WARREN-ALQUIST ACT

Warren-Alquist State Energy Resources Conservation and Development Act

Public Resources Code Section 25000 et seq.

CALIFORNIA
ENERGY COMMISSION

Edmund G. Brown Jr., Governor

SEPTEMBER 2015

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ENERGY COMMISSION

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2015 WARREN-ALQUIST ACT

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2015 WARREN-ALQUIST ACT
AND RELATED STATUTES

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CHAPTER 1. TITLE AND GENERAL PROVISIONS

§ 25000. Short title

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

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

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

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

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

§ 25000.5. Legislative findings and declarations with respect to overdependence on petroleum based fuels; evaluation of economic and environmental costs of petroleum use and other transportation fuels; establishment of state transportation energy policy; least environmental and economic cost strategy

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

(b) Therefore, it is the policy of this state to fully evaluate the economic and environmental costs of petroleum use, and the economic and environmental costs of other transportation fuels, including the costs and values of environmental impacts, and to establish a state transportation energy policy that results in the least environmental and economic cost to

the state. In pursuing the “least environmental and economic cost” strategy, it is the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic cost.

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

(d) For the purposes of this section, “petroleum based fuels” means fuels derived from liquid unrefined crude oil, including natural gas liquids, liquefied petroleum gas, or the energy fraction of methyl tertiary-butyl ether (MTBE) or other ethers that is not attributed to natural gas.

§ 25001. Legislative finding; essential nature of electrical energy

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

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

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

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

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

§ 25004. Legislative finding; research and development

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

§ 25004.2. Legislative finding; cogeneration technology

The Legislature further finds that cogeneration technology is a potential energy resource and should be an important element of the state's energy supply mix. The Legislature further finds that cogeneration technology can assist meeting the state's energy needs while reducing the long-term use of conventional fuels, is readily available for immediate application, and reduces negative environmental impacts. The Legislature further finds that cogeneration technology is important with respect to the providing of a reliable and clean source of energy within the state and that cogeneration technology should receive immediate support and commitment from state government.

§ 25004.3. Legislative finding; advanced transportation technologies

The Legislature further finds and declares all of the following:

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

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

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

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

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

§ 25005.5. Legislative policy; future energy problems and uncertainties

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

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

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

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

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

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

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

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

§ 25006. State policy; responsibility for energy resources

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

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

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

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

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

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

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

Therefore, in recognition of recent and projected increases in the cost of energy and water from traditional sources, it is the policy of the state to use available resources at state facilities which can substitute for traditional energy and water supplies or produce electricity or water at its facilities when use or production will reduce long-term energy or water expenditures. Criteria used in analysis of proposed actions shall include lifecycle cost evaluation, benefit to

taxpayers, reduced fossil fuel or reduced water consumption depending on the application, and improved efficiency. Energy or water facilities at state-owned sites shall be scaled to produce optimal system efficiency and best economic advantage to the state. Energy or water produced may be reserved by the state to meet state facility needs or may be sold to state or nonstate purchasers.

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

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

§ 25009. Legislative findings and declarations

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

CHAPTER 2. DEFINITIONS

§ 25100. Construction of division

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

§ 25101. Applicant

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

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

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

§ 25103. Coastal zone

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

§ 25103.3. Suisun Marsh

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

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

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

§ 25104. Commission

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

§ 25105. Construction

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

(a) The installation of environmental monitoring equipment.

(b) A soil or geological investigation.

(c) A topographical survey.

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

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

§ 25106. Adviser

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

§ 25107. Electric transmission line

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

§ 25108. Electric utility

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

§ 25109. Energy

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

§ 25110. Facility

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

§ 25111. Account

"Account" means the Energy Resources Programs Account.

§ 25112. Member; member of the commission

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

§ 25113. Notice

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

§ 25114. Interested party

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

§ 25115. Equivalent certification program

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

§ 25116. Person

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

§ 25117. Plan

“Plan” means the Emergency Load Curtailment and Energy Distribution Plan.

§ 25118. Service area

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

§ 25119. Site

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

§ 25120. Thermal powerplant

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

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

§ 25121. Fuel

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

§ 25122. Gas utility

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

§ 25123. Modification of an existing facility

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

§ 25124. Major oil producer

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

§ 25125. Major natural gas producer

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

§ 25126. Major marketer

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

§ 25127. Refiner

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

§ 25128. Refinery

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

§ 25129. Foreign

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

§ 25130. Nonresidential building

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

§ 25131. Residential building

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

§ 25132. Load management

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

§ 25133. Geothermal element

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

§ 25134. Cogeneration

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

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

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

§ 25135. Conversion

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

§ 25136. Residue

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

§ 25140. Solar thermal powerplant

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

§ 25141. Unbranded

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

CHAPTER 3. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

§ 25200. Creation; membership

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

§ 25201. Qualifications of members

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

§ 25202. Ex officio members

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

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

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

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

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

§ 25205. Conflicts of interest; public office; offense

(a) No person shall be a member of the commission who, during the two years prior to appointment on the commission, received any substantial portion of his or her income directly or indirectly from any electric utility, or who engages in sale or manufacture of any major component of any facility. A member of the commission shall not be employed by any electric utility, applicant, or, within two years after he or she ceases to be a member of the commission, by any person who engages in the sale or manufacture of any major component of any facility.

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

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

(d) A person who is a member or employee of the commission shall not participate personally and substantially as a member or employee of the commission, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his or her knowledge, he or she, his or her spouse, minor child, or partner, or any organization, except a governmental agency or educational or research institution qualifying as a nonprofit organization under state or federal income tax law, in which he or she is serving, or has served as officer, director, trustee, partner, or employee while serving as a member or employee of the commission or within two years prior to his or her appointment as a member of the commission, has a direct or indirect financial interest.

(e) A person who is a partner, employer, or employee of a member or employee of the commission shall not act as an attorney, agent, or employee for any person other than the state in connection with any judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which the commission is a party or has a direct and substantial interest.

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

(g) Any person who violates any provision of this section is guilty of a felony and shall be subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or both that fine and imprisonment.

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

§ 25206. Terms of office; vacancies

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

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

§ 25207. Compensation; expenses

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

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

§ 25209. Vote; quorum

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

§ 25210. Hearings and investigations; powers of department heads

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

§ 25211. Committees; attendance; orders

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

§ 25212. Chair; vice chair

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

§ 25213. Rules and regulations; adoption; copies of proposed regulations; television product labeling regulations

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

(b)(1) Notwithstanding any other law, the television product labeling regulations adopted by the commission shall not take effect, and the commission shall not enforce those regulations, before July 1, 2011.

(2) On and after July 1, 2011, the television product labeling regulations shall be effective if a Federal Trade Commission labeling rule for television products is not effective on or before July 1, 2011, and shall remain in effect until a Federal Trade Commission final labeling rule is effective for television products.

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

The commission shall maintain its headquarters in the County of Sacramento and may establish branch offices in such parts of the state as the commission deems necessary. The commission shall hold meetings at such times and at such places as shall be determined by it. All meetings and hearings of the commission shall be open to the public, and opportunity to be heard with respect to the subject of the hearings shall be afforded to any person. Upon request, an interested party may be granted reasonable opportunity to examine any witness testifying at the hearing. The first meeting of the commission shall be held within 30 days after the confirmation of the last member of the commission pursuant to Section 25204. The Governor shall designate the time and place for the first meeting of the commission.

§ 25215. Removal of member

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

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

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

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

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

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

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

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

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

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

The commission shall do all of the following:

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

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

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

(d) Serve as a central repository within the state government for the collection, storage, retrieval, and dissemination of data and information on all forms of energy supply, demand, conservation, public safety, research, and related subjects. The data and information shall be derived from all sources, including, but not be limited to, electric and gas utilities, oil and other energy producing companies, institutions of higher education, private industry, public and private research laboratories, private individuals, and from any other source that the commission determines is necessary to carry out its objectives under this division. The

commission may charge and collect a reasonable fee for retrieving and disseminating any such information to cover the cost of such a service. Any funds received by the commission pursuant to this subdivision shall be deposited in the account and are continuously appropriated for expenditure, by the commission, for purposes of retrieving and disseminating any such information pursuant to this section.

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

The commission shall do all of the following:

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

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

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

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

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

§ 25217.5. Chair; duties

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

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

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

(a) Apply for and accept grants, contributions, and appropriations, and award grants consistent with the goals and objectives of a program or activity the commission is authorized to implement or administer.

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

(c) Be sued and sue.

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

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

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

§ 25218.5. Powers and duties; liberal construction

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

§ 25219. Matters involving the federal government

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

§ 25220. Participation in federal and state proceedings

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

§ 25221. Attorney general; representation of commission; exception

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

§ 25222. Adviser; duties

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

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

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

§ 25224. Exchange of information with state agencies

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

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

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

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

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

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

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

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

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

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

§ 25226. Energy Technologies, Research, Development, and Demonstration Account; continuation; deposit and use of funds

(a) The Energy Technologies Research, Development, and Demonstration Account established under former Section 25683 is hereby continued in existence, in the General Fund, to be administered by the commission for the purpose of carrying out Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).

(b) The Controller shall deposit in the account all money appropriated to the account by the Legislature, plus accumulated interest on that money, and money from loan repayments, interest, and royalties pursuant to Sections 25630 and 25650, for use by the commission, upon appropriation by the Legislature, for the purposes specified in Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).

§ 25227. Internet Web site; required links

By July 1, 2011, the commission, in consultation with the Public Utilities Commission, shall develop and maintain an Internet Web site containing specific links to electrical corporation and local publicly owned electric utility Internet Web sites or other Internet Web sites that contain information specific to plug-in hybrid or fully electric vehicles, including information on the following:

(a) Resources to direct a consumer on how to find out if his or her residence will require a utility service upgrade.

(b) Basic charging circuit requirements.

(c) Utility rate options.

(d) Load management techniques.

§ 25228. Policies and implementation strategies to overcome barriers to deployment and use of geothermal heat pump and geothermal ground loop technologies; evaluations and recommendations; considerations; report

(a) The commission, in consultation with the Public Utilities Commission, cities, counties, special districts, and other stakeholders, shall evaluate and recommend policies and implementation strategies to overcome barriers to the deployment and use of geothermal heat pump and geothermal ground loop technologies. In evaluating these policies and strategies, the commission shall consider all of the following:

(1) The quantitative benefits and costs to ratepayers specific to safer, more reliable, or less costly gas or electrical service and through greater energy efficiency, reduction of health and environmental impacts from air pollution, and reduction of greenhouse gas emissions related to electricity and natural gas production and use, through the use of geothermal heat pump and geothermal ground loop technologies.

(2) The existing statutory and permit requirements that impact the use of geothermal heat pumps and geothermal ground loop technologies and any other existing legal impediments to the use of geothermal heat pump and geothermal ground loop technologies.

(3) The impact of the use of the geothermal heat pump and geothermal ground loop technologies on achieving the state's goals pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) and achieving the state's energy efficiency goals.

(b) The commission shall include the evaluations and recommendations made pursuant to this section in the integrated energy policy report that is required to be adopted for calendar year 2013, pursuant to subdivision (a) of Section 25302.

CHAPTER 4. INTEGRATED ENERGY POLICY REPORTING

§ 25300. Legislative findings and declarations

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

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

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

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

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

§ 25301. Assessments and forecasts; scope; contents

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

Department of Water Resources, the California Consumer Power and Conservation Financing Authority, the Department of Transportation, and the Department of Motor Vehicles.

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

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

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

(3) Analyze and develop energy policies.

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

(5) Facilitate efficient and reliable energy markets.

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

(a) Beginning November 1, 2003, and every two years thereafter, the commission shall adopt an integrated energy policy report. This integrated report shall contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. Energy markets and systems shall be grouped and assessed in three subsidiary volumes:

(1) Electricity and natural gas markets.

(2) Transportation fuels, technologies, and infrastructure.

(3) Public interest energy strategies.

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

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

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

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

(f) The commission shall provide the report to the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.

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

§ 25302.5. Integrated energy policy report; forecasting by electricity retailers

(a) As part of each integrated energy policy report required pursuant to Section 25302, each entity that serves or plans to serve electricity to retail customers, including, but not limited to, electrical corporations, nonutility electric service providers, community choice aggregators, and local publicly owned electric utilities, shall provide the commission with its forecast of both of the following:

(1) The amount of its forecasted load that may be lost or added by any of the following:

(A) A community choice aggregator.

(B) An existing local publicly owned electric utility.

(C) A newly formed local publicly owned electric utility.

(2) Load that will be served by an electric service provider.

(b) The commission shall perform an assessment in the service territory of each electrical corporation of the loss or addition of load described in this section and submit the results of the assessment to the Public Utilities Commission.

(c) Notwithstanding subdivision (a), the commission may exempt from the forecasting requirements in that subdivision, a local publicly owned electric utility that is not planning to acquire additional load beyond its existing exclusive service territory within the forecast period provided by the commission pursuant to Section 25303.

(d) For purposes of this section, the following terms have the following meanings:

(1) “Community choice aggregator” means any “community choice aggregator” as defined in Section 331.1 of the Public Utilities Code.

(2) “Electrical corporation” means any “electrical corporation” as defined in Section 218 of the Public Utilities Code.

(3) “Electric service provider” means any “electric service provider” as defined in Section 218.3 of the Public Utilities Code.

(4) “Local publicly owned electric utility” means any “local publicly owned electric utility” as defined in Section 224.3 of the Public Utilities Code.

§ 25303. Electricity and natural gas forecasting and assessment activities; assessment to be included in integrated energy policy report; accumulating waste at state nuclear powerplants

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

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

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

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

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

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

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

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

(8)(A) Compilation and assessment of existing scientific studies that have been performed by persons or entities with expertise and qualifications in the subject of the studies to determine the potential vulnerability to a major disruption due to aging or a major seismic event of large baseload generation facilities, of 1,700 megawatts or greater.

(B) The assessment specified in subparagraph (A) shall include an analysis of the impact of a major disruption on system reliability, public safety, and the economy.

(C) The commission may work with other public entities and public agencies, including, but not limited to, the California Independent System Operator, the Public Utilities Commission, the Department of Conservation, and the Seismic Safety Commission as necessary, to gather and analyze the information required by this paragraph.

(D) Upon completion and publication of the initial review of the information required pursuant to this paragraph, the commission shall perform subsequent updates as new data or new understanding of potential seismic hazards emerge.

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

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

(A) Generation facility efficiency.

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

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

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

(c) In the absence of a long-term nuclear waste storage facility, the commission shall assess the potential state and local costs and impacts associated with accumulating waste at California's nuclear powerplants. The commission shall further assess other key policy and planning issues that will affect the future role of nuclear powerplants in the state. The commission's assessment shall be adopted on or before November 1, 2008, and included in the 2008 energy policy review adopted pursuant to subdivision (d) of Section 25302.

§ 25303.5. Natural Gas Act

(a) This section shall be known and may be cited, as the Natural Gas Act.

(b) Beginning November 1, 2015, and every four years thereafter, the commission shall, with the integrated energy policy report prepared pursuant to Section 25302, identify strategies to maximize the benefits obtained from natural gas, including biomethane for purposes of this section, as an energy source, helping the state realize the environmental and cost benefits afforded by natural gas. As part of this report, the commission, at a minimum, shall identify strategies and options for each of the following:

(1) Making the best use of natural gas as a transportation fuel, as appropriate, including for movement of freight, vessels, mass transit, and other commercial and passenger vehicle use and identifying methods to develop natural gas refueling infrastructure.

(2) Determining the role of natural gas-fired generation as part of a resource portfolio, including, but not limited to, combined heat and power, and the impact of that role on meeting greenhouse gas targets.

(3) Taking the best advantage of natural gas as a low-emission resource, including potential zero and near-zero greenhouse gas emissions, natural gas, and biogas options, taking into account the impact on electric system operations.

(4) Optimizing the role of natural gas as a flexible and convenient end use energy source, including the efficient use of natural gas for heating, water heating, cooling, cooking, engine operation, and other end uses, and the optimization of appliances for these uses.

(5) Identifying effective methods by which the electric and natural gas industries can facilitate implementation of any of the strategies identified in this section.

(6) Determining the extent to which a long-term policy is needed to ensure

adequate infrastructure and storage and developing strategies for pursuing additional infrastructure development to maintain or enhance pipeline and system reliability, including increased natural gas storage. In developing those strategies, the commission shall consider needed policies to protect against system capacity constraints, minimize system leakage and related emissions, mitigate investment risk associated with the long-term investment in infrastructure in an evolving energy market, and identify factors that could limit the ability to receive maximum benefits from natural gas as an energy resource.

(7) Determining the role that natural gas can play in the development of zero net energy buildings, as appropriate.

(8) Optimizing the methods by which the pursuit of these strategies can facilitate jobs development in the private sector, particularly in distressed areas.

(9) Optimizing the methods by which state and federal policy can facilitate any of the proposed strategies.

(10) Evaluating the incremental beneficial and adverse economic cost and environmental impacts of proposed strategies, including life-cycle greenhouse gas emissions from production, transportation, and use of natural gas, based on authoritative, peer-reviewed, and science-based analysis or in consultation with the State Air Resources Board.

(c) In developing the strategies described in subdivision (b), the commission shall consult with the Public Utilities Commission, the State Water Resources Control Board, the Independent System Operator, the State Air Resources Board, the Department of Oil, Gas, and Geothermal Resources, and the Department of Conservation to obtain relevant input. The report is intended to assist in establishing state policy and does not independently change any statute, regulation, or regulatory decision.

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

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

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

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

(c) Evaluation of the sufficiency of transportation fuel supplies, technologies, and infrastructure to meet projected transportation demand growth. Assessment of crude oil and other transportation fuel feedstock supplies; in-state, national, and worldwide production and refining capacity; product output storage availability; and transportation and distribution systems capacity and use.

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

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

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

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

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

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

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

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

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

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

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

§ 25305.1. Report regarding progress made by local publicly owned electric utilities serving end-use customers in meeting requirements of Public Utilities Code Section 9620

The commission shall report to the Legislature, to be included in each integrated energy policy report prepared pursuant to Section 25302, regarding the progress made by each local publicly owned electric utility serving end-use customers in meeting the requirements of Section 9620 of the Public Utilities Code.

§ 25305.2. Inclusion in report of information relating to energy efficiency and demand reduction programs

The commission shall include a summary of the information reported pursuant to subdivision (d) of Section 9505 of the Public Utilities Code in the integrated energy policy report prepared pursuant to Section 25302. The commission shall also include, for each local publicly owned electric utility, a comparison of the local publicly owned electric utility's annual targets established in accordance with that section, and the local publicly owned electric utility's actual energy efficiency savings and demand reductions. If the commission determines that improvements can be made in either the level of a local publicly owned electric utility's annual targets to achieve all cost-effective, reliable, and feasible energy savings and demand reductions and to enable local publicly owned electric utilities, in the aggregate, to achieve statewide targets established pursuant to Section 25310, or in meeting each local publicly owned electric utility's annual targets, the commission shall provide recommendations to the local publicly owned electric utility, the Legislature, and the Governor on those improvements.

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

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

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

The commission shall conduct workshops, hearings, and other forums to gain the perspectives of the public and market participants for purposes of the integrated energy policy report prepared pursuant to Section 25302 and the forecasting and assessments prepared pursuant to Sections 25301, 25303, 25304, and 25305. The commission shall include the

comments, as well as responses to those comments, of governmental agencies, industry representatives, market participants, private groups, and any other person concerning the commission's proposals and recommendations in the docket for the integrated energy policy report.

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

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

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

§ 25310. Statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings; annual targets; comparison of targets and actual savings and reductions

On or before November 1, 2007, and by November 1 of every third year thereafter, the commission in consultation with the Public Utilities Commission and local publicly owned electric utilities, in a public process that allows input from other stakeholders, shall develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish targets for statewide annual energy efficiency savings and demand reduction for the next 10-year period. The commission shall base its estimate at least in part on information developed pursuant to Sections 454.55, 454.56, 715, 9615, and 9615.5 of the Public Utilities Code. The commission shall, for each electrical corporation and each gas corporation, include in the integrated energy policy report, a comparison of the public utility's annual targets established pursuant to Sections 454.55 and 454.56, and the public utility's actual energy efficiency savings and demand reductions.

§ 25320. Data collection system; legislative intent; required information

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

(1) It is the intent of the Legislature to ensure that information needed to support the energy policy analysis developed by the commission is obtained from stakeholders in the most cost-effective and efficient manner.

(2) The commission is encouraged to do all of the following with respect to its data collection:

(A) Align the collection of data to be consistent with the schedule of the integrated energy policy report, to the extent practical.

(B) Eliminate unneeded and duplicative data submittals from stakeholders.

(C) Give full consideration to the potential burdens these data requests impose on the resources of the stakeholders whose information is being requested.

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

(1) Include a timetable for the submission of this information, so that the integrated energy policy report required by Section 25302 can be completed in an accurate and timely manner. The commission is encouraged to align its timetable with the schedule of the integrated energy policy report, to the extent practical.

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

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

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

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

(d) Pursuant to the requirements of subdivision (b), the data collection system for nonpetroleum fuels and transportation technologies shall enumerate specific requirements for each category of market participant, including, but not limited to, fuel importers

and exporters, fuel distributors and retailers, fuel pipeline operators, natural gas liquid producers, and transportation technology providers. The commission may also collect information about consumers' nonpetroleum fuel and transportation technology use from their voluntary participation in surveys and other research techniques.

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

§ 25321. Compliance with data collection; enforcement measures

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

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

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

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

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

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

§ 25322. Confidentiality of data collection system information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 25326. Impediments limiting procurement of biomethane; public hearings; solutions

(a) The commission shall hold public hearings to identify impediments that limit procurement of biomethane in California, including, but not limited to, impediments to interconnection. The commission shall offer solutions to those impediments as part of the integrated energy policy report prepared pursuant to Section 25302.

(b) For the purposes of this section, "biomethane" means biogas that meets the standards adopted pursuant to subdivisions (c) and (d) of Section 25421 of the Health and Safety Code for injection into a common carrier pipeline.

CHAPTER 4.3. DESIGNATION OF TRANSMISSION CORRIDORS

§ 25330. Definitions

For purposes of this chapter, the following terms have the following meanings:

(a) "Feasible" has the same meaning as in Section 21061.1.

(b) "High-voltage electric transmission line" means an electric transmission line with an operating capacity of at least 200 kilovolts, or that is under the operational control of the California Independent System Operator.

(c) "Transmission corridor zone" means the geographic area necessary to accommodate the construction and operation of one or more high-voltage electric transmission lines. A transmission corridor zone shall not be more than 1,500 feet in width unless required to accommodate existing land uses and land uses identified in local general or specific plans, or to avoid environmental constraints or mitigate potential environmental impacts.

§ 25331. Designation of transmission corridor zone

(a) The commission may designate a transmission corridor zone on its own motion or by application of a person who plans to construct a high-voltage electric transmission line within the state. The designation of a transmission corridor zone shall serve to identify a feasible corridor where one or more future high-voltage electric transmission lines can be built that are consistent with the state's needs and objectives as set forth in the strategic plan adopted pursuant to Section 25324.

(b) A person planning to construct a high-voltage electric transmission line may submit to the commission an application to designate a proposed transmission corridor zone as being consistent with the strategic plan adopted pursuant to Section 25324. The application shall be in the form prescribed by the commission and shall be supported by any information that the commission may require.

§ 25332. Compliance with California Environmental Quality Act

The designation of a transmission corridor zone is subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000)). The commission shall be the lead agency, as provided in Section 21165, for all transmission corridor zones proposed for designation pursuant to this chapter.

§ 25333. Development of strategic plan; entities to confer with commission; identification of appropriate areas within jurisdiction of entities; coordination with land use plans; approval of California Native American tribe

(a) In developing a strategic plan pursuant to Section 25324 or considering an application for designation pursuant to this chapter, the commission shall confer with cities and counties, federal agencies, and California Native American tribes to identify appropriate areas within their jurisdictions that may be suitable for a transmission corridor zone. The

commission shall, to the extent feasible, coordinate efforts to identify long-term transmission needs of the state with the land use plans of cities, counties, federal agencies, and California Native American tribes.

(b) The commission shall not designate a transmission corridor zone within the jurisdiction of a California Native American tribe without the approval of the California Native American tribe.

§ 25334. Publication of summary of application for designation of transmission corridor zone; notice and comment; fee for costs of review

(a) Upon receipt of an application or upon its own motion for designation of a transmission corridor zone, the commission shall arrange for the publication of a summary of the application in a newspaper of general circulation in each county where the proposed transmission corridor zone would be located, and shall notify all property owners within, or adjacent to, the transmission corridor zone. The commission shall transmit a copy of the application for designation to all cities, counties, and state and federal agencies having an interest in the proposed transmission corridor zone. The commission shall publish the application for designation on its Internet Web site, and notify members of the public that the application is available on the commission's Internet Web site.

(b) As soon as practicable after the receipt of an application or upon its own motion for designation of a transmission corridor zone, the commission shall notify cities, counties, state and federal agencies, and California Native American tribes in whose jurisdictions the proposed transmission corridor zone would be located regarding the proposed transmission corridor zone and the objectives of the most recent strategic plan for the state's electric transmission grid. The commission's notice shall solicit information from, and the commission shall confer with, all interested cities, counties, state and federal agencies, and California Native American tribes regarding their land use plans, existing land uses, and other factors in which they have expertise or interest with respect to the proposed transmission corridor zone. The commission shall provide any interested city, county, state or federal agency, California Native American tribe, or member of the public, including any property owner within the proposed transmission corridor zone, ample opportunity to participate in the commission's review of a proposed transmission corridor zone.

(c) The commission shall request affected cities, counties, state and federal agencies, the Electricity Oversight Board, the Independent System Operator, interested California Native American tribes, and members of the public, including any property owner within 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 factors on which they may have expertise.

(d) The commission shall require a person who files an application for the designation of a transmission corridor zone to pay a fee sufficient to reimburse the commission for all costs associated with reviewing the application. If the commission initiates the designation of a transmission corridor zone on its own motion, the commission shall fix the surcharge imposed pursuant to subdivision (b) of Section 40016 of the Revenue and Taxation Code, at a level sufficient to cover the commission's added costs.

(e) Upon receiving the commission's request for review of a proposed transmission corridor zone, a city or county may request a fee pursuant to Section 25538 to cover for the actual and added costs of this review and the commission shall pay this amount to the city or county.

§ 25335. Public informational hearings

(a) Within 45 days of receipt of the application or motion for designation, the commission shall commence public informational hearings in the county or counties where the proposed transmission corridor zone would be located.

(b) The purpose of the hearings shall be to do all of the following:

(1) Provide information about the proposed transmission corridor zone so that the public and interested agencies have a clear understanding of what is being proposed.

(2) Explain the relationship of the proposed transmission corridor zone to the commission's strategic plan for the state's electric transmission grid, as set forth in the most recent integrated energy policy report adopted pursuant to Chapter 4 (commencing with Section 25300).

(3) Receive initial comments about the proposed transmission corridor zone from the public and interested agencies.

(4) Solicit information on reasonable alternatives to the proposed transmission corridor zone.

§ 25336. Prehearing conference; hearings

(a) Within 155 days of the final informational hearing, the commission shall conduct a prehearing conference to determine the issues to be considered in hearings pursuant to this section, to identify the dates for the hearings, and to set forth filing dates for public comments and testimony from the parties and interested agencies. Within 15 days of the prehearing conference, the commission shall issue a hearing order setting forth the issues to be heard, the dates of the hearings, and the filing dates for comments and testimony.

(b) The commission shall conduct hearings pursuant to the hearing order. The purpose of the hearings shall be to receive information upon which the commission can make findings and conclusions pursuant to Section 25337.

§ 25337. Proposed decision; contents

After the conclusion of hearings conducted pursuant to Section 25336, and no later than 180 days after the date of certification of the environmental impact report prepared pursuant to Section 25332, the commission shall issue a proposed decision that contains its findings and conclusions regarding all of the following matters:

(a) Conformity of the proposed transmission corridor zone with the strategic plan adopted pursuant to Section 25324.

(b) Suitability of the proposed transmission corridor zone with respect to environmental, public health and safety, land use, economic, and transmission-system impacts.

(c) Mitigation measures and alternatives as may be needed to protect environmental quality, public health and safety, the state's electric transmission grid, or any other relevant matter.

(d) Other factors that the commission considers relevant.

§ 25338. Posting of decision on Internet Web site; notice to property owners

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 each affected city, county, state agency, 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.

§ 25339. Review and revision of designated transmission corridor zones

After the commission designates a transmission corridor zone, it shall identify that transmission corridor zone in its subsequent strategic plans adopted pursuant to Section 25324. The commission shall regularly review and revise its designated transmission corridor zones as necessary, but not less than once every 10 years. In revising designations of transmission corridor zones, the commission shall follow the procedures of this chapter. If, upon regular review or at any other time, the commission finds that a transmission corridor zone is no longer needed, the commission shall revise or repeal the designation and, as soon as practicable, notify the affected cities, counties, state and federal agencies, and property owners within, or adjacent to, the transmission corridor zone.

§ 25340. City or county to consider designated transmission corridor zone when making determinations regarding land use changes

After receiving notice from the commission regarding the designation or revision of a transmission corridor zone within its jurisdiction, each city or county shall consider the designated transmission corridor zone when making a determination regarding a land use change within or adjacent to the transmission corridor zone that could affect its continuing viability to accommodate a transmission line planned within the transmission corridor zone. Nothing in this section shall preclude compatible uses within or adjacent to a designated transmission corridor zone.

§ 25341. Development projects within designated transmission corridor zone; notice to commission; recommendations and comments of commission

(a) Within a designated transmission corridor zone, within 10 days of accepting as complete an application pursuant to Section 65943 of the Government Code for a development project that a city or county determines would threaten the potential to construct a high-voltage electric transmission line, the city or county shall notify the commission of the proposed development project. The notice shall include a copy of the application, and set a deadline that is not less than 60 days from the date of the notice for the commission to provide written comments to the city or county regarding the proposed development project.

(b) If the commission finds that the proposed development project would threaten the potential to construct a high-voltage electric transmission line within the designated transmission corridor zone, the commission shall provide written comments to the city or county. The commission may recommend revisions to, redesign of, or mitigation measures for the proposed development project that would eliminate or reduce the threat.

(c) The city or county shall consider the commission's comments, if any, prior to acting on the proposed development project. If the commission objects to the proposed development project, the city or county shall provide a written response that shall address in detail why it did not accept the commission's comments and recommendations.

CHAPTER 4.5. PETROLEUM SUPPLY AND PRICING

§ 25350. Legislative finding and declaration

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

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

(c) The Legislature further finds and declares that information and data concerning all aspects of the petroleum industry, including, but not limited to, crude oil production, production and supplies of finished branded and unbranded gasoline, supplies of diesel fuel and other distillates, supplies of blendstocks used to make gasoline and other refined products, refining, product output, exports of finished gasoline, diesel fuel, and blendstocks, prices, distribution, demand, and investment choices and decisions are essential for the state to develop and administer energy policies that are in the interest of the state's economy and the public's well-being.

§ 25352. Short title

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Monthly California weighted average prices and sales volumes for retail sales and wholesale sales of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel oil with greater than 1 percent sulfur and consumer grade propane.

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

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

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

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

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

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

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

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

§ 25356. Analysis of information

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

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

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

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

(4) The prices, with particular emphasis on retail motor fuel prices, including sales to unbranded retail markets, and any significant changes in prices charged by the petroleum industry for petroleum or petroleum products sold in California and the reasons for those changes.

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

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

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

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

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

§ 25357. Analysis of production reports

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Notwithstanding any other provision of law, the commission may disclose confidential information received pursuant to subdivision (a) of Section 25304 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section.

§ 25366. Confidential information obtained by another state agency

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

CHAPTER 5. ENERGY RESOURCES CONSERVATION

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

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

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

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

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

(b) Improved building design and insulation.

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

(d) Improved appliance efficiency.

(e) Advances in power generation and transmission technology.

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

The commission shall survey pursuant to this section all forms of energy on which to base its recommendations to the Governor and Legislature for elimination of waste or increases in efficiency for sources or uses of energy. The commission shall transmit to the

Governor and the Legislature, as part of the biennial report specified in Section 25309, recommendations for state policy and actions for the orderly development of all potential sources of energy to meet the state's needs, including, but not limited to, fossil fuels and solar, nuclear, and geothermal energy resources, and to reduce wasteful and inefficient uses of energy.

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

(a) As part of the report required by Section 25302, the commission shall develop and update an inventory of current and potential cost-effective opportunities in each utility's service territory, to improve efficiencies and to help utilities manage loads in all sectors of natural gas and electricity use. The report shall include estimates of the overall magnitude of these resources, load shapes, and the projected costs associated with delivering the various types of energy savings that are identified in the inventory. The report shall also estimate the amount and incremental cost per unit of potential energy efficiency and load management activities. Where applicable, the inventory shall include data on variations in savings and costs associated with particular measures. The report shall take into consideration environmental benefits as developed in related commission and public utilities commission proceedings.

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

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

§ 25401.5. Energy efficiency of single-family residential dwellings built prior to development of current energy efficiency standards; development and dissemination of measures improving energy efficiency for older dwellings

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

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

(a) In its administration of Section 25744, the commission shall establish a separate rebate for eligible distributed emerging technologies for affordable housing projects including, but not limited to, projects undertaken pursuant to Section 50052.5, 50053, or 50199.4 of the Health and Safety Code. In establishing the rebate, where the commission

determines that the occupants of the housing shall have individual meters, the commission may adjust the amount of the rebate based on the capacity of the system, provided that a system may receive a rebate only up to 75 percent of the total installed costs. The commission may establish a reasonable limit on the total amount of funds dedicated for purposes of this section.

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

§ 25401.7. Home inspections upon sale of single-family residential dwellings; home energy information

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

(a) A nonprofit organization.

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

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

§ 25401.9. Performance standards and labeling for landscape irrigation equipment

(a) To the extent that funds are available, the commission, in consultation with the Department of Water Resources, shall adopt by regulation, after holding one or more public hearings, performance standards and labeling requirements for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves, for the purpose of reducing the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water.

(b) For the purposes of complying with subdivision (a), the commission shall do both of the following:

(1) Adopt performance standards and labeling requirements for landscape irrigation controllers and moisture sensors on or before January 1, 2010.

(2) Consider the Irrigation Association's Smart Water Application Technology Program testing protocols when adopting performance standards for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves.

(c) On and after January 1, 2012, an irrigation controller or moisture sensor for landscape irrigation uses may not be sold or installed in the state unless the controller or sensor meets the performance standards and labeling requirements established pursuant to this section.

§ 25402. Reduction of wasteful, uneconomic, inefficient or unnecessary consumption of energy

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

(a)(1) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings. The commission shall periodically update the standards and adopt any revision that, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) that are in effect on the date an application for a building permit is filed. Water efficiency standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy.

(2) Prior to adopting a water efficiency standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in Title 24 of the California Code of Regulations and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from water efficiency standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(3) Water efficiency standards and water conservation design standards adopted pursuant to this subdivision and subdivision (b) shall be consistent with the legislative findings of this division to ensure and maintain a reliable supply of electrical energy and be equivalent to or superior to the performance, safety, and protection of life, health, and general welfare standards contained in Title 24 of the California Code of Regulations. The commission shall consult with the members of the coordinating council as established in Section 18926 of the Health and Safety Code in the development of these standards.

(b)(1) Prescribe, by regulation, energy and water conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy and water. The commission shall periodically review the standards and adopt any revision that, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a). Water conservation design standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy. Prior to adopting a water conservation design standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in the California Building Standards Code and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable

housing, as determined by taking account of the overall benefit derived from the water conservation design standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(2) In order to increase public participation and improve the efficacy of the standards adopted pursuant to subdivisions (a) and (b), the commission shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

(3) The standards adopted or revised pursuant to subdivisions (a) and (b) shall be cost-effective when taken in their entirety and when amortized over the economic life of the structure compared with historic practice. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost of complying with the standard. The commission shall consider other relevant factors, as required by Sections 18930 and 18935 of the Health and Safety Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

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

In order to increase public participation and improve the efficacy of the standards adopted pursuant to this subdivision, the commission shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the

commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

The standards adopted or revised pursuant to this subdivision shall not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, as required by Sections 11346.5 and 11357 of the Government Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods which provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of the Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs Account after completion of the certification process for that application shall be returned to the applicant within a reasonable period of time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 25402.2. Building standards

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

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

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

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

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

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

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

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

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

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

(a) Use of skylights or other daylighting techniques.

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

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

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

§ 25402.5. Lighting device; lighting subject to § 25402; declaration of existing law; adoption of efficiency standards for outdoor lighting

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

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

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

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

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

§ 25402.5.4. General purpose lights; standards; adoption; purchase of lights meeting or exceeding standards

(a) On or before December 31, 2008, the commission shall adopt minimum energy efficiency standards for all general purpose lights on a schedule specified in the regulations. The regulations, in combination with other programs and activities affecting lighting use in the state, shall be structured to reduce average statewide electrical energy consumption by not less than 50 percent from the 2007 levels for indoor residential lighting and by not less than 25 percent from the 2007 levels for indoor commercial and outdoor lighting, by 2018.

(b) The commission shall make recommendations to the Governor and the Legislature regarding how to continue reductions in electrical consumption for lighting beyond 2018.

(c) The commission may establish programs to encourage the sale in this state of general purpose lights that meet or exceed the standards set forth in subdivision (a).
(d)(1) Except as provided in paragraph (2), the Department of General Services, and all other state agencies, as defined in Section 12200 of the Public Contract Code, in coordination with the commission, shall cease purchasing general purpose lights that do not meet the standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(2) The Department of General Services, and all other state agencies, as defined in Section 12200 of the Public Contract Code, in coordination with the commission shall cease purchasing general purpose lights with an appearance that is historically appropriate for the facilities in which the lights are being used, and that do not meet the standards adopted pursuant to subdivision (a) within four years of those standards being adopted.

(e) It is the intent of the Legislature to encourage the Regents of the University of California, in coordination with the commission, to cease purchasing general purpose lights that do not meet the standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(f)(1)(A) For purposes of this section, “general purpose lights” means lamps, bulbs, tubes, or other electric devices that provide functional illumination for indoor residential, indoor commercial, and outdoor use.

(B) General purpose lights do not include any of the following types of specialty lighting: 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.

(2) The commission may, after one or more public workshops, with public notice and an opportunity for all interested parties to comment, provide for inclusion of a particular type of specialty light in its energy efficiency standards applicable to general purpose lighting, if it finds that there has been a significant increase in sales of that particular type of particular specialty light due to the use of that specialty light in general purpose lighting applications.

(3) General purpose lights do not include lights needed to provide special-needs lighting for individuals with exceptional needs.

§ 25402.6. Decrease of wasteful peakload energy consumption in existing residential and nonresidential buildings; development and implementation of plan

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

§ 25402.7. Support for specified building standards and other regulations by electric and gas utilities

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

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

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

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

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

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

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

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

§ 25402.10. Nonresidential buildings; energy consumption data records; disclosure of 12-month period data to prospective buyer, lessee, or lender

(a) On and after January 1, 2009, electric and gas utilities shall maintain records of the energy consumption data of all nonresidential buildings to which they provide service. This data shall be maintained, in a format compatible for uploading to the United States

Environmental Protection Agency's ENERGY STAR Portfolio Manager, for at least the most recent 12 months.

(b) On and after January 1, 2009, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, an electric or gas utility shall upload all of the energy consumption data for the account specified for a building to the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager in a manner that preserves the confidentiality of the customer.

(c) In carrying out this section, an electric or gas utility may use any method for providing the specified data in order to maximize efficiency and minimize overall program cost, and is encouraged to work with the United States Environmental Protection Agency and customers in developing reasonable reporting options.

(d)(1) Based on a schedule developed by the commission pursuant to paragraph (2), an owner or operator of a nonresidential building shall disclose the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager benchmarking data and ratings for the most recent 12-month period to a prospective buyer, lessee of the entire building, or lender that would finance the entire building. If the data is delivered to a prospective buyer, lessee, or lender, a property owner, operator, or his or her agent is not required to provide additional information, and the information shall be deemed to be adequate to inform the prospective buyer, lessee, or lender regarding the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager benchmarking data and ratings for the most recent 12-month period for the building that is being sold, leased, financed, or refinanced.

(2) The commission shall establish a schedule by which an owner or operator is required to meet the requirements of this subdivision.

(e) Notwithstanding subdivision (d), this section does not increase or decrease the duties, if any, of a property owner, operator, or his or her broker or agent under this chapter or alter the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

§ 25402.11. Administrative enforcement process; administrative penalty; injunctive relief; civil penalty; Appliance Efficiency Enforcement Account; judicial review; costs; prohibition on initiation of proceeding

(a)(1) The commission may adopt regulations establishing an administrative enforcement process for a violation of a regulation adopted pursuant to subdivision (c) of Section 25402 and for the assessment of an administrative civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation. The process shall comply with the requirements of Chapter 4 (commencing with Section 11400) and Chapter 4.5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) In assessing the amount of an administrative penalty, the commission shall consider all of the following factors:

(A) The nature and seriousness of the violation.

(B) The number of violations.

(C) The persistence of the violation.

(D) The length of time over which the violation occurred.

(E) The willfulness of the violation.

(F) The violator's assets, liabilities, and net worth.

(G) The harm to consumers and to the state that resulted from the amount of energy wasted due to the violation.

(b) If the commission finds that a violation of the regulations adopted pursuant to subdivision (c) of Section 25402 has occurred or is threatening to occur, the commission may refer the matter to the Attorney General to petition a court to enjoin the violation. The court may grant prohibitory or mandatory injunctive relief as warranted by issuing a temporary restraining order, preliminary injunction, or permanent injunction, and may assess a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, considering the factors specified in paragraph (2) of subdivision (a).

(c) Penalties collected pursuant to this section shall be deposited into the Appliance Efficiency Enforcement Subaccount, which is hereby established in the Energy Resources Program Account. The moneys in the Appliance Efficiency Enforcement Subaccount may be expended by the commission, upon appropriation by the Legislature, for the education of the public regarding appliance energy efficiency and for the enforcement of the regulations adopted pursuant to subdivision (c) of Section 25402.

(d) An order imposing an administrative civil penalty shall be subject to judicial review pursuant to subdivisions (a) and (b) of Section 25534.2.

(e) A person shall not be liable for a civil penalty pursuant to subdivision (b) if that person is subject to an administrative civil penalty pursuant to subdivision (a).

(f) In a civil action brought on behalf of the commission pursuant to this section, upon granting relief, the court shall award to the commission the reasonable costs incurred by the commission in investigating and prosecuting the action.

(g) The commission shall not initiate an administrative enforcement process pursuant to the regulations adopted pursuant to this section against an entity for the unlawful sale or the unlawful offer for sale of an appliance if both of the following apply:

(1) The appliance fully complies with all of the requirements of the regulations adopted pursuant to subdivision (c) of Section 25402.

(2) The only basis for the commission's potential enforcement action is that the appliance is not considered to be in compliance because of the commission's delay in reviewing and processing information submitted to it that demonstrates full compliance.

(h) In addition to the prohibitions specified in subdivision (g), the commission shall not initiate an administrative enforcement process pursuant to the regulations adopted pursuant to this section for a violation of a standard adopted pursuant to subdivision (c) of Section 25402 until both of the following occur:

(1) No fewer than 60 days have elapsed since the date when the standard was published in the California Register.

(2) No fewer than 30 days have elapsed since the date when the alleged violator received written notice of the alleged violation and date when the commission provided public notice of the standard.

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

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

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

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

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

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

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

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

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

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

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

§ 25403.8. Program to provide battery backup power for official traffic control signals determined to be high priority

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

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

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

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

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

§ 25404. Cooperation with interested parties; environmental impact reports

The commission shall cooperate with the Office of Planning and Research, the Resources Agency and other interested parties in developing procedures to ensure that mitigation measures to minimize wasteful, inefficient, and unnecessary consumption of energy

are included in all environmental impact reports required on local projects as specified in Section 21151.

§ 25405. Schedule of fees

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

§ 25405.5. Mandatory offer of solar energy system option to customer by production home seller; offset program

(a) As used in this section, the following terms have the following meanings:

(1) "kW" means kilowatts 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.

(2) "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.

(3) "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 one kW, and not more than five megawatts, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to Section 25782.

(b) A seller of production homes shall offer a solar energy system option to all customers 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, and disclose the following:

(1) The total installed cost of the solar energy system option.

(2) The estimated cost savings associated with the solar energy system option, as determined by the commission pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15.

(c) The State Energy Resources Conservation and Development Commission shall develop an offset program that allows a developer or seller of production homes to forgo the offer requirement of this section on a project, by installing solar energy systems generating specified amounts of electricity on other projects, including, but not limited to, low-income housing, multifamily, commercial, industrial, and institutional developments. The amount of electricity required to be generated from solar energy systems used as an offset pursuant to this subdivision shall be equal to the amount of electricity generated by solar energy systems installed on a similarly sized project within that climate zone, assuming 20 percent of the prospective buyers would have installed solar energy systems.

(d) The requirements of this section shall not operate as a substitute for the implementation of existing energy efficiency measures, and the requirements of this section shall not result in lower energy savings or lower energy efficiency levels than would otherwise

be achieved by the full implementation of energy savings and energy efficiency standards established pursuant to Section 25402.

§ 25405.6. Solar energy systems study

Not later than July 1, 2007, the commission shall initiate a public proceeding to study and make findings whether, and under what conditions, solar energy systems should be required on new residential and new nonresidential buildings, including the establishment of numerical targets. As part of the study, the commission may determine that a solar energy system should not be required for any building unless the commission determines, based upon consideration of all costs associated with the system, that the system is cost effective when amortized over the economic life of the structure. When determining the cost-effectiveness of the solar energy system, the commission shall consider the availability of governmental rebates, tax deductions, net-metering, and other quantifiable factors, if the commission can determine the availability of these financial incentives if a solar energy system is made mandatory and not elective. The commission shall periodically update the study and incorporate any revision that the commission determines is necessary, including revisions that reflect changes in the financial incentives originally considered by the commission when determining cost-effectiveness of the solar energy system. For purposes of this section, “solar energy system” means a photovoltaic solar collector or other photovoltaic solar energy device that has a primary purpose of providing for the collection and distribution of solar energy for the generation of electricity. This section is intended to be for study purposes only and does not authorize the commission to develop and adopt any requirement for solar energy systems on either residential or nonresidential buildings.

CHAPTER 5.1. SOLAR AND PHOTOVOLTAIC SYSTEMS

§ 25406. “Sunny Homes Seal” program

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

CHAPTER 5.2. ENERGY CONSERVATION ASSISTANCE

§ 25410. Short title

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

§ 25410.5. Findings and declarations

The Legislature finds and declares all of the following:

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

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

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

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

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

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

§ 25410.6. Legislative intent; duties of commission

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

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

§ 25411. Definitions

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) “Project” means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, energy conservation and

operating procedures, and energy conservation measures in existing and planned buildings and facilities, energy conservation projects, and technical assistance programs.

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

(1) A long-term care institution.

(2) A rehabilitation institution.

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

(4) A residential child care center.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) New construction activities.

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

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

(s) “Unit of local government” means a unit of general purpose government below the state, a special district, or any combination of that unit and special district formed for the joint exercise of power.

§ 25412. Application for an allocation

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

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

§ 25412.5. Solicitation of loan applications

The commission shall take steps to solicit loan applications to do all of the following:

(a) Encourage an equitable distribution of loans statewide.

(b) Award loans in regions with high summer peak loads, with high heating costs, or that have electrical or natural gas system distribution constraints.

(c) Place an emphasis on offering these loans in disadvantaged communities.

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

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

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

§ 25414. Computation of cost of energy saved

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

§ 25415. Repayment of allocation; interest; budget

(a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 40 equal semiannual payments, as determined by the commission. Loan repayments shall be made in accordance with a schedule established by the commission. The repayment period may not exceed the life of the equipment, as determined by the commission or the lease term of the building in which the energy conservation measures will be installed.

(b) Notwithstanding any other law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and may authorize no-interest loans.

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

§ 25416. State Energy Conservation Assistance Account; creation; disbursements; contracts for services; grants; fees; loans to General Fund

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

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

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

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

(e) The commission may make grants to eligible institutions for innovative projects and programs. Except as provided in subdivision (d), the amount expended for grants ~~may~~ shall not exceed 5 percent of the annual unencumbered balance in the account as determined by the commission on July 1 of each fiscal year.

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

(g) Notwithstanding any other ~~provision of~~ law, the Controller may use the State Energy Conservation Assistance Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

(h) (1) A subaccount is hereby created within the State Energy Conservation Assistance Account to track the award and repayment of loans, including principal, interest, and interest earnings on or accruing to the subaccount, made with moneys transferred to the account from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code. Notwithstanding Section 13340 of the Government Code, the subaccount is hereby continuously appropriated to the commission without regard to fiscal year.

(2) Moneys deposited in the subaccount may be used for loans only for projects in buildings owned and operated by a state agency or entity, including, without limitation, the University of California and California State University.

(3) Notwithstanding Section 39718 of the Health and Safety Code, a repayment of a loan made pursuant to this chapter with moneys transferred from the Greenhouse Gas Reduction Fund shall be deposited in the subaccount and shall be available for a loan made to an entity eligible for these moneys pursuant to this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

§ 25418. Audit

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

§ 25419. Powers of commission

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

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

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

§ 25420. Administrative costs

The commission may expend from the State Energy Conservation Assistance Account an amount to pay for the actual administrative costs incurred by the commission pursuant to this chapter. The amount shall not exceed 5 percent of the annual unencumbered balance in the account as determined by the commission on July 1 of each fiscal year, to be used to defray costs incurred by the commission for allocations made by the commission pursuant to this chapter.

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

(a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

(b) Except as specified in subdivisions (c) and (d), all loans outstanding as of January 1, 2018, shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 2018, and thereafter shall revert to the General Fund.

(c) To the extent required under applicable bond obligations, unexpended funds from the proceeds of bonds sold pursuant to Section 25417.5 that remain in the State Energy Conservation Assistance Account on January 1, 2018, shall remain in the account. These funds shall be expended pursuant to the applicable requirements for bond proceeds. Once all applicable bond obligations have been satisfied, unexpended funds shall revert to the General Fund.

(d) Unexpended funds from the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) remaining in the State Energy Conservation Assistance Account on January 1, 2018, shall revert to the Federal Trust Fund.

§ 25422. Federal funds; augmentation of funding for loans and grants; separate subaccount for tracking purposes

(a) Federal funds available to the commission pursuant to Chapter 5.6 (commencing with Section 25460) may be used by the commission to augment funding for grants and loans pursuant to this chapter. Any federal funds used for loans shall, when repaid, be deposited into the Energy Conservation Assistance Account and used to make additional loans pursuant to this chapter.

(b) A separate subaccount shall be established within the Energy Conservation Assistance Account to track the award and repayment of loans from federal funds, including any interest earnings, in accordance with the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

CHAPTER 5.3. ENERGY CONSERVATION ACT OF 2001

Article 1. General Provisions

§ 25425. Short Title

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

§ 25426. Definitions

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

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

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

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

Article 2. Loans and Grants for Construction and Retrofit Projects

§ 25433. Legislative Intent

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

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

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

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

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

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

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

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

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

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

§ 25434. Scope of authority to contract

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

§ 25434.5. Definitions

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

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

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

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

Article 3. Small Business Energy Efficient Refrigeration Loan Program

§ 25435. Administration of loan program

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

§ 25436. Implementation of loan program

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

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

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

CHAPTER 5.4. LOCAL JURISDICTION ENERGY ASSISTANCE

Article 1. General Provisions

§ 25440. Legislative finding and declaration

The Legislature finds and declares all of the following:

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

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

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

§ 25440.5. Local jurisdiction

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

Article 2. Training and Management Assistance

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

The commission shall provide financial assistance to local jurisdictions for the purpose of providing staff training and support services, including, but not limited to, planning design, permitting, energy conservation, comprehensive energy management, project evaluation, and development of alternative energy resources.

Article 3. Energy Project Assistance

§ 25442. Loans; purposes

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

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

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

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

§ 25442.5. Eligible projects, studies and analysis

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

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

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

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

§ 25442.8. Solicitation of loan applications

The commission shall take steps to solicit loan applications to do all of the following:

(a) Encourage an equitable distribution of loans statewide.

(b) Award loans in regions with high summer peak loads, with high heating costs, or that have electrical or natural gas system distribution.

(c) Place an emphasis on offering these loans in disadvantaged communities.

§ 25443. Disposition of principal and interest; interest rate

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

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 1 percent per annum.

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

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

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

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

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

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and

Economic Development Bank, or the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

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

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

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

Article 4. Program Design and Advisory Committee

§ 25445. Commission to design program; funding

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

§ 25446. Loans; evaluation factors

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

(a) Project feasibility.

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

Article 5. Energy Saving Transportation Program

§ 25448. Financial assistance; technical assistance and equipment

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

§ 25448.1. Financial assistance; limitations

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

Article 6. Miscellaneous

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

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

(a) Data collection.

(b) Establishment of operations and maintenance standards.

(c) Staff training.

(d) Ongoing energy equipment maintenance.

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

§ 25449.1. Agreements with State Department of Education to expend petroleum escrow funds; purpose

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

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

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

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

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

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

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

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

(a) Except as provided in subdivision (b), this chapter shall remain in effect until January 1, 2016, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 2016, deletes or extends that date.

(b) All loans outstanding as of January 1, 2016, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2016, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall be deposited in the Petroleum Violation Escrow Account and be available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.

CHAPTER 5.5. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANTS

§ 25450. Legislative findings and declarations

(a) The Legislature finds and declares all of the following:

(1) The cost of energy in California is increasing and creating greater demands on local governments' operating budgets.

(2) The 110th Congress enacted the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) that provides energy efficiency and conservation block grants to eligible entities, including states, to reduce fossil fuel emissions, improve energy efficiency, and reduce overall energy use.

(3) Section 545(c)(1)(A) of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17155(c)(1)(A)) mandates that states receiving block grants under the act use not less than 60 percent of the grant amount to provide subgrants to local governments that are not eligible entities for the purposes of the act.

(4) The 111th Congress enacted the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) that appropriates funds for energy efficiency and conservation, water conservation, home weatherization, green workforce development, and renewable energy.

(b) It is the intent of the Legislature to fully implement the requirements for, and achieve the purposes of, the energy and conservation block grants provided pursuant to the Energy Independence and Security Act of 2007 and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), in the most expedient manner possible, and that the funds allocated to the state pursuant to those acts be administered by the commission. Moreover, to the extent possible without causing undue delay, the commission shall look to the Energy Independence and Security Act of 2007 and the American Recovery and Reinvestment Act of 2009 programs and make policy decisions that leverage and maximize the use of these dollars, including, but not limited to, the areas of energy efficiency, renewable energy, water efficiency, weatherization, and green workforce development.

(c) It is the intent of the Legislature to strive to maximize the opportunity to allocate funds toward the most cost-effective energy efficiency projects, and when allocating funds toward administration, the commission should use the allowable administrative expenses specified in Section 545(c)(4) of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17155(c)(4)) as a ceiling and improve efficiencies to allocate less than the allowable amount.

§ 25450.1. Administration of allocated funds

The commission shall administer the funds allocated to and received by the state pursuant to the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for the Energy Efficiency and Conservation Block Grant Program established pursuant to Section 542 of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17152), and may use the federal funds to award contracts, grants, and loans as expeditiously as possible consistent with those acts.

§ 25450.2. Percentage of funds used for cost-effective energy efficiency, climate change planning, and conservation grants

(a) Not less than 60 percent of the funds received pursuant to Section 25450.1 shall be used to provide cost-effective energy efficiency, climate change planning, and conservation grants to cities with a population of less than 35,000 and counties with a population of less than 200,000, and be prioritized based on cost-effective energy efficiency. However, this population requirement does not apply to funds received pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(b) The remaining funds received pursuant to Section 25450.1 shall be used to provide cost-effective energy efficiency and conservation contracts, grants, and loans to eligible entities consistent with the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) that govern or fund the Energy Efficiency and Conservation Block Grant program and be prioritized based on cost-effective energy efficiency.

§ 25450.3. Percentage of funds expended for administrative expenses and program costs

The commission shall not exceed the amount specified in Section 545(c)(4) of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17155(c)(4)) for administrative expenses, which include, but are not limited to, reporting, recordkeeping, and

evaluation activities required by the Energy Independence and Security Act of 2007 (42 U.S.C. Section 17001 et seq.), the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and implementing regulations and guidelines, that govern or fund the Energy Efficiency and Conservation Block Grant Program, and the combined administration program costs, indirect costs, overhead, and costs associated with the Statewide Cost Allocation Plan.

§ 25450.4. Award of contracts, grants, and loans

The commission may award contracts, grants, and loans pursuant to this chapter, unless otherwise prohibited by the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.), the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), implementing regulations and guidelines.

§ 25450.5. Award, eligibility, and administration of federal funding; adoption of guidelines; appeal of grant or award

(a) The commission may adopt guidelines governing the award, eligibility, and administration of funding pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) at a publicly noticed meeting offering all interested parties an opportunity to comment. The commission shall provide written public notice of not less than 30 days for the initial adoption of guidelines. Substantive changes to the guidelines shall not be adopted without 15-day written notice to the public. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Grants and loans made pursuant to this chapter are subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments.

CHAPTER 5.6. FEDERAL FUNDING OF ENERGY-RELATED PROJECTS AND STATE ENERGY PROGRAMS

§ 25460. Legislative findings, declarations, and intent

(a) The Legislature finds and declares that the 111th Congress enacted the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) that appropriates funds for various energy programs administered by the commission.

(b) It is the intent of the Legislature that the commission should have the authority to award contracts, grants, and loans from funds received pursuant to the American Recovery and Reinvestment Act of 2009 and to make the awards as expeditiously as possible.

§ 25461. Administration of federal funds; authorized uses

(a) Except as provided in Chapter 5.5 (commencing with Section 25450), the commission shall administer federal funds allocated to, and received by, the state for energy-related projects pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or federal acts related to the American Recovery and Reinvestment Act of 2009.

(b) Unless otherwise prohibited by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or subsequent federal acts related to the American Recovery and Reinvestment Act of 2009, the commission may use the federal funds to award contracts, grants, and loans, including loan guarantees, loan loss reserves, and credit enhancements, for energy efficiency, energy conservation, renewable energy, and other energy-related projects and activities authorized by the American Recovery and Reinvestment Act of 2009 or subsequent federal acts related to the American Recovery and Reinvestment Act of 2009.

§ 25462. Award, eligibility, and administration of funding; adoption of guidelines; appeal of grants and loans

(a) The commission may adopt guidelines governing the award, eligibility, and administration of funding pursuant to this chapter at a publicly noticed meeting offering all interested parties an opportunity to comment. The commission shall provide written public notice of not less than 30 days for the initial adoption of guidelines. Substantive changes to the guidelines shall not be adopted without 15-day written notice to the public. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Grants and loans made pursuant to this chapter are subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments.

§ 25463. Use of federal funds to augment funding for programs and measures authorized by this division

(a) Notwithstanding any other provision of this division, federal funds available to the commission pursuant to this chapter may be used by the commission to augment funding for any programs or measures authorized by this division unless otherwise prohibited by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). The commission may administer any funds used to augment other programs using the procedures of the augmented program consistent with applicable federal law.

(b) This section shall be liberally construed to maximize the commission's ability to utilize and award federal funds expeditiously and in accordance with the American Recovery and Reinvestment Act of 2009 or federal acts related to the American Recovery and Reinvestment Act of 2009.

§ 25464. Use of federal funds; Clean and Renewable Energy Business Financing Revolving Loan Fund; administration; fee; transfer

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

(1) “Fund” means the Clean and Renewable Energy Business Financing Revolving Loan Fund.

(2) “Program” means the Clean and Renewable Energy Business Financing Revolving Loan Program.

(b)(1) The commission may use federal funds available pursuant to this chapter to implement the Clean and Renewable Energy Business Financing Revolving Loan Program to provide low interest loans to California clean and renewable energy manufacturing businesses.

(2) The commission may use other funding sources to leverage loans awarded under the program.

(c) The commission may work directly with the Governor's Office of Business and Economic Development, the Treasurer, or any other state agency, board, commission, or authority to implement and administer the program, and may contract for private services as needed to implement the program.

(d) The commission may collect an application fee from applicants applying for funding under the program to help offset the costs of administering the program.

(e)(1) The Clean and Renewable Energy Business Financing Revolving Loan Fund is hereby established in the State Treasury to implement the program. The commission is authorized to administer the fund for this purpose. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the commission, without regard to fiscal years, to implement the program.

(2) Upon direction by the commission, the Controller shall create any accounts or subaccounts within the fund that the commission determines are necessary to facilitate management of the fund.

(3) The Controller shall disburse and receive moneys in the fund for purposes of the program and as authorized by the commission.

(4) All loans and repayments of loans made pursuant to this section, including interest payments, penalty payments, and all interest earning on or accruing to any moneys in the fund, shall be deposited in the fund and shall be available for the purposes of this section.

(5) The commission may expend up to 5 percent of moneys in the fund for its administrative costs to implement the program.

(f) Federal funds available to the commission pursuant to this chapter shall be transferred to the fund in the loan amounts when loans are awarded under the program by the commission.

CHAPTER 5.7. ENERGY EFFICIENT STATE PROPERTY REVOLVING FUND

§ 25470. Definitions

As used in this chapter:

(a) "Act" means the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(b) "Allocation" means a loan of funds by the Department of General Services pursuant to the procedures specified in this chapter.

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

(d) "Department" means the Department of General Services.

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

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

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

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

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

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

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

(i) "Fund" means the Energy Efficient State Property Revolving Fund or the Energy Efficiency Retrofit State Revolving Fund.

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

(k) “State agency” means a unit of state government, including any department, agency, board, or commission under the State of California.

(l) “State-owned building” means a building that is primarily occupied by offices or agencies of a unit of state government and includes those properties owned by the State of California.

§ 25471. Energy Efficient State Property Revolving Fund; creation, administration, and use of fund

(a) There is hereby created in the State Treasury the Energy Efficient State Property Revolving Fund for the purpose of implementing this chapter. Notwithstanding Section 13340 of the Government Code, the money in this fund is continuously appropriated to the department, without regard to fiscal years, for loans for projects on state-owned buildings and facilities to achieve greater, long-term energy efficiency, energy conservation, and energy cost and use avoidance.

(b) The fund shall be administered by the department. The department may use other funding sources to leverage project loans.

(c) For the 2009-10 fiscal year, the sum of twenty-five million dollars ($25,000,000) shall be transferred into the Energy Efficient State Property Revolving Fund from money received by the commission pursuant to the act to be used for purposes of the federal State Energy Program.

(d)(1) For the 2011-12 and 2012-13 fiscal years, the commission may transfer up to fifty million dollars ($50,000,000), in total, as the commission determines to be appropriate, into the Energy Efficient State Property Revolving Fund from money received by the commission pursuant to the act to be used for the purposes of the federal State Energy Program.

(2) The commission shall provide written notice to the Controller on the amount and timing of the transfer of moneys into the fund.

(3) Subject to the limitations of paragraph (1), the commission may make multiple transfers to allow for reallocating available funds from project cancellations and project savings.

(4) Notwithstanding Section 9795 of the Government Code, the commission shall notify, in writing, the Joint Legislative Budget Committee when a transfer is made pursuant to this subdivision.

(e) The Controller shall disburse moneys in the fund for the purposes of this chapter, as authorized by the department.

(f) Moneys in the fund, including all interest earnings, shall be clearly delineated and distinctly accounted for in accordance with the requirements of the act.

25471.5. Energy Efficiency Retrofit State Revolving Fund

There is hereby established in the State Treasury the Energy Efficiency Retrofit State Revolving Fund for the purposes of implementing this chapter. Notwithstanding Section 13340 of the Government Code, moneys in the Energy Efficiency Retrofit State Revolving Fund are continuously appropriated to the department without regard to fiscal years for loans for projects in or on state-owned buildings and facilities to implement energy efficiency retrofit projects and to utilize renewable energy technology to achieve energy efficiency, reduce emissions of greenhouse gases, and reduce grid-based electricity purchases.

§ 25472. Identification of projects and allocation of funds; loans; interest rates; repayment amounts

(a) The department, in consultation with the commission, shall establish a process by which projects are identified and funding is allocated.

(b) ~~Beginning July 1, 2009, the~~ The department shall use money in the fund for projects that will improve long-term energy efficiency and increase energy use savings.

(c) The department shall comply with the requirements of the act and implementing guidelines of the commission, including, but not limited to, performance metrics, data collection, and reporting. All projects ~~must~~ shall be consistent with these requirements and guidelines.

(d) Funding prioritization shall be granted to those projects that are ~~cost-effective~~ cost effective and will yield immediate and sustainable energy efficiency, energy conservation, energy use cost savings, and cost avoidance.

(e) The department shall fund allowable projects through a loan to the appropriate state agency or agencies occupying the building or facility for which the project will be performed.

(f) The department shall determine a reasonable loan repayment schedule that ~~may~~ shall not exceed the life of the energy conservation measure equipment, as determined by the department, or the lease term of the building in which the energy conservation measure is installed.

(g) Maximum loan amounts shall be based on estimated energy cost savings that will allow state agencies to repay loan principal and interest within the maximum repayment term specified in this section.

(h) The department shall periodically set interest rates on the loans based on surveys of existing financial markets and at rates of not less than 1 percent per annum.

(i) Annual loan repayment amounts shall be structured so as to reflect the projected annualized energy cost avoidance estimated from the completed project. The department may utilize a direct billing methodology to recover loan repayments for completed projects.

§ 25473. Report to Legislature

(a) On or before January 1, 2010, and annually thereafter, the department, in collaboration with the commission, shall submit to the Legislature's fiscal and appropriate policy committees a report that includes an initial list of projects identified and planned for the 2009-10 fiscal year, and for each fiscal year thereafter. The report also shall include the anticipated cost of each project, an analysis of the results of the methodology, and an estimate of energy savings to be achieved.

(b) On or before July 1, 2010, the department, in collaboration with the commission, shall submit to the Legislature an update to the January 1, 2010, report.

§ 25474. Repayment of loans; deposit of funds; recovery of costs

(a) Any repayment of loans made pursuant to this ~~chapter,~~ chapter from the Energy Efficient State Property Revolving Fund, including interest payments, and all interest earnings on or accruing to, any money resulting from the implementation of this chapter in the Energy Efficient State Property Revolving Fund, shall be deposited in that fund and shall be available for the purposes of this chapter.

(b) The department may recover costs of administering the projects and related costs through ~~energy utility rebates awarded to the state agency as a result of completed projects~~ interest earnings up to 5 percent of the project loan amounts. Project costs can include energy efficiency improvements and costs associated with managing the project and administering the loan program, including all reporting requirements.

25474.5. Deposit and use of funds; recovery of costs

(a) Notwithstanding Section 39718 of the Health and Safety Code, any repayment of loans made pursuant to this chapter from the Energy Efficiency Retrofit State Revolving Fund, including interest payments, and all interest earnings on or accruing to, any money resulting from the implementation of this chapter in the Energy Efficiency Retrofit State Revolving Fund, shall be deposited in that fund and shall be available for the purposes of this chapter.

(b) The department may recover costs of administering the projects and related costs through interest earnings up to 5 percent of the project loan amounts. Project costs can include energy efficiency improvements and costs associated with managing the project and administering the loan program, including all reporting requirements.

CHAPTER 5.8. ENERGY CONSERVATION IN TRANSPORTATION

§ 25480. Department

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

§ 25481. Legislative findings and declaration

The Legislature hereby finds and declares that:

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

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

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

(d) Increased ridesharing by commuters would aid in lowering air pollution levels, conserving energy, and reducing urban traffic congestion.
It is, therefore, the purpose of this chapter to provide incentives for the wider use of ridesharing by commuters in metropolitan areas.

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

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

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

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

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

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

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

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

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

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

CHAPTER 5.9. ENERGY SYSTEMS

Article 1. Definitions

§ 25487. Construction of chapter

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

§ 25488. Title 24 Standards

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

§ 25488.5. Building standard

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

§ 25489. Lifecycle cost

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

§ 25491. Governmental agency

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

§ 25492. Structure

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

§ 25493. New structure; compliance with Title 24 standards

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

§ 25493.5. New structure; compliance with building standards

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

§ 25494. Manual for comparison of lifecycle cost alternatives

Not later than July 31, 1978, the commission shall prepare a manual outlining a methodology by which governmental agencies and the general public may at their option compare the lifecycle costs of various building design alternatives. This manual will provide the information and procedures necessary to evaluate a building's lifecycle costs in the microclimate and utility service area where it is to be built.

§ 25495. Guidelines for new construction; options

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

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

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

§ 25498. Supplementary solar water heating system

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

CHAPTER 6. POWER FACILITY AND SITE CERTIFICATION

§ 25500. Authority; necessity of certification

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

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

§ 25500.1. Conversion of facility from solar thermal technology to photovoltaic technology; petition of owner

(a) The owner of a proposed solar thermal powerplant, for which an application for certification was filed with the commission after August 15, 2007, and certified by the commission and, of a project on federal land, for which a record of decision was issued by the Department of the Interior or the Bureau of Land Management before September 1, 2011, may petition the commission not later than June 30, 2012, to review an amendment to the facility's certificate to convert the facility, in whole or in part, from solar thermal technology to photovoltaic technology, without the need to file an entirely new application for certification or notice of intent pursuant to Section 25502, provided that the commission prepares supplemental environmental review documentation, provides for public notice and comment on the supplemental environmental review, and holds at least one public hearing on the proposal.

(b) The Department of Fish and Game and the State Water Resources Board shall provide comments to the commission on the water resource and water quality effects of the proposed powerplants. The commission shall incorporate all feasible mitigation measures identified by the department and the board.

(c) For a facility specified in subdivision (a), this chapter shall continue to apply, notwithstanding that the facility or part of the facility would otherwise be excluded pursuant to Section 25120.

(d) The commission shall process a petition submitted under this section pursuant to Section 1769 of Title 20 of the California Code of Regulations.

(e) This section shall not apply to any project if the project's certificate was timely challenged pursuant to Section 25531, unless the challenge was subsequently dismissed by the California Supreme Court.

(f) This section does not abrogate a party's right to challenge a project's certification pursuant to Section 25531 or any other provision of law.

§ 25500.5. Certifications sufficient to accommodate projected demand

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

§ 25501. Inapplicability of chapter to certain sites and facilities

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

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

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

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

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

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

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

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

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

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

§ 25504. Statement by applicant; contents

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

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

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

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

(b) The projected installation schedule for each unit.

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

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

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

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

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

§ 25506. Comments and recommendations; governmental agencies

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

§ 25506.5. Comments and recommendations; public utilities commission

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

§ 25507. Coastal zone, Suisun Marsh or within jurisdiction of San Francisco Bay conservation and development commission; alternative site and related facility; notice; analysis

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

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

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

The commission shall cooperate with, and render advice to, the California Coastal Commission and the San Francisco Bay Conservation and Development Commission in studying applications for any site and related facility proposed to be located, in whole or in

part, within the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission if requested by the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be. The California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be, may participate in public hearings on the notice and on the application for site and related facility certification as an interested party in such proceedings.

§ 25509. Informational presentations; purposes

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

§ 25509.5. Nonadjudicatory hearings; purposes

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

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

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

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

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

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

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

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

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

§ 25512. Summary and hearing order; basis; contents

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

The summary and hearing order shall:

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

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

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

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

(e) Specify dates for the adjudicatory hearings.

§ 25512.5. Distribution of copies

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

§ 25513. Adjudicatory hearings; commencement

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

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

Notwithstanding Sections 11425.30 and 11430.10 of the Government Code, unless a party demonstrates other statutory grounds for disqualification, a person who has served as investigator or advocate in an adjudicative proceeding of the commission under this code may serve as a supervisor of the presiding officer or assist or advise the presiding officer in the same proceeding if the service, assistance, or advice occurs more than one year after the time the person served as investigator or advocate, provided the content of any advice is disclosed on the record and all parties have an opportunity to comment on the advice.

§ 25514. Final report; contents

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

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

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

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

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.
(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.

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

(e) Findings and conclusions with respect to the safety and reliability of the facility or facilities at each of the sites designated in the notice, as determined by the commission pursuant to Section 25511, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from the findings and conclusions.
(f) Findings and conclusions as to whether increased property taxes due to the construction of the project are sufficient to support needed local improvements and public services required to serve the project.

§ 25514.3. Public utilities commission; comments and recommendations

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

§ 25514.5. Conformity of proposal with forecast; determination

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

§ 25515. Final report; hearings

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

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

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

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

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

§ 25516.1. Finding of relative merit of available alternative sites

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

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

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

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

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

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

(b) The commission shall determine, within 45 days after it receives the notice, whether the notice is complete. If the commission determines that the notice is complete, the notice shall be deemed filed for the purpose of this section on the date that this determination is made. If the commission determines that the notice is incomplete, the commission shall specify, in writing, those parts of the notice which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the notice, the commission shall determine, within 30 days after receipt of that data,

whether the data is sufficient to make the notice complete. The notice shall be deemed filed on the date the commission determines the notice is complete if the commission has adopted regulations specifying the informational requirements for a complete notice, but if the commission has not adopted regulations, the notice shall be deemed filed on the last date the commission receives any additional data that completes the notice.

§ 25517. Necessity of certification; restoration if certification denied

Except as provided in Section 25501, no construction of any thermal powerplant or electric transmission line shall be commenced by any electric utility without first obtaining certification as prescribed in this division. Any onsite improvements not qualifying as construction may be required to be restored as determined by the commission to be necessary to protect the environment, if certification is denied.

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

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

§ 25518.5. Concurrent initiation of application for certificate; conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 25519.5 Site and related facilities proposed to be located near military installation, within special use airspace, or beneath a low-level flight path; notification to United States Department of Defense; inclusion of description of consultation in application

(a) If the site and related facilities specified in the application are proposed to be located within 1,000 feet of a military installation, or lie within special use airspace or beneath a low-level flight path, as defined in Section 21098, the applicant shall inform the United States Department of Defense of the proposed project and that an application will be filed with the commission.

(b) If provided by the United States Department of Defense, the applicant shall include within the application a description of its consultation with the department, with regard to potential impacts upon national security, including potential impacts on the land, sea, and airspace identified by the United States Department of Defense and its impacted service components, for conducting operations and training, or for the research, development, testing, and evaluation of weapons, sensors, and tactics. If the information is provided after the application is filed, the applicant shall forward the information upon receipt.

§ 25520. Application; contents

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

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

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

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

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

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

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

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

(a) In reviewing an application for an additional facility at a potential multiple-facility site, the commission shall undertake a reconsideration of its prior determinations in the final report on the notice for the site issued pursuant to Section 25514, based on current conditions and other reasonable and feasible alternatives to the proposed facility.

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

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

§ 25521. Public hearings

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

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

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

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

§ 25523. Written decision; contents

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

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

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

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.
(d)(1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other applicable local, regional, state, and federal standards, ordinances, or laws. If the commission

finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

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

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

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

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

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

§ 25524. Qualified applicants for certification of solar thermal powerplant; analysis of certification application; election to pay additional fees to contract with a third party

(a) “Qualified applicant” for purposes of this section means an applicant for certification of an eligible renewable energy resource, as defined in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(b) The commission shall establish a process to allow a qualified applicant to elect to pay additional fees to be used by the commission to contract with a third party, or more than one third party, to assist commission staff in performing the analysis otherwise performed by commission staff in determining whether or not to issue a certification. The commission shall retain discretion as to when this option will be offered to a qualified applicant.

(c) The amount of the fees charged by the commission pursuant to this section shall be conditioned upon the qualified applicant agreeing to that amount and electing to proceed with the retention of the third party or parties pursuant to subdivision (b).

(d) All fees paid by a qualified applicant shall be used exclusively for analysis of that applicant's application for certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 25526. Findings necessary for site approval

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

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

§ 25527. Prohibited areas as sites for facilities; exceptions

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

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

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

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

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

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

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

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

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

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

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

§ 25529. Public use area; maintenance by applicant or dedication to local agency or state

When a facility is proposed to be located in the coastal zone or any other area with recreational, scenic, or historic value, the commission shall require, as a condition of certification of any facility contained in the application, that an area be established for public use, as determined by the commission. Lands within such area shall be acquired and maintained by the applicant and shall be available for public access and use, subject to restrictions required for security and public safety. The applicant may dedicate such public use zone to any local agency agreeing to operate or maintain it for the benefit of the public. If no local agency agrees to operate or maintain the public use zone for the benefit of the public, the applicant may dedicate such zone to the state. The commission shall also require that any facility to be located along the coast or shoreline of any major body of water be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values.

§ 25530. Reconsideration of decision or order; motion; petition

The commission may order a reconsideration of all or part of a decision or order on its own motion or on petition of any party.

Any such petition shall be filed within 30 days after adoption by the commission of a decision or order. The commission shall not order a reconsideration on its own motion more than 30 days after it has adopted a decision or order. The commission shall order or deny reconsideration on a petition therefor within 30 days after the petition is filed.

A decision or order may be reconsidered by the commission on the basis of all pertinent portions of the record together with such argument as the commission may permit, or the commission may hold a further hearing, after notice to all interested persons. A decision or order of the commission on reconsideration shall have the same force and effect as an original order or decision.

§ 25531. Judicial review; evidence; scope; jurisdiction; eminent domain proceedings; prohibition of mandate for specific supply plan

(a) The decisions of the commission on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact are final and are not subject to review, except as provided in this article. These questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the commission certifies any site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire the site and related facility.

(e) No decision of the commission pursuant to Section 25516, 25522, or 25523 shall be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

§ 25532. Monitoring system

The commission shall establish a monitoring system to assure that any facility certified under this division is constructed and is operating in compliance with air and water quality, public health and safety, and other applicable regulations, guidelines, and conditions adopted or established by the commission or specified in the written decision on the application. In designing and operating the monitoring system, the commission shall seek the cooperation and assistance of the State Air Resources Board, the State Water Resources Control Board, the Department of Health, and other state, regional, and local agencies which have an interest in environmental control.

§ 25534. Amendment or revocation of certification; grounds; administrative civil penalty; start-of-construction deadline; failure to meet deadline; notice to California Consumer Power and Conservation Financing Authority

(a) The commission may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons:

(1) Any material false statement set forth in the application, presented in proceedings of the commission, or included in supplemental documentation provided by the applicant.

(2) Any significant failure to comply with the terms or conditions of approval of the application, as specified by the commission in its written decision.

(3) A violation of this division or any regulation or order issued by the commission under this division.

(4) The owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved provided the California Consumer Power and Conservation Financing Authority notifies the commission that it is willing and able to construct the project pursuant to subdivision (g). The project owner may extend the 12-month period by 24 additional months pursuant to subdivision (f). This paragraph applies only to projects with a project permit application deemed complete by the commission after January 1, 2003.

(b) The commission may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed seventy-five thousand dollars ($75,000) per violation, except that the civil penalty may be increased by an amount not to exceed one thousand five hundred dollars ($1,500) per day for each day in which the violation occurs or persists, but the total of the per day penalties may not exceed fifty thousand dollars ($50,000).

(c) A project owner shall commence construction of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) within 12 months after the project has been certified by the commission and after all accompanying project permits are final and administrative and judicial appeals have been completed. The project owner shall submit construction and commercial operation milestones to the commission within 30 days after project certification. Construction milestones shall require the start of construction within the 12-month period established by this subdivision. The commission shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the commission is not met, the commission shall establish milestones for the project.

(d) The failure of the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the commission of good cause, shall be cause for revocation of certification or the imposition of other penalties by the commission.

(e) A finding by the commission that there is good cause for failure to meet the start-of-construction deadline required by paragraph (4) of subdivision (a) or any subsequent milestones of subdivision (c) shall be made if the commission determines that any of the following criteria are met:

(1) The change in any deadline or milestone does not change the established deadline or milestone for the start of commercial operation.

(2) The deadline or milestone is changed due to circumstances beyond the project owner's control, including, but not limited to, administrative and legal appeals.

(3) The deadline or milestone will be missed but the project owner demonstrates a good faith effort to meet the project deadline or milestone.

(4) The deadline or milestone will be missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.

(5) The deadline or milestone will be missed for any other reason determined reasonable by the commission.

(f) The commission shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months, if the owner reimburses the commission's actual cost of licensing the project, less the amount paid pursuant to subdivision (a) of Section 25806. For the purposes of this section, the commission's actual cost of licensing the project shall be based on a certified audit report filed by the commission staff within 180 days of the commission's certification of the project. The certified audit shall be filed and served on all parties to the proceeding, is subject to public review and comment, and is subject to at least one public hearing if requested by the project owner. Any reimbursement received by the commission pursuant to this subdivision shall be deposited in the General Fund.

(g) If the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) fails to commence construction, without good cause, within 12 months after the project has been certified by the commission and has not received an extension pursuant to subdivision (f), the commission shall provide immediate notice to the California Consumer Power and Conservation Financing Authority. The authority shall evaluate whether to pursue the project independently or in conjunction with any other public or private entity, including the original certificate holder. If the authority demonstrates to the commission that it is willing and able to construct the project either independently or in conjunction with any other public or private entity, including the original certificate holder, the commission may revoke the original certification and issue a new certification for the project to the authority, unless the authority's statutory authorization to finance or approve new programs, enterprises, or projects has expired. If the authority declines to pursue the project, the permit shall remain with the current project owner until it expires pursuant to the regulations adopted by the commission.

(h) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority, the commission shall adopt new milestones for the project that allow the authority up to 24 months to start construction of the project or to start to meet the applicable deadlines or milestones. If the authority fails to begin construction in conformity with the deadlines or milestones adopted by the commission, without good cause, the certification may be revoked.

(i)(1) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority and the authority pursues the project without participation of the original certificate holder, the authority shall offer to reimburse the original certificate holder for the actual costs the original certificate holder incurred in permitting the project and in procuring assets associated with the

license, including, but not limited to, major equipment and the emission offsets. In order to receive reimbursement, the original certificate holder shall provide to the commission documentation of the actual costs incurred in permitting the project. The commission shall validate those costs. The certificate holder may refuse to accept the offer of reimbursement for any asset associated with the license and retain the asset. To the extent the certificate holder chooses to accept the offer for an asset, it shall provide the authority with the asset.

(2) If the authority reimburses the original certificate holder for the costs described in paragraph (1), the original certificate holder shall provide the authority with all of the assets for which the original certificate holder received reimbursement.

(j) This section does not prevent a certificate holder from selling its license to construct and operate a project prior to its revocation by the commission. In the event of a sale to an entity that is not an affiliate of the certificate holder, the commission shall adopt new deadlines or milestones for the project that allow the new certificate holder up to 12 months to start construction of the project or to start to meet the applicable deadlines or milestones.

(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility's load. For the purposes of this subdivision, “replacement” of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.

(l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to “local publicly owned electric utilities,” as defined in Section 224.3 of the Public Utilities Code, whose governing bodies certify to the commission that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the commission and the California Consumer Power and Conservation Financing Authority may, in consultation with each other, adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

§ 25534.1. Complaint; hearing; orders; amount of penalty

(a) The executive director of the commission may issue a complaint to any person or entity on whom an administrative civil penalty may be imposed pursuant to Section 25534. The complaint shall allege the act or failure to act for which the civil penalty is proposed, the provision of law authorizing civil liability, and the proposed civil penalty.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that a hearing will be conducted within 60 days after the party has been served. The hearing shall be before the commission. The complainant may waive the right to a hearing, in which case the commission shall not conduct a hearing.

(c) After any hearing, the commission may adopt, with or without revision, the proposed decision and order of the executive director.

(d) Orders setting an administrative civil penalty shall become effective and final upon issuance thereof, and any payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

(e) In determining the amount of the administrative civil penalty, the commission shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the violation is susceptible to removal or resolution, the cost to the state in pursuing the enforcement action, and with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary removal or resolution efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

§ 25534.2. Review; collection of penalties; deposit of moneys recovered

(a) Within 30 days after service of an order issued under Section 25534.1, any aggrieved party may file with the superior court a petition for writ of mandate for review thereof pursuant to Section 1094.5 of the Code of Civil Procedure. If no aggrieved party petition for a writ of mandate is filed within the time provided by this section, an order of the commission is not subject to review by any court or agency, except that the commission may grant review on its own motion of an order issued under Section 25534.1 after the expiration of the time limits set by this section.

(b) Upon request of the commission, the Attorney General shall institute an action in the appropriate superior court to collect and recover any administrative civil penalties imposed pursuant to Section 25534.1. The court shall accord priority on its calendar to any action under this subdivision.

(c) Any moneys recovered by the commission pursuant to this section shall be deposited in the General Fund.

§ 25535. Costs allowable for ratemaking purposes

Such reasonable and direct costs as the applicant incurs to comply with the provisions of this chapter shall be allowed for ratemaking purposes.

§ 25537. Approval of application; submission of information to federal agencies

Upon approval of an application, the commission shall forward to the United States Nuclear Regulatory Commission, the Environmental Protection Agency, and to other appropriate federal agencies, the results of its studies including the environmental impact report on the facility, the written decision on the facility contained in the application, and the commission's determination of facility safety and reliability as provided in Section 25511.

§ 25538. Review by local agencies; fees; lost permit fees; reimbursement

Upon receiving the commission's request for review under subdivision (f) of Section 25519 and Section 25506, the local agency may request a fee from the commission to reimburse the local agency for the actual and added costs of this review by the local agency. The commission shall reimburse the local agency for the added costs that shall be actually incurred by the local agency in complying with the commission's request. The local agency may also request reimbursement for permit fees that the local agency would receive but for the operation of Section 25500, provided, however, that such fees may only be requested in accordance with actual services performed by the local agency. The commission shall either request a fee from the person proposing the project or devote a special fund in its budget, for the reimbursement of such costs incurred by local agencies.

§ 25539. Rules and regulations

In reviewing notices and applications for certification or modifications of existing facilities, the commission shall adopt rules and regulations as necessary to insure that relevant duties pursuant to this division are carried out.

§ 25540. Geothermal powerplant and related facilities; alternate sites and related facilities; notice; findings; final decision

If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, the commission shall not require three alternative sites and related facilities to be proposed in the notice. Except as otherwise provided, the commission shall issue its findings on the notice, as specified in Section 25514, within nine months from the date of filing of such notice, and shall issue its final decision on the application, as specified in Section 25523, within nine months from the date of the filing of the application for certification, or at such later time as is mutually agreed to by the commission and the applicant or person submitting the notice or application.

§ 25540.1. Geothermal powerplant; determination of completeness of notice or application; determination as to when notice or application deemed filed

The commission shall determine, within 30 days after the receipt of a notice or application for a geothermal powerplant, whether the notice or application is complete. If the notice or application is determined not to be complete, the commission's determination shall specify, in writing, those parts of the notice or application which are incomplete and shall indicate the manner in which it can be made complete. Within 30 days after receipt of the applicant's filing with the commission the additional information requested by the commission to make the notice or application complete, the commission shall determine whether the subsequent filing is sufficient to complete the notice or application. A notice or application shall be deemed filed for purposes of Section 25540 on the date the commission determines the notice or application is completed if the commission has adopted regulations specifying the informational requirements for a complete notice or application, but if the commission has not adopted regulations, the notice or application shall be deemed filed on the last date the commission receives any additional data that completes the notice or application.

§ 25540.2. Geothermal powerplant and related facilities; proposed construction; notice of intention; final decision; copies of application for certification

Notwithstanding any other provision of law:

(a) If an applicant proposes to construct a geothermal powerplant at a site which, at the outset of the proceeding, the applicant can reasonably demonstrate to be capable of providing geothermal resources in commercial quantities, no notice of intention pursuant to Section 25502 shall be required, and the commission shall issue the final decision on the application, as specified in Section 25523, within 12 months after acceptance of the application for certification of a geothermal powerplant and related facilities, or at such later time as is mutually agreed by the commission and the applicant.

(b) Upon receipt of an application for certification of a geothermal powerplant and related facilities, the commission shall transmit a copy of the application to every state and local agency having jurisdiction over land use in the area involved.

§ 25540.3. Geothermal powerplant and related facilities; application; contents; electric generating potential in excess of capacity proposed for initial construction; potential multiple facility site

(a) An applicant for a geothermal powerplant may propose a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction. In addition to the information concerning the initial powerplant and related facilities proposed for construction required pursuant to Section 25520, such application shall include all of the following, to the extent known:

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

(2) The projected installation schedule for each unit.

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

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

(5) The general location and design of auxiliary facilities planned for each stage of development, including, but not limited to pipelines, transmission lines, waste storage and disposal facilities, switchyards, and cooling ponds, lakes, or towers.

(6) Such other information relating to the design, operation, and siting of the facility as the commission may by regulation require.

(b) If an application is filed pursuant to subdivision (a) which proposes a site to be approved which will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction, the commission may, in its decision pursuant to subdivision (a) of Section 25540.3, either certify only the initial facility or facilities proposed for initial construction or may certify the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

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

§ 25540.4. Potential multiple facility site; decision on application for additional facility; reconsideration of prior determination; environmental impact report; time

Notwithstanding any other provision of law:

(a) The decision of the commission on an application for an additional facility at a potential multiple facility site shall be issued within three months after the acceptance of the application or at such later time as is mutually agreed upon by the commission and the applicant.

(b) In reviewing an application for an additional facility at a potential multiple facility site, the commission may, upon a showing of good cause, undertake a reconsideration of its prior determinations in the final report for the site pursuant to Section 25514 or its decision pursuant to Section 25523 based on current conditions and other reasonable alternatives to the proposed facility. Such reconsideration must be completed within seven months after acceptance of such application for an additional facility.

(c) The commission shall, pursuant to Section 21100.2, provide by resolution or order for completing and certifying the environmental impact report within the time limits established by subdivisions (a) and (b).

§ 25540.5. Geothermal powerplant and related facilities; certification; delegation to county; revocation

The commission may, at the petition of a county which has adopted a geothermal element for its general plan, approve an equivalent certification program which delegates to that county full authority for the certification of all geothermal powerplants within such county. Once approved by the commission, the equivalent certification program shall replace and supersede the procedures for certification of all geothermal powerplants and related facilities, pursuant to Sections 25540 to 25540.4, inclusive, to be located within such county. The commission may, after public hearings, revoke the approved equivalent certification program of such county if the commission finds that the program does not comply with current commission certification requirements. The equivalent certification program shall include, but not be limited to, provisions for all of the following:

(a) Certification of geothermal areas as potential multiple facility sites, if so applied for.

(b) Processing of applications in less than 12 months.

(c) Periodic review and updating of the program by the county as may be required by law and the commission.

(d) Appeal procedures, including appeals to the commission on substantive issues. In any such appeal on a substantive issue, the commission shall determine whether the act or decision is supported by substantial evidence in the light of the whole record. The commission shall determine, within 15 days of receipt of an appeal, whether the appeal has merit and whether action should be taken.

(e) Input and review by other relevant public agencies and members of the public.

(f) Public hearing procedures equivalent to those specified in Article 6 (commencing with Section 65350) of Chapter 3 of Title 7 of the Government Code.

§ 25540.6. Thermal powerplants on which commission must issue final decision on application within 12 months; site selection application discussion where project exempt from notice of intention requirement

(a) Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:

(1) A thermal powerplant which will employ cogeneration technology, a thermal powerplant that will employ natural gas-fired technology, or a solar thermal powerplant.

(2) A modification of an existing facility.

(3) A thermal powerplant which it is only technologically or economically feasible to site at or near the energy source.

(4) A thermal powerplant with a generating capacity of up to 100 megawatts.

(5) A thermal powerplant designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.

(b) Projects exempted from the notice of intention requirement pursuant to paragraph (1), (4), or (5) of subdivision (a) shall include, in the application for certification, a discussion of the applicant's site selection criteria, any alternative sites that the applicant considered for the project, and the reasons why the applicant chose the proposed site. That discussion shall not be required for cogeneration projects at existing industrial sites. The commission may also accept an application for a noncogeneration project at an existing industrial site without requiring a discussion of site alternatives if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.

§ 25541. Thermal-powerplants; exemption from provisions of chapter; conditions

The commission may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts and modifications to existing generating facilities that do not add capacity in excess of 100 megawatts, if the commission finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

§ 25541.1. Thermal powerplants using resource recovery technology; legislative encouragement

It is the intent of the Legislature to encourage the development of thermal powerplants using resource recovery (waste-to-energy) technology. Previously enacted incentives for the production of electrical energy from nonfossil fuels in commercially scaled projects have failed to produce the desired results. At the same time, the state faces a growing problem in the environmentally safe disposal of its solid waste. The creation of electricity by a thermal powerplant using resource recovery technology addresses both problems by doing all of the following:

(a) Generating electricity from a nonfossil fuel of an ample, growing supply.

(b) Conserving landfill space, thus reducing waste disposal costs.

(c) Avoiding the health hazards of burying garbage.

Furthermore, development of resource recovery facilities creates new construction jobs, as well as ongoing operating jobs, in the communities in which they are located.

§ 25541.5. Regulatory program; certification

(a) On or before January 1, 2001, the Secretary of the Resources Agency shall review the regulatory program conducted pursuant to this chapter that was certified pursuant to subdivision (k) of Section 15251 of Title 14 of the California Code of Regulations, to determine whether the regulatory program meets the criteria specified in Section 21080.5. If the Secretary of the Resources Agency determines that the regulatory program meets those criteria, the secretary shall continue the certification of the regulatory program.

(b) If the Secretary of the Resources Agency continues the certification of the regulatory program, the commission shall amend the regulatory program from time to time, as necessary to permit the secretary to continue to certify the program.

(c) This section does not invalidate the certification of the regulatory program, as it existed on January 1, 2000, pending the review required by subdivision (a).

§ 25542. Inapplicability of division to certain sites and facilities; power of commission ineffective

In the case of any site and related facility or facilities for which the provisions of this division do not apply, the exclusive power given to the commission pursuant to Section 25500 to certify sites and related facilities shall not be in effect.

§ 25543. Improvements to process of siting and licensing new thermal electric powerplants; legislative intent; reports

(a) It is the intent of the Legislature to improve the process of siting and licensing new thermal electric powerplants to ensure that these facilities can be sited in a timely manner, while protecting environmental quality and public participation in the siting process.

(b) Notwithstanding Section 7550.5 of the Government Code, the commission shall prepare a report to the Governor and the Legislature on or before March 31, 2000, that identifies administrative and statutory measures that, preserving environmental protections and public participation, would improve the commission's siting and licensing process for thermal powerplants of 50 megawatts and larger. The report shall include, but is not limited to, all of the following:

(1) An examination of potential process efficiencies associated with required hearings, site visits, and documents.

(2) A review of the impacts on both process efficiency and public participation of restrictions on communications between applicants, the public, and staff or decisionmakers.

(3) An assessment of means for improving coordination with the licensing activities of local jurisdictions and participation by other state agencies.

(4) An assessment of organizational structure issues including the adequacy of the amounts and organization of current technical and legal resources.

(5) Recommendations for administrative and statutory measures to improve the siting and licensing process.

(c) The commission may immediately implement any administrative recommendations. Regulations, as identified in paragraph (5), adopted within 180 days of the effective date of this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code. For purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

CHAPTER 7. RESEARCH AND DEVELOPMENT

§ 25600. Definitions

As used in this chapter:

(a) "Passive thermal system" means a system which utilizes the structural elements of a building and is not augmented by mechanical components to provide for collection, storage and distribution of solar energy or coolness.

(b) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy or coolness.

(c) "Solar device" means the equipment associated with the collection, transfer, distribution, storage, and control of solar energy.

(d) "Solar system" means the integrated use of solar devices for the functions of collection, transfer, storage, and distribution of solar energy.

(e) "Standard" means a specification of design, performance, and procedure, or of the instrumentation, equipment, surrounding conditions, and skills required during the conduct of a procedure.

§ 25601. Development and coordination of program; priorities

The commission shall develop and coordinate a program of research and development in energy supply, consumption, and conservation and the technology of siting facilities and shall give priority to those forms of research and development which are of particular importance to the state, including, but not limited to, all of the following:

(a) Methods of energy conservation specified in Chapter 5 (commencing with Section 25400).

(b) Increased energy use efficiencies of existing thermal electric and hydroelectric powerplants and increased energy efficiencies in designs of thermal electric and hydroelectric powerplants.

(c) Expansion and accelerated development of alternative sources of energy, including geothermal and solar resources, including, but not limited to, participation in large-scale demonstrations of alternative energy systems sited in California in cooperation with federal agencies, regional compacts, other state governments, and other participants. For purposes of this subdivision, “participation” shall be defined as any of the following: (1) direct interest in a project, (2) research and development to insure acceptable resolution of environment and other impacts of alternative energy systems, (3) research and development to improve siting and permitting methodology for alternative energy systems, (4) experiments utilizing the alternative energy systems, and (5) research and development of appropriate methods to insure the widespread utilization of economically useful alternative energy systems. Large-scale demonstrations of alternative energy systems are exemplified by the 100KWe to 100MWe range demonstrations of solar, wind, and geothermal systems contemplated by federal agencies, regional compacts, other state governments, and other participants.

(d) Improved methods of construction, design, and operation of facilities to protect against seismic hazards.

(e) Improved methods of energy-demand forecasting.

(f) To accomplish the purposes of subdivision (c), an amount not more than one-half of the total state funds appropriated for the solar energy research and development program as proposed in the budget prepared pursuant to Section 25604 shall be allocated for large-scale demonstration of alternative energy systems.

§ 25602. Technical assessment studies

The commission shall carry out technical assessment studies on all forms of energy and energy-related problems, in order to influence federal research and development priorities and to be informed on future energy options and their impacts, including, in addition to those problems specified in Section 25601, but not limited to, the following:

(a) Advanced nuclear powerplant concepts, fusion, and fuel cells.

(b) Total energy concepts.

(c) New technology related to coastal and offshore siting of facilities.

(d) Expanded use of wastewater as cooling water and other advances in powerplant cooling.

(e) Improved methods of power transmission to permit interstate and interregional transfer and exchange of bulk electric power.

(f) Measures to reduce wasteful and inefficient uses of energy.

(g) Shifts in transportation modes and changes in transportation technology in relation to implications for energy consumption.

(h) Methods of recycling, extraction, processing, fabricating, handling, or disposing of materials, especially materials which require large commitments of energy.

(i) Expanded recycling of materials and its effect on energy consumption.

(j) Implications of government subsidies and taxation and ratesetting policies.

(k) Utilization of waste heat.

(l) Use of hydrogen as an energy form.

(m) Use of agricultural products, municipal wastes, and organic refuse as an energy source.

Such assessments may also be conducted in order to determine which energy systems among competing technologies are most compatible with standards established pursuant to this division.

§ 25603. Energy-conserving buildings

For research purposes, the commission shall, in cooperation with other state agencies, participate in the design, construction, and operation of energy-conserving buildings using data developed pursuant to Section 25401, in order to demonstrate the economic and technical feasibility of such designs.

§ 25603.5. State solar medallion passive design competition

(a) Pursuant to the duties of the commission described in subdivision (a) of Section 25401 and Section 25603, the commission shall conduct a statewide architectural design competition to select outstanding designs for new single-family and multifamily residential units which incorporate passive solar and other energy-conserving design features. The purpose of the competition, to be known as the “State Solar Medallion Passive Design Competition”, is to demonstrate the technical and economic feasibility of passive solar design for residential construction, to speed its commercialization, and to promote its use by developers in housing for moderate-income families in the state. The competition shall be carried out with the assistance and cooperation of the Office of the State Architect.

(b) The competition shall be conducted for each of the state's six regional climate zones. Each climate zone shall have the following four categories of competition:

(1) Single-family dwellings. The construction costs of these dwellings shall not exceed thirty-five thousand dollars ($35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars ($55,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars ($55,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed eighty-five thousand dollars ($85,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(3) Multifamily housing units with a market price or rental value comparable to paragraph (1) of this subdivision.

(4) Multifamily housing units with a market price or rental value comparable to paragraph (2) of this subdivision.

(c) In order to qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:

(1) A building designer or architect.

(2) A builder, developer, or contractor.

(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:

(1) To build five models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed more than 30 single-family detached units during the one-year period ending on the date of the award, or

(2) To build three models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed 30 or fewer single-family detached units during the one-year period ending on the date of the award, or

(3) To build one model of the winning design for all multifamily categories.

(4) To commence construction within 18 months of the announcement of awards.

(5) To permit the commission to install monitoring equipment for measuring energy conservation performance of the structure on all models constructed in compliance with paragraphs (1), (2), and (3) of this subdivision.

(6) To permit the commission to document, exhibit, and publicize the constructed designs.

All models of winning designs shall be built on the site or sites described in the submission or on an alternate site or sites with comparable features.

Cash awards to authors of the winning designs may be made prior to commencement of the agreed upon construction.

All winning designs in the competition shall become the property of the state and may be published and exhibited by the state after completion of competition.

(e) The judging panel for the competition shall consist of the following five jurors:

(1) One representative of the Office of the State Architect.

(2) One representative of the commission.

(3) One certificated architect.

(4) One representative of the state's lending institutions.

(5) One developer, builder, or contractor.

The nonagency members shall be appointed by the State Architect.

In recognition of the wide variation in construction costs statewide, and in order to ensure fair and equitable competition in all areas of the state, a cost index shall be used to determine different construction cost and market price requirements for each category of competition in the major metropolitan areas of the state. The construction cost and market price figures specified in paragraphs (1) and (2) of subdivision (b) shall be used as the upper limit values on which the index shall be based. Construction cost and market price figures reflecting the diversity in costs in different areas of the state shall be determined in relation to upper limit values specified in this section.

The cost index shall be prepared by the Office of the State Architect and shall be published in the competition program.

The evaluation shall take place in two stages, with an initial technical review by the commission staff. The staff shall submit to the judging panel a rigorous technical assessment of the anticipated energy conservation performance of all submissions. Final selection shall be made by the judging panel.

Designs submitted to the competition shall be judged on the extent to which they satisfy the following criteria:

(1) Use of passive solar and other energy conserving design features.

(2) Amount of energy savings achieved by the design.

(3) Adaptability of the design to widespread use.

(f) The commission shall be responsible for developing rules and procedures for the conduct of the competition and for the judging, which rules shall ensure anonymity of designs submitted prior to final awarding of prizes, shall ensure impartiality of the judging panel, and shall ensure uniform treatment of competitors.

In administering the competition, the commission shall accomplish the following tasks:

(1) Preparation of a competition program, including climatological data for each of the six regional climate zones.

(2) Distribution of competition information and ongoing publicity.

(3) Development of rules and procedures for competitors and judges.

(4) Preparation of a summary document for the competition, including a portfolio of winning designs and followup publicity.

(5) Instrumentation of winning dwellings constructed in accordance with requirements of this section; instrumentation for measurement of energy conservation performance of the units and ongoing data collection shall be provided by the commission pursuant to Section 25607.

For purposes of administering the competition, the commission shall contract with the Office of the State Architect for materials and services that cannot be performed by its staff.

(g) Cash awards to authors of the winning designs shall be made on the following basis:

Using the criteria in subdivision (e) of this section, the judging panel shall select, as follows:

(1) The most outstanding design statewide selected from among the first place winners in either of two single-family categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(2) The most outstanding design statewide selected from among the first place winners in either of the two multifamily categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(3) The first place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of five thousand dollars ($5,000).

(4) The second place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of two thousand dollars ($2,000).

§ 25605. Regulations governing solar devices

On or before November 1, 1978, the commission shall develop and adopt, in cooperation with affected industry and consumer representatives, and after one or more public hearings, regulations governing solar devices. The regulations shall be designed to encourage the development and use of solar energy and to provide maximum information to the public concerning solar devices. The regulations may include, but need not be limited to, any or all of the following:

(a) Standards for testing, inspection, certification, sizing, and installation of solar devices.

(b) Provisions for the enforcement of the standards. Such provisions may include any or all of the following:

(1) Procedures for the accreditation by the commission of laboratories to test and certify solar devices.

(2) Requirements for onsite inspection of solar devices, including specifying methods for inspection, to determine compliance or noncompliance with the standards.

(3) Requirements for submission to the commission of any data resulting from the testing and inspection of solar devices.

(4) Prohibitions on the sale of solar devices which do not meet minimum requirements for safety and durability as established by the commission.

(5) Dissemination of the results of the testing, inspection, and certification program to the public.

(c) In adopting the regulations, the commission shall give due consideration to their effect on the cost of purchasing, installing, operating and maintaining solar devices. The commission shall reassess the regulations as often as it deems necessary, based upon the value of the regulations in terms of benefits and disadvantages to the widespread adoption of solar energy systems and the need to encourage creativity and innovative adaptations of solar energy. The commission may amend or repeal these regulations based on such reassessment.

(d) Under no circumstances may the commission preclude any person from developing, installing, or operating a solar device on his or her own property.

(e) Any violation of any regulation adopted by the commission pursuant to this section may be enjoined in the same manner as is prescribed in Chapter 10 (commencing with Section 25900) of this division for enjoining a violation of this division.

§ 25605.5. Building standards; adoption approval; enforcement

Standards adopted by the commission pursuant to Section 25605, which are building standards as defined in Section 25488.5, shall be submitted to the State Building Standards Commission for approval pursuant to, and are governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the commission and published in the State Building Standards Code shall comply with, and be enforced as provided in, Section 25605.

§ 25608. Conferences to coordinate adoption of regulations

The commission shall confer with officials of federal agencies, including the National Aeronautics and Space Administration, the National Institute of Standards and Technology, the Department of Energy, and the Department of Housing and Urban Development, to coordinate the adoption of regulations pursuant to Sections 25603 and 25605.

§ 25609. Effective date of regulations

The commission may, in adopting regulations pursuant to this chapter, specify the date when the regulations shall take effect. The commission may specify different dates for different regulations.

§ 25609.5. Building standards; approval of effective dates

The effective dates of building standards adopted by the commission pursuant to Section 25609 are subject to approval pursuant to the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Part 13 of the Health and Safety Code.

§ 25610. Contracts for materials and services

For purposes of carrying out the provisions of this chapter, the commission may contract with any person for materials and services that cannot be performed by its staff or other state agencies, and may apply for federal grants or any other funding.

§ 25616. Legislative intent; energy projects

(a) It is the intent of the Legislature to encourage local agencies to expeditiously review permit applications to site energy projects, and to encourage energy project developers to consider all cost-effective and environmentally superior alternatives that achieve their project objectives.

(b) Subject to the availability of funds appropriated therefor, the commission shall provide technical assistance and grants-in-aid to assist local agencies to do either or both of the following:

(1) Site energy production or transmission projects which are not otherwise subject to the provisions of Chapter 6 (commencing with Section 25500).

(2) Integrate into their planning processes, and incorporate into their general plans, methods to achieve cost-effective energy efficiency.

(c) The commission shall provide assistance at the request of local agencies and shall coordinate that assistance with the assistance provided by the Department of Permit Assistance, created pursuant to Section 15399.50 of the Government Code.

(d) As used in this section, an energy project is any project designed to produce, convert, or transmit energy as one of its primary functions.

§ 25617. Legislative intent; diverse energy resources; development of diesel fuels

(a) It is the intent of the Legislature to preserve diversity of energy resources, including diversity of resources used in electric generation facilities, industrial and commercial applications, and transportation.

(b) The commission shall, within the limits of available funds, provide technical assistance and support for the development of petroleum diesel fuels which are as clean or cleaner than alternative clean fuels and clean diesel engines. That technical assistance and support may include the creation of research, development, and demonstration programs.

§ 25618. Facilitating development and commercialization of ultra low- and zero-emission electric vehicles

(a) The commission shall facilitate development and commercialization of ultra low- and zero-emission electric vehicles and advanced battery technologies, as well as development of an infrastructure to support maintenance and fueling of those vehicles in California. Facilitating commercialization of ultra low- and zero-emission electric vehicles in California shall include, but not be limited to, the following:

(1) The commission may, in cooperation with county, regional, and city governments, the state's public and private utilities, and the private business sector, develop plans for accelerating the introduction and use of ultra low- and zero-emission electric vehicles throughout California's air quality nonattainment areas, and for accelerating the development and implementation of the necessary infrastructure to support the planned use of those vehicles in California. These plans shall be consistent with, but not limited to, the criteria for similar efforts contained in federal loan, grant, or matching fund projects.

(2) In coordination with other state agencies, the commission shall seek to maximize the state's use of federal programs, loans, and matching funds available to states for ultra low- and zero-emission electric vehicle development and demonstration programs, and infrastructure development projects.

(b) Priority for implementing demonstration projects under this section shall be directed toward those areas of the state currently in a nonattainment status with federal and state air quality regulations.

§ 25619. Facilitating the development of eligible renewable energy resources, and their associated electric transmission facilities, and the processing of permits; grants

(a) For purposes of this section, "qualified counties" means the Counties of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Riverside, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Stanislaus, and Tulare.

(b) The commission shall provide up to seven million dollars ($7,000,000) in grants to qualified counties for the development or revision of rules and policies, including, but not limited to, general plan elements, zoning ordinances, and a natural community conservation plan as a plan participant, that facilitate the development of eligible renewable energy resources, and their associated electric transmission facilities, and the processing of permits for eligible renewable energy resources. The commission may allocate not more than 1 percent of appropriated funds to provide training to county planning staff to facilitate the siting and permitting of eligible renewable energy resources. A general plan element or zoning ordinance that is adopted or revised pursuant to this section shall be completed within two years of receipt of the grant and shall be consistent with the conservation strategies of any natural community conservation plan if one has been approved, or is under development, pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code). For counties within the Desert Renewable Energy Conservation Plan planning area, the commission may award a grant to a county only if the county meets one of the following conditions:

(1) The county is a "plan participant," as defined by paragraph (1) of subdivision (j) of Section 2805 of the Fish and Game Code, in the Desert Renewable Energy Conservation Plan.

(2) The county enters into a memorandum of understanding with the commission in which the county agrees to participate in the development of a natural community conservation plan for the purpose of ensuring that the natural community conservation plan can achieve the goals set forth in the planning agreement entered into pursuant to Section 2810 of the Fish and Game Code, that is dated May 2010, for the preparation of a natural community conservation plan, in a manner that is consistent with the applicable policies of the county.

(c) In its initial round of grant funding, the commission shall establish a preference for a grant to a qualified county in an amount that is adequate to develop a renewable energy element in its general plan that will facilitate the development and siting of eligible renewable energy resources that utilize multiple renewable energy technologies. The commission shall also establish a preference for a grant for those counties that have experience in geothermal energy development and have adopted a geothermal element, as defined in Section 25133, to its general plan.

(d) The commission shall only implement this section upon receiving a specific appropriation for the purposes of this section by the Legislature from the Renewable Resources Trust Fund or other funds from the Energy Resources Program Account.

CHAPTER 7.1. PUBLIC INTEREST ENERGY RESEARCH, DEMONSTRATION, AND DEVELOPMENT PROGRAM

§ 25620. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of this chapter.

(d) It is in the best interest of the people of California for the commission to positively contribute to the overall economic climate of the state within the roles and responsibilities of the commission as defined by statute, regulation, and other official government authority, including, but not limited to, providing economic benefits to California-based entities.

§ 25620.1. Development, implementation, and administration of program; contents; goals; portfolio approach; award

(a) The commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program that is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets. The commission shall administer the program consistent with the policies of this chapter.

(b) The general goal of the program is to develop, and help bring to market, energy technologies that provide increased environmental benefits, greater system reliability, and lower system costs, and that provide tangible benefits to electric utility customers through the following investments:

(1) Advanced transportation technologies that reduce air pollution and greenhouse gas emissions beyond applicable standards, and that benefit electricity and natural gas ratepayers.

(2) Increased energy efficiency in buildings, appliances, lighting, and other applications beyond applicable standards, and that benefit electric utility customers.

(3) Advanced electricity generation technologies that exceed applicable standards to increase reductions in greenhouse gas emissions from electricity generation, and that benefit electric utility customers.

(4) Advanced electricity technologies that reduce or eliminate consumption of water or other finite resources, increase use of renewable energy resources, or improve transmission or distribution of electricity generated from renewable energy resources.

(c) To achieve the goals established in subdivision (b), the commission shall adopt a portfolio approach for the program that does all of the following:

(1) Effectively balances the risks, benefits, and time horizons for various activities and investments that will provide tangible energy or environmental benefits for California electricity customers.

(2) Emphasizes innovative energy supply and end use technologies, focusing on their reliability, affordability, and environmental attributes.

(3) Includes projects that have the potential to enhance transmission and distribution capabilities.

(4) Includes projects that have the potential to enhance the reliability, peaking power, and storage capabilities of renewable energy.

(5) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 399.8 of the Public Utilities Code.

(6) Addresses key technical and scientific barriers.

(7) Demonstrates a balance between short-term, mid-term, and long-term potential.

(8) Ensures that prior, current, and future research not be unnecessarily duplicated.

(9) Provides for the future market utilization of projects funded through the program.

(10) Ensures an open project selection process and encourages the awarding of research funding for a diverse type of research as well as a diverse award recipient base and equally considers research proposals from the public and private sectors.

(11) Coordinates with other related research programs.

(d) The term “award,” as used in this chapter, may include, but is not limited to, contracts, grants, interagency agreements, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

§ 25620.2. Program criteria; administration; regulations

(a) To ensure the efficient implementation and administration of the Public Interest Research, Development, and Demonstration Program, the commission shall do both of the following:

(1) Develop procedures for the solicitation of award applications for project or program funding, and to ensure efficient program management.

(2) Evaluate and select programs and projects, based on merit, that will be funded under the program.

(b) The commission shall adopt regulations to implement the program, in accordance with the following procedures:

(1) Prepare a preliminary text of the proposed regulation and provide a copy of the preliminary text to any person requesting a copy.

(2) Provide public notice of the proposed regulation to any person who has requested notice of the regulations prepared by the commission. The notice shall contain all of the following:

(A) A clear overview explaining the proposed regulation.

(B) Instructions on how to obtain a copy of the proposed regulations.

(C) A statement that if a public hearing is not scheduled for the purpose of reviewing a proposed regulation, any person may request, not later than 15 days prior to the close of the written comment period, a public hearing conducted in accordance with commission procedures.

(3) Accept written public comments for 30 calendar days after providing the notice required in paragraph (2).

(4) Certify that all written comments were read and considered by the commission.

(5) Place all written comments in a record that includes copies of any written factual support used in developing the proposed regulation, including written reports and copies of any transcripts or minutes in connection with any public hearings on the adoption of the regulation. The record shall be open to public inspection and available to the courts.

(6) Provide public notice of any substantial revision of the proposed regulation at least 15 days prior to the expiration of the deadline for public comments and comment period using the procedures provided in paragraph (2).

(7) Conduct public hearings, if a hearing is requested by an interested party, that shall be conducted in accordance with commission procedures.

(8) Adopt any proposed regulation at a regularly scheduled and noticed meeting of the commission. The regulation shall become effective immediately unless otherwise provided by the commission.

(9) Publish any adopted regulation in a manner that makes copies of the regulation easily available to the public. Any adopted regulation shall also be made available on the Internet. The commission shall transmit a copy of an adopted regulation to the Office of Administrative Law for publication, or, if the commission determines that printing the regulation is impractical, an appropriate reference as to where a copy of the regulation may be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25620.1 and 25620.2 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2012, unless a later enacted statute deletes or extends that date. However, after January 1, 2012, the commission is not required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2012, using the procedures specified in this subdivision.

§ 25620.3. Commission awards

(a) The commission may, consistent with the requirements of this chapter, provide awards to any individual or entity for planning, implementation, and administration of projects or programs selected pursuant to Section 25620.5.

(b) The commission may provide an award to a project or program that includes a group of related projects, or to a party who aggregates projects that directly benefit from the award.

(c) The commission may establish multiparty agreements. In a multiparty agreement, the commission may be a signatory to a common agreement among two or more parties. These agreements include, but are not limited to, cofunding, leveraged research, collaborations, and membership arrangements. If the commission enters into these agreements, it shall be a party to these agreements and may share in the roles, responsibilities, risks, investments, and results.

(d) The commission may issue awards that include the ability to make advance payments to prime contractors, to enable them to make advance payments to a subcontractor that is a federal agency, national laboratory, or state entity, on the condition that the subcontract is binding and enforceable and includes specific performance milestones.

(e) The commission may issue awards that include the ability to assign tasks on a work authorization basis.

(f) Prior to making any award pursuant to this chapter for a research, development, or demonstration program or project, the commission shall identify the expected costs and any qualitative or quantitative benefits of the proposed program or project.

§ 25620.4. Intellectual property; benefits accruing to state

(a) To the extent that intellectual property is developed under this chapter, an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.

(b) The commission may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The commission may negotiate sharing mechanisms for intellectual property or benefits with award recipients.

§ 25620.5. Application for awards; process; agreements

(a) The commission may solicit applications for awards, using a sealed competitive bid, competitive negotiation process, commission-issued intradepartmental master agreement, the methods for selection of professional services firms set forth in Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, interagency agreement, single source, or sole source method. When scoring teams are convened to review and score proposals, the scoring teams may include persons not employed by the commission, as long as employees of the state constitute no less than 50 percent of the membership of the scoring team. A person participating on a scoring team may not have any conflict of interest with respect to the proposal before the scoring team.

(b) A sealed bid method may be used when goods and services to be acquired can be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in the solicitation for bids.

(c) The commission may use a competitive negotiation process in any of the following circumstances:

(1) Whenever the desired award is not for a fixed price.

(2) Whenever project specifications cannot be drafted in sufficient detail so as to be applicable to a sealed competitive bid.

(3) Whenever there is a need to compare the different price, quality, and structural factors of the bids submitted.

(4) Whenever there is a need to afford bidders an opportunity to revise their proposals.

(5) Whenever oral or written discussions with bidders concerning the technical and price aspects of their proposals will provide better results to the state.

(6) Whenever the price of the award is not the determining factor.

(d) The commission may establish interagency agreements.

(e) The commission may provide awards on a single source basis by choosing from among two or more parties or by soliciting multiple applications from parties capable of supplying or providing similar goods or services. The cost to the state shall be reasonable and the commission may only enter into a single source agreement with a particular party if the commission determines that it is in the state's best interests.

(f) The commission, in accordance with subdivision (g) and in consultation with the Department of General Services, may provide awards on a sole source basis when the cost to the state is reasonable and the commission makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

(3) A competitive solicitation would frustrate obtaining necessary information, goods, or services in a timely manner.

(4) The award funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission may not use a sole source basis for an award pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least 60 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee and the relevant policy committees in both houses of the Legislature, in writing, of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 60 days from the date of notification required by paragraph (1).

(h) The commission shall give priority to California-based entities in making awards pursuant to this chapter.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

For purposes of this Section and Section 25620, “California-based entity” means either of the following:

A corporation or other business form organized for the transaction of business that has its headquarters in California and manufactures in California the product that qualifies for the incentive or award, or a corporation or other business form organized for the transaction

of business that has an office for the transaction of business in California and substantially manufactures in California the product that qualifies for the incentive or award, or substantially develops within California the research that qualifies for the incentive or award, as determined by the agency issuing the incentive or award.

§ 25620.6. Insurance coverage

The commission, in consultation with the Department of General Services, may purchase insurance coverage necessary to implement an award. Funding for the purchase of insurance may be made from money in the Public Interest Research, Development, and Demonstration Fund created pursuant to Section 384 of the Public Utilities Code.

§ 25620.7. Technical, scientific, or administrative services support

(a) The commission may contract for, or through interagency agreement obtain, technical, scientific, or administrative services or expertise from one or more entities, to support the program. Funding for this purpose shall be made from money in the Public Interest Research, Development, and Demonstration Fund.

(b) The commission may select the services or expertise described in subdivision (a), pursuant to Section 25620.5. In the event that contracts or interagency agreements have been made to multiple entities and their subcontractors for similar purposes, the commission may select from among those entities the particular expertise needed for a specified type of work. Selection of the particular expertise may be based solely on a review of qualifications, including the specific expertise required, availability of the expertise, or access to a resource of special relevance to the work, including, but not limited to, a database, model, technical facility, or a collaborative or institutional affiliation that will expedite the quality and performance of the work.

§ 25620.8. Annual report

The commission shall prepare and submit to the Legislature an annual report, not later than March 31 of each year, on awards made pursuant to this chapter and progress toward achieving the goals set forth in Section 25620.1. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of funded projects, and recommendations for improvements in the program. The report shall set forth the actual costs of programs or projects funded by the commission, the results achieved, and how the actual costs and results compare to the expected costs and benefits. The commission shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

§ 25620.11. Advisory board to make recommendations regarding selection of programs and projects for funding; membership and participation

(a) The commission shall regularly convene an advisory board that shall make recommendations to guide the commission's selection of programs and projects to be funded under this chapter. The advisory board shall include as appropriate, but not be limited to, representatives from the Public Utilities Commission, consumer organizations, environmental organizations, and electrical corporations subject to the funding requirements of Section 381 of the Public Utilities Code.

(b) Three members of the Senate, appointed by the Senate President Pro Tempore, and three members of the Assembly, appointed by the Speaker of the Assembly, may meet with the advisory board and participate in its activities to the extent that such participation is not incompatible with their respective positions as Members of the Legislature.

§ 25620.15. Policy and intent regarding use of public funds for energy related public interest research, development, and demonstration programs; transfer of moneys collected for these purposes to Public Interest Research, Development, and Demonstration Fund; award of funds to electrical corporations

(a) In order to ensure that prudent investments in research, development, and demonstration of energy efficient technologies continue to produce substantial economic, environmental, public health, and reliability benefits, it is the policy of the state and the intent of the Legislature that funds made available, upon appropriation, for energy related public interest research, development, and demonstration programs shall be used to advance science or technology that is not adequately provided by competitive and regulated markets.

(b) Notwithstanding any other provision of law, money collected for public interest research, development, and demonstration pursuant to Section 399.8 of the Public Utilities Code shall be transferred to the Public Interest Research, Development, and Demonstration Fund. Money collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.

(c) In lieu of the Public Utilities Commission retaining funds authorized pursuant to Section 381 of the Public Utilities Code for investments made by electrical corporations in public interest research, development, and demonstration projects for transmission and distribution functions, up to 10 percent of the funds transferred to the commission pursuant to subdivision (b) shall be awarded to electrical corporations for public interest research, development, and demonstration projects for transmission and distribution functions consistent with the policies and subject to the requirements of this chapter.

CHAPTER 7.3. SMALL BUSINESS ENERGY TECHNOLOGY LOAN PROGRAM

§ 25630. Alternative technology energy projects for small businesses; funding; royalty agreements; loan repayment

(a) The commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

(b) Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration Account. The interest rate shall be based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

CHAPTER 7.5. AGRICULTURAL INDUSTRY ENERGY PROGRAM

§ 25650. Energy technologies research, development, and demonstration account

(a) All funds from loan repayments and interest that become due and payable for loans made by the commission pursuant to an agriculture energy assistance program shall be deposited in the Energy Technologies Research, Development, and Demonstration Account, and shall be available for loans and technical assistance pursuant to this section, upon appropriation in the Budget Act. Up to 20 percent of the annual appropriation may be available for technical assistance.

(b) Loans made pursuant to this section shall be for the purchase of equipment and services for agriculture energy efficiency and development demonstration projects, including, but not limited to, production of methane or ethanol, use of wind, photovoltaics, and other sources of energy for irrigation pumping, application of load management conservation techniques, improvements in water pumping and pressurization techniques, and conservation tillage techniques.

(c) The loans shall contain terms that provide for a repayment period of not more than seven years and for interest at a rate that is not less than 2 percent below the rate earned by moneys in the Pooled Money Investment Account.

CHAPTER 7.7. CLEAN FUELS ACT

§ 25678. Grant program providing incentive for liquid fuels fermented in state from biomass and biomass-derived resources

The commission shall establish a grant program which provides a forty cent ($0.40) per gallon production incentive for liquid fuels fermented in this state from biomass and biomass-derived resources produced in this state. Eligible liquid fuels include, but are not limited to, ethanol, methanol, and vegetable oils. Eligible biomass resources include, but are not limited to, agricultural products and byproducts, forestry products and byproducts, and industrial wastes. The commission shall adopt rules and regulations necessary to implement the program. Prior to determining an applicant eligible for participation in the production incentive program, the commission shall find, among other things, that the production techniques employed will lead to a net increase in the amount of energy available for consumption.

§ 25679. Application for grant

Applicants for a grant under this chapter shall submit an application on a form prescribed by the commission which is responsible for administration of the program.

CHAPTER 7.9. ENERGY TECHNOLOGY AND ENERGY CONSERVATION

§ 25695. Legislative findings and declaration

In enacting this chapter, the Legislature hereby finds and declares all of the following:

(a) The development and commercialization of energy technologies and energy conservation is a vital element in meeting the state's energy needs.

(b) The continuing vitality of California's energy technology and energy conservation industry, as well as the maintenance of California's technological leadership in these energy systems, depends on the industry's ability to expand into new markets, including those in other countries. The expansion of California's energy technology and energy conservation industry into foreign markets will result in lower domestic prices, more stable growth, increased employment opportunities, and additional tax revenues.

(c) California's energy technology and energy conservation industry's entry into export markets is being inhibited by foreign-based competitors benefiting from extensive financial and technical support from their governments. Furthermore, small- to medium-sized energy firms are handicapped by high information costs and financial constraints.

(d) California-based energy technology and energy conservation firms seeking to expand into foreign markets can be substantially assisted by state efforts to disseminate international market data, foreign government regulatory information, and other material, and to provide technical assistance to facilitate export efforts.

(e) It is in the best interest of the state to increase the export of goods and services provided by California-based energy technology and energy conservation firms, particularly small- and medium-sized businesses, in a manner which coordinates with and augments existing private, state, and federal programs.

§ 25696. Export of technologies, products, and services to international markets; powers of commission to assist

The commission may assist California-based energy technology and energy conservation firms to export their technologies, products, and services to international markets.

The commission may do all of the following:

(a) Conduct a technical assistance program to help California energy companies improve export opportunities and enhance foreign buyers' awareness of and access to energy technologies and services offered by California-based companies. Technical assistance activities may include, but are not limited to, an energy technology export information clearinghouse, a referral service, a trade lead service consulting services for financing, market evaluation, and legal counseling, and information seminars.

(b) Perform research studies and solicit technical advice to identify international market opportunities.

(c) Assist California energy companies to evaluate project or site-specific energy needs of international markets.

(d) Assist California energy companies to identify and address international trade barriers restricting energy technology exports, including unfair trade practices and discriminatory trade laws.

(e) Develop promotional materials in conjunction with California energy companies to expand energy technology exports.

(f) Establish technical exchange programs to increase foreign buyers' awareness of suitable energy technology uses.

(g) Prepare equipment performance information to enhance potential export opportunities.

(h) Coordinate activities with state, federal, and international donor agencies to take advantage of trade promotion and financial assistance efforts offered.

§ 25696.5. Reimbursement of financial assistance; conditions; deposit

(a) Every California-based energy technology and energy conservation firm awarded direct financial assistance pursuant to Section 25696 shall reimburse the commission for that assistance, when both of the following conditions have been met:

(1) The assistance was substantial and essential for the completion of a specific identifiable project.

(2) The resulting project is producing revenues.

(b) All moneys appropriated for purposes of this chapter and all moneys received by the commission as reimbursement under this section shall be deposited in the Energy Resources Programs Account and shall be available, when appropriated by the Legislature, for the purposes of this chapter.

§ 25697. Conducting overseas trade missions, shows, and exhibits; consultation

The commission shall consult with the California State World Trade Commission with respect to conducting overseas trade missions, trade shows, and trade exhibits. Consultation may include interagency agreements, cosponsorship, and memoranda of understanding for joint overseas trade activities.

CHAPTER 8. ENERGY SHORTAGE CONTINGENCY PLANNING

§ 25700. Development of plans

The commission shall, in accordance with the provisions of this chapter, develop contingency plans to deal with possible shortages of electrical energy or fuel supplies to protect public health, safety, and welfare.

§ 25701. Emergency load curtailment and energy distribution plans; preparation and submission by utilities, fuel wholesalers and manufacturers; governmental agencies

(a) Within six months after the effective date of this division, each electric utility, gas utility, and fuel wholesaler or manufacturer in the state shall prepare and submit to the commission a proposed emergency load curtailment plan or emergency energy supply distribution plan setting forth proposals for identifying priority loads or users in the event of a sudden and serious shortage of fuels or interruption in the generation of electricity.

(b) The commission shall encourage electric utilities to cooperate in joint preparation of an emergency load curtailment plan or emergency energy distribution plan. If such a cooperative plan is developed between two or more electric utilities, such utilities may submit such joint plans to the commission in place of individual plans required by subdivision (a) of this section.

(c) The commission shall collect from all relevant governmental agencies, including, but not limited to, the Public Utilities Commission and the Office of Emergency Services, any existing contingency plans for dealing with sudden energy shortages or information related thereto.

§ 25702. Public hearings; review; submission of emergency plans to governor and legislature

The commission shall, after one or more public hearings, review the emergency load curtailment program plans or emergency energy supply distribution plans submitted pursuant to Section 25701, and, within one year after the effective date of this division, the commission shall approve and recommend to the Governor and the Legislature plans for emergency load curtailment and energy supply distribution in the event of a sudden energy shortage. Such plans shall be based upon the plans presented by the electric utilities, gas utilities, and fuel wholesalers or manufacturers, information provided by other governmental agencies, independent analysis and study by the commission and information provided at the hearing or hearings. Such plans shall provide for the provision of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic state economy. Provision shall be made in such plans to eliminate wasteful, uneconomic, and unnecessary uses of energy in times of shortages and to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments. Such plans shall also specify the authority of and recommend the appropriate actions of state and local governmental agencies in dealing with energy shortages.

§ 25703. Certification of new facilities; review and revision of emergency plans

Within four months after the date of certification of any new facility, the commission shall review and revise the recommended plans based on additional new capacity attributed to any such facility. The commission shall, after one or more public hearings, review the plans at least every five years from the approval of the initial plan as specified in Section 25702.

§ 25704. Studies relating to potential energy shortages; recommendations

The commission shall carry out studies to determine if potential serious shortages of electrical, natural gas, or other sources of energy are likely to occur and shall make recommendations to the Governor and the Legislature concerning administrative and legislative actions required to avert possible energy supply emergencies or serious fuel shortages, including, but not limited to, energy conservation and energy development measures, to grant authority to specific governmental agencies or officers to take actions in the event of a sudden energy shortage, and to clarify and coordinate existing responsibilities for energy emergency actions.

§ 25705. Construction and use of emergency generating facilities; report

If the commission determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency, and upon a declaration by the Governor or by an act of the Legislature that a threat to public health, safety, and welfare exists and requires immediate action, the commission shall authorize the construction and use of generating facilities under such terms and conditions as specified by the commission to protect the public interest.

Within 60 days after the authorization of construction and use of such generating facilities, the commission shall issue a report detailing the full nature, extent, and estimated duration of the emergency situation and making recommendations to the Governor and the Legislature for further energy conservation and energy supply measures to alleviate the emergency situation as alternatives to use of such generating facilities.

CHAPTER 8.1. ELECTRIC PROGRAM INVESTMENT CHARGE FUND

§ 25710. Definitions

For the purposes of this chapter, the following terms have the following meanings:

(a) “Electric Program Investment Charge” means the surcharge instituted by the Public Utilities Commission pursuant to Decision 11-12-035 or any subsequent decisions to collect funds for renewable energy programs and research, development, and demonstration programs.

(b) “Fund” means the portion of the Electric Program Investment Charge Fund created by Section 25711.

§ 25711. Electric Program Investment Charge Fund

For the purposes of implementing this chapter, the Electric Program Investment Charge Fund is hereby created in the State Treasury.

(a) The commission shall administer the fund.

(b) At least quarterly, moneys received by the Public Utilities Commission pursuant to the Electric Program Investment Charge for those programs the Public Utilities Commission has determined should be administered by the Energy Commission shall be forwarded by the Public Utilities Commission to the commission for deposit in the fund.

(c) The Controller shall, as directed by the commission, disburse moneys in the fund for purposes of this chapter.

(d) The commission may use moneys in the fund for the administration of this chapter, as authorized by the Public Utilities Commission and appropriated by the Legislature in the annual Budget Act.

§ 25711.5. Development and implementation of Electric Program Investment Charge (EPIC) program

In administering moneys in the fund for research, development, and demonstration programs under this chapter, the commission shall develop and implement the Electric Program Investment Charge (EPIC) program to do all of the following:

(a) Award funds for projects that will benefit electricity ratepayers and lead to technological advancement and breakthroughs to overcome the barriers that prevent the achievement of the state's statutory energy goals and that result in a portfolio of projects that is strategically focused and sufficiently narrow to make advancement on the most significant technological challenges that shall include, but not be limited to, energy storage, renewable energy and its integration into the electrical grid, energy efficiency, integration of electric vehicles into the electrical grid, and accurately forecasting the availability of renewable energy for integration into the grid.

(b) In consultation with the Treasurer, establish terms that shall be imposed as a condition to receipt of funding for the state to accrue any intellectual property interest or royalties that may derive from projects funded by the EPIC program. The commission, when determining if imposition of the proposed terms is appropriate, shall balance the potential benefit to the state from those terms and the effect those terms may have on the state achieving its statutory energy goals. The commission shall require each reward recipient, as a condition of receiving moneys pursuant to this chapter, to agree to any terms the commission determines are appropriate for the state to accrue any intellectual property interest or royalties that may derive from projects funded by the EPIC program.

(c) Require each applicant to report how the proposed project may lead to technological advancement and potential breakthroughs to overcome barriers to achieving the state's statutory energy goals.

(d) Establish a process for tracking the progress and outcomes of each funded project, including an accounting of the amount of funds spent by program administrators and individual grant recipients on administrative and overhead costs and whether the project resulted in any technological advancement or breakthrough to overcome barriers to achieving the state's statutory energy goals.

(e) Notwithstanding Section 10231.5 of the Government Code, prepare and submit to the Legislature no later than April 30 of each year an annual report in compliance with Section 9795 of the Government Code that shall include all of the following:

(1) A brief description of each project for which funding was awarded in the immediately prior calendar year, including the name of the recipient and the amount of the award, a description of how the project is thought to lead to technological advancement or breakthroughs to overcome barriers to achieving the state's statutory energy goals, and a description of why the project was selected.

(2) A brief description of each project funded by the EPIC program that was completed in the immediately prior calendar year, including the name of the recipient, the amount of the award, and the outcomes of the funded project.

(3) A brief description of each project funded by the EPIC program for which an award was made in the previous years but that is not completed, including the name of the recipient and the amount of the award, and a description of how the project will lead to technological advancement or breakthroughs to overcome barriers to achieving the state's statutory energy goals.

(4) Identification of the award recipients that are California-based entities, small businesses, or businesses owned by women, minorities, or disabled veterans.

(5) Identification of which awards were made through a competitive bid, interagency agreement, or sole source method, and the action of the Joint Legislative Budget Committee pursuant to paragraph (2) of subdivision (g) for each award made through an interagency agreement or sole source method.

(6) Identification of the total amount of administrative and overhead costs incurred for each project.

(f) Establish requirements to minimize program administration and overhead costs, including costs incurred by program administrators and individual grant recipients. Each program administrator and grant recipient, including a public entity, shall be required to justify actual administration and overhead costs incurred, even if the total costs incurred do not exceed a cap on those costs that the commission may adopt.

(g)(1) The commission shall use a sealed competitive bid as the preferred method to solicit project applications and award funds pursuant to the EPIC program.

(2)(A) The commission may use a sole source or interagency agreement method if the project cannot be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in a solicitation for bid and if both of the following conditions are met:

(i) The commission, at least 60 days prior to making an award pursuant to this subdivision, notifies the Joint Legislative Budget Committee and the relevant policy committees in both houses of the Legislature, in writing, of its intent to take the proposed action.

(ii) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 60 days from the date of notification required by clause (i).

(B) It is the intent of the Legislature to enact this paragraph to ensure legislative oversight for awards made on a sole source basis, or through an interagency agreement.

(3) Notwithstanding any other law, standard terms and conditions that generally apply to contracts between the commission and any entities, including state entities, do not automatically preclude the award of moneys from the fund through the sealed competitive bid method.

§ 25711.7. Collection of funds

(a) The Public Utilities Commission shall not require the collection of funds pursuant to its Decision 12-05-037 (May 24, 2012), Phase 2 Decision Establishing Purposes and Governance for Electric Program Investment Charge and Establishing Funding Collections for 2013-2020, as corrected by Decision 12-07-001 (July 3, 2012), Order Correcting Error, and as modified by Decision 13-04-030 (April 18, 2013), Order Modifying Decision (D.) 12-05-037, and Denying Rehearing of Decision, as Modified, in an annual amount greater than the amount specified in those decisions.

(b) This section does not modify, alter, or, in any way, affect the operation of Section 25712.

§ 25712. Levy or increase of charges; effect of chapter

This chapter does not authorize the levy of a charge or any increase in the amount collected pursuant to any existing charge, nor does it add to, or detract from, any existing authority of the Public Utilities Commission to levy or increase charges.

CHAPTER 8.2. STRATEGIC FUEL RESERVE

§ 25720. Operation of a strategic fuel reserve; examination of feasibility

(a) By January 31, 2002, the commission shall examine the feasibility, including possible costs and benefits to consumers and impacts on fuel prices for the general public, of operating a strategic fuel reserve to insulate California consumers and businesses from substantial short-term price increases arising from refinery outages and other similar supply interruptions. In evaluating the potential operation of a strategic fuel reserve, the commission shall consult with other state agencies, including, but not limited to, the State Air Resources Board.

(b) The commission shall examine and recommend an appropriate level of reserves of fuel, but in no event may the reserve be less than the amount of refined fuel that the commission estimates could be produced by the largest California refiner over a two week period. In making this examination and recommendation, the commission shall take into account all of the following:

(1) Inventories of California-quality fuels or fuel components reasonably available to the California market.

(2) Current and historic levels of inventory of fuels.

(3) The availability and cost of storage of fuels.

(4) The potential for future supply interruptions, price spikes, and the costs thereof to California consumers and businesses.

(c) The commission shall evaluate a mechanism to release fuel from the reserve that permits any customer to contract at any time for the delivery of fuel from the reserve in exchange for an equal amount of fuel that meets California specifications and is produced from a source outside of California that the customer agrees to deliver back to the reserve within a time period to be established by the commission, but not longer than six weeks.

(d) The commission shall evaluate reserve storage space from existing facilities.

(e) The commission shall evaluate a reserve operated by an independent operator that specializes in purchasing and storing fuel, and is selected through competitive bidding.

(f)(1) Not later than January 31, 2002, the commission and the State Air Resources Board, in consultation with the other state and local agencies the commission deems necessary, shall develop and adopt recommendations for the Governor and Legislature on a California Strategy to Reduce Petroleum Dependence.

(2) The strategy shall include a base case forecast by the commission of gasoline, diesel, and petroleum consumption in years 2010 and 2020 based on current best estimates of economic and population growth, petroleum base fuel supply and availability, vehicle efficiency, and utilization of alternative fuels and advanced transportation technologies.

(3) The strategy shall include recommended statewide goals for reductions in the rate of growth of gasoline and diesel fuel consumption and increased transportation energy efficiency and utilization of nonpetroleum based fuels and advanced transportation technologies, including alternative fueled vehicles, hybrid vehicles, and high fuel efficiency vehicles.

(g) The studies required by this section shall be conducted in conjunction with any other studies required by acts enacted during the 2000 portion of the 1999-2000 Regular Session dealing with gasoline prices.

§ 25721. Reports on findings and recommendations

The commission shall report its findings and recommendations to the Governor, the Legislature, and the Attorney General by January 31, 2002. If the commission finds that it would be feasible to operate a strategic gas reserve to insulate California consumers and businesses from substantial, short-term price increases arising from refinery outages or other similar supply interruptions, the commission shall request specific statutory authority and funding for establishment of a reserve.

CHAPTER 8.3. STATE VEHICLE FLEET

§ 25722. Development and adoption of fuel-efficiency specifications governing purchase of state motor vehicles and replacement tires; reduction of petroleum consumption; examination of state vehicle purchasing patterns and analysis of costs and benefits of reducing energy consumption; air pollution emission specifications governing state purchase state of passenger cars and light-duty trucks; waiver from federal requirements

(a) On or before January 31, 2003, the commission , the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the commission , the department, and the state board deem necessary, shall develop and adopt fuel-efficiency specifications governing the purchase by the state of motor vehicles and replacement tires that, on an annual basis, will reduce petroleum consumption of the state vehicle fleet to the maximum extent practicable and cost-effective.

(b) In developing the specifications, the commission and the department shall jointly conduct a study to examine state vehicle purchasing patterns, including the purchase of after market tires, and to analyze the costs and benefits of reducing the energy consumption of the state vehicle fleet by no less than 10 percent on or before January 1, 2005.

(c) The study shall include an analysis of all of the following topics:

(1) Use of alternative fuels.

(2) Use of fuel-efficient vehicles.

(3) Costs and benefits of decreasing the size of the state vehicle fleet.

(4) Reduction in vehicle trips and increase in use of alternative means of transportation.

(5) Improved vehicle maintenance.

(6) Costs and benefits of using fuel-efficient tires relative to using retreaded tires, as described in the Retreaded Tire Program (Chapter 7 (commencing with Section 42400) of Part 3 of Division 30 of the Public Resources Code).

(7) The costs and benefits of purchasing high fuel efficiency gasoline vehicles, including hybrid electric vehicles, instead of flexible fuel vehicles.

(d) On or before January 31, 2003, and annually thereafter, the commission, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the commission, the department, and the state board deem necessary, shall develop and adopt air pollution emission specifications governing the purchase by the state of passenger cars and light-duty trucks that meet or exceed California's Ultra-Low Emission Vehicle (ULEV) standards for exhaust emissions (13 Cal. Code Regs. 1960.1).

(e) If the study described in subdivision (b) determines that lower cost measures exist that deliver petroleum reductions equivalent to applicable federal requirements governing the state purchase of passenger cars and light-duty trucks, the state shall pursue a waiver from those federal requirements.

§ 25722.5. Development and adoption of standards for passenger cars and light-duty trucks; emergency vehicles; specifications and standards; review of vehicle fleet by state offices, agencies, and departments; use of alternative fuels; compilation and maintenance of information regarding nature of vehicles owned or leased; report publication; applicability of section to University of California

(a) In order to achieve the policy objectives set forth in Sections 25000.5 and 25722, the Department of General Services, in consultation with the commission and the State Air Resources Board, shall develop and adopt specifications and standards for all passenger cars and light-duty trucks that are purchased or leased on behalf of, or by, state offices, agencies, and departments. An authorized emergency vehicle, as defined in Section 165 of the Vehicle Code, that is equipped with emergency lamps or lights described in Section 25252 of the Vehicle Code is exempt from the requirements of this section. The specifications and standards shall include the following:

(1) Minimum air pollution emission specifications that meet or exceed California's Ultra-Low Emission Vehicle II (ULEV II) standards for exhaust emissions (13 Cal. Code Regs. 1961). These specifications shall apply on January 1, 2006, for passenger cars and on January 1, 2010, for light-duty trucks.

(2) Notwithstanding any other provision of law, the utilization of procurement policies that enable the Department of General Services to do all of the following:

(A) Evaluate and score emissions, fuel costs, and fuel economy in addition to capital cost to enable the Department of General Services to choose the vehicle with the lowest life-cycle cost when awarding a state vehicle procurement contract.

(B) Maximize the purchase or lease of hybrid or “Best in Class” vehicles that are substantially more fuel efficient than the class average.

(C) Maximize the purchase or lease of available vehicles that meet or exceed California's Super Ultra-Low Emission Vehicle (SULEV) passenger car standards for exhaust emissions.

(D) Maximize the purchase or lease of alternative fuel vehicles.

(3) In order to discourage the unnecessary purchase or leasing of a sport utility vehicle and a four-wheel drive truck, a requirement that each state office, agency, or department seeking to purchase or lease that vehicle, demonstrate to the satisfaction of the Director of General Services or to the entity that purchases or leases vehicles for that office, agency, or department, that the vehicle is required to perform an essential function of the office, agency, or department. If it is so demonstrated, priority consideration shall be given to the purchase or lease of an alternative fuel or hybrid sports utility vehicle or four-wheel drive vehicle.

(b) The specifications and standards developed and adopted pursuant to subdivision (a) do not apply upon the development and implementation of the method, criteria, and procedure described in Section 25722.6.

(c) Each state office, agency, and department shall review its vehicle fleet and, upon finding that it is fiscally prudent, cost effective, or otherwise in the public interest to do so, shall dispose of nonessential sport utility vehicles and four-wheel drive trucks in its fleet and replace these vehicles with more fuel-efficient passenger cars and trucks.

(d) To the maximum extent practicable, each state office, agency, and department that has bifuel natural gas, bifuel propane, and flex fuel vehicles in its vehicle fleet shall use the respective alternative fuel in those vehicles.

(e) The Director of General Services shall compile annually and maintain information on the nature of vehicles that are owned or leased by the state, including, but not limited to, all of the following:

(1) The number of passenger-type motor vehicles purchased or leased during the year, and the number owned or leased as of December 31 of each year.

(2) The number of sport utility vehicles and four-wheel drive trucks purchased or leased by the state during the year, and the number owned or leased as of December 31 of each year.

(3) The number of alternatively fueled vehicles and hybrid vehicles purchased or leased by the state during the year, and the total number owned or leased as of December 31 of each year and their location.

(4) The locations of the alternative fuel pumps available for those vehicles.

(5) The justification provided for all sport utility vehicles and four-wheel drive trucks purchased or leased by the state and the specific office, department, or agency responsible for the purchase or lease.

(6) The number of sport utility vehicles and four-wheel drive trucks purchased or leased by the state during the year, and the number owned or leased as of December 31 of each year that are alternative fuel or hybrid vehicles.

(7) The number of light-duty trucks disposed of under subdivision (c).

(8) The total dollars spent by the state on passenger-type vehicle purchases and leases, categorized by sport utility vehicle and nonsport utility vehicle, and within each of those categories, by alternative fuel, hybrid and other.

(9) The total annual consumption of gasoline and diesel fuel used by the state fleet.

(10) The total annual consumption of alternative fuels.

(11) On December 31, 2009, and annually thereafter, the Director of General Services shall also compile the total annual vehicle miles traveled by vehicles in the state fleet.

(f) Each state office, agency, and department shall cooperate with the Department of General Services' data requests in order that the department may compile and maintain the information required in subdivision (e).

(g) As soon as practicable, but no later than 12 months after receiving the data, the information compiled and maintained under subdivision (e) and a list of those state offices, agencies, and departments that are not in compliance with subdivision (f) shall be made available to the public on the Department of General Services' Internet Web site.

(h) Beginning July 1, 2009, and every three years thereafter, the Director of General Services shall prepare a report on the information compiled and maintained pursuant to subdivision (e). The Director of General Services shall post that report on its Internet Web site.

(i) Pursuant to Article IX of the California Constitution, this section shall not apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make this section applicable.

§ 25722.6. Amendment of Enhanced Efficiency Costing Methodology for Passenger Cars and Light-Duty Vehicles; ranking of vehicles for procurement; revision of procurement procedures; annual vehicle evaluation; use of alternative fuels; emergency vehicles exempt; sport utility or four-wheel drive vehicles; applicability to University of California

(a) On or before December 31, 2008, the Department of General Services, in conjunction with the State Air Resources Board and the commission, shall amend the existing “Enhanced Efficiency Costing Methodology for Passenger Cars and Light-Duty Vehicles” to rank the environmental and energy benefits, and costs of motor vehicles for potential procurement by state and local governments. The vehicle rankings shall include both of the following criteria:

(1) The reduction in greenhouse gas emissions, air pollutant emissions, and petroleum use on a full fuel-cycle basis, to the extent possible, based on existing data available to the State Air Resources Board, the commission, or other reliable sources, including the California Strategy to Reduce Petroleum Dependence developed pursuant to subdivision (f) of Section 25720 and the state plan to increase the use of alternative transportation fuels developed pursuant to Section 43866 of the Health and Safety Code.

(2) The life-cycle costs of the vehicle and fuel, including maintenance.

(b) On or before December 31, 2008, the Department of General Services shall revise its procedures for the procurement of state and local government vehicles based upon the necessary performance specifications of the vehicles to perform the required work or tasks of the vehicles in the fleet. The Department of General Services shall establish vehicle "classes" depending upon the required work or tasks and the necessary performance specifications.

(c) On or before July 1, 2009, for the purpose of state fleet procurement, both of the following shall apply:

(1) Available vehicles in individual classes shall be ranked for purchase or lease using the method and criteria developed in subdivision (a).

(2)(A) Vehicles shall be procured for use in the state fleet that meet all requirements established by the federal government, including, but not limited to, the federal Energy Policy Act of 1992, Public Law 102-486, if applicable, and that have been ranked best in their class as determined by the evaluation in subdivision (a).

(B) If fueling infrastructure, for the fuel used to rank a vehicle best in class, is not available, or planned to be available within two years, the Department of General Services shall procure the vehicle ranked next best in class for which fueling infrastructure is or will be available.

(d) The Department of General Services shall evaluate vehicles for potential addition to the state and local fleets, as described in this section, on an annual basis, reflecting annual new vehicle availability.

(e) A vehicle capable of using alternative fuels shall be operated on those fuels to the maximum extent practicable unless alternative fuels are not readily available or other factors exist that may prevent the use of those fuels in the area in which the vehicle is used.

(f) The Department of General Services shall do both of the following:

(1) During the normal course of coordination and contracting with nearby fueling stations, provide information related to the alternative fuel vehicles in the state fleet and request the stations to provide a fuel supply to meet that demand.

(2) When replacing, retrofitting, or installing a fueling tank or infrastructure at a facility that fuels state vehicles, the Department of General Services shall consider requesting competitive bids for alternative fuel infrastructure that would meet the needs of vehicles used, or planned to be used, in that facility.

(g) Authorized emergency vehicles as defined in Section 165 of the Vehicle Code, that are equipped with emergency lamps or lights described in Section 25252 of the Vehicle Code, are exempt from the requirements of this section.

(h) Each state office, agency, or department seeking to purchase or lease a sport utility vehicle or four-wheel drive vehicle shall demonstrate to the satisfaction of the Director of General Services or the entity that purchases or leases vehicles that the vehicle is required to perform an essential function of the office, agency, or department. If it is so demonstrated, priority consideration shall be given to the purchase or lease of an alternative fuel or hybrid sports utility vehicle or four-wheel drive vehicle.

(i) Pursuant to Article IX of the California Constitution, this section shall not apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make this section applicable.

§ 25722.7. Minimum fuel economy standard for purchase of passenger vehicles and light duty trucks for state fleet powered solely by internal combustion engines utilizing fossil fuels

(a) In order to further achieve the policy objectives set forth in Sections 25000.5, 25722, and 25722.5, ~~on or before June 1, 2007,~~ the Department of General ~~Services~~ Services, in consultation with the ~~State Energy Resources Conservation and Development Commission~~ commission, shall establish a minimum fuel economy standard that is above the standard, as it exists existed on January 1, 2007, established pursuant to Section 3620.1 of the State Administrative Manual, for the purchase of passenger vehicles and light duty trucks for the state fleet that are powered solely by internal combustion engines utilizing fossil ~~fuels.~~ fuels or that are powered by more than one source, such as nonplug-in hybrid electric vehicles. The minimum fuel economy standard required by this subdivision does not apply to plug-in hybrid electric vehicles or battery electric vehicles.

(b) ~~On or after January 1, 2008, all new state fleet purchases of~~ All new state fleet purchases by the Department of General Services and any other state entities of passenger vehicles and light duty trucks that are powered solely by internal combustion engines utilizing fossil fuels, ~~by the Department of General Services and any other state entities~~ or that are powered by more than one source, such as nonplug-in hybrid electric vehicles, shall meet the fuel economy standard established under subdivision (a). This subdivision does not apply to plug-in hybrid electric vehicles or battery electric vehicles.

(c) Authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, and vehicles identified in paragraph (3) of subdivision (a) of Section ~~25722.5~~ 25722.5, are exempt from this section.

(d) Vehicles ~~purchased,~~ that are purchased and modified for the following ~~purposes,~~ purposes are exempt from this ~~section.~~ section:

(1) To provide services by a state entity to an individual with a disability or a developmental disability, as defined under the statutes or regulations governing that state entity.

(2) As a reasonable accommodation for the known physical or mental disability, as defined in Section 12926 of the Government Code, of an employee.

(e) For purposes of this section, “state entities” includes all state departments, boards, commissions, programs, and other organizational units of the executive, legislative, and judicial branches of state government, the California Community Colleges, the California State University, and the University of California.

(f) No provision of this section shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

§ 25722.8. Plan to improve use of alternative fuels, synthetic lubricants, and fuel-efficient vehicles; development, implementation and submittal to Legislature; progress report; use of alternatively fueled vehicles

(a) On or before July 1, 2009, the Secretary of ~~State and Consumer Services,~~ the Government Operations Agency, in consultation with the Department of General Services and other appropriate state agencies that maintain or purchase vehicles for the state fleet, including the campuses of the California State University, shall develop and implement, and submit to the Legislature and the Governor, a plan to improve the overall state fleet's use of alternative fuels, synthetic lubricants, and fuel-efficient vehicles by reducing or displacing the consumption of petroleum products by the state fleet when compared to the 2003 consumption level based on the following schedule:

(1) By January 1, 2012, a 10-percent reduction or displacement.

(2) By January 1, 2020, a 20-percent reduction or displacement.

(b) Beginning April 1, 2010, and annually thereafter, the Department of General Services shall prepare a progress report on meeting the goals specified in subdivision (a). The Department of General Services shall post the progress report on its Internet Web site.

(c) (1) The Department of General Services shall encourage, to the extent feasible, the operation of state alternatively fueled vehicles on the alternative fuel for which the vehicle is designed and the development of commercial infrastructure for alternative fuel pumps and charging stations at or near state vehicle fueling or parking sites.

(2) The Department of General Services shall work with other public agencies to incentivize and promote, to the extent feasible, state employee operation of alternatively fueled vehicles through preferential or reduced-cost parking, access to charging, or other means.

(3) For purposes of this subdivision, "alternatively fueled vehicles" means light-, medium-, and heavy-duty vehicles that reduce petroleum usage and related emissions by using advanced technologies and fuels, including, but not limited to, hybrid, plug-in hybrid, battery electric, natural gas, or fuel cell vehicles and including those vehicles described in Section 5205.5 of the Vehicle Code.

§ 25722.9. Alternatively fueled vehicles; parking incentive programs

(a) For purposes of this section, "alternatively fueled vehicles" means light-, medium-, and heavy-duty vehicles that reduce petroleum usage and related emissions by using advanced technologies and fuels, including, but not limited to, hybrid, plug-in hybrid, battery electric, natural gas, or fuel cell vehicles and including those vehicles described in Section 5205.5 of the Vehicle Code.

(b) The Department of General Services and the Department of Transportation shall develop and implement advanced technology vehicle parking incentive programs, to the extent feasible, in public parking facilities of 50 spaces or more operated by the Department of General Services and park-and-ride lots owned and operated by the Department of Transportation to incentivize the purchase and use of alternatively fueled vehicles in the state. These programs shall provide meaningful, tangible benefits for drivers of alternatively fueled vehicles. These incentives may include preferential spaces, reduced fees, and fueling infrastructure for alternatively fueled vehicles that use these parking facilities or park-and-ride lots.

§ 25723. Development and adoption of recommendations for California State Fuel-Efficient Tire Program

On or before January 31, 2003, the commission, in consultation with any other state agency that the commission deems necessary, shall develop and adopt recommendations for consideration by the Governor and the Legislature of a California State Fuel-Efficient Tire Program. The commission shall make recommendations on all of the following items:

(a) Establishing a test procedure for measuring tire fuel efficiency.

(b) Development of a data base of fuel efficiency of existing tires in order to establish an accurate baseline of tire efficiency.

(c) A rating system for tires that provides consumers with information on the fuel efficiency of individual tire models.

(d) A consumer-friendly system to disseminate tire fuel-efficiency information as broadly as possible. The commission shall consider labeling, Web site listing, printed fuel economy guide booklets, and mandatory requirements for tire retailers to provide fuel-efficiency information.

(e) A study to determine the safety implications, if any, of different policies to promote fuel efficient replacement tires in the consumer market.

(f) A mandatory fuel-efficiency standard for all after market tires sold in California.

(g) Consumer incentive programs that would offer a rebate to purchasers of replacement tires that are more fuel efficient than the average replacement tire.

CHAPTER 8.4. LOCAL VEHICLE FLEET

§ 25725. Fuel economy as a selection criteria

When awarding a vehicle procurement contract, every city, county, city and county, and special district, including a school district and a community college district may evaluate and score fuel economy, in addition to other life-cycle factors, in choosing passenger cars or light-duty trucks, or both, with the lowest life-cycle costs.

§ 25726. Energy-efficiency vehicles as a percentage of the vehicles to be acquired

(a) When awarding a vehicle procurement contract, every city, county, city and county, and special district, including a school district and a community college district may require that 75 percent of the passenger cars or light-duty trucks, or both, to be acquired be energy-efficient vehicles.

(b) “Energy-efficient vehicle” means either of the following:

(1) A vehicle that meets California's Super Ultra-Low Emission Vehicle (SULEV) standard for exhaust emissions and the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations.

(2) A hybrid vehicle or an alternative fuel vehicle that meets California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions.

CHAPTER 8.6. RENEWABLE ENERGY RESOURCES PROGRAM

§ 25740. Legislative intent

It is the intent of the Legislature in establishing this program, to increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 33 percent of total retail sales of electricity in California per year by December 31, 2020.

§ 25740.5. Moneys collected for renewable energy; transfer of funds

Notwithstanding any other law, moneys collected for renewable energy pursuant to Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be transferred to the Renewable Resource Trust Fund. Moneys collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.

§ 25741. Definitions

As used in this chapter, the following terms have the following meaning:

(a) “Renewable electrical generation facility” means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:

(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network of a balancing authority area primarily located within the state. For purposes of this subparagraph, “balancing authority area” has the same meaning as defined in Section 399.12 of the Public Utilities Code.

(B) The facility has its first point of interconnection to the transmission network outside the state, within the Western Electricity Coordinating Council (WECC) service area, and satisfies all of the following requirements:

(i) It commences initial commercial operation after January 1, 2005.

(ii) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(iii) It participates in the accounting system to verify compliance with the renewables portfolio standard once established by the commission pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (ii) and (iii) in subparagraph (B), but does not meet the requirements of clause (i) of subparagraph (B) because it commenced initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements:

(i) The electricity is from incremental generation resulting from expansion or repowering of the facility.

(ii) Electricity generated by the facility was procured by a retail seller or local publicly owned electric utility as of January 1, 2010.

(3) If the facility is outside the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

(4) If eligibility of the facility is based on the use of landfill gas, digester gas, or another renewable fuel delivered to the facility through a common carrier pipeline, the transaction for the procurement of that fuel, including the source of the fuel and delivery method, satisfies the requirements of Section 399.12.6 of the Public Utilities Code and is verified pursuant to the accounting system established by the commission pursuant to 399.25 of the Public Utilities Code, or a comparable system, as determined by the commission.

(b) “Municipal solid waste conversion,” as used in subdivision (a), means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(1) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(2) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 38505 of the Health and Safety Code.

(3) The technology produces no discharges to surface or groundwaters of the state.

(4) The technology produces no hazardous wastes.

(5) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(6) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(7) The technology meets any other conditions established by the commission.

(8) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(c) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(d) "Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the commission.

(e) "Retail seller" means a "retail seller" as defined in Section 399.12 of the Public Utilities Code.

§ 25741.5. Analysis of run-of-river hydroelectric generating facilities in British Columbia; effect of inclusion as renewable electrical generation facility or eligible renewable energy resource; report to Legislature

(a) By June 30, 2011, after providing public notice and an opportunity for public comment, including holding at least one public workshop, and following consultation with interested governmental entities, the commission shall study and provide a report to the Legislature that analyzes run-of-river hydroelectric generating facilities in British Columbia, including whether these facilities are, or should be, included as renewable electrical generation facilities pursuant to Section 25741 or eligible renewable energy resources pursuant to Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(b) By completing the study and making recommendations, the commission shall consider the effect that inclusion would have upon all of the following:

(1) Emissions of carbon dioxide and other greenhouse gases.

(2) Emissions of air pollutants.

(3) Water quality, recreation, and fisheries.

(4) Any other environmental impact caused by run-of-river hydroelectric generating facilities.

(c) The report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(d) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2015.

§ 25744.5. Funding of photovoltaic and solar thermal electric technologies

The commission shall allocate and use funding available for emerging renewable technologies pursuant to Section 25751 to fund photovoltaic and solar thermal electric technologies in accordance with eligibility criteria and conditions established pursuant to Chapter 8.8 (commencing with Section 25780).

§ 25746. Recovery of costs for regional accounting system to verify compliance with renewables portfolio standard

If the commission provides funding for a regional accounting system to verify compliance with the renewables portfolio standard by retail sellers, pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code, the commission shall recover all costs from user fees.

§ 25747. Guidelines for funding

(a) The commission shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines shall not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision shall not be less than 30 days. Notwithstanding any other law, any guidelines adopted pursuant to this chapter or Section 399.25 of the Public Utilities Code, shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001-02 Regular Session are declaratory of, and not a change in, existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the commission, shall not constitute the rendering of goods, services, or a direct benefit to the commission.

(d) An award made pursuant to this chapter, the amount of the award, and the terms and conditions of the grant are public information.

§ 25751. Renewable Resource Trust Fund

(a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The Emerging Renewable Resources Account is hereby established within the Renewable Resources Trust Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the account are hereby continuously appropriated to the commission without regard to fiscal years for the following purposes:

(1) To close out the award of incentives for emerging technologies in accordance with former Section 25744, as this law existed prior to the enactment of the Budget Act of 2012, for which applications had been approved before the enactment of the Budget Act of 2012.

(2) To close out consumer education activities in accordance with former Section 25746, as this law existed prior to the enactment of the Budget Act of 2012.

(3) To provide funding for the New Solar Homes Partnership pursuant to paragraph (3) of subdivision (e) of Section 2851 of the Public Utilities Code.

(c) The Controller shall provide to the commission funds pursuant to the continuous appropriation in, and for purposes specified in, subdivision (b).

(d) The Controller shall provide to the commission moneys from the fund sufficient to satisfy all contract and grant awards that were made by the commission pursuant to former Sections 25744 and 25746, and Chapter 8.8 (commencing with Section 25780), as these laws existed prior to the enactment of the Budget Act of 2012.

CHAPTER 8.7. REPLACEMENT TIRE EFFICIENCY PROGRAM

§ 25770. Definitions

For the purposes of this chapter, the following terms have the following meanings:

(a) “Board” means the California Integrated Waste Management Board established pursuant to Division 30 (commencing with Section 40000).

(b) “Consumer information requirement” means point-of-sale information or signs that are conspicuously displayed, readily accessible, and written in a manner that can be easily understood by the consumer. “Consumer information requirement” does not include mandatory labeling, imprinting, or other marking, on an individual tire by the tire manufacturer or the tire retailer.

(c) “Cost effective” means the cost savings to the consumer resulting from a replacement tire subject to an energy efficiency standard that equals or exceeds the additional cost to the consumer resulting from the standard, taking into account the expected fuel cost savings over the expected life of the replacement tire.

(d) “Replacement tire” means a tire sold in the state that is designed to replace a tire sold with a new passenger car or light-duty truck. “Replacement tire” does not include any of the following tires:

(1) A tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually.

(2) A deep tread, winter-type snow tire, a space-saver tire, or a temporary use spare tire.

(3) A tire with a nominal rim diameter of 12 inches or less.

(4) A motorcycle tire.

(5) A tire manufactured specifically for use in an off-road motorized recreational vehicle.

§ 25771. Development and adoption of database of replacement tire energy efficiency, energy efficiency rating system for replacement tires, and energy efficiency reporting requirements for tire manufacturers

On or before July 1, 2006, the commission shall develop and adopt all of the following:

(a) A database of the energy efficiency of a representative sample of replacement tires sold in the state, based on test procedures adopted by the commission.

(b) Based on the data collected pursuant to subdivision (a), a rating system for the energy efficiency of replacement tires sold in the state, that will enable consumers to make more informed decisions when purchasing tires for their vehicles.

(c) Based on the test procedures adopted pursuant to subdivision (a) and the rating system established pursuant to subdivision (b), requirements for tire manufacturers to report to the commission the energy efficiency of replacement tires sold in the state.

§ 25772. Adoption and implementation of tire energy efficiency program of statewide applicability for replacement tires

On or before July 1, 2007, the commission, in consultation with the board, shall, after appropriate notice and workshops, adopt and, on or before July 1, 2008, implement, a tire energy efficiency program of statewide applicability for replacement tires, designed to ensure that replacement tires sold in the state are at least as energy efficient, on average, as tires sold in the state as original equipment on new passenger cars and light-duty trucks.

§ 25773. Contents of tire energy efficiency program

(a) The program described in Section 25772 shall include all of the following:

(1) The development and adoption of minimum energy efficiency standards for replacement tires, except to the extent that the commission determines that it is unable to do so in a manner that complies with subparagraphs (A) to (E), inclusive. Energy efficiency standards adopted pursuant to this paragraph shall meet all of the following conditions:

(A) Be technically feasible and cost effective.

(B) Not adversely affect tire safety.

(C) Not adversely affect the average tire life of replacement tires.

(D) Not adversely affect state efforts to manage scrap tires pursuant to Chapter 17 (commencing with Section 42860) of Part 3 of Division 30.

(2) The development and adoption of consumer information requirements for replacement tires for which standards have been adopted pursuant to paragraph (1).

(b) The energy efficiency standards established pursuant to paragraph (1) of subdivision (a) shall be based on the results of laboratory testing and, to the extent it is available and deemed appropriate by the commission, an onroad fleet testing program developed by tire manufacturers in consultation with the commission and the board, conducted by tire manufacturers, and submitted to the commission on or before January 1, 2006.

(c) If the commission finds that tires used to equip an authorized emergency vehicle, as defined in Section 165 of the Vehicle Code, are unable to meet the standards established pursuant to paragraph (1) of subdivision (a), the commission shall authorize an operator of an authorized emergency vehicle fleet to purchase for those vehicles tires that do not meet those standards.

(d) The commission, in consultation with the board, shall review and revise the program, including any standards adopted pursuant to the program, as necessary, but not less than once every three years. The commission may not revise the program or standards in a way that reduces the average efficiency of replacement tires.

CHAPTER 8.8. CALIFORNIA SOLAR INITIATIVE

§ 25780. Legislative findings and declarations

The Legislature finds and declares both of the following:

(a) It is the goal of the state to install solar energy systems with a generation capacity equivalent of 3,000 megawatts, to establish a self-sufficient solar industry in which solar energy systems are a viable mainstream option for both homes and businesses in 10 years, and to place solar energy systems on 50 percent of new homes in 13 years.

(b) A solar initiative should be a cost-effective investment by ratepayers in peak electricity generation capacity where ratepayers recoup the cost of their investment through lower rates as a result of avoiding purchases of electricity at peak rates, with additional system reliability and pollution reduction benefits.

§ 25781. Definitions

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

(a) “California Solar Initiative” means the program providing ratepayer funded incentives for eligible solar energy systems adopted by the Public Utilities Commission in Decision 06-01-024.

(b) “kW” means kilowatts 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.

(c) “kWh” means kilowatthours, as measured by the number of kilowatts generated in an hour.

(d) “MW” means megawatts or 1,000,000 watts.

(e) “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 one kW, and not more than five MW, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to Section 25782.

§ 25782. Establishment of eligibility criteria for solar energy systems

(a) The commission shall, by January 1, 2008, in consultation with the Public Utilities Commission, local publicly owned electric utilities, and interested members of the public, establish eligibility criteria for solar energy systems receiving ratepayer funded incentives that include all of the following:

(1) Design, installation, and electrical output standards or incentives.

(2) The solar energy system is intended primarily to offset part or all of the consumer's own electricity demand.

(3) 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.

(4) The solar energy system has a warranty of not less than 10 years to protect against defects and undue degradation of electrical generation output.

(5) The solar energy system is located on the same premises of the end-use consumer where the consumer's own electricity demand is located.

(6) The solar energy system is connected to the electrical corporation's electrical distribution system within the state.

(7) 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.

(8) The solar energy system is installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards.

(b) The commission shall establish conditions on ratepayer funded incentives that require all of the following:

(1) Appropriate siting and high quality installation of the solar energy system by developing installation guidelines that maximize the performance of the system and prevent qualified systems from being inefficiently or inappropriately installed. The conditions established by the commission shall not impact housing designs or densities presently authorized by a city, county, or city and county. The goal of this paragraph is to achieve efficient installation of solar energy systems to promote the greatest energy production per ratepayer dollar.

(2) Optimal solar energy system performance during periods of peak electricity demand.

(3) Appropriate energy efficiency improvements in the new or existing home or commercial structure where the solar energy system is installed.

(c) The commission shall set rating standards for equipment, components, and systems to assure reasonable performance and shall develop standards that provide for compliance with the minimum ratings.

(d) Upon establishment of eligibility criteria pursuant to subdivision (a), no ratepayer funded incentives shall be made for a solar energy system that does not meet the eligibility criteria.

§ 25783. Duties of the commission

The commission shall do all the following:

(a) Publish educational materials designed to demonstrate how builders may incorporate solar energy systems during construction as well as energy efficiency measures that best complement solar energy systems.

(b) Develop and publish the estimated annual electrical generation and savings for solar energy systems. The estimates shall vary by climate zone, type of system, size, life cycle costs, electricity prices, and other factors the commission determines to be relevant to a consumer when making a purchasing decision.

(c) Provide assistance to builders and contractors. The assistance may include technical workshops, training, educational materials, and related research.

(d) The commission shall annually conduct random audits of solar energy systems to evaluate their operational performance.

§ 25784. Guidelines for solar energy systems receiving ratepayer funded incentives; public notice

The commission shall adopt guidelines for solar energy systems receiving ratepayer funded incentives at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' public notice shall be given of the meeting required by this section, before the commission initially adopts guidelines. Substantive changes to the guidelines shall not be adopted without at least 10 days' written notice to the public. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 9. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT ACCOUNTS

§ 25801. Energy resources programs account

There is in the General Fund in the State Treasury the Energy Resources Programs Account.

§ 25802. Notice of intent for proposed facilities; fees

Each person who submits to the commission a notice of intent for any proposed generating facility shall accompany the notice with a fee of one cent ($0.01) per kilowatt of net electric capacity of the proposed generation facility. Such fee shall only be paid on one of the alternate proposed facility sites which has the highest electrical designed capacity. In no event shall such fee be less than one thousand dollars ($1,000) nor more than twenty-five thousand dollars ($25,000).

For any other facility, the notice shall be accompanied by a fee of five thousand dollars ($5,000). Such fee shall only be paid on one of the alternate proposed facility sites.

§ 25803. Deposit of funds; expenditures

All funds received by the commission pursuant to Section 25802, shall be remitted to the State Treasurer for deposit in the account. All funds in the account shall be expended for purposes of carrying out the provisions of this division, when appropriated by the Legislature in the Budget Act.

§ 25804. State Energy Resources Conservation and Development Special Account; references

All references in this division or any other provision of law to the State Energy Resources Conservation and Development Special Account shall be deemed references to the Energy Resources Programs Account.

§ 25805. Transfers to Energy Resources Programs Account

On July 1, 1983, all funds in the State Energy Resources Conservation and Development Reserve Account shall be transferred to the Energy Resources Programs Account.

Effective June 24, 2015, Section 25806 of the Public Resources Code is amended to read:

§ 25806. Fees; Energy Facility License and Compliance Fund; reports to Legislature

(a) A person who submits to the commission an application for certification for a proposed generating facility shall submit with the application a fee of two hundred fifty thousand dollars ($250,000) plus five hundred dollars ($500) per megawatt of gross generating capacity of the proposed facility. The total fee accompanying an application shall not exceed seven hundred fifty thousand dollars ($750,000).

(b) A person who receives certification of a proposed generating facility shall pay an annual fee of twenty-five thousand dollars ($25,000). For a facility certified on or after January 1, 2004, the first payment of the annual fee is due on the date the commission adopts the final decision. All subsequent payments are due by July 1 of each year in which the facility retains its certification. The fiscal year for the annual fee is July 1 to June 30, inclusive.

(c) The fees in subdivisions ~~(a)~~ (a), (b), and ~~(b)~~(e) shall be adjusted annually to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce.

(d) The Energy Facility License and Compliance Fund is hereby created in the State Treasury. All fees received by the commission pursuant to this section shall be remitted to the Treasurer for deposit in the fund. The money in the fund shall be expended, upon appropriation by the Legislature, for processing applications for certification and for compliance monitoring.

(e) ~~(1)~~ A ~~On or before July 1, 2012, the commission shall report to the Joint Legislative Budget Committee and to the appropriate fiscal and policy committees of each house of the Legislature on the fiscal and programmatic impact of the changes made to this section by the act of the 2009-10 Regular Session of the Legislature amending this section.~~ person who submits to the commission a petition to amend an existing project that previously received certification shall submit with the petition a fee of five thousand dollars ($5,000). The commission shall conduct a full accounting of the actual cost of processing the petition to amend, for which the project owner shall reimburse the commission if the costs exceed five thousand dollars ($5,000). The total reimbursement and fees owed by a project owner for each petition to amend shall not exceed the amount of the maximum total filing fee for an application for certification as specified in subdivision (a) of seven hundred fifty thousand dollars ($750,000), adjusted annually pursuant to subdivision (c). Any reimbursement and fees received by the commission pursuant to this subdivision shall be deposited in the Energy Facility License and Compliance Fund. This subdivision does not apply to a change in ownership or operational control of a project.

~~(2) The requirement for submitting a report imposed under paragraph (1) is inoperative on July 1, 2016, pursuant to Section 10231.5 of the Government Code.~~

~~(3) A report required to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government~~

CHAPTER 10. ENFORCEMENT AND JUDICIAL REVIEW

§ 25900. Injunction

Except as provided in Sections 25402.11 and 25531, if the commission finds that any provision of this division is violated, or a violation is threatening to take place that constitutes an emergency requiring immediate action to protect the public health, welfare, or safety, the Attorney General, upon request of the commission, shall petition a court to enjoin the violation. The court may grant prohibitory or mandatory injunctive relief as warranted by way of temporary restraining order, preliminary injunction, and permanent injunction.

§ 25901. Writ of mandate for review

(a) Within 30 days after the commission issues its determination on any matter specified in this division, except as provided in Section 25531, any aggrieved person may file with the superior court a petition for a writ of mandate for review thereof. Failure to file such an action does not preclude a person from challenging the reasonableness and validity of a decision in any judicial proceedings brought to enforce the decision or to obtain other civil remedies.

(b) The decision of the commission shall be sustained by the court unless the court finds (1) that the commission proceeded without, or in excess of its jurisdiction, (2) that, based exclusively upon a review of the record before the commission, the decision is not supported by substantial evidence in light of the whole record, or (3) that the commission failed to proceed in the manner required by law.

(c) Except as otherwise provided in this section, subdivisions (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern proceedings pursuant to this section.

(d) The amendment of this section made at the 1989-90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

§ 25902. Evaluations, findings and determinations pursuant to specified sections; finality; reviewability

Any evaluations in the reports required by Section 25309 and any findings and determinations on the notice of intent pursuant to Chapter 6 (commencing with Section 25500) shall not be construed as a final evaluation, finding, or determination by the commission and a court action may not be brought to review any such evaluation, finding, or determination.

§ 25903. Site and facility certification provisions; decisions on validity; review

If any provision of subdivision (a) of Section 25531, with respect to judicial review of the decision on certification of a site and related facility, is held invalid, judicial review of such decisions shall be conducted in the superior court subject to the conditions of subdivision (b) of Section 25531. The superior court shall grant priority in setting such matters for review, and the appeals from any such review shall be given preference in hearings in the Supreme Court and courts of appeal.

CHAPTER 10.5. INSULATION MATERIAL STANDARDS

§ 25910. Minimum standards for additional insulation in existing buildings

The commission shall, by regulation adopted no later than July 1, 1978, establish minimum standards for the amount of additional insulation (expressed in terms of R-value) installed in existing buildings. One year after the adoption of those standards, no insulation shall be installed in any existing building by a contractor unless the contractor certifies to the customer in writing that the amount of insulation (expressed in terms of R-value) meets or exceeds the minimum amount established by the standards. The minimum standards may vary for different types of buildings or building occupancies and different climate zones in the state. The minimum standards shall be economically feasible in that the resultant savings in energy procurement costs shall be greater than the cost of the insulation to the customer amortized over the useful life of the insulation.

§ 25911. Urea formaldehyde foam insulation regulations

The State Energy Resources Conservation and Development Commission may adopt regulations pertaining to urea formaldehyde foam insulation materials as are reasonably necessary to protect the public health and safety. These regulations may include, but are not limited to, prohibition of the manufacture, sale, or installation of urea formaldehyde foam insulation, requirements for safety notices to consumers, certification of installers, and specification of installation practices. Regulations adopted pursuant to this section shall be promulgated after public hearings in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any regulation adopted by the commission to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence which demonstrates the need for the prohibition in order to protect the public health and safety.

§ 25912. Urea formaldehyde foam insulation; regulations prohibiting; consultations and solicitation of comments

Prior to adopting any regulation which causes a prohibition on the sale and installation of urea formaldehyde foam insulation, the commission shall consult with, and solicit written comments from, all of the following:

(a) Federal and state agencies with appropriate scientific staffs, including, but not limited to, the State Department of Health Services, the Office of Environmental Health Hazard Assessment, the National Academy of Sciences, the United States Department of Housing and Urban Development, the United States Department of Energy, and the United States Consumer Product Safety Commission.

(b) Universities and public and private scientific organizations.

CHAPTER 10.8. HOME ENERGY AND LABELING PROGRAM

§ 25942. Home energy rating program; criteria; public information program; report

(a) On or before July 1, 1995, the commission shall establish criteria for adopting a statewide home energy rating program for residential dwellings. The program criteria shall include, but are not limited to, all of the following elements:

(1) Consistent, accurate, and uniform ratings based on a single statewide rating scale.

(2) Reasonable estimates of potential utility bill savings, and reliable recommendations on cost-effective measures to improve energy efficiency.

(3) Training and certification procedures for home raters and quality assurance procedures to promote accurate ratings and to protect consumers.

(4) In coordination with home energy rating service organization data bases, procedures to establish a centralized, publicly accessible, data base that includes a uniform reporting system for information on residential dwellings, excluding proprietary information, needed to facilitate the program. There shall be no public access to information in the data base concerning specific dwellings without the owner's or occupant's permission.

(5) Labeling procedures that will meet the needs of home buyers, homeowners, renters, the real estate industry, and mortgage lenders with an interest in home energy ratings.

(b) The commission shall adopt the program pursuant to subdivision (a) in consultation with representatives of the Department of Real Estate, the Department of Housing and Community Development, the Public Utilities Commission, investor-owned and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups.

(c) On and after January 1, 1996, no home energy rating services may be performed in this state unless the services have been certified, if such a certification program is available, by the commission to be in compliance with the program criteria specified in subdivision (a) and, in addition, are in conformity with any other applicable element of the program.

(d) On or before July 1, 1996, the commission shall consult with the agencies and organizations described in subdivision (b), to facilitate a public information program to inform homeowners, rental property owners, renters, sellers, and others of the existence of the statewide home energy rating program adopted by the commission.

(e) Beginning with the 1998 biennial energy conservation report required by Section 25401.1, the commission shall, as part of that biennial report, report on the progress made to implement a statewide home energy rating program. The report shall include an evaluation of the energy savings attributable to the program, and a recommendation concerning which means and methods will be most efficient and cost-effective to induce home energy ratings for residential dwellings.

§ 25943. Existing residential and nonresidential buildings; comprehensive program to achieve greater energy savings

(a)(1) By March 1, 2010, the commission shall establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock. This program shall comprise a complementary portfolio of techniques, applications, and practices that will achieve greater energy efficiency in existing residential and nonresidential structures that fall significantly below the current standards in Title 24 of the California Code of Regulations, as determined by the commission.

(2) The comprehensive program may include, but need not be limited to, a broad range of energy assessments, building benchmarking, energy rating, cost-effective energy efficiency improvements, public and private sector energy efficiency financing options, public outreach and education efforts, and green workforce training.

(b) To develop and implement the program specified in subdivision (a), the commission shall do both of the following:

(1) Coordinate with the Public Utilities Commission and consult with representatives from the Bureau of Real Estate, the Department of Housing and Community Development, investor-owned and publicly owned utilities, local governments, real estate licensees, commercial and homebuilders, commercial property owners, small businesses, mortgage lenders, financial institutions, home appraisers, inspectors, energy rating organizations, consumer groups, environmental and environmental justice groups, and other entities the commission deems appropriate.

(2) Hold at least three public hearings in geographically diverse locations throughout the state.

(c) In developing the requirements for the program specified in subdivision (a), the commission shall consider all of the following:

(1) The amount of annual and peak energy savings, greenhouse gas emission reductions, and projected customer utility bill savings that will accrue from the program.

(2) The most cost-effective means and reasonable timeframes to achieve the goals of the program.

(3) The various climatic zones within the state.

(4) An appropriate method to inform and educate the public about the need for, benefits of, and environmental impacts of, the comprehensive energy efficiency program.

(5) The most effective way to report the energy assessment results and the corresponding energy efficiency improvements to the owner of the residential or nonresidential building, including, among other things, the following:

(A) Prioritizing the identified energy efficiency improvements.

(B) The payback period or cost-effectiveness of each improvement identified.

(C) The various incentives, loans, grants, and rebates offered to finance the improvements.

(D) Available financing options including all of the following:

(i) Mortgages or sales agreement components.

(ii) On-bill financing.

(iii) Contractual property tax assessments.

(iv) Home warranties.

(6) Existing statutory and regulatory requirements to achieve energy efficiency savings and greenhouse gas emission reductions.

(7) A broad range of implementation approaches, including both utility and nonutility administration of energy efficiency programs.

(8) Any other considerations deemed appropriate by the commission.

(d) The program developed pursuant to this section shall do all of the following:

(1) Minimize the overall costs of establishing and implementing the comprehensive energy efficiency program requirements.

(2) Ensure, for residential buildings, that the energy efficiency assessments, ratings, or improvements do not unreasonably or unnecessarily affect the home purchasing process or the ability of individuals to rent housing. A transfer of property subject to the program implemented pursuant to this section shall not be invalidated solely because of the failure of a person to comply with a provision of the program.

(3) Ensure, for nonresidential buildings, that the energy improvements do not have an undue economic impact on California businesses.

(4) Determine, for residential buildings, the appropriateness of the Home Energy Rating System (HERS) program to support the goals of this section and whether there are a sufficient number of HERS-certified raters available to meet the program requirements.

(5) Determine, for nonresidential structures, the availability of an appropriate cost-effective energy efficiency assessment system and whether there are a sufficient number of certified raters or auditors available to meet the program requirements.

(6) Coordinate with the California Workforce Investment Board, the Employment Training Panel, the California Community Colleges, and other entities to ensure a qualified, well-trained workforce is available to implement the program requirements.

(7) Coordinate with, and avoid duplication of, existing proceedings of the Public Utilities Commission and programs administered by utilities.

(e) A home energy rating or energy assessment service does not meet the requirements of this section unless the service has been certified by the commission to be in compliance with the program criteria developed pursuant to this section and is in conformity with other applicable elements of the program.

(f) The commission shall periodically update the criteria and adopt any revision that, in its judgment, is necessary to improve or refine program requirements after receiving public input.

(g) Before implementing an element of the program developed pursuant to subdivision (a) that requires the expansion of statutory authority of the commission or the Public Utilities Commission, the commission and the Public Utilities Commission shall obtain legislative approval for the expansion of their authorities.

(h) The commission shall report on the status of the program in the integrated energy policy report pursuant to Section 25302.

(i) The commission shall fund activities undertaken pursuant to this section from the Federal Trust Fund consistent with the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or other sources of nonstate funds available to the commission for the purposes of this section.

(j) For purposes of this section, “energy assessment” means a determination of an energy user's energy consumption level, relative efficiency compared to other users, and opportunities to achieve greater efficiency or improve energy resource utilization.

CHAPTER 11. GAS APPLIANCES

Article 1. Definitions

§ 25950. Gas appliance

"Gas appliance" means any new residential-type furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, dryer, decorative fireplace log, or other similar device, except a water heater, which uses a gaseous fuel for operation and is automatically ignited.

§ 25951. Pilot light

"Pilot light" means any gas operated device that remains continually operated or lighted in order to ignite a gas appliance to begin normal operation.

§ 25952. Intermittent ignition device

"Intermittent ignition device" means an ignition device which is actuated only when the gas appliance is in operation.

§ 25953. Additional definitions

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

(a) "Person" means any individual, partnership, corporation, limited liability company, association, manufacturer, distributor, retailer, contractor or builder as defined in Section 7026 of the Business and Professions Code, or other groups, however organized, who sell or cause to be distributed or installed, any new gas appliance as defined in Section 25950.

(b) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, produces, or gathers consumer goods.

(c) "Distributor" means any individual, partnership, corporation, association or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments or contracts for sale of consumer goods.

(d) "Retail seller," "retail outlets," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling new goods to retail buyers.

(e) "Contractor" for the purpose of this chapter is synonymous with the term "builder" and, within the meaning of this chapter, a contractor is any person who undertakes to or offers to undertake to or purports to have the capacity to undertake to or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term "contractor" includes subcontractor and specialty contractor.

Article 2. General Provisions

§ 25960. Appliances with pilot lights; sales after certification of alternative means

No new residential-type gas appliance that is equipped with a pilot light shall be sold in the state after an alternate means has been certified by the commission. This prohibition shall become operative 24 months after an intermittent ignition device has been demonstrated and certified by the commission as an alternate means. The commission may determine, after demonstration, that there is no feasible alternative means to the use of pilot light or that the use of a pilot light is necessary for public health and safety.

§ 25960.5. Swimming pool heaters; equipped with pilot light or intermittent ignition device or designed to burn liquefied petroleum gases

Notwithstanding the prohibition contained in Section 25960, any swimming pool heater with a pilot light which was manufactured prior to February 24, 1984, and in stock or on order as of that date, may be sold in this state prior to December 1, 1984. On or after December 1, 1984, no swimming pool heater may be sold or offered for sale, unless it is equipped with an intermittent ignition device or is designed to burn only liquefied petroleum gases.

§ 25961. Specifications for certification of intermittent ignition devices

The commission shall, on or before January 1, 1976, develop in cooperation with affected industry and consumer representatives, who will be designated as such representatives by the commission, the specifications for certification of intermittent ignition devices which shall not significantly affect the price of gas appliances in competition with similar electrical appliances. The specifications shall be developed so as to result in the conservation of primary energy resources, shall include provisions necessary for public health and safety, and shall give due consideration to the initial costs, including installation and maintenance costs imposed upon the consumer.

§ 25962. Notice of pilot light prohibition

Within 90 days after an intermittent ignition device has been certified by the commission, the commission shall notify all gas appliance manufacturers doing business in the state, as to the prohibition of affected pilot lights and shall inform the manufacturers of the devices available to comply with this article.

§ 25963. Seal of certification

The commission shall create a seal of certification and shall distribute the seal to every manufacturer that complies with this article. The seal shall be affixed to every new appliance sold in the state.

§ 25964. Sales after certification of intermittent ignition device; seal of certification; building permits

After 24 months after an intermittent ignition device has been certified by the commission, no person shall sell or offer for sale in this state any new gas appliances, as defined in Section 25950, without obtaining the proper seal of certification from the commission, unless the commission otherwise permits such action. Beginning 24 months after an intermittent ignition device has been certified by the commission, no city or county, city and county, or state agency shall issue a permit for any building to be equipped with any new gas appliance, as defined in Section 25950, unless such building permit shows that the gas appliance complies with this chapter. However, any new gas appliance which does not comply with this chapter may be installed if the appliance was purchased pursuant to a contract executed prior to June 17, 1978, and if the building permit was approved prior to July 8, 1978.

§ 25965. Inspection of manufacturers, distributors, and retail outlets for compliance with article

After 24 months after an intermittent ignition device has been certified by the commission, the commission shall make periodic inspections of manufacturers and distributors of gas appliances and may inspect retail outlets, including gas appliances that have been or are to be installed by contractors or builders at building sites in order to determine their compliance with this article.

§ 25966. Violations; injunctions

Any person who violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice which violates any provision of this chapter.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

§ 25967. Civil penalties; disposition

(a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the commission, the court shall determine the reasonable expenses incurred by the commission in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the commission shall be paid to the State Treasurer.

§ 25968. Inspector's access to premises and records

Any inspector appointed or authorized by the commission shall have access to the premises, equipment, materials, partly finished and finished articles, and records of any person subject to the provisions of this chapter.

CHAPTER 12. SOLAR SHADE CONTROL

§ 25980. Short title; public policy

This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

§ 25981. Solar collector

(a) As used in this chapter, “solar collector” means a fixed device, structure, or part of a device or structure, on the roof of a building, that is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system that makes use of solar energy for any or all of the following purposes:

(1) Water heating.

(2) Space heating or cooling.

(3) Power generation.

(b) Notwithstanding subdivision (a), for the purpose of this chapter, “solar collector” includes a fixed device, structure, or part of a device or structure that is used primarily to transform solar energy into thermal, chemical, or electrical energy and that is installed on the ground because a solar collector cannot be installed on the roof of the building receiving the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building.

(c) For the purposes of this chapter, “solar collector” does not include a solar collector that is designed and intended to offset more than the building's electricity demand.

(d) For purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and not less than 10 feet above the ground. A solar collector may be less than 10 feet in height only if, in addition to the five-foot setback, the solar collector is set back three times the amount lowered.

§ 25982. After installation of solar collector; placement or growth of tree or shrub on property of another

After the installation of a solar collector, a person owning or in control of another property shall not allow a tree or shrub to be placed or, if placed, to grow on that property so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m., local standard time.

§ 25982.1. Solar shade control notice; requirements

(a) An owner of a building where a solar collector is proposed to be installed may provide written notice by certified mail to a person owning property that may be affected by the requirements of this chapter prior to the installation of the solar collector. If a notice is mailed, the notice shall be mailed no more than 60 days prior to installation of the solar collector and shall read as follows:

SOLAR SHADE CONTROL NOTICE

Under the Solar Shade Control Act (California Public Resources Code § 25980 et seq.) a tree or shrub cannot cast a shadow greater than 10 percent of a solar collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m. local standard time if the tree or shrub is placed after installation of a solar collector. The owner of the building where a solar collector is proposed to be installed is providing this written notice to persons owning property that may be affected by the requirements of the act no more than 60 days prior to the installation of a solar collector. The building owner is providing the following information:

Name and address of building owner:

Telephone number of building owner:

Address of building and specific location where a solar collector will be installed (including street number and name, city/county, ZIP Code, and assessor's book, page, and parcel number):

Installation date of solar collector:

_____

Building Owner, Date

(b) If the owner of the building where a solar collector is proposed to be installed provided the notice pursuant to subdivision (a), and the installation date is later than the date specified in that notice, the later date shall be specified in a subsequent notice to persons receiving the initial notice.

(c)(1) A transferor of the building where the solar collector is installed may provide a record of persons receiving the notice pursuant to subdivision (a) to a transferee of the building.

(2) A transferor receiving a notice pursuant to subdivision (a) may provide the notice to a transferee of the property.

§ 25983. Violations; private nuisance; written notice from owner of solar collector

A tree or shrub that is maintained in violation of Section 25982 is a private nuisance, as defined in Section 3481 of the Civil Code, if the person who maintains or permits the tree or shrub to be maintained fails to remove or alter the tree or shrub after receiving a written notice from the owner or agent of the affected solar collector requesting compliance with the requirements of Section 25982.

§ 25984. Application of chapter; exemptions

This chapter does not apply to any of the following:

(a) A tree or shrub planted prior to the installation of a solar collector.

(b) A tree planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops.

(c) The replacement of a tree or shrub that had been growing prior to the installation of a solar collector and that, subsequent to the installation of the solar collector, dies, or is removed for the protection of public health, safety, or the environment.

(d) A tree or shrub that is subject to a city or county ordinance.

§ 25985. Ordinance to exempt city or unincorporated areas from provisions of chapter; requirements

(a) A city, or for unincorporated areas, a county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of the ordinance shall not be subject to the California Environmental Quality Act (commencing with Section 21000).

(b) Notwithstanding the requirements of this chapter, a city or a county ordinance specifying requirements for tree preservation or solar shade control shall govern within the jurisdiction of the city or county that adopted the ordinance.

§ 25986. Passive or natural solar system which impacts on adjacent active solar system; action to exempt from provisions of chapter

Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.

CHAPTER 13. ENERGY MANAGEMENT PLANS FOR HARBOR AND PORT DISTRICTS

§ 25990. Districts authorized to prepare energy management plans developed jointly with electrical corporations, gas corporations, community choice aggregators, or public utilities; plan elements; joint energy efficiency project opportunities, public education activities, and financing opportunities; encouragement of joint participation; development of projects that provide greater certainty of energy costs; technical assistance

(a) For purposes of this chapter, the term “district” shall mean the Humboldt Bay Harbor, Recreation, and Conservation District, the Ports of Hueneme, Oakland, Long Beach, Los Angeles, Redwood City, Richmond, San Diego, San Francisco, Stockton, and West Sacramento, and any other harbor, recreation, and conservation district that operates a harbor or port in the state. A district may prepare one or more energy management plans, developed jointly with an electrical corporation, as defined in subdivision (a) of Section 218 of the Public

Utilities Code, a gas corporation, as defined in Section 222 of the Public Utilities Code, a community choice aggregator established on or before July 1, 2013, or a public utility, as defined in subdivision (a) of Section 216 of the Public Utilities Code, that produces, generates, or supplies electricity to the public and that serves the district in order to reduce air emissions, promote economic development, and encourage the development of new businesses and retain existing businesses in that district.

(b) If a district prepares an energy management plan pursuant to this chapter, it shall include, at a minimum, all of the following:

(1) An assessment of current energy consumption within the district by energy source and type of users. Examples of users may include commercial, industrial, governmental, ships, individual transport, and product transport.

(2) An assessment of other energy efficiency and management issues the district determines to evaluate in order to inform the development of specific goals and actions that reduce air emissions and promote economic development, including all of the following:

(A) An electric or natural gas load forecast, developed in coordination with the serving electrical corporation, gas corporation, community choice aggregator established on or before July 1, 2013, or local publicly owned electric or gas utility that reflects anticipated load growth within the district.

(B) An assessment of the role that distributed generation, combined with accurately priced utility services, could play in providing greater rate stability and energy cost certainty to aid in economic development, and proposed actions with respect to that role. This assessment shall be developed jointly with the serving electrical corporation, gas corporation, community choice aggregator established on or before July 1, 2013, or local publicly owned electric or gas utility.

(C) An assessment, in consultation with business and industry, that identifies current and emerging processes and technologies to reduce energy consumption and improve energy efficiency.

(D) An assessment, in consultation with business and industry, that identifies domestic and international shipping requirements and operations related to energy use and consumption.

(3) A set of measurable energy performance and management goals that reduce air emissions and promote economic development, and a prioritized list of infrastructure projects, public education initiatives, and other actions that the district will undertake to achieve those goals.

(4) A list of recommendations, developed jointly with the serving electrical corporation, gas corporation, community choice aggregator established on or before July 1, 2013, or local publicly owned electric or gas utility for the enhanced use of cost-effective energy efficiency and demand-side management in existing buildings and the inclusion of energy efficiency measures as part of the development of new buildings.

(5) A description of measures to be taken to reduce air emissions for vehicle use within district boundaries, including vehicles used for movement of commercial products. Proposed actions, developed jointly with the serving electrical corporation, gas corporation, community choice aggregator established on or before July 1, 2013, or local publicly owned electric utility, may include replacement of vehicles with lower emitting alternatives and development of infrastructure, in appropriate areas, to aid in the refueling of alternative fuel vehicles.

(6) A summary identifying governmental and nongovernmental impediments to implementation of the plan that includes recommendations on how these impediments may be overcome.

(7) A description of one-year, 3-year, 5-year, 10-year, and 15-year objectives for implementation of the plan. These objectives shall be in sufficient detail to allow the district to undertake a meaningful annual review of the plan's progress.

(8) Proposed methods to fund the activities included in the plan, including funding through utility ratepayer-funded programs.

(9) Other related energy plans, mandates, and requirements, and, to the extent possible, leverage opportunities for achieving energy efficiency and sustainable energy production, while not overburdening impacted businesses.

(c) A district that prepares a plan shall engage with small business technical assistance providers to assist in the identification of joint or collaborative energy efficiency project opportunities, public education activities, and financing opportunities that implement the actions and projects in the plan.

(d) The Public Utilities Commission shall encourage electric or gas corporations to participate jointly with local agencies in developing, implementing, and administering viable energy management plans for districts. The governing boards of local publicly owned utilities, community choice aggregators established on or before July 1, 2013, and rural electric cooperatives shall encourage joint participation with local agencies and gas corporations in developing, implementing, and administering viable energy management plans for districts.

(e) If an energy management plan is prepared pursuant to this chapter, it shall also address the development of projects that provide greater certainty of energy costs over a period of up to 15 years for businesses developing in the district.

(f) The Public Utilities Commission may offer technical assistance in the preparation of the energy management plans developed and implemented pursuant to this chapter, including, but not limited to, identifying best practices, innovations in technology, and potential funding sources.