, whichever is later.

(2) Within 75 business days of receipt of an application or approval of the software as compliance software for the Title 24, Part 6, Building Energy Efficiency Standards, whichever is later, the Executive Director may request any additional information needed to evaluate the application. If the additional information is incomplete, consideration of the application shall be delayed until the applicant submits complete information.

(3) Within 75 business days of receipt of the application or approval of the software as compliance software for the Title 24, Part 6, Building Energy Efficiency Standards, whichever is later, the Executive Director may convene a workshop to gather additional information from the applicant and other interested parties. Interested parties shall have 15 business days after the workshop to submit additional information regarding the application.

(4) Within 90 business days after the Executive Director receives the application, or within 30 business days after receipt of complete additional information requested, or within 60 business days after the receipt of additional information submitted by interested parties, whichever is later, the Executive Director shall submit to the Energy Commission a written recommendation on the application.

(5) The application and the Executive Director's recommendation shall be placed on the business meeting agenda and considered at a business meeting within 30 business days after submission of the recommendation.

(6) All applicants have the burden of proof to establish that their applications should be approved.

(e) Special Approval. Programs within Rating Systems using California Home Energy Inspectors or Building Performance Contractors to develop or complete California Whole-House Home Energy Ratings or California Home Energy Audits shall be separately approved by the Energy Commission. Rating Systems using Third Party Quality Control programs as described in the Residential Appendices to Title 24, Part 6 for field verification and diagnostic testing procedures to verify compliance with Title 24, Part 6, shall also be separately approved by the Energy Commission.

(f) Re-certification. A certified Provider shall notify the Energy Commission whenever any change occurs in any of the information, documentation, or materials the Provider submitted to the Energy Commission under Section **1674**(a), and shall submit the changed information to the Energy Commission. Where this changed information could affect the Provider's compliance with these regulations, the Energy Commission may require that the Provider and the Rating System be re-certified under the process described in Section **1674**. The Executive Director may waive re-certification for non-substantive changes. The Energy Commission may also require that Providers and Rating Systems be re-certified if the requirements of these regulations are amended or modified.

Note: Authority cited: Sections 25213 and 25942, Public Resources Code. Reference: Section 25942, Public Resources Code.

§ 1675. Review by the Energy Commission.

(a) Annual Review. The Energy Commission may annually review the performance of Providers certified under Section 1674 to determine whether the Providers comply with the requirements of these regulations. This review may include interviewing recipients of ratings and field verification and diagnostic testing services and reports on a voluntary basis.

(b) Complaint Proceedings. Any person or entity may file a complaint concerning any violation of these regulations as provided for in Section 1230 et. seq. of Title 20 of the California Code of Regulations. The Energy Commission may, for good cause, conduct an investigation and, if necessary, hearing, under the procedures established in Section 1230 et. seq. of Title 20 of the California Code of Regulations.

Each Provider shall provide all information requested by the Energy Commission regarding any annual review or complaint proceeding.

(c) Energy Commission Determination. If the Energy Commission determines there is a violation of these regulations or that a Provider is no longer providing rating, field verification and diagnostic testing services, the Energy Commission may revoke the certification of the Provider pursuant to Section 1230 et. seq. of Title 20 of the California Code of Regulations.

Note: Authority cited: Sections 25213 and 25942, Public Resources Code. Reference: Section 25942, Public Resources Code.

Articlce 9. Nonresidential Building Benchmarking and Disclosure

§ 1680. Purpose.

This article implements procedures, pursuant to Public Resources Code Section 25402.10, for disclosing energy use data and ENERGY STAR® Energy Performance Scores for nonresidential buildings in California.

Note: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Section 25402.10, Public Resources Code.

§ 1681. Definitions.

The following definitions apply to this article:

(a) "Building Owner" means a person possessing title to a nonresidential building, or an agent authorized to act on behalf of a person possessing title.

(b) "Compliance Report" means electronic submission pursuant to subdivision (c) of Section 1684 of the data used for generating disclosure documents within the Portfolio Manager system.

(c) "Data Checklist" means a report generated by Portfolio Manager that summarizes a property's physical and operating characteristics.

(d) "Disclosure Summary Sheet" means the Energy Commission document detailing the contents and relevance to California buildings of disclosures generated by Portfolio Manager, as represented in Appendix A.

(e) "Energy Provider" means an entity providing sources of energy other than electricity or natural gas that are recognized by Portfolio Manager.

(f) "ENERGY STAR® Energy Performance Score" means an energy efficiency measurement created by Portfolio Manager, represented on a scale from 1 to 100 and normalized for a building's characteristics, operations, and regional weather.

(g) "Energy Use Data" means a record of kilowatt hours, therms, or any other measure of energy recognized by Portfolio Manager.

(h) "Facility Summary" means a report generated by Portfolio Manager that summarizes the space and energy usage of a building and compares a building's energy use to national medians.

(i) “Nonresidential Building” means a building of occupancy type A, B, E, I-1, I-2, M, R1, S, or Type U parking garages, as defined in the California Building Code, Title 24, Section 302 et seq. (2007).

(j) “Portfolio Manager” means the U.S. Environmental Protection Agency's ENERGY STAR® program online tool for managing building energy use data.

(k) “Prospective buyer” means a person who has submitted a written offer to purchase a building.

(l) “Prospective lessee” means a person who has submitted an application to lease an entire building.

(m) “Prospective lender” means a person who has received an owner's application to finance an entire building.

(n) “Statement of Energy Performance” means a report generated by Portfolio Manager that supplies data about a building's energy performance and, if available, the building's ENERGY STAR® Energy Performance Score.

(o) “Utility” means an entity providing electricity or natural gas to a nonresidential building owner or tenant.

Note: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Sections 25116 and 25402.10, Public Resources Code.

§ 1682. Schedule of Implementation.

A building owner shall comply with this article according to the following schedule:

(a) On and after July 1, 2013, for a building with total gross floor area measuring more than 50,000 square feet.

(b) On and after January 1, 2014, for a building with a total gross floor area measuring more than 10,000 square feet and up to 50,000 square feet.

(c) On and after July 1, 2014, for a building with a total gross floor area measuring at least 5,000 square feet and up to 10,000 square feet.

Note: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Section 25402.10, Public Resources Code.

§ 1683. Disclosures.

(a) A building owner shall disclose the Disclosure Summary Sheet, Statement of Energy Performance, Data Checklist, and the Facility Summary for the building to:

(1) A prospective buyer of the building, no later than 24 hours prior to execution of the sales contract.

(2) A prospective lessee of the entire building, no later than 24 hours prior to execution of the lease.

(3) A prospective lender financing the entire building, no later than submittal of the loan application.

(b) Nothing in these regulations permits an owner to use tenant energy use data for purposes other than compliance with Public Resources Code, Section 25402.10.

(c) A building owner may supplement the above disclosure with forms from other sources, such as the ASTM International (formerly known as the American Society for Testing and Materials) checklist E2797-11 (2011), the Standard Practice for Building Energy Performance Assessment for a Building Involved in a Real Estate Transaction.

Note: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Section 25402.10, Public Resources Code.

§ 1684. Data Releases, Report.

(a) At least 30 days before a disclosure is required by Section **1683**, a building owner shall open an account or update an existing account for the same building on the EPA's ENERGY STAR® program Portfolio Manager website, and within the account:

(1) Provide the owner name and the owner e-mail address;

(2) Provide the building name, the building street address, city and ZIP code, and the year in which the building was constructed;

(3) Identify all sources of energy use data for the entire building, for at least the most recent 12 months;

(4) Provide space use characteristics as specified by Portfolio Manager for all space types in the entire building; and

(5) Request all utilities and energy providers serving the building to release energy use data for the entire building from at least the most recent 12 months for specified meters or accounts to the owner's Portfolio Manager Account; or, the owner may manually enter all energy use data for the entire building from at least the most recent 12 months to the owner's Portfolio Manager account.

(b) As soon as practicable and no later than 30 days after receiving a request under subdivision (a) of this section, a utility or energy provider shall upload all energy use data for the entire building from at least the most recent 12 months for the specified meters or accounts to the building owner's Portfolio Manager Account. If a building has a utility or energy provider account for which the owner is not the customer of record, the utility or energy provider shall aggregate or use other means to reasonably protect the confidentiality of the customer. A utility or energy provider may verify a request or ask for clarification before releasing data.

(c) After all utilities and energy providers serving a building have complied with subdivision (b) of this section, and before the disclosures required pursuant to Section **1683**, the building owner shall access the Energy Commission's AB 1103 compliance website, and

(1) Download the Disclosure Summary Sheet;

(2) Select the link to Portfolio Manager and log on to the owner's account;

(3) Complete and submit the compliance report; and

(4) Download the building's Statement of Energy Performance, Data Checklist, and Facility Summary. The Statement of Energy Performance, Data Checklist, and Facility Summary shall expire 30 days after they are generated.

(d) In the event that the Energy Commission accesses the data submitted pursuant to subdivision (c)(3) of this Section, the Energy Commission shall treat the data as confidential consistent with state and federal laws.

(e) If there is information missing from a disclosure, and if the owner has made a reasonable effort to ascertain the missing information, the owner may then use an approximation of the information, provided that the approximation is identified as such, is reasonable, is based on the best information available to the owner, and is not used for the purpose of circumventing or evading this article.

Note: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Sections 25216.5(d), 25320 and 25402.10, Public Resources Code.

Appendix A.

Disclosure Summary Sheet

Overview

The California Energy Commission Disclosure Summary Sheet accompanies and describes three disclosure documents generated by the EPA's ENERGY STAR® measurement and verification tool, Portfolio Manager: the Statement of Energy Performance, the Data Checklist, and the Facility Summary. The disclosures, required by Public Resources Code, Section 25402.10, are standardized documents designed to provide insight into the energy use of a building, under the space utilization and operational characteristics of the building during the past 12 months. The disclosures include metrics for overall building energy use, as well as a detailed description of the conditions the building owner inputs to Portfolio Manager to generate the metrics.

Overall Building Metrics

Two metrics are used to report overall building energy use, the ENERGY STAR® Energy Performance Score and the Energy Use Intensity.

The ENERGY STAR Energy Performance Score compares a building to a statistically representative national sample of similar buildings. A score of 75 indicates that the building's energy consumption is less than the energy use consumption of 75 percent of similar buildings nationwide. ENERGY STAR cannot score all buildings, and not all buildings in California will receive a score. Energy Use Intensity is a unit of measurement that describes a building's energy use. It represents the energy consumed by a building relative to its size.

Statement of Energy Performance

The Statement of Energy Performance is a standard report generated by Portfolio Manager that describes a building's energy performance in a format that is both understandable and easy to use in business transactions. The Statement includes the name and location of the

building; the age, size, and rating, if any, of the building; and summaries of energy use and greenhouse gas emissions. The Statement has a space for a licensed architect or engineer to certify the accuracy of the data used to benchmark. Energy Commission regulations do not require this certification for disclosures.

Data Checklist

The Data Checklist is a standard report generated by Portfolio Manager that summarizes a property's physical and operating characteristics. The Checklist allows review of the way the space is being used (for example, open office), as well as the hours of occupancy. The Checklist verifies that the rating, if any, shown in the Statement of Energy Performance is applicable to the real-world operation of the building. The Checklist also summarizes the conventional and renewable energy being used within the building by fuel type. There is a space for a licensed professional to certify the data. Energy Commission regulations do not require this certification for disclosures.

Facility Summary

The Facility Summary summarizes the data presented in the Statement of Energy Performance and the Data Checklist. It also compares the energy use of the building as it is currently operated against previous performance (if available), along with the score required for the optional ENERGY STAR label, and the average national energy use for a building with similar characteristics. There is also a brief section devoted to cost and greenhouse gas emissions associated with these energy uses.

Unscored Buildings

Many conditions may cause a building to not receive a score. This does not mean that the building has better or worse energy efficiency than comparable buildings.

Evaluating Unscored Buildings

Evaluating the Energy Use Intensity metric for an unscored building against the median for the building's space type is another way to gauge relative energy use. The following table gives median Energy Use Intensity values for space types in California. Energy Use Intensity is expressed in units of thousands of source British thermal units (BTUs) per square foot that are consumed in a year. A detailed discussion of source and site energy use can be found on the Portfolio Manager website.

The table below compares energy use of an unscored building to the median energy use of a California building for that set of space types. The table does not account for variations affecting building energy use such as occupancy, worker density, computer equipment, or climate. The space types significantly impacted by climate are indicated with an asterisk below.

Building Space Type	*Median EUI* *kBTU* *square foot-yr*
Education - Day Care or Preschool	66*
Education - Elementary School	92*
Education - Middle/Secondary School	119*
Education - Vocational or Trade School	83*
Convenience Store	923
Liquor Store	456
Small Grocery	483*
Specialty/Ethnic Grocery	457
Supermarkets	544
Clinic/Outpatient	223
Hospital	484
Medical Laboratory	253
Medical Office	158
Nursing Home	221
Data Processing/Computer Center	611
Laboratory/R&D Facility	571
Software Development	248
Lodging - Hotel	176*
Lodging - Motel	154*
Lodging - Resort	276*
Office/Bank	186
Insurance/Real Estate	149
Light Manufacturing	129*
Fire/Police Station	183
Public Assembly - Health/Fitness	310
Public Assembly - Library/Museum	174
Public Assembly - Movie Theater	235
Public Assembly - Other	299
Religious	66*
Theater	133
Fast Food Restaurant	1148
Table Service Restaurant	749
Other Restaurant	712
Bar	367
Auto Sales	221
Department/Variety Store	208
Enclosed Mall	259
Other Retail	148*
Big Box Retail	193*
Strip Mall	147
Gas Station	94
Gas/Convenience Store	1162*
Other Services	158
Conditioned Warehouse	98
Unconditioned Warehouse	51
Refrigerated Warehouse	289
All Other	287*

Other Rating Systems and Standards

National and regional organizations provide checklists and standards for energy use disclosure that provide a high level of detailed information on building operations. Examples include, but are not limited to, the ASTM Standard E2797-11, American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 100, ASHRAE Building Energy Quotient (beQ), and the California Commissioning Collaborative (CCC) Existing Building Commissioning Toolkit.

Note: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Section 25402.10, Public Resources Code.

Chapter 5. Site Certification

Article 1. General Provisions Applicable to Notices and Applications

§ 1701. Scope of Regulations.

(a) Unless otherwise stated, the provisions of Article 1 of this chapter shall apply to the consideration of all notices and applications for any site and related facility within the jurisdiction of this commission.

(b) The provisions of Article 2 of this chapter shall apply to the consideration of all notices except as provided in Article 4.

(c) The provisions of Article 3 of this chapter shall apply to the consideration of all applications for certification except as provided in Article 4.

(d) The provisions of Article 4 of this chapter shall apply to the consideration of all geothermal notices and applications for certification.

(e) The provisions of Article 5 of this chapter shall apply to the consideration of all applications for a Small Power Plant Exemption.

(f) The provisions of Article G of this chapter shall apply to the consideration of all powerplant and transmission line jurisdictional determinations.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25541.5, Public Resources Code.

§ 1702. Definitions.

For purposes of this subchapter and unless otherwise indicated, definitions found in Public Resources Code Section 25100 as well as the following definitions shall apply:

(a) “Administrative record” means all materials that have been entered into the docket of the proceeding. The administrative record includes, but is not limited to, the hearing record (as defined below).

(b) “CEQA” means the California Environmental Quality Act of 1970 commencing with Section 21000 of the Public Resources Code.

(c) Chief Counsel means the Chief Counsel of the commission.

(d) “Committee” means the committee of the commission appointed pursuant to Section 1204 of these regulations to conduct proceedings on a notice or application.

(e) “Environmental documents” means draft environmental impact reports (draft EIR), final environmental impact reports (final EIR), initial studies, negative declarations, notices of preparation, notices of determination, notices of exemption and statements of findings and overriding considerations, and the documentation prepared by the Commission or its Staff for a certified regulatory program in compliance with Section 21080.5 of the Public Resources Code.

(f) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

(g) “Hearing officer” means any person designated pursuant to Section 1205 of these regulations to assist the presiding member in conducting the proceeding.

(h) “Hearing record” means the materials that the committee or commission accepts at a hearing. While the committee or commission may rely in part on any portion of the hearing record in making a finding, only those items properly incorporated into the hearing record pursuant to Section 1212 or 1213 are sufficient in and of themselves to support a finding of fact. The hearing record includes:

(1) Written and oral testimony presented at a hearing, including direct and cross-examination of a witness.

(2) Supporting documentary evidence or exhibits submitted with testimony.

(3) Public comment offered at a hearing or entered into the record at a hearing.

(4) Public agency comment offered at a hearing or entered into the record of a hearing.

(5) Matters of which official notice has been taken.

(6) Other evidence that the committee accepts at a hearing.

(i) “Intervenor” means any person who has been granted leave to intervene in notice or application proceedings pursuant to Section 1712 of these regulations.

(j) “Party” means the applicant, the staff of the commission, and any intervenor.

(k) “Presiding member” means the presiding member of the committee appointed to conduct proceedings on a notice or application.

(l) “Filing” means submission of any document to the commission docket. A document is filed on the day it is received by the commission docket.

(m) “Acceptance” means a formal determination by the commission, pursuant to Public Resources Code, sections 25516.6, 25522, or 25540.1 that a notice or application for certification is complete.

(n) “Related Facility” means a thermal powerplant, electric transmission line, or any equipment, structure, or accessory dedicated to and essential to the operation of the thermal powerplant or electric transmission line. These facilities include, but are not limited to, transmission and fuel lines up to the first point of interconnection, water intake and discharge structures and equipment, access roads, storage sites, switchyards, and waste disposal sites. Exploratory, development, and production wells, resource conveyance lines, and other related equipment used in conjunction with a geothermal exploratory project or geothermal field development project, and, absent unusual and compelling circumstances, the thermal host of a cogeneration facility, are not related facilities.

(o) “Application” means either an Application for Certification or an application for a Small Power Plant Exemption, unless otherwise indicated.

(p) “Local agency” means any local or regional governmental authority within the state, including but not limited to, any city, county, air pollution control or air quality management district, or Native American government.

(q) “Areas of critical concern” means special or unique habitats or biological communituies that need protection from potential adverse effects resulting from project development and which may be identified by local, state, or federal agencies with resource responsibility within the project area, or by educational institutions, museums, biological societies, or special interest groups with specific knowledge of resources within the project area. This category includes, but is not limited to, wildlife refuges, wetlands, thermal springs, endangered species habitats, and areas recognized by the California Natural Area Coordinating Council and the Governor's Office of Planning and Research.

(r) “Performance criteria” means performance goals for which the applicant proposes to design the facilities.

(s) “MCE” means Maximum Credible Earthquake as defined by the United States Geological Survey.

(t) “MPE” means Maximum Probable Earthquake as defined by the United States Geological Survey.

(u) “Impact area” means the area which is potentially affected by the construction, modification, or operation of a site and related facilities.

(v) “Species of special concern” means candidate rare, threatened, or endangered species that may need protection from potential adverse effects resulting from project development and which may be identified by local, state, or federal agencies with resource responsibility within the project area or by educational institutions, museums, biological societies, and special interest groups with specific knowledge of resources within the project area. In addition to species designated pursuant to state or federal law, this category includes, but is not limited to, those rare and endangered plant species recognized by the Smithsonian Institution or the California Native Plant Society.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 21061.1, 25502, 25519, 25540, 25540.1, 25540.2 and 25541.5, Public Resources Code; and Title 14, California Code of Regulations, Section 15364.

B. Filing and Information Requirements for Notices and Applications

§ 1703. Requirement to File. [Repealed]

Note: Authority cited: Sections 25216.5,25218, 25539, Public Resources Code. Reference: Sections 25502, 25517, 25519, Public Resources Code.

§ 1704. Information Requirements for Notices and Applications.

(a) General Requirements. All notices and applications shall conform to the following requirements:

(1) Except where otherwise indicated, any descriptions, statements, analyses, and discussions required in the notice or application shall extend to the site and related facilities.

(2) An applicant may incorporate by reference any information developed or submitted in any previous commission proceeding, provided that the notice or application contains a summary of the referenced material, identifies the proceeding in which it was submitted, and explains the relevance of the material to the information requirement. To the extent possible, the applicant should rely on findings, conclusions, analyses, policies, and other guidelines adopted or established in the most recent Biennial Report in order to satisfy the information requirements.

(3) The notice or application shall include or reference the following:

(A) Descriptions of all significant assumptions, methodologies, and computational methods used in arriving at conclusions in the document;

(B) Descriptions, including methodologies and findings, of all major studies or research efforts undertaken and relied upon to provide information for the document; and a description of ongoing research of significance to the project (including expected completion dates); and

(C) A list of all literature relied upon or referenced in the document, along with brief discussions of the relevance of each such reference.

(4) Each principal subject area covered in a notice or application shall be set forth in a separate chapter or section, each of which shall identify the person or persons responsible for its preparation.

(b) The informational requirements for notices, applications for certification, and applications for a small powerplant exemption are contained in this section and in appendices to this Chapter. Maps required in this section and in the appendices shall be provided at the scale specified in the appendices, except that applicants may provide maps at a different scale if the maps are legible and if a written explanation of why this different scale is more appropriate is included in the notice or application. The term region means a geographic area that is normally contiguous and exhibits similar geographic characteristics. The term vicinity means both that area in close proximity to the project site and which receives a preponderance of the direct impacts of the project. The area referred to by the terms vicinity and region will overlap, although, in most circumstances, the vicinity will be part of the region. The size of the region and vicinity that should be discussed in the filing will vary depending on the project's location (e.g., rural, urban, coastal), its technology (e.g., nuclear, coal, geothermal), and by

technical area. Applicants should use their professional judgment in determining the appropriate size of the region and vicinity to be discussed in the application. A statement explaining the extent of the area described for each technical area shall be included.

(1) The notice of intention shall contain all the information specified in Appendix A to this chapter for a nongeothermal site and related facilities, and Appendix C for a geothermal site and related facilities.

(2) The application for certification shall contain all information specified by Appendix B of this chapter and the commission decision approving the notice, if any.

(3) Except where otherwise indicated, any descriptions, statements, analyses, and discussions required in a geothermal notice or application shall extend to the geothermal power plant and associated geothermal field, including, but not limited to, wells that supply the power plant or re-inject geothermal fluids, resource conveyance lines, major access roads, storage sites, switchyards, waste disposal sites, and all other structures or improvements which are related to the power plant. Information and data concerning the associated geothermal field are required to the extent that they relate to the environmental impacts of the entire project or to the reliability of the proposed power plant. Absent new information or changed circumstances, incorporation of environmental impact reports on the geothermal field will fulfill the requirements for field information.

(4) Where required information on any aspect of the proposed geothermal power plant is unavailable, the geothermal notice may contain typical operating data or projections representative of the size and type of the facilities proposed, together with a discussion of the applicability of the data to the proposed facilities, an identification of limitations inherent in the representative data, an explanation for the unavailability of the required information, and an estimate of when such information will be available. The substitution of representative or projected information for the information requested in Appendix C is intended to allow and encourage the filing of a notice prior to the discovery or confirmation of commercial resources.

(5) The application for small powerplant exemption shall contain all the information specified by Appendix F.

(c) Information requirements for applications. The application for certification shall contain all the information required by Appendix B of this article (for nongeothermal projects) or Appendices B or C of Article 4 (for geothermal projects) and any information required by the decision on the notice (see Section 1805, Article 4 for geothermal requirements).

Note: Authority cited: Sections 25213, 25216.5(a), 25218(e) and 25541.5, Public Resources Code. Reference: Sections 21080.5, 25308.5, 25504, 25519(a), 25519(c), 25520, 25522(b), 25523(d)(1), 25540.1, 25540.2, 25540.6, 25541, Public Resources Code.

§ 1705. Form of Submissions.

Paper copies of notices and applications, ad any other documents attached thereto, submitted pursuant to this article, shall conform to the requirements of Section 1209 of these regulations and shall be submitted in a three-ring binder in a loose-leaf fashion, with pages numbered by chapter.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25502 and 25519, Public Resources Code.

§ 1706. Number of Copies.

(a) The applicant shall file with the commission one hundred fifty (150) copies of any notice and of all drawings, photographs, maps, diagrams, charts, graphs, and other documents attached to the notice or, alternatively, 100 paper copies and 50 copies in a CD-ROM medium and the format specified in Section 1209.5, unless otherwise specified by the Executive Director for the convenience of interested agencies, the parties, and the public.

(b) The applicant shall file with the commission one hundred twenty-five (125) copies of any application for certification and of all drawings, photographs, maps, diagrams, charts, graphs, and other documents attached to the application or, alternatively, 75 paper copies and 50 copies in a CD-ROM medium and the format specified in Section 1209.5, unless otherwise specified by the Executive Director for the convenience of interested agencies, the parties, and the public.

(c) The applicant shall file with the commission one hundred (100) copies of any application for a small powerplant exemption and of all drawings, photographs, maps, diagrams, charts, graphs, and other documents attached to the application or, alternatively, 75 paper copies and 25 copies in a CD-ROM medium and the format specified in Section 1209.5, unless otherwise required by the Executive Director for the convenience of interested agencies, the parties, and the public.

(d) The applicant shall also file the same number of copies, specified in subsection (a) or (b) above, of any subsequent documents required by the Commission for completeness under section 1709.

(e) In addition to the materials filed pursuant to subsection (a), (b), or (c) above, the applicant shall file five (5) copies of all documents cited in the notice or application which are not available at public libraries or other governmental agencies in the City or County of Sacramento. For each document which is so available, the filing shall state where the document can be found.

(f) The executive director may waive the requirement for filing the number of copies specified by this section for any document for which reproduction and filing of that number of copies would constitute an unreasonable burden to the applicant. A written request for a waiver may be submitted to the executive director at any time prior to the filing of a notice or application. The request shall include a description of each such document and a discussion of the reasons why reproduction and filing of that number of copies is unreasonable. An applicant may not file a notice or application while such request is pending. If a request is granted, the executive director shall specify the number of copies of the document to be filed. The executive director shall act on all such requests within 15 days.

(g) Upon filing a notice or application pursuant to this article, the executive director may require the filing of additional copies of the notice or application and associated documents, if necessary, to satisfy the requirements of interested agencies, the parties, and the public.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25502 and 25519, Public Resources Code.

§ 1707. Authority and Verification.

Every notice and application shall be dated and signed by each applicant attesting under penalty of perjury to the truth and accuracy of such notice or application. If any of the applicants are corporations or business associations, the notice or application shall be dated, signed, and attested to by an officer thereof. Where a notice or application is filed on behalf of a joint venture or proposed joint venture, all members of the joint venture or proposed joint venture shall date, sign, and attest to the notice or application; provided, however, that no more than one member of said joint venture or proposed joint venture need attest as to the entire notice or application, but that each joint venturer or proposed joint venturer shall attest to the notice or application with respect to the information required by Section 1704 regarding need for the project and financial impacts of the proposal.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25502 and 25520, Public Resources Code.

§ 1708. Application, Compliance, and Reimbursement Fees.

(a) A cashier's check or wire transfer in the amount required by subsections (c) and (d) shall accompany the filing of the notice.

(b) Upon the demand of the executive director, the applicant shall pay additional fees to the commission in the amount of any reimbursement made to local agencies by the commission pursuant to Section 1715 of this article.

(c) A cashier's check or wire transfer for $100,000 plus $250 per megawatt (MW) of generating capacity shall accompany the filing of an Application for Certification (AFC). Generating capacity shall be determined in accordance with Section 2003 (a).

(d) The owner of each facility granted certification shall submit a cashier's check or wire transfer for $15,000 annually. The first payment of the annual fee shall be due on the date the Commission adopts the final decision for the facility. Subsequent payments shall be paid on July 1 of each year in which the facility retains its certification.

(e) The fees specified in (c) and (d) 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 U.S. Department of Commerce.

(f) A project which use a renewable resource as its primary fuel or power source is exempt from the filing and compliance fees identified in (c) and (d).

(g) Fees paid pursuant to this section are non-refundable. Additional fees may be required in the event an amendment to the AFC increases the Gross generating capacity identified in (c).

NOTE: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25538, 25802 and 25806, Public Resources Code.

§ 1709. Filing of Notices and Applications for Certification; Data Adequacy Review and Docketing.

(a) Upon the filing of any notice or application for certification, all documentation shall be reviewed by the executive director or a delegatee to determine whether the notice or application for certification contains the information required under section 1704 and is therefore complete. The executive director or a delegatee shall take into consideration the timely comments of the Air Resources Board, local air pollution control districts, other agencies, and members of the public prior to the determination of whether the notice or application for certification contains the information required under section 1704 and is therefore complete.

(b) No later than 30 days after the receipt of a non-geothermal notice or application and no later than 20 days after receipt of a geothermal notice or application for certification, the executive director shall file his or her recommendation on whether the notice or application for certification contains the information required under section 1704 and is therefore complete.

(c) No later than 45 days after receipt of a nongeothermal notice or application for certification, and no later than 30 days after receipt of a geothermal notice or application for certification, the commission shall act upon the executive director's recommendation as to whether the notice or application for certification contains the information specified in Section 1704 and is therefore complete. If the commission determines that the notice or application for certification is complete, the notice or application for certification shall be deemed accepted for the purpose of this section on the date that this determination is made. If the commission determines that the notice or application for certification is incomplete, the commission shall indicate, in writing, those parts of the notice or application for certification which fail to meet the information requirements and the manner in which it can be made complete.

(d) If the applicant files additional data to complete the notice or application for certification, the commission shall determine, within 30 days of the receipt of that data, whether the data is sufficient to make the notice or application for certification complete. The notice or application for certification shall be deemed filed on the date when the commission determines the notice or application for certification is complete if the commission has adopted regulations specifying the informational requirements for a complete notice or application for certification, but if the commission has not adopted regulations, the notice or application for certification shall be deemed filed on the last date the commission receives any additional data that completes the notice or application for certification.

(e) On or before acceptance of a notice or application for certification or upon filing of an application for a small powerplant exemption, a committee, a presiding member and a hearing officer shall be designated pursuant to Sections 1204(a) and 1205 to conduct proceedings on the notice or application.

Note: Authority cited: Sections 25213 and 25541.5, Public Resources Code. Reference: Sections 25211, 25502, 25504, 25516.6, 25520, 25522, 25540.1, 25540.2 and 25541, Public Resources Code.

§ 1709.5. Prefiling Review.

(a) A potential applicant may request the executive director to conduct a prefiling review of existing environmental and other documentation relevant to a proposed notice or application. The purpose of such a review shall be to determine the extent to which information

contained in the existing documents is sufficient to meet the information requirements for a notice or an application.

(b) Any request pursuant to this section shall be in writing and shall be accompanied by at least twelve (12) copies of each document which the potential applicant requests to have reviewed. The executive director may recommend that additional documents known to the commission staff be included in the document review. Potential applicants may, and are encouraged to, file documents in the form of a draft or proposed notice or application.

(c) If the executive director determines that a prefiling review is appropriate, the executive director shall, by such time as may be mutually agreed upon by the potential applicant and the executive director, determine whether the information provided is sufficient to meet the information requirements of a notice or application and, where appropriate, shall provide the potential applicant with a list identifying the additional information necessary to comply with the information requirements.

(d) The potential applicant may request a workshop with the commission staff to discuss any matter relevant to the preparation of a notice or application. The public shall be notified at least 10 days in advance of any such workshop by the executive director in consultation with the public adviser. Nothing in this section shall prohibit a potential applicant from informally exchanging information or discussing procedural issues with the staff without a publicly noticed workshop.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25502, 25520 and 25540.3, Public Resources Code.

§ 1709.7. Informational Hearing, Site Visit, and Schedule.

(a) Within 45 days after the acceptance of a notice or application for certification or the filing of an application for small powerplant exemption, the committee shall hold one or more informational presentations and site visits in the county or counties in which the proposed sites and related facilities are proposed to be located. The place of the presentations shall be as close as practicable to the proposed sites. Notice of the first informational presentation shall be mailed to all owners of land adjacent to the proposed sites.

(b) At or before the first informational presentation, the commission staff shall file with the committee a written statement summarizing the major issues that the staff believes will be presented in the case. This summary shall not preclude the staff or any other party from raising additional issues later in the case.

(c) No later than 15 days after the last informational presentation, the presiding member shall issue an order establishing the schedule for the prehearing phase of the proceedings on the notice or application. The presiding member may change the schedule at any time upon motion by any party or upon his or her own motion.

(d) At each informational presentation, the applicant shall describe the proposed project, and the staff shall explain how the certification or exemption proceedings are conducted. These presentations shall allow for informal questions to the applicants and the staff from local residents and other interested persons regarding the proposed sites and facilities.

NOTE: Authority cited: Sections 25213 and 25541.5, Public Resources Code. Reference: Sections 25214, 25216.5 and 25509, Public Resources Code.

§ 1709.8. Withdrawal of Notice or Application.

(a) Any time after acceptance, the applicant may withdraw the notice or application by filing and serving on all parties written notice of withdrawal. The notice of withdrawal must be authorized and verified in the same manner as the original notice or application, as provided in Section 1707.

(b) Upon receipt of a properly executed withdrawal, the presiding member, or if there is none, the Chairman, shall immediately issue a written order to terminate the notice or application proceeding and close the docket. The records and documents of the proceeding shall continue to be maintained by the Docket Unit.

(c) If the applicant decides to go forward with a project after the notice or application proceeding is terminated, the applicant must file a new notice or application under Section 1709.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25216.5, Public Resources Code.

C. Public and Agency Rights and Responsibilities; Provisions Applicable to Notices and Applications

§ 1710. Noticing Procedures; Setting of Hearings, Presentations, Conferences Meetings, Workshops, and Site Visits.

(a) All hearings, presentations, conferences, meetings, workshops, and site visits shall be open to the public and noticed as required by subsection (b); provided, however, these requirements do not apply to communications between parties, including staff, for the purpose of exchanging information or discussing procedural issues. Information includes facts, data, measurements, calculations and analyses related to the project. Discussions between the staff and any other party to modify the staff's position or recommendations regarding substantive issues shall be noticed. The staff may also meet with any governmental agency, not a party to the proceedings, for the purpose of discussing any matter related to the project without public notice.

(b) Except for the hearing conducted pursuant to Section 1809(a) and the workshop pursuant to Section 1709.5(d), notice of the initial public hearing on a notice or application shall be mailed or otherwise delivered fourteen (14) days prior to the first such hearing to the applicant, intervenors, and to all persons who have requested notice in writing. Except for continued hearings, notices shall, to the extent possible, be mailed at least fourteen (14) days in advance, and in no case less than ten (10) days in advance.

(c) The public adviser shall be consulted in the scheduling of locations, times, and dates for all noticed hearings, presentations, conferences, meetings, workshops, and site visits so as to encourage maximum public participation.

(d) Notices of Committee hearings, conferences, and meetings shall be signed by a member of the committee or specific designee thereof. Notices of staff workshops,

conferences, and meetings shall be signed by the Executive Director or a Deputy Director, unless, in a specific proceeding, the Committee or Commission orders otherwise.

(e) The public adviser shall be afforded a reasonable opportunity to review all notices of hearings, presentations, conferences, meetings, workshops, and site visits for timeliness, completeness, clarity, and adequacy of dissemination.

(f) Publicly noticed hearings, presentations, conferences, meetings, workshops, and site visits may be continued from the date, time, and place originally scheduled to a future date, time, and place, by posting notice at the door in the same manner as provided by Government Code section 11129. If the continuance is to a date ten days or more in the future, then notice shall also be provided by mail as provided in subdivision (b).

(g) Publicly noticed hearings, presentations, conferences, meetings, workshops, and site visits may be canceled for good reason, provided the following requirements are met:

(1) A notice of cancellation shall be posted at the door in the same manner as provided by Government Code section 11129.

(2) A notice of cancellation shall be mailed as provided in subdivision (b).

(3) If the notice of cancellation is mailed less than ten (10) days before the originally noticed date, then the staff shall work with the public adviser to ensure that notice is provided to all interested parties by the best means available.

NOTE: Authority cited: Section 25213, Public Resources Code. Reference: Section 11129, Government Code; Sections 25216.5 and 25222, Public Resources Code.

§ 1711. Right of Any Person to Comment.

Any person interested in a notice or application proceeding shall be given an opportunity to make oral or written comments on any relevant matter at any hearing or information meeting held on a notice or an application. The presiding member may specify such conditions on the right to comment as are reasonably necessary for the orderly conduct of the proceeding, and may request that written comments be submitted in advance of any hearing.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1712. Right to Become a Party; Rights and Duties.

(a) Any person may petition to intervene pursuant to Section 1207 of these regulations. Any person whose petition is granted by the presiding member shall have all the rights and duties of a party under these regulations. No person who becomes a party shall be permitted to reopen matters or reopen discovery dealt with in the proceeding prior to the time when such person became a party, without a showing of good cause.

(b) Subject to the exercise of the lawful discretion of the presiding committee member as set forth in Section 1203(c), each party shall have the right to present witnesses, to submit testimony and other evidence, to cross-examine other witnesses, to obtain information pursuant to Section 1716, and to file motions, petitions, objections, briefs, and other documents relevant to the proceeding. Each party shall be provided with a copy of the notice or application. The rights set forth herein are in addition to such other rights as the parties may have as set forth in Chapters 2 and 5 of these Regulations, including Section 1212(c).

(c) Each party shall have the responsibility to comply with the requirements for filing and service of documents, the presentation of witnesses and evidence, and any other reasonable conditions which may be imposed by order of the presiding member.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1712.5. Staff as an Independent Party.

In carrying out its duties pursuant to this chapter, the staff of the commission shall be an independent party to all notice, application, and exemption proceedings. The staff is not required to petition to intervene in such proceedings.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25217(b), Public Resources Code.

§ 1713. Summary of Notice or Application; Distribution

(a) Upon filing of the notice or application, the executive director shall prepare a summary of such notice or application. The summary shall be concise and understandable, shall fairly describe the content of the notice or application using the applicant's own words whenever possible, and shall include a description of the commission's procedures concerning proceedings on the notice or application, as appropriate.

(b) As soon as practicable after its preparation, the executive director shall cause a copy of the summary to be mailed or otherwise delivered to public libraries in communities near the proposed sites, including the main branch of a public library in each county in which a facility is proposed to be located in whole or in part; to libraries in Eureka, Fresno, Los Angeles, San Diego, and San Francisco; and to all members, to the ex officio members, to the public adviser, to the hearing officer, to the general counsel, to the applicant, to any person who requests such mailing or delivery, and to all parties to the proceeding.

(c) As soon as practicable after its preparation, the executive director shall cause the summary to be published in a newspaper of general circulation in each county in which a

site and related facility, or any part thereof, designated in the notice or application, are proposed to be located.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25505 and 25519(g), Public Resources Code.

§ 1714. Distribution of Copies to Public Agencies; Request for Comments.

(a) As soon as possible after receipt of the notice or application for a site and related facility requiring a certificate of public convenience and necessity, the executive director shall transmit a copy thereof to the Public Utilities Commission and shall request the Public Utilities Commission to perform an analysis and to offer comments and recommendations regarding the economic, financial, rate, system reliability, and service implications of the design, construction, operation, and location of the site and related facilities. For applications for a site and related facility which does not require a certificate of public convenience and necessity, the executive director shall transmit a notice of receipt of the application to the Public Utilities Commission.

(b) Within ten days after receipt of the application for a site and related facility that is proposed to connect to the California Independent System Operator-controlled grid, the executive director shall transmit a copy thereof to the California Independent System Operator and shall request the California Independent System Operator to perform an analysis and to offer comments and recommendations regarding the system reliability implications and identification of interconnection facilities required for connection to the California Independent System Operator-controlled grid. For applications which do not connect to the California Independent System Operator-controlled grid, the executive director shall transmit a notice of receipt to the California Independent System Operator.

(c) The executive director shall also transmit a copy of the notice or application to the Coastal Commission for any site located in the coastal zone, to the Bay Conservation and Development Commission (BCDC) for any site located in the Suisun Marsh or the jurisdiction of the BCDC, to the California Department of Fish and Game, to the Air pollution Control District in which the project is located, to the Water Resources Control Board in which the project is located, to all federal, state, regional, and local agencies which have jurisdiction over the proposed site and related facility, or which would have such jurisdiction but for the commission's exclusive authority to certify sites and related facilities pursuant to Chapter 6 (commencing with # 25500) of Division 15 of the Public Resources Code, and to any other federal, state, regional, or local agency which has been identified as having a potential interest in the proposed site and related facility, and shall request analyses, comments, and recommendations thereon.

(d) The executive director shall transmit a copy of the notice or application to any Native American government having an interest in matters relevant to the site and related facilities proposed in the notice or application provided the Native American government has a governing body recognized by the Secretary of the Interior of the United States or the Native American government has otherwise requested in writing to receive a copy of the notice or application.

(e) The commission shall request any Native American government covered under subsection (c) to make comments and recommendations regarding the design, operation, and location of the facilities proposed in relation to the environmental quality, public health and

safety, and other factors on which they may have expertise. To the extent that the Native American government has land use and related jurisdiction in the area of the proposed sites and related facilities, the commission shall request the Native American government to review and comment upon the land use and related aspects of the proposed sites and related facilities.

(f) Upon receiving a copy of the notice or application, each agency requested to file comments shall inform the presiding member (or the executive director if no committee has been appointed yet) of when such comments can be filed with the commission. Unless otherwise specified by law or by order of the presiding member, all such comments shall be filed prior to the conclusion of the evidentiary hearings held pursuant to Sections 1723, 1748, and 1944 on the notice or application.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25505, 25506, 25506.5, 25507 and 25519, Public Resources Code.

§ 1714.3. Agency Comments on a Notice; Purpose and Scope.

Any agency requested, pursuant to Section 1714 of this article, to transmit its comments and recommendations to the commission on a site and related facility proposed in the notice shall be requested to do each of the following:

(a) Identify each aspect of the proposed site and related facility for which the agency has land use or related jurisdiction or would have such jurisdiction but for the exclusive authority of the commission to certify sites and related facilities;

(b) List and summarize the nature of the laws, regulations, ordinances, or standards which the agency administers or enforces and which are applicable to the proposed site and related facility or would be applicable but for the commission's exclusive authority to certify sites and related facilities pursuant to Section 25500 of the Public Resources Code;

(c) Describe the nature and scope of the information requirements which the applicant must eventually meet in order to satisfy the substantive requirements of the agency; summarize the agency's procedures for resolution of such requirements and indicate the amount of time necessary to do so; describe any other studies, analyses, or other data collection which the applicant, agency, or commission should perform in order to resolve each substantive or permit requirement of the agency;

(d) Based upon available information, conduct a preliminary analysis and provide comments and recommendations to the commission regarding the design, operation, and location of the facilities proposed in the notice, in relation to environmental quality, public health and safety, and other factors on which the agency has expertise or jurisdiction. The preliminary analysis shall be limited to that necessary to advise the commission on whether there is a reasonable likelihood that the proposal will be able to comply with the agency's applicable laws or concerns. The analyses should identify aspects of the proposed site and facilities which are likely to disqualify a proposal as an acceptable site and related facility; and

(e) Submit to the commission, and upon request of the presiding member, present, explain, and defend in public hearings held on the notice, the results of the agency's analyses, studies, or other review relevant to the notice.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25506 and 25509.5, Public Resources Code.

§ 1714.5. Agency Comments on an Application; Purpose and Scope.

(a) Any agency requested, pursuant to Section 1714 of this article, to submit its comments and recommendations to the commission on any aspect of the application shall be requested to do each of the following:

(1) Update as necessary the information requested or submitted by the agency during the notice proceedings;

(2) Perform or conduct such analyses or studies as needed to resolve any significant concerns of the agency, or to satisfy any remaining substantive requirements for the issuance of a final permit by the agency which would have jurisdiction but for the commission's exclusive authority, or for the certification by the commission for the construction, operation, and use of the proposed site and related facilities; and

(3) Submit to the commission, and upon request of the presiding member, present, explain, and defend in public hearings held on the application, the results of the agency's analyses, studies, or other review relevant to the application. The agency may submit comments and recommendations on any aspect of the application, including 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, and other aspects of the design, construction, or operation of the proposed site and related facility.

(b) Consistent with Section 1747, comments and recommendations submitted to the commission pursuant to this section regarding the project's conformance with applicable laws, ordinances, and standards under the agency's jurisdiction shall be given due deference by the commission staff.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25519(f), (g), (j), Public Resources Code.

§ 1714.7. Air Quality Report on the Notice; Preparation; Contents; Testimony.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25506, Public Resources Code.

§ 1714.9. Determination of Compliance; Preparation by Local Air Districts.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25519(f), (g), (j), Public Resources Code.

§ 1715. Reimbursement of Local Agencies.

(a) Costs eligible for reimbursement.

(1) Local agencies shall be reimbursed for costs incurred in accordance with actual services performed by the local agency, provided that the local agency follows the procedures set forth in this section. These costs include:

(A) permit fees, including traffic impact fees, drainage fees, park-in-lieu fees, sewer fees, public facilities fees and the like, but not processing fees, that the local agency would normally receive for a powerplant or transmission line application in the absence of Commission jurisdiction, and

(B) the added costs of services performed directly in response to Commission requests for review that are not normally covered by the permit fee and for which a fee is normally charged.

(b) Costs ineligible for reimbursement. A local agency may not be reimbursed under this section for the following types of costs, even if actually incurred:

(1) expenses incurred by a local agency for the presentation or defense of positions not reasonably related to the matters which the agency is requested to review or not within the area of the agency's expertise;

(2) expenses for which it receives payment from other sources;

(3) expenses incurred in advocating a position as a formal intervenor to the proceeding, except for the local district and Air Resources Board presentations pursuant to Section 1744.5; or

(4) entertainment and first class travel expenses.

(c) Procedure for approving reimbursement budgets.

(1) To be eligible for reimbursement, a local agency must receive a request for review from the Chairman, Presiding Member, or Executive Director.

(2) To apply for reimbursement, a local agency shall, within 21 days of receiving a request for review from the commission, file an itemized proposed budget with the staff and the applicant estimating the actual and added costs that are likely to be incurred during such review. The proposed budget shall justify each line item amount and explain how each line item is reasonably related to the matters which the agency is requested to review. A local agency's failure to file a proposed budget within the time period specified herein shall not prevent it from receiving reimbursement; however, failure to use the approval process described in this section creates a risk that the local agency will not be reimbursed for work already performed.

(3) Within 10 working days of receiving a proposed budget, the staff shall notify the agency, in writing, whether the proposed budget is complete or incomplete. If the proposed budget is incomplete, the staff shall provide the local agency with a list of deficiencies that must be corrected to complete the proposed budget request.

(4) If neither the commission staff nor the project applicant files a written objection to the proposed budget within 10 working days after the proposed budget is determined to be complete, then the proposed budget is deemed approved.

(5) If a local agency reasonably incurs costs in responding to a commission request for review of a project before its proposed budget is approved, the local agency may include such costs in the budget retroactively.

(6) A local agency may apply for augmentations or other changes to an approved budget by filing a request for an amended budget. Requests for an amended budget shall also be processed in accordance with this subdivision.

(d) Procedure for approving reimbursement invoices.

(1) A local agency seeking reimbursement must receive approval of its proposed budget before it files an invoice for expenses actually incurred. Reimbursement may not exceed the approved budget.

(2) On either a monthly or quarterly basis, the local agency seeking reimbursement shall file with the commission staff and the project applicant an invoice for the expenses actually incurred during the past month or quarter.

(3) If the applicant does not object to the invoice within 10 days after receipt, then it shall pay the local agency the amount of the invoice within 14 days of the receipt of the invoice.

(e) Resolving disputes. If there is a dispute over a reimbursement budget under subdivision (c) above, or a reimbursement invoice under subdivision (d) above, which cannot be directly resolved between the applicant and the local agency, the staff shall notify the committee in writing of the dispute. The committee shall resolve the dispute by written order. The committee shall have discretion to determine whether and to what extent hearings are required to resolve the dispute.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25538, Public Resources Code.

§ 1716. Obtaining Information.

(a) The executive director or the chief counsel shall have authority to request or otherwise obtain from the applicant such information as is necessary for a complete staff analysis of the notice or application.

(b) Any party may request from the applicant any information reasonably available to the applicant which is relevant to the notice or application proceedings or reasonably necessary to make any decision on the notice or application. All such requests shall include the reasons for the request.

(c) Any public agency which is not a party and which has been requested to provide comments on the notice or application shall have the same rights as a party to obtain information necessary to comply with the commission's request for comments. To the extent practicable, the staff shall coordinate requests from agencies to the applicant to avoid duplicative requests.

(d) Any party may request from a party other than the applicant information which is reasonably available to the responding party and cannot otherwise be readily obtained, and which is relevant to the proceeding or reasonably necessary to make any decision on the notice or application. All such requests shall state the reasons for the request.

(e) All requests for information shall be submitted no later than 180 days from the date the commission determines an application is complete, unless the committee allows requests for information at a later time for good cause shown.

(f) Any party requested to provide information pursuant to this section shall, within 20 days of receiving the request, notify the requesting party and the committee in writing if it is unable to provide or objects to providing the information requested of it. Such notification shall state the reasons for the inability or the grounds for the objection. Absent such an objection, the party shall provide the information requested within 30 days of the date that the request is made. The dates specified in this section may be changed by mutual agreement of the parties or by committee order.

(g) If the requesting party or agency is unable to obtain information as provided in this section, such party or agency may petition the committee for an order directing the responding party to supply such information. A party petitioning the committee for an order to provide information must do so within either 30 days of being informed in writing by the responding party that such information will not be provided or within 30 days of the date the information was provided or was due. The committee may set a hearing to consider argument on the petition, and shall, within 30 days of the filing of the petition, either grant or deny the petition, in whole or in part. The committee may direct the commission staff to supply such of the information requested as is available to the staff.

(h) The committee shall have the authority to require from any electric utility, including any aggregator, scheduling coordinator, energy service provider, or independent power producer, information which is specific to the subject notice or application and reasonably necessary to make any decision on the notice or application; provided, however, that such information, or its equivalent, is not reasonably available from any party or from publicly available records. Applications for confidentiality may be filed pursuant to Title 20, California Code of Regulations, section 2501 et seq.

(i) All information requests and responses shall be served on all parties to the proceeding by the requesting and responding parties respectively; provided, however, that requests for information made orally at a public meeting or hearing authorized by the presiding member need not be made in writing or served unless otherwise required by the presiding member. The presiding member may set reasonable time limits on the use of, and compliance with, information requests in order to avoid interference with any party's preparation for hearings or imposing other undue burdens on a party. No information requests shall be submitted by any party after release of the presiding member's hearing order except upon petition to the presiding member.

(j) Any witness testifying at a hearing shall to the extent that it does not unduly burden the witness, make available to any party on request copies of any work papers relied upon in the preparation of the testimony. If a witness for the applicant sponsors any portion of the notice or application for inclusion in the hearing record, the applicant shall make available, on request, all work papers relied upon in the preparation of the sponsored portion.

NOTE: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210, 25502, 25519(b) and 25541, Public Resources Code; and Section 11181, Government Code.

§ 1716.5. Motions, Hearings, Decision.

Any party may file a motion or petition with the presiding member regarding any aspect of the notice or application proceeding. Responses to the petition by other parties shall be filed within 15 days of the filing of the petition unless otherwise specified by the presiding member. The presiding member may set a hearing to consider argument on the petition, and shall, within 30 days of the filing of the petition, act to grant or deny the petition, in whole or in part, or schedule further hearings or written responses on the petition.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210, 25502, 25519(b) and 25541, Public Resources Code.

§ 1717. Distribution of Pleadings, Comments, and Other Documents.

(a) Any party or agency who submits petitions (except petitions to intervene), motions, briefs, comments, written testimony or exhibits, shall file its documents in accordance with section 1210.

(b) Upon receipt of any agency comments and recommendations, and unless such service is already provided by the agency, the executive director shall immediately serve such comments and recommendations on the applicant and all parties to the proceeding and to any other person who requests a copy of such comments and recommendations.

(c) During the course of the proceedings under this article, the presiding member shall, if requested by any party or member of the public, cause to be distributed, to all parties and to any persons so requesting, a list of all materials and documents introduced into the record of the proceeding. Such list shall be kept up to date on at least a weekly basis by the Dockets Unit and kept on file with the record of the proceeding.

(d) The executive director shall cause a copy or summary of materials and documents introduced into the record of the proceeding to be placed in a public document room in each county in which a proposed site and related facility or any portion thereof is located.

NOTE: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Section 25216.5(a), Public Resources Code.

§ 1718. Staff Meetings; Purposes.

(a) At any time after a notice or application is filed, the staff may initiate informal, voluntary meetings with the applicant, other parties, interested agencies, or the public on matters relevant to the notice or application. Such meetings may include workshops, site visits, or other information exchanges.

(b) All meetings shall be noticed pursuant to Section 1710 of these regulations and shall be open to the public. The notice shall list the topics and purposes of the meetings. Where such meetings are intended to discuss social, economic, or other impacts on communities surrounding a proposed site, they shall, to the extent feasible, be held in or near the communities affected.

(c) Meetings initiated by staff may be held for any of the following purposes:

(1) To allow parties to solicit and exchange information relevant to the notice or application;

(2) To allow parties to identify areas of factual and legal agreement;

(3) To allow parties to identify areas of disagreement, to refine issues, and to develop the positions and contentions of the parties; or

(4) To allow members of the public to recommend areas of inquiry to the parties, to identify issues, and to ask questions of the applicant, staff and parties concerning each siting proposal, the commission's siting procedures, and possible positions of the parties.

(d) The public adviser, and in the adviser's absence, the staff counsel, shall ensure that all persons are provided a reasonable opportunity to participate in the discussions at each meeting.

(e) The presiding member may require the parties to report periodically on the scope, purpose, and progress of such meetings. Any person dissatisfied with the manner in which such meetings are being conducted may petition the presiding member to take remedial action.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210 and 25216.5, Public Resources Code.

§ 1718.5. Prehearing Conferences; Hearing Order.

The committee shall hold one or more prehearing conferences with all parties and interested agencies to establish procedures, identify issues, and set schedules for adjudicatory or nonadjudicatory hearings on the notice or application.

(a) The presiding member shall request the applicant to indicate when it will be prepared to present its case or evidence in support of the notice or application, and shall request the staff and each participating agency to indicate when each will be prepared to present the results of its assessments to the commission.

(b) Parties who have agreed on statements of facts shall make such statements and lists of probable sponsoring witnesses available to all interested persons at the prehearing conference. To the extent practical, such statements should be served on all parties five days prior to the prehearing conference. Such statements shall not be binding on the committee and may be challenged by any person.

(c) Parties who have agreed on a statement of issues requiring adjudication shall submit such statements at the prehearing conference. The presiding member may direct the staff to present at the conference a statement of issues which the staff believes must be resolved in the applicant's favor before approval of the notice or the application is granted. The staff statement shall not be binding on the committee.

(d) The presiding member, in consultation with other committee members, shall prepare a hearing order to guide the hearings on the notice or application. The order shall set forth the schedule and procedures for hearings, indicate the order of presentation of the parties and interested agencies, and identify the issues to be addressed in the hearings.

(e) This section shall not preclude parties from agreeing to and offering additional statements of facts and issues during the hearings.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25211 and 25509.5, Public Resources Code.

§ 1719. Consolidation or Severance Proceedings.

(a) Upon motion of a member of a committee or of any party, and for good cause shown, the commission may order the consolidation of part or all of any notice or application proceeding with any other notice or application proceeding, or the severance of part of any notice or application proceeding, if reasonably necessary to ensure the complete, fair, or timely consideration of any siting proposal.

(b) A decision on any site and related facility shall not be delayed by reason of consolidation or severance unless agreed to by the applicant.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources code.
Reference: Sections 25516.6, 25540.2, Public Resources Code.

§ 1720. Reconsideration of Decision or Order.

(a) Within 30 days after a decision or order is final, the Commission may on its own motion order, or any party may petition for, reconsideration thereof. A petition for reconsideration must specifically set forth either: 1) new evidence that despite the diligence of the moving party could not have been produced during evidentiary hearings on the case; or 2) an error in fact or change or error of law. The petition must fully explain why the matters set forth could not have been considered during the evidentiary hearings, and their effects upon a substantive element of the decision. In addition to being served on all parties as required by section 1210, the petition for reconsideration shall be filed with the chief counsel of the commission.

(b) The commission shall hold a hearing for the presentation of arguments on a petition for reconsideration and shall act to grant or deny the petition within 30 days of its filing. In the absence of an affirmative vote of three members of the commission to grant the petition for reconsideration, the petition shall be denied.

(c) If the commission grants a petition for reconsideration, or if on its own motion it orders reconsideration, then within 90 days, or within a longer period set by the commission for good cause stated, the commission shall hold a subsequent hearing, which may include the taking of evidence, and shall decide whether to change the decision or order. In the absence of an affirmative vote of three members of the commission to change the decision or order, it shall stand.

(d) The commission may stay the effective date of all or part of a decision or order pending reconsideration thereof. The commission shall specify the length of the stay, which shall expire no later than the end of the period for action upon reconsideration, as established in or pursuant to subdivision (c) of this section.

NOTE: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25530, Public Resources Code.

§ 1720.2. Termination of NOI, AFC, and SPPE Proceedings.

(a) The committee or any party may, based upon the applicant's failure to pursue an application or notice with due diligence, file a motion to terminate the notice or application proceeding. Within 30 days of the filing of such a motion, the committee may hold a hearing and provide an opportunity for all parties to comment on the motion. Following the hearing, the committee shall issue an order granting or denying the motion.

(b) A committee order terminating a proceeding must be approved by the full commission.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210, 25216.5, 25519(b) and 25541, Public Resources Code.

§ 1720.3. Construction Deadline.

Unless a shorter deadline is established pursuant to § 25534, the deadline for the commencement of construction shall be five years after the effective date of the decision. Prior to the deadline, the applicant may request, and the commission may order, an extension of the deadline for good cause.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210, 25216.5, and 25519(b), Public Resources Code.

§ 1720.4. Effective Date of Decisions.

For the purposes of implementing of sections 25530, 25531, and 25901 of the Public Resources Code, a decision or order is adopted, issued, final, and effective on the day when the decision or order is docketed, unless the decision or order states otherwise.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210, 25216.5, 25502, 25519(b) and 25541, Public Resources Code.

§ 1720.5. Demand Conformance.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25305(e), 25308.5, 25523(f), 25524 and 25541, Public Resources Code.

§ 1720.6. Demonstration Projects.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Section 25540.6(e), Public Resources Code.

Article 2. Procedures for Considering Notices of Intention to File an Application for Certification

§ 1721. Purpose of Notice and Notice of Intention Proceeding.

(a) The purpose of a notice, and such supporting documentation as may be filed concurrently with the notice, is to provide the commission, interested agencies, and interested members of the public with an informative document which does all of the following:

(1) Accurately describes the nature, size, and location of the sites and related facilities proposed by the applicant;

(2) Fairly identifies and explains the principal environmental, economic, and technological advantages and disadvantages of each siting proposal in the notice;

(3) Identifies measures which the applicant is considering to mitigate the principal disadvantages of each siting proposal in the notice;

(4) Explains the need for the proposed facilities;

(5) Describes the commercial availability of the generation technologies proposed in the notice (if not already determined to be commercially available by the commission); discusses the economic comparability of the proposals based upon comparative generation costs available to the applicant; and explains the impact of the proposed facilities on the overall reliability of the service area system;

(6) Specifies the measures proposed or being considered by the applicant to ensure public health, safety, and reliability during construction and operation of the proposed facilities at each site; and

(7) Indicates the degree to which the proposed facilities can be constructed and operated at each site in conformity with applicable federal, state, and local standards, laws, ordinances, and regulations, including any long-range land use plans or guidelines adopted by any federal, state, regional, or local planning agency.

(b) The purpose of notice of intention proceedings shall be to engage the applicant, the commission, interested agencies and members of the public in an open planning process designed to identify sufficient acceptable sites and related facilities. To this end, each notice of intention proceeding shall be conducted in order to determine the technical, environmental, public health and safety, economic, and social and land use acceptability of alternative sites and related facilities, by accomplishing each of the following:

(1) To provide information on the nature of the siting proposals to interested agencies and members of the public, and to actively solicit their assessments, comments, and recommendations on any aspect of the sites and related facilities proposed in the notice, including recommendations for modification in the location, design, construction or operation of the proposed facilities, or alternatives to the proposal;

(2) To determine whether there is a reasonable likelihood that the facilities will comply with applicable federal, state, regional and local standards, laws, ordinances, regulations, and plans;

(3) To attempt to resolve critical issues affecting the ability to employ the proposed technology at each of the sites and to determine the feasibility of any conditions or modifications necessary to make any site and related facilities proposed acceptable;

(4) To determine whether the proposed facilities can be designed, constructed, and operated in a manner which ensures public health, safety, and reliability, by evaluating the adequacy of the measures proposed by the applicant, assessing their conformity with applicable standards, and where appropriate, determining the necessity, feasibility, and relative costs and benefits of additional measures;

(5) To identify the most serious environmental impacts and assess the feasibility of mitigating such impacts;

(6) To consider alternatives to the proposal, including feasible alternative sites, facilities, or sites and related facilities which may substantially lessen any significant adverse effects which the applicant's proposals may have on the environment or which may better carry out the policies and objectives of the Act;

(7) To consider the economic, financial, rate, system reliability, and service implications of the proposed facilities, in coordination with the Public Utilities Commission (for facilities requiring a certificate of public convenience and necessity) or with the board of directors or other appropriate body of a municipal utility (for all other facilities); and

(8) To prevent any needless commitment of financial resources and regulatory effort prior to a determination of the basic acceptability of, and need for, the proposed facilities, and the suitability of proposed sites to accommodate the facilities; and to eliminate from further consideration and commitment of resources any site and related facility found to be unsuitable, unneeded, or otherwise unacceptable.

(c) In assessing the proposed sites and related facilities, the commission shall defer until the formal application stage (1) a detailed scrutiny of engineering and design aspects, (2) a detailed identification and analysis of significant adverse environmental impacts, or (3) a precise analysis of need for new generating facilities; provided, however, that issues relating to such matters may be considered where resolution of such issues will not unduly hinder or burden the parties and the proceeding and evidence for the resolution of such issues is readily available, or where resolution of such issues is necessary to determine the acceptability of one or more of the sites and related facilities proposed.

(d) It shall be the responsibility of the presiding member to ensure that the notice proceeding is conducted in a manner consistent with the purposes of this article and to ensure that the needless expenditure of time, effort, and financial resources in considering matters more appropriate for the formal certification stage is avoided.

NOTE: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25502- 25516.6, Public Resources Code.

§ 1722. Public Information Presentations.

Note: Authority cited: Sections 25516.5 and 25518, Public Resources Code. Reference: Section 25509, Public Resources Code.

§ 1722.5. Air Quality Report on Notice; Preparation; Contents; Testimony.

(a) Upon filing of a notice, the local air district (or the Air Resources Board if the local district fails to participate) in which a site is located shall prepare and submit a report prior to the conclusion of the nonadjudicatory hearings held pursuant to Section 1723. Each agency submitting a report shall testify in support of the report at hearings on the notice. The report shall include, but not be limited to:

(1) A preliminary specific definition of best available control technology (BACT) for the proposed facility;

(2) A preliminary discussion of whether there is a substantial likelihood that the requirements of the applicable new source review rule and all other applicable air quality regulations can be satisfied by the proposed facility; and

(3) A preliminary list of conditions which the proposed facility must meet in order to comply with the applicable rules and regulations.

(b) The ARB shall review and submit written comments on each report. After considering each of the local air district reports, if the ARB is of the opinion that none of the proposed sites has a substantial likelihood of meeting the requirements of the applicable air quality regulations (including emission limitations), the ARB and commission staff, in consultation with the local districts and prior to the conclusion of the nonadjudicatory hearings, shall propose an alternative site or sites, in or near the applicant's service area, which has a greater likelihood of meeting the applicable air quality regulations and which merits further study. The proposal shall include the reasons therefore. If such a proposal is filed, the presiding member may direct the applicant to evaluate major siting constraints of the proposed alternative for presentation at the adjudicatory hearings held pursuant to Section 1725. Each air district and the ARB shall supplement their reports as necessary in response to changes in the applicant's proposal which may occur during the notice proceeding.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25506, Public Resources Code.

§ 1722.9. Prehearing Conferences; Hearing Order.

Note: Authority cited: Section 25218, Public Resources Code. Reference: Sections 25211, 25509, Public Resources Code.

§ 1723. Nonadjudicatory Hearings; Purposes and Procedures.

The committee shall commence nonadjudicatory hearings on the notice pursuant to the hearing order issued by the presiding member.

(a) The hearings shall be used to provide information on the proposed sites and facilities to the public. The presiding member shall reserve a portion of each hearing to permit

members of the public to question the applicant and staff about the proposals or about each party's contentions. Both parties shall make qualified persons available to answer questions on the matters scheduled for consideration at each hearing. The presiding member shall limit questions to the applicant and staff to those necessary to identify issues or solicit relevant information on the proposals and shall defer adjudication of identified issues until hearings held under Section 1725.

(b) The hearings shall be used to develop an evidentiary basis for the findings and conclusions required for a decision on the notice. The applicant, staff, and other parties shall present evidence in the hearings pursuant to Section 1723.5 and the hearing order. Testimony or evidence based upon statements of facts agreed to by the applicant or staff which set forth the ultimate positions of either party on need, public health and safety, and environmental acceptability may be admitted into evidence without the necessity of reading the entire statements into the record only if a supporting witness presents an informative summary of the facts and evidence at the hearing and any person so requesting is provided a reasonable opportunity to ask relevant, nonrepetitive questions of the sponsoring witnesses. The presiding member may require oral summaries of other joint statements of facts offered into evidence.

(c) The hearings shall be used to solicit the views and comments of the public, parties, and governmental agencies on the environmental, public health and safety, economic, social, and land use impacts of the facilities at the proposed sites.

(d) The hearings shall be used to identify issues which require adjudication, issues which may be deferred to the certification stage, and issues which may be eliminated from the proceeding. Issues may be raised by submitting comments or testimony which dispute the contentions of the applicant or staff, or by asking questions of witnesses at hearings. The presiding member may permit a party to present evidence to show that an apparently disputed matter presents no issue of fact, or may defer such evidence until the adjudicatory hearings. The presiding member shall determine whether the evidence presented on each matter is sufficient to raise a genuine, relevant, factual issue appropriate for adjudication in subsequent hearings.

(e) The presiding member shall conclude the hearings under this section whenever he or she is satisfied that the purposes of this section have been achieved and that the evidentiary record and issues are sufficiently developed to prepare the summary and hearing order required by Section 1724.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25509.5, Public Resources Code.

§ 1723.5. Presentation of Evidence; Burdens of Producing Evidence; Burdens of Proof.

(a) The applicant has the burden of proof and of producing evidence on each of the following:

(1) The probable need for the proposed facilities;

(2) A reasonable likelihood that the principal adverse impacts on the environment can be mitigated or avoided;

(3) A reasonable likelihood that the facilities can be constructed and operated safely and reliably;

(4) The suitability of the sites to accommodate the facilities;

(5) The reasonableness of the likely financial impacts of constructing and operating the facilities; and

(6) A reasonable likelihood that the construction and operation of the proposed facilities will comply with the federal, state, regional, and local laws, standards, ordinances, and land use plans which are applicable to the proposals.

(b) The staff shall present its independent assessment of the need for the facilities and of the adequacy of the measures proposed by the applicant to protect environmental quality and to protect public health and safety. The staff may also present evidence on any other matter relevant to the proceeding and shall present evidence on such matters and issues as the presiding member directs.

(c) Any party or person may propose modifications in the design, construction, location, or other conditions to protect public health and environmental quality, to ensure safe and reliable operation, or to meet the standards, policies, and guidelines established by the commission. If the proponent of any such modification or condition demonstrates its apparent reasonableness, the presiding member may direct the applicant and/or staff to examine and present further evidence on the need for and feasibility of such modification or condition.

(d) The staff shall conduct an independent environmental assessment of the applicant's proposals and present a report on its findings at the hearings. The report shall summarize the principal adverse environmental effects of the applicant's siting proposals, evaluate the potential mitigation measures available to the applicant, and assess the feasibility of reasonable alternative sites and facilities other than those proposed by the applicant, which the staff believes may substantially lessen or avoid the principal adverse effects of the applicant's proposal. Any person may suggest one or more of such alternatives to the staff and committee for consideration in the staff report.

(e) Any party or person may propose that the commission approve any alternative site and related facility in lieu of or in addition to the applicant's proposals. The proponent of such alternative siting proposal has the burden of presenting evidence to establish the suitability and acceptability of such proposal as set forth in subsection (a) of this section. The presiding member may also direct the staff to investigate any alternative siting proposal.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25509.5, 25511 and 25513, Public Resources Code.

§ 1724. Summary and Hearing Order; Preparation; Contents; Distribution.

(a) After the conclusion of the nonadjudicatory hearings, and no later than 150 days after acceptance of the notice, the presiding member shall prepare and publish a summary of the hearing record and a hearing order pursuant to Public Resources Code Sections 25512 and 25512.5 to guide subsequent adjudicatory hearings.

(b) The hearing order shall identify issues to be adjudicated in subsequent hearings, issues which have been eliminated, and issues which should be deferred to the certification proceeding. To the extent permitted by the record, the summary shall also include proposed findings on matters relevant to the final report and proposed conditions for filing an application.

(c) Based upon information presented in the hearings, the summary and hearing order shall briefly describe each siting proposal, shall summarize the principal significant environmental effects of each siting proposal, and shall describe reasonable alternatives and mitigation measures which could substantially reduce the adverse effects. The summary and hearing order shall list environmental issues regarding potential adverse effects, mitigation measures, and alternatives which require resolution in the subsequent adjudicatory hearings. The summary should briefly describe and discuss those environmental issues important to a decision on the notice.

(d) The presiding member shall publish notice of the availability of the summary and hearing order in a newspaper of general circulation for the county or counties where the sites are located.

(e) The presiding member shall provide all parties with a reasonable opportunity to submit comments, recommendations, and proposed findings and conclusions for the summary and hearing order prior to its preparation. The presiding member may hold a public conference to consider amendments to the hearing order after its publication.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25512 and 25512.5, Public Resources Code.

§ 1725. Adjudicatory Hearings.

Pursuant to the hearing order, the assigned committee shall conduct adjudicatory proceedings as provided in Public Resources Code Section 25513.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25513, Public Resources Code.

§ 1726. Final Report; Preparation; Distribution.

(a) The presiding member shall prepare a final report on the notice, as provided in Section 25514 of the Public Resources Code. The report shall propose such findings and conclusions as are warranted by the record of the proceeding; shall recommend either approval or disapproval of the notice and the reasonable conditions, if any, which must be satisfied before certification is granted; and shall contain a proposed decision on the notice.

(b) The final report shall contain the committee's responses to significant environmental points raised in the notice proceeding, including findings and conclusions on each of the environmental issues in the summary and hearing order or otherwise important to a decision on the notice. The report shall include findings on the need for and feasibility of any mitigation measures or alternatives considered in the hearings. The report shall include findings and conclusions on the relative merits and acceptability of each alternative site and related facility proposed and considered in the proceeding, and conditions for filing an application on each site and facility approved.

(c) The final report shall be distributed in the same manner as the summary and hearing order.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25514, Public Resources Code.

§ 1726.5. Request for PUC Comments.

If the final report recommends any modifications, conditions or criteria for any site and related facility requiring a certificate of public convenience and necessity from the Public Utilities Commission, the presiding member shall request the comments of the PUC in accordance with Section 25514.3 of the Public Resources Code.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25514.3, Public Resources Code.

§ 1727. Final Report and Proposed Decision Hearings.

(a) The Commission or the assigned committee may hold one or more hearings to consider any statements of the parties on the final report and on the proposed decision, and the comments and recommendations of interested agencies and members of the public. Such statements may contain recommendations for amendments to the final report and proposed decision.

(b) The chairman or the presiding member may require that all statements by parties and other persons be filed in writing in advance of the hearings. No new or additional evidence shall be considered at the hearings under this section unless the commission or the assigned committee adopts a motion to reopen the evidentiary record. In such case, the commission or the assigned committee shall afford such notice to the parties as appears fair and reasonable under the circumstances, but in no event shall such notice be given less than ten days prior to the hearings.

(c) Any member may propose an alternative decision, including supporting findings and conclusions. Such proposed decision may also be considered at the hearings under this section but need not be acted upon until the commission makes its decision on the notice. The commission or the assigned committee shall provide any party with a reasonable opportunity in the hearings or prior to adoption of the final decision to comment on any proposed decision.

(d) The commission shall adopt, reject, or amend and adopt, any proposed decision considered in the hearing on the final report.

(e) The decision shall be based exclusively on the evidentiary record of the proceedings on the notice. The decision shall conform to the requirements of Sections 25516, 25516.1, 25516.5 and 25516.6 of the Public Resources Code.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25515, 25516.1, 25516.5 and 25516.6, Public Resources Code.

§ 1728. Decision.

Note: Authority cited: Sections 25213, 25218(e) and 25516.6, Public Resources Code. Reference: Sections 25516, 25516.1, 25516.5, and 25516.6, Public Resources Code.

§ 1729. Nonapprovable Sites or Non-Certifiable Sites.

(a) The commission shall not find acceptable any site and related facility to which the provisions of Sections 25526 or 25527 of the Public Resources Code apply unless the finding required by the applicable section has been made.

(b) The applicant shall be required to comply with the following requirements of Sections 25526 and 25527 at the application stage:

(1) For a site in an area designated by the Coastal Commission, the applicant shall demonstrate to the Coastal Commission that the proposed facilities will cause no substantial adverse environmental effects on any designated area. The Coastal Commission shall submit its findings to the Energy Commission prior to the conclusion of the hearings held under Section 1748 of these regulations.

(2) For a site in an area designated by the BCDC, the applicant shall demonstrate to the BCDC that the proposed facility will cause no substantial adverse environmental effects on any designated area. The BCDC shall submit its findings to the Energy Commission prior to the conclusion of the hearings held under Section 1748 of these regulations.

(3) For a site in an area listed in Section 25527, the applicant shall demonstrate to the Energy Commission that the proposed facility will cause no substantial adverse environmental effects on any such area. The commission's findings shall be contained in the proposed decision on the application.

(4) For a site in any area covered by this section, the applicant shall demonstrate prior to the conclusion of hearings held under Section 1748 that the approval of any public agency having ownership or control of such lands has been obtained.

Note: Authority cited: Sections 25518(e) and 25541.5, Public Resources Code. Reference: Sections 25526 and 25527, Public Resources Code.

§ 1730. Approval; Required Finding for Air Quality.

The commission shall not approve any site and related facility unless it determines that there is a substantial likelihood that it will meet the applicable air quality regulations; provided, however, that if the commission determines that the facility is urgently needed, the applicant has made a good faith effort to find acceptable alternative sites and related facilities, and no otherwise approvable site has a substantial likelihood, it may approve the single site and related facility that is otherwise acceptable and that is most likely to meet all applicable air quality regulations. In such event, the commission shall request the ARB and local districts to appear at the hearings on the final report and advise the commission on which site is most likely to meet the requirements.

Note: Authority cited: Sections 25518, 25541.5, Public Resources Code. Reference: Sections 21081, 25516, Public Resources Code.

§ 1731. Environmentally Unacceptable Sites.

(a) If the commission finds that the construction and operation of a power plant and related facilities at a site would cause a significant adverse effect on the environment, the commission shall follow the provisions of this section.

(1) The commission may find the site and related facilities acceptable despite the probability of a significant adverse effect if the commission finds that there is a reasonable likelihood that the adoption of feasible mitigation measures could substantially reduce the significant adverse effect.

(2) If the commission finds that there is not a reasonable likelihood that feasible mitigation measures could substantially reduce the significant adverse effect, and that there is available a feasible alternative that could avoid or substantially reduce the significant adverse effect, the commission shall find the proposed site unacceptable.

(b) This provision shall not apply to any notice for which only one site and related facility is required.

(c) This provision shall not enlarge the scope of environmental review required by Sections 1723 through 1726.

Note: Authority cited: Sections 25218(e), and 25541.5, Public Resources Code. Reference: Sections 21080.5, and 25541.5, Public Resources.

Article 3. Procedures for Considering Applications for Certification

§ 1741. Application Proceeding; Purpose and Objectives.

(a) The purpose of an application proceeding is to ensure that any sites and related facilities certified provide a reliable supply of electrical energy at a level consistent with the need for such energy, and in a manner consistent with public health and safety, promotion of the general welfare, and protection of environmental quality.

(b) The application proceeding shall be conducted in order to accomplish all of the following objectives:

(1) To ensure that the applicant incorporates into the project all measures that can be shown to be feasible, reasonably necessary, and available to substantially lessen or avoid the project's significant adverse environmental effects, and to ensure that any facility which may cause a significant adverse environmental effect is certified only if the benefits of such facility outweigh its unavoidable adverse effects.

(2) To ensure that the applicant takes all measures that can be shown to be feasible, reasonably necessary, and available to comply with applicable governmental laws and standards; to ensure that any facility certified complies with applicable federal law; and to ensure that any facility which fails to comply with an applicable local or state law or standard is certified only if such facility is required for public convenience and necessity and there are not more prudent and feasible means of achieving such convenience and necessity.

(3) To ensure safe and reliable operation of the facility.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources code. Reference: Sections 21081, 25523 and 25525, Public Resources Code; and 14 California Code of Regulations, Sections 15091 and 15093.

§ 1742. Review of Environmental Factors; Staff and Agency Assessment.

(a) Information on the environmental effects of the proposed facility and mitigation measures proposed by the applicant shall be provided in the application as specified in the appropriate appendix.

(b) Upon acceptance of the application pursuant to Section 1709, the commission staff and all concerned environmental agencies shall review the application and assess whether the report's list of environmental impacts is complete and accurate, whether the mitigation plan is complete and effective, and whether additional or more effective mitigation measures and reasonably necessary, feasible, and available.

(c) The applicant shall present information on environmental effects and mitigation and the staff and concerned agencies shall submit the results of their assessments at hearings held pursuant to Section 1748. The staff's assessment shall focus on those environmental matters not expected to be considered by other agencies, in order to ensure a complete assessment of significant environmental issues in the proceeding.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources code. Reference: Sections 21081 and 25519, Public Resources Code.

§ 1742.5. Environmental Review; Staff Responsibilities.

(a) The staff shall review the information provided by the applicant and other sources and assess the environmental effects of the applicant's proposal, the completeness of the applicant's proposed mitigation measures, and the need for, and feasibility of, additional or alternative mitigation measures.

(b) The staff shall present the results of its environmental assessments in a report (or exhibit) to be offered as evidence at the hearings held under Section 1748.

(c) The staff report shall be written to inform interested persons and the commission of the environmental consequences of the proposal, and to assist the presiding member in preparing the presiding member's proposed decision required by Section 1749. The staff report shall indicate the staff's positions on the environmental issues affecting a decision on the applicant's proposal.

(d) The staff shall monitor the assessment of environmental factors by interested agencies and shall assist and supplement the agencies' assessment to ensure a complete consideration of significant environmental issues in the proceeding.

(e) The staff shall distribute a notice of availability of the staff report to all interested persons.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25216.5, 25217(b) and 25519(c), Public Resources Code.

§ 1743. Review of Safety and Reliability Factors; Staff and Agency Assessment.

(a) Information on safety and reliability of the proposed facility, describing in detail the measures proposed to ensure the safe and reliable operation of the facility shall be provided in the application as specified in the appropriate appendix.

(b) Upon acceptance of the application, the commission staff and interested agencies shall assess the completeness and adequacy of the measures proposed by the applicant in terms of applicable health and safety standards and other reasonable requirements. The staff shall consult with other agencies with special expertise or interest in safety and reliability matters. The staff's assessment shall focus on those safety and reliability matters not expected to be considered by other agencies. The staff may recommend additional measures which are economically and technically feasible and can be shown to be effective in ensuring safe and reliable operation.

(c) The applicant's information on safety and reliability, the results of the staff's assessment, and any additional agency comments and recommendations shall be presented and considered at hearings on the application held pursuant to Section 1748.

Note: Authority cited: Section 25216.5(a), Public Resources Code. Reference: Section 25520(b), Public Resources Code.

§ 1744. Review of Compliance with Applicable Laws.

(a) Information on the measures planned by the applicant to comply with all applicable federal, state, regional, and local laws, regulations, standards, and plans shall be provided in the application as specified in the appropriate appendix. Such information shall not duplicate information contained in environmental, safety and reliability, and air quality sections of the application.

(b) Upon acceptance of the application, each agency responsible for enforcing the applicable mandate shall assess the adequacy of the applicant's proposed compliance measures to determine whether the facility will comply with the mandate. The commission staff shall assist and coordinate the assessment of the conditions of certification to ensure that all aspects of the facility's compliance with applicable laws are considered.

(c) The applicant's proposed compliance measures and each responsible agency's assessment of compliance shall be presented and considered at hearings on the application held pursuant to Section 1748.

(d) If the applicant or any responsible agency asserts that an applicable mandate cannot be complied with, the commission staff shall independently verify the non-compliance, and advise the commission of its findings in the hearings.

(e) Comments and recommendations by a interested agency on matters within that agency’s jurisdiction shall be given due deference by Commission staff.

NOTE: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25216.5(a), 25217(b) and 25523, Public Resources Code.

§ 1744.5. Air Quality Requirements; Determination of Compliance.

(a) The applicant shall submit in its application all of the information required for an authority to construct under the applicable district rules, subject to the provisions of Appendix B(g)(8) of these regulations.

(b) The local air pollution control officer shall conduct, for the commission's certification process, a determination of compliance review of the application in order to determine whether the proposed facility meets the requirements of the applicable new source review rule and all other applicable district regulations. If the proposed facility complies, the determination shall specify the conditions, including BACT and other mitigation measures, that are necessary for compliance. If the proposed facility does not comply, the determination shall identify the specific regulations which would be violated and the basis for such determination. The determination shall further identify those regulations with which the proposed facility would comply, including required BACT and mitigation measures. The determination shall be submitted to the commission within 240 days (or within 180 days for any application filed pursuant to Sections 25540 through 25540.6 of the Public Resources Code) from the date of the acceptance.

(c) The local district or the Air Resources Board shall provide a witness at the hearings held pursuant to Section 1748 to present and explain the determination of compliance.

(d) Any amendment to the applicant's proposal related to compliance with air quality laws shall be transmitted to the APCD and ARB for consideration in the determination of compliance.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25216.3 and 25523, Public Resources Code.

§ 1745. Location of Hearings and Conferences.

Hearings and formal conferences shall be held pursuant to Public Resources Code Section 25521.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25521, Public Resources Code.

§ 1746. Prehearing Meetings; Purposes.

Note: Authority cited: Sections 25216.5, 25218, 25539, Public Resources Code. Reference: Sections 25216.5, 25519, 25539, Public Resources Code.

§ 1747. Final Staff Assessment.

At least 14 days before the start of the evidentiary hearings pursuant to section 1748 or at such other time as required by the presiding member, the staff shall publish the reports required under sections 1742.5, 1743, and 1744 as the final staff assessment, and shall distribute the final staff assessment to interested agencies, parties, and to any person who requests a copy.

Note: Authority cited: Sections 25218(e), 25539 and 25541.5, Public Resources Code. Reference: Sections 21080.5, 25519(c), 25523, Public Resources Code.

§ 1748. Hearings; Purposes; Burden of Proof.

No earlier than ninety (90) days after the acceptance of the application, the committee shall commence hearings on the application.

(a) The hearings shall be used to identify significant adverse impacts of the proposal on the environment which were not identified in proceedings on the notice of intention and shall assess the feasibility of measures to mitigate the adverse impacts. The applicant's environmental information and staff and agency assessments required by Section 1742 shall be presented.

(b) The hearings shall consider whether the facilities can be constructed and operated safely and reliably and in compliance with applicable health and safety standards, and shall assess the need for and feasibility of modifications in the design, construction, or operation of the facility or any other condition necessary to assure safe and reliable operation of the facilities. The applicant's safety and reliability information and staff and agency assessments required by Section 1743 shall be presented.

(c) The hearings shall consider whether the facilities can be constructed and operated in compliance with other standards, ordinances, regulations and laws and land use plans applicable to the proposed site and related facility. The applicant's proposed compliance measures and the staff and agency assessments required by Section 1744 shall be presented. The determination of compliance required by Section 1744.5 shall also be presented.

(d) Except where otherwise provided by law, the applicant shall have the burden of presenting sufficient substantial evidence to support the findings and conclusions required for certification of the site and related facility.

(e) The proponent of any additional condition, modification, or other provision relating to the manner in which the proposed facility should be designed, sited, and operated in order to protect environmental quality and ensure public health and safety shall have the burden of making a reasonable showing to support the need for and feasibility of the condition, modification, or provision. The presiding member may direct the applicant and/or staff to examine and present further evidence on the need for and feasibility of such modification or condition.

(f) Any party to the application proceeding shall be provided a reasonable opportunity to move to strike portions of prior testimony taken during the notice proceeding. Such motion may be based on incorrectness, irrelevance, or changed circumstances.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25216.5 and 25521, Public Resources Code.

§ 1748.5. Environmental Review; Staff Responsibilities.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25519(c), Public Resources Code.

§ 1749. Presiding Member's Proposed Decision; Distribution; Comment Period.

(a) At the conclusion of the hearings, the presiding member, in consultation with the other committee members shall prepare a proposed decision on the application based upon evidence presented in the hearings on the application. The proposed decision shall be published and within 15 days distributed to interested agencies, parties, and to any person who requests a copy. The presiding member shall publish notice of the availability of the proposed decision in a newspaper of general circulation in the county where the site is located.

(b) Any person may file written comments on the presiding member's proposed decision. The presiding member shall set a comment period of at least 30 days from the date of distribution.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25519(c) and 25523, Public Resources Code.

§ 1750. Proposed Decision.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25216.5 and 25522, Public Resources Code.

§ 1751. Presiding Member's Proposed Decision; Basis.

(a) The presiding member's proposed decision shall be based exclusively upon the hearing record, including the evidentiary record, of the proceedings on the application.

(b) The presiding member's proposed decision shall contain reasons supporting the decision and reference to the bases for each of the findings and conclusions in the decision.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25522, Public Resources Code.

§ 1752. Presiding Member's Proposed Decision; Contents.

The presiding member's proposed decision shall contain the presiding member's recommendation on whether the application should be approved, and proposed findings and conclusions on each of the following:

(a) The extent to which the proposed facilities are in compliance with:

(1) Public health and safety standards, including any standards adopted by the commission;

(2) Applicable air and water quality standards; and

(3) Any other applicable local, regional, state, and federal standards, ordinances, regulations or laws.

(b) Necessary modifications, mitigation measures, conditions, or other specific provisions relating to the manner in which the proposed facilities are to be designed, sited, and operated in order to:

(1) Protect environmental quality;

(2) Assure safe and reliable operation of the facility; and

(3) Comply with applicable standards, ordinances, regulations or laws.

(c) Unless the commission finds that such provisions would result in greater adverse effect on the environment or would be infeasible, specific provisions to meet the objectives of the California Coastal Act, as may be specified in a report submitted by the California Coastal Commission pursuant to Section 30413(d) of the Public Resources Code, or to meet the requirements of Division 19 (commencing with § 29000) of the Public Resources Code or Title 7.2 (commencing with § 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.

(d) With respect to controlling population density in areas surrounding the proposed facilities, proposed findings on each of the following:

(1) Whether 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 facilities which will ensure the public health and safety;

(2) Whether, in the case of a nuclear generating facility, the area and population density criteria specified by the United States Nuclear Regulatory Commission for assuring public health and safety are sufficiently definitive for valid land use planning requirements; and

(3) Whether the commission should require as a condition of certification that the applicant acquire, by grant or contract, the right to prohibit development of privately owned lands in areas surrounding the facilities in order to control population densities and to protect public health and safety.

(e) With respect to any facility to be located in the coastal zone or any other area with recreational, scenic, or historic value, proposed findings and conditions relating to the area that shall be acquired, established, and maintained by the applicant for public use and access; and with respect to any facility to be located along the coast or shoreline of any major body of water, proposed findings and conditions on the extent to which the proposed facility shall be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values.

(f) With respect to any of the following areas:

(1) State, regional, county or city parks;

(2) Wilderness, scenic, or natural reserves;

(3) Areas for wildlife protection, recreation or historic preservation;

(4) Natural preservation areas in existence as of January 7, 1975;

(5) Estuaries in an essentially natural and undeveloped state; Findings and conclusions on whether the facility will be consistent with the primary land use of the area; whether the facility, after consideration of feasible mitigation measures, will avoid any substantial adverse environmental effects; and whether the approval of the public agency having ownership or control of the land has been obtained.

(g) With respect to any facility to be sited in a coastal zone location designated by the California Coastal Commission pursuant to Section 30413(b) of the Public Resources Code, or in a location designated by the Bay Conservation and Development Commission pursuant to subdivision (b) of Section 66645 of the Government Code, findings on whether the approval of the public agency having ownership or control of the land has been obtained, and findings of the California Coastal Commission or the BCDC, respectively, on each of the following:

(1) Whether the facility will be consistent with the primary land use of the area; and

(2) Whether the facility, after consideration of feasible mitigation measures, will avoid any substantial adverse environmental effects;

(h) Where a nuclear powered facility is proposed, findings on;

(1) Whether and when the facility will require reprocessing of nuclear fuel rods or off-site storage of such fuel rods in order to provide continuous onsite fuel core reserve storage capacity; and

(2) Whether and when facilities with adequate capacity to reprocess nuclear fuel rods, if such reprocessing is required, and facilities with adequate capacity to store such fuel, if such storage is approved by an authorized agency of the United States, are or will be in actual operation at the time the nuclear powered facility requires such reprocessing or storage.

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

(j) Findings on the extent to which the applicant has complied with the recommended minimum standards of efficiency for operation of the facility, approved pursuant to Section 25402(d) of the Public Resources Code.

(k) With respect to any facility which does not comply with an applicable state, local or regional standard, ordinance or law, findings and conclusions on whether the noncompliance can be corrected or eliminated; and if such noncompliance cannot be corrected, findings on both the following:

(1) Whether the facility is required for public convenience and necessity; and

(2) Whether there are no more prudent and feasible means of achieving such public convenience and necessity.

(l) Any other findings and conclusions relevant to the commission's decision.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25523 and 25525-25529, Public Resources Code.

§ 1752.3. Presiding Member's Proposed Decision; Air Quality Findings.

(a) The presiding member's proposed decision shall include findings and conclusions on conformity with all applicable air quality laws, including required conditions, based upon the determination of compliance submitted by the local air pollution control district.

(b) If the determination of compliance concludes that the facility will comply with all applicable air quality requirements, the commission shall include in its certification any and all feasible conditions necessary to ensure compliance. If the determination of compliance concludes that the proposed facility will not comply with all applicable air quality requirements, the commission shall direct its staff to meet and consult with the agency concerned to attempt to correct or eliminate the noncompliance.

(c) If the noncompliance cannot be corrected or eliminated, the commission shall determine whether the facility is required for the public convenience and necessity and whether there are not more prudent and feasible means of achieving such public convenience and necessity. In such cases, the commission shall require compliance with all provisions and schedules required by the Clean Air Act and compliance with all applicable air quality requirements which in the judgment of the commission, can be met.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25523(d) and 25525, Public Resources Code.

§ 1752.5. Presiding Member's Proposed Decision; CEQA Findings.

The presiding member's proposed decision shall contain the committee's responses to significant environmental points raised during the application proceeding.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 21080.1, 25523 and 25541.5, Public Resources Code.

§ 1752.7. Presiding Member's Proposed Decision; Findings for a Multiple Facility Site.

With respect to any application for a facility to be located on a potential multiple facility site, as determined pursuant to Section 25516.5 of the Public Resources Code, the presiding member shall make the findings specified in Public Resources Code Section 25524.5.

§ 1753. Revised Presiding Member's Proposed Decision.

After the conclusion of the comment period on the presiding member's proposed decision, the presiding member, in consultation with the other committee member, may prepare a revised proposed decision on the application. If a revised proposed decision is prepared, it shall be forwarded to the full commission and distributed to all parties, interested agencies, and to any person who requests a copy for a minimum 15-day comment period before consideration by the full commission.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25519(c), 25522 and 25523, Public Resources Code.

§ 1754. Hearings on Presiding Member's Proposed Decision.

(a) Adoption hearings on the presiding member's proposed decision or the revised proposed decision, if any, shall be held before the full commission after the comment period on the presiding member's proposed decision. The hearing shall be conducted for the purpose of considering final oral and written statements of the parties and final comments and recommendations from interested agencies and members of the public. The hearing(s) on the presiding member's proposed decision may be the same hearing as the one to consider the final decision. If a revised decision is issued as provided in Section 1753, the presiding member may schedule additional hearing(s) before either the committee or the full commission prior to or at the same time as the final commission adoption hearing.

(b) The chairman may require that certain statements by parties and other persons be submitted in writing in advance of the hearings. The commission shall not consider new or additional evidence at the hearings under this section unless due process requires or unless the commission adopts a motion to reopen the evidentiary record. In such case, the commission shall afford such notice to the parties as is fair and reasonable under the circumstances.

(c) Any member may propose an alternative decision, including supporting findings and conclusions. Such alternative may also be considered at the hearings under this section but need not be acted upon until the commission makes its final decision.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25522, Public Resources Code.

§ 1755. Final Decision.

(a) At the conclusion of the hearings under Section 1754, the commission shall adopt a final written decision in conformity with Public Resources Code Section 25523.

(b) The decision shall not certify any facility considered in the proceeding unless the commission's findings pursuant to subsections (e), (f), and (k) of Section 1752 are all in the affirmative.

(c) The commission shall not certify any site and related facilities for which one or more significant adverse environmental effects have been identified unless the commission makes both of the following findings:

(1) With respect to matters within the authority of the commission, that changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects identified in the proceeding.

(2) With respect to matters not within the commission's authority but within the authority of another agency, that changes or alterations required to mitigate such effects have been adopted by such other agency, or can and should be adopted by such other agency.

(d) If the commission cannot make both the findings required under subsection (c), then it may not certify the project unless it specifically finds both of the following:

(1) That specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the application proceeding; and

(2) That the benefits of the project outweigh the unavoidable significant adverse environmental effects that may be caused by the construction and operation of the facility.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 21080.1, 21081, 25216.3, 25523, 25525-25527, 25529 and 25541.5, Public Resources Code; Title 14, California Code of Regulations, sections 15091 and 15093.

§ 1756. Schedule for Review of Applications.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25522, 25540.2 and 25540.6, Public Resources Code.

§ 1757. Multiple-Facility Sites, Review Schedule.

(a) Review of an application for an additional facility at a potential multiple facility site shall be conducted in conformity with Public Resources Code Section 25520.5.

(b) The commission shall commence public hearings no later than 60 days after acceptance of the application and conclude such hearings no later than 150 days after the acceptance.

(c) The commission shall issue its decision on the matters under reconsideration within 180 days from the acceptance of the application.

(d) Upon an affirmative decision pursuant to this section, the commission shall follow the procedures and schedules for review of the application as provided in this article and Article 1.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25520.5, Public Resources Code.

§ 1760. Environmental Impact Report.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 21100 and 25519(c), Public Resources Code.

§ 1763. Exemption from the Notice of Intention Requirements for Cogeneration Facilities Greater Than 300 Megawatts.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25522 and 25540.6(a), Public Resources Code.

§ 1764. Acceptance of Applications for Cogeneration Facilities Greater Than 300 Megawatts.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25522 and 25540.6(a), Public Resources Code.

§ 1765. Projects Exempted from Notice Requirements; Application Procedures.

At the hearings specified in section 1748 on an application exempt from the notice requirements pursuant to Public Code section 25540.6, the parties shall present information on the feasibility of available site and facility alternatives to the applicant's proposal which substantially lessen the significant adverse impacts of the proposal on the environment. The presiding member shall use the determinations, findings, and conclusions available from any generic proceedings on the commercial availability of technologies to determine which alternatives merit consideration in the hearings, which require preliminary showings as to their commercial availability, and which require resolution of issues affecting their feasibility.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25540.6, Public Resources Code.

§ 1768. Notice of Decision; Filing with Resources Agency.

The executive director shall file a notice of the final decision with the Secretary of the Resources Agency.

Note: Authority cited: Section 25541.5, Public Resources Code. Reference: Sections 21080.5 and 25541.5, Public Resources Code.

§ 1769. Post Certification Amendments and Changes.

(a) Project Modifications

(1) After the final decision is effective under section 1720.4, the applicant shall file with the commission a petition for any modifications it proposes to the project design, operation, or performance requirements. The petition must contain the following information:

(A) A complete description of the proposed modifications, including new language for any conditions that will be affected;

(B) A discussion of the necessity for the proposed modifications;

(C) If the modification is based on information that was known by the petitioner during the certification proceeding, an explanation why the issue was not raised at that time;

(D) If the modification is based on new information that changes or undermines the assumptions, rationale, findings, or other bases of the final decision, an explanation of why the change should be permitted;

(E) An analysis of the impacts the modification may have on the environment and proposed measures to mitigate any significant adverse impacts;

(F) A discussion of the impact of the modification on the facility's ability to comply with applicable laws, ordinances, regulations, and standards;

(G) A discussion of how the modification affects the public;

(H) A list of property owners potentially affected by the modification; and

(I) A discussion of the potential effect on nearby property owners, the public and the parties in the application proceedings.

(2) Within 30 days after the applicant files a petition pursuant to subsection (a)(1) of this section, the staff shall review the petition to determine the extent of the proposed modifications. Where staff determines that there is no possibility that the modifications may have a significant effect on the environment, and if the modifications will not result in a change or deletion of a condition adopted by the commission in the final decision or make changes that would cause the project not to comply with any applicable laws, ordinances, regulations, or standards, no commission approval is required and the staff shall file a statement that it has made such a determination with the commission docket and mail a copy of the statement to each commissioner and every person on the post-certification mailing list. Any person may file an objection to staff's determination within 14 days of service on the grounds that the modification does not meet the criteria in this subsection.

(3) If staff determines that a modification does not meet the criteria in subsection (a)(2), or if a person objects to a staff determination that a modification does meet the criteria in subsection (a)(2), the petition must be processed as a formal amendment to the decision and must be approved by the full commission at a noticed business meeting or hearing. The commission shall issue an order approving, rejecting, or modifying the petition at the scheduled hearing, unless it decides to assign the matter for further hearing before the full commission or an assigned committee or hearing officer. The commission may approve such modifications only if it can make the following findings:

(A) the findings specified in section 1755 (c), and (d), if applicable;

(B) that the project would remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code section 25525;

(C) that the change will be beneficial to the public, applicant, or intervenors; and

(D) that there has been a substantial change in circumstances since the Commission certification justifying the change or that the change is based on information which was not known and could not have been known with the exercise of reasonable diligence prior to Commission certification.

(4) The staff shall compile and periodically publish a list of petitions filed under this section and their status.

(b) Change in Ownership or Operational Control

(1) A petition to transfer ownership or operational control of a facility shall contain the following information:

(A) a discussion of any significant changes in the operational relationship between the owner and operator;

(B) a statement identifying the party responsible for compliance with the commission's conditions of certification; and

(C) a statement verified by the new owner or operator in the same manner as provided in Section 1707 that the new owner or operator understands the conditions of certification and agrees to comply with those conditions.

(2) The commission may approve changes in ownership or operational control after fourteen days notice.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25523, 25532 and 25534, Public Resources Code.

§ 1770. Compliance Verification.

(a) The Commission shall provide adequate monitoring of all conditions and measures set forth in the final decision required to mitigate potential impacts and to assure that the facility is constructed and operated in compliance with all applicable laws including, but not limited to, air quality, water quality, and public health and safety laws, ordinances, regulations, and standards for all projects certified. A compliance plan shall be adopted by the commission as part of the certification decision. The plan shall include the following:

(1) A set of general compliance conditions setting forth and explaining the duties and responsibilities of the staff, the licensee, delegate agencies, and others; the procedures for settling disputes; the requirements for handling confidential records and maintaining the compliance record; and the requirements for verification, including periodic reports and any other administrative procedures that are necessary to verify that all the conditions will be satisfied.

(2) Condition(s) or mitigation measure(s) to be monitored;

(3) Method of monitoring or reporting including who will monitor or report, provisions for approving qualifications of the monitor, when the monitoring or reporting will be done, and the frequency of site visits, if any.

(b) To the extent permitted by law, the Commission may delegate authority for compliance verification to state and local agencies which have expertise in subject areas where conditions of certification have been established. Such agencies may include the local building department and the local air quality management district.

(c) If a delegate agency is unwilling or unable to participate in this program, the Commission staff shall establish an alternative method of verification.

(d) The verification provisions in a siting decision are intended to verify compliance with the actual conditions of certification. The staff, after notice to the licensee, may modify the verification provisions as necessary to enforce the conditions of certification without requesting an amendment to the decision, provided that the verification change does not conflict with the

conditions of certification. If a licensee or any other person objects to the modification, he or she shall be entitled to a public hearing on the matter before the Commission.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25523, 25525, 25532 and 25534, Public Resources Code.

Article 4. Additional Provisions Applicable to Geothermal Notices and Applications

A. General Provisions

§ 1801. Applicability of Regulations.

Except as otherwise provided in this article, the provisions of Articles 1, 2, and 3 of this subchapter shall apply to the consideration of all notices and applications for geothermal power plants, associated transmission lines, and appurtenant facilities.

Note: Authority cited: Sections 25213, 25218(e), 25539 and 25541.5, Public Resources Code. Reference: Sections 25540 and 25540.5, Public Resources Code.

§ 1802. Policies of the Commission on the Siting of Geothermal Power Plants.

In carrying out the provisions of this article it shall be the policy of the commission:

(a) To promote the accelerated development of economically feasible and environmentally acceptable geothermal power plants;

(b) To implement a 12-month certification process for the consideration of geothermal applications for projects for which a resource supply has been confirmed;

(c) To enhance public participation in decisions relating to the development of geothermal energy in California to ensure a thorough and balanced consideration of relevant issues;

(d) To assist and cooperate with local permitting agencies in the preparation of environmental documents relating to geothermal power plants, to encourage local agencies to prepare full-field environmental impact reports at the earliest practical time, to provide such agencies with technical and financial assistance wherever possible in the preparation of such reports; and

(e) To avoid the duplication of environmental analyses by coordinating with local, state, and federal agencies in the preparation of environmental documents, including the use of documents prepared by such agencies to the extent practicable.

Note: Authority cited: Sections 25218(e) and 25541.5 Public Resources Code. Reference: Sections 25540-25540.3 and 25540.5, Public Resources Code.

§ 1803. Alternative Certification Processes for Geothermal Power Plants.

(a) Eighteen-month certification process. The commission shall issue its decision on a geothermal notice as specified in Section 1727 of Article 2 within nine months from the date of accepting such notice, and except as provided in subsection (b), shall issue its final decision on an application within nine months from the date of acceptance of the application, or at such later times as are mutually agreed upon by the commission and the applicant.

(b) Twelve-month certification process. If the applicant can demonstrate at the outset of the proceedings that the project complies with the provisions of Public Resources Code Section 25540.2(a), the commission shall issue its decision within 12 months of the acceptance of the application. Any application filed pursuant to Public Resources Code Section 25540.2(a) shall explicitly state that a commercial resource has been discovered and that a 12-month process is requested.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25540, 25540.2(a) and 25540.3, Public Resources Code.

§ 1804. Special Geothermal Definitions.

In addition to the definitions contained in Section 1702 and unless otherwise indicated, the following definitions shall apply to this article.

(a) "Commercial quantities of a geothermal resource" means enough geothermal steam or hot water resources from a sufficient number of wells to support a reasonable conclusion that a proposed power plant will be able to achieve the applicant's estimated gross capacity over the life of the project.

(b) "Full-field environmental impact report" means an environmental impact report which considers in detail the impacts of the development of a geothermal field, as defined by the resource developer, including but not limited to the construction of well pads, the drilling and operation of geothermal wells, and the construction and operation of geothermal resource conveyance lines, and which generally considers the construction, operation, and maintenance of one or more geothermal power plants within such geothermal field.

(c) "Geothermal field" means the geographic area containing the wells that supply steam and/or hot water to one or more geothermal power plants proposed in a notice or application.

(d) "Geothermal power plant" means any thermal power plant, as defined under Section 25120 of the Public Resources Code, which uses geothermal resources as the principal energy source for the generation of electrical power.

(e) "Twelve month process" means the consideration, and the granting or denial of the certification, within 12 months from the filing of an application for a geothermal plant for which no notice is required pursuant to Public Resources Code Section 25540.2(a).

(f) "KGRA" means Known Geothermal Resource Area as defined by the United States Geological Survey.

(g) "Plant maturation period" means the initial break-in period for a geothermal power plant which includes the period from commencement of operation to the time required to achieve the anticipated capacity factor.

(h) "Reconnaissance survey" means a survey as defined by the Federal Power Commission in *Archaeological and Historical Investigation for Energy Facilities: A State of the Art*, 1977.

(i) "Resource conveyance line" means the pipelines that transport the steam and/or hot water from the well to the geothermal power plant or from the power plant to a holding pond for reinjection.

(j) "Thermal spring" means any natural or artificial spring outlet whose average temperature is at least 15° F above the mean annual temperature of the air at the same locality.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25540-25540.4, Public Resources Code.

§ 1805. Information Requirements for Geothermal Notices and Applications.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25540-25540.5, Public Resources Code.

§ 1806. Schedule for Review of Geothermal Notices.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25540, Public Resources Code.

§ 1807. Schedule for Review of Applications Following Approval of a Geothermal Notice.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25540, Public Resources Code.

§ 1808. Schedule for 12-Month Review of Geothermal Applications.

Note: Authority cited: Sections 25213, 25218(e), 25539, Public Resources Code. Reference: Section 25540.2(a), Public Resources Code.

§ 1809. Determination of Availability of Commercial Resource.

(a) Within thirty (30) days of the filing of an application pursuant to Public Resources Code Section 25540.2(a) and Section 1803 of these regulations, the committee shall hold a hearing for the sole purpose of determining whether the proposed site is reasonably capable of supplying geothermal resources in commercial quantities. Such hearing shall be publicly noticed.

(b) The applicant shall present testimony, studies or other evidence in support of its contention that sufficient geothermal resources have been confirmed at the site. The staff shall also present its evaluation of the site's resource capabilities.

(c) The California Division of Oil and Gas (DOG) shall be requested to review the application and all well records filed with the division concerning wells completed at the site, and shall be requested to present at the hearing its conclusions, based on the professional experience of its personnel, as to whether the site is reasonably capable of providing geothermal resources in commercial quantities.

(d) If the commission determines that the site is reasonably capable of providing geothermal resources in commercial quantities, the application shall be processed in accordance with Section 1803(b) of these regulations.

(e) If the commission determines that the site is not reasonably capable of producing geothermal resources in commercial quantities, or that the applicant has failed to demonstrate that the site is reasonably capable of producing geothermal resources in commercial quantities, the applicant may withdraw the application or request that the application be treated as a notice filed pursuant to Section 1803(a). The document shall, as of the date such request is granted, be processed in accordance with Sections 1806 and 1807.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25540.1 and 25540.2(b), Public Resources Code.

B. Delegation of Geothermal Power Plant Siting Authority to Local Government

§ 1860. Policy and Purpose.

(a) General. Pursuant to Section 25540.5 of the Public Resources Code, the commission is permitted to delegate its siting authority over geothermal power plants and related facilities to county governments which have adopted geothermal elements to their general plans.

(b) Policy. It is the policy of the California Energy Commission to delegate its geothermal power plant siting authority to county governments which have demonstrated a capability to expeditiously process applications for geothermal power plants and/or geothermal field development projects, provided, however, that such county governments have formally adopted policies which are consistent with adopted policies of the commission with respect to the development of geothermal resources for the generation of electrical energy.

(c) Purposes. Delegation of the commission's geothermal power plant siting authority to county governments will maximize local control over development projects whose impacts are peculiarly local. The provisions of this article will ensure that local exercise of such control will occur in a manner that is consistent with the state's interests in a reliable supply of electrical energy and environmental maintenance. Further, a delegation pursuant to this article will vest permitting authority over both the geothermal field and the geothermal power plant in a single agency, thus allowing a consolidated review of all aspects of a geothermal project.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1861. Counties Eligible to Petition for Delegation of Authority.

(a) Any county government which has adopted a geothermal element to its general plan may petition the commission for delegation of the commission's exclusive authority to certify geothermal power plants and related facilities vested in Section 25500 of the Public Resources Code.

(b) Two or more counties, each of which has adopted a geothermal element to its general plan and which have executed a joint powers agreement or its equivalent for the administration of such geothermal power plant siting authority as may be delegated by the commission, may jointly petition the Energy Commission for delegation of its exclusive authority to site its geothermal power plants and related facilities.

(c) Upon the delegation of geothermal power plant siting authority by the Energy Commission, the county government or governments which have petitioned for such delegation shall be exclusively responsible for administering and deciding upon all applications for geothermal power plants and related facilities which are wholly located within the territorial jurisdiction of the petitioning county or counties until such time as the authority delegated pursuant to this article shall have been revoked pursuant to the provisions of Section 1870.

(d) The provisions of this section shall not apply to any application for a geothermal power plant and related facilities which are not wholly located within the territorial jurisdiction of such counties that have been delegated siting authority pursuant to the provisions of this article. Applications for such facilities shall be filed with the commission.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1862. Contents of Petition.

Every petition filed pursuant to Section 1861 shall contain all of the following:

(a) A resolution approving and directing the submission of the petition adopted by the county board of supervisors;

(b) A copy of the geothermal element and the date of adoption;

(c) A written statement from the Governor's Office of Planning and Research that the geothermal element complies with the office's guidelines and/or criteria for geothermal elements;

(d) A description of the policy statements contained in the geothermal element with respect to the development of geothermal resources for the generation of electrical energy;

(e) description of the procedures contained in the geothermal element for the implementation of the policies expressed in the element, and a discussion of the status of such implementation;

(f) A complete and detailed description of the program that the county seeks to have designated as an equivalent certification program for the orderly and efficient review of

geothermal power plant applications. Such description shall indicate the manner in which the program complies with each of the requirements set forth in Section 1863 below;

(g) A detailed description of the procedures that will be employed to comply with the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.);

(h) The level of staffing required to carry out the responsibilities delegated pursuant to this article;

(i) A discussion of any additional staffing required by the administering agency, including job descriptions and duration of need;

(j) A discussion of funding required by the administering agency to process applications in accordance with the provisions of this article; and

(k) Such additional information as the county desires to submit.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1863. Equivalent Certification Program Requirements.

No county program shall be designated as an equivalent certification program unless it contains provisions for all of the following:

(a) Certification of geothermal areas as multiple facility sites, if so applied for;

(b) Distribution of all applications to the commission and to each federal, state, and local agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities, as well as provisions for receipt of and response to the comments and recommendations of each such agency;

(c) Preparation and distribution of a written decision on each power plant application. Such written decision shall contain each of the findings and conclusions required by Sections 1752-1753 of these regulations, and shall be based on the formal record of the proceeding;

(d) Public hearings, including provisions for adjudication of disputed issues of fact through testimony taken under oath and refutation by cross-examination;

(e) Formal intervention by any person with a legally recognizable interest in the outcome of the proceedings;

(f) Timely and orderly amendment of the program to reflect changes in law or commission certification requirements;

(g) Administration of and decision upon geothermal power plant applications within 12 months of the filing of such applications; and

(h) Appeal to the commission on any aspect of the decision of the county.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1864. Commission Staff Analysis.

(a) The commission and its staff may participate in an aspect of county proceedings on an application for a geothermal power plant and related facilities if such application would have been filed with the commission but for the delegation of authority pursuant to this article.

(b) The Commission staff shall assist the county in assembling a record adequate to support findings on each of the following:

(1) Conformity of the site and related facilities with the 12-year forecast of statewide and service area electric power demands adopted pursuant to Section 25309(b) of the Public Resources Code; and

(2) Necessary modifications, mitigation measures, conditions or other specific provisions relating to the manner in which the proposed facilities are to be designed, sited, constructed and operated in order to assure reliability of operation, safety and environmental protection.

(c) The county may submit a written request for staff assistance in the technical evaluation of any issue presented in the proceedings, or in the conduct of the proceedings on the application. Staff may render such assistance as it deems appropriate, provided however, that it shall indicate in writing its intention to do so within fifteen (15) days of the receipt of the county's request.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1865. Air Quality Determinations.

Whenever any county is administering an application for a geothermal power plant and related facility pursuant to authority delegated by the commission, the air pollution control officer shall prepare and submit to such county its determination of compliance as specified in Section 1744.5 within 180 days of the acceptance of the application.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1866. Record of Proceedings.

The county counsel shall be responsible for ensuring the preparation of a record adequate to support all required findings and conclusions.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1867. Commission Action on Petition.

(a) Within twenty (20) days of the filing of a petition pursuant to Section 1861, the executive director shall determine whether the petition contains the information specified in Section 1862.

(1) If the executive director determines that the petition is complete, he or she shall so certify in writing and shall inform the petitioner.

(2) If the executive director determines that the petition is not complete, it shall be returned to the petitioner with a statement of its defects. The petitioner may correct the petition and resubmit it at any time.

(b) Unless the petition has been returned pursuant to (a)(2) above, the commission shall, within sixty (60) days of the filing of the petition, convene two hearings to allow representatives of the county to explain each aspect of its proposed equivalent certification program, and to allow any interested party to offer testimony or comments. One (1) of the hearings shall be in the petitioner's county seat, and one (1) of the hearings shall be in the state capital, except where the petitioner's county seat is the state capital, in which case only one (1) such hearing, in the state capital, shall be required. There shall be no less than ten (10) nor more than forty-five (45) days, exclusive, between the dates of the two hearings. Such hearings shall be publicly noticed, and any person shall be entitled to offer testimony or comments.

(c) Within thirty (30) days of the conclusion of the hearing convened pursuant to (b) above, the commission shall issue its decision as to whether the county's program shall be designated as an equivalent certification program. The commission's decision shall include findings on the compatibility of commission and county policies pertinent to geothermal energy development, and on the county's technical and financial ability to carry out the responsibilities which may be delegated by the commission.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1868. Appeals to Commission.

(a) Any party to county proceedings conducted pursuant to authority delegated by the commission may, within 30 days of the issuance of the county's written decision, or within 30 days of the disposition by that county of an appeal filed pursuant to county ordinances, appeal any aspect of the county decision to the commission.

(b) The appeal shall specify the bases therefore, and shall include a succinct summary of the evidence received by the county pertinent to the issues appealed, and shall specify the relief requested.

(c) The appeal shall include a copy of the administrative record of the county which has been certified by the county as complete.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1869. Commission Action on Appeals.

(a) The commission shall, within 60 days of filing of the appeal, convene a hearing for the presentation of arguments on the appeal. In reviewing a factual issue, the commission shall determine whether, in light of the whole record, the record contains substantial evidence to support that aspect of the county decision which has been appealed.

(b) If the commission finds for the appellant, it shall take such action as it deems appropriate, including, but not limited to:

(1) Returning the case to the county for further proceedings as may be directed; or

(2) Conducting further evidentiary hearings before the commission; or

(3) Removing the case from the county for disposition by the commission.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

§ 1870. Revocation of Delegation.

(a) The commission may, after public hearings, revoke its approval of a county's equivalent certification program whenever it finds that such program does not comply with current statutory requirements, duly adopted regulations of the commission, or that the program is not being effectively and efficiently administered.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25540.5, Public Resources Code.

Article 5. Small Power Plant Exemptions

§ 1934. Statement of Purpose.

It is the policy of the State Energy Resources Conservation and Development Commission to promote the development of electric energy supply technologies that prudently conserve and economically use energy resources. A major purpose of these regulations is to encourage the use of those technologies by expediting the procedures necessary for the approval and development of alternate sources of electric generation.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1935. Definitions.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1936. Filing Applications for Exemption.

Any person who proposes to construct a thermal power plant with a generating capacity not exceeding 100 megawatts, or proposes a modification to an existing thermal power plant

which will add generating capacity not exceeding 100 megawatts may apply for an exemption from the provisions of Chapter 6 of Division 15 of the Public Resources Code.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1937. Contents of Application.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1938. Form of Application.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1939. Number and Distribution of Materials.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1940. Notice of Application.

(a) Upon receipt of an application the executive director in conjunction with the public adviser shall immediately take action to cause notice of the application and its date of receipt to be published in the commission's next meeting agenda and distributed to the public at large.

(b) The executive director shall transmit copies of the application to each member and ex officio member, the commission general counsel, the public adviser, the hearing officer, the Attorney General and all other persons who have requested in writing that a copy be provided.

(c) The executive director shall also transmit copies of the application to all federal, state, regional, and local agencies which have an interest in the matter and shall request that these agencies submit their written comments and recommendations on the application. Such comments shall be filed with the executive director no later than the date of the first hearing held pursuant to Section 1944 of these regulations.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1941. Intervention.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25214 and 25541, Public Resources Code.

§ 1942. Requests for Information from Applicant.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1943. Presentation of Evidence.

All testimony together with any other relevant documentary evidence, such as any environmental impact documentation or other environmental document prepared by the lead agency, may be offered by any party and shall be filed with the Docket Unit no later than seven (7) days prior to the hearing at which such testimony is to be offered, or at such other time as ordered by the presiding member.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1944. Hearings.

A committee shall be appointed pursuant to Section 1204(a) to handle the proceedings. A hearing officer may also be appointed to assist the committee in the conduct of the proceeding.

The presiding member shall set the time and place for hearings, conferences, and site visits pursuant to this Section provided, however, that hearings on the application shall commence no later than one hundred (100) days after the filing of the application.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1945. Final Argument and Decision.

(a) After the hearings conducted pursuant to Section 1944 of these regulations, the committee shall prepare a proposed decision on the application. The proposed decision shall be distributed to the members, ex officio members, general counsel, the public adviser, the applicant, all intervenors, and any other persons designated by the presiding member.

(b) Within twenty-one (21) days after publication of the proposed decision, a hearing shall be held before the full commission for final arguments on the formal record of the proceedings. After the hearing, the commission shall adopt, or amend and adopt, the proposed decision, which shall thereupon become final. The final decision shall be rendered within one hundred thirty-five (135) days after the filing of the application or at such later time as deemed necessary to permit full and fair examination of the issues.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1946. Content of Decision.

(a) The decision on the application shall either approve or disapprove the application and shall include a statement of reasons supporting the decision. The decision shall include, in the affirmative or negative, the findings required by Public Resources Code Section 25541.

Note: Authority cited: Section 25218, Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1947. Modifications of Deadlines.

The applicant may at any time stipulate to a more lengthy time schedule than is provided in these regulations in order to permit full and fair exploration. Such stipulation shall be made in writing to the committee.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1948. Modifications of Deadlines.

Note: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Sections 25500-25542, Public Resources Code.

Article 6. Powerplant and Transmission Line Jurisdictional Investigations

A. Definitions

§ 2001. Definitions.

In addition to the definitions found in Chapter 2 (beginning with Section 25100), Division 15, Public Resources Code and the definitions found in Section 1702 of this chapter, the definitions contained in this article shall apply to all commission determinations of megawatt capacity thresholds, including the 50 megawatt jurisdictional threshold, the 100 megawatt threshold for a small powerplant exemption, and the 300 megawatt threshold for a small powerplant exemption, and the 300 megawatt threshold for a cogeneration or solar thermal powerplant exemption from the notice of intention requirement.

Note: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25110, 25120, 25123, 25210, 25500 and 25517, Public Resources Code.

§ 2003. Generating Capacity.

(a) The "generating capacity" of an electric generating facility means the maximum gross rating of the plant's turbine generator(s), in megawatts ("MW"), minus the minimum auxiliary load.

(b) The "maximum gross rating" of the plant's turbine generator(s) shall be determined according to this subdivision. If there is more than one turbine generator, the maximum gross rating of all turbine generators shall be added together to determine the total maximum gross rating of the plant's turbine generator(s).

(1) The maximum gross rating of a steam turbine generator shall be the output, in MW, of the turbine generator at those steam conditions and at those extraction and induction conditions which yield the highest generating capacity on a continuous basis.

(2) The maximum gross rating of a combustion turbine generator shall be the output, in MW, of the turbine generator at average operating site conditions, with the proposed

fuel type, and at those water or steam injection flow rates, which yield the highest generating capacity on a continuous basis.

(A) The average dry bulb temperature and relative humidity of the inlet air at the plant site shall be calculated using 10-year data for temperature and relative humidity from the nearest meteorological data point, using the most recent published data from the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), the National Oceanographic and Atmospheric Administration (NOAA), the U.S. Air Force, or commercial airport weather stations.

(B) The barometric pressure at the site shall be one standard atmosphere, corrected for actual site elevation.

(3) The maximum gross rating cannot be limited by an operator's discretion to lower the output of the turbine generator(s) or by temporary design modifications that have no function other than to limit a turbine generator's output.

(4) The maximum gross ratings specified in the overall plant heat and mass balance calculations shall be subject to verification by commission review of the steam or combustion turbine generator manufacturer's performance guarantee, specifications and procurement contract, if available.

(c) The "minimum auxiliary load" means the electrical rating (in MW) of the sum of the minimum continuous and the average intermittent on-site electrical power requirements necessary to support the maximum gross rating as defined in subsection (b) of this regulation and which are supplied directly by the power plant. For geothermal projects, the minimum auxiliary load includes the minimum electrical operating requirements for the associated geothermal field which are necessary for and supplied directly by the power plant. Discretionary loads, i.e., those which can be curtailed without precluding power generation, are not included in minimum auxiliary loads.

Note: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Sections 25110, 25120, 25123, 25500 and 25517, Public Resources Code.

B. Expedited Clearance Process

§ 2010. Petition for Expedited Clearance; Filing.

(a) In lieu of filing a request for a jurisdictional determination pursuant to Section 1230 et seq., the owner or operator of a proposed powerplant may file a petition requesting expedited clearance of the proposed powerplant on the basis that it has a generating capacity less than 50 MW. The purpose of this expedited clearance process is to resolve jurisdictional issues involving the definition of generating capacity under Section 2003. All other jurisdictional issues must be processed under Section 1230 et seq.

(b) All petitions for expedited clearance must be filed with the Docket Unit in accordance with Section 1209 and shall include, but not be limited to, the following information:

(1) a description of the exact location of the proposed powerplant;

(2) a description of the ownership and control of the proposed powerplant;

(3) the generating capacity of the proposed powerplant, including detailed equipment and operation design specifications and auxiliary loads necessary to determine the generating capacity under section 2003;

(4) the schedule for developing the proposed powerplant;

(5) the name, address, and telephone number of the person or persons responsible for reporting the information;

(6) a power sales agreement, if available, showing the amount of power to be sold from the project, and to whom the power is being sold;

(7) a declaration dated and signed under penalty of perjury by the petitioner or in the case of a corporation or business association by an authorized officer thereof that the facts stated in the petition are true and correct;

(8) the date on which the petition is filed; and

(9) other information relevant to the issue of generating capacity.

Note: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25110, 25120, 25123, 25210, 25500 and 25517, Public Resources Code.

§ 2011. Notice of Petition for Expedited Clearance.

(a) Within 14 days after a petition is filed, the Executive Director shall determine whether the petitioner has filed all of the information required in section 2010. If the petition is incomplete, the Executive Director shall specify the items required to make the petition complete.

(b) Within 14 days after the petition is determined to be complete, the Executive Director shall provide notice of the filing of the petition in the agenda prepared for regularly scheduled commission meetings pursuant to Sections 1103 and 1104.

(c) The Public Adviser shall ensure that adequate notice is given to the public of all petitions filed under this article.

Note: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25214, 25222 and 25500, Public Resources Code.

§ 2012. Clearance Order.

(a) If no complaint or request for a jurisdictional determination pursuant to Section 1231 is filed within thirty (30) days after distribution of the agenda containing the notice of filing of the petition, then a clearance order shall be placed on the consent calendar for the next available commission meeting, subject to the limitation in subdivision (b) below.

(b) If the proposed powerplant is not constructed and operated substantially in conformance with the description provided by the owner or operator in the petition for expedited

clearance, then the commission may, on its own motion or upon the motion of any person, reconsider its jurisdiction over the powerplant.

Note: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25110, 25120, 25123, 25210, 25500 and 25517, Public Resources Code.

Appendix A

Information Requirements for a Nongeothermal Notice of Intention

(a) In a section entitled "Project Description," the notice shall contain:

(1) A brief, summary description of the alternative site and related facility proposals, including the general location of each site or potential transmission corridor; the type, size, and capacity of the generating or transmission facilities; fuel, water supply, pollution control systems and other general characteristics. The description shall indicate precisely what sites and related facilities the applicant proposes to have approved by the commission.

(2) A proposed time schedule outlining the applicant's estimates for obtaining regulatory approvals, starting and completing construction, initial start up, and full-scale operation of the proposed facilities.

(b) In a section entitled "Need for Facilities," the notice shall contain:

(1) A summary description outlining the reasons why the applicant believes that new or additional facilities should be added to the applicant's electrical system, indicating whether the facilities are being proposed to meet projected capacity or energy deficits, to displace existing units scheduled for retirement, to meet requirements for additional reserves, or other justification for proposing new or additional capacity.

(2) A table showing the expected capacity and energy levels, adopted by the commission pursuant to Section 25309 of the Public Resources Code, for the general period in which the facilities are proposed. Where appropriate, include a table of, and explanation for, any adjustments to the adopted capacity and energy levels which are necessary to derive the applicant's service area requirements.

(3) A discussion indicating the amount or percentage of reserve capacity which the applicant believes is appropriate, including a description of the controlling criterion for determining the reserve margin, a discussion of why the applicant believes the indicated reserve margin is appropriate, and a discussion of how the indicated margin was derived.

(4) A table and summary description of the generating resources and electricity supplies which are likely to be available to the applicant's service area in the general time period proposed for initial operation of the facilities, including an explicit identification of transfer capabilities from outside the service area, and a summary of facilities operated or proposed by the applicant or by other entities within the service area.

(5) A discussion identifying and explaining any major uncertainties, such as delays in the construction or licensing of major planned resources or uncertainty with respect to

contractual arrangements for transfer capabilities, which may affect the need for the proposed facilities.

(6) Tables showing the capacity and energy balances, projected deficits or excesses, and resulting reserve margins which reflect the applicant's expectations for electricity supply and demand within the general period for which the facilities are proposed.

(7) If the need is based in whole or in part on the proposed retirement or displacement of existing facilities, a discussion identifying such facilities and briefly explaining the reasons for their proposed retirement or displacement.

(8) If the need is based on factors other than projected capacity or energy deficits (taking into account reserve requirements), a discussion of the basis for the need and its conformance with the forecast assessment and any other criteria for determining need adopted in the most recent biennial report. If the need is based upon contingency planning, an explicit discussion of the nature and impact of the possible contingencies and their likelihood, an indication of when it may be determined whether the contingencies will or will not occur, and a schedule showing the earliest (or latest, if appropriate) date on which the proposed facilities should be operating given the possible contingencies.

(c) In a section entitled "Selection of Facilities," the notice shall contain:

(1) A discussion of the reasons why the principal generating technology was chosen from among those technologies most recently determined as commercially available by the commission pursuant to Public Resources Code Section 25309(j). Indicate the effect, if any, of the following factors on the selection of the facility type: comparative economics, comparative reliability, comparative health and safety aspects or environmental impacts, availability of appropriate sizes, comparative operating flexibility, lead time for approval and construction, and any other factor considered important by the applicant in making the selection.

(2) A discussion of the reasons for selecting the size of the facilities proposed in the notice. Indicate the effect, if any, of the following factors on the selection of facility size: need for capacity or energy; comparative reliability of different sizes, overall impact on system reliability, or reserve requirements of different sizes; comparative safety of different sizes; economies or diseconomies of scale associated with different sizes; commercial availability of different sizes; and other factors considered important by the applicant in the selection.

(3) A summary description of the preliminary design of the proposed facilities, specifically including the power generation, cooling, pollution control, fuel handling, water supply and treatment, safety, emergency, and auxiliary systems; and a summary of the proposed methods of construction and operation.

(d) In a section entitled "General Acceptability," the notice shall contain:

(1) For any technology not previously found to be commercially available as most recently determined by the commission pursuant to Public Resources Code Section 25309(j), a discussion of the reasons why the applicant expects the technology to be available in the time period proposed for the facility.

(2) A discussion of the economic comparability of the proposed facilities based on information available to the applicant on comparative costs of commercially available generating technologies.

(3) A discussion of any significant unresolved technical, environmental, or health and safety or other issues, affecting the ability to use the proposed technologies at each of the sites, which have been identified in the most recent biennial report, or which are otherwise known to the applicant. The discussion should include or refer to any information which the applicant believes is relevant to resolving the question or issues identified.

(4) A summary discussion explaining (with reference to parts (1) through (3) above) why the applicant believes the facilities proposed should be found acceptable.

(e) In a section entitled "Transmission Needs," the notice shall contain:

(1) A description in general terms of any new or additional transmission facilities, powerlines, substations, switchyards, or other transmission equipment, whether or not within the exclusive permit authority of the commission, which the applicant believes will be required to carry electrical power from the proposed power plant at each of the sites presented in the notice to the principal load centers to be served by the new power plant. The information should include all potential corridors under consideration, approximate lengths of each corridor being considered, and a summary of the preliminary estimates of the costs of lines, stations and other equipment that are being considered.

(2) A discussion of the analyses, load-flow studies, or other considerations which the applicant believes justify the need for the additional transmission equipment under consideration, the relative merits of the alternative principal points of junction with the existing transmission system being considered, and the relative merits of the alternative capacity or voltage levels being considered for the proposed power lines.

(3) A discussion of the extent to which the consideration of alternative corridors or proposed capacity and voltage levels has taken or will take into account the future transmission needs created by additional generating facilities planned by the applicant or any other entity proposing generating facilities in the same general area.

(4) A discussion summarizing the principal advantages and disadvantages to the environment of each of the alternative transmission proposals under consideration by the applicant. The discussion shall extend only to the functional point of delivery of the power to the interconnected system, and should include an identification of areas in the vicinity of the proposed corridors where important social, aesthetic, historical, or recreational resources, or scarce, unique, or specially protected resources (including archaeological sites, endangered species, unique recreational areas, and protected biological areas) may be adversely affected. The discussion should indicate the measures being considered by the applicant to avoid or mitigate the principal adverse effects identified in the discussion.

(f) In a section entitled "Safety and Reliability," the notice shall contain:

(1) A preliminary description of any fuels, emissions (except for air quality emissions), wastes, or other toxic or hazardous substances associated with the proposed facility which may have an effect on safety and reliability; a discussion of the principal adverse effects of such substances on safety and reliability; and a discussion of the measures proposed

or being considered by the applicant to ensure the safe handling, control, storage, removal, or disposal of such substances.

(2) A discussion of the likelihood that the measures described in part (1) will be able to comply with existing health and safety standards.

(3) A report which describes the seismic, other natural hazards, and man-made hazards associated with each of the proposed sites, discusses the degree to which such hazards could cause secondary hazards at the proposed facilities (e.g., fuel spills, structural collapse, increased emissions including radiological, explosions, etc.) and discusses the alternative levels of design being considered to safeguard safe and reliable operation in light of such hazards. The report should describe special design features being considered to protect against seismic and other potential natural hazards and indicate the relative degrees of safety from such hazards that can be achieved by the design features being considered.

(4) A description of the principal emergency systems and safety precautions proposed or being considered by the applicant, and a discussion of the nature of the hazards for which the systems or precautions are provided. The description need not duplicate the discussion of special design features in part (3) or measures discussed in other parts.

(5) If a nuclear power plant is proposed:

(A) A description of the methods proposed or being considered to prevent illegal diversion of nuclear fuels and waste, and to control density of population in areas surrounding each proposed site.

(B) A description of the facilities upon which the applicant proposes to rely for reprocessing or storage of spent nuclear fuel rods from the nuclear reactor. This description shall include an estimate of the volume of spent fuel generated by the reactor over its design life, the particular technology likely to be utilized for such storage or reprocessing, the anticipated on- or off-site facilities to be utilized, the date on which those facilities have been or are likely to be licensed and in operation, and the anticipated means of transporting and storing the spent fuel rods after removal from the reactor.

(C) A description of the emergency response capabilities that would be required of local communities surrounding each of the proposed sites in order to comply with any provisions of federal or state law in the event of an accidental release of radioactivity from the facilities.

(6) A description of the principal adverse effects on safety and reliability associated with other aspects of the fuel cycle, and which are directly traceable to the proposed facilities.

(g) In a section entitled "System Reliability," the notice shall contain:

(1) A discussion indicating the degree of reliability which the applicant believes the proposed facilities are capable of achieving. The discussion should include an estimate of the expected annual capacity factor for the initial operating years of the facilities and an estimate of the average annual capacity factor over the expected life of the facilities. Estimated capacity factors may be supported by information on forced outage rates and capacity factors actually experienced by comparable facilities elsewhere (if any) or by a discussion of other factors which support the applicant's expectations on reliability where data from actual operating

experience of comparable facilities is not readily available. For purposes of this subsection, "comparable facilities" means facilities whose principal generating technology and fuel type, generating capacity, and mode of operation is similar to those of the proposed facilities. The discussion should indicate the basis for reliability expectations for any new or innovative pollution control, cooling water or other principal systems, even where the reliability of the principal generating technology is considered proven, and should identify any major uncertainties or unproven aspects of such new or innovative systems.

(2) An assessment of the long-term availability of the fuel or fuels proposed for the facilities, at prices consistent with those assumed in subsection (h), and a discussion of the principal uncertainties in providing assurance of a reliable supply of fuel over the expected operating life of the facility. If the facilities are capable of using multiple fuels, the extent of such fuel flexibility should be discussed, along with its impact on long-term reliability. The applicant may discuss the relative merits, costs, and difficulties in initially designing the facility to accept multiple fuels versus modifying the facility for such purposes at a later time.

(3) A discussion of the probable effect of the proposed facilities, including transmission facilities, on the overall reliability of the applicant's service system. The discussion should indicate the effect of the alternative plant sizes or transmission voltage levels being considered on the applicant's determination of "loss of load probability," "largest contingency," or any other reliability criterion or determinant of needed reserve margins.

(h) In a section entitled "Financial Impacts," the notice shall contain:

(1) A discussion of the financial requirements for constructing and operating the proposed facilities, and a table summarizing capital requirements and operating expenses, and their principal components. The discussion should indicate and explain the basis for any assumed escalation rates and costs of capital, fuel, or other principal components. Significant cost differences between alternative sites and facilities should be identified.

(2) A summary of the cost of the installed generating capacity (expressed in $/KW) and of the cost of supplying energy at the busbar (expressed in ¢H /Kwhr.); a list of principal cost components, an explanation of the source or derivation of each, and the calculations used to arrive at the summary costs above; a discussion of any major uncertainties in the cost figures used or assumptions relied upon.

(3) A discussion of proposed methods for financing the proposal.

(i) In a section entitled "Proposed Sites," the notice shall contain:

(1) The location of each site and related facility proposed in the notice on a location map and described by sections, range, township, and county. The map should also indicate the various transmission corridors under consideration by the applicant and the location of other transmission facilities and equipment being considered and identified pursuant to subsection (e)(1).

(2) Photographic representations adequately depicting the visual appearance of each power plant site and its immediate surroundings.

(3) A brief description of the applicant's legal interest in each power plant site proposed.

(4) A description, including artists drawings, of the proposed location of facilities and structures on each site.

(j) In a section entitled "Site Suitability," the notice shall contain (separate sections may be submitted for each alternative site proposed):

(1) A brief description of the environmental setting for each site, a summary discussion of the general suitability of each alternative site to accommodate the facilities proposed in the notice, and a summary of the principal environmental, economic, and technological advantages and disadvantages of each alternative site.

(2) A preliminary statement of the principal environmental impacts of the proposed facilities at each site on areas of special environmental concern, including, but not limited to areas prohibited as power plant sites pursuant to Section 25527 of the Public Resources Code, areas designated by the Coastal Commission or BCDC or within their jurisdiction, areas identified for potential wilderness designation or other protective designation, and agricultural areas; and a preliminary statement of the principal environmental impacts on biological resources, including especially rare and endangered species, livestock, and crops.

(3) A preliminary statement of the principal environmental impacts on human health which may result from air and water pollutants discharged from the facility, toxic and other hazardous materials stored or used at the site, wastes created by the facility, or any other substance associated with the facility. The statement shall include all regulated pollutants and substances; for nonregulated pollutants and substances, the statement shall include a summary of any findings and conclusions made by the commission in any generic assessment of the health effects of such substances.

(4) A preliminary discussion of the principal impacts on human resources, including major impacts on aesthetic, historical, cultural, archaeological, and recreational resources.

(5) A discussion of the principal social and economic impacts of constructing and operating the facilities at each site on the surrounding communities. The discussion should include anticipated impacts on public institutions such as schools, and on public services, housing, employment and other community resources during construction and the impact on tax bases and other community aspects after construction.

(6) A preliminary discussion indicating the extent to which various measures being considered by the applicant are likely to mitigate the impacts identified under parts (2) through (5).

(7) A general discussion of the compatibility of the proposed facilities with present and expected land uses at each site, including conformity with any long-range land use plans adopted by any federal, state, local, or regional planning agency. The discussion should identify the need, if any, for variances at any of the sites, or any measures that would be necessary to make the proposals conform with permitted land uses.

(8) A description of the principal and alternative (if any) sources of water proposed or being considered by the applicant for power plant cooling and other purposes; a description of the quality of water being considered and a general description of any treatment processes which may be necessary to make the water suitable for cooling or other uses at the site; a description of total amounts of such water that will be required each year and on any given day;

a general description of any conveyance systems that will be required to carry the water from its source to the site and return it to a disposal or discharge area; the location and identity of any area being considered for disposal or discharge of water from the site; and a description of any treatment processes that may be necessary to make the water acceptable for discharge or disposal. The applicant should also describe any other major water facilities, including coolant outfalls, ponds, lakes, or towers, that may be associated with the proposed facilities, and discuss the principal impacts, if any, of these facilities on the physical and human environment.

(9) A land use map which indicates noise sensitive receptors or groups of receptors in the vicinity of the proposed site and related facilities, including anticipated receptors based on future land uses identifiable from public documents at the time of submission.

(k) In a section entitled "Applicable Standards," the notice shall contain:

(1) A list of federal, state, regional, and local agencies and their standards, ordinances, or laws, including long-range land use plans adopted by the state or by any local or regional planning agency, that are applicable to each site and related facility, including those which would be applicable but for the exclusive authority of the commission to certify sites and related facilities. The list should include a brief description of the applicability of such standards, ordinances, laws, or plans for each agency, and citations for each.

(2) To the extent not discussed in previous sections, discussion of the likelihood of the conformity of the proposed facilities with remaining laws, regulations, ordinances and standards of particular importance in assessing the acceptability of the sites and related facilities. Indicate those areas for which conformity with applicable standards cannot be determined at this time and provide a preliminary schedule for the resolution of such remaining issues.

(l) In a section entitled "Air Quality," the notice shall contain:

(1) A project description including typical fuel type and characteristics (BTU content, maximum sulfur and ash content), design capacity, proposed air emission control technologies, stack parameters (assumed height, diameter, exhaust velocity and temperature) and operational characteristics (heat rate, expected maximum annual and daily capacity factor). This information may be based upon typical data for a facility of the proposed type and design.

(2) A description of cooling systems, including approximate drift rate, water flow and water quality (TDS content).

(3) A projection of facility-related emissions from the stack and combustion system, from cooling towers and from associated fuel and other material handling, delivery and storage systems to the extent that the applicable new source review rule requires attributing these sources to the proposed project. The emissions discussion should include a discussion of the basis of the estimate, such as test results, manufacturers' estimates, extrapolations and all assumptions made.

(4) A list of all applicable air quality rules, regulations, standards and laws.

(5) A statement, including the reasons therefore, of what the applicant considers best available control technology as defined in the applicable district's new source review rule.

(6) Existing baseline air quality data for all regulated pollutants affected by the proposed facility including concentrations of pollutants, an extrapolation of that data to the proposed site, and a comparison of the extrapolated data with all applicable ambient air quality standards. This discussion should include a description of the source of the data, the method used to derive the data and the basis for any extrapolations made to the proposed site.

(7) Existing meteorological data including wind speed and direction, ambient temperature, relative humidity, stability and mixing height, and existing upper air data; and a discussion of the extent to which the data are typical conditions at the proposed site. This description should include a discussion of the source of the data and the method used to derive the data.

(8) A worst case air quality analysis for each proposed site and related facility to determine whether the plant may cause or contribute to a violation of each applicable ambient air quality standard. Such analysis shall include a description of the methodology employed and the basis for the conclusions reached, and shall consider topography, meteorology and contributions from other sources in the area.

(9) A discussion of the emission offset strategy or any other method of complying with the applicable new source review rule. The emission offset strategy shall be designed to show whether there are sufficient offsets available (contracts are not required). Offset categories (e.g. dry cleaners, degreasers) and an inventory of potential reductions may be used unless most of the potential offsets come from a very small number of sources. In the latter case, the offset sources should be more specifically identified. Potential offsets may be aggregated by geographic location as appropriate under the applicable rule. The offset discussion should also include a brief description of the emissions controls to be used for each offset category and should account for applicable rules requiring emission reductions. In the event there is no emissions inventory available from the ARB or from the applicable local district, the applicant may propose an alternative method for complying with this requirement.

(10) Based upon worst case data for analysis for short-term averaging times and typical data for analysis for annual averaging times, discussion of whether the proposed facility will be within PSD Class I or Class II increments.

(m) The notice shall designate an individual or individuals authorized to receive pleadings, briefs, comments, and other documents for the applicant.

(n) The notice may contain any other pertinent information that the applicant desires to submit.

Note: Authority cited: Sections 25213 and 25502, Public Resources Code. Reference: Sections 21080.5, 25309, 25502, 25504, 25511, 25514, and 25541.5, Public Resources Code.

Appendix B

Information Requirements for an Application

(a) Executive Summary

(1) Project Overview

(A) A general description of the proposed site and related facilities, including the location of the site or transmission routes, the type, size and capacity of the generating or transmission facilities, fuel characteristics, fuel supply routes and facilities, water supply routes and facilities, pollution control systems, and other general characteristics.

(B) Identification of the location of the proposed site and related facilities by section, township, range, county, and assessor's parcel numbers.

(C) A description of and maps depicting the region, the vicinity, and the site and its immediate surroundings.

(D) A full-page color photographic reproduction depicting the visual appearance of the site prior to construction, and a full-page color simulation or artist's rendering of the site and all project components at the site, after construction.

(E) In an appendix to the application, a list of current assessor's parcel numbers and owners' names and addresses for all parcels within 500 feet of the proposed transmission line and other linear facilities, and within 1000 feet of the proposed powerplant and related facilities.

(2) Project Schedule: Proposed dates of initiation and completion of construction, initial start-up, and full-scale operation of the proposed facilities.

(3) Project Ownership

(A) A list of all owners and operators of the site(s), the power plant facilities, and, if applicable, the thermal host, the geothermal leasehold, the geothermal resource conveyance lines, and the geothermal re-injection system, and a description of their legal interest in these facilities.

(B) A list of all owners and operators of the proposed electric transmission facilities.

(C) A description of the legal relationship between the applicant and each of the persons or entities specified in subsections (a)(3)(A) and (B).

(b) Project Description

(1) In a section entitled, "Generation Facility Description, Design, and Operation" provide the following information:

(A) Maps at a scale of 1:24,000 (1" = 2000'), (or appropriate map scale agreed to by staff) along with an identification of the dedicated leaseholds by section, township, range, county, and county assessor's parcel number, showing the proposed final locations and layout of the power plant and all related facilities;

(B) Scale plan and elevation drawings depicting the relative size and location of the power plant and all related facilities to establish the accuracy of the photo simulations required in Sections (a)(1)(D) and (g)(6)(F);

(C) A detailed description of the design, construction and operation of the facilities, specifically including the power generation, cooling, water supply and treatment, waste handling and control, pollution control, fuel handling, and safety, emergency and auxiliary systems, and fuel types and fuel use scenarios; and

(D) A description of how the site and related facilities were selected and the consideration given to engineering constraints, site geology, environmental impacts, water, waste and fuel constraints, electric transmission constraints, and any other factors considered by the applicant.

(2) In a section entitled, "Transmission Lines Description, Design, and Operation" provide the following information:

(A) Maps at a scale of 1:24,000 (or appropriate map scale agreed to by staff) of each proposed transmission line route, showing the settled areas, parks, recreational areas, scenic areas, and existing transmission lines within one mile of the proposed route(s);

(B) A full-page color photographic reproduction depicting a representative above ground section of the transmission line route prior to construction and a full-page color photographic simulation of that section of the transmission line route after construction;

(C) A detailed description of the design, construction and operation of any electric transmission facilities, such as powerlines, substations, switchyards, or other transmission equipment, which will be constructed or modified to transmit electrical power from the proposed power plant to the load centers to be served by the facility. Such description shall include the width of rights-of-way and the physical and electrical characteristics of electrical transmission facilities such as towers, conductors, and insulators.

(D) A description of how the route and additional transmission facilities were selected, and the consideration given to engineering constraints, environmental impacts, resource conveyance constraints, and electric transmission constraints; and

(E) A completed System Impact Study or signed System Impact Study Agreement with the California Independent System Operator and proof of payment. When not connecting to the California Independent System Operator controlled grid, provide the executed System Impact Study agreement and proof of payment to the interconnecting utility.

If the interconnection and operation of the proposed project will likely impact a transmission system that is not controlled by the interconnecting utility (or California Independent System Operator), provide evidence of a System Impact Study or agreement and proof of payment (when applicable) with/to the impacted transmission owner or provide evidence that there are no system impacts requiring mitigation.

(3) Applications for geothermal facilities shall contain the following additional information:

(A) Maps at a scale of 1:24,000 (or appropriate map scale agreed to by staff) showing the location of the geothermal leaseholds, along with a description by section, township, range, county, and assessor's parcel numbers of the leaseholds;

(B) Full-page color photographic reproductions of the geothermal leaseholds;

(C) A description of the process by which the geothermal leasehold was selected and the consideration given to engineering constraints, site geology, environmental impacts, water, steam, waste and fuel constraints, electric transmission constraints, and any other factors considered by the applicant. Include references to any environmental documents which address steam field development;

(D) A detailed description of the type, quality, and characteristics of the geothermal resource, including pressure and temperature flow rates, constituents and concentrations of non-condensable gases, and constituent concentrations of dissolved solids, and descriptions and concentrations of any substances potentially harmful to public health and safety or to the environment;

(E) Proposed locations of production and re-injection wells for the project. Include the applicant's assessment of geothermal resource adequacy, including the production history of those wells within the leaseholds dedicated to the project, including pressure decline curves as available; and

(F) A discussion of the potential impacts on the temperature, mineral content, and rate of flow of thermal springs affected by the project.

(c) Reserved

(d) Information for Projects Which Completed the NOI Process

(1) A copy of any study or analysis required by the terms of the Commission's Final Decision on the NOI, and a brief summary of the results of the study or analysis.

(2) Updates of any significant information which has changed since the Commission's Final Decision on the NOI.

(e) Facility Closure

(1) A discussion of how facility closure will be accomplished in the event of premature or unexpected cessation of operations.

(f) Alternatives

(1) A discussion of the range of reasonable alternatives to the project, or to the location of the project, including the no project alternative, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and an evaluation of the comparative merits of the alternatives. In accordance with Public Resources Code section 25540.6(b), a discussion of the applicant's site selection criteria, any alternative sites considered for the project, and the reasons why the applicant chose the proposed site.

(2) An evaluation of the comparative engineering, economic, and environmental merits of the alternatives discussed in subsection (f)(1).

(g) Environmental Information

(1) General Information: For each technical area listed below, provide a discussion of the existing site conditions, the expected direct, indirect, and cumulative impacts due to the construction, operation, and maintenance of the project, the measures proposed to mitigate adverse environmental impacts of the project, the effectiveness of the proposed measures, and any monitoring plans proposed to verify the effectiveness of the mitigation. Additional requirements specific to each technical area are listed below.

(2) Cultural Resources

(A) A summary of the ethnology, prehistory, and history of the region with emphasis on the area within no more than a 5-mile radius of the project location.

(B) The results of a literature search to identify cultural resources within an area not less than a 1-mile radius around the project site and not less that than one-quarter (0.25) mile on each side of the linear facilities. Identify any cultural resources listed pursuant to ordinance by a city or county, or recognized by any local historical or archaeological society or museum. Literature searches to identify the above cultural resources must be completed by, or under the direction of, individuals who meet the Secretary of the Interior's Professional Standards for the technical area addressed.

Copies of California Department of Parks and Recreation (DPR) 523 forms (Title 14 CCR §4853) shall be provided for all cultural resources (ethnographic, architectural, historical, and archaeological) identified in the literature search as being 45 years or older or of exceptional importance as defined in the National Register Bulletin Guidelines, (36CFR60.4(g)). A copy of the USGS 7.5' quadrangle map of the literature search area delineating the areas of all past surveys and noting the California Historical Resources Information System (CHRIS) identifying number shall be provided. Copies also shall be provided of all technical reports whose survey coverage is wholly or partly within .25 mile of the area surveyed for the project under Section (g)(2)(C), or which report on any archaeological excavations or architectural surveys within the literature search area.

(C) The results of new surveys or surveys less than 5 years old shall be provided if survey records of the area potentially affected by the project are more than five (5) years old. Surveys to identify new cultural resources must be completed by (or under the direction of) individuals who meet the Secretary of the Interior's Professional Standards for the technical area addressed.

New pedestrian archaeological surveys shall be conducted inclusive of the project site and project linear facility routes, extending to no less than 200' around the project site, substations and staging areas, and to no less than 50' to either side of the right-of-way of project linear facility routes. New historic architecture field surveys in rural areas shall be conducted inclusive of the project site and the project linear facility routes, extending no less than .5 mile out from the proposed plant site and from the routes of all above-ground linear facilities. New historic architecture field surveys in urban and suburban areas shall be conducted inclusive of the project site, extending no less than one parcel's distance from all proposed plant site boundaries. New historic architecture field reconnaissance ("windshield

survey") in urban and suburban areas shall be conducted along the routes of all linear facilities to identify, inventory, and characterize structures and districts that appear to be older than 45 years or that are exceptionally significant, whatever their age.

A technical report of the results of the new surveys, conforming to the Archaeological Resource Management Report format (CA Office of Historic Preservation Feb 1990), which is incorporated by reference in its entirety, shall be separately provided and submitted (under confidential cover if archaeological site locations are included). Information included in the technical report shall also be provided in the Application for Certification, except that confidential information (archaeological sites or areas of religious significance) shall be submitted under a request for confidentiality pursuant to Title 20, California Code of Regulations, § 2501 et seq. At a minimum, the technical report shall include the following:

(i) The summary from Appendix B (g)(2)(A) and the literature search results from Appendix B (g)(2)(B).

(ii) The survey procedures and methodology used to identify cultural resources and a discussion of the cultural resources identified by the survey.

(iii) Copies of all new and updated DPR 523(A) forms. If a cultural resource may be impacted by the project, also include the appropriate DPR 523 detail form for each such resource.

(iv) A map at a scale of 1:24,000 U.S. Geological Survey quadrangle depicting the locations of all previously known and newly identified cultural resources compiled through the research required by Appendix B (g)(2)(B) and Appendix B (g)(2)(C) (ii).

(v) The names and qualifications of the cultural resources specialists who contributed to and were responsible for literature searches, surveys, and preparation of the technical report.

(D) Provide a copy of your request to the Native American Heritage Commission (NAHC) for information on Native American sacred sites and lists of Native Americans interested in the project vicinity, and copies of any correspondence received from the NAHC. Notify the Native Americans on the NAHC list about the project, including a project description and map. Provide a copy of all correspondence sent to Native American individuals and groups listed by the NAHC and copies of all responses. Provide a written summary of any oral responses.

(E) Include in the discussion of proposed mitigation measures required by subdivision (g)(1):

(i) A discussion of measures proposed to mitigate project impacts to known cultural resources;

(ii) A set of contingency measures proposed to mitigate potential impacts to previously unknown cultural resources and any unanticipated impacts to known cultural resources;

(iii) Educational programs to enhance employee awareness during construction and operation to protect cultural resources.

(3) Land Use

(A) A discussion of existing land uses and current zoning at the site, land uses and land use patterns within one mile of the proposed site and within one-quarter mile of any project-related linear facilities. Include:

(i) An identification of residential, commercial, industrial, recreational, scenic, agricultural, natural resource protection, natural resource extraction, educational, religious, cultural, and historic areas, and any other area of unique land uses;

(ii) A discussion of any recent or proposed zone changes and/or general plan amendments; noticed by an elected or appointed board, commission, or similar entity at the state or local level.

(iii) Identification of all discretionary reviews by public agencies initiated or completed within 18 months prior to filing the application for those changes or developments identified in subsection (g)(3)(A)(ii); and

(iv) Legible maps of the areas identified in subsection (g)(3)(A) potentially affected by the project, on which existing land uses, jurisdictional boundaries, general plan designations, specific plan designations, and zoning have been clearly delineated.

(B) A discussion of the compatibility of the proposed project with present and expected land uses, and conformity with any long-range land use plans adopted by any federal, state, regional, or local planning agencies. The discussion shall identify the need, if any, for land use decisions by another public agency or as part of the commission's decision that would be necessary to make the project conform to adopted federal, state, regional, or local coastal plans, land use plans, or zoning ordinances. Examples of land use decisions include: general plan amendments, zoning changes, lot line adjustments, parcel mergers, subdivision maps, Agricultural Land Conservation Act contracts cancellation, and Airport Land Use Plan consistency determinations.

(C) A discussion of the legal status of the parcel(s) on which the project is proposed. If the proposed site consists of more than one legal parcel, describe the method and timetable for merging or otherwise combining those parcels so that the proposed project, excluding linears and temporary laydown or staging area, will be located on a single legal parcel. The merger need not occur prior to a decision on the Application but must be completed prior to the start of construction.

(D) A map at a scale of 1:24,000 and written description of agricultural land uses found within all areas affected by the proposed project. The description shall include:

(i) Crop types, irrigation systems, and any special cultivation practices; and

(ii) Whether farmland affected by the project is prime, of statewide importance, or unique as defined by the California Department of Conservation.

(iii) Direct, indirect, and cumulative effects on agricultural land uses.If the proposed site or related facilities are subject to an Agricultural Land Conservation contract, provide a written copy and a discussion of the status of the expiration or canceling of such contract.

(4) Noise

(A) A land use map which identifies residences, hospitals, libraries, schools, places of worship, or other facilities where quiet is an important attribute of the environment within the area impacted by the proposed project. The area potentially impacted by the proposed project is that area where, during either construction or operation, there is a potential increase of 5 dB(A) or more, over existing background levels.

(B) A description of the ambient noise levels at those sites identified under subsection (g)(4)(A) which the applicant believes provide a representative characterization of the ambient noise levels in the project vicinity, and a discussion of the general atmospheric conditions, including temperature, humidity, and the presence of wind and rain at the time of the measurements. The existing noise levels shall be determined by taking noise measurements for a minimum of 25 consecutive hours at a minimum of one site. Other sites may be monitored for a lesser duration at the applicant's discretion, preferably during the same 25-hour period. The results of the noise level measurements shall be reported as hourly averages in L_{eq} (equivalent sound or noise level), L_{dn} (day-night sound or noise level) or CNEL (Community Noise Equivalent Level) in units of dB(A). The L_{10}, L_{50}, and L_{90} values (noise levels exceeded 10 percent, 50 percent, and 90 percent of the time, respectively) shall also be reported in units of dB(A).

(C) A description of the major noise sources of the project, including the range of noise levels and the tonal and frequency characteristics of the noise emitted.

(D) An estimate of the project noise levels, during both construction and operation, at residences, hospitals, libraries, schools, places of worship, or other facilities where quiet is an important attribute of the environment, within the area impacted by the proposed project.

(E) An estimate of the project noise levels within the project site boundary during both construction and operation and the impact to the workers at the site due to the estimated noise levels.

(F) The audible noise from existing switchyards and overhead transmission lines that would be affected by the project, and estimates of the future audible noise levels that would result from existing and proposed switchyards and transmission lines. Noise levels shall be calculated at the property boundary for switchyards and at the edge of the rights-of-way for transmission lines.

(5) Traffic and Transportation

(A) A regional transportation setting, on topographic maps (scale of 1:250,000), identifying the project location and major transportation facilities. Include a reference to the transportation element of any applicable local or regional plan.

(B) If the proposed project including any linear facility is to be located within 20,000 feet of an airport runway that is at least 3,200 feet in actual length, or 5,000 feet of a heliport (or planned or proposed airport runway or an airport runway under construction, that is the subject of a notice or proposal on file with the Federal Aviation Administration), discuss the project's compliance with the applicable sections of the current Federal Aviation Regulation Part 77 - Objects Affecting Navigable Airspace, specifically any potential to obstruct or impede air navigation generated by the project at operation; such as, a thermal plume, a visible water

vapor plume, glare, electrical interference, or surface structure height. The discussion should include a map at a scale of 1:24,000 that displays the airport or airstrip runway configuration, the proposed power plant site and related facilities.

(C) An identification, on topographic maps at a scale of 1:24,000 and a description of existing and planned roads, rail lines (including light rail), bike trails, airports, bus routes serving the project vicinity, pipelines, and canals in the project area affected by or serving the proposed facility. For each road identified, include the following information, where applicable:

(i) Road classification and design capacity;

(ii) Current daily average and peak traffic counts;

(iii) Current and projected levels of service before project development, during construction, and during project operation;

(iv) Weight and load limitations;

(v) Estimated percentage of current traffic flows for passenger vehicles and trucks; and

(vi) An identification of any road features affecting public safety.

(D) An assessment of the construction and operation impacts of the proposed project on the transportation facilities identified in subsection (g)(5)(C). Also include anticipated project-specific traffic, estimated changes to daily average and peak traffic counts, levels of service, and traffic/truck mix, and the impact of construction of any facilities identified in subsection (g)(5)(C).

(E) A discussion of project-related hazardous materials to be transported to or from the project during construction and operation of the project, including the types, estimated quantities, estimated number of trips, anticipated routes, means of transportation, and any transportation hazards associated with such transport.

(6) Visual Resources

(A) Descriptions of the existing visual setting of the vicinity of the proposed project site and the proposed routes for any project-related linear facilities. Include:

(i) Topographic maps at a scale of 1:24,000 that depict directions from which the project would be seen, the view areas most sensitive to the potential visual impacts of the project, and the locations where photographs were taken for (g)(6)(C); and

(ii) Description of the existing visual properties of the topography, vegetation, and any modifications to the landscape as a result of human activities, including existing water vapor plumes, above-ground electrical transmission lines, and nighttime lighting levels in the project viewshed.

(B) An assessment of the visual quality of those areas that would be affected by the proposed project. For projects proposed to be located within the coastal zone, the assessment should also describe how the proposed project would be sited to protect views to and along the

ocean and scenic coastal areas, would minimize the alteration of natural land forms, would be visually compatible with the character of surrounding areas.

(C) In consultation with Energy Commission staff, identify i) any designated scenic roadways or scenic corridors and any visually sensitive areas that would be affected by the proposed project, including recreational and residential areas and ii) the locations of the key observation points to represent the most critical viewing locations from which to conduct detailed analyses of the visual impacts of the proposed project. Indicate the approximate number of people using each of these sensitive areas and the estimated number of residences with views of the project. Also identify any major public roadways and trails of local importance that would be visually impacted by the project and indicate the types of travelers (e.g., local residents, recreationists, workers, commuters, etc.) and the approximate number of vehicles, bicyclists, and/or hikers per day.

(D) A table providing the dimensions (height, length, and width, or diameter) and, proposed color(s), materials, finishes, patterns, and other proposed design characteristics of each major component visible from off the project site, including any project-related electrical transmission line and/or offsite aboveground pipelines and metering stations.

(E) Provide the cooling tower and heat recovery steam generator (HRSG) exhaust design parameters that affect visible plume formation. For the cooling tower, data shall include heat rejection rate, exhaust temperature, exhaust mass flow rate, liquid to gas mass flow ratio, and, if the tower is plume-abated, moisture content (percent by weight) or plume-abated fogging curve(s). The parameters shall account for a range of ambient conditions (temperature and relative humidity) and proposed operating scenarios, such as duct firing and shutting down individual cells. For the heat recovery steam generator exhausts, data shall include moisture content (percent by weight), exhaust mass flow rate, and exhaust temperature. The parameters must correspond to full-load operating conditions at specified ambient conditions, and shall account for proposed operating scenarios, such as power augmentation (i.e., evaporative coolers, inlet foggers, or steam injection) and duct firing, or proposed HRSG visible plume abatement, such as the use of an economizer bypass. For simple-cycle projects, provide analogous data for the exhaust stack(s).

(F) Provide: i) full-page color photographic reproductions of the existing site, and ii) full-page color simulations of the proposed project at life-size scale when the picture is held 10 inches from the viewer's eyes, including any project-related electrical transmission lines, in the existing setting from each key observation point. If any landscaping is proposed to comply with zoning requirements or to mitigate visual impacts, include the landscaping in simulation(s) representing sensitive area views, depicting the landscaping five years after installation; and estimate the expected time until maturity is reached.

(G) An assessment of the visual impacts of the project, including light, glare, and any modeling of visible plumes. Include a description of the method and identify any computer model used to assess the impacts. Provide an estimate of the expected frequency and dimensions (height, length, and width) of the visible cooling tower and/or exhaust stack plumes. Provide the supporting assumptions, meteorological data, operating parameters, and calculations used.

(H) If any landscaping is proposed to reduce the visual impacts of the project, provide a conceptual landscaping plan at a 1:40 scale (1"=40'). Include information on the type

of plant species proposed, their size, quantity, and spacing at planting, expected heights at 5 years and maturity, and expected growth rates.

(7) Socioeconomics

(A) A description of the socioeconomic circumstances of the vicinity and region affected by construction and operation of the project. Include:

(i) The economic characteristics, including the economic base, fiscal resources, and a list of the applicable local agencies with taxing powers and their most recent and projected revenues;

(ii) The social characteristics, including population and demographic and community trends;

(iii) Existing and projected unemployment rates;

(iv) Availability of skilled workers by craft required for construction and operation of the project;

(v) Availability of temporary and permanent housing and current vacancy rate; and

(vi) Capacities, existing and expected use levels, and planned expansion of utilities (gas, water and waste) and public services, including fire protection, law enforcement, emergency response, medical facilities, other assessment districts, and school districts. For projects outside metropolitan areas with a population of 500,000 or more, information for each school district shall include current enrollment and yearly expected enrollment by grade level groupings, excluding project-related changes, for the duration of the project construction schedule.

(B) A discussion of the socioeconomic impacts caused by the construction and operation of the project (note year of estimate, model, if used, and appropriate sources), including:

(i) An estimate of the number of workers to be employed each month by craft during construction, and for operations, an estimate of the number of permanent operations workers during a year;

(ii) An estimate of the percentage of non-local workers who will relocate to the project area to work on the project;

(iii) An estimate of the potential population increase caused directly and indirectly by the project;

(iv) The potential impact of population increase on housing during the construction and operations phases;

(v) The potential impacts, including additional costs, on utilities (gas, water and waste) and public services, including fire, law enforcement, emergency response, medical facilities, other assessment districts, and school districts. Include response times to hospitals and for police, and emergency services. For projects outside metropolitan areas with a

population of 500,000 or more, information on schools shall include project-related enrollment changes by grade level groupings and associated facility and staffing impacts by school district during the construction and operating phases;

(vi) An estimate of applicable school impact fees;

(vii) An estimate of the total construction payroll and separate estimates of the total operation payroll for permanent and short-term (contract) operations employees;

(viii) An estimate of the expenditures for locally purchased materials for the construction and operation phases of the project; and

(ix) An estimate of the capital cost (plant and equipment) of the project.

(x) An estimate of sales taxes generated during construction and separately during an operational year of the project.

(xi) An estimate of property taxes generated during an operational year of the project.

(xii) The expected direct, indirect, and induced income and employment effects due to construction, operation, and maintenance of the project.

(8) Air Quality

(A) The information necessary for the air pollution control district where the project is located to complete a Determination of Compliance.

(B) The heating value and chemical characteristics of the proposed fuels, the stack height and diameter, the exhause velocity and temperature, the heat rate and the expected capacity factor of the proposed facility.

(C) A description of the control technologies proposed to limit the emission of criteria pollutants.

(D) A description of the cooling system, the estimated cooling tower drift rate, the rate of water flow through the cooling tower, and the maximum concentrations of total dissolved solids.

(E) The emission rates of criteria pollutants and greenhouse gases (CO2, CH4, N2O, and SF6) from the stack, cooling towers, fuels and materials handling processes, delivery and storage systems, and from all on-site secondary emission sources.

(F)(i) A description of typical operational modes, and start-up and shutdown modes for the proposed project, including the estimated frequency of occurrence and duration of each mode, and estimated emission rate for each criteria pollutant during each mode.

(ii) A description of the project's planned initial commissioning phase, which is the phase between the first firing of emissions sources and the commercial operations date, including the types and durations of equipment tests, criteria pollutant emissions, and monitoring techniques to be used during such tests,

(G) The ambient concentrations of all criteria pollutants for the previous three years as measured at the three Air Resources Board certified monitoring stations located closest to the project site, and an analysis of whether this data is representative of conditions at the project site. The applicant may substitute an explanation as to why information from one, two, or all stations is either not available or unnecessary.

(H) One year of meteorological data collected from either the Federal Aviation Administration Class 1 station nearest to the project or from the project site, or meteorological data approved by the California Air Resources Board or the local air pollution district.

(i) If the data is collected from the project site, the applicant shall demonstrate compliance with the requirements of the U.S. Environmental Protection Agency document entitled "On-Site Meteorological Program Guidance for Regulatory Modeling Applications" (EPA - 450/4-87-013 (August 1995)), which is incorporated by reference in its entirety.

(ii) The data shall include quarterly wind tables and wind roses, ambient temperatures, relative humidity, stability and mixing heights, upper atmospheric air data, and an analysis of whether this data is representative of conditions at the project site.

(I) An evaluation of the project's direct and cumulative air quality impacts, consisting of the following:

(i) A screening level air quality modeling analysis, or a more detailed modeling analysis if so desired by the applicant, of the direct criteria pollutant impacts of project construction activities on ambient air quality conditions, including fugitive dust (PM10) emissions from grading, excavation and site disturbance, as well as the combustion emissions [nitrogen oxides (NOx), sulfur dioxide (SO2), carbon monoxide (CO), and particulate matter less than 10 microns in diameter (PM10) and particulate matter less than 2.5 microns in diameter (PM2.5)] from construction-related equipment;

(ii) A screening level air quality modeling analysis, or a more detailed modeling analysis if so desired by the applicant, of the direct criteria pollutant (NOx, SO_2, CO and PM_{10} and $PM_{2.5}$) impacts on ambient air quality conditions of the project during typical (normal) operation, and during shutdown and startup modes of operation. Identify and include in the modeling of each operating mode the estimated maximum emissions rates and the assumed meteorological conditions; and

(iii) A protocol for a cumulative air quality modeling impacts analysis of the project's typical operating mode in combination with other stationary emissions sources within a six mile radius which have received construction permits but are not yet operational, or are in the permitting process. The cumulative inert pollutant impact analysis should assess whether estimated emissions concentrations will cause or contribute to a violation of any ambient air quality standard.

(iv) an air dispersion modeling analyses of the impacts of the initial commissioning phase emissions on state and federal ambient air quality standards for NOx, SO_2, CO, PM_{10} and $PM_{2.5}$.

(J) If an emission offset strategy is proposed to mitigate the project's impacts under subsection (g)(1), provide the following information:

(i) The quantity of offsets or emission reductions that are needed to satisfy air permitting requirements of local permitting agencies (such as the air district), state and federal oversight air agencies, and the California Energy Commission. Identify by criteria air pollutant, and if appropriate, greenhouse gas; and

(ii) Potential offset sources, including location, and quantity of emission reductions.

(K) a detailed description of the mitigation, if any, which an applicant may propose, for all project impacts from criteria pollutants that currently exceed state or federal ambient air quality standards, but are not subject to offset requirements under the district's new source review rule.

(9) Public Health

(A) An assessment of the potential risk to human health from the project's hazardous air emissions using the Air Resources Board Hotspots Analysis and Reporting Program (HARP) (Health and Safety Code §§ 44360-44366) or its successor and Approved Risk Assessment Health Values. These values shall include the cancer potency values and noncancer reference exposure levels approved by the Office of Environmental Health Hazard Assessment (OEHHA Guidelines, Cal-EPA 2005).

(B) A listing of the input data and output results, in both electronic and print formats, used to prepare the HARP health risk assessment.

(C) Identification of available health studies through the local public health department concerning the potentially affected population(s) within a six-mile radius of the proposed power plant site related to respiratory illnesses, cancers or related diseases.

(D) A map showing sensitive receptors within the area exposed to the substances identified in subsection (g)(9)(A).

(E) For purposes of this section, the following definitions apply:

(i) A sensitive receptor refers to infants and children, the elderly, and the chronically ill, and any other member of the general population who is more susceptible to the effects of the exposure than the population at large.

(ii) An acute exposure is one which occurs over a time period of less than or equal to one (1) hour.

(iii) A chronic exposure is one which is greater than twelve (12) percent of a lifetime of seventy (70) years.

(10) Hazardous Materials Handling

(A) A list of all materials used or stored on-site which are hazardous or acutely hazardous, as defined in Title 22, California Code of Regulations, § 66261.20 et seq., and a discussion of the toxicity of each material.

(B) A map at a scale of 1:24,000 depicting the location of schools, hospitals, day-care facilities, emergency response facilities and long-term health care facilities, within the area potentially affected by any release of hazardous materials.

(C) A discussion of the storage and handling system for each hazardous material used or stored at the site.

(D) The protocol that will be used in modeling potential consequences of accidental releases that could result in off site impacts. Identify the model(s) to be used, a description of all input assumptions, including meteorological conditions. The results of the modeling analysis can be substituted after the AFC is complete.

(E) A discussion of whether a risk management plan (Health and Safety Code § 25531 et seq.) will be required, and if so, the requirements that will likely be incorporated into the plan.

(F) A discussion of measures proposed to reduce the risk of any release of hazardous materials.

(G) A discussion of the fire and explosion risks associated with the project.

(11) Worker Safety

(A) A description of the safety training programs which will be required for construction and operation personnel.

(B) A complete description of the fuel handling system and the fire suppression system.

(C) Provide draft outlines of the Construction Health and Safety Program and the Operation Health and Safety Program, as follows:

Construction Health and Safety Program:

* Injury and Illness Prevention Plan (8 Cal. Code Regs., § 1509);

* Fire Protection and Prevention Plan (8 Cal. Code Regs., § 1920);

* Personal Protective Equipment Program (8 Cal. Code Regs., §§ 1514-1522).

Operation Health and Safety Program:

* Injury and Illness Prevention Program (8 Cal. Code Regs., § 3203);

* Fire Prevention Plan (8 Cal. Code Regs., § 3221);

* Emergency Action Plan (8 Cal. Code Regs., § 3220);

* Personal Protective Equipment Program (8 Cal. Code Regs., §§ 3401-3411).

(12) Waste Management

(A) A Phase I Environmental Site Assessment (ESA) for the proposed power plant site using methods prescribed by the American Society for Testing and Materials (ASTM) document entitled "Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process" (Designation: E 1527-93, May 1993), which is incorporated by reference in its entirety; or an equivalent method agreed upon by the applicant and the CEC Staff that provides similar documentation of the potential level and extent of site contamination. The Phase I ESA shall have been completed no earlier than one year prior to the filing of the AFC.

(B) A description of each waste stream estimated to be generated during project construction and operation, including origin, hazardous or nonhazardous classification pursuant to Title 22, California Code of Regulations, § 66261.20 et seq., chemical composition, estimated annual weight or volume generated, and estimated frequency of generation.

(C) A description of all waste disposal sites which may feasibly be used for disposal of project wastes. For each site, include the name, location, classification under Title 23, California Code of Regulations, § 2530 et seq., the daily or annual permitted capacity, daily or annual amounts of waste currently being accepted, the estimated closure date and remaining capacity, and a description of any enforcement action taken by local or state agencies due to waste disposal activities at the site.

(D) A description of management methods for each waste stream, including methods used to minimize waste generation, length of on- and off-site waste storage, re-use and recycling opportunities, waste treatment methods used, and use of contractors for treatment.

(13) Biological Resources

(A) A regional overview and discussion of terrestrial and aquatic biological resources, with particular attention to sensitive biological resources within ten (10) miles of the project. Include a map at a scale of 1:100,000 (or other suitable scale) showing sensitive biological resource location(s) in relation to the project site and related facilities and any boundaries of a local Habitat Conservation Plan or similar open space land use plan or designation. Sensitive biological resources include the following:

(i) species listed under state or federal Endangered Species Acts;

(ii) resources defined in sections 1702(q) and (v) of Title 20 of the California Code of Regulations;

(iii) species identified as state Fully Protected;

(iv) species covered by Migratory Bird Treaty Act;

(v) species and habitats identified by local, state, and federal agencies as needing protection, including but not limited to those identified by the California Natural Diversity Database, or where applicable, in Local Coastal Programs or in relevant decisions of the California Coastal Commission; and

(vi) fish and wildlife species that have commercial and/or recreational value.

(B) Include a list of the species actually observed and those with a potential to occur within 1 mile of the project site and 1,000 feet from the outer edge of linear facility corridors.

Maps or aerial photographs shall include the following:

(i) Detailed maps at a scale of 1:6,000 or color aerial photographs taken at a recommended scale of 1 inch equals 500 feet (1:6,000) with a 30 percent overlap that show the proposed project site and related facilities, biological resources including, but not limited to, those found during project-related field surveys and in records from the California Natural Diversity Database, and the associated areas where biological surveys were conducted. Label the biological resources and survey areas as well as the project facilities.

(ii) A depiction of the extent of the thermal plume at the surface of the water if cooling water is proposed to be discharged to a water source. Provide the location for the intake and discharge structures on an aerial photograph(s) or detailed maps. Water sources include, but are not limited to, waterways, lakes, impoundments, oceans, bays, rivers, and estuaries.

(iii) An aerial photo or wetlands delineation maps at a scale of (1:2,400) showing any potential jurisdictional and non-jurisdictional wetlands delineated out to 250 feet from the edge of disturbance if wetlands occur within 250 feet of the project site and/or related facilities that would be included with the US Army Corps of Engineers Section 404 Permit application. For projects proposed to be located within the coastal zone, also provide aerial photographs or maps as described above that identify wetlands as defined by the Coastal Act.

(C) A discussion of the biological resources at the proposed project site and related facilities. Related facilities include, but are not limited to, laydown and parking areas, gas and water supply pipelines, transmission lines, and roads. The discussion shall address the distribution of vegetation community types, denning or nesting sites, population concentrations, migration corridors, breeding habitats, and other appropriate biological resources including the following:

(i) A list of all the species actually observed.

(ii) A list of sensitive species and habitats with a potential to occur (as defined in (A) above).

(iii) If cooling water is taken directly from or discharged to a surface water feature source, include a description of the intake structure, screens, water volume, intake velocity hydraulic zone field of influence, and the thermal plume dispersion area as depicted in response to B(ii) above. Describe the thermal plume size and dispersion under high and low tides, and in response to local currents and seasonal changes. Provide a discussion of the aquatic habitats, biological resources, and critical life stages found in these affected waters. For repower projects that anticipate no change in cooling water flow, this information shall be provided in the form of the most recent federal Clean Water Act 316(a) and (b) studies of entrainment and impingement impacts that has been completed within the last five (5) years. For new projects or repower projects proposing to use once-through cooling and anticipating an increase in cooling water flow, provide a complete impingement and entrainment analysis per guidance in (D)(ii), below.

(D) A description and results of all field studies and seasonal surveys used to provide biological baseline information about the project site and associated facilities. Include copies of the California Natural Diversity Database records and field survey forms completed by the

applicant's biologist(s). Identify the date(s) the surveys were completed, methods used to complete the surveys, and the name(s) and qualifications of the biologists conducting the surveys. Include:

(i) Current biological resources surveys conducted using appropriate field survey protocols during the appropriate season(s). State and federal agencies with jurisdiction shall be consulted for field survey protocol guidance prior to surveys if a protocol exists.

(ii) If cooling water is proposed to be taken directly from or discharged to a surface water feature source, seasonal aquatic resource studies and surveys shall be conducted. Aquatic resource survey data shall include, but is not limited to, fish trawls, ichthyoplankton and benthic sampling, and related temperature and water quality samples. For new projects or repower projects anticipating a change in cooling water flows, sampling protocols shall be provided to the Energy Commission staff for review and concurrence prior to the start of sampling. For repower projects not anticipating a change in cooling water flows, this information shall be provided in the form of the most recent federal Clean Water Act 316(b) impingement and entrainment impact study completed within five (5) years of the AFC filing date.

(iii) If the project or any related facilities could impact a jurisdictional or non-jurisdictional wetland, provide completed Army Corps of Engineers wetland delineation forms and/or determination of wetland status pursuant to Coastal Act requirements, name(s) and qualifications of biologist(s) completing the delineation, the results of the delineation and a table showing wetland acreage amounts to be impacted.

(E) Impacts discussion of the following:

(i) all impacts (direct, indirect, and cumulative) to biological resources from project site preparation, construction activities, plant operation, maintenance, and closure. Discussion shall also address sensitive species habitat impacts from cooling tower drift and air emissions.

(ii) facilities that propose to take water directly from, and/or discharge water to surface water features, daytime and nighttime impacts from the intake and discharge of water during operation, water velocity at the intake screen, the intake field of influence, impingement, entrainment, and thermal discharge. Provide a discussion of the extent of the thermal plume, effluent chemicals, oxygen saturation, intake pump operations, and the volume and rate of cooling water flow at the intake and discharge location.

(iii) Methods to control biofouling and chemical concentrations, and temperatures that are currently being discharged or will be discharged to receiving waters.

(F) A discussion of all feasible mitigation measures including, but not limited to the following:

(i) All measures proposed to avoid and/or reduce adverse impacts to biological resources.

(ii) All off-site habitat mitigation and habitat improvement or compensation, and an identification of contacts for compensation habitat and management.

(iii) Design features to better disperse or eliminate a thermal discharge.

(iv) All measures proposed to avoid or minimize adverse impacts of cooling water intake. This shall include a Best Technology Available (BTA) discussion. If BTA is not being proposed, the rationale for not selecting BTA must be provided.

(v) Educational programs to enhance employee awareness during construction and operation to protect biological resources.

(G) A discussion of compliance and monitoring programs to ensure the effectiveness of impact avoidance and mitigation measures incorporated into the project.

(H) Submit copies of any preliminary correspondence between the project applicant and state and federal resource agencies regarding whether federal or state permits from other agencies such as the U. S. Fish and Wildlife Service, the National Marine Fisheries Service, the U.S. Army Corps of Engineers, the California Department of Fish and Game, and the Regional Water Quality Control Board will be required for the proposed project.

(14) Water Resources

(A) All the information required to apply for the following permits, if applicable, including:

(i) Waste Discharge Requirements; National Pollutant Discharge Elimination System Permit; and/or a Section 401 Certification or Waiver from the appropriate Regional Water Quality Control Board (RWQCB);

(ii) Construction and Industrial Waste Discharge and/or Industrial Pretreatment permits from wastewater treatment agencies;

(iii) Nationwide Permits and/or Section 404 Permits from the U.S. Army Corps of Engineers; and

(iv) Underground Injection Control Permit(s) from the U.S. Environmental Protection Agency, California Division of Oil and Gas, and RWQCB.

(B) A detailed description of the hydrologic setting of the project. The information shall include a narrative discussion and on maps at a scale of 1:24,000 (or appropriate scale approved by staff), describing the chemical and physical characteristics of the following nearby water bodies that may be affected by the proposed project:

(i) Ground water bodies and related geologic structures;

(ii) Surface water bodies;

(iii) Water inundation zones, such as the 100-year flood plain and tsunami run-up zones;

(iv) Flood control facilities (existing and proposed); and

(v) Groundwater wells within 1/2 mile if the project will include pumping.

(C) A description of the water to be used and discharged by the project. This information shall include:

(i) Source(s) of the primary and back-up water supplies and the rationale for their selection;

(ii) The expected physical and chemical characteristics of the source and discharge water(s) including identification of both organic and inorganic constituents before and after any project-related treatment. For source waters with seasonal variation, provide seasonal ranges of the expected physical and chemical characteristics. Provide copies of background material used to create this description (e.g., laboratory analysis);

(iii) Average and maximum daily and annual water demand and waste water discharge for both the construction and operation phases of the project;

(iv) A detailed description of all facilities to be used in water conveyance (from primary source to the power plant site), water treatment, and wastewater discharge. Include a water mass balance diagram;

(v) For all water supplies intended for industrial uses to be provided from public or private water purveyors, a letter of intent or will-serve letter indicating that the purveyor is willing to serve the project, has adequate supplies available for the life of the project, and any conditions or restrictions under which water will be provided. In the event that a will-serve letter or letter of intent cannot be provided, identify the most likely water purveyor and discuss the necessary assurances from the water purveyor to serve the project.

(vi) For all water supplied which necessitates transfers and/or exchanges at any point, identify all parties and contracts/agreements involved, the primary source for the transfer and/or exchange water (e.g., surface water, groundwater), and provide the status of all appropriate agencies' approvals for the proposed use, environmental impact analysis on the specific transfers and/or exchanges required to obtain the proposed supplies, a copy of any agency regulations that govern the use of the water, and an explanation of how the project complies with the agency regulation(s);

(vii) Provide water mass balance and heat balance diagrams for both average and maximum flows that include all process and/or ancillary water supplies and wastewater streams. Highlight any water conservation measures on the diagram and the amount that they reduce water demand.

(viii) For all projects which have a discharge, provide a copy of the will-serve letter, permit or contract with the public or private entity that will be accepting the wastewater and contact storm water from the project. The letter, permit or contract, if possible, shall identify the discharge volumes and the chemical or physical characteristics under which the wastewater and contact storm water will be accepted.

In the event that a will-serve letter, permit, or contract cannot be provided, identify the most likely wastewater/storm water entity and discuss why the applicant was unable to secure the necessary assurances to serve the project's wastewater/storm water needs. Also, discuss the term of the wastewater service to the project, whether the wastewater entity has adequate permit capacity for the volume of wastewater from the project and has adequate permit levels for the chemical/physical characteristics of the project's wastewater and storm water for the life

of the project, and any issues or conditions/restrictions the wastewater entity may impose on the project.

(D) Identify all project elements associated with stormwater drainage, including a description of the following:

(i) Monthly and/or seasonal precipitation and stormwater runoff and drainage patterns for the proposed site and surrounding area that may be affected by the project's construction and operation.

(ii) Drainage facilities and the design criteria used for the plant site and ancillary facilities, including but not limited to capacity of designed system, design storm, and estimated runoff;

(iii) All assumptions and calculations used to calculate runoff and to estimate changes in flow rates between pre- and post construction; and

(iv) A copy of applicable regional and local requirements regulating the drainage systems, and a discussion of how the project's drainage design complies with these requirements.

(E) An impacts analysis of the proposed project on water resources and a discussion of conformance with water-related Laws, Ordinances, Regulations, and Standards (LORS) and policy. This discussion shall include:

(i) The effects of project demand on the water supply and other users of this source, including, but not limited to, water availability for other uses during construction or after the power plant begins operation, consistency of the water use with applicable RWQCB basin plans or other applicable resource management plans, and any changes in the physical or chemical conditions of existing water supplies as a result of water use by the power plant;

(ii) If the project will pump groundwater, an estimation of aquifer drawdown based on a computer modeling study shall be conducted by a professional geologist and include the estimated drawdown on neighboring wells within 0.5 mile of the proposed well(s), any effects on the migration of groundwater contaminants, and the likelihood of any changes in existing physical or chemical conditions of groundwater resources shall be provided;

(iii) The effects of construction activities and plant operation on water quality and to what extent these effects could be mitigated by best management practices;

(iv) If not using a zero liquid discharge project design for cooling and process waters, include the effects of the proposed wastewater disposal method on receiving waters, the feasibility of using pre-treatment techniques to reduce impacts, and beneficial uses of the receiving waters. Include an explanation why the zero liquid discharge process is "environmentally undesirable," or "economically unsound."

(v) If using fresh water, include a discussion of the cumulative impacts, alternative water supply sources and alternative cooling technologies considered as part of the project design. Include an explanation of why alternative water supplies and alternative cooling are "environmentally undesirable," or "economically unsound."

(vi) The effects of the project on the 100-year flood plain, flooding potential of adjacent lands or water bodies, or other water inundation zones.

(vii) All assumptions, evidence, references, and calculations used in the analysis to assess these effects.

(15) Soils

(A) A map at a scale of 1:24,000 and written description of soil types and all agricultural land uses that will be affected by the proposed project. The description shall include:

(i) The depth, texture, permeability, drainage, erosion hazard rating, and land capability class of the soil;

(ii) An identification of other physical and chemical characteristics of the soil necessary to allow an evaluation of soil erodibility, permeability, re-vegetation potential, and cycling of pollutants in the soil-vegetation system;

(iii) The location of any proposed fill disposal or fill procurement (borrow) sites; and

(iv) The location of any contaminated soils that could be disturbed by project construction.

(B) An assessment of the effects of the proposed project on soil resources and agricultural land uses. This discussion shall include:

(i) The quantification of accelerated soil loss due to wind and water erosion; and

(ii) The effect of power plant emissions on surrounding soil-vegetation systems.

(16) Paleontologic Resources

(A) Identification of the physiographic province and a brief summary of the geologic setting, formations, and stratigraphy of the project area. The size of the paleonotological study area may vary depending on the depositional history of the region.

(B) A discussion of the sensitivity of the project area described in subsection (g)(16)(A) and the presence and significance of any known paleontologic localities or other paleontologic resources within or adjacent to the project. Include a discussion of sensitivity for each geologic unit identified on the most recent geologic map at a scale of 1:24,000. Provide rationale as to why the sensitivity was assigned.

(C) A summary of all local museums, literature searches and field surveys used to provide information about paleontologic resources in the project area described in subsection (g)(16)(A). Identify the dates of the surveys, methods used in completing the surveys, and the names and qualifications of the individuals conducting the surveys.

(D) Information on the specific location of known paleontologic resources, survey reports, locality records, and maps at a scale of 1:24,000, showing occurrences of fossil finds, if known, within a one-mile radius of the project and related facilities shall be included in a

separate appendix to the Application and submitted to the Commission under a request for confidentiality, pursuant to Title 20, California Code of Regulations, § 2501 et seq.

(E) A discussion of any educational programs proposed to enhance awareness of potential impacts to paleontological resources by employees, measures proposed for mitigation of impacts to known paleontologic resources, and a set of contingency measures for mitigation of potential impacts to currently unknown paleontologic resources.

(17) Geological Hazards and Resources

(A) A summary of the geology, seismicity, and geologic resources of the project site and related facilities, including linear facilities.

(B) A map at a scale of 1:24,000 and description of all recognized stratigraphic units, geologic structures, and geomorphic features within two (2) miles of the project site and along proposed facilities. Include an analysis of the likelihood of ground rupture, seismic shaking, mass wasting and slope stability, liquefaction, subsidence, tsunami runup, and expansion or collapse of soil structures at the plant site. Describe known geologic hazards along or crossing linear facilities.

(C) A map and description of geologic resources of recreational, commercial, or scientific value which may be affected by the project. Include a discussion of the techniques used to identify and evaluate these resources.

(18) Transmission System Safety and Nuisance

(A) The locations and a description of the existing switchyards and overhead and underground transmission lines that would be affected by the proposed project.

(B) An estimate of the existing electric and magnetic fields from the facilities listed in (A) above and the future electric and magnetic fields that would be created by the proposed project, calculated at the property boundary of the site and at the edge of the rights of way for any transmission line. Also provide an estimate of the radio and television interference that could result from the project.

(C) Specific measures proposed to mitigate identified impacts, including a description of measures proposed to eliminate or reduce radio and television interference, and all measures taken to reduce electric and magnetic field levels.

(h) Engineering

(1) Facility Design

(A) A description of the site conditions and investigations or studies conducted to determine the site conditions used as the basis for developing design criteria. The descriptions shall include, but not be limited to, seismic and other geologic hazards, adverse conditions that could affect the project's foundation, adverse meteorological and climate conditions, and flooding hazards, if applicable.

(B) A discussion of any measures proposed to improve adverse site conditions.

(C) A description of the proposed foundation types, design criteria (include derivation), analytical techniques, assumptions, loading conditions, and loading combinations to be used in the design of facility structures and major mechanical and electrical equipment.

(D) For each of the following facilities and/or systems, provide a description including drawings, dimensions, surface-area requirements, typical operating data, and performance and design criteria for protection from impacts due to adverse site conditions:

(i) The power generation system;

(ii) The heat dissipation system;

(iii) The cooling water supply system, and, where applicable, pre-plant treatment procedures;

(iv) The atmospheric emission control system;

(v) The waste disposal system and on-site disposal sites;

(vi) The noise emission abatement system;

(vii) The geothermal resource conveyance and re-injection lines (if applicable);

(viii) Switchyards/transformer systems; and

(ix) Other significant facilities, structures, or system components proposed by the applicant.

(2) Transmission System Design

(A) A discussion of the need for the additional electric transmission lines, substations, or other equipment, the basis for selecting principal points of junction with the existing electric transmission system, and the capability and voltage levels of the proposed lines, along with the basis for selection of the capacity and voltage levels.

(B) A discussion of the extent to which the proposed electric transmission facilities have been designed, planned, and routed to meet the transmission requirements created by additional generating facilities planned by the applicant or any other entity.

(3) Reliability

(A) A discussion of the sources and availability of the fuel or fuels to be used over the estimated service life of the facilities.

(B) A discussion of the anticipated service life and degree of reliability expected to be achieved by the proposed facilities based on a consideration of:

(i) Expected overall availability factor, and annual and lifetime capacity factors;

(ii) The demonstrated or anticipated feasibility of the technologies, systems, components, and measures proposed to be employed in the facilities, including the power

generation system, the heat dissipation system, the water supply system, the reinjection system, the atmospheric emission control system, resource conveyance lines, and the waste disposal system;

(iii) Geologic and flood hazards, meteorologic conditions and climatic extremes, and cooling water availability;

(iv) Special design features adopted by the applicant or resource supplier to ensure power plant reliability including equipment redundancy; and

(v) For technologies not previously installed and operated in California, the expected power plant maturation period.

(4) Efficiency

(A) Heat and mass balance diagrams for design conditions for each mode of operation.

(B) Annual fuel consumption in BTUs for each mode of operation, including hot restarts and cold starts.

(C) Annual net electrical energy produced in MWh for each mode of operation, including starts and shutdowns.

(D) Number of hours the plant will be operated in each design condition in each year.

(E) If the project will be a cogeneration facility, calculations showing compliance with applicable efficiency and operating standards.

(F) A discussion of alternative generating technologies available for the project, including the projected efficiency of each, and an explanation why the chosen equipment was selected over these alternatives.

(5) Demonstration, if applicable

(A) Justification for the request for demonstration status, based on the criteria contained in the most recently adopted Electricity Report.

(B) A demonstration plan containing the following elements:

(i) A description of the technology to be demonstrated;

(ii) The objectives of the demonstration;

(iii) The plans for acquiring the data necessary to verify the state demonstration objectives;

(iv) The schedule for implementing the demonstration tasks;

(v) The expected date of commencement of commercial operation of the facility, if applicable, and

(vi) A description of contingent actions to be implemented if individual demonstration tasks are technologically unsuccessful.

(i) Compliance with Laws, Ordinances, Regulations and Standards

(1) Tables which identify:

(A) Laws, regulations, ordinances, standards, adopted local, regional, state, and federal land use plans, leases, and permits applicable to the proposed project, and a discussion of the applicability of, and conformance with each. The table or matrix shall explicitly reference pages in the application wherein conformance, with each law or standard during both construction and operation of the facility is discussed; and

(B) Each agency with jurisdiction to issue applicable permits, leases, and approvals or to enforce identified laws, regulations, standards, and adopted local, regional, state, and federal landuse plans, and agencies which would have permit approval or enforcement authority, but for the exclusive authority of the commission to certify sites and related facilities.

(2) The name, title, phone number, address (required), and email address (if known), of an official who was contacted within each agency, and also provide the name of the official who will serve as a contact person for Commission staff.

(3) A schedule indicating when permits outside the authority of the commission will be obtained and the steps the applicant has taken or plans to take to obtain such permits.

Note: Authority cited: Sections 25213, 25216.5(a), 25218(e), Public Resources Code. Reference: Sections 21080.5, 25519(a), 25519(c), 25520, 25522(b), 25523(d)(1), 25540.1, 25540.2, 25540.6, Public Resources Code.

Appendix C

Information Requirements for a Geothermal Notice of Intent

(a) In a section entitled "Project Description," the notice shall contain:

(1) A map indicating the location or tentative location of the geothermal leasehold and the location or tentative location of each proposed power plant site and related facility, along with a description by section, township, range, and county of the leasehold.

(2) The location or tentative location of production and reinjection well sites, resource conveyance lines, access roads, and waste disposal sites in relation to each geothermal power plant.

(3) Photographic and/or other suitable graphic representations of the geothermal leasehold and each proposed geothermal power plant, and the visual appearance and general surroundings of such proposed power plant.

(4) A description of the process by which the tentative site was selected within the geothermal leasehold and the consideration given to site geology and ease of engineering, physical environmental impact, socioeconomic impacts, resource conveyance constraints,

electric transmission constraints, land use constraints, and any other factors considered by the applicant and not listed herein.

(5) A preliminary description of the type, quality, and characteristics of the geothermal resource encountered or expected, including, to the extent known, pressure and temperature, flow rates, concentrations of non-condensable gases, concentrations of dissolved solids, and descriptions and concentrations of any substances potentially harmful to the environment or to the public health and safety.

(6) Where a notice is filed early in the resource development process, and where the pressure, temperature, flow rate, and constituency and concentration of dissolved solids in the geothermal resources are uncertain, an estimate of the probable range of the various resource parameters based upon nearby development, leasehold exploration if it has occurred, or any other information sources available to the applicant and resource developer. In addition, the basis for such estimations shall be clearly identified.

COMMENT: The 18-month certification process is particularly appropriate for the instances described in this subsection.

(7) The maximum estimated generating capacity of each proposed power plant.

(8) A tentative project schedule including permit approvals from the commission and other agencies from which permits must be issued prior to construction or operation, construction lead times, anticipated date of commercial operation, and anticipated operating plant life.

(9) For each of the following facilities and/or systems a general description, which includes dimensions, surface area requirements, and typical operating data, performance and design criteria for protection from impacts due to geotechnical hazards, flood hazards, and meteorological extremes, performance and design criteria for assurance of public health and safety and protection of the environment.

(A) Power generation system;

(B) Heat dissipation system;

(C) Cooling water supply system;

(D) Reinjection system;

(E) Atmospheric emission control system;

(F) Waste disposal systems and disposal sites;

(G) Geothermal resource conveyance lines;

(H) Pre-plant cooling water treatment systems, where applicable;

(I) Switchyards/transformer systems; and

(J) Other significant facilities, structures or system components proposed by the applicant not listed above.

COMMENT: The term "performance criteria," when used in these regulations, refers to performance goals which the applicant proposes to use in designing the proposed facilities. For example, a component of the seismic performance criteria would be designing a turbine generator so as to allow continued operation of the proposed facility at full load after the occurrence of a design basis earthquake at the site. Performance criteria are an alternate statement of acceptable risk and are usually semi-quantitative in nature.

The term "design criteria" refers to the limiting criteria used for detailed design of a structure or component. The design criteria produce a design which will meet or exceed the desired performance criteria. For example, design criteria include design loads and the methods for determining loads.

(10) A list of all project participants and their legal interests in the power plant facilities, the geothermal leasehold, the geothermal resource conveyance lines, the geothermal reinjection system, and the electric transmission facilities.

(b) In a section entitled "Need for Project," the notice shall contain:

(1) A discussion of the conformity of the proposed facilities with the level of statewide and service area electrical demand adopted by the commission pursuant to Section 25309 of the Public Resources Code. The discussion shall specify the reasons why the applicant has concluded that the facilities should be added to the applicant's electrical system, including a discussion of whether the facilities are being proposed to meet projected capacity or energy deficits, to displace existing units scheduled for retirement, or to meet requirements for additional reserves.

COMMENT: In the discussion of need, the applicant may incorporate by reference any other relevant filings or submittals to the commission and must include a summary of the referenced material and a discussion of the relevance of such filings or submittals.

(2) An energy and capacity balance showing the forecast of electricity demand as adopted pursuant to Section 25309(b) of the Public Resources Code and generating resources expected to be available to the applicant when the proposed plant is scheduled to begin operation.

(3) The anticipated generating capacity of each proposed facility or facilities, and:

(A) The expected annual capacity factor from the date of initial operation through the 12-year forecast period; and

(B) The expected average annual capacity factor over the anticipated operating life of the facility.

(4) The applicant may demonstrate need for a geothermal facility by reference to the most recent Biennial Report, and in making such demonstration the applicant may cite any findings and conclusions resulting from any generic proceedings conducted by the commission.

(c) In a section entitled "Financial Impacts," the notice shall contain:

(1) A discussion of the preliminary financial requirements for constructing and operating the proposed facilities, including a table summarizing capital requirements and operating expenses, and their principal components. The discussion shall indicate and explain the basis for any assumed escalation rates and costs of capital, fuel, or other principal components. If more than one site is proposed, significant cost differences between alternative sites should be identified.

(2) A preliminary summary of the cost of the installed generating capacity (expressed in $/kw) and of the cost of energy at the busbar (expressed in H/kwhr). A list of principal cost components, an explanation of the source of derivation of each, and the calculations used to arrive at the summary costs above shall be provided. Any major uncertainties in the cost figures used or assumptions relied upon shall be explicitly identified and their significance shall be discussed.

(3) In situations where electric transmission facilities serve more than one geothermal power plant, the notice shall identify costs associated with such transmission facilities in a manner which recognizes the allocation of such costs over more than one unit.

(4) A general discussion of the estimated impact of the proposed facilities on customer rates during construction and after commencement of operation.

(d) In a section entitled "Applicable Laws, Ordinances, Standards, Permits, and Approvals," the notice shall contain tables which identify:

(1) Laws, regulations, standards, adopted local, regional, state, and federal land use plans, permits, and approvals applicable to the proposed project, and a discussion of the applicability of each.

(2) The agency with jurisdiction to issue applicable permits and approvals or to enforce such identified laws, regulations, standards, and adopted local, regional, state, and federal land use plans, or agencies which would have permit approval or enforcement authority but for the exclusive authority of the commission to certify geothermal sites and related facilities.

(3) The name, title, and address, if known, of an official within each agency who will serve as a contract person for each respective agency.

(4) References to the text of the notice wherein the compatibility of the proposed project with each identified law, regulation, standard, adopted local, regional, state, and federal land use plans, permits and approvals, is discussed.

COMMENT: The information requirements set forth in portion IV of Appendix A applies only to facilities to be constructed by the applicant, and not to the geothermal field. The applicant's discussion in this portion shall give particular consideration to those county hydrologic elements, county solid waste management laws, state water use plans, and water basin plans identified in Appendix A.V.B.

(e) In a section entitled "Environmental Description and Project Effects," the notice shall identify potential physical, biological, social, economic and cultural effects of the proposed project and contain:

(1) With respect to air quality:

(A) Available baseline air quality data including concentrations of pollutants, and a comparison of air quality data with applicable ambient air standards.

(B) Available meteorological data, including wind speed and direction, ambient temperature, relative humidity, stability and mixing height, and available upper air data.

(C) A discussion of the extent to which the data in subsections 1 and 2 above are typical of conditions at the proposed site and the KGRA; also, provide a description of the monitoring program, if any, used to obtain required data, including the location and elevation of monitoring stations, parameters measured, and duration of monitoring.

(D) A worst case air quality impact analysis for each proposed site and related facility and source of air emissions, assuming worst case meteorological conditions and emissions consistent with applicable emission standards, including the cumulative effect of wells and pipelines in normal and shutdown modes of operation, in order to determine the worst case impact on potential sensitive receptors. Such analysis shall include the basis of the worst case and consider topography, meteorology, and contributions from other sources in the KGRA.

(E) A general description of normal and shutdown modes of operation for the proposed facility or facilities that affect the release of pollutant emissions into the atmosphere for existing and proposed sources or groups of sources that would have additive effects, including estimated frequency of occurrence, duration, location, and estimated emission rate for each pollutant of interest.

(F) A general discussion of expected or confirmed chemical constituencies of gaseous and particulate pollutants from the proposed project including wells and resource conveyance lines.

(G) For facilities using an external water supply, an estimate of cooling tower particulate and gaseous emissions associated with each alternative cooling water source considered.

(H) A discussion of applicable rules, including but not limited to standards, new source review, and significant deterioration rules established pursuant to Chapter 1 (commencing with # 39000) of Division 26 of the Health and Safety Code, and the methods proposed to satisfy these rules.

(2) With respect to hydrology, water supply, and water quality:

(A) A description of surface waters which may be a source of cooling water or which may be potentially impacted by the proposed project. Such description shall indicate the proximity of such surface waters to the geothermal field and power plant site, availability of cooling water for the project, competitive uses for the cooling water supply, quality of cooling water supply, and available data on existing quality of surface waters potentially impacted or any programs proposed to identify and monitor water quality.

(B) A description of local and regional groundwater aquifers and related geologic formations, structures, recharge areas, and major groundwater uses.

(C) A description of existing regional and local precipitation and storm runoff data, including maximum probable precipitation and flood potential.

COMMENT: If the applicant proposes to use other than maximum probable precipitation for flood hazard mitigation design criteria, other historical extreme precipitation values used for design criteria shall be provided.

(D) A general discussion of any liquid discharges, permitted or accidental, or disposals of solid waste materials which could impact the quality of surface or groundwater.

(E) A general discussion of potential project impacts on local hydrologic flows and runoff.

(F) A general discussion of the potential for flood hazard to the proposed facilities.

(G) A general discussion of potential mitigation measures to protect surface and groundwaters from project impacts, including the identification of any spill clean-up contingency plans proposed or under consideration at the time of filing of the notice.

(H) A discussion of potential project impacts on the temperature, mineral content, rate of flow, and other aspects of nearby utilized thermal springs.

(3) With respect to geology and seismicity:

(A) A general description based on existing data, including maps, of the tectonic history, fault activity, and historical seismicity within 50 km of the site, including all known or inferred potentially active and active faults, an estimate of the magnitude of MCE and MPE derived for each active fault, and the epicenter and date of any earthquake with a magnitude equal to or in excess of M4 or which could be reasonably inferred to have caused ground acceleration of greater than 0.1 G at the site.

(B) The MCE and MPE peak bedrock or ground accelerations derived for the proposed site.

(C) A brief discussion of the known stratigraphic units and significant geologic structures within 10 km of the site with emphasis on those potentially associate with geotechnical problems.

(D) A map and detailed description, based on existing data, of all recognized stratigraphic units, geologic structures, and geomorphic features or processes within the leasehold boundaries or two km of the site, whichever is greater, with emphasis on those associated with geotechnical problems in the site area. The discussion should include the following anticipated site conditions: ground rupture from faulting, mass wasting and slope stability, liquefaction or settlement, subsidence and associated ground rupture, expansion or collapse of soil structures, cavities, and other adverse site or foundation conditions.

(E) A description, with maps, of commercially developed mines, gem, mineral, and fossil collecting localities, fumaroles, geysers, hot springs, or other geologic resources of unique recreational or scientific value which may be affected by the proposed project.

(F) A detailed description, including maps showing location, of potential impacts to the geological environment resulting from construction, operation, or failure of the proposed facilities including inducement or acceleration of mass wasting, subsidence seismicity, and fault rupture.

COMMENT: The geological environment includes, but is not limited to, developed mines, gem, mineral and fossil collecting localities, fumeroles, geysers, and thermal springs.

(G) A general description of typical mitigation measures, if any, under consideration to eliminate or reduce identified geologic hazards and impacts to the geologic environment.

COMMENT: The 2, 10 and 50 km distances in items 4, 3, and 1 respectively, are intended as guidelines, and may decrease, if reasons are given, or increase, as geologic conditions warrant.

COMMENT: Also, for purposes of the proceedings on the notice, the MCE, MPE and associated accelerations requested in items 1 through 7 above are intended to establish a common data base with respect to seismic setting and are not meant to imply proposed levels of seismic design.

Furthermore, where an applicant pursues a certification process pursuant to Section 1803(a) and files a notice early in the resource development process information related to the geologic environment may be based on existing information without performing original research and investigation.

Finally, the geotechnical information requested above is consistent with the policy adopted by the State Board of Registration for Geologists and Geophysicists on July 17, 1978.

(4) With respect to agriculture and soils:

(A) A map of soils at the site and within geothermal, the leasehold based on available soils information, and a description of mapped soils including soil erodability, soil taxonomy, and physical and chemical characteristics. The description of soils shall be sufficient to allow an evaluation of soil erodability, infiltration rate, permeability, and of the potential for leaching of pollutant deposition and cycling of pollutants in the soil-vegetation system.

(B) An assessment of the general effects of construction and operation of each proposed geothermal power plant facility on soils including, but not limited to, accelerated soil loss, soil dispersal and deposition patterns and quantities, the effects of power plant emissions on surrounding soil-vegetation systems, and the methods used to determine such effects.

(C) A discussion of the effects of construction and operation of each proposed geothermal power plant facility on agricultural resources, including the effects of cooling tower drift on crops and the removal of prime agricultural land from production. The discussion of these effects should be based on land capability classifications and storied ratings for all soil series of the proposed site.

(D) A discussion of mitigation measures under consideration to minimize effects on agricultural resources and soil-vegetation systems and to prevent off-site sediment transport.

(5) With respect to biological resources:

(A) A description of vegetational communities, general wildlife and aquatic resources, and dominant species within the area potentially impacted by the proposed project.

(B) An identification on a map and a description of the known probable distribution of fully protected, rare, threatened or endangered plant and animal species, and commercially or recreationally valued species and habitats that may be adversely affected by the project.

(C) An identification of biological species of special concern and areas of critical biological concern.

COMMENT: In the notice, an attempt shall be made to identify species of special concern and areas of critical concern that may be, or are known by the applicant to be, of special interest to: (1) local, state, and federal agencies responsible for biological resources within the area potentially biologically impacted by the project; and/or (2) educational institutions, museums, biological societies and members of the public that might have specific knowledge of the biological resources within the area.

(D) A description of the potential effects of the proposed project on legally protected and commercially and recreationally valued biological resources, species of special concern, and areas of critical biological concern.

(E) A discussion of measures proposed or under consideration to mitigate impacts to identified biological resources.

(F) A general discussion of the effects of the proposed project upon timber and forest land.

(6) With respect to noise:

(A) A land use map which identifies noise sensitive receptors or groups of receptors in the vicinity of the proposed site and related facility, and geothermal leasehold, which includes future land uses identifiable from adopted land use plans and filed development plans at the time of filing the notice.

(B) A discussion of either the results of daytime and nighttime ambient noise surveys at the site and at sensitive receptors, including the general weather conditions during the surveys, or any plans to conduct such surveys.

COMMENT: If noise concerns are likely to be a significant consideration for site acceptability due to the proximity of the proposed facilities to sensitive noise receptors, the applicant should conduct ambient noise surveys for inclusion in the notice; without such information, no conclusive findings shall be made during the proceedings on the notice regarding the acceptability of project noise impacts.

(C) A description of major plant noise sources and the estimated range of noise emission levels and characteristics.

(D) An estimation of the plant construction and operational noise levels at sensitive receptors potentially impacted by project noise.

(E) A discussion of applicable noise standards and ordinances and the general conformance of the proposed project therewith.

(7) With respect to cultural resources:

(A) A description of all cultural resource properties (archaeological, historical, paleontological, and areas of unique religious or scientific value) within the area potentially impacted by the project identifiable from a literature and reconnaissance survey.

(B) A discussion of those cultural resources listed in, declared eligible for, or nominated to the National Register of Historic Places; those resources that are listed as state or local landmarks or points of historic interest; and those resources that are otherwise protected by existing law.

(C) A description of the methodology and techniques used to identify and evaluate site area cultural resources and any plans for future studies.

(D) A description of potential impacts on identified cultural resources from construction and operation of each proposed geothermal power plant, and the measures under consideration for mitigation of such impacts.

(8) With respect to social and economic effects:

(A) A general description, with an accompanying map, of the existing and proposed future land uses of the proposed power plant site and geothermal leasehold as designated by applicable land use plans or guidelines of local, regional, state, and federal agencies; of the present and proposed land use classifications for the site, leasehold and adjoining areas which are potentially impacted by the project; and the location of municipal, county, regional, state and federal parks, recreational areas, scenic areas, wildlife sanctuaries, religious sanctuaries, or natural areas in the vicinity of the site and leasehold.

(B) A general description of the social and economic setting of the area subject to impact from the proposed project.

(C) An estimation of labor required during construction and operation of the proposed geothermal power plant and the geothermal field.

(D) An estimation of the level of temporary and permanent project-related immigration to the local area.

(E) An estimation of the impact of construction activities and project operation on the local economy and on the availability of public services and facilities fixtures.

(f) In a section entitled "Public Health Impacts," the notice shall contain the following information on the potential public health effects from the construction and operation of the proposed power plant and geothermal field:

(1) An identification, to the extent known, of solid gaseous, and water-borne emissions, such 2S, SO2, NH3, and B, total suspended and respirable particulates, trace metals, and radioactive materials, which may cause adverse health effects in the surrounding population.

(2) An estimation of the ambient concentrations for the pollutants identified in subsection A of this section, and the worst case incremental increase expected as a result of project emissions.

(3) A general discussion of concentrations, to the extent known, required for the creation of potentially significant adverse health effects from identified pollutants as disclosed in available literature. The discussion shall include variables due to differing age groups within the general population and portions of the general population which may be particularly affected by any identified emissions. The discussion shall also include the age distribution and size of the population which may be potentially affected by these emissions.

(4) A discussion of all existing federal, state, and local health standards for identified project emissions.

(g) In a section entitled "Power Plant Reliability" the notice shall contain the following information on site dependent reliability-related factors:

(1) A general discussion of the impact on plant reliability from potential hazards to each proposed facility caused by, but not limited to, ground rupture by faulting, mass wasting, and slope stability, liquefaction or settlement, subsidence and associated ground rupture, expansion or collapse of soil structures, cavities or other adverse foundation conditions, flooding, meteorological and climatic extremes, and cooling water supply reliability.

(2) A general discussion of performance and design criteria for protecting the facilities from potential hazards.

(3) A general description of the basis for formulation or selection of performance and design criteria discussed in subsection B of this section.

(h) In a section entitled "Electric Transmission Facilities," the notice shall contain the following information:

(1) A description of any electric transmission facilities, lines, stations, or other equipment, whether or not within the exclusive permit authority of the commission, which will be required to carry electrical power from each proposed geothermal power plant at each of the sites presented in the notice to the principal load centers to be served by the new power plant. Such description shall include the width of rights-of-way and the physical and electrical characteristics of towers, conductors, and insulators. For electric transmission facilities outside the exclusive permit authority of the commission, response to this subsection may be limited to information, such as capacity and voltage levels and right-of-way widths, which will allow the commission staff to perform an electric transmission system planning analysis and to assess the cumulative environmental impacts.

(2) A discussion of the need for the additional electric transmission lines, stations, or other equipment referred to in the notice, the basis for selecting principal points of junction with the existing electric transmission system, and the capacity and voltage levels of the proposed lines along with the basis for selection of the capacity and voltage levels.

(3) A discussion of the extent to which the proposed electric transmission facilities have been designed, planned, and/or routed to meet the transmission requirements created by

additional generating facilities planned by the applicant or any other entity in the same general area.

COMMENT: A precise definition for "general area" as used here cannot be provided. In some instances the KGRA in which the proposed geothermal power plant is to be located would comprise the "general area." In all cases the applicant should acknowledge whether or not power plants proposed in an area which could be served by common transmission to the main transmission grid where considered in determining the capacity and general route of the proposed electric transmission facilities.

(4) An identification of the owners and operators of the proposed electric transmission facilities and their legal interest in the proposed route or corridor.

(5) A discussion of alternative methods of transmitting power from each proposed geothermal power plant that were considered by the applicant, and the basis for selection of such methods.

(6) A map or maps showing the potential corridor or corridors proposed or alternative points of interconnection, and existing and proposed land uses at and adjoining the corridor(s) as designated by local, regional, state, and federal agencies.

(7) A description of the corridor or route selection process.

(8) A discussion of the physical, biological, social and cultural, environmental, and engineering advantages and disadvantages of the alternatives considered.

(9) A preliminary estimate of the costs of lines, stations, and other equipment that would be required.

(10) If the applicant does not or will not have an ownership interest in those electric transmission lines proposed to transmit power from the power plant to a point of junction with an interconnected system, a discussion of contracts executed or arrangements contemplated for the transmission of electric power from the proposed geothermal power plant.

COMMENT: Where tap lines are proposed, the discussion may be route-specific due to their limited length.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25001, 25006, 25110, 25502, 25504, 25506 and 25506.5, Public Resources Code.

Appendix D

Information Requirements for a 9-Month Geothermal Application for Certification

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25216.5, 25519 and 25520, Public Resources Code.

Appendix E

Information Requirements for a 12-month Geothermal Application

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21000, 21100, 25006, 25216.5, 25519 and 25520, Public Resources Code.

Appendix F

Informational Requirements for a Small Powerplant Exemption

The application shall include the following information:

(a) The location of the power plant on a location map and described by section or sections, range, township, and county.

(b) Photographic representations adequately depicting proposed transmission corridors or routes and the visual appearance of the power plant site and its immediate surroundings.

(c) The type(s) of fuel to be used.

(d) The methods of construction and operation of the power plant.

(e) A discussion of the environmental and energy resources impacts which may result from the construction or operation of the power plant.

(f) A discussion of proposed alternatives to the power plant, including the alternative of no power plant, and any mitigation measures proposed to reduce environmental impact.

(g) The need for the power plant.

(h) The compatibility of the power plant with the most recent biennial report issued pursuant to Section 25309 of the Public Resources Code.

(i) A list, including the names and addresses of persons to contact, of federal, state, regional, or local agencies whose standards, ordinances, or laws including long range land use plans or guidelines adopted by the state or any local or regional planning agency are applicable to the proposed project. The list shall include a brief description of the applicability of such standards, ordinances, laws, plans, or guidelines for each agency.

(j) A discussion of that portion of the gross energy output which will be used for the site and related facility.

(k) Any other information that the applicant desires to submit.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

Article 7. Additional Provisions for Considering Expedited Applications Under Public Resources Code Section 25550

§ 2021. Purpose of Expedited Proceeding; Applicability of Regulations

(a) The purpose of a six-month application proceeding is to review and certify environmentally acceptable sites and related facilities as expeditiously as possible so as to ensure a reliable supply of electrical energy in a manner consistent with public health and safety, promotion of the general welfare, and protection of the environment. Toward that end, the commission shall give priority in review to applications that qualify for an expedited decision under this Article and demonstrate superiority with respect to environmental protection or efficiency in performance.

(b) The provisions of this Article apply to all applications filed pursuant to Public Resources Code section 25550 and 25550.5, notwithstanding any other provision to the contrary in Chapters 1, 2, and 5. This Article changes the otherwise applicable deadline for a final decision on an application for certification and adjusts other procedural deadlines as appropriate. This Article does not modify any substantive or other procedural requirements applicable to an application proceeding.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25500, 25550 and 25550.5, Public Resources Code.

§ 2022. Information Requirements

(a) Any applicant requesting that the commission reach a decision on an application for certification within six months after acceptance of the application shall meet the requirements of this section.

(b) To be eligible for a decision within six months after acceptance of an application, the application shall contain all of the information that is relevant to the project and required in Appendix B to this Chapter. If an information requirement in Appendix B is not relevant to a proposed project because of its design, location, or other particular circumstance, the application need not provide the information and, instead, shall provide an explanation with specific facts as to why the requirement is not relevant to the project as proposed. Applicants are encouraged to request a prefiling review pursuant to section 1709.5 to determine the extent to which documentation relevant to a proposed application is sufficient to meet the information requirements in Appendix B and to determine which information requirements, if not all, are relevant to the proposed application. The application shall also contain all of the following:

(1) Substantial evidence that the project as proposed in the application will comply with all standards, ordinances, and laws applicable at the time of certification, including:

(A) a list of all such standards, ordinances, and laws;

(B) information demonstrating that the project as proposed in the application will comply with all such standards, ordinances, and laws;

(C) where a standard, ordinance, or law is expected to change between the time of filing an application and certification, information from the responsible jurisdiction documenting the impending change, the schedule for enactment of the change, and whether the proposed project will comply with the changed standard, ordinance, or law; and

(D) a list of the requirements for permitting by each federal, state, regional, and local agency that has jurisdiction over the proposed project or that would have jurisdiction, but for the exclusive jurisdiction of the commission, and the information necessary to meet those requirements;

(2) substantial evidence that the project as proposed in the application will not cause a significant adverse impact on the environment, including all the following:

(A) a detailed modeling analysis assessing whether the cumulative impacts of all inert criteria pollutants (NOx, SO2, CO, and PM10) from the project's typical operating mode in combination with all stationary emissions sources within a six-mile radius of the proposed site that have received construction permits, but are not yet operational, and all stationary emissions sources that are currently undergoing air district permit application review will cause or contribute to a violation of any ambient air quality standard;

(B) a description of the project's planned initial commissioning phase, which is the phase between the first firing of emissions sources and the consistent production of electricity for sale to the market, including the types and durations of equipment tests, criteria pollutant emissions, and monitoring techniques to be used during such tests, and air dispersion modeling analyses of the impacts of those emissions on state and federal ambient air quality standards for NO2, SO2, CO, and PM10;

(C) a detailed description of the mitigation, which an applicant shall propose, for all project impacts from criteria pollutants that currently exceed state or federal ambient air quality standards, but are not subject to offset requirements under the district's new source review rule;

(D) a modeling analysis that identifies the extent of potential public exposure to toxic substances, as identified in subsection (g)(9)(A) of Appendix B, resulting from normal facility operation;

(E) if the project will result in a discharge of waste that could affect the water quality of the state, a complete report of proposed waste discharge as required by section 13260 of the Water Code. This will allow for issuance of waste discharge requirements by the appropriate regional water quality control board within 100 days after filing of the application in accordance with Public Resources Code section 25550(d).

(F) a demonstration, based on appropriate data including, but not limited to, scientific surveys taken at the appropriate time of year, that the project will have no significant impact on wetlands, plant or animal species that are endangered, threatened, or of concern under state or federal law, or the areas listed in Public Resources Code section 25527;

(G) with respect to the handling of hazardous materials, a demonstration that:

(i) the project will not use or store any regulated substance defined in Section 25532(g) of the California Health and Safety Code; or

(ii) the project is eligible for Program 1 status pursuant to Section 68.10 of Part 68 of Title 40 of the Code of Federal Regulations or can demonstrate that no worst case accidental release would result in a plausibility (risk greater than 1 in 1,000,000) of an impact at the nearest public receptor above the maximum airborne concentration below which it is believed nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms that could impair an individual's ability to take protective action. The Emergency Response Planning Guidelines, Level 2 (ERPG 2) reflect this maximum airborne concentration standard.

(H) if the project will store or use a regulated substance defined in Section 25532(g) of the Health and Safety Code, a demonstration either that the boundary of the powerplant site will not be within 1000 feet of any residential area, school, general acute care hospital, long-term health care facility, or child day care facility as such terms are defined in section 25534.1 of the Health and Safety Code or that the project will pose no plausible potential for exposure at such facilities from an accidental release of the regulated substance; and

(I) a demonstration that the proposed facility will not require storage of gaseous flammable or explosive materials in quantities greater than 25000 standard cubic feet;

(3) substantial evidence that the project will not cause a significant adverse impact on the electrical system, including all of the following:

(A) an Interconnection Study identifying the electrical system impacts and a discussion of the mitigation measures considered and those proposed to maintain conformance with NERC, WSCC, Cal-ISO or other applicable reliability or planning criteria based on load flow, post transient, transient, and fault current studies performed by or for the transmission owner in accordance with all applicable Cal-ISO or other interconnection authority's tariffs, operating agreements, and scheduling protocols and

(B) a full description of the facilities, if any, that are required for interconnection, including all such facilities beyond the point where the outlet line joins with the interconnected system and a full description of the environmental setting, environmental impacts, and any recommended mitigation measures proposed by the applicant for any required facilities beyond the point where the outlet line joins with the interconnected system;

(4) a discussion of the potential for disproportionate impacts from the project on minority or low-income people; such discussion shall include, but not be limited to, all of the following:

(A) demographic information by census tract, based on the most recent census data available, showing the number and percentage of minority populations and people living below the poverty level within six miles of the proposed site;

(B) one or more maps at a scale of 1:24,000 showing the distribution of minority populations and low-income populations and significant pollution sources within six miles of the proposed site, such as those permitted by the U.S. Environmental Protection Agency (Toxic

Release Inventory sites), the local air quality management district, or the California Department of Toxic Substances Control; and

(C) identification of available health studies concerning the potentially affected population(s) within a six-mile radius of the proposed power plant site;

(5) the following information to demonstrate that the project, if certified, is likely to be constructed and operated;

(A) information demonstrating the applicant's control, by ownership, lease, option, or other legally binding agreement that the Commission finds acceptable, of the proposed site and

(B) a will-serve letter or similar document from each provider of water to the project, indicating each provider's willingness to provide water to the project and describing all conditions under which the water will be provided, and a discussion of all other contractual agreements with the applicant pertaining to the provision of water to the project.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(a), 25520 and 25550(b), Public Resources Code.

§ 2023. Data Adequacy Review and Acceptance

(a) Upon the receipt of an application filed pursuant to this Article, the executive director or a delegatee shall review all documentation to determine whether the application contains all the information required by section 2022 and is, therefore, complete. Except as provided by this section the review of the application for completeness shall be in accordance with section 1709.

(b) No later than 45 days after receipt of an application, the commission shall act upon the executive director's recommendation as to whether the application contains the information required by section 2022 and is, therefore, complete. If the commission determines that the application is complete, the application shall be accepted as of that date and the proceeding for reaching a final decision within six months shall begin. Based on meeting the information requirements of section 2022, the application shall be considered to be an initial showing 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, and laws.

(c) If the commission determines that the application contains all of the information required by Appendix B to this Chapter, but not all of the additional information required by section 2022, the application shall be deemed accepted for purposes of reaching a final decision within 12 months. The applicant, however, may request an immediate suspension at the time of acceptance for a 12-month decision to allow for the submittal of additional information to meet the requirements of section 2022(b)(1) through (5). If the applicant makes such a request, the commission shall specify in writing what information is needed to complete the application for a six-month decision.

(d) If the commission determines that the application is incomplete with respect to Appendix B to this Chapter, the application shall not be accepted. The commission shall indicate in writing those parts of the application that fail to meet the information requirements and the manner in which they can be made complete.

(e) The applicant may file additional information and the commission, in accordance with section 1709, shall determine, within 30 days of receipt of the data, whether the information is sufficient to complete the application. The application shall be eligible for a final decision within six months from the day the commission determines that the application is complete pursuant to section 2022.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25522(b) and 25550, Public Resources Code.

§ 2024. Intervention.

Any person may file a petition to intervene within 100 days after the acceptance of an application. The petition shall be served upon all parties.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25214 and 25550, Public Resources Code.

§ 2025. Discovery.

Within 90 days after acceptance of the application, any party may file a data request of the applicant or of any other party. Absent an objection pursuant to section 1716(f), the applicant or other party shall provide the information requested within 20 days of the date that the request is made or by another date agreed to by the requesting and responding parties or ordered by the committee.

Note: Authority cited: Section 25213 and 25218(e), Public Resources Code. Reference: Sections 25210, 25519(b) and 25550, Public Resources Code; and Section 11181, Government Code.

§ 2026. Agency Comments.

(a) Within 60 days after the acceptance of an application under this Article, the California Independent System Operator or other interconnecting authority and all local, regional, and state agencies that have jurisdiction over the project or would have jurisdiction, but for the exclusive jurisdiction of the commission, shall file and serve on all parties their preliminary approval, comments, determinations, and opinions.

(b) Within 100 days after the acceptance of an application, all local, regional, and state agencies that have jurisdiction over the project or would have jurisdiction, but for the exclusive jurisdiction of the commission, shall file and serve on all parties their final comments, determinations, and opinions.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25519(f), 25519(j), 25523(d) and 25550, Public Resources Code.

§ 2027. Staff Reports.

(a) Within 75 days after acceptance of an application that is eligible for a six-month decision, the staff shall file an initial report of the environmental impacts and other aspects of the proposed project in accordance with sections 1742.5, 1743, and 1744. Based on information known and available to the staff, the staff's initial report shall:

(1) discuss whether the project complies with all applicable standards, ordinances, and laws,

(2) identify and assess the impacts that may result from the project on the environment,

(3) identify and assess the impacts that may result from the project on the electrical system,

(4) assess the sufficiency of the mitigation as proposed by the applicant,

(5) recommend mitigation where the staff believes it is needed in addition to or as an alternative to that proposed by the applicant,

(6) discuss the feasibility of available site and/or facility alternatives that substantially lessen the significant adverse impacts of the project on the environment, and

(7) identify the areas in need of further analysis that will be the focus of the final staff report on the project.

(b) Within 120 days after the acceptance of an application, the staff shall file a final report on the proposed project in accordance with sections 1742.5, 1743, and 1744. The staff's final report may focus on those areas identified for further analysis in the staff's initial report and may incorporate by reference or otherwise rely on the initial report for all other areas. The report shall serve as the staff's final assessment of the project and be presented as testimony at the hearings under section 2029.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 21081, 25217(b), 25519(c), 25523(a), 25523(d) and 25550, Public Resources Code.

§ 2028. Removal of the Project from the Six-Month Process.

(a) At any time after acceptance of the application, but no later than the final date for filing testimony, any party may petition the committee to remove the project from the provisions of this Article and thereby change the deadline for a commission decision from six months after acceptance to twelve months after acceptance. The petition shall show that there is substantial evidence in the record that the project:

(1) may result in a significant adverse unmitigated impact on the environment;

(2) may result in a significant adverse unmitigated impact on the electrical system;

(3) will not comply with an applicable standard, ordinance, or law; or

(4) has changed substantially from what was proposed in the application and requires substantial new analysis or generates substantial public controversy.

The petition and other pleadings shall be served on all parties in accordance with sections 1209 and 1210.

(b) Any person, or if the petition is filed more than 100 days after acceptance of the application, any party, may comment on the petition in writing within 10 days after the petition is served.

(c) Within 20 days after filing of the petition, the committee shall determine whether there is substantial evidence in the record that the project:

(1) may result in a significant adverse unmitigated impact on the environment;

(2) may result in a significant adverse unmitigated impact on the electrical system;

(3) will not comply with an applicable standard, ordinance, or law; or

(4) has changed substantially from what was proposed in the application and requires substantial new analysis or generates substantial public controversy.

(d) If the committee's determination with respect to subsection (1), (2), or (3) is in the affirmative, the committee shall grant the petition and order that the application shall no longer be reviewed under this Article and that a final decision on the application shall be reached within 12 months of acceptance of the application in accordance with Public Resources Code section 25540.6.

(e) If the committee's determination with respect to subsection (4) is in the affirmative, the committee may, but need not, grant the petition.

(f) The committee's grant or denial shall be effective 5 days after it is filed in the Docket and served on all parties, unless it is appealed under subsection (g), in which case the ruling is stayed until the Commission rules on it.

(g) Any party may appeal the committee's ruling within 5 days after it is filed in the Docket and served on all parties. The commission shall rule on an appeal at the next earliest business meeting for which there is sufficient time for public notice of the appeal as an item on the agenda. In ruling on the appeal the commission shall use the criteria in subsection (c).

(h) The time between a committee ruling on a petition and final commission disposition of the matter shall not be counted in the calculation of any deadlines pursuant to this Article.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25550(c), Public Resources Code.

§ 2029. Hearings.

(a) Within 135 days after acceptance of the application, the committee shall commence evidentiary hearings.

(b) Any party may submit testimony in accordance with a schedule determined by the committee.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(a), 25521 and 25550, Public Resources Code.

§ 2030. Presiding Member's Proposed Decision; Commission Decision.

(a) Within 20 days after the end of the hearings held under section 2029, the presiding member of the committee shall, in consultation with the other committee member, file in the Docket and serve on all parties a proposed decision in accordance with sections 1749, 1751, 1752(b) through (k) and (m), 1752.3(a) and (b), and 1752.5.

(b) Within 15 days after filing and service of the presiding member's proposed decision, any person may file and serve written comments.

(c) At least 30 days after filing and service of the presiding member's proposed decision, the commission shall hold a hearing and do one of the following:

(1) grant a certificate to the project,

(2) deny the application for certification, or

(3) determine, using the criteria in Section 2028(c), that a final decision on the application shall be made within twelve months of its acceptance.

(d) The Commission shall not grant a certificate unless it finds that:

(1) the project will not cause a significant adverse unmitigated impact on the environment,

(2) the project will not cause a significant adverse unmitigated impact on the electric system,

(3) the project will comply with all applicable standards, ordinances, and laws,

(4) 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 project, and

(5) the project 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.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 21081, 25216.5(a), 25519(c), 25523 and 25550, Public Resources Code.

§ 2031. Construction Deadline.

(a) The deadline for the commencement of substantial construction of the project shall be 12 months after the effective date of the decision on an application accepted and processed pursuant to this Article.

(b) Substantial construction shall be defined as the following:

(1) completion of at least thirty percent of the engineering design of the entire project and

(2) completion of at least five percent of the physical construction of the entire project, absent circumstances beyond the control of the applicant.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Sections 25216.5(a), 25523(a), 25550 and 25550(f), Public Resources Code.

Chapter 5.5. Public Interest Energy Research (PIER) Program

Article 1. Sole and Single Source Contracts

§ 2100. Award of Sole Source Contracts.

The following subdivisions apply to contracts in the Public Interest Energy Research (PIER) Program awarded on a sole source basis, as defined by Public Resources Code section 25620.5(f), without competitive bidding or competitive negotiations. Sole source contracts are awarded at the sole discretion of the California Energy Commission (Commission).

(a) The cost of the proposed contract shall be reasonable; and

(b) The Commission shall make a determination, in consultation with the Department of General Services, that at least one of the following requirements is met:

(1) The proposed contract is unsolicited and meets the evaluation criteria of Public Resources Code Section 25620 et. seq.; or

(2) The expertise, service or product is unique; or

(3) The urgency of the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance; or

(4) The proposed contract funds the next phase of a multiphased project and the existing agreement is being satisfactorily performed; or

(5) The proposed contract is in the best interests of the state.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2101. Award of Single Source Contracts.

The following subdivisions apply to contracts in the PIER Program awarded on a single source basis, as defined by Public Resources Code section 25620.5(e), without competitive bidding or competitive negotiations. Single source contracts are awarded at the sole discretion of the Commission.

(a) The Commission shall make a determination that all of the following requirements are met:

(1) Two or more business entities are capable of supplying or providing the goods or services that meet a specified need of the Commission; and

(2) The Commission has thoroughly evaluated at least two possible contractors for the work described in the proposed contract; and

(3) The cost of the proposed contract is reasonable; and

(4) The proposed contract is in the best interests of the state.

(b) The Commission shall make a determination that at least one of the following requirements is met:

(1) The proposed contract offers or includes a collaborative industry or public/private effort; or

(2) The proposed contract offers or includes leveraged funding; or

(3) The proposed contract is urgent and the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance; or

(4) The proposed contract is with an entity that is prohibited by law from participating in a competitive solicitation.

(c) The Commission shall document findings regarding the following:

(1) Rationale for choosing the proposed contractor versus other possible contractors; and

(2) Rationale for why the Commission did not use competitive bidding procedures; and

(3) Impact of the contract with the proposed contractor versus other possible contractors.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2102. Factors for Consideration.

In determining whether to award a contract on a sole or single source basis, the Commission shall consider evaluation factors that include but are not limited to:

(a) Does the proposal advance energy science or technology and provide benefits to California citizens?

(b) Is the proposal technology not adequately addressed by competitive and regulated markets?

(c) Does the proposed contract address at least one issue or goal specified in the most recent PIER Program area plan, appropriate subject area plan or Strategic Plan?

(d) Is the technological approach, analysis or process used substantially the same as another contract already funded under the PIER Program?

(e) Is the proposed contract substantially the same as a proposal previously submitted to the Commission and rejected on the basis of technical issues or administrative requirements?

(f) Was the proposed contract received within the timeframe directly before the anticipated publication date for a future PIER solicitation for which the proposed contract is eligible?

(g) Was the proposed contract received within the timeframe directly after the release date of a past PIER solicitation for which the proposed contract was eligible?

(h) What is the cost of the proposed project?

(i) What is the level of public and private benefits compared to proposal costs to be funded by the PIER program and by match funds?

(j) What is the overall technical quality and merit of the proposal?

(k) What are the qualification of the project team?

(l) What is the likelihood of and timeframe for success of the proposal?

(m) What are the technical, market and financial risks of the proposal?

(n) Is the proposal consistent with the energy policies of the State of California?

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2103. Procedures and Format.

The Commission shall adopt procedures that will set forth the specific process that the Commission shall follow in awarding contracts on a sole or single source basis. The procedures shall also set forth format requirements for proposals that request contract award on a sole or single source basis. The Commission may reject proposals that do not follow these format requirements.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2104. Public Agency Exemption.

The requirements in this article do not apply to the following:

(a) The Regents of the University of California;

(b) Trustees of the California State University;

(c) Any public entity as defined by Public Contract Code section 1100;

(d) Any unit of the federal government.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

Article 2. Competitive Negotiations

§ 2110. Definitions.

For purposes of this article, the following definitions shall apply:

(a) "Bidder" shall mean any person or entity attending a Pre-Bid Conference or participating in any part of the Competitive Negotiations Solicitation (CNS) process;

(b) "Commission" shall mean the California Energy Commission and/or its staff;

(c) "Competitive Negotiations Solicitations" or "CNS" shall mean the competitive negotiations bid process described in this article;

(d) "Confidential Meeting" shall mean the private meeting between Bidder and the Commission regarding a Discussion Proposal;

(e) "Discussion Memorandum" shall mean the written document prepared by the Commission memorializing the discussion during a Confidential Meeting;

(f) "Discussion Proposal" shall mean a proposal submitted according to the requirements set forth in section 2116;

(g) "Final Proposal" shall mean a proposal submitted according to the requirements set forth in section 2117;

(h) "PIER" shall mean the Public Interest Energy Research, Development and Demonstration Program, established pursuant to AB 1890 (chap. 854, stats. 1996) and SB 90 (chap. 905. stats. 1997);

(i) "Pre-Bid Conference" shall mean the question/answer forum conducted by the Commission after release of the CNS open to all potential Bidders for the purpose of asking questions about the CNS;

(j) "Proposal" includes a Discussion Proposal or Final Proposal.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2111. Intent and Overview of Competitive Negotiations Solicitation.

(a) The Commission may use the CNS process in any of the situations described in Public Resources Code section 25620.5(c);

(b) The intent of the CNS process is to provide an alternative competitive bidding process for research and development solicitations for PIER projects. The CNS differs from a traditional Request for Proposal in that the CNS provides a mechanism for the Commission to have discussions with Bidders on the content of each Discussion Proposal in an effort to create a fully responsive Final Proposal. The Commission has the discretion to decide the appropriate screening, evaluation and selection criteria for each CNS;

(c) In the CNS process, the Commission may include in the CNS an option or requirement for Bidders to submit one or more Discussion Proposals before the Final Proposal, as needed for the specific technical requirements of the solicitation. For each Discussion Proposal the following process will be employed:

(1) The Commission evaluates the Discussion Proposal, without assigning a numerical score;

(2) The Commission prepares a discussion agenda, which details the areas in the Discussion Proposal that are not responsive to the requirements in the CNS and where it can be improved;

(3) The Bidder and Commission have a Confidential Meeting, giving the parties an opportunity to negotiate the Discussion Proposal(s);

(4) The Commission prepares and sends to Bidder a Discussion Memorandum memorializing the discussion during the Confidential Meeting;

(d) The process outlined in subdivision (c) will be repeated for each Discussion Proposal in the CNS.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2112. Pre-Bid Conference.

(a) The Commission may hold a Pre-Bid Conference. If the Commission holds a Pre-Bid Conference, the Commission shall specify in the CNS whether attendance at the Pre-Bid Conference is optional or mandatory for potential Bidders. If attendance at the Pre-Bid Conference is mandatory, potential Bidders must attend in order to be able to participate in the CNS process.

(b) The Commission shall accept questions submitted before and during the Pre-Bid Conference. The Commission may disseminate answers to recipients of the CNS and any party who attended the Pre-Bid Conference.

(c) Any oral communication from the Commission concerning the CNS is not binding on the Commission.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2113. Possible Modification/Addenda to CNS.

(a) The Commission has the right to modify the CNS at any time before Final Proposals are due, by issuing an addendum to the CNS;

(b) If changes are necessary to the CNS the Commission shall modify the CNS by issuing an addendum to the CNS.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2114. Notice of Intention to Bid.

(a) In order to screen Bidders for eligibility, the Commission may include in the CNS a requirement to submit a Notice of Intention to Bid. If the Notice of Intention to Bid is used, Bidders shall submit the Notice of Intention to Bid in order to be able to submit any Proposal responsive to the CNS. Future written communication from the Commission shall be delivered only to those Bidders who submit a Notice of Intention to Bid.

(b) Bidders may withdraw or modify a Notice of Intention to Bid at any time before the due date for the Notice of Intention to Bid.

(c) The Notice of Intention to Bid shall include, at a minimum, the following:

(1) Identify how the project will meet the requirements of the CNS;

(2) Identify Bidder team that will participate in Confidential Meetings;

(3) Confidentiality statement, the form of which shall be provided in the CNS, regarding use of confidential information during the CNS process.

(d) The CNS shall state any other requirements of the Notice of Intention to Bid. These requirements may include, without limitation, the following:

(1) Bidder's general qualifications;

(2) Bidder's technical qualifications;

(3) Financial measures such as net present value of proposed project;

(4) Capabilities of Bidder team as related to scope of work detailed in the CNS;

(5) Proof of financial ability to perform an awarded contract, including without limitation, financial statements, credit rating, liquidity ratios, equity ratio, equity rating and previous bankruptcy of Bidder, if any. If Bidder wants financial information to be kept confidential, Bidder must make a request for confidentiality pursuant to Title 20, California Code of Regulations, section 2501 et. seq. (See section 2125 regarding confidentiality requests.);

(6) Signed acceptance of the terms and conditions of the contract, if awarded.

(e) In the CNS, the Commission shall specify a date and time deadline for the Notice of Intention to Bid. If a Notice of Intention to Bid is received after the stated date and time, the Commission will not consider the Notice of Intention to Bid, or any Proposals submitted by the party who submitted the late Notice of Intention to Bid. The Commission may change this deadline by notification to Bidders;

(f) The Commission shall screen Bidders on specific criteria detailed in the CNS. The Notice of Intention to Bid may be scored numerically;

(g) After reviewing the Notice of Intention to Bid, the Commission shall notify Bidders of whether the Bidder is eligible to continue in the CNS process and submit Proposals:

(1) If the Commission determines that the Bidder is not eligible to receive an award under the CNS, and that such ineligibility cannot be cured within the date and time deadline for Final Proposals, the Commission shall notify Bidder that it is disqualified from further submittals under the CNS. The Commission shall indicate the specific reasons why Bidder is disqualified. Such decision is a final administrative action. If a Bidder wishes to discuss this decision, the Bidder may request a meeting with the appropriate PIER subject area lead or designee, regarding why Bidder believes it should be considered eligible for a contract award.

(2) If the Commission determines that the Bidder is eligible to compete for an award under the CNS, the Commission shall notify Bidder that it is eligible to receive an award under the CNS and it may submit the first Discussion Proposal.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2115. Discussion Proposal Procedures.

(a) The Commission may include in the CNS an option or a requirement to submit one or more Discussion Proposals.

(b) Each Discussion Proposal shall employ an identical process outlined in this section.

(c) If a Notice of Intention to Bid is used, only those Bidders who are not disqualified after the Notice of Intention to Bid are eligible to submit a Discussion Proposal.

(d) Upon receipt of a Discussion Proposal, the Commission shall evaluate the Discussion Proposal for responsiveness to the CNS and the specific criteria detailed in the CNS. Discussion Proposals shall not be given a numerical score.

(e) The Commission shall schedule a Confidential Meeting with each Bidder.

(f) The Commission shall prepare a discussion agenda for each Discussion Proposal and shall send it to Bidder before the Confidential Meeting. The discussion agenda shall correspond to the criteria in the CNS, and note where the Discussion Proposal is not responsive to the requirements in the CNS and where the Discussion Proposal can be improved.

(g) The purposes of the Confidential Meeting are to ensure that the Bidder's Final Proposal will be responsive to the CNS and to give the parties an opportunity to negotiate the content of the Discussion Proposal.

(h) Oral statements by either party during any portion of the Discussion Proposal process shall not obligate either party.

(i) After the Confidential Meeting, the Commission shall send a response to each Bidder who participated in the Confidential Meeting:

(1) The response may take the form of a Discussion Memorandum, which memorializes agreements negotiated by the parties. The content of the Discussion Memorandum is binding on the Bidder. If the Bidder believes there is a discrepancy between the Discussion Memorandum and the content of the Confidential Meeting, the Bidder may request the Commission to change the Discussion Memorandum, which may be changed in the Commission's sole discretion.

(2) If it appears that the Discussion Proposal cannot be restructured or changed in a reasonable time in order to become responsive to the CNS or fulfill the CNS criteria, and that further discussion would not likely result in an acceptable Final Proposal, the response shall detail why the Commission believes that Bidder is non-responsive to the CNS and is unlikely to receive an award. In such case, the Commission shall not accept any further Discussion Proposals or negotiations.

(j) The CNS shall list date and time deadlines for each Discussion Proposal and requests for change of the Discussion Memorandum. The Commission may change these deadlines by notification to Bidders.

(k) The Commission shall not accept protests for Discussion Proposals. Only Bidders who have submitted a Final Proposal and who are not awarded a contract are eligible to file an protest pursuant to Section 2121.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2116. Discussion Proposals: Content.

(a) The purposes of a Discussion Proposal are to provide Bidder an opportunity for the Commission to identify any faulty or nonresponsive aspect of the Discussion Proposal and an opportunity for the parties to negotiate the contents of the Discussion Proposal.

(b) Each Discussion Proposal shall include, at a minimum, the following:

(1) If a Notice of Intention to Bid was not used, the Discussion Proposal shall identify how the Discussion Proposal will meet the requirements of the CNS;

(2) If a Notice of Intention to Bid was not used, the Discussion Proposal shall identify Bidder team that will participate in Confidential Meetings;

(3) If a Notice of Intention to Bid was not used, the Discussion Proposal shall include a confidentiality statement, the form of which shall be provided in the CNS, regarding use of confidential information during the CNS process;

(4) List of confidential documents, the form of which shall be provided in the CNS, with existing confidential documents, data or intellectual property, and anticipated confidential deliverables or work product;

(5) Costs and complete budget.

(c) The CNS shall state any other requirements of the Discussion Proposal. These requirements may include, without limitation, the following:

(1) Bidder's general qualifications;

(2) Bidder's technical qualifications;

(3) Financial measures such as net present value of proposed project;

(4) Capabilities of Bidder team as related to scope of work detailed in the CNS;

(5) Proof of financial ability to perform an awarded contract, including without limitation, financial statements, credit rating, liquidity ratios, equity ratio, equity rating and previous bankruptcy of Bidder, if any. If Bidder wants financial statements to be kept confidential, Bidder must make a request for confidentiality pursuant to Title 20, California Code of Regulations, section 2501 et. seq. (See section 2125 regarding confidentiality requests.)

(6) Proposal goals;

(7) Proposal technical objectives;

(8) Proposal economic objectives;

(9) Matching funds amount and source, and date when matching funds become available;

(10) Contingency plan for loss of matching funds;

(11) Evidence of compliance with state contract requirements such as Disabled Veterans Business Enterprise, or evidence of current progress toward meeting compliance with state contract requirements;

(12) Complete work statement;

(13) Schedule with milestones of project tasks from start to end;

(14) List of anticipated deliverables, including monthly progress reports and final report;

(15) Identification of preexisting intellectual property held by Bidder;

(16) Letters of support or reference;

(17) Projection of when royalty repayment would begin, if any;

(18) Commercialization plan for market adoption of technology.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2117. Final Proposal.

(a) All Bidders are required to submit a Final Proposal to be eligible to receive a contract award;

(b) The CNS shall list the date and time deadline for the Final Proposal. The Commission may change this deadline by notification to Bidders;

(c) The Final Proposal shall include, at a minimum, the following:

(1) All agreements and information noted in the Discussion Memorandum;

(2) Negotiated changes from any and all Discussion Proposals;

(3) Additional information as specified in the CNS;

(4) Evidence of compliance with state contract requirements, such as Disabled Veterans Business Enterprise (DVBE), unless the requirements for DVBE participation have been changed or exempted pursuant to Title 2, California Code of Regulations, section 1896.62(b).

(d) After the deadline for Final Proposals, no further Final Proposals will be accepted.

(e) After the deadline for Final Proposals, no further discussions with the Commission will be permitted, unless such discussion is initiated by the Commission.

(f) The following criteria may be used to score the Final Proposal:

(1) Proposal advances science or technology by providing benefits to California citizens;

(2) Proposal is not adequately addressed by competitive and regulated markets;

(3) Amount of Proposal costs;

(4) Level of public and private benefits compared to Proposal costs to be funded by the PIER program and match funds;

(5) Overall quality of Proposal;

(6) Overall quality of Bidder team;

(7) Likelihood of and timeframe for success of Proposal;

(8) Technical, market and financial risks of Proposal;

(9) Whether Bidder incorporated negotiated changes from any and all Discussion Proposals.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2118. Evaluation and Selection Process.

(a) During the evaluations of Discussion Proposals and during the scoring and selection of Final Proposals, the Commission may:

(1) Require Bidders to answer specific questions orally or in writing;

(2) Require a demonstration of the Bidder's response to specific requirements in order to verify the claims made in the Proposal;

(3) Visit a Bidder's business or plant site in order to fully evaluate the Proposal.

(b) The Discussion Proposals will not receive evaluation scores. Final Proposals will be formally scored for contract award purposes;

(c) Final Proposals shall be scored according to the procedures and standards as specified in the CNS by a minimum of three scorers chosen by the Commission;

(d) Final selection will be among the Final Proposals that are responsive to the CNS requirements.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2119. Proposed Awards of Contracts.

After scoring final Proposals, a rank order for each Final Proposal will be assigned and recommendations made to the Research, Development & Demonstration (RD&D) Committee for proposed contract awards based on the highest scored Final Proposals. The RD&D Committee will make its proposed recommendation and post a notice of proposed awards. There is no guarantee that any of the Bidders will receive contract awards. After the proposed contracts have been signed by the Bidders, the Commission will consider final approval of each contract at a publicly noticed Commission business meeting. More than one contract may be awarded by the Commission at that time.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2120. Debriefing.

(a) The Commission may provide debriefing information and/or hold a debriefing conference after contract award at the request of any unsuccessful Bidder for the purpose of receiving specific information concerning the selection of Bidders.

(b) Debriefing is not the forum to challenge the CNS specifications or requirements, or challenge a contract award. See section 2121 for contract award protest procedures.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2121. Award Protest.

(a) Contracts shall be awarded only after a notice of proposed awards has been posted at the Commission for five working days;

(b) If, during the five working days after the notice of proposed awards, any Bidder who submitted a Final Proposal files a protest with the Commission and with the Department of General Services, Office of Legal Services (DGS-OLS), the contract(s) shall not be awarded until either the protest has been withdrawn or the protest has been resolved as described in this section. Protests shall be submitted to the following:

(1) CHIEF COUNSEL
DEPARTMENT OF GENERAL SERVICES, OFFICE OF LEGAL SERVICES
1325 J STREET, SUITE 1911
SACRAMENTO, CA 95814; AND

(2) CONTRACTS OFFICE, MS-18
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET
SACRAMENTO, CA 95814

(c) Within five working days after filing the protest, the protesting Bidder shall file with DGS-OLS, and with the Commission, a full and complete written statement specifying the grounds for the protest;

(d) The grounds for filing a protest shall be limited to allegations that the Commission failed to properly follow the evaluation process detailed in the CNS, or in section 2118 or section 2124 of these regulations;

(e) When a protest is filed, DGS-OLS shall notify those Bidders who were awarded contracts, and give them an opportunity to rebut the protest. Written rebuttal arguments shall be submitted to DGS-OLS and the Commission within 10 days from the date of the notification;

(f) DGS-OLS shall have the discretion whether to consider the protest and rebuttals based on written submissions alone, or written submissions and oral argument;

(g) DGS-OLS shall make findings and a recommended decision within:

(1) 30 days after oral arguments, if any; or

(2) 30 days after the due date for rebuttal arguments if there are no oral arguments;

(h) The Commission shall either approve or disapprove the recommended finding at the next possible publicly noticed Commission business meeting.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2122. Modification or Withdrawal of Submittals.

Bidders may withdraw or modify a Notice of Intention to Bid or Proposal at any time before the date and time deadline specified in the CNS, by submitting a written request to withdraw or modify to the Commission.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2123. Right to Modify CNS, Cancel CNS or Reject Proposals.

The Commission reserves the right to modify any CNS as needed or to cancel any CNS. The Commission also reserves the right to reject any or all Proposals.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2124. Grounds to Reject Proposals.

(a) The Commission shall reject any Proposal (Discussion Proposal or Final Proposal) upon the occurrence of any of the following, without limitation.

(1) Any Proposal is received past the scheduled date and time deadline; or

(2) Any Proposal is labeled as confidential in its entirety; or

(3) Any Proposal contains false or misleading information, if in the opinion of the Commission, such information was submitted intentionally to mislead the Commission in its evaluation of the Proposal.

(b) The Commission shall also reject a Final Proposal upon the occurrence of any of the following, without limitation

(1) A Final Proposal is not responsive to Disabled Veteran Business Enterprise program requirements or any other state contracting requirement; or

(2) A Final Proposal does not contain a properly executed Certification Clauses Package; or

(3) A Final Proposal is not signed on the application form included in the CNS; or

(4) A Final Proposal does not meet the eligibility, completeness and feasibility criteria specified in the CNS; or

(5) A Final Proposal does not meet the minimum passing score if a minimum score is required in the CNS; or

(6) A Final Proposal contains a conflict of interest pursuant to Public Contract Code section 10410, 10411 or 10365.5.

(c) The Commission may reject any Proposal (Discussion Proposal or Final Proposal) upon the occurrence of any of the following, without limitation:

(1) Any Proposal contains false or misleading information, if in the opinion of the Commission, such information was not submitted intentionally to mislead the Commission in its evaluation of the Proposal; or

(2) Any Proposal does not comply with or contains caveats that conflict with the CNS; or

(3) Any Proposal contains multiple projects within a single Proposal; or

(4) Any Proposal is not prepared in the required format described in the CNS.

(d) If a Discussion Proposal is rejected for any of the grounds listed in subdivision (a) or (c), the Bidder shall be notified that the Discussion Proposal is not responsive to the CNS and Bidder is unlikely to receive an award. The decision regarding a Discussion Proposal is not immediately reviewable.

(e) If a Final Proposal is rejected for any of the grounds listed in subdivision (a), (b), or (c), the Bidder shall be notified that it will not receive a contract award. If Bidders wish to dispute this decision, Bidders may file a protest pursuant to Section 2121.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2125. Confidential Information.

(a) The Commission shall not accept or retain any Proposal labeled as confidential in its entirety;

(b) All Proposals and materials submitted with Proposals shall be kept confidential until the notice of proposed contract awards is posted;

(c) All Proposals and materials submitted with Proposals become a public record after the notice of proposed contract awards is posted;

(d) If a Bidder believes certain confidential or proprietary information is necessary for the evaluation of a Proposal, the Bidder may submit the information in a separate volume marked confidential with a request to keep such information confidential pursuant to Title 20, California Code of Regulations, section 2501-2505.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2126. Correction of Errors in CNS.

If any CNS contains an error known to a Bidder, or an error that reasonably should have been known, the Bidder submits Proposals at its own risk. If a Bidder discovers any errors, conflicts or omissions in any CNS, the Bidder shall immediately notify the Commission in writing and request modification or clarification of the CNS.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2127. Contract Terms and Conditions.

Standard contract terms and conditions shall be included with the CNS. No agreement between the Commission and a successful Bidder is in effect until a contract has been signed by both parties and approved by the Department of General Services, Office of Legal Services.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2128. Bidder's Proposal Preparation Costs.

The cost of developing and submitting a Notice of Intention to Bid or Proposal is the Bidders' responsibility and cannot be charged to the Commission or the state of California.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2129. Disposition of Proposals.

The Commission shall exercise control over the circulation of all Proposals submitted pursuant to the CNS. All Proposals and materials submitted with Proposals shall become the property of the state of California. After posting of the notice of proposed contract awards, all Proposals, materials submitted with Proposals, evaluation sheets and scoring sheets shall become public records, except confidential materials, which are handled pursuant to Title 20 California Code of Regulations, sections 2501-2505.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2130. Immaterial Deviations in Proposal.

The Commission may waive any immaterial defect or deviation in any Proposal. Such waiver shall not excuse a successful Bidder from full compliance.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2131. Audits.

Contracts awarded under any CNS will be subject to audit by the Bureau of State Audits and the Commission or its representative at any time during the duration of the contract, but no more frequently than once every twelve months. In addition, financial information submitted prior to contract award is subject to audit.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2132. Joint Bids.

Bidders may submit a joint proposal, if the Commission indicates in the CNS that such proposals will be permitted. In such case, the contract may be awarded as one indivisible, multi-party contract.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2133. Bidder Responsibility.

Prior to award of the contract, the Commission must be assured that the Bidder selected has all of the resources to successfully perform under the contract. This includes without limitation, personnel in the numbers and with the skills required, equipment of appropriate type and in sufficient quantity, and financial resources sufficient to complete performance under the contract and experience in similar endeavors.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

§ 2134. Additional Procedures.

Additional procedures for administering these regulations and conducting a CNS may be identified in each CNS and/or a Commission instruction manual.

Note: Authority cited: Sections 25218(e) and 25620.2(c), Public Resources Code. Reference: Section 25620.5, Public Resources Code.

Chapter 6. Environmental Protection

Article 1. Implementation of the California Environmental Quality Act of 1970

§ 2300. Authority.

Note: Authority cited: Sections 21082, 25213 and 25218(e), Public Resources Code. Reference: Sections 21000-21176, 25217, 25519(c) and 25537, Public Resources Code.

§ 2301. Purpose.

These regulations specify the objectives, criteria, and procedures to be followed by the Commission in implementing the California Environmental Quality Act of 1970. (Public Resources Code Sections 21000 et seq.) ("CEQA"). These regulations should be read in conjunction with the State EIR Guidelines, as they are supplemental to and not repetitive of the Guidelines.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21082, Public Resources Code.

§ 2302. Definitions.

Terms issued in these regulations, unless otherwise defined, shall have the meaning ascribed to them in the State EIR Guidelines. In addition, the following definitions are used:

(a) Environmental Documents. "Environmental documents" mean draft and final Environmental Impacts Reports (EIRs), Initial Studies, Draft and Final Negative Declarations, Notices of Preparation, Notices of Determination, Notices of Exemption, Statements of Findings and Overriding Considerations, and the environmental manual.

(b) Environmental Manual. "Environmental manual" means a Commission-approved manual which details internal procedures for the preparation and review of environmental documents.

(c) State EIR Guidelines. "State EIR Guidelines" means the Guidelines for Implementation of the California Environmental Quality Act of 1970 by the Secretary for Resources (Div. 6, Title 14, Cal. Adm. Code, Sections 15000, et seq. with Appendices).

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21082, Public Resources Code.

§ 2303. General Responsibilities.

(a) Implementation of CEQA. Details for the implementation of the various environmental review procedures are set forth in the environmental manual.

(b) Contracted Documents. Where the Commission contracts with another person or agency to prepare environmental documents, the Commission retains responsibility for the adequacy, content, and objectivity of the environmental document.

(c) Availability of Environmental Documents. All environmental documents prepared by the Commission shall be available for public inspection upon request during normal Commission working hours at 1516 Ninth Street, Sacramento, other Commission field offices, or may be requested through the publications office. Copies shall be made available to the general public who may be charged an amount not in excess of the actual cost of reproducing such copies.

(d) Retention and Availability of Environmental Comments. Comments received through the consultation process shall be retained in the files of the Commission for one year from the date of final action on the document and shall be available for public inspection at an

address provided in the final EIR. Comments which may be received independently of the review of the draft EIR shall also be considered and kept on file.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21082, 21082.1, 21100 and 21105, Public Resources Code; and 14 California Administration Code Section 15166.

§ 2304. Activities Not Requiring an Initial Study.

(a) Whenever the executive director and general counsel determine, based upon the review by the Commission staff, that a formal Initial Study is not required pursuant to this section, this determination and the reasons therefore shall be presented to the Commission for its concurrence. If the Commission concurs, no formal Initial Study, Negative Declaration, or EIR is required.

(b) Whenever an activity determined exempt from a formal Initial Study is approved by the Commission, the Commission shall file a Notice of Exemption with the Secretary for Resources.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21080.1 and 21108(b), Public Resources Code.

§ 2305. Initial Study.

Where an Initial Study is necessary, it will be available for public access and inspection either in the Negative Declaration or incorporated into a draft EIR, depending upon its findings on significant effect.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21105, Public Resources Code.

§ 2306. Negative Declaration.

Where a Negative Declaration is prepared, its completion and availability shall be announced in one or more newspapers of general circulation chosen on the basis of providing the most effective public notice.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21092, Public Resources Code.

§ 2307. EIR Preparation and Procedure.

(a) Hearings. The decision regarding the need for public hearings on a draft EIR shall be based upon the amount of public interest in the environmental impacts of the proposed activity and any other considerations which the Commission finds are compelling. It is the policy of the Commission that reasonable doubts concerning the appropriateness of public hearings shall be resolved in favor of holding such hearings. A decision not to hold such hearings shall be in writing including the reasons supporting the decision and shall be included in the Commission's record of decision on the activity.

(b) Duration of Comment Period. The executive director, at the time of certifying a draft EIR for public review, shall specify the length of the public review period after considering the complexities of the proposed project and the anticipated needs of the public. The executive director shall provide a minimum of 45 calendar days between the release of the draft EIR and the final receipt of comments. Any person may request that the executive director grant an extension of the comment and review period prior to termination of the original specified time period. Upon a showing of reasonable need, the executive director may grant such extensions. Any request to extend the comment and review period beyond 90 days or a request submitted after expiration of the original review period shall document unusual or extenuating circumstances; if such conditions are found to exist, such requests may be granted.

(c) Forwarding of Final EIR Copies. To the extent feasible, copies of the final EIR shall be forwarded to all persons, agencies, or organizations requesting such copies.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21100 and 21105, Public Resources Code; and 14 California Administration Code Sections 15160, 15164 and 15165.

§ 2308. Fees for EIR or Negative Declaration Expenses.

The executive director shall charge and collect a reasonable fee from any person proposing a project subject to CEQA to cover the estimated actual cost of preparing a Negative Declaration or an EIR. The deposit shall not be in excess of three percent (3%) of the estimated capital cost of the proposed project.

(a) The Commission staff shall separately account for the deposit collected and the charges thereto. The status of the account shall be provided to the project proponent at regular intervals established by mutual agreement. The executive director shall request additional deposits if the initial deposit has been exhausted. A final accounting shall be rendered by the Commission staff after the final EIR or Negative Declaration has been certified or adopted.

(b) If in the final accounting the deposits exceed the actual costs incurred by the Commission, the excess shall be refunded. If the actual costs exceed the amount of the deposits, the project proponent shall be billed for the difference.

(c) The executive director may adjust or waive deposits for minor projects. For projects with an estimated capital cost of more than $1,000,000, the executive director shall permit payment of the deposit in increments.

(d) The executive director should collect the deposit prior to the preparation of environmental documents and no final EIRs or Negative Declarations shall be certified until the project proponent has reimbursed the Commission for the costs of preparing and processing them.

(e) Where a staged EIR is prepared the executive director shall collect a deposit sufficient to cover the expenses of each stage of the EIR before each stage is commenced. Such deposits shall be accounted for in the manner described in subsection (a) of this section, and a final accounting shall be rendered upon completion of each stage of the EIR at the request of the project proponent.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21089, Public Resources Code.

§ 2309. Review of Environmental Documents of Other Lead Agencies.

When the Commission is a Responsible Agency for a project, and approves or determines to carry out a project for which an EIR or Negative Declaration has been prepared by the Lead Agency, it shall file a Notice of Determination.

(b) The executive director shall approve all comments to environmental documents prepared by the Commission staff pursuant to this section before such comments are submitted to the State Clearinghouse or the Lead Agency.

Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21108(a) and 25404, Public Resources Code; and 14 California Administration Code Section 15085.5(i).

§ 2310. Certified/Exempt Regulatory Programs. (Reserved)

Article 2. Designation of Transmission Corridor Zones

§ 2320. Scope and Objectives of Designation Process.

(a) The provisions of this article shall apply to the consideration of a motion by the commission or an application by a person to designate a transmission corridor zone under Public Resources Code section 25331.

(b) The main objectives of the designation process are as follows:

(1) To identify appropriate corridors for transmission planning, taking into consideration the state's principles of encouraging the use of existing rights-of-way, the expansion of existing rights-of-way, and the creation of new rights-of-way in that order;

(2) To identify appropriate corridors for transmission planning, consistent with the state's needs and objectives as set forth in the most recently adopted strategic plan under Section 25324 of the Public Resources Code applicable at the time an application is filed or a motion made by the commission;

(3) To prepare an environmental assessment of each proposed corridor, taking into account a reasonable range of alternatives and feasible ways to mitigate or avoid foreseeable significant environmental impacts, such that the environmental assessment informs and makes more efficient the licensing process that later considers whether to permit a transmission project within a designated corridor;

(4) To coordinate the state's designation of corridors with existing or proposed federal corridors identified under Section 368 of the Federal Energy Policy Act of 2005 (Pub.L. No. 109-58 (Aug. 8, 2005) 119 Stat. 594.) or contained within adopted federal land use plans so that the state and federal designations result in continuous corridors to the extent practicable;

(5) To work with local governments through whose jurisdictions a transmission corridor is proposed such that each designation takes into account local concerns, recommendations, and adopted land use designations and results in the cooperation of local governments that consider designated corridors when taking actions to amend general and specific land use plans; and

(6) To provide a forum for public participation, public hearings, and the determination of factual and other issues based on the evidence of record in the proceeding.

(c) For purposes of this article, applicants who plan to construct a high-voltage electric transmission line include persons who plan to upgrade an existing electric transmission line that is under the operational control of the California Independent System Operator or would result in an operating voltage of 200 kV or more.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25330—25341, Public Resources Code.

§ 2321. Information Requirements

An application to designate a transmission corridor zone shall include an environmental assessment of all reasonably foreseeable impacts that would result from the designation of the proposed corridor for the construction of at least one future high-voltage electric transmission line. The environmental assessment shall contain all the information specified in Appendix A of this article.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21003.1, 21080.1, 25331, 25332, Public Resources Code.

§ 2322. Format and Number of Copies

Paper copies of applications and any other documents attached thereto shall conform to the requirements of Sections 1209 and 1705. An application shall be filed in electronic format in conformance with section 1209.5. In addition, the applicant shall file with the commission one hundred twenty-five (125) paper copies of an application for designation and all drawings, photographs, maps, diagrams, charts, graphs, and other documents attached to the application. Alternatively, the applicant may file 75 paper copies and 50 copies in a CD-ROM medium and in the format specified in Section 1209.5, unless otherwise specified by the executive director under section 1209.5, subdivision (c).

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25331(b), Public Resources Code.

§ 2323. Review and Acceptance of Application.

(a) Upon receipt of an application for designation under this Article, the staff shall review the information contained in the application to determine if it provides all the information specified in section 2321.

(b) No later than 30 days after receipt of an application, the executive director, based on the staff's review, shall submit his or her recommendation to the commission as to whether the application contains the information specified in section 2321 and is, therefore, complete.

(c) No later than 45 days after receipt of an application, the commission shall act upon the executive director's recommendation as to whether to accept the application as complete, based on the application containing all the information specified in section 2321. If the commission determines that the application is complete, the application shall be accepted as of that date and the proceeding for considering whether to designate the proposed corridor shall begin.

(d) If the commission determines that the application is incomplete, it shall specify in writing the deficiencies based on section 2321 and the application shall not be accepted.

(e) After the commission has acted on the executive director's recommendation, even if the application is determined to be incomplete, the commission shall consider whether to assign a committee at that time to preside over the proceeding on the application for designation of a transmission corridor zone. The commission shall otherwise assign a committee at the time it determines the application to be complete. If a committee is assigned and the application is incomplete, the executive director, based on the staff's recommendation, shall notify the assigned committee, rather than the commission, when the applicant has submitted all required information based on section 2321 and the commission's list of deficiencies. The committee, rather than the commission, shall then be responsible for determining whether subsequent information provided by the applicant completes the application in the manner specified by the commission.

(f) The applicant may file additional information to complete the application by curing the deficiencies that the commission has specified in writing. No later than 30 days after receipt of all the data that is filed to complete the application, the commission or a committee, if one has been assigned, shall determine whether the application is complete based on section 2321. If determined to be complete, the application shall be accepted as of the date the commission or committee so determines and the proceeding for considering whether to designate the proposed corridor shall begin.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25331, Public Resources Code.

§ 2324. Public Notification.

(a) As soon as practicable and, in any event, no later than ten days after an application is determined to be complete or the commission on its own motion proposes to designate a corridor, the staff shall do the following:

(1) arrange for the publication of a summary of the application and a brief description of the commission's review process in a newspaper of general circulation in each county where a transmission corridor zone and any alternatives are proposed to be located;

(2) notify all property owners who are within or adjacent to a proposed transmission corridor zone;

(3) notify and transmit a copy of the application to the Electricity Oversight Board, the California Public Utilities Commission, the California Independent System Operator, the Native American Heritage Commission, and all California Native American tribes, City Managers, County Chief Executive Officers, Planning Commission Chairpersons, representatives of state and federal agencies, transmission load-serving entities, and transmission owning local publicly owned electric utilities, as defined in Section 9604(d) of the Public Utilities Code, having a jurisdictional interest in the proposed transmission corridor zone;

(4) publish the application on the commission internet web site; and

(5) notify members of the public, including landowners notified under subsection (2), that the application is available on the commission's web site.

(b) Notification under subsection (a) shall include a summary of the application, a brief description of the commission's review process, including the role of the assigned committee, and the objectives of the strategic plan with which the proposed transmission corridor must be consistent.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25334, Public Resources Code.

§ 2325. Coordination with Interested Agencies, Intervention, and Public Participation.

(a) The notice to governmental entities, including California Native American tribes, referred to in subsection (b) of section 2324 shall also serve to request information about their land use plans, existing land uses, and other matters in which they have expertise or interest with respect to the proposed transmission corridor or an alternative corridor. All requested information shall be provided within 30 days of the date the notice is sent, unless a later time is requested by a governmental entity and agreed to by the staff.

(b) Upon receipt of information in response to the request under subsection (a), the staff shall use the information to confer as needed throughout the proceeding with interested governmental agencies and tribal governments to discuss their land use plans, areas of expertise, concerns, and recommendations with respect to the proposed transmission corridor or an alternative.

(c) Any person may file a petition to intervene under section 1207 in a designation proceeding, but must file the petition no later than 15 days after the staff issues the draft environmental report. The petitioner shall also serve the petition upon the applicant. The presiding member may grant a petition to intervene filed after the deadline only upon a showing of good cause by the petitioner. A person whose petition is granted shall have all the rights and duties of a party under these regulations. Any person whose petition to intervene has been denied by the presiding member may appeal the decision in the manner provided by section 1207(d). Any intervener may withdraw from a proceeding by filing a notice to such effect with the Docket Unit.

(d) A petition to intervene, however, shall not be necessary for a person to participate informally in any or all aspects of a designation proceeding. Any person may participate by requesting to be notified of the proceeding's public events, attending public workshops, hearings, and other publicly noticed meetings, and offering oral and written

comments on the proposed corridor, environmental assessment, and other matters that are the subject of public review.

(e) The rules governing ex parte communications under section 1216 shall apply to proceedings conducted under this article.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25334, Public Resources Code.

§ 2326. Reimbursement

(a) An applicant who files an application for designation of a transmission corridor zone shall submit with the application a fee that the executive director estimates will reimburse the commission for all costs associated with reviewing the application. The commission staff shall separately account for the deposit collected and the charges against it. The status of the account shall be provided to the applicant at regular intervals agreed to by the applicant. The executive director shall request additional deposits if the initial deposit has been exhausted. A final accounting shall be provided by the commission staff after the commission's final decision on the application. If the final accounting shows that the deposits exceed the actual costs incurred by the commission, the difference shall be refunded to the applicant. If the actual costs exceed the deposits, the applicant shall be billed for the difference.

(b) Upon receiving the commission's request for review of a proposed transmission corridor zone, a city or county may request a fee, except as provided under subsection (d), to cover the actual and added costs of review and the commission shall pay this amount to the city or county, provided the city or county follows the procedures set forth in section 1715.

(c) Alternatively, an applicant may establish an account directly with a city or county seeking reimbursement and, through the account, reimburse the city or county directly for its actual and added costs of reviewing the applicant's proposed transmission corridor zone. In any case, an applicant shall be allowed to review any invoice submitted by a city or county for reimbursement.

(d) A city or county participating as a formal intervenor to a designation proceeding shall not be eligible for reimbursement under this section.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21089, 25334(d) and (e), and 25538, Public Resources Code.

§ 2327. Requests for Information.

(a) With respect to an application for designation or a motion by the commission to designate a transmission corridor zone, any party, i.e., staff, applicant, and intervenors, may request from another party such information as is reasonably available to the party being requested and is relevant to the proceeding or reasonably necessary to complete an environmental report in accordance with the California Environmental Quality Act and assess the need for the proposed corridor and its conformance with the strategic plan. Requests for information shall be based on the level of information that can reasonably be expected to be available at the relatively early stage of designating a corridor for planning purposes as compared to the later stage of permitting a specific transmission project. Section 1716 shall

govern the exchange of requests for information and responses, objections to a request, and petitions for an order to compel a response. All requests for information shall be submitted no later than 180 days from the date the application is determined to be complete, unless the committee allows a later date for good cause shown.

(b) In formulating its requests for information from the applicant or other sources, the staff shall confer with interested agencies, the Native American Heritage Commission, and California Native American tribal governments regarding the information they believe the applicant or a relevant source should provide for the staff's environmental assessment of the proposed designation.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25334, Public Resources Code.

§ 2328. Informational Hearing and Scoping Meeting.

(a) Within 45 days of the commission filing a motion or determining an application is complete, an assigned committee shall conduct one or more informational hearings in the county or counties in which the proposed transmission corridor would be located.

(b) The assigned committee shall arrange for public notice of the informational hearings to be published no later than 10 days in advance of the initial hearing. The notice shall request all interested governmental entities and members of the public, particularly owners of property within or adjacent to the proposed transmission corridor zone, to provide comments on the suitability of the proposed transmission corridor zone with respect to environmental, public health and safety, land use, economic, and transmission-system impacts or other relevant factors on which they may have expertise.

(c) The purpose of the informational hearings shall be to do all of the following:

(1) In a presentation by the applicant, or by the staff in a case initiated by the commission's motion, provide information and answer questions to explain the transmission corridor zone that is being proposed for designation;

(2) Explain the commission's designation process, the staff's role in preparing an environmental report, the opportunities for public and agency participation, and any other matter that informs the public about the designation process and its purpose.

(3) Explain the state's needs and long-term planning objectives in the applicable Strategic Plan and the Plan's relevance to the transmission corridor zone being proposed for designation;

(4) Serve as a scoping meeting for the environmental review of the proposed transmission corridor zone by receiving comments on its suitability with respect to environmental, public health and safety, land use, economic, and transmission-system impacts and other relevant factors on which a governmental entity or an interested person may have expertise; and

(5) Solicit factual information, recommendations, and suggestions on reasonable alternatives that could avoid or mitigate potentially significant environmental impacts associated with the proposed transmission corridor. An alternative shall be considered reasonable if it

meets one or more of the state's needs and objectives that the proposed corridor for designation proposes to meet in accordance with the applicable Strategic Plan, is feasible as that term is defined in section 1702(f), and offers a way to mitigate or avoid one or more potentially significant environmental impacts associated with the proposed transmission corridor.

(d) Within 15 days of the informational hearing, the assigned committee shall issue an order regarding the type and scope of environmental review to be conducted, the estimated schedule of events in the remainder of the proceeding, and any other matter relevant to the proceeding the committee sees fit to include.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21080.1, 21080.3, 21104, and 25335, Public Resources Code.

§ 2329. Preparation of Environmental Report, Need Assessment, and Staff's Role.

(a) The staff shall be responsible for independently preparing a draft and final environmental report on the proposed transmission corridor zone, taking into account the applicant's environmental assessment in the application, all relevant information received from interested government entities, and written comments from members of the public regarding potential impacts, feasible mitigation, and reasonable alternatives.

(b) The staff shall also be responsible for independently assessing the need for the proposed transmission corridor and whether it conforms with the latest adopted strategic plan.

(c) Issues that may arise related to the final environmental report and the assessment of need and conformance with the strategic plan shall be the subject of one or more hearings under section 2332.

(d) The staff shall hold one or more public workshops to try to resolve issues and to solicit information from governmental entities, property owners within or adjacent to the proposed corridor, and other interested members of the public.

(e) The staff may independently prepare an initial report on the proposed corridor to identify potential issues for the informational hearings under section 2328 and as a way to help focus the draft environmental report.

Note: Authority cited: Section 25218(e), Public Resources Code; and section 15025, Title 14, California Code of Regulations. Reference: Sections 21080.1, 21082.1, 21100, 25332, 25336 and 25337, Public Resources Code.

§ 2330. Publication of the Environmental Report, Need Assessment, and Public Review.

(a) Within 120 days of the final informational hearing under section 2328, the staff, in consultation with interested government entities and in consideration of all comments and information received at the informational hearings and workshops, shall publish a draft environmental report on the proposed designation and an assessment of need for the proposed corridor and its conformance with the latest adopted strategic plan. The staff shall post the draft report and assessment on the commission's website, provide a copy of the draft report to the

state Clearinghouse as appropriate, and notify all interested government entities and the public of the availability of the environmental report on the commission's website.

(b) There shall be a public comment period of at least 45 days from the posting of the draft environmental report on the commission's website.

(c) Within 30 days after the conclusion of the public comment period for the draft environmental report, the staff shall independently publish a final environmental report, including responses to written comments received on the draft report, and its final assessment of need for the proposed corridor and its conformance with the latest adopted strategic plan.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21082.1, 21091, 25332 and 25337, Public Resources Code; and Sections 15084, 15086, 15087, 15088 and 15089, Title 14, California Code of Regulations

§ 2331. Prehearing Conference and Hearing Order.

(a) Within 35 days, but no sooner than 15 days, after the issuance of the final environmental report, the assigned committee shall hold a prehearing conference to determine the issues to be considered in one or more hearings and the dates of the hearings.

(b) The assigned committee shall arrange for public notice of the prehearing conference to be published no later than 14 days in advance of the prehearing conference. The notice shall request all parties to prepare a prehearing conference statement identifying the issues they believe should be the subject of a hearing and any other matter the committee deems reasonable to request.

(c) Within 15 days of the prehearing conference, the assigned committee shall issue a hearing order setting forth the issues to be heard at one or more hearings, including issues, if any, regarding reasonable alternatives to the proposed transmission corridor zone, the need for the proposed corridor, and the extent to which the proposed corridor conforms with the applicable strategic plan, the date(s) and location(s) of the hearing(s), the filing date for written testimony, other submittals, and public comments, and any other matter that the assigned committee has the authority to address or regulate under section 1203.

(d) The issue of conformity with the strategic plan shall include a demonstration based on substantial evidence of the need for the proposed corridor. The basic issue of need for a corridor shall first be considered in a proceeding on the strategic plan under Section 25324 of the Public Resources Code.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25336, Public Resources Code.

§ 2332. Hearings and Record.

(a) The assigned committee shall conduct hearings to receive testimony as defined in section 1201, public comments, and other information on issues that the prehearing conference order identifies.

(b) The hearings shall be conducted in accordance with section 1212 regarding rules of evidence and the cross examination of witnesses.

(c) All testimony, cross examination of witnesses, information, and comments received at a hearing shall become the record of the proceeding.

(d) The record shall be the basis upon which to make findings and conclusions in accordance with Public Resources Code section 25337 and as specified in section 2334.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21082.2, 25336 and 25337, Public Resources Code.

§ 2333. Proposed Decision.

(a) Within 60 days of the conclusion of hearings under Section 2332, the assigned committee shall issue a proposed decision based on consideration of the final environmental report, together with the entire hearing record in the proceeding. The proposed decision shall contain the committee's responses to comments received at the hearing(s) held under Section 2332.

(b) The proposed decision shall be subject to no less than a 20-day public review period.

(c) The assigned committee may hold a hearing to receive comments and recommendations on the proposed decision in advance of the adoption hearing before the full commission on the proposed decision.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21081, 21081.5 and 25337, Public Resources Code.

§ 2334. Findings and Conclusions.

The proposed decision shall contain a recommendation on whether to designate the proposed transmission corridor zone and shall include proposed findings and conclusions on each of the following:

(a) whether the proposed transmission corridor zone conforms with the applicable strategic plan adopted pursuant to Section 25324 of the Public Resources Code;

(b) whether the proposed corridor zone is consistent with land uses within and adjacent to the corridor and with applicable land use plans adopted by local, regional, state, or federal governments;

(c) whether there exists within or adjacent to the proposed transmission corridor zone any notable areas of sensitivity such as local, state, or regional parks, wilderness, scenic, or natural reserves, areas for wildlife protection, estuaries, and areas for recreation or historic preservation;

(d) the extent to which the proposed designation and possibility of one or more transmission-line projects being built within the designated corridor would cause any reasonably

foreseeable significant adverse impact on the environment, public health and safety, land use, the state's economic interest, the state's electric transmission system, or any other relevant matter;

(e) whether there are feasible means of mitigating or avoiding any of the significant adverse impacts identified with the proposed designation;

(f) any changes or modifications to the proposal that the commission should require;

(g) whether there are feasible alternatives that are preferable to the proposed corridor; and

(h) any other matter that the committee considers relevant to the commission's decision on whether to designate the proposed transmission corridor zone.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21081, 21081.5, and 25337, Public Resources Code; and Sections 15091 and 15092, Title 14, California Code of Regulations.

§ 2335. Final Decision and Hearing.

(a) Before adopting a final decision, the commission shall adopt or certify as appropriate the final environmental report by finding each of the following:

(1) The final environmental report has been completed in compliance with the California Environmental Quality Act.

(2) The commission has reviewed and considered the information in the final environmental report before approving the designation.

(3) The final environmental report reflects the independent judgment of the commission.

(b) The commission shall hold a final hearing to receive final comments and recommendations on the proposed decision and accompanying documents. At the conclusion of the hearing, the commission shall adopt a final written decision that conforms with Section 25337 of the Public Resources Code and contains the findings and conclusions specified in section 2334.

(c) The commission may not designate a proposed corridor with one or more significant adverse environmental impacts unless it finds both of the following:

(1) There are feasible means of mitigating or avoiding the significant adverse environmental impacts and those means have been required or incorporated in the proposed designation.

(2) With respect to matters not within the commission's authority, but within the authority of another agency, that changes or alterations required to mitigate such impacts have been or can and should be adopted by such other agency.

(d) If the commission cannot make the findings in subsection (c), then it may not designate a transmission corridor zone unless it makes the following two findings:

(1) Specific economic, social, or other considerations make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(2) The benefits of the designation outweigh the unavoidable significant adverse environmental impacts associated with the designation of the proposed transmission corridor zone.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21081, 21092 and 25337, Public Resources Code; and Sections 15090, 15091, 15092 and 15093, Title 14, California Code of Regulations.

§ 2336. Notification of a Designated Corridor.

As soon as practicable after the commission designates a transmission corridor zone, it shall post a copy of its decision on its Internet Web site, send a copy of its decision, including a description of the transmission corridor zone, to the City Manager, County Chief Executive Officer, and Planning Commission Chairperson of each affected city and county and to representatives of each affected state and federal agency, and notify property owners within or adjacent to the corridor of the availability of the decision on the commission's Internet Web site.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25338, Public Resources Code.

§ 2337. Use of a Designated Corridor.

Any person who proposes to construct a high voltage transmission line within a designated corridor shall include the environmental assessment for the designated corridor and the commission's final decision on the corridor as part of the application to the agency that has permitting authority over the transmission-line project.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 15006, 15153, 15167, and 15168, Title 14, California Code of Regulations.

§ 2338. Catalogue of Environmental Reports for Designated Corridors.

The staff shall compile and maintain in electronic format the commission's environmental reports on all transmission corridors designated under this article and shall make available upon request the relevant copy for inclusion in an application to construct a high-voltage transmission line within a designated corridor.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25339, Public Resources Code.

§ 2339. Review of Designated Corridors.

Upon request or upon its own initiative, the commission may review and revise as necessary its designated transmission corridor zones in accordance with the procedural

requirements of this article, but shall review not less than once every 10 years. Designated corridors shall be identified in each strategic plan prepared under Section 25324 of the Public Resources Code.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25339, Public Resources Code.

§ 2340. Application of CEQA

Nothing in this article shall preclude the use of an exemption under the California Environmental Quality Act or the preparation of a negative declaration or mitigated negative declaration in accordance with that Act where the facts pertaining to a proposed transmission corridor zone do not support a fair argument otherwise. Every application shall nevertheless be subject to the same procedural requirements for an informational hearing, prehearing conference, one or more evidentiary hearings as needed, a proposed decision, and a final decision.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 21080.1 and 25332, Public Resources Code.

APPENDIX A

Information Requirements for a Corridor Designation Application[1]

(a) Executive Summary

In a section entitled, "Executive Summary," the application shall contain:

(1) a general description of the proposed transmission corridor, its location, the region in which it is proposed to be located, the immediate vicinity, and the transmission facilities anticipated to be within the corridor;

(2) a summary of the need for the proposed corridor based on the state's needs and objectives as set forth in the latest adopted strategic plan under Section 25324 of the Public Resources Code and any other relevant information provided in the application;

(3) a summary of reasonably foreseeable impacts to the environment or to public health and safety associated with the proposed designation of the corridor for a high-voltage electric transmission line; and

(4) a summary of mitigation measures proposed to avoid or minimize any such impacts to the environment or to public health and safety.

(b) Project Description

In a section entitled, "Project Description," the application shall contain:

[1] The requirements in this Appendix apply also to a motion by the Energy Commission to designate a transmission corridor zone.

(1) a detailed description of the proposed transmission corridor, identifying the corridor's geographic location, direction, length and width;

(2) a detailed description of the setting of the proposed transmission corridor zone;

(3) maps* depicting the region, the vicinity, the proposed transmission corridor, and its immediate surroundings at a scale of 1:24,000 (or another appropriate map scale agreed to by staff), and showing developed areas, including demographic data and location(s) of low-income and minority populations in the vicinity of the proposed corridor, major infrastructure, parks, recreational areas, scenic areas, existing transmission lines within one mile of the center line of the proposed corridor; and any other matters the applicant may wish to include;

(4) full-page color reproductions of photographs showing the features and characteristics of the area within and alongside the proposed corridor;

(5) the center line of the proposed transmission corridor identified by mileposts at appropriate distances and the beginning and ending longitude and latitude of each segment between the mileposts in the proposed corridor; and,

(6) in an appendix to the application, a list of current assessor's parcel numbers and owners' names and addresses for all parcels within and out to 500 feet of the outer boundaries of the proposed transmission corridor.

*All maps depicting the proposed transmission corridor in the application shall show the proposed corridor's center line and outer boundaries and shall conform with the format requirements for such documents under Sections 1209 and 1705.

(c) Conformity with Strategic Plan and Need

In a section entitled, "Conformity with Strategic Plan and Need for Corridor," the application shall contain:

(1) the planning timeframe for the transmission project(s) anticipated to be within the corridor zone proposed for designation;

(2) the objective(s) of locating one or more transmission projects within the proposed corridor zone, for example, to access renewable resources, facilitate bulk power transactions, reliably and efficiently serve projected load growth, coordinate with corridors designated under Section 368 of the Federal Energy Policy Act of 2005, or address issues of National Interest Electric Transmission Corridors designated under Section 1221 of the Federal Energy Policy Act of 2005;

(3) a discussion of how each stated objective relates to the applicable strategic plan based on the following:

(A) a discussion of the transmission capacity additions, transmission corridors, and planning timeframes described in the latest strategic plan adopted pursuant to Section 25324 of the Public Resources Code that relate to the transmission corridor zone proposed for designation and

(B) a discussion of the conformity of the proposed transmission corridor zone with all related aspects of the latest adopted strategic plan;

(4) a general description of the transmission facilities that the applicant anticipates would be within the corridor zone, including power lines and voltages, substations, switchyards and other facilities and the reasons for selecting the facilities described;

(5) a discussion of the expected load growth, capacity, and energy levels for the planning timeframe of the transmission project anticipated within the proposed corridor zone;

(6) a discussion of new generating resources and other electricity supplies that are likely to be available in the load area as an alternative to transmission expansion in the planning timeframe and could serve the expected load growth in a manner consistent with the state's energy policies or a discussion of the constraints to the development of local generation resources;

(7) a discussion of the expected energy efficiency and demand reduction measures, as identified in the latest adopted Integrated Energy Policy Report, that are likely to be available in the planning timeframe and could serve as an alternative to transmission expansion;

(8) a discussion of the California Independent System Operator's latest transmission planning results and, if available, the relevant Western Electricity Coordinating Council Regional Planning and Facility Rating Process results, the transmission plans of local publicly owned electric utilities, and other transmission planning studies that have a material bearing on the need of the transmission project(s) that the applicant anticipates within the proposed corridor zone in the planning timeframe; and

(9) a discussion of the need for the proposed corridor zone to achieve the stated objective(s) in subsection (2), given the potential for supply, demand, and efficiency alternatives discussed in subsections (6) and (7) that could also serve the same objective(s).

(d) Corridor Alternatives

In a section entitled, "Corridor Alternatives," the application shall contain:

(1) identification of a reasonable range of alternative corridors that could achieve the basic objectives of the proposed corridor;

(2) a discussion of how the proposed corridor and alternatives were selected, the criteria used to reject alternatives, and an explanation why the proposed corridor is superior to the alternatives; and

(3) a screening-level analysis of a reasonable range of alternative corridors, considering the impacts of each alternative on visual resources, land use, biological resources, cultural resources, and any other impacts that could be significant. Alternatively, an application may provide justification for why there are no feasible alternatives that might reasonably be considered for the proposed corridor.

(e) General Environmental Information Requirements

An application for designation of an electric transmission corridor zone shall provide information addressing potential direct, indirect, and cumulative impacts in all the subject areas identified in the following sections for the proposed transmission corridor zone. The required information shall be provided in sufficient detail to allow determination of the suitability of the proposed transmission corridor zone with respect to reasonably foreseeable environmental, public health and safety, land use, and economic impacts from the future construction, operation, and maintenance of a transmission line within the corridor zone. With respect to potentially significant impacts, each technical area shall also discuss mitigation measures and any monitoring plans to verify the effectiveness of the mitigation.

(f) Water and Soil Resources

In a section entitled, "Water and Soil Resources," the application shall include:

(1) a general narrative description of the hydrologic setting of the proposed transmission corridor zone, including a discussion of any water-related special status areas within, or contiguous to, the corridor zone;

(2) a topographic map, at a scale of 1:24,000 (or another appropriate scale agreed to by staff), showing major water bodies and any identified special status areas within, or contiguous to, the proposed transmission corridor zone. Water-related special status areas may include, but are not limited to, a wild and scenic river; outstanding national resource water; significant natural area, special aquatic site, research natural area, special interest area, and area of critical environmental concern;

(3) a discussion of potential impacts to water resources within, or contiguous to, the proposed transmission corridor zone, that may occur from the future construction, operation, or maintenance of electric transmission line structures within the corridor zone, including anticipated impacts associated with waste discharges, water runoff, drainage, ground water recharge, erosion patterns and the physical or chemical conditions of existing water bodies;

(4) a discussion of what measures could be taken to avoid or mitigate any significant adverse impacts to water resources that are identified;

(5) a discussion of whether any of the water-related special status areas identified could be adversely affected by the future construction, operation, or maintenance of electric transmission line structures within the corridor zone and what measures could be taken to avoid or mitigate significant impacts;

(6) a general narrative description of the topography, major soil types, erosion potential, and agricultural land uses within, or contiguous to, the proposed transmission corridor zone, including a discussion of any special or unique soil areas within, or contiguous to, the corridor zone;

(7) a topographic map, at a scale of 1:24,000 (or another appropriate scale agreed to by staff), showing major soil types and any identified special or unique soil areas within, or contiguous to, the proposed transmission corridor zone, including, but not limited to, areas designated as prime agricultural soil or soil of statewide importance, areas containing expansive

soils or soils subject to hydrocompaction, contaminated soils, and areas underlain by naturally occurring asbestos;

(8) a discussion of potential impacts to soil resources within, or contiguous to, the proposed transmission corridor zone, that may occur from the future construction, operation, or maintenance of electric transmission line structures within the transmission corridor zone, including anticipated impacts on soil loss from wind or water erosion, impacts to existing agricultural practices, and potential changes to the soil-vegetation system;

(9) a discussion of what measures could be taken to avoid or mitigate any adverse impacts to soil resources that are identified;

(10) a discussion of whether any of the special or unique soil areas identified could be adversely affected by the future construction, operation, or maintenance of electric transmission line structures within the corridor zone and what measures could be taken to avoid or mitigate significant impacts; and

(11) all assumptions, evidence, references, and calculations used to support the descriptions, discussions, and analyses required in this section.

(g) Waste Management

In a section entitled, “Waste Management,” the application shall include:

(1) a discussion of any contaminated soil or contaminated water within, or contiguous to, the transmission corridor zone that could adversely affect the environment or public health and safety due to the future construction, operation or maintenance of electric transmission line structures within the proposed transmission corridor zone and what measures could be taken to avoid or mitigate significant impacts;

(2) a Phase I Environmental Site Assessment (ESA) for the proposed transmission corridor using methods prescribed by the American Society of Testing and Materials (ASTM) document entitled “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process” (Designation: E 1527-05); or an equivalent method agreed upon by the applicant and the staff that provides similar documentation of the potential level and extent of site contamination; and

(3) all assumptions, evidence, references, and calculations used to support the descriptions, discussions, and analyses required in this section.

(h) Biological Resources

In a section entitled, “Biological Resources,” the application shall describe the biological resource setting of the proposed transmission line corridor zone and include all of the following:

(1) a discussion and map of sensitive biological resource areas including, but not limited to, wetlands and riparian habitat, areas covered by a Habitat Conservation Plan, Natural Communities Conservation Plan, or similar regional or local habitat protection program, and any area designated as a wildlife refuge or any other special designation;

(2) a list of sensitive species and their habitat known to occur or likely to occur within the proposed corridor zone and within 1 mile of the transmission corridor zone plotted on maps at a scale of 1:24,000 (or another appropriate scale agreed to by staff) or aerial photographs of an appropriate scale;

(3) a discussion of potentially significant biological resource impacts that are reasonably foreseeable from future construction, operation, or maintenance of electric transmission line structures within the corridor zone and mitigation measures to minimize or avoid potentially significant impacts;

(4) a list of biological resource-related state and federal permits that are likely to be required for the transmission corridor and the state and federal laws that are applicable to each permit; and

(5) a list of all who prepared the Biological Resources section and their qualifications.

(i) Cultural Resources

In a section entitled, "Cultural Resources," the application shall describe the cultural resources setting of the proposed transmission corridor zone and include all of the following:

(1) a discussion of cultural resource information regarding the proposed transmission corridor provided by the California Historical Resources Information System, which is maintained by the California Department of Parks and Recreation, Office of Historic Preservation, through contracts with independent regional Information Centers*,

(2) topographic maps at a scale of 1:24,000 showing the proposed corridor zone, areas already surveyed for cultural resources, and locations of known cultural resources*,

(3) a discussion of sacred lands data base information provided by the Native American Heritage Commission*;

(4) a discussion of contacts made with Native Americans identified by the Native American Heritage Commission and information about locations of archaeological and sacred sites*;

(5) a discussion of known and reasonably foreseeable cultural resource impacts that could be adversely affected from the future construction, operation, or maintenance of electric transmission line structures within the corridor zone and measures that could be taken to mitigate any adverse impacts; and

(6) a list all who prepared the Cultural Resources section and their qualifications. (Include information indicating that they meet the Secretary of the Interior's Professional Qualifications Standards as referenced in the Code of Federal Regulations, Part 61, section 61.3.)

***** Any submittal that contains information about the locations of archaeological sites must be submitted under confidential cover and only a Cultural Resources Specialist is authorized to review confidential cultural resources submittals.

(j) Land Use

In a section entitled, "Land Use," the application shall include:

(1) a general description of existing and future land uses adopted by any federal, state, regional, and local planning agency/authority within the proposed transmission corridor zone;

(2) a map, at a scale of 1:24,000 (or another appropriate scale agreed to by staff), showing existing and future land uses and any identified special status areas within, or contiguous to, the proposed transmission corridor zone;

(3) the identification of special status areas, if any, within the proposed corridor zone and within one mile of the outer boundaries of the proposed corridor; special status areas include, but are not limited to, areas designated by the California Coastal Commission, San Francisco Bay Conservation and Development Commission, and Delta Protection Commission; farmland designated as prime, of statewide importance, or unique by the California Department of Conservation; Federal, State, regional, county and city parks; wilderness, scenic or natural reserves; areas for wildlife protection, recreation, and historic preservation; mineral resource lands; Native American lands; military lands, and airports;

(4) a discussion of whether any of the special status areas identified could be adversely affected by the future construction, operation, or maintenance of electric transmission line structures within the proposed transmission corridor zone and what measures could be taken to avoid or mitigate significant impacts.

(5) a discussion of the potential impacts to present and foreseeable land uses within, or contiguous to, the proposed corridor zone, that may occur from the future construction, operation, or maintenance of electric transmission line structures within the corridor zone; such discussion should include anticipated impacts on residential, recreational, scenic, agricultural, natural resource protection, educational, religious, cultural, and historic areas, military and airport operations, special status areas, and any other area of unique land uses;

(6) a discussion of what measures could be taken to avoid or mitigate potentially significant adverse impacts;

(7) a discussion of any city- or county-designated transmission corridors located anywhere within the local jurisdiction that would be traversed by the proposed corridor;

(8) a discussion of any designated transmission corridors on state or federally managed lands within all counties affected by the corridor;

(9) a discussion of any local, state, or federal laws, ordinances, regulations, or standards that promote or discourage electric transmission lines in specific areas of the affected jurisdictions or that place restrictions on any electric transmission lines to be built within the proposed corridor;

(10) a discussion of any plan changes (e.g., city/county general plan, State Park general plan, National Forest plan, etc.) being considered by affected local, state, and federal jurisdictions that may present an obstacle to the proposed transmission corridor;

(11) on a map at a scale of 1:24,000 (or another appropriate map scale agreed to by staff), identification of any local, state, or federal designated transmission corridors discussed above, and any city sphere-of-influence boundaries; and

(12) all assumptions, evidence, and references used to support the descriptions, discussions, and analyses required in this section.

(k) Traffic and Transportation

In a section entitled, “Traffic and Transportation,” the application shall include:

(1) a general description of the regional transportation setting of the proposed transmission corridor zone, including all existing and planned state highways and freeways within the proposed corridor zone and within 0.5 miles of the outer boundaries of the corridor;

(2) identification of any airport within 20,000 feet of a proposed transmission corridor, and any heliport within 5,000 feet of a proposed corridor (or planned or proposed airport runway or an airport runway under construction, that is the subject of a notice or proposal on file with the Federal Aviation Administration);

(3) identification of any designated airport safety zone, airport influence area, or airport referral area within or contiguous to the proposed transmission corridor;

(4) identification of any restricted military airspace within or contiguous to the proposed transmission corridor;

(5) a discussion of how the future construction, operation, or maintenance of electric transmission line structures within the proposed corridor zone would affect what is identified above in subsections (1) through (4);

(6) a discussion of what measures could be taken to avoid or mitigate potentially significant adverse impacts from the future construction, operation, or maintenance of electric transmission line structures within the proposed corridor;

(7) all assumptions, evidence, and references used to support the descriptions, discussions, and analyses required in this section; and

(8) a map, at a scale of 1:24,000 (or another appropriate scale agreed to by staff), showing the transportation facilities identified above.

(l) Visual Resources

In a section entitled, “Visual Resources,” the application shall include:

(1) a general narrative description of the regional visual setting of the proposed transmission corridor zone, including the visual properties of the topography, vegetation, and any modifications to the landscape as a result of human activities;

(2) a discussion of special status areas, if any, within or visible from the proposed corridor zone that could be adversely affected by the future construction, operation, or maintenance of electric transmission line structures within the corridor zone; special status areas include, but are not limited to, areas designated by the California Coastal Commission; state, regional, county and city parks; wilderness, scenic or natural reserves; scenic vistas or scenic resource areas; State Scenic Highways; National Scenic Byways; and All-American Roads;

(3) a discussion of whether any of the special status areas identified could be adversely affected by the future construction, operation, or maintenance of electric transmission line structures within the proposed transmission corridor zone, and what measures could be taken to avoid or mitigate significant impacts;

(4) a topographic map, at a scale of 1:24,000 (or another appropriate scale agreed to by staff), showing the special status areas within or contiguous to, the proposed transmission corridor zone;

(5) a discussion of the potential visual impacts that may occur from the future construction, operation, or maintenance of electric transmission line structures within the corridor zone. The discussion should include anticipated impacts on visually sensitive areas, including, but not limited to, residential, recreational, coastal, and scenic areas, travelers on scenic roadways, and special status areas. The discussion shall also indicate what measures could be taken to avoid or mitigate any potentially significant adverse impacts; and

(6) all assumptions, evidence, and references used to support the descriptions, discussions, and analyses required in this section.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25331, Public Resources Code and Section 15084, Title 14, California Code of Regulations.

Chapter 7. Administration

Article 1. Conflict of Interest Code

§ 2401. General Provisions.

The Political Reform Act, (Government Code Sections 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sect. 18730) that contains the terms of a standard model conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the State Energy Resources Conservation and Development Commission (Energy Commission).

Individuals holding designated positions shall file their statements of economic interests with the Energy Commission, which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Upon receipt of the statement for the Executive Director, the Energy Commission will make and retain a copy and forward the original statement to the Fair Political Practices Commission. All other statements will be retained by the Energy Commission.

Note: Authority cited: Section 87300, Government Code. Reference: Section 87300, Government Code.

§ 2402. Appendix.

(a) Designated Positions	*Assigned Disclosure Categories*
COMMISSIONERS' OFFICES	
CEA positions (All levels)	1
Advisor to the Commissioner	1
Committee Liaison (any CEC classification)	1
Consultant	*
OFFICE OF EXECUTIVE DIRECTOR	
Executive Director	1
CEA positions (All levels)	1
Information Officer I (Specialist)	7,9
Graphic Designer	9
Energy Program Specialist III (Forecasting)	1
Interjurisdictional Exchange (any office or division)	1
Staff Information System Analyst (Supervisor)	2,3
Associate Information System Analyst (Specialist)	3
Staff Services Manager I	2,7
Special Projects (any CEC classification)	1
Research Specialist III (Economics)	1
Consultant	*
OFFICE OF CHIEF COUNSEL	
Chief Counsel, CEA Level 4	1
Assistant Chief Counsel	1
Staff Counsel (All levels)	1
Consultant	*
OFFICE OF HEARING ADVISERS	
Chief Hearing Adviser	1
Hearing Adviser II	5,6,8
Hearing Adviser I	5,6,8
Consultant	*
OFFICE OF THE PUBLIC ADVISER	
Public Adviser	1
Associate Public Adviser	1
Consultant	*
HUMAN RESOURCES AND SUPPORT SERVICES BRANCH	
Business Services Assistant	2
Business Services Officer (All levels)	2
Staff Services Manager III	2
Consultant	*

INFORMATION TECHNOLOGY SERVICES BRANCH	
Information Systems Analyst (Assistant, Associate, Staff, and Senior)	3
Data Processing Manager III	3
Staff Programmer Analyst	3
Consultant	*
FINANCIAL SERVICES BRANCH	
Staff Services Manager III	1
Consultant	*
EFFICIENCY AND RENEWABLES DIVISION	
Deputy Director, CEA Level 3	1
Office Manager (All levels)	2,4,7,9
Energy Commission Supervisor II	7
Energy Commission Specialist (All levels)	7
Senior Mechanical Engineer	4,7
Mechanical Engineer	4,7
Associate Mechanical Engineer	7
Electrical Engineer	4,7
Associate Electrical Engineer	4,7
Associate Civil Engineer	4,7
Staff Information System Analyst (Specialist)	3
Consultant	*
SITING, TRANSMISSION, AND ENVIRONMENTAL PROTECTION DIVISION	
Deputy Director, CEA Level 3	1
Office Manager (All levels)	1
Planner - Energy Facilities Siting (All levels)	5,6,7,8
Electric Transmission Systems Program Specialist (All levels)	5,6,8
Energy Commission Specialist (All levels)	5,6,8
Staff Toxicologist	5,6,8
Supervising Electrical Engineer	5,6,8
Senior Electrical Engineer	5,6,8
Associate Electrical Engineer	5,6,8
Supervising Mechanical Engineer	5,6,8
Senior Mechanical Engineer	5,6,8
Mechanical Engineer	5,6,8
Associate Mechanical Engineer	5,6,8
Supervising Engineering Geologist	5,6,8
Senior Engineering Geologist	5,6,8
Engineering Geologist	5,6,8
Associate Information System Analyst (Specialist)	3
Air Resources Supervisor I	5,6
Air Resources Engineer	5,6
Consultant	*
RESEARCH AND DEVELOPMENT DIVISION	
Deputy Director, CEA Level 3	1
Deputy Division Chief	1

Office Manager (All levels)	1
Energy Commission Supervisor II	5,6,7,9
Energy Commission Specialist III	5,6,7,9
Energy Commission Specialist II	5,6,7,9
Energy Commission Specialist I	5,6,7
Associate Automotive Equipment Standards Engineer	5,6,7
Electric Generation System Specialist I	5,6,7
Associate Energy Specialist	5,6,7
Associate Geologist	5,6,7
Associate Mechanical Engineer	5,6,7
Senior Mechanical Engineer	5,6,7
Mechanical Engineer	5,6,7
Senior Electrical Engineer	5,6,7
Associate Electrical Engineer	5,6,7
Electric Generation Systems Program Specialist I	5,6,7
Consultant	*

FUELS AND TRANSPORTATION DIVISION

Deputy Director, CEA Level 3	1
Office Manager (All levels)	2,3,6,7
Energy Commission Supervisor (All levels)	6,7
Energy Commission Specialist (All levels)	6,7
Associate Automotive Equipment Standards Engineer	6,7
Associate Mechanical Engineer	6,7
Associate Energy Specialist	6,7
Senior Mechanical Engineer	6,7
Mechanical Engineer	6,7
Consultant	*

ELECTRICITY SUPPLY ANALYSIS DIVISION

Deputy Director, CEA Level 3	1
Office Manager (All levels)	2,3,5,6
Energy Commission Specialist (All levels)	5,6
Energy Commission Supervisor II	5,6
Electric Generation System Specialist (All levels)	5,6
Mechanical Engineer	5,6
Associate Mechanical Engineer	5,6
Senior Mechanical Engineer	5,6
Electric Generation System Program Specialist (All levels)	5,6
Senior Electrical Engineer	5,6
Associate Electrical Engineer	5,6
Electrical Engineer	5,6
Engineering Geologist	5,6
Research Specialist III	5,6
Consultant	*

*Consultants shall be included in the list of designed positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a "designed position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code (Gov. Code Section 81008).

Officials Covered By Government Code Section 87200

The following positions are not covered by the conflict-of-interest code because they must file a statement of economic interests under Government Code Section 87200 and therefore, are listed for informational purposes only:

Commissioner, State Energy Resources Conservation and Development Commission

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by section 87200.

(b) Disclosure Categories

For purposes of the following categories, "business entity" means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association. "Business position" refers to status as a director, officer, partner, trustee, employee, or holder of a position of management in any business entity.

Category 1

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, interests in real property, and investments and business positions in business entities.

Category 2

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, from, and investments and business positions in, business entities that provide services, supplies, materials, machinery, or equipment of the type purchased, leased, or obtained by contract by the Energy Commission for use by the Energy Commission, its members, employees, or consultants.

Category 3

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, from, and investments and business positions in, business entities that manufacture, sell, distribute, or otherwise provide computers, computer hardware, computer software, computer services, computer models, or computer-related supplies, materials, machinery, or equipment of the type utilized by the Energy Commission.

Category 4

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, from, and investments and business positions in, business entities engaged in the design, manufacture, sale, distribution, assessment, calibration, evaluation, or testing of any appliance, equipment, product, program, service, or structure required to be approved by or to meet standards set by the Energy Commission.

Category 5

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, from, and investments and business positions in, business entities that engage in the design, development, construction, sale, or the acquisition of facilities that generate electricity, including, but not limited to, wind, solar, geothermal, hydroelectric, ocean, garbage, and biomass.

Category 6

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, from, and investments and business positions in, business entities that are energy or environmental consultants, research firms, or engineering firms, entities that design, build, manufacture, sell, distribute, or service equipment of the type that is utilized by electric power suppliers, including, but not limited to, wind, solar, geothermal, hydroelectric, ocean, garbage, and biomass, or any entity that is party to a an Energy Commission proceeding.

Category 7

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, from, and investments and business positions in, business entities of the type that have applied for or received any loan or grant from the Energy Commission.

Category 8

Designated positions assigned to this category must report all interests in real property located within the state of California and zoned or used primarily for industrial or commercial purposes.

Category 9

Designated positions assigned to this category must report all sources of income, including gifts, loans, and travel payments, from, and investments and business positions in, business entities of the type that have contracted with the Energy Commission to provide services related to the design, editing, production, drafting, artwork, printing, publication, or distribution of an Energy Commission document.

Note: Authority cited: Sections 87300 and 87306, Government Code. Reference: Sections 87200 and 87302, Government Code.

Article 2. Disclosure of Commission Records

§ 2501. Policy.

The California Legislature and California Constitution have declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state, and have also recognized that there are sound reasons for protecting privacy. The Commission has adopted these regulations so that members of the public will fully understand and be given the opportunity to exercise their right to inspect and copy Commission records with the least possible delay and expense, and so that legitimate interests in confidentiality will be protected.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Article 1, Section 3(b), California Constitution; Sections 6250 and 6254, Government Code; and Sections 25223, 25322 and 25366, Public Resources Code.

§ 2502. Scope.

This Article applies to inspection and copying of all records. It applies to any person making any request to copy or inspect records. It applies to any request by any person for the Commission to keep a record confidential, including, but not limited to, requests pursuant to Section 25322 of the Public Resources Code.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 25223, 25322 and 25366, Public Resources Code.

§ 2503. Construction and Definitions.

(a) This Article implements the California Public Records Act (Section 6250 et seq. of the Government Code) and shall be construed in a manner consistent with that Act.

(b) For purposes of this Article the definitions in the California Public Records Act, the definitions in Section 1302 of Article 1 of Chapter 3, and the following definitions shall apply:

(1) "Private third party" means any person other than a federal, state, regional, or local governmental body, or a person under contract to such body, except that for purposes of data submitted pursuant to Chapter 3 (beginning with Section 1301) and Chapter 5 (beginning with Section 1701) of this Division, a federal, state, regional, or local governmental body, or person under contract to such body, shall be deemed to be a private third party.

(2) "Confidential record" means a record that has been determined to be confidential pursuant to Section 2505 or 2506 of this Article.

(3) "Applicant" means a private third party requesting that the Commission keep a record confidential pursuant to Section 2505 of this Article.

(4) "Petitioner" means a person seeking to inspect or copy a confidential record pursuant to Section 2506 of this Article.

(5) "Petition" means a request from a petitioner seeking to inspect or copy a confidential record, pursuant to Section 2506 of this Article.

(6) "Fuel Price" means fuel cost divided by fuel use expressed in dollars, for a specific fuel type.

(7) "Masked" means, but is not limited to, customer, business, or cultural data that has been modified to limit the risk of disclosure of confidential information. Methods of data modification may include, but are not limited to, suppression of data, rounding, swapping of values between like respondents, replacement of data with group averages, grouping of categories, and addition of random values.

(8) "Survey Response" means the answers to survey questions provided by persons or companies.

(9) "Aggregated" means that data is summed, averaged, or otherwise combined to limit the risk of disclosure of confidential information.

(10) "Freedom of Information Act" is contained at Title 5 United States Code Section 552.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 25223, 25322 and 25366, Public Resources Code; and Sections 6250 et seq., Government Code.

§ 2504. Inspection and Copying.

(a) This section applies to all records, except records deemed confidential, which are subject to the provisions of Section 2506.

(b) A request to inspect or copy a record shall be made orally or in writing to the Office of Chief Counsel. The Public Adviser will assist persons in requesting records. A request shall describe the record sought in sufficient detail so that it can be identified and found by a Commission employee.

(c) Time and Place. A request to inspect or copy a readily identifiable and available record shall be satisfied within ten days of receipt of the request unless the need to complete processing or filing of the record, the use of the record by another person or a Commission employee, the volume of requests, the unavailability of Commission employees, or other unusual circumstances renders such a response impracticable, in which case the Commission will notify the person making the request of the need for an extension within ten days of the request. Such extension shall not exceed ten working days. All records except records determined to be confidential pursuant to Section 2505, Section 2506, or Section 2508 shall be made available for inspection and copying Monday through Friday, generally between 8 a.m. and 5 p.m at the Commission's offices. The Executive Director shall make reasonable efforts to provide facilities for inspection of records, including a desk for notetaking.

(d) Protection of Records. Records may be inspected or copied only at Commission offices. The Executive Director may designate a particular place for the public to inspect or copy records. He or she may establish procedures for responding in a fair and orderly manner to numerous requests, including, when strictly necessary to prevent disruption of Commission

functions, establishing a specific time each day for inspection and copying. He or she may require a Commission employee to be present at the time of inspection or copying, but such employee shall not disturb a person inspecting or copying records. Where necessary, copies of records rather than originals may be provided for inspection.

(e) Computer Records. Inspection and copying of computer records and other records whose form makes inspection or copying difficult or impracticable shall be in a manner determined by the Executive Director. If providing an exact copy is impracticable, some type of copy shall nevertheless be provided.

(f) Copies. Except for records determined to be confidential pursuant to Section 2505 or Section 2506, copies and certified copies of all records are available to any person for a fee which shall be paid at the time a request is made. The fee for providing a copy or a certified copy shall be no higher than the actual cost of providing the copy, or the prescribed statutory fee, whichever is less.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 25223, 25322 and 25366, Public Resources Code; and Sections 6253(a), 6256 and 6257, Government Code.

§ 2505. Designation of Confidential Records.

(a) Third Parties.

(1) Any private third party giving custody or ownership of a record to the Commission shall specify if it should be designated a confidential record and not publicly disclosed. An application for confidential designation shall:

(A) be on a sheet or sheets separate from, but attached to, the record;

(B) specifically indicate those parts of the record that should be kept confidential;

(C) state the length of time the record should be kept confidential, and justification for the length of time;

(D) cite and discuss the provisions of the Public Records Act or other law that allow the Commission to keep the record confidential. If the applicant believes that the record should not be disclosed because it contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, the application shall also state the specific nature of that advantage and how it would be lost, including the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others;

(E) state whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required. If the information cannot be disclosed even if aggregated or masked, the application shall justify why it cannot;

(F) state how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances;

(G) contain the following certification executed by the person primarily responsible for preparing the application:

1. "I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge," and

2. State whether the applicant is a company, firm, partnership, trust, corporation, or other business entity, or an organization or association, and

3. State that the person preparing the request is authorized to make the application and certification on behalf of the entity, organization, or association.

(H) If the record contains information that the applicant has received from another party who has demanded or requested that the applicant maintain the confidentiality of the information, the applicant shall address the items in (B) through (F) of this subsection to the greatest extent possible and shall explain the demand or request made by the original party and the reasons expressed by the original party. If the basis of an application for confidential designation is an order or decision of another public agency pursuant to the Public Records Act or the Freedom of Information Act, the application shall include only a copy of the decision or order and an explanation of its applicability. The Executive Director shall consult with that agency before issuing a determination.

(2) A deficient or incomplete application shall be returned to the applicant with a statement of its defects. The record or records for which confidentiality was requested shall not be disclosed for fourteen days after return of the application to allow a new application to be submitted except as provided in Section 2507 of this Article.

(3) Executive Director's Determination.

(A) The Executive Director shall, after consulting with the Chief Counsel, determine if an application for confidential designation should be granted. An application shall be granted if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential. The Executive Director's determination shall be in writing and shall be issued no later than thirty days after receipt of a complete application. The Executive Director or the Chief Counsel may, within fourteen days after receipt of an application for confidential designation, require the applicant to submit any information that is missing from the application. If the missing information is not submitted within fourteen days of receipt of the request by the Executive Director or Chief Counsel, the Executive Director may deny the application.

(B) If an application is denied by the Executive Director, the applicant shall have fourteen days to request that the Commission determine the confidentiality of the record. If the applicant makes such a request, the Commission shall conduct a proceeding pursuant to the provisions of Section 2508.

(C) After an application has been denied, the information sought to be designated confidential shall not be available for inspection or copying for a period of fourteen days, except as provided in Section 2507 of this Article.

(4) Repeated Applications for Confidential Designation. If an applicant is seeking a confidential designation for information that is substantially similar to information that was

previously deemed confidential by the Commission pursuant to Section 2508, or for which an application for confidential designation was granted by the Executive Director pursuant to subdivision (a)(3)(A) of this section, the new application need contain only a certification, executed under penalty of perjury, stating that the information submitted is substantially similar to the previously submitted information and that all the facts and circumstances relevant to confidentiality remain unchanged. An application meeting these criteria will be approved.

(5) Automatic Designation. Information submitted by a private third party shall be designated confidential without an application for confidentiality if the requirements of subsections (a)(5)(A) and (B) of this Section are met. If the requirements of subsection (a)(5)(A) and (B) are not met, the Executive Director shall inform the private third party that the record will not be deemed confidential. Except as provided in Section 2507 of this Article, the record for which confidentiality was requested shall not be disclosed for fourteen days to allow the requirements of subsection (a)(5)(A) and (B) to be met or to allow the filing of an application pursuant to subsection (a)(1) of this section.

(A) The entity submitting the information shall label each individual item of the submittal that is entitled to be designated confidential.

(B) The entity submitting the information shall attest under penalty of perjury that the information submitted has not been previously released and that it falls within one of the following categories:

1. Information that is derived from energy consumption metering, energy load metering research projects, or energy surveys provided pursuant to Section 1343 or 1344 of Article 2 of Chapter 3, and that is one or more of the following:

a. for the residential customer sector and the commercial customer sector - customer identifiers, energy consumption, and any other information that could allow a third party to uniquely identify a specific respondent;

b. industrial major customer sector - all information;

c. survey design information - all information used to design a survey, stratify billing records, devise a sample scheme, select a sample, sample specific end-users for participation in a survey or a pre-test of a questionnaire or interview form.

2. Energy sales data provided pursuant to Section 1306, 1307, or 1308(c) of Article 1 of Chapter 3, if the data is at the greatest level of disaggregation required therein.

3. Information submitted by each LSE that is not a UDC that consists of:

a. Load forecasts and supporting customer projections by UDC distribution service area submitted pursuant to subdivision (b) of Section 1345 of Article 2 of Chapter 3.

b. Retail electricity price forecasts submitted pursuant to subdivision (a) of Section 1348 of Article 2 of Chapter 3.

4. Fuel cost data provided for individual electric generators under Section 1304 and fuel price data provided pursuant to subdivision (d) of Section 1308 of Article 1 of Chapter 3.

5. Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

6. Electric power plant-specific hourly generation data.

7. Electric power plant name, nameplate capacity, voltage at which the power plant is interconnected with a UDC system or transmission grid, address where the power plant is physically located, power plant owner's full legal name and address or longitude and latitude, if power plant is privately owned and its identity as a power plant is not public knowledge, (e.g., backup generator or solar installation at residence or business) under Section 1304 of Article 1 of Chapter 3.

8. Information the release of which is prohibited pursuant to the Information Practices Act (Civil Code Section 1798 et seq.)

(6) Failure to request confidentiality at the time a record is submitted to the Commission does not waive the right to request confidentiality later; however, once a record has been released to the public, the record can no longer be deemed confidential. Although a record designated as confidential shall remain confidential during the application and appeal process, subject to the provisions of Section 2507(b) of this Article, the application itself is a public document and can be released.

(b) Governmental Entities. When another federal, state, regional, or local agency or state-created private entity, such as the California Independent System Operator, possesses information pertinent to the responsibilities of the Commission that has been designated by that agency as confidential under the Public Records Act, or the Freedom of Information Act, the Commission, the Executive Director, or the Chief Counsel may request, and the agency shall submit the information to the Commission without an application for confidential designation. The Commission shall designate this information confidential.

(c) Commission Generated Information

(1) The Executive Director in consultation with the Chief Counsel, may designate information generated by Commission staff as confidential under the Public Records Act. A confidential designation made in this manner shall be summarized in the agenda for the next Commission Business Meeting. Any private third party or public entity may request to inspect or copy these confidential records by filing a petition pursuant to Section 2506 of this Article.

(2) Contracts and Proposals

(A) Information received by the Commission in response to a solicitation shall be kept confidential by the Commission and its evaluators before posting of the notice of the proposed award. The solicitation document shall specify what confidential information the proposal may contain and how that confidential information will be handled after the posting of the notice of the proposed award.

(B) The Executive Director, in consultation with the Chief Counsel, may designate certain information submitted under a contract as confidential in accordance with the Public Records Act or other provisions of law. The designation and its basis shall be in writing and contained in the contract governing the submittal of the information or in a separate statement. The contract or written statement shall also state exactly what information shall be designated

confidential, how long it shall remain confidential, the procedures for handling the information, and all other matters pertinent to the confidential designation of the information.

(3) All data generated by the Commission that is the same type as the data described in Section 2505(a)(5)(B) of this Article shall be kept confidential by the Commission.

(d) All documents designated confidential pursuant to this Section shall be treated as confidential by the Commission except as provided in Section 2507.

(e) Every three months, the Executive Director shall prepare a list of data designated confidential pursuant to this Section during the previous three months. The Executive Director shall give the list to each Commissioner. The list shall also be made available to the public upon request.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 25223, 25322, 25364 and 25366, Public Resources Code; and Bakersfield City School District v. Superior Court (2004) 118 Cal.App.4th 1041.

§ 2506. Petition for Inspection or Copying of Confidential Records; Chief Counsel Decision.

(a) Form of Petition. A petition for inspection or copying of any confidential record shall be written, and shall be served on the Chief Counsel. It shall state the facts and legal authority supporting a conclusion that the Commission should disclose the confidential record. If the request is for inspection or copying of records deemed confidential after a Commission decision issued pursuant to Section 2508, the petition shall identify new information that has become available or changed circumstances that have occurred that materially affected the previous determination.

(b) Delegation of Commission Decision to the Chief Counsel.

(1) The decision of the Commission on a petition for inspection or copying of confidential records is delegated to the Chief Counsel.

(2) If the petition is for inspection or copying of a record received from a private third party, a person under contract to the Commission, or another government agency, the Chief Counsel shall:

(A) within one day of service of the petition, provide both a copy of the petition to the person or entity that submitted the information and a written request for written approval of release of the record. Any party not wishing to give permission for the record's release may supplement the initial application for confidential designation, if any, or provide any additional information within five working days of the receipt of the request for permission. Failure to respond to the Chief Counsel's request to release the record shall not be deemed consent for release.

(B) within five working days of receipt of a petition, provide the petitioner with a written summary of the basis of the original confidential determination and a copy of the Commission's regulations governing the disclosure of Commission records.

(3) The Chief Counsel shall issue a decision on the petition within ten days of its service on the Chief Counsel, unless unusual circumstances renders such a decision impossible, in which case the Chief Counsel will notify the petitioner of the need for an extension within ten days of the filing of the petition. Such extension shall not exceed fourteen days.

(4) The Chief Counsel shall base his or her decision on whether the entity seeking to maintain the confidentiality of the record has met its burden of proof in demonstrating that confidentiality is warranted under the California Public Records Act, and that, considering all the facts and circumstances, the record should be kept confidential.

(5) If the request is for inspection or copying of records deemed confidential after a Commission decision issued pursuant to Section 2508, the Chief Counsel shall deny the petition unless the petition identifies new information that has become available or changed circumstances that have occurred that materially affect the previous determination.

(6) Any party may request that the full Commission reconsider the Chief's Counsel's decision, in which case, the Commission shall conduct a proceeding pursuant to the provisions of Section 2508. Any such request shall be filed within fourteen days of the issuance of the Chief Counsel's decision.

(7) A decision that a record should be disclosed shall ordinarily be effective fourteen days after issuance, although an earlier effective date may be specified in unusual circumstances, consistent with maintaining the opportunity of the person originally submitting the information to prevent its release by requesting reconsideration or appealing the decision to a court of competent jurisdiction. A decision that the record is exempt from disclosure shall be effective immediately.

(c) List of Records Determined to be Confidential. The Executive Director shall maintain a list of records the Commission orders held confidential pursuant to this section.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 25223, 25322 and 25366, Public Resources Code; Sections 6250 et seq., Government Code; and Bakersfield City School District v. Superior Court (2004) 118 Cal.App.4th 1041.

§ 2507. Disclosure of Confidential Records.

(a) No confidential record shall be disclosed except as provided by this Section, Section 2506, or Section 2508, unless disclosure is ordered by a court of competent jurisdiction.

(b) No record that is the subject of a pending request for confidentiality pursuant to subdivisions (a) or (c) of Section 2505, a pending petition for inspection or copying of confidential records pursuant to subdivision (b)(5) of Section 2506, or a pending request pursuant to subdivision (e)(2) and (f)(2) of this section shall be disclosed except as provided in this section, unless disclosure is ordered by a court of competent jurisdiction.

(c) The Executive Director may disclose records previously designated as confidential to:

(1) Commission employees or representatives whose Commission work requires inspection of the records;

(2) Persons under contract to the Commission whose work for the Commission requires inspection of the records and who agree in a contract to keep the records confidential; and

(3) Other governmental bodies and state-created private entities, such as the California Independent System Operator, that need the records to perform their official functions and that agree to keep the records confidential and to disclose the records only to those employees or contractors whose agency work requires inspection of the records.

(d) The Executive Director may disclose data collected in association with customer surveys of the type described in Section 1343 of Article 2 of Chapter 3 and that are not masked or aggregated to the following entities:

(1) Demand side management program administrators, funded through the Energy Efficiency Public Goods Charge (EEPGC) established in Public Utilities Code Section 381(c), which need the survey responses to perform their official functions and that agree to keep the records confidential and to disclose the records only to those employees, and contractors, who need that data for EEPGC program evaluation and planning.

(2) Utilities that opt into collaborative surveys funded by the Commission, or that contribute funds for the implementation of a survey coordinated by the Commission, pursuant to Section 1343(f) of Article 2 of Chapter 3, may have access to that portion of survey responses by customers included within their service area provided they agree to keep the records confidential and to disclose the records only to those employees, and contractors, who need the data for distribution system planning.

(e) The Executive Director may release records previously designated as confidential in either of the following circumstances:

(1) where the confidential information has been masked or aggregated as described below in subdivisions (A)-(D).

(A) Data provided pursuant to Section 1306(a)(1), 1306(b), Section 1307(a), and Section 1308(c)(1) of Article 1 of Chapter 3 may be disclosed at the following levels of aggregation or higher:

1. For an individual LSE for whom electricity is delivered by one or more UDCs, data for each LSE aggregated at the statewide level by year and major customer sector.

2. For an individual gas retailer for whom gas is delivered by one or more gas utilities, data for each gas retailer aggregated at the statewide level by year and major customer sector.

3. For the sum of all LSEs for whom electricity is delivered by one or more UDCs (1) data aggregated at the county level by residential and non-residential groups, and (2) data aggregated at the distribution service area, planning area, or statewide level by major customer sector.

4. For the sum of all gas retailers for whom gas is delivered by gas utilities (1) data aggregated at the county level by residential and non-residential groups, and 2) data aggregated at the distribution service area, planning area, or statewide level by major customer sector.

5. For a UDC with a peak load of less than 200 MW during both of the previous two years or a gas utility with deliveries of less than 50 billion cubic feet per year during both of the previous two years, data aggregated at the distribution service area, planning area, or statewide level by major customer sector.

6. For a UDC with a peak load of 200 MW or more during both of the previous two years or a gas utility with deliveries of 50 billion cubic feet or less during both of the previous two years, (1) data aggregated at the county level by residential and non-residential groups, and (2) data aggregated at the distribution service area, planning area, or statewide level by major customer sector.

7. For the total sales by county:

a. sum accounts, kWh, and revenue reported by all UDCs, aggregated at the county level by the economic industry groupings used by the California Employment Development Department in its September 2005 Current Employment Statistics survey county reports.

b. sum accounts, therms, and revenue reported by all gas utilities, aggregated at the county level by the economic industry groupings used by the California Employment Development Department in its September 2005 Current Employment Statistics survey county reports.

8. For total consumption by county:

a. sum electricity deliveries (kWh) reported by all UDCs and electric generation consumed on site (other than for plant use) reported by power plants, aggregated at the county level by the economic industry groupings used by the California Employment Development Department in its September 2005 Current Employment Statistics survey county reports.

b. the sum of natural gas deliveries (therms) as reported by all gas utilities, and natural gas that is produced and consumed on site as reported by gas retailers, with the sum aggregated at the county level by the economic industry groupings used by the California Employment Development Department in its September 2005 Current Employment Statistics survey county reports.

(B) Electric generator fuel cost data provided pursuant to Section 1304(a)(2)(C) and electric generator fuel price data computed from fuel cost and fuel use data reported pursuant to Section 1304(a)(2)(C), may be disclosed if aggregated by fuel type and gas service area or higher, and if the disclosure is made six months after the end of the month for which prices were reported.

(C) Data of the type described in Section 1343 of Chapter 3, Article 2 and collected in association with customer surveys that are begun after December 8, 2000, may be disclosed in the following manner:

1. Residential customer sector and commercial customer sector survey responses from persons or companies may be released after name, address, and other respondent identifiers have been removed, and usage data and responses to specific survey questions that could allow a third party to uniquely identify a respondent have been masked;

2. Industrial major customer sector responses from companies may not be released. Tabulations of industrial major customer sector survey data may be released only after the data has been aggregated to ensure that information about respondents will not be disclosed.

(2) where information designated as confidential that is other than that identified in subdivision (e)(1) above has been masked or aggregated to the point necessary to protect confidentiality. When the Executive Director plans to release masked or aggregated confidential data, he or she shall provide notice to the filer of the information, who may, within fourteen days, request that the Commission prohibit the release of the information. During that time, the records shall not be available for inspection or copying. If the filer makes such a request, the Commission shall conduct a proceeding pursuant to the provisions of Section 2508.

(f) The Executive Director may release records previously designated as confidential in either of the following circumstances:

(1) upon written permission by all entities who have the right to maintain the information as confidential; or

(2) under any other circumstance where the information is no longer entitled to confidential treatment. When the Executive Director plans to release such information, he or she shall provide notice to the filer of the information, who may, within fourteen days, request that the Commission prohibit the release of the information. During that time, the records shall not be available for inspection or copying. If the filer makes such a request, the Commission shall conduct a proceeding pursuant to the provisions of Section 2508.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 25223, 25322 and 25366, Public Resources Code.

§ 2508. Commission Hearing on Confidentiality of Records.

(a) The Commission shall hold a hearing to determine the confidentiality of Commission records in response to a timely request pursuant to subdivisions (a)(3)(B) and (c)(1) of Section 2505, subdivision (b)(5) of Section 2506, or subdivisions (e) (2) or (f)(2) of Section 2507. The Commission may also hold a hearing to determine the confidentiality of Commission records on its own motion or on a motion by Commission staff. Any person, including but not limited to the Commission staff, may participate in such hearing.

(b) A Commission decision on the confidentiality of records pursuant to this section shall be based on whether the entity seeking to maintain the confidentiality of the record has met its burden of proof in demonstrating that confidentiality is warranted under the California Public Records Act, and that, considering all the facts and circumstances, the record should be kept confidential.

(c) If the Commission has already held a hearing pursuant to this section to determine the confidentiality of a Commission record, it need not hold an additional hearing on the confidentiality of that record unless the entity seeking the additional hearing has demonstrated that there is new information or changed circumstances that materially affects the Commission's previous determination.

(d) If the Commission determines, pursuant to this section, that a record is not entitled to confidentiality, the record that is the subject of the hearing shall not be available for inspection or copying for a period of fourteen days after such determination, unless disclosure is ordered by a court of competent jurisdiction.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 25223, 25322 and 25366, Public Resources Code; and Bakersfield City School District v. Superior Court (2004) 118 Cal.App.4th 1041.

§ 2509. Security of Confidential Records.

The Executive Director is responsible for maintaining the security of confidential records and records determined by the Commission to be unavailable pursuant to Sections 2505 and 2506.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code and Section 6253(a), Government Code. Reference: Section 25223, Public Resources Code.

§ 2510. Delegation of Authority and Responsibilities.

The Executive Director may delegate any of his or her authorities or responsibilities under this Article to any Division Chief.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code and Section 6253(a), Government Code. Reference: Section 25223, Public Resources Code.

§ 2511. Information Practices Act.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25223, Public Resources Code and Section 1798.70, Civil Code.

Article 3. Role of Public Adviser

§ 2551. Application of Article.

This article defines the duties of the public adviser to the State Energy Resources Conservation and Development Commission, which duties are outlined in sections 25222 and 25519 of the Public Resources Code, and any amendments to Division 15 of the Public Resources Code.

Note: Authority cited: Sections 25213, 25218(e) and 25218(f), Public Resources Code. Reference: Sections 25217-25217.5, 25222, 25223 and 25519(g), Public Resources Code.

§ 2552. Definitions.

(a) "Member of the public" means any person, firm, association, organization, partnership, business trust, corporation, or company, and also includes any city, county, public district or agency, state or any department or agency thereof (except for the commission and members of its staff), and the United States or any department or agency thereof.

(b) "Proceeding" means any meeting, hearing, workshop, conference, or visit, of the commission or its staff, at which public attendance is required or permitted.

§ 2553. Overall Duty of the Public Adviser.

The public adviser serves as adviser to the public and to the commission to ensure that full and adequate participation by members of the public is secured in the commission's proceedings. The adviser serves the public and the commission by (1) advising the public how to participate fully in the commission's proceedings, thereby providing the commission with the most comprehensive record feasible in those proceedings; (2) advising the commission on the measures it should employ to assure open consideration and public participation in its proceedings; and (3) taking other measures to comply with sections 25222 and 25519(g) of the Public Resources Code.

§ 2554. The Adviser's Duty to Refrain from Advocating Substantive Positions.

In performing duties to the commission, including those duties discharged by advising the public, the adviser shall not represent any members of the public, nor shall he advocate any substantive position on issues before the commission.

§ 2555. The Adviser's Duty Within the Commission.

(a) Within the commission the adviser shall present recommendations to and requests for documents from line divisions of the commission only through the executive director or the division chiefs. The public adviser shall be given full and ready access to all public records.

(b) In recommending to the commission measures to assure full public participation in the commission's proceedings, the adviser shall render his or her independent advice on commission procedures that in the adviser's view will provide the optimum of public participation to benefit the commission in its work. As part of such advice, the adviser may advocate points of procedure that in the adviser's view will improve public participation in the commission's proceedings.

(c) So that the adviser may ensure that timely and complete notice of commission proceedings is disseminated to members of the public, he or she shall examine all notices of commission proceedings and shall present to the executive director any recommendations for improving the accuracy and timeliness of such notices.

§ 2556. The Adviser's Duties in Advising Members of the Public.

The adviser shall be available to any member of the public with an interest in participating in the commission's proceedings. In advising members of the public on effective means of participating in the commission's proceedings, the adviser shall render his or her

independent advice to a member of the public that in the adviser's view will provide the most effective participation of that member. Specifically, the adviser shall:

(a) Respond to all inquiries he or she receives from members of the public for information on the commission's agenda and opportunity for participation in the commission's proceedings.

(b) Respond to all inquiries from members of the public seeking advice on how to participate in the commission's proceedings.

(c) Establish rosters of members of the public who have an interest in the commission's proceedings.

(d) Advise members of the public regarding when an attorney, expert witness, or other professional assistance will be necessary or helpful to their participation.

(e) Upon request, assist members of the public in obtaining access to the public records of the commission, following the procedures established by appropriate regulations.

(f) Refer members of the public to commission staff who can best respond to the inquiries of those members.

(g) Organize the appearances of public participants in the public meetings and hearings of the commission, and formally introduce public participants to the commission.

(h) Suggest consolidation and coordination between and among members of the public with similar interests or views.

(i) Solicit the participation of members of the public whose participation the adviser deems necessary or desirable to complete the record in matters before the commission.

(j) Upon the request of public participants who may be absent from the commission's place of business or proceedings when a matter of interest to them is being considered, neutrally and publicly relate those participants' points to the commission.

(k) When necessary and desirable, guide public participants in their oral presentation to elicit or emphasize the participants' main points.

§ 2557. Additional Duties.

The adviser shall perform such additional duties consistent with Division 15 of the Public Resources Code and these regulations, that the commission may from time to time assign.

Article 4. Requests for Qualifications in the Selection of Professional Services Firms

§ 2560. Definitions.

(a) "Architectural, landscape architectural, engineering, environmental, and land surveying services," and "construction project management" have the respective meanings set forth in Government Code section 4525.

(b) "Commission" means the State Energy Resources Conservation and Development Commission or the Commission's designee authorized to negotiate or contract for architectural, engineering, environmental services, and surveying, or construction project management.

(c) "Firm" has the meaning set forth for that term in section 4525 of the Government Code.

(d) "Small Business Firm" has the meaning set forth in section 14837(c) of the Government Code.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2561. Publication of Announcement.

(a) The Commission shall publish, either electronically or in print, an announcement for expected architectural, engineering, environmental, land surveying, or construction project management services in the State Contracts Register and, when applicable, in a statewide publication of an appropriate professional society.

(b) The announcement shall include, but not be limited to, the following information: a contract identification number; a brief description of services required; location, and duration; submittal requirements and deadlines; name and telephone number of Commission contact for questions on the publication and for information about receiving the detailed request for qualifications.

(c) Failure of a professional publication to publish, or error by a professional publication in publishing an announcement shall not invalidate that announcement. In such a circumstance, the Commission may extend the announcement deadlines to allow further publication of the announcement.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2562. Request for Qualifications.

The Commission's request for qualifications shall utilize criteria for each proposed contract which will comprise the basis for the selection and ranking of eligible firms to perform the required services. The criteria shall include, but not be limited to, such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel, required qualifications, staff capability, workload, ability to meet schedules, principals to be assigned, nature and quality of completed work, reliability and continuity of the firm, location, professional awards and other considerations deemed relevant by the Commission. Such factors shall be weighed by the Commission according to the nature of the project, the needs of the State, and the complexity and special requirements of the specific project.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2563. Selection of Services.

After expiration of the period stated in the announcement, the Commission shall evaluate responding eligible firms' statements of qualifications based on the established selection criteria. The Commission shall conduct discussions with no less than three firms regarding qualifications and methods for furnishing the required services. From the firms with which discussions are held, the Commission shall select no less than three firms, in order of preference, based upon the established criteria, who are deemed to be the most highly qualified to provide the required services. If a Request for Qualifications results in submissions by less than three qualified firms, the Commission may, at its option, discontinue the selection process, extend the selection process and provide supplemental notice to attract additional firms, or continue the selection process with the submissions received.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2564. Estimate of Value of Services.

Before conducting discussions with any firm concerning fees, the Commission shall cause an estimate of the value of such services to be prepared. This estimate shall serve as a guide in evaluating fair and reasonable compensation during negotiations. At any time the Commission determines its estimate to be unrealistic due to changing market costs, special conditions, or other relevant considerations, the estimate shall be reevaluated and modified as necessary. The Commission's estimate shall remain confidential until the award of contract or abandonment of any further procedure for the services to which it relates.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2565. Negotiation.

The Commission, in compliance with Public Contract Code section 6106, shall attempt to negotiate an agreement with the most highly qualified firm. Should the Commission be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at fair and reasonable compensation, negotiations with that firm shall be terminated. The Commission shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The Commission shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be terminated. Should the Commission be unable to negotiate a satisfactory contract with any of the first three selected firms, the Commission may select additional firms in the manner described and continue the negotiation procedure or may terminate the negotiation process. The Commission may at any point reopen previously terminated negotiations with a firm.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2566. Contract Agreement.

(a) After successful negotiations, the Commission and the selected firm shall complete and sign a written contract agreement.

(b) In instances where the Commission effects a necessary change during the course of performance of a contract, the firm's compensation may be adjusted by mutual written agreement in a reasonable amount where the work to be performed by the firm is changed from that previously specified in the contract.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2567. Contracting in Phases.

Should the Commission determine that it is necessary or desirable that a given project be performed in phases, it will not be necessary to negotiate the total contract price in advance. The Commission shall then contract with the firm it determines is best qualified to perform the whole project at reasonable cost. Such a contract shall contain provisions specifying that the Commission may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated, mutually agreed upon and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2568. Small Business Participants.

The Commission shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement within the scope of their request. A failure of the Commission to send a copy of an announcement to any firm shall not operate to invalidate any contract.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

§ 2569. Conflict of Interest and Unlawful Activities.

As provided in Government Code section 87100, no Commission employee may participate in the selection process if the employee has a financial interest in any firm seeking a contract subject to this article is related to any person seeking a contract subject to this article.

Any Commission employee who does participate in the selection process and any firm seeking a contract under this article are prohibited from offering, soliciting, or accepting gifts, services, goods, loans, rebates or payments of any kind (such as kickbacks) to or from one another. Except as provided by the terms of the contract, this prohibition extends both to any Commission employee who manages a contract awarded under this article or reviews or approves contractor work products under the contract and to the contracting firm.

Note: Authority cited: Sections 25213, 25218(b) and 25218(e), Public Resources Code. Reference: Section 25216(c), Public Resources Code; and Sections 4525, 4526, 4526.5, 4527, 4528, 4529 and 4529.5, Government Code.

Chapter 8. Tax Credits [Repealed]

Chapter 9. Solar Energy

Article 1. Solar Offset Program

§ 2700. Scope.

These regulations establish the Homebuyer Solar Option and the Solar Offset Program pursuant to Public Resources Code Section 25405.5. These regulations apply to the developer/seller of production homes and include procedures which a developer/seller shall utilize when determining their selected compliance path.

A seller of production homes shall offer a solar energy system option to all prospective home buyers that enter into negotiations to purchase a new production home constructed on land for which an application for a tentative subdivision map has been deemed complete on or after January 1, 2011.

A developer/seller of production homes who does not participate in the Homebuyer Solar Option program shall install an offset solar energy system, generating specified amounts of electricity, on another project.

Note: Authority cited: Sections 25213, 25218(e), 25218.5, 25405.5(b) and 25405.5(c), Public Resources Code. Reference: Sections 25405.5(b) and 25405.5(c), Public Resources Code.

§ 2701. Definitions.

For the purpose of these regulations, the following definitions shall apply:

(a) *AC* means alternating current.

(b) *Banking* means the accumulation of expected annual time dependent valuation (TDV) energy from offset solar energy system(s) for future use in the solar offset program.

(c) *Building Energy Efficiency Standards for Residential and Nonresidential Buildings* means the California Building Energy Efficiency Standards as set forth in the California Code of Regulations, Title 24, Part 6.

(d) *Climate Zone* means the 16 geographic areas of California for which the Energy Commission has established typical weather data, prescriptive packages and energy budgets. The Energy Commission climate zone map is located at: www.energy.ca.gov/maps/building_climate_zones.html

(e) *Development* - this article uses the definition of "Development" provided in California Government Code Section 66418.1.

(f) *Energy Commission* means the State of California Energy Resources Conservation and Development Commission, commonly known as the California Energy Commission.

(g) *IOU* means investor-owned utility.

(h) *kW* means kilowatt or 1,000 watts, as measured from the alternating current side of the solar energy system inverter consistent with Section 223 of Title 15 of the United States Code.

(i) *MW* means megawatt or 1,000,000 watts.

(j) *Minimal Shading* means that no existing shading obstructions or planned or potential shading obstructions (i.e. such items that are shown on builder's building or landscaping plans but not yet installed or planted) are closer than a distance of twice the height that the obstruction extends above the nearest point on the PV array. Any obstruction that projects above the point on the PV array that is closest to the obstruction shall meet this criterion for the PV array to be considered minimally shaded.

(k) *New Solar Homes Partnership (NSHP)* means the part of the comprehensive statewide solar program, known as the California Solar Initiative, that is applicable to new residential construction in the utility territories of Pacific Gas and Electric (PG&E), Southern California Edison (SCE), San Diego Gas & Electric (SDG&E), and Golden State Water Company (doing business as Bear Valley Electric Service). The NSHP provides financial incentives and other support to home builders to encourage the construction of new, energy-efficient solar homes.

(l) *Offset Solar Energy System* means a solar energy system that is used to meet the requirements of the Solar Offset Program.

(m) *Phased Final Map* means a Final Map that was filed pursuant to California Government Code Section 66456.1 that covers only a portion or phase of the total area encompassed by a Tentative Subdivision Map for which an application has been deemed complete on or after January 1, 2011.

(n) *POU* means publicly-owned utility.

(o) *Production Home* means a single-family residence constructed as part of a development of at least 50 homes per project that is intended or offered for sale. To determine whether there is a "development of at least 50 homes per project":

(1) The number of planned homes identified on a Tentative Subdivision Map for which an application has been deemed complete on or after January 1, 2011, will be

aggregated with the number of additional homes identified on any Phased Final Maps that are subsequently filed which cover only a portion or phase of the total area encompassed by the Tentative Subdivision Map.

(2) Under no circumstances will Tentative Subdivision Maps deemed complete prior to January 1, 2011, or Phased Final Maps that were filed prior to January 1, 2011, be considered in this determination.

(p) *PV* means flat-plate non-concentrating photovoltaic modules.

(q) *Reference Solar Energy System* means a fictitious solar energy system that is used for calculating expected annual TDV energy equivalency for the Solar Offset Program.

(r) *Single-Family Residence* - means "Detached Single-Family Dwelling," as defined in the California Building Code, Title 24, Part 2, Section 202.

(s) *Solar Energy System* means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity that produces at least 1 kW, and not more than 5 MW, alternating current rated peak electricity, and that meets or exceeds the following:

(1) All components in the solar energy system are new and unused, and have not previously been placed in service in any other location or for any other application;

(2) The solar energy system is connected to the electrical corporation's electrical distribution system within the state;

(3) The solar energy system has meters or other devices in place to monitor and measure the system's performance and the quantity of electricity generated by the system; and

(4) The solar energy system is installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards.

(t) *Solar Offset Program Calculator* means a calculator based on the California Energy Commission Photovoltaic (CECPV) model. This calculator incorporates detailed inverter performance modeling and uses weather data from the 16 climate zones in California. The calculator allows a user to select photovoltaic modules and inverters from a library of eligible equipment and generate the estimated monthly kWh production and annual TDV (kWh) production for a specified solar energy system. The Solar Offset Program Calculator, Version 1.0, which is hereby incorporated by reference, is located at: www.energy.ca.gov/2010-SOPR-1/documents/index.html .

(u) *Subdivision* - this article uses the definition of "Subdivision" provided in California Government Code Section 66424.

(v) *Tentative Subdivision Map* means a Tentative Subdivision Map for which an application has been deemed complete on or after January 1, 2011.

(w) *Time-Dependent Valuation (TDV) Energy* means the time varying energy caused to be used by the building to provide space conditioning and water heating and for specified buildings lighting. TDV energy accounts for the energy used at the building site and consumed

in producing and delivering energy to a site, including, but not limited to, power generation, transmission and distribution losses.

Note: Authority cited: Sections 25213, 25218(e), 25218.5, 25405.5(a) and 25405.5(b), Public Resources Code. Reference: Sections 25405.5(a) and 25405.5(b), Public Resources Code.

§ 2702. Homebuyer Solar Option.

(a) Disclosure to Prospective Home Buyer. A seller of production homes offering solar as an option shall provide the following information to the prospective home buyer:

(1) Total installed cost of the solar energy system option;

(2) Estimated cost savings associated with the solar energy system option as shown in Table 1:

(A) The figures in Table 1 represent a range of expected annual kWh generation and estimated annual dollar savings from a 1 kW solar energy system as calculated by the California Energy Commission. A seller of production homes offering solar as an option shall provide the relevant information from Table 1 to the prospective home buyer.

(3) Information about California solar energy system incentives; and

(4) Information about the Go Solar California website.

Table 1
Estimated Annual kWh Generation and Dollar Savings of a 1 kW
Solar Energy System

Climate Zone	*Estimated Annual kWh/kWstc Generation*	*Estimated Annual Dollar Savings at Various Utility Electric Energy Rates*				
		$0.10/kWh	*$0.15/kWh*	*$0.20/kWh*	*$0.25/kWh*	*$0.30/kWh*
CZ01	1220–1475	$122–$148	$183–$221	$244–$295	$305–$369	$366–$443
CZ02	1420–1660	$142–$166	$213–$249	$284–$332	$355–$415	$426–$498
CZ03	1515–1885	$152–$189	$227–$283	$303–$377	$379–$471	$455–$566
CZ04	1560–1920	$156–$192	$234–$288	$312–$384	$390–$480	$468–$576
CZ05	1570–1965	$157–$197	$236–$295	$314–$393	$393–$491	$471–$590
CZ06	1590–1980	$159–$198	$239–$297	$318–$396	$398–$495	$477–$594
CZ07	1545–1940	$155–$194	$232–$291	$309–$388	$386–$485	$464–$582
CZ08	1565–1965	$157–$197	$235–$295	$313–$393	$391–$491	$470–$590
CZ09	1570–1870	$157–$187	$236–$281	$314–$374	$393–$468	$471–$561
CZ10	1560–1880	$156–$188	$234–$282	$312–$376	$390–$470	$468–$564
CZ11	1595–1905	$160–$191	$239–$286	$319–$381	$399–$476	$479–$572
CZ12	1670–1975	$167–$198	$251–$296	$334–$395	$418–$494	$501–$593
CZ13	1705–2000	$171–$200	$256–$300	$341–$400	$426–$500	$512–$600
CZ14	1790–2140	$179–$214	$269–$321	$358–$428	$448–$535	$537–$642
CZ15	1755–2085	$176–$209	$263–$313	$351–$417	$439–$521	$527–$626
CZ16	1560–1860	$156–$186	$234–$279	$312–$372	$390–$465	$468–$558

Note: The estimated annual kWh/kWstc generation values are from calculations using the Solar Offset Program Calculator, which is based on the California Energy Commission Photovoltaic (CECPV) model. The actual performance of a solar energy system will be based on numerous factors, including but not limited to, the available solar insolation at the specific geographic location, the azimuth and tilt of the solar energy system, shading conditions at the specific location, and system loss factors. The estimated annual dollar savings are based on a flat utility electric energy rate rather than a tiered rate. The actual dollar savings will be based on the utility electric energy rate structure, the overall electricity consumption of the home, and the amount of energy produced by the solar energy system. The values in the table should not be interpreted as a guarantee of solar energy system performance nor should the values be used as the sole basis for purchasing a solar energy system. Prospective home buyers interested in purchasing a solar energy system are encouraged to obtain a site specific estimate of annual energy generation and dollar savings. Prospective home buyers are encouraged to visit the Go Solar California website: www.gosolarcalifornia.org/tools/calculators.php, to view a number of online calculators that have been developed to help make a decision on going solar.
The Energy Commission climate zone map is located at:
www.energy.ca.gov/maps/building_climate_zones.html

(b) Reporting Requirements. A seller of production homes who elects to offer solar as an option to prospective home buyers shall report the following information to the Energy Commission on an annual basis:

(1) Legal description of the proposed subdivision identified on the Tentative Subdivision Map and, where applicable, the legal description of the portion or phase of the total area encompassed by the Tentative Subdivision Map that is covered by any Phased Final Map(s);

(2) Total number of planned homes identified on the Tentative Subdivision Map and, where applicable, the total number of planned homes identified on the portion or phase of the total area encompassed by the Tentative Subdivision Map that is covered by any Phased Final Map(s);

(3) Utility territory of development;

(4) Number of homes sold in the development in the reported year;

(5) Number of homes where the solar option was installed in the reported year;

(6) Average capacity (in AC kW) and average total installed cost of solar energy system option installed in the reported year; and

(7) If any solar energy systems installed in the reported year received an incentive, provide information about the incentive program(s), number of solar energy systems that received an incentive, and average dollar amount of incentive.

(c) Verification of Compliance. Sellers shall report this information to the Energy Commission by May 1 of each year for the previous calendar year. Information reported to the Energy Commission may be made available to the public.

(1) The reported information shall be endorsed by a principal or corporate officer of the seller's company under penalty of perjury; and

(2) The “solar as an option” disclosure shall be made available to prospective home buyers at the sales office and on the seller's website. The Energy Commission reserves the right to review the solar as an option materials disclosed to the prospective home buyer.

Note: Authority cited: Sections 25213, 25218(e), 25218.5, 25405.5(b) and 25783(b), Public Resources Code. Reference: Sections 25405.5(b) and 25783(b), Public Resources Code.

§ 2703. Requirements for Solar Offset Program.

(a) Solar Offset Program Participation. A seller of production homes who does not participate in the Homebuyer Solar Option Program shall participate in the Solar Offset Program by installing an offset solar energy system. The amount of electricity required to be generated by an offset solar energy system shall be equal to the amount of electricity generated by solar energy systems installed on a similarly sized project within the climate zone of the proposed subdivision to be offset, assuming 20 percent of prospective home buyers would have installed solar energy systems. To determine the number of homes to use for offset purposes:

(1) The seller shall assume that “20 percent of prospective homebuyers” of planned homes identified on the Tentative Subdivision Map “would have installed solar energy systems”;

(2) If the Tentative Subdivision Map identifies less than 50 planned homes and the seller intends to file multiple Phased Final Maps, the number of homes identified on the Tentative Subdivision Map will be aggregated with the number of additional homes identified on any Phased Final Map(s);

(3) If the aggregate number of planned homes identified in the Tentative Subdivision Map and Phased Final Map(s) exceeds 50, then the number of additional homes identified on any subsequently filed Phased Final Map(s) will not be aggregated with the number of homes identified in the Tentative Subdivision Map or any previously filed Phased Final Map(s).

(b) Required TDV Energy Equivalency. The electricity equivalency shall be calculated using TDV energy. The required TDV Energy Equivalency for the proposed subdivision being offset shall be based on the assumption that a reference solar energy system would have been installed by prospective home buyers had the proposed subdivision participated in the homebuyer solar option program. The requirements for the reference solar energy system are described in Section 2703 (d) of this article.

(c) Offset Solar Energy System. Offset solar energy systems shall meet the following requirements:

(1) Solar Energy System. Only solar energy systems composed of PV modules are eligible for the Solar Offset Program.

(2) Interconnection Date. Only solar energy systems interconnected to the utility grid on or after July 1, 2010, are eligible for the Solar Offset Program.

(3) Location. The offset solar energy system must be located within the same utility territory as the proposed subdivision being offset.

(4) Maximum Capacity. The maximum capacity (in kW AC) of an offset solar energy system shall not exceed 5 MW.

(5) Expected TDV Energy Calculation. The expected annual TDV energy of an offset solar energy system shall be calculated by the Solar Offset Program Calculator version 1.0, and shall be equal to or greater than the required TDV energy equivalency of the proposed subdivision being offset.

(6) Major Solar Energy System Components. All major solar energy system components shall be included on the Energy Commission's Eligible Equipment Lists. This includes PV modules, inverters, and meters.

(7) Field Verification. The offset solar energy system shall successfully complete third-party field verification using the protocol described in Appendix 2 of the *Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1) Third Edition*, June 2010, Energy Commission Publication number CEC-300-2010-004-CMF, which is hereby incorporated by reference.

(8) Initial Reporting. Within 60 days of the adoption of these regulations, or interconnection of the offset solar energy system to the utility grid, whichever is later, the developer/seller shall provide the following information to the Energy Commission:

(A) Written proof from utility of interconnection of the offset solar energy system to the utility's grid;

(B) Date of interconnection;

(C) Expected TDV energy calculation, for the offset solar energy system, as calculated by the Solar Offset Program Calculator version 1.0; and

(D) An executed written agreement by the developer/seller and the system owner identifying a specific PV system to be used for the Solar Offset Program. This written agreement shall include:

1. Address location of the offset solar energy system;

2. Total dollar amount the developer/seller contributed towards the installation of the offset solar energy system;

3. Total installed cost of the offset solar energy system.

(E) The information reported to the Energy Commission may be made available to the public.

(9) Partial Funding of Offset Solar Energy System. If the developer/seller pays for less than the total cost of a PV system to be used as an offset solar energy system, the developer/seller shall only be eligible to claim a fraction of the total annual expected TDV energy of the PV system as an offset credit. In this circumstance, the fraction of the total annual expected TDV energy eligible to be claimed as an offset solar energy system shall be equal to the fraction of the total cost of the PV system paid by the developer/seller.

(10) Use of Offset Solar Energy System to Offset a Future Subdivision(s). An offset solar energy system may be used to offset multiple subdivisions, including, but not limited to, subdivisions at different locations, in accordance with Section 2703(e) of this article.

(d) Reference Solar Energy System. The reference solar energy system shall be based on the NSHP California Flexible Installation criteria which consists of the following:

(1) Capacity. Capacity shall be 2 kW AC.

(2) Installation Characteristics. The installation characteristics shall be based on the NSHP California Flexible Installation criteria which consist of the following:

(A) True azimuth of 170 degrees, assuming true north is zero degrees;

(B) Tilt of 22.6 degrees, equivalent to a 5:12 roof pitch;

(C) Mounting height from ground of 12 feet, equivalent to NSHP “One-Story”;

(D) Fixed PV array; and

(E) Minimal shading.

(3) PV Modules. The reference solar energy system shall be composed of the most commonly used PV module in NSHP as of June 28, 2010.

(4) Inverter. The reference solar energy system shall be composed of the most commonly used inverter in NSHP as of June 28, 2010.

(5) Expected Annual TDV Energy Calculation. For each climate zone, the expected annual TDV energy of the reference solar energy system, as calculated by the Solar Offset System Program Calculator version 1.0, is shown in Table 2.

(A) Per-home TDV Energy Equivalency. The expected annual TDV energy in Table 2 represents the required TDV energy equivalency per home by climate zone in accordance with the Energy Commission climate zone map located at: www.energy.ca.gov/maps/building_climate_zones.html; and

(B) Developers shall multiply the number of homes they are intending to offset by the appropriate TDV energy value, depending on the climate zone in which the proposed subdivision is located. The resulting value is the required TDV energy equivalency for the proposed subdivision being offset as specified in Section 2703 (b) of this article.

Table 2
Expected Annual TDV Energy of Reference Solar Energy System

Climate Zone	*Expected Annual kWh*	*Expected Annual TDV Energy*
CZ01	2927	43596
CZ02	3303	48686
CZ03	3735	52314
CZ04	3809	54135
CZ05	3887	54289
CZ06	3921	55388
CZ07	3837	61446
CZ08	3883	54577
CZ09	3723	52270
CZ10	3737	52572
CZ11	3802	56055
CZ12	3942	56627
CZ13	3987	53539
CZ14	4262	57345
CZ15	4164	55408
CZ16	3712	55960

Notes:
1. AC rating as calculated: 2.071760 kW, figures in table are scaled to 2 kW AC.
2. Calculations performed with Solar Offset Program Calculator version 1.0.

3. Calculated solar energy system composed of the most commonly used PV module and inverter in NSHP as of June 28, 2010.

4. TDV multipliers from the 2008 Building Energy Efficiency Standards for Residential and Nonresidential Buildings.

(e) Solar Offset Bank. The Energy Commission shall manage the Solar Offset Bank which allows participants in the solar offset program to aggregate their offset solar energy systems and apply those systems to multiple subdivisions, including, but not limited to, subdivisions at different locations.

(1) Eligibility. Any offset solar energy system that satisfies the requirements of Section 2703(b) of this article shall be eligible to be used in the Solar Offset Bank.

(2) Deposits Into the Solar Offset Bank. A developer/seller shall notify the Energy Commission in writing if they wish to enter an offset solar energy system into the Solar Offset Bank by reporting the following information:

(A) Name of Developer/Seller;

(B) Capacity of Offset Solar Energy System (in kW AC);

(C) Expected Annual TDV Energy from Offset Solar Energy System;

(D) City/Location of Offset Solar Energy System;

(E) Utility Territory of Offset Solar Energy System; and

(F) Interconnection Date of Offset Solar Energy System.

(3) Withdrawals From the Solar Offset Bank. A developer/seller shall report the following information to the Energy Commission when they wish to apply an offset to a proposed subdivision and make a withdrawal from the Solar Offset Bank:

(A) Legal description of the proposed subdivision(s) being offset, and, where applicable, legal description(s) of the portion(s) or phase(s) of the total area encompassed by a Tentative Subdivision Map(s) that is covered by any Phased Final Map(s);

(B) Date Offset System was Applied to Proposed Subdivision(s);

(C) Total number of homes in proposed subdivision(s), that are being offset; and, where applicable, the total number of planned homes identified on the portion(s) or phase(s) of the total area encompassed by a Tentative Subdivision Map(s) that is covered by any Phased Final Map(s);

(D) Number of Homes Being Offset (20% of Homes in the Proposed Subdivision); and,

(E) Climate Zone of Subdivision Being Offset.

(4) Calculating Balance. After each request from a developer/seller, the Energy Commission shall report the following information in writing to the developer/seller:

(A) Required TDV Energy Equivalency per Home for the Proposed Subdivision Being Offset;

(B) Required TDV Energy Equivalency for the Proposed Subdivision Being Offset; and

(C) Balance (Expected Annual TDV Energy).

(f) Annual Reporting. If there is a positive expected annual TDV energy balance for an offset solar energy system, the developer/seller shall report to the Energy Commission by May 1 of each year the kilowatt-hour generation of the offset solar energy system for the prior calendar year. Information reported to the Energy Commission may be made available to the public.

Note: Authority cited: Sections 25213, 25218(e), 25218.5 and 25405.5, Public Resources Code. Reference: Section 25405.5, Public Resources Code.

§ 2704. Future Ordinances Requiring Solar.

(a) In the event that any California city, county, or other governing political subdivision, requires the installation of solar energy systems on production homes at a future date, such a requirement shall supersede the provisions of this article.

Note: Authority cited: Sections 25213, 25218(e), 25218.5 and 25405.5, Public Resources Code. Reference: Section 25405.5, Public Resources Code.

Chapter 10. Approval of Technical Assistance Providers and Certifiers

Article 1. General Provisions

§ 2800. Purpose of Regulations.

This chapter specifies the criteria and procedures to be followed by the State Energy Resources Conservation and Development Commission in administering the Qualification Program for Certifiers and Technical Assistance Providers under Section 42870 of the Health and Safety Code.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2801. Definitions.

In this chapter, unless otherwise indicated, the definitions found in Health and Safety Code section 42801. 1 and the following definitions apply:

(a) "Applicant" means a person submitting an application in response an RFA.

(b) "Applicant Team" means an applicant and all of the applicant's partners designated in one application.

(c) "Certifier" means a person approved by the State as qualified under these regulations to certify the emissions results of Registry Participants.

(d) "Certification Services" means any services performed in the course of determining whether a Registry Participant's greenhouse gas emissions inventory has met a minimum quality standard and complied with registry-approved procedures and protocols for submitting emissions inventory information.

(e) "Commission" means the California State Energy Resources Conservation and Development Commission.

(f) "Firm" means any individual, association, partnership, trust, corporation, company, or other organization.

(g) "General Certifier" means a certifier who certifies greenhouse gas emissions pursuant to the Registry's General Reporting Protocol.

(h) "Industry-Specific Certifier" means a certifier who certifies greenhouse gas emissions pursuant to any of the Registry's Industry-Specific Reporting Protocols.

(i) "Partner" means a person designated as such in an application for qualification as a Certifier or a person with whom the applicant shares staff or financial capability for the purposes of the application.

(j) "Registry" means the California Climate Action Registry.

(k) "Registry Participant" means a participant in the California Climate Action Registry.

(l) "Registry Service Provider" means a Certifier or Technical Assistance Provider.

(m) "Related Entity" means an organization that is related by ownership to a firm, including, but not limited to, a parent company, a holding company, a subsidiary, and a subsidiary of a parent company.

(n) "RFA" means a Request for Applications.

(o) "Technical Assistance Provider" means a firm approved by the State as qualified under this section to provide technical assistance and advice to Registry Participants.

(p) "Work Product" means any product produced for a client under contract.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Article 2. Applications for Technical Assistance Providers

§ 2810. Information Requirements for Applications for Technical Assistance Providers.

(a) Any firm that provides technical assistance or advice to Registry Participants pursuant to Health and Safety Code section 42800 et seq. may be approved by the State. An application for approval shall contain the following:

(1) A cover page listing the applicant's name and address, contact person, contact e-mail, and contact telephone number.

(2) A one-page description of at least two work products delivered under contract to a client that demonstrate the applicant's mastery of one or more of the following topics:

(A) utilizing engineering principles;

(B) estimating greenhouse gas emissions;

(C) developing and evaluating air emissions inventories;

(D) auditing and accounting principles;

(E) auditing environmental responsibility; or

(F) developing greenhouse gas-related software.

(b) Applications shall not contain any confidential information.

(c) All applications, consisting of one original and three copies, shall be delivered in person, by a messenger service, or through the U.S Mail to the California Energy Commission, Climate Change Program, 1516 Ninth Street, Sacramento, CA, 95814 by the deadline identified in the request for applications. Electronic mail or facsimile transmissions will not be accepted. Unless otherwise stated, all submittals and correspondence relating to Technical Assistance Providers shall also be directed to this address.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2811. Minimum Requirements for Technical Assistance Providers.

An applicant shall have at least two years of greenhouse gas or other air emissions-related experience in one or more of the following topics:

(a) utilizing engineering principles;

(b) estimating greenhouse gas emissions;

(c) developing and evaluating air emissions inventories;

(d) auditing and accounting principles;

(e) auditing environmental responsibility; or

(f) developing greenhouse gas-related software.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Article 3. Applications for General and Industry-Specific Certifiers

§ 2820. Information Requirements for Applications for General and Industry-Specific Certifiers.

(a) Any firm that certifies a Registry Participant's greenhouse gas emissions inventory pursuant to Health and Safety Code 42800 et seq. must be approved by the State. An application for approval shall contain the following:

(1) A copy of an insurance policy showing that the applicant has a minimum of one million U.S. dollars of professional liability insurance. If the insurance is in the name of a related entity, the applicant shall also describe the financial relationship between the applicant and the related entity and provide documentation supporting the description.

(2) A one-page description of at least three work products produced within the previous five years. These work products shall have been produced, in part or in whole, by the applicant and shall consist of final reports or other materials provided to clients under contract in previous work. For work products that were jointly produced by the applicant and another entity, the role of the applicant in the work product shall be clearly explained. The work products must demonstrate the applicant's ability to organize and manage a team of technical experts to effectively complete complex work tasks in a timely manner and demonstrate experience in multiple industry sectors for General Certifier applicants, and the relevant industry sector for Industry-Specific Certifier applicants, in each of the following topics:

(A) utilizing engineering principles;

(B) estimating greenhouse gas emissions;

(C) developing and evaluating air emissions inventories; and

(D) auditing and accounting principles.

(3) A cover page listing the applicant's name and address, contact person, contact e-mail, and contact telephone number.

(b) Applications shall not contain any confidential information.

(c) All applications, consisting of one original and six copies, shall be delivered in person, by a messenger service, or through the U.S. Mail to the California Energy Commission, Climate Change Program, 1516 Ninth Street, Sacramento, CA, 95814 by the deadline identified in the request for applications. Electronic mail or facsimile transmissions will not be accepted. Unless otherwise stated, all submittals and correspondence relating to qualifying Certifiers shall also be directed to this address.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2821. Minimum Requirements for General Certifiers.

Any firm who certifies a Registry Participant that falls under the Registry's General Reporting Protocol shall meet the following criteria:

(a) Each applicant shall demonstrate knowledge in each of the following topics:

(1) utilizing engineering principles;

(2) estimating greenhouse gas emissions;

(3) developing and evaluating air emissions inventories;

(4) auditing and accounting principles;

(5) the purpose of the Registry and Registry Protocols; and

(6) knowledge of information management systems.

(b) Each applicant shall have at least two years' experience in certification or verification of greenhouse gas or conducting air emissions inventories.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2822. Minimum Requirements for Industry-Specific Certifiers.

Any applicant for approval to certify an industry-specific Registry Participant shall meet the following criteria:

(a) Each applicant shall meet all of the requirements in section 2821.

(b) Each applicant, or applicant team, shall employ staff with professional licenses, knowledge, and experience appropriate to the specific industry that it seeks to certify.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2823. Partnering.

(a) Additional firms may be used by the applicant to meet any of the criteria identified in Sections 2821 or 2822. These additional firms shall be designated as partners to the applicant.

(b) Each partner shall submit a one-page description of at least one work product. The work product shall have been produced, in part or whole, by the partner and shall consist of a final report or other material provided to clients under contract in previous work. For a work product that was jointly produced by the partner and another entity, the role of the partner in the

work product shall be clearly explained. The work product will be taken into consideration when evaluating the sum of experience provided by the applicant team.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Article 4. Procedures for Considering Applications for Technical Assistance Providers, General Certifiers, and Industry-Specific Certifiers

§ 2830. Issuance of Request for Applications.

When issuing a Request for Applications, the Commission shall set a deadline for the submission of applications no less than 30 calendar days after the RFA is issued. All applications must be submitted in response to an RFA and must be submitted by the deadline identified in the RFA.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2831. Review of Applications.

(a) The Commission shall review each application to determine its completeness and compliance with the format requirements. The Commission shall then organize an Evaluation Committee to review and score all applications that are complete and comply with the required format.

(b) The Evaluation Committee shall consist of at least three members with at least one member from the Commission and one member from the Registry. Other members may be from other State agencies that have expertise in certification subject areas, as needed.

(c) In order to qualify, each applicant must achieve a passing score for each pass/fail criteria and must achieve a cumulative score of at least 80 percent for the criteria that are quantitatively scored. The evaluation criteria for applications for Certifiers and Technical Assistance Providers are contained in Appendix A and Appendix B, respectively.

(d) Applications meeting the minimum evaluation criteria shall automatically be approved for recommendation to the Registry's Service Provider approval process. For applications that do not meet the minimum required score the Evaluation Committee may conduct interviews with applicants to clarify the applicant's qualifications. Upon completion of the interviews, the Evaluation Committee may make adjustments to the scores and approve or deny the applications accordingly.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2832. Grounds for Rejection of an Application.

(a) An application may be rejected for any of the following reasons:

(1) it is incomplete or is received after the deadline established for receipt of the application;

(2) it contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the applicant;

(3) it is not prepared using the appropriate forms;

(4) it is unsigned; or

(5) it contains any confidential information.

(b) The Commission may waive any immaterial defect or deviation contained in an application. The Commission's waiver shall in no way modify the application requirements or excuse the applicant from substantial compliance.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2833. Modifying an Application.

An applicant may, by letter to the Commission's Contact Person, modify a submitted application prior to the application submission deadline.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2834. Notification of the Results of the Evaluation.

The Commission shall notify applicants of the results of the evaluation of their applications by mail no later than 30 working days after the deadline for submission. The Commission shall recommend to the Registry for its Service Provider approval process those applicants that pass the Commission's evaluation process.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2835. Appeal of Determination.

If an application receives a failing score in the evaluation process, an applicant may dispute the evaluation by first filing an appeal with the Evaluation Committee within 30 days of receiving the results of the evaluation. The appeal shall consist of written statements explaining how the application meets the criteria and minimum score required. The Evaluation Committee shall grant or deny the appeal within 10 working days. If the applicant is not satisfied with the Evaluation Committee's response, the applicant may file a subsequent appeal with the Commission's Transportation Committee within 10 days of the Evaluation Committee's determination. The Transportation Committee shall consult with the Registry President and issue a decision on the appeal within 30 working days of receipt of the appeal.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2836. Document Disposition.

(a) On the submission date, all applications and related material submitted in response to an RFA become the property of the State and public record.

(b) At the conclusion of the evaluation, the original application will be retained in its entirety for at least three years.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Article 5. Post-Qualification Changes and Submittal Requirements

§ 2840. Renewal of Approval.

Approval to act as a Registry Service Provider shall expire three years from the date of the notice of approval issued pursuant to section 2834, after which time the Registry Service Provider must re-apply pursuant to Section 2810 or 2820, as appropriate, to maintain approval.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2841. Rescission of Approval.

The Commission, in consultation with the Registry, may rescind the approval of a Registry Service Provider for any of the following reasons:

(a) the Registry Service Provider is no longer qualified due to changes in staffing or other criteria;

(b) the Certifier has not complied with the Registry's certification and certifier policies; or

(c) the Registry Service Provider is guilty of:

(1) gross negligence;

(2) inexcusable neglect of duty;

(3) intentional misrepresentation of data or other intentional fraud; or

(4) a felony or misdemeanor involving certification services or moral turpitude.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

§ 2842. Commission Visits to Registry Participants' Sites.

(a) Prior to any site visit the Commission shall inform the Certifier and Registry Participant in writing of the Commission's intent to make a site visit. At the Commission's

request, the Registry Participant shall provide to the Commission prior to a site visit any information provided to the Certifier for the purposes of certification.

(b) During the site visit, the Registry Participant shall provide the Commission or the Commission's contractor with documentation sufficient to ascertain whether the Registry Participant has a program consistent with Registry protocols and the reasonableness of the emissions information being reported for a sample of estimates or calculations. This documentation may include the following:

(1) facility, emission source, stationary source, mobile source, and fuel inventories;

(2) organization chart, greenhouse gas management plan, documentation and retention plan;

(3) training manual, procedures manual, consultant qualifications statement;

(4) any protocols used in addition to Registry protocols;

(5) monthly electric utility bills, and emission factors of electricity use, if not a default factor;

(6) fuel purchase records, fuel in stock, vehicle miles traveled, inventory of vehicles, and emission factors of mobile combustion, if not a default factor;

(7) monthly utility bills from stationary combustion, fuel purchase records, inventory of stationary combustion facilities, and emission factors of stationary combustion, if not a default factor;

(8) monthly utility bills, fuel and efficiency data from supplier, and emission factors, if not a default factor, for each of the following:

(A) cogeneration;

(B) imported steam;

(C) district heating;

(D) district cooling; and

(E) process activities;

(9) refrigerant purchase records, refrigerant sales records, calculation methodology, and emission factors;

(10) waste-in-place data, waste landfilled, calculation methodology, and emission factors;

(11) coal production data submitted to the Energy Information Administration, calculation methodology, and emission factors;

(12) gas throughput data, calculation methodology, and emission factors; and

(13) sulfur hexafluoride purchase records, calculation methodology, and emission factors.

(c) If, as a result of a site visit, the Commission determines that a Registry Participant does not have a program for reporting greenhouse gases consistent with Registry protocols or that the Participant's reported data is not reasonable, then the Commission shall recommend to the Registry to not certify the Participant's data.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 42870, Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Chapter 11. Greenhouse Gases Emission Performance Standard

Article 1. Provisions Applicable to Powerplants 10 MW and Larger

§ 2900. Scope.

This Article applies to covered procurements entered into by local publicly owned electric utilities. The greenhouse gases emission performance standard established in section 2902(a) applies to any baseload generation, regardless of capacity, supplied under a covered procurement. The provisions requiring local publicly owned electric utilities to report covered procurements, including Sections 2908, 2909, and 2910, apply only to covered procurements involving powerplants 10MW and larger.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and 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 powerplant could have produced if it had been operated at its maximum permitted capacity during all hours of the year, expressed in kilowatt hours.

(b) "Baseload generation" means electricity generation from a powerplant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent.

(c) “Combined-cycle natural gas" means a powerplant 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 powerplant, 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 powerplant, unless the powerplant is deemed compliant, or

(B) any generating units added to a deemed-compliant baseload generation powerplant that combined result in an increase of 50 MW or more to the powerplant's rated capacity.

(e) "Deemed-compliant powerplant" means any combined cycle natural gas powerplant 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 powerplant.

(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 powerplant;

(2) The acquisition of a new or additional ownership interest in an existing non-deemed compliant powerplant previously owned by others;

(3) Any investment in generating units added to a deemed-compliant powerplant, if such generating units result in an increase of 50 MW or more to the powerplant's rated capacity; or

(4) Any investment in an existing, non-deemed compliant powerplant 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, not including routine maintenance;

(B) results in an increase in the rated capacity of the powerplant, not including routine maintenance; or

(C) is designed and intended to convert a non-baseload generation powerplant to a baseload generation powerplant.

(k) “Permitted capacity" means the rated capacity of the powerplant unless the

maximum output allowed under the operating permit is the effective constraint on the maximum output of the powerplant.

(*l*) "Powerplant" 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 powerplant'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 powerplant(s).

(o) "Unspecified energy" means energy purchased from unspecified resources.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and 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 (CO_2) per megawatt hour (MWh) of electricity.

(b) Unless otherwise specified in this Article, no local publicly owned electric utility shall enter into a covered procurement if greenhouse gases emissions from the powerplant(s) subject to the covered procurement exceed the EPS.

(c) For purposes of applying the EPS to contracts with multiple powerplants, each specified powerplant must be treated individually for the purpose of determining the annualized plant capacity factor and net emissions, and each powerplant 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; and 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 powerplant's compliance with the EPS shall be determined by dividing the powerplant's annual average carbon dioxide emissions in pounds by the powerplant's annual average net electricity production in MWh. This determination shall be based on capacity factors, heat rates, and corresponding emissions rates that reflect the expected operations of the powerplant and not on full load heat rates.

(b) The following types of powerplants are determined to be compliant with the EPS:

(1) Any in-state or out-of-state powerplant that meets the criteria of a renewable electricity generation facility as defined in Chapter 8.6 of Division 15 of the Public Resources Code and as specified by guidelines adopted thereunder, except for hybrid systems;

(2) Powerplants 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 powerplants; or

(4) Nuclear powerplants.

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

§ 2904. Annual Average Carbon Dioxide Emissions.

(a) Except as provided in Subsections (b) and (c), a powerplant'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 powerplants not eligible for renewable portfolio standard certification that use biomass fuels in combination with other fuel(s), the powerplant'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 CO_2 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 powerplants shall be determined based on projections of net emissions over the life of the powerplant. 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 CO_2 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 CO_2 once the sequestration project is operational.

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

§ 2905. Annual Average Electricity Production.

(a) Except as provided in Subsection (b), a powerplant'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 powerplant.

(b) For the purposes of calculating compliance with the EPS, a cogeneration powerplant'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 powerplant, 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 powerplant, 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 3413 Btu per kWh).

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and 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 unspecified energy is not compliant with the EPS.

(b) A new contract for covered procurement from identified powerplants 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 powerplants, each of which is EPS-compliant.

(2) For specified contracts with non-renewable resources or dispatchable renewable resources, or a combination of each, unspecified energy purchases for each identified powerplant are permitted up to 15% of forecast energy production of the identified powerplant over the term of the contract, provided that the contract only permits the seller to purchase unspecified energy under either of the following conditions:

(A) The identified powerplant 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 substitute energy purchases from unspecified resources is limited such that total purchases under the contract, whether from the intermittent renewable resource or from substitute unspecified resources, do not exceed the total reasonably expected output of the identified renewable powerplant over the term of the contract.

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

§ 2907. Request for Commission Evaluation of a Prospective Procurement.

(a) A local publicly owned electric utility may request that the Commission evaluate a prospective procurement for any of the following:

(1) a determination as to whether a prospective procurement would extend the life of a power plant by 5 years;

(2) a determination as to whether a prospective procurement would constitute routine maintenance; or

(3) a determination as to whether a prospective procurement would be in compliance with the EPS.

(b) A request for evaluation under this section shall be treated by the Commission as a request for investigation under Chapter 2, Article 4 of the Commission's regulations.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and 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 Commission of the date, time and location of the meeting so the Commission may post the information on its website. This requirement is satisfied if the local publicly owned electric utility provides the 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 local publicly owned electric utility shall make such information available to the public and shall provide the Commission with an electronic copy of the document for posting on the Commission's website. This requirement is satisfied if the local publicly owned electric utility provides the 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 powerplant(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 powerplant(s) so as to indicate whether or not the powerplant(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 powerplant, a description and identification of the planned powerplant 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 powerplant and the source of this information.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code; and 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 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 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 unspecified energy purchases, the source data and methodology the local publicly owned electric utility used in developing the level of expected output from the identified powerplants, in order to demonstrate that the limits for unspecified energy purchases were properly established.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code; and 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 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 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. The Commission decision shall become effective 30 days after the date of the decision.

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

§ 2911. Compliance Investigation.

The 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 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; and 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 Commission for an exemption from application of this chapter to a covered procurement that would not comply with the EPS. The Commission may grant an exemption for covered procurements under this section if the local publicly owned electric utility demonstrates 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.

(b) Upon receipt of a petition, the executive director shall review and make a recommendation to the full 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 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; and Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

§ 2913. Case-by-Case Review for Pre-Existing Multi-Party Commitments.

(a) A local publicly owned electric utility may petition the Commission for an exemption from application of this chapter for covered procurements required under the terms of a contract or ownership agreement that was in place January 1, 2007. The Commission may exempt covered procurements from application of this chapter if the local publicly owned electric utility demonstrates that:

(1) the covered procurements are required under the terms of the contract or ownership agreement; and

(2) the contract or ownership agreement does not afford the local publicly owned electric utility applying for the exemption the opportunity to avoid making such covered procurements.

(b) Upon receipt of a petition under this section, the executive director shall review and make a recommendation to the full 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 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; and Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.

Chapter 12. Alternative and Renewable Fuel and Vehicle Technology Program Regulations

Article 1. General Provisions Regarding Project Funding

§ 3100. Advanced Vehicle Technology.

Projects that produce or manufacture vehicles and components as described in Health and Safety Code Section 44272(d) shall be eligible for funding.

Note: Authority cited: Section 44272(a), Health and Safety Code. Reference: Section 44272(a)-(d), Health and Safety Code.

§ 3101. Criteria for Project Funding.

(a) One or more of the following criteria, as applicable to the funding application, shall be used to determine which projects will receive funding. Preference will be given to project applications that can best:

(1) Provide economic benefits to California by promoting California-based technology firms, new job creation, new business development, economic benefit to low income communities, avoidance of disproportionate impacts to disadvantaged communities, and increased state revenue.

(2) Drive new technology advancement for vehicles, vessels, engines, and other equipment, and promote the deployment of such technologies in the marketplace.

(3) Provide a measurable transition from the nearly exclusive use of petroleum fuels to a diverse portfolio of viable alternative fuels that meet California's petroleum reduction and alternative fuel use goals.

(4) Use existing or proposed fueling infrastructure to maximize the outcome of the project.

(5) Use alternative fuel blends of at least 20 percent, with additional preference for projects with higher blends.

(6) Provide the largest amount of non-state matching funds.

(7) Demonstrate the ability and capacity to successfully implement and complete the project proposed for program funding.

(8) Demonstrate technical feasibility and market readiness of the proposed technology.

(9) Demonstrate the cost-effectiveness of the proposed technology in achieving greenhouse gas emissions reduction.

Note: Authority cited: Section 44272(a)-(c), Health and Safety Code. Reference: Section 44272(a)-(c), Health and Safety Code.

§ 3101.5. Sustainability Goals and Evaluation Criteria.

(a) As directed in Health and Safety Code Section 44271(a)(1), the commission establishes the following sustainability goals for the program. The sustainability goals described in this section shall guide the commission in ensuring that funded projects promote sustainable alternative fuels and vehicles and do not adversely affect natural resources. The criteria described in subpart (b) shall serve as the metrics by which the commission identifies projects that best achieve the sustainability goals.

(1) The first sustainability goal shall be the substantial reduction of greenhouse gas emissions associated with California's transportation system to help meet California's 2020 and 2050 targets as defined in Health and Safety Code Section 38550 and the Governor's Executive Order S-03-05.

(2) The second sustainability goal shall be to protect the environment, including all natural resources, from the effects of alternative and renewable fuel development and promote the superior environmental performance of alternative and renewable fuels, infrastructure and vehicle technologies.

(3) The third sustainability goal shall be to enhance market and public acceptance of sustainably produced alternative and renewable fuels by developing, promoting, and creating incentives for the production of such fuels in accordance with certified sustainable production practices and standards as established by government agencies, academic institutions, and nongovernmental organizations.

(b) In addition to the criteria listed in Section 3101, one or more of the following sustainability criteria shall be applied to each project, as appropriate, with the objective to fund only those projects that best exemplify attainment of the commission's sustainability goals, promote sustainable alternative fuels and vehicles, and do not adversely affect natural resources. Greater preference will be given to projects that incorporate or demonstrate the greatest number of sustainability criteria.

(1) Strong preference will be given to projects that can best contribute to meeting California's climate change policy goals as described in Health and Safety Code Section 38550, the Governor's Executive Order S-03-05, and the Low Carbon Fuel Standard when adopted by the Air Resources Board, and that demonstrate the best potential for substantial reduction of greenhouse gas emissions associated with California's transportation system.

(A) Applicants must provide sufficient information to determine the greenhouse gas emissions profile of the proposed project on a full fuel-cycle basis in accordance with the methodologies described in the August 2007 Full Fuel Cycle Assessment (CEC-600-2007-004-REV), or an alternative methodology approved by the commission. This information shall include an estimate of greenhouse gas emissions from indirect land use changes.

(B) Projects with the lowest greenhouse gas emissions from the petroleum baseline, as defined in the August 2007 Full Fuel Cycle Assessment (CEC-600-2007-004-REV), will demonstrate the best potential to contribute to state climate change policies.

(C) Projects with greenhouse gas emissions that exceed the petroleum baseline, on a full fuel-cycle basis, would not be eligible for funding consideration.

(2) Strong preference will be given to projects that demonstrate environmental protection, natural resource preservation, and superior environmental performance, by the use of manufacturing, production or agricultural technologies and practices which are more energy efficient and less environmentally damaging than current standard practices and technologies for the production of petroleum fuels, production of basic agricultural commodities and extraction of natural resources when measured on a life-cycle basis. The commission will fund projects that best demonstrate and implement practices that preserve ecosystem integrity, protect and enhance the resiliency of natural ecosystems, and respect the physical carrying capacity limits of natural systems at the local, regional, and global scale.

(A) Projects that maximize the use of waste stream materials as their feedstock are examples of technologies that further environmental protection and natural resource preservation goals.

(B) The use of existing Best Management Practices developed by natural resource and pollution control agencies, academic institutions, or non-governmental organizations and that exceed applicable Best Available Control Technologies are examples of appropriate means to protect the environment and natural resources.

(C) For projects using purpose-grown energy crops, furtherance of environmental protection and natural resource preservation goals would be demonstrated by:

i. Development and implementation of a sustainability best management practices plan developed by institutions such as the University of California at Davis.

ii. Use of lands historically used for agricultural purposes.

iii. Use of marginal crop lands that are not used for food crops and that do not displace or disrupt cropping patterns for food production.

iv. Use of crops uniquely suited to climate, water and natural resource constraints in California and the Arid West that require less irrigation water than commonly produced agricultural commodities.

(D) Infrastructure and agricultural projects that implement water efficiency and water use reduction measures, that use recycled or reclaimed water for industrial purposes, and that reduce or eliminate point source and non-point source wastewater discharge, are examples of appropriate resource protection practices.

(E) Projects that use renewable energy or cogeneration in the production, processing or distribution phase will demonstrate that the project implements environmental protection and natural resource preservation practices.

(F) Projects that use forest biomass resources as part of their feedstock, and that demonstrate the advancement of natural resource protection goals, are those that use forest biomass collection or harvesting practices that do not diminish the ecological values of forest stands, and that are consistent with forest restoration, fire risk management and ecosystem management goals.

(G) Projects that create benefits to state natural resources or that ameliorate degraded resources would demonstrate natural resource protection goals.

(H) Alternative fuel infrastructure projects that procure and distribute low carbon alternative fuels as described in 3101.5 (b)(1), or that are produced in accordance with the sustainability criteria described in sections 3101.5(b)(2) and (b)(3), would demonstrate furtherance of greenhouse gas reduction and natural resource protection goals.

(3) Preference will be given to projects which produce sustainable feedstocks, or produce or distribute alternative fuels, which strictly follow established government or third party sustainability certification standards for the production of alternative and renewable fuels.

(A) Examples of sustainability certification standards include, but are not limited to:

i. Roundtable on Sustainable Biofuels

ii. Council for Sustainable Biomass Production

iii. Sustainable Biodiesel Alliance

iv. Roundtable for Sustainable Palm Oil

v. UK Renewable Fuel Transport Obligation

vi. European Commission's Sustainability Criteria and Certification Systems for Biomass Production

vii. Forest Stewardship Council

Note: Authority cited: Sections 44271(a)(1) and 44272(a), Health and Safety Code. Reference: Sections 44271(a)(1) and 44272(a)-(d), Health and Safety Code.

§ 3102. Definitions.

For purposes of Section 3101.5, the following definitions shall apply:

(a) "Natural resources" include forest lands, range lands, waters and watersheds, biodiversity resources (fish, wildlife, and flora) and their prime habitats, coastal lands and waters, minerals, and prime agricultural lands.

(b) "Environmental performance" denotes the relative environmental efficiency and levels of environmental impacts from industrial facilities, agricultural operations or natural resource extraction activities. Facilities with high levels of environmental performance use fewer natural resource and energy inputs per unit of fuel output, and have lower environmental impacts, than low environmentally performing facilities.

(c) "Carrying capacity" is the ability of an air basin, watershed, ecosystem, or landscape area to withstand resource extraction or absorb pollution loading until its basic functions are impaired.

Note: Authority cited: Sections 44271(a)(1) and 44272(a), Health and Safety Code. Reference: Sections 44271(a)(1) and 44272(a)-(c), Health and Safety Code.

§ 3103. Funding Restrictions.

(a) A project shall not be eligible for funding if it is mandated by any local, regional, state, or federal law, rule, or regulation. If a project is one that helps the proposing entity meet a performance requirement mandated by local, regional, state, or federal law, rule, or regulation, the project shall not be eligible for funding. To the extent a project exceeds what is required for compliance with a legally enforceable requirement, it may receive funding for that part of the project that the applicant demonstrates is not mandated to meet the requirement. Credits generated by the excess, however, may not be used or sold by the proposing entity to offset a legally enforceable requirement, except to the extent allowed by subsection (b). For purposes of this section, a legally enforceable requirement refers to any requirement enforceable by a local, regional, state, or federal agency for the purpose of reducing the emission of one or more criteria pollutants, toxic air contaminants, or any greenhouse gas.

(b) A project that generates credits that the applicant plans to claim based on the reduction of criteria pollutants, toxic air contaminants, or greenhouse gases may not be eligible for funding unless all of the following occur:

Note: Authority cited: Sections 44271(c) and 44242(a) Health and Safety Code. Reference: Section 44271(c), Health and Safety Code.

§ 3104. Advisory Body.

The commission shall assign an appropriate policy committee to establish and maintain, as needed, an advisory committee for the Alternative and Renewable Fuel and Vehicle Technology Program. The advisory committee shall function as the advisory body required under Health and Safety Code Section 44272.5(a-c).

Note: Authority cited: Sections 44272(a) and 44272.5(a)-(c), Health and Safety Code. Reference: Section 44272.5(a)-(c), Health and Safety Code.

§ 3105. Designation of Advisory Committee Presiding Member.

The presiding member of the assigned policy committee shall serve as the presiding member of the advisory committee and shall preside over its public meetings.

Note: Authority cited: Sections 44272(a) and 44272.5(a)-(c), Health and Safety Code. Reference: Section 44272.5(a)-(c), Health and Safety Code.

§ 3106. Selection of Advisory Committee Members.

(a) The assigned policy committee shall solicit applications from persons who wish to serve as a representative from one of the interest groups or agencies identified in Health and Safety Code Section 44272.5, and may solicit applications from other persons who wish to represent interest groups beyond those listed in Health and Safety Code Section 44272.5.

(b) Anyone wishing to serve on the advisory committee by representing an interest group not identified in Health and Safety Code Section 44272.5(b) may apply to the assigned policy committee during any solicitation for applications. The assigned policy committee shall have the discretion to allow for one or more additional interest groups to be represented on the advisory committee. Such a determination shall consider whether representation of an additional interest group serves to diversify input from the advisory committee and whether the applicant has particular knowledge or expertise that would benefit public discussions and recommendations.

(c) The assigned policy committee shall notify interested persons at least 14 days in advance of any opportunity to serve as a representative on the advisory committee. The notice shall describe the process for selecting representatives, any criteria that will be used to choose between two or more persons wishing to represent the same interest group, and the number of representatives to be selected. Those selected to serve on the advisory committee shall serve at the pleasure of the assigned policy committee, except that the policy committee shall ensure that each interest group identified in Health and Safety Code Section 44272.5(b) is represented on the advisory committee.

Note: Authority cited: Sections 44272(a) and 44272.5(a)-(c), Health and Safety Code. Reference: Section 44272.5(a)-(c), Health and Safety Code.

§ 3107. Advisory Committee Duties.

(a) The advisory committee shall meet at least twice a year to assist in the development of an investment plan and its updates. The presiding member, in consultation with advisory committee members, shall decide when to hold advisory committee meetings and whether additional meetings are needed.

(b) The role of the advisory committee shall be to participate in one or more public discussions and arrive at public recommendations, whether by consensus or otherwise, regarding one or more elements of the investment plan. All public discussions and recommendations shall serve to inform and advise the assigned policy committee in the drafting of a proposed investment plan. The assigned policy committee shall annually propose an investment plan, its update, or the lack of need for an update to the commission for approval.

(c) Each advisory committee meeting shall be open to the public. No less than 10 calendar days prior to each meeting, notice of the meeting shall be posted on the commission's website and mailed or otherwise sent to interested persons. The commission shall establish a list of persons who request notice in writing.

Note: Authority cited: Sections 44272(a) and 44272.5(a)-(c), Health and Safety Code. Reference: Section 44272.5(a)-(c), Health and Safety Code.

§ 3108. Purpose of Investment Plan.

(a) The investment plan shall be subject to commission approval and, as approved, shall determine priorities and opportunities for funding under the program for the ultimate purpose of developing and deploying innovative technologies that will transform the state's fuels and vehicles to help attain the state's climate change policies and achieve the other goals specified in Health and Safety Code Section 44272 et seq.

(b) The assigned policy committee shall be responsible for the preparation and publication of a draft investment plan or update, taking into consideration recommendations and input from public meetings with the advisory committee.

(c) The draft investment plan or update shall be available for public review and comment no less than 30 days prior to the meeting at which the commission considers approving the proposed investment plan or update. During the period of public review, the assigned policy committee shall hold at least one public workshop on the draft investment plan or update. The assigned policy committee may revise the draft investment plan based on comments received during the public review period. At least 14 days prior to the business meeting at which the investment plan will be considered for approval, the assigned policy committee shall publish a proposed investment plan.

(d) As part of the investment plan, the commission shall identify where existing public and private funding dollars are being invested; determine where public funding can be strategically used to encourage and support identified funding priorities of the investment plan including, but not limited to, consideration of potential for commercial viability, competiveness and production expansion of alternative fuels, assess the need for public funding based on where existing public and private funding dollars are already being invested, and analyze opportunities to leverage additional public or private funding.

(e) All funding decisions made by the commission shall be consistent with the investment plan, which shall be updated as needed annually. The investment plan shall serve to give public notice as to the types of projects that would be eligible to receive funding under the program and to specify the categories of funding allocations.

(f) If the commission determines that adjustments are needed in the allocations made to funding categories, the commission shall submit a report to the advisory committee documenting the conditions that lead to the adjustments.

Note: Authority cited: Sections 44272(a) and 44272.5(a), Health and Safety Code. Reference: Sections 44272.5(a) and 44272(a)-(d), Health and Safety Code.