

**State of California
Office of Administrative Law**

In re:
California Energy Commission

Regulatory Action:

Title 20, California Code of Regulations

Amend section: 3201

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

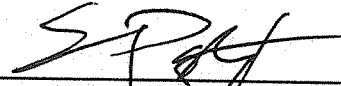
OAL Matter Number: 2021-0823-03

OAL Matter Type: Nonsubstantive (N)

This change without regulatory effect aligns the definition of "long-term procurement requirement" in section 3201 of title 20 of the California Code of Regulations with Public Utilities Code section 399.13 as recently amended by SB 702 (Stats. 2020, ch. 305).

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: September 30, 2021



Eric Partington
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Drew Bohan, Executive Director
Copy: Nicolas Oliver

NONSUBSTANTIVE

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2021-0823-03N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Energy Commission			AGENCY FILE NUMBER (If any)

ENDORSED - FILED
 in the office of the Secretary of State
 of the State of California

SEP 30 2021
 1:15 PM

OFFICE OF ADMIN. LAW
 2021 AUG 23 PM 4:17

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Enforcement Procedures for the RPS for Local Publicly Owned Utilities		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)			
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)					
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT			
		AMEND Section 3201			
		REPEAL Title 20			
3. TYPE OF FILING					
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)		<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only					
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)					
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)					
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))		<input type="checkbox"/> Effective on filing with Secretary of State		<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY					
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)		<input type="checkbox"/> Fair Political Practices Commission		<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____					
7. CONTACT PERSON Nicolas Oliver		TELEPHONE NUMBER (916) 931-8011	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) nicolas.oliver@energy.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Drew Bohan	DATE 8/20/21
TYPED NAME AND TITLE OF SIGNATORY Drew Bohan, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 30 2021

Office of Administrative Law

EXPRESS TERMS – Section 100 Request

Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities

California Code of Regulations Title 20. Public Utilities and Energy Division 2. State Energy Resources Conservation and Development Commission

Chapter 13. Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities

Section 3201 – Definitions

The following definitions apply to this chapter:

- (a) **"Annual procurement target"** means the amount of procurement that a POU must meet for a particular year for the purposes of calculating historic carryover.
- (b) **"Balancing authority"** means a balancing authority as defined in Public Utilities Code section 399.12 (b).
- (c) **"Balancing authority area"** means a balancing authority area as defined in Public Utilities Code section 399.12 (c).
- (d) **"Baseline"** means the initial RPS procurement of a POU that will form the basis of that POU's annual procurement targets.
- (e) **"Bundled"** means an electricity product that, when procured by the POU claiming the electricity product to satisfy its RPS procurement requirements, includes both the electricity and the associated renewable energy credits from an eligible renewable energy resource. For example, if the POU claiming an electricity product owns the associated eligible renewable energy resource, then all electricity products, including those associated with electricity consumed onsite, may be considered bundled electricity products.
- (f) **"California balancing authority"** means a balancing authority primarily located in California with more than 50 percent of its end-use electric load physically located within the political boundaries of California. This includes balancing authority areas operated by the California Independent System Operator Corporation, Los Angeles Department of Water and Power, Balancing Authority of Northern California, Imperial Irrigation District, and Turlock Irrigation District.
- (g) **"Commission"** means the State Energy Resources Conservation and Development Commission, commonly known as the California Energy Commission.

- (h) **"Compliance period"** means the compliance period as defined in Public Utilities Code section 399.30 (b) or the compliance period established by the Commission pursuant to Public Utilities Code section 399.30 (c).
- (i) **"Compliance report"** means the report that each POU files with the Commission following the end of a compliance period as specified in section 3207.
- (j) **"Contract end date"** means the last date that a POU is deemed to have procured electricity products from the counterparty to the contract. For example, if a contract requires the counterparty to supply the POU with electricity products from July 1, 2020, through January 1, 2025, the contract end date is January 1, 2025.
- (k) **"Contract execution date"** means the date that a contract is signed or approved through other action by the last party to sign the contract or approve it through other action.
- (l) **"Contract start date"** means the first date after the contract is executed that a POU is deemed to have procured electricity products from the counterparty to the contract. For example, if a contract is executed on January 1, 2020, and requires the counterparty to supply the POU with electricity products starting on July 1, 2020, the contract start date is July 1, 2020.
- (m) **"Electricity product"** means either:
 - (1) Electricity and the associated renewable energy credit generated by an eligible renewable energy resource.
 - (2) An unbundled renewable energy credit.
- (n) **"Eligible renewable energy resource"** means an electrical generating facility that the Commission has determined meets the definition of a "renewable electrical generation facility" in section 399.12 (e) of the Public Utilities Code, including a facility satisfying the criteria of section 399.12.5 of the Public Utilities Code, and has certified as an RPS-certified facility.
- (o) **"Executive Director"** means the Executive Director of the Commission, or his or her designee.
- (p) **"Historic carryover"** means a POU's procurement that satisfies the following criteria: 1) the procurement is for electricity and the associated renewable energy credit generated in 2004-2010 by an eligible renewable energy resource that met the Commission's RPS eligibility requirements in effect when the original procurement contract or ownership agreement was executed by the POU, 2) the original contract or ownership agreement was executed by the POU prior to June 1, 2010, and 3) the procurement is in excess of the sum of the 2004 – 2010 annual procurement targets defined in section 3206 (a)(5)(D) and was not applied to the RPS of another state or to a voluntary claim.
- (q) **"Joint powers agency" or "joint powers authority"** means an entity formed and created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code).

- (r) **"Long-term procurement requirement"** refers to the minimum amount of procurement from contracts of 10 years or more in duration, ownership, or ownership agreements, required by Public Utilities Code section 399.13 (b)(1).
- (s) **"Megawatt-hour" or "MWh"** means a unit of energy equivalent to one megawatt of electricity supplied for one hour.
- (t) **"NERC e-Tag"** means an electronic record that contains the details of a transaction to transfer energy from a source point to a sink where the energy is scheduled for transmission across one or more balancing authority area boundaries. For purposes of this definition, "source point" refers to the generation source of the energy, and "sink" refers to the balancing authority in which the electric load is located.
- (u) **"Ownership agreement"** includes:
 - (1) An agreement between a POU and a third party to acquire or develop part or all of an electrical generation facility or
 - (2) If the POU developed and owns part or all of the electrical generation facility and has no such agreement with a third party, the arrangement by which the POU developed the facility.
- (v) **"Ownership agreement execution date"** means the date that the ownership agreement is signed or approved through other action by the last party to execute the ownership agreement or, if there is no ownership agreement with a third party, the date that the facility first generates electricity products. If the facility is not an eligible renewable energy resource when the ownership agreement is executed or when the facility first generates electricity products, the execution date is the date upon which the facility may be considered an eligible renewable energy resource because it is utilizing renewable fuels or resources sufficient for it to qualify as an eligible renewable energy resource.
- (w) **"Portfolio balance requirement"** refers to the portfolio content category minimum requirement and maximum limit defined in Public Utilities Code section 399.16.
- (x) **"Portfolio content category"** refers to one of three categories of electricity products procured from an eligible renewable energy resource, as specified in section 3203.
- (y) **"POU" or "Local publicly owned electric utility"** means a local publicly owned electric utility as defined by Public Utilities Code section 224.3.
- (z) **"Procure"** means to acquire electricity products from eligible renewable energy resources, either directly from the eligible renewable energy resource or from a third party, through executed contracts or ownership agreements.
- (aa) **"Renewable electrical generation facility"** means a facility as defined in Public Resources Code section 25741(a).

- (bb) **"Renewable energy credit"** or **"REC"** means a certificate of proof, as defined in Public Utilities Code section 399.12 (h), associated with the generation of electricity from an eligible renewable energy resource.
- (cc) **"Renewables Portfolio Standard"** or **"RPS"** has the same meaning as defined in Public Utilities Code section 399.12 (i).
- (dd) **"RPS-certified facility"** means a facility that the Commission has certified as being eligible for the RPS pursuant to the Commission's RPS Guidelines, or that the Commission has granted limited RPS certification in place for the duration of that facility's contract or ownership agreement term pursuant to the Commission's RPS Guidelines.
- (ee) **"RPS Guidelines"** means the guidelines adopted by the Commission pursuant to Public Resources Code section 25747 (a) to implement the RPS.
- (ff) **"RPS procurement requirements"** refers to the portfolio balance requirement, the RPS procurement target, and, beginning January 1, 2021, to the long-term procurement requirement with which a POU must comply.
- (gg) **"RPS procurement target"** means the specified percentage of retail sales that a POU must procure of electricity products from eligible renewable energy resources for each compliance period.
- (hh) **"Resale"** or **"resold"** means the sale from any entity to a POU of part or all of the electricity products procured by the entity through an executed procurement contract, as opposed to an ownership agreement.
- (ii) **"Retail sales"** means sales of electricity by a POU to end-use customers and their tenants, measured in MWh. This does not include energy consumption by a POU, electricity used by a POU for its water pumping, or electricity produced for onsite consumption (self-generation).
- (jj) **"Retire"** means to claim a renewable energy credit in the tracking system established by the Commission pursuant to Public Utilities Code section 399.25 (c) and thereby commit the renewable energy credit to be used for compliance with the RPS, except as provided in section 3204 (b)(9).
- (kk) **"Soft target"** means an amount equivalent to the percentage of retail sales for a single year within a compliance period that is used to calculate the RPS procurement target for that compliance period. For example, the soft target for 2014 is equal to 20 percent of retail sales for that year.
- (ll) **"Unbundled REC"** means a REC from an eligible renewable energy resource that is not procured as part of the same contract or ownership agreement with the underlying energy from that eligible renewable energy resource; this includes RECs that were originally procured as a bundled product but were subsequently resold separately from the underlying energy.

(mm) **"Western Electricity Coordinating Council" or "WECC"** means the electricity coordinating council as defined in Public Utilities Code section 399.12 (k). WECC is part of the North American Electric Reliability Corporation and the regional entity responsible for coordinating and promoting bulk electric system reliability in the Western Interconnection serving all or part of the 14 western states and portions of Mexico (in northern Baja California) and Canada (in British Columbia and Alberta).

(nn) **"Western Renewable Energy Generation Information System" or "WREGIS"** refers to the independent, renewable energy tracking system implemented for the region covered by the Western Electricity Coordinating Council.

NOTE: Authority cited: Sections 25213 and 25218 (e), Public Resources Code; and section 399.30, Public Utilities Code. Reference: Sections 25741 and 25747, Public Resources Code; and section 399.30, Public Utilities Code.