



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV

**In the Matter of:**

Rulemaking to Consider Modification of  
Regulations Establishing a Greenhouse  
Gases Emission Performance Standard For  
Baseload Generation of Local Publicly  
Owned Electric Utilities

Docket No. 12-OIR-1

RULEMAKING WORKSHOP

RE: 2012 Rulemaking Proceedings on  
Emission Performance Standard  
Regulations

## Notice of Rulemaking Workshop

**PLEASE TAKE NOTICE** that the Lead Commissioner assigned to the above-referenced matter invites participation in a public workshop to discuss possible changes to the Energy Commission's greenhouse gases emission performance standards, which are found at California Code of Regulations, Title 20, Sections 2900 through 2913.<sup>1</sup>

The workshop will take place as follows:

**TUESDAY, JANUARY 29, 2013**  
**Beginning at 1:00 PM**

**CALIFORNIA ENERGY COMMISSION**  
1516 Ninth Street  
First Floor, Hearing Room A  
Sacramento, CA 95814  
(Wheelchair Accessible)

### Remote Attendance and Availability of Documents

Teleconference Option – Anyone interested in this matter may attend the workshop in person at the above location or by telephone and/or by computer via our "WebEx" web

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<sup>1</sup> All further regulatory references are to the Commission's Regulations (Regs.) contained in California Code of Regulations, Title 20, unless otherwise stated.

conferencing system. For details on how to participate by WebEx, please see the "Participation in the Workshop Through WebEx" directions attached to this notice.

Internet Webcast - Presentations and audio from the meeting will be broadcast via the Energy Commission's WebEx Web meeting service.

Document Availability - Documents and presentations for this meeting will be available online at: [www.energy.ca.gov/emission\\_standards/2012rulemaking/](http://www.energy.ca.gov/emission_standards/2012rulemaking/).

## **Background**

In 2007, the Energy Commission adopted a greenhouse gases emission performance standard and related requirements at California Code of Regulations, Title 20, Sections 2900 through 2913 (the EPS). The EPS applies to "covered procurements" entered into by local publicly owned electric utilities (POUs). The Commission adopted the EPS under the authority of Senate Bill 1368 (Perata, Chapter 598, § 2, Statutes of 2006), codified at Public Utilities Code Sections 8340 and 8341.

On January 12, 2012, the Energy Commission adopted an Order Instituting Rulemaking (OIR) to initiate a rulemaking proceeding to consider possible modifications to the EPS. The OIR focuses on whether to:

1. Establish a filing requirement for all POU investments in non-EPS compliant facilities regardless of whether the investment could be considered a covered procurement.
2. Establish criteria for, or further define, the term "covered procurement," including specifying what is meant by "designed and intended to extend the life of one or more generating units by five years or more" and "routine maintenance."
3. Make changes consistent with the requirements of Public Utilities Code Section 8341, subdivision (f). This subdivision requires the Energy Commission, in a duly noticed public hearing and in consultation with the California Public Utilities Commission (CPUC) and the State Air Resources Board (ARB), to reevaluate and continue, modify, or replace the greenhouse gases emission performance standard when an enforceable greenhouse gases emissions limit applicable to POUs is established and in operation.
4. Make any other changes to carry out the requirements of SB 1368.

On April 18, 2012, the Energy Commission conducted a public workshop regarding the OIR. Workshop participants included representatives from interested organizations and POUs. Chair Weisenmiller, Commissioner Peterman, and Commission staff facilitated the workshop.

On July 9, 2012, Chair and Lead Energy Commissioner Weisenmiller issued Tentative Conclusions and Requests for Additional Information, asking parties to file comments by July 27, 2012 on the four OIR topics outlined above. In addition, POUs were asked to provide additional information to allow for a better understanding of how investment decisions in non-EPS compliant facilities are made, including procedure and policies for approving expenditures and procedures for bringing particular investments to a governing body for approval.

On August 31, 2012, Chair and Lead Energy Commissioner Weisenmiller issued a Request for Reply Comments on a limited set of issues in the proceeding, noting that the Energy Commission had sufficient information in the record on other matters to make final decisions. Reply Comments were filed by parties on September 27, 2012.

## **Discussion**

### Filing or Notification Requirement

Based on the record developed in this proceeding, the Energy Commission believes it has sufficient information to develop final decisions on the majority of the issues in the rulemaking. The Energy Commission will hold a workshop to address:

- Whether to establish a filing or notification requirement for all POU investments in non-EPS compliant facilities.

In its Request for Reply Comments, the Energy Commission sought input on the elements of the Natural Resources Defense Council & Sierra Club proposal, plus any other related details contained in their July 27, 2012 comment, including the adequacy of the utility information that is currently made available.

The Energy Commission seeks input from the parties at the upcoming workshop on several additional filing or notification options, which are outlined below. The Energy Commission welcomes written comments on this issue.

**Option 1:** This option would entail a POU providing a URL linked to the agenda for the public meeting of the POU at which any investment in a non-EPS compliant plant is being deliberated in advance of each business meeting. The URL would be provided no later than three days prior to the meeting and would be posted on the Energy

Commission's website. This option would not require the Energy Commission to post back-up information on its website, nor would it distribute the URL and back-up information to a listserv.

**Option 2:** This option would be an expansion of the existing public notice requirements for covered procurements (in Section 2908 of the regulations) to include "major" investments or "investments to meet environmental or other regulatory requirements." This would require a POU to provide a URL that links to the agenda of the public meeting at which investments are being deliberated and the back-up information related to the investments' compliance with EPS. The URL would be provided at least three days prior to the meeting and would require the Energy Commission to post the URL and back-up information on the Energy Commission's website and notify the listserv.

**Option 3:** This option would have a POU provide an annual filing that prospectively identifies "major" investments in non-EPS compliant facilities and/or "investments to meet environmental or other regulatory requirements," for the upcoming year. The filing would contain a description of the investment and what it is intended to do, the costs, and an indication of when a decision to move forward is expected. This annual filing would supplement the existing filing requirement under Section 2909 of the regulations.

**Option 4:** This option would entail a POU providing an annual filing (similar to what the CPUC requires of LSEs) that contains a description of the investment, what it was intended to do and the costs, along with an attestation that the financial commitments entered into during the prior calendar year are in compliance with the EPS. The investments reported to the Energy Commission could be defined as a "covered procurement" or could also include "major" investments or "investments to meet environmental or other regulatory requirements." This annual filing would replace the existing filing requirement.

In addition to comments on the filing or notification options, the Energy Commission would like parties to address the following questions:

- If the Energy Commission were to establish a requirement for "major" investments, how should the term be defined? By a dollar amount? By some other criteria?
- If the Energy Commission were to establish a requirement for "investments to meet environmental or other regulatory requirements," is there any further definition of this term necessary?

- Would the two terms above capture the kinds of investments that are of most concern to parties? If not, is there some other category, short of “all” investments, that would be needed to cover such investments?
- Is an attestation that POU investments in non-EPS compliant plants made during the prior year comply with the EPS sufficient to ensure that these investments are consistent with SB 1368?

### Other Issues

In addition to hearing comments on a possible filing requirement, the Energy Commission is interested in hearing from parties on the following issues. First, participating POUs should provide a brief status update on their activities related to investments to meet environmental and regulatory requirements for the non-compliant facilities they have an ownership interest in. This status update should be submitted in writing in advance of the workshop and parties should be prepared to discuss this issue at the workshop. Second, comments made earlier in the proceeding suggest that the Energy Commission should make a change to Section 2913 of the regulations regarding the case-by-case review of pre-existing multi-party commitments. Specifically, comments propose that the term “investment” replace the term “covered procurement.” The Energy Commission welcomes written and oral comments on this proposal.

### **Public Comment**

Written comments must be filed with the Energy Commission Docket Unit by 5:00 p.m. on January 22, 2013, to be considered during the workshop. Include Docket Number “12-OIR-1” in the subject line or first paragraph of your comments.

You may hand deliver or mail comments to:

California Energy Commission  
Docket Unit, MS-4  
Re: Docket No. 12-OIR-1  
1516 Ninth Street  
Sacramento, CA 95814-5512

Alternatively, you may attach your comments to an e-mail and submit the e-mail to the Docket Unit at: **[docket@energy.ca.gov](mailto:docket@energy.ca.gov)**. E-mail attachments should be in Microsoft Word format or in portable document format (.Pdf).

All written material relating to this workshop will be filed with the Docket Unit and become part of the public record.

The Commission will accept oral comments during the workshop. The workshop leader may limit oral comments to three minutes per person. Any comments will become part of the public record in this proceeding.

## **Public Adviser and Public Participation**

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission activities. If you want information on how to participate in this forum, please contact the Public Adviser's Office at (916) 654-4489 or 800-822-6228 or e-mail at: [publicadviser@energy.ca.gov](mailto:publicadviser@energy.ca.gov).

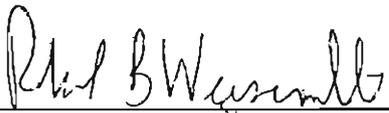
## **Information**

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz no less than five days prior to the workshop at 916-654-5146 or e-mail at: [lou.quiroz@energy.ca.gov](mailto:lou.quiroz@energy.ca.gov).

Please direct all news media inquiries to the Media and Public Communications Office at (916) 654-4989, or by e-mail at: [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

If you have questions on the technical subject matter of this meeting, please contact Melissa Jones, Electricity Supply Analysis Division, at (916) 654-3794, or by e-mail at: [melissa.jones@energy.ca.gov](mailto:melissa.jones@energy.ca.gov).

Dated: December 20, 2012, at Sacramento, California.



**ROBERT B. WEISENMILLER**  
Chair and Lead Commissioner  
12-OIR-1 Rulemaking Proceeding

**PARTICIPATION IN THE WORKSHOP THROUGH WEBEX  
THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE**

**1. COMPUTER LOG-ON WITH A DIRECT PHONE NUMBER:**

- Please go to <https://energy.webex.com> and enter the meeting number unique to the specific hearing date:
  - Meeting Number: **929 014 951**

When prompted, enter your information and the meeting password: **meeting@1**

After you login, a prompt will appear on-screen for you to provide your phone number. In the **Number box**, type your area code and phone number and click OK. **You will receive a call back on your phone for the audio of the meeting.** International callers can use the "Country/Region" button to help make their connection.

**2. COMPUTER LOG-ON FOR CALLERS WITH AN EXTENSION PHONE NUMBER, ETC:**

- Please go to <https://energy.webex.com> and enter the meeting number.
  - Meeting Number: **929 014 951**

When prompted, enter your information and the meeting password: **meeting@1**

***After you login, a prompt will ask for your phone number. Click "CANCEL."***

- ***Instead*** call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your screen after you login.

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**3. TELEPHONE ONLY (NO COMPUTER ACCESS):**

- Call 1-866-469-3239 (toll-free in the U.S. and Canada) and when prompted enter the meeting number:
  - Meeting Number: **929 014 951**

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit <http://support.webex.com/support/system-requirements.html>.

Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.