

DOCKETED	
Docket Number:	24-OIR-03
Project Title:	Energy Data Collection - Phase 3
TN #:	271618
Document Title:	Earthjustice NRDC Phase 3 RFI Comments
Description:	N/A
Filer:	Matthew Vespa
Organization:	Earthjustice
Submitter Role:	Public
Submission Date:	7/24/2026 2:56:40 PM
Docketed Date:	7/24/2026



via electronic submission

July 24, 2026

California Energy Commission
Docket Unit
Docket No. 24-OIR-03
715 P Street
Sacramento, CA 95814

RE: Earthjustice and Natural Resources Defense Council Comments on Proposed Sales Reporting Requirements for Space Conditioning and Water Heating Equipment, Docket 24-OIR-03

Earthjustice and Natural Resources Defense Council (“NRDC”) appreciate the opportunity to comment on the third request for information (“RFI”) related to sales reporting requirements for space conditioning and water heating (“HVAC”) equipment in California. As stated in previous comment letters, we strongly support the efforts of the California Energy Commission (“CEC”) to establish data collection regulations for this equipment category.¹ The CEC’s collection of sales data is critical for energy demand forecasting, permitting compliance, and state climate progress.

As the CEC observed in its initial RFI for this proceeding, the “[f]ailure to ensure quality installations or maintenance of cooling systems result in a 20 to 30 percent increase in the peak electricity needed by such systems” and “[t]he lack of quality control is exacerbated by the failure of many contractors to pull building permits and verify minimum quality installation when replacing air-conditioning systems.”² For this reason, Earthjustice and NRDC have significant concerns with the Heating, Air-Conditioning & Refrigeration Distributors International (“HARDI”) alternative proposal, which would limit CEC access to information necessary to improve permitting compliance and its corresponding impact on peak energy demand. Rather than adopt the HARDI proposal, the CEC should proceed to a formal rulemaking and strengthen the draft Express Terms by: 1) restoring the scope of the regulation to include commercial equipment as initially proposed; 2) expanding the data reporting

¹ Docket 24-OIR-03, TN#266025, Earthjustice Comments on the Phase 3 Data Rulemaking RFI for HVAC and Water Heating Equipment (Sept. 16, 2025), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=266025&DocumentContentId=103039>; TN#268610, Earthjustice et al Comments on Draft Express Terms for Collection Regulations on Space Conditioning and Water Heating Equipment (Feb. 13, 2026), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=268610&DocumentContentId=105738>.

² Docket 24-OIR-03, TN#264545, CEC, RFI, Energy Data Collection Phase 3 – Space Conditioning and Water Heating Equipment Tracking (July 2, 2025), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=264545&DocumentContentId=101418>.

requirements to include fuel type, capacity, and refrigerant designation; and 3) increasing the frequency of reporting to at least biannually in early years of implementation. To effectuate these changes, we provide redlines to the draft Express Terms in Attachment 1.

1. The HARDI Alternative Proposal Undermines Key Rulemaking Objectives.

The HARDI proposal recommends that an independent third-party aggregator collect, classify, and anonymize reported data before transmitting it to the CEC.³ In transmitting data, the CEC “would not receive customer names, contractor identities, buyer addresses, contractor license numbers, seller-level sales volumes, brand/model data, transaction-level records, or distributor ERP data.”⁴ Moreover, the HARDI proposal would “remove any language that allows CEC to contact distributors about specific contractors or to request contractor-specific sales records under this rulemaking.”⁵

Adoption of the HARDI proposal would fundamentally impede the CEC’s ability to improve permitting compliance issues and enforce HVAC installation standards. The CEC identifies two main goals for this rulemaking, one of which is “to improve compliance with the California Energy Code to ensure energy efficiency savings on energy bills are realized by California homeowners and tenants.”⁶ Anonymization the reporting data would leave the CEC without the information necessary to address the compliance issues identified at the outset of this rulemaking process. Because the HARDI proposal forecloses achievement of a key proceeding objective, it is not a feasible alternative to the CEC proposal and should not be considered for adoption.

HARDI’s effort to justify its proposal on the grounds it protects confidentiality is unpersuasive. The CEC has the authority to deem reported information confidential, which exempts it from disclosure under the California Public Records Act.⁷ The CEC has a long history of handling confidential information from market participants and HARDI points to no instance where the CEC has compromised the confidentiality of market sensitive data through improper disclosure to the public. Further, as the CEC noted at the onset of this proceeding, lack of permitted and quality installations have a significant impact on exacerbating peak energy demand.⁸ Accordingly, access to information necessary to determine the extent of permitting compliance is critical to both accurate demand forecasting and to improve permitting outcomes to reduce peak load.

³ Docket 24-0IR-03, TN#266025, HARDI Alternative Proposal (July 8, 2026), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=271318&DocumentContentId=108853>,

⁴ *Id.* at 1.

⁵ HARDI Alternative Proposal at 11.

⁶ CEC, *Notice of Public Workshop and Second Request for Information (RFI) Space Conditioning And Water Heating Equipment Data Tracking*, at 2 (Dec. 22, 2025), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=268026&DocumentContentId=105039>.

⁷ Pub. Res. Code § 25322(a).

⁸ Docket 24-0IR-03, TN#264545, CEC, RFI, Energy Data Collection Phase 3 – Space Conditioning and Water Heating Equipment Tracking (July 2, 2025), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=264545&DocumentContentId=101418>.

2. The Scope of the Reporting Requirements Should Include Commercial Equipment as Originally Proposed.

The CEC's original proposal covered all equipment types excluding air filters listed in California Code of Regulations Title 20, Division 2, Chapter 4, Article 4, Sections 1601(b), (c), (e), and (f).⁹ The referenced sections of the California Code of Regulations broadly cover different types of air conditioning, space heating, and water heating equipment.¹⁰ In contrast, the CEC's most recent proposal limits data collection to residential equipment which, in the case of air conditioning, only includes single phase units with a cooling capacity less than 65,000 Btu/h.¹¹ In now restricting data collection to residential equipment, the CEC's most recent proposal would perpetuate the information gaps this rulemaking is intended to address. Accurate equipment sales data is critical for understanding progress in meeting California's climate and building electrification goals and to improve the accuracy of the CEC's energy demand forecast. Excluding commercial equipment from sales reporting requirements would leave the CEC in the same predicament of having to speculate about the extent and location of commercial heat pump deployment. At a minimum, the CEC would now be compelled to chase down permitting information at the local level. Commercial buildings in California consume 98,900 Gigawatt-hours of electricity – equivalent to powering 10 million residential homes – and 2,380 million therms of gas annually.¹² By narrowing the focus of the reporting requirements to residential equipment, the CEC will miss vital information about medium-to-large energy users, readily available data on the full extent of heat pump deployment in California, and key policy opportunities for progress.

In addition, by narrowing reporting to residential equipment, the CEC is limiting its ability to ensure compliance and effectiveness of measures to encourage existing commercial buildings to replace rooftop unit ("RTUs") with a heat pump upon burnout. As part of the 2025 Building Code, the CEC added requirements to encourage deployment of heat pumps as replacement for single zone packaged rooftop air conditioners with a capacity of less than 65,000 Btu/hr.¹³ While these units may largely fall within the definition of residential equipment, the CEC is proposing to strengthen this requirement to 240,000 Btu/h as part of the 2028 Building Code.¹⁴ However, under the CEC's most recent proposal, this type of equipment is excluded

⁹ Docket 24-OIR-03, TN#268026, CEC, *Notice of Public Workshop and Second Request for Information (RFI) Space Conditioning And Water Heating Equipment Data Tracking*, at 8 (Dec. 22, 2025), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=268026&DocumentContentId=105039> (proposed Sec. 1396.1(b); Cal. Code Regs).

¹⁰ 20 Cal. Code Regs § 1601.

¹¹ Docket 24-OIR-03, TN#270421, CEC, *Notice of Equipment Data Reporting Request For Information (RFI)* Written responses due by July 24, 2026 at 8-9 (June 9, 2026), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=270421&DocumentContentId=107661> (Draft Express Terms, § 1396.2(b)(11)(A)).

¹² CEC, 2022 California Commercial End-Use Survey (CEUS): Final Report, at 6 (Feb. 2024) https://www.energy.ca.gov/sites/default/files/2024-02/2022%20CEUS%20Final%20Report_ada.pdf; Assuming an average household consumes 10,000 kWh per year.

¹³ CEC, 2025 Building Energy Efficiency Standards for Residential and Nonresidential Buildings, Sec. 141.0(b)(2)(C) (July 2025), <https://www.energy.ca.gov/sites/default/files/2026-07/CEC-400-2025-010-F.pdf>.

¹⁴ Docket 25-BSTD-03, TN#270994, CEC, 2028 Energy Code, Pre-Rulemaking at pdf 102 (June 23, 2026), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=270994&DocumentContentId=108563>.

from reporting requirements, limiting the CEC's ability to readily determine the effectiveness of the building code in incentivizing heat pump deployment as the replacement for commercial rooftop space conditioning units. Restoring the scope of reporting to include this type of equipment will properly align and support reporting requirements with the CEC's other initiatives.

3. Data Reporting Should Include Equipment Fuel Type, Capacity, and Refrigerant Designation.

In addition to broadening the categories of reported equipment, the CEC should also expand the reporting requirements about the equipment itself. As stated in our previous comment letter, the CEC should collect additional information like fuel type, refrigerant classification, and capacity. This information is already known by reporters and will not unduly add to the compliance cost. While the CEC may be able to ascertain this information from appliance model numbers, model numbers are not standardized across manufacturers. To avoid data gaps or unnecessary work on the back end, the CEC should explicitly require these data categories. This will facilitate the ability of CEC staff to assess broader energy trends like fuel switching or demand changes without additional manufacturer outreach or time-consuming back-end database enhancement.

4. The Frequency of the Reporting Requirements Should Be Increased.

The CEC should increase the frequency of reporting to at least biannually, if not quarterly as previously proposed.¹⁵ More frequent reporting at the outset of program implementation is critical to enabling process improvements to correct for initial implementation issues. As written in the draft Express Terms, the first set of reports would be due in March 2028 assuming that the regulations go into effect in 2027. Following the synthesis of these first reports and the consolidation toward a usable dataset, the CEC will likely identify enforcement obstacles or data gaps. The agency would then have to wait another calendar year to get updated data if they were to institute any changes. This would waste valuable time in the lead up to California's 2030 building electrification goals to create three million climate-ready and climate-friendly homes and to deploy six million heat pumps.¹⁶ More frequent reporting periods, at least in the early years of implementation, would allow the CEC to correct for reporting issues that may arise in a timely manner.

Thank you for your consideration and your continued work on this important issue.

Sincerely,

¹⁵ Docket 24-01R-03, TN#268026, CEC, *Notice of Public Workshop and Second Request for Information (RFI) Space Conditioning And Water Heating Equipment Data Tracking*, at 2 (Dec. 22, 2025), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=268026&DocumentContentId=105039> (proposed Sec. 1396.3(a) of Draft Express Terms).

¹⁶ Office of the Governor, *Letter to CARB*, at 2 (July 2022), <https://www.gov.ca.gov/wp-content/uploads/2022/07/07.22.2022-Governors-Letter-to-CARB.pdf>.

Matt Vespa
Senior Attorney
Earthjustice
mvespa@earthjustice.org

Cassidy Childs
Senior Research and Policy Analyst
Earthjustice
cchilds@earthjustice.org

Merrian Borgeson
CA Director, Climate & Energy
NRDC
mborgeson@nrdc.org

Attachment 1. Recommended Amendments to Draft Express Terms

Additions are in blue and underlined. Deletions are in ~~red with strikethrough~~.

Title 20, Division 2, Chapter 3

Article 6. Space Heating, Space Conditioning, and Water Heating Equipment Data Collection

§ 1396.1. Title and Scope.

(a) The reports described in this Article shall be known as the Data Collection Reports for Space Conditioning and Water Heating Equipment.

(b) The reporting requirements of this Article shall apply to any entity:

(1) selling, offering for sale, or otherwise distributing in California any of the equipment specified in 1396.1(c), and

(2) selling or otherwise distributing such equipment to contractors that are either located in or doing business in California.

(c) The reporting requirements of this Article shall apply to sales of the following residential and commercial equipment: central air conditioners, central air conditioning heat pumps, non-central air conditioners, non-central air conditioning heat pumps, storage water heaters, instantaneous water heaters, and heat pump water heaters, including but not limited to single-package, single-split, mini-split, multi-split, and hydronic equipment.

(1) For split system equipment, including single-split, mini-split and multi-split equipment, the reporting requirements of this Article shall apply only to the outdoor unit.

§ 1396.2. Rules of Construction and Definitions.

(a) Rules of Construction.

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

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

(b) Definitions. In this Article, the following definitions apply. If a term is not defined here, the applicable definition in California Code of Regulations, Title 20, Division 2, Chapter 4, Article 4, Section 1602 shall apply.

(1) “CSLB” means the Contractors State License Board.

(2) “Commission” means the State Energy Resources Conservation and Development Commission also known as the California Energy Commission.

- (A) "Executive Director" means the executive director of the Commission.
- (3) "Contractor" has the meaning specified in California Business and Professions Code sections 7026, and 7026.1. A contractor is a "licensed contractor" when performing work while having an applicable CSLB-issued license in good standing. An "unlicensed contractor" is a contractor performing work without an applicable CSLB-issued license or the CSLB-issued license is not in good standing.
- (4) "Doing business" has the meaning specified in section 23101(a) of the California Revenue and Taxation Code. "Doing business in California" has the meaning of "doing business in this state for a taxable year" specified in section 23101(b) of the California Revenue and Taxation Code.
- (5) "Equipment" means any fixture, appliance, or other equipment included in the scope of this Article.
- (6) "FTB" means the Franchise Tax Board.
- (7) "Hydronic" means that the equipment is capable of performing both space and water heating or conditioning functions.
- (8) "Non-central air conditioner" and "non-central air conditioning heat pump" means equipment designed to be installed in a non-centralized configuration that otherwise meets the definition of "central air conditioner" or "central air conditioning heat pump", including but not limited to single-split, mini-split, multi-split, and other split system equipment.
- (9) "Outdoor unit" means a component of a split-system air conditioner, heat pump, or hydronic device designed to be installed outdoors for exchanging heat with outside air, and that typically consists of a condenser coil, compressor, and fan.
- (10) "Selling" means any activity requiring a seller's permit under California law.
- (11) State and federal equipment definitions. The following terms referring to specified equipment are defined in federal law and have the same meaning when used within this Article.

(A) "Central air conditioner" and "central air conditioning heat pump" have the meaning specified in 10 CFR 430.2, which is restated here for reference:

Central air conditioner or central air conditioning heat pump means a product, other than a packaged terminal air conditioner, packaged terminal heat pump, single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h, single-phase single-package vertical heat pump with cooling capacity less than 65,000 Btu/h, computer room air conditioner, or unitary dedicated outdoor air system as these equipment categories are defined at § 431.92 of this chapter, which is powered by single phase electric current, air cooled, rated below 65,000 Btu per hour, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu per hour,

and is a heat pump or a cooling unit only. A central air conditioner or central air conditioning heat pump may consist of: A single-package unit; an outdoor unit and one or more indoor units; an indoor unit only; or an outdoor unit with no match.

(B) “Storage water heater”, “instantaneous water heater” and “heat pump water heater” have the meaning specified in 10 CFR 430.2, which is restated here for reference:

Water heater means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(1) Storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(2) Instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(3) Heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

(C) “Commercial package air-conditioning and heating equipment ” have the meaning specified in 10 CFR 431.92, which is restated here for reference:

Commercial package air-conditioning and heating equipment means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air-conditioning heat pumps for commercial application.

(D) “Commercial heat pump water heater”, “commercial storage water heater”, and “commercial instantaneous water heater” have the meaning specified in 10 CFR 431.102, which is restated here for reference:

Commercial water heater means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(1) Commercial heat pump water heater (CHPWH) means a water heater (including all ancillary equipment such as fans, blowers, pumps, storage tanks, piping, and controls, as applicable) that uses a refrigeration cycle, such as vapor compression, to transfer heat from a low-temperature source to a higher-temperature sink for the purpose of heating potable water, and operates with a current rating greater than 24 amperes or a voltage greater than 250 volts. Such equipment includes, but is not limited to, air-

source heat pump water heaters, water-source heat pump water heaters, and direct geo-exchange heat pump water heaters.

(2) Storage water heater means a water heater that uses gas, oil, or electricity to heat and store water within the appliance at a thermostatically-controlled temperature for delivery on demand, including:

(1) Gas-fired storage water heaters with a rated input both greater than 75,000 Btu/h and less than 4,000 Btu/h per gallon of stored water;

(2) Oil-fired storage water heaters with a rated input both greater than 105,000 Btu/h and less than 4,000 Btu/h per gallon of stored water; and

(3) Electric storage water heaters with a rated input both greater than 12 kW and less than 4,000 Btu/h per gallon of stored water.

(3) Instantaneous water heater means a water heater that uses gas, oil, or electricity, including:

(1) Gas-fired instantaneous water heaters with a rated input both greater than 200,000 Btu/h and not less than 4,000 Btu/h per gallon of stored water;

(2) Oil-fired instantaneous water heaters with a rated input both greater than 210,000 Btu/h and not less than 4,000 Btu/h per gallon of stored water; and

(3) Electric instantaneous water heaters with a rated input both greater than 12 kW and not less than 4,000 Btu/h per gallon of stored water.

§ 1396.3. Reporting Periods and Requirements.

(a) For purposes of this article, beginning with calendar year 2027, ~~each calendar year shall be a reporting period beginning on January 1 and ending on December 31 of said year.~~

each calendar half shall be a reporting period and shall be defined as January 1 through June 30 and July 1 through December 31.

(b) Reports shall be submitted for each reporting period and shall contain the information specified in Section 1396.4 of this Article.

(1) Submittal of a report shall constitute a representation by the reporting entity and by the person making the submittal that all the information provided in or with the report is true, complete, accurate, and in compliance with all applicable provisions of this Article under penalty of perjury.

(c) Reports filed pursuant to this Article shall be submitted no later than three months following the biannual reporting period. ~~the first quarter following the change in calendar year, ending on the last day of March.~~

~~(1) For the first reporting period of calendar year 2027, the report shall be submitted no later than March 31, 2028.~~

(d) All data and reports shall be submitted on forms, and in accordance with instructions for such forms, specified by the executive director, which may include without limitation a requirement that the data or reports be submitted in electronic format generally or in a specific electronic format.

(e) Reports shall be deemed accepted upon uploading of required data to the CEC's data submission portal in the form and format specified by the executive director under 1396.3(d).

(f) Extension of Deadlines Specified in this Article. The company responsible for submitting data, a report, or an application may apply to the Executive Director for an extension of the deadlines established in this Article. An extension shall be granted if:

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

(A) The self-identifying information specified in 1396.4(c);

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

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

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

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

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

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

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

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

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

§ 1396.4. Data to be Reported.

(a) Sales to the following buyers shall be reported:

- (1) Contractors, which includes both licensed and unlicensed contractors;
 - (2) Employees of contractors; and
 - (3) Buyers acting on behalf of contractors, including but not limited to companies purchasing equipment for installation by contractors under their employment.
- (b) Reporting entities shall submit, in their annual report, the following data for each model of equipment sold during the reporting period to any of the entities described in 1396.4(a):
- (1) Equipment type;
 - (2) Make or brand;
 - (3) Model number;
 - (4) Fuel type of each unit;
 - (5) Capacity or size of each unit;
 - (6) ASHRAE refrigerant designation of each unit;
 - (7) If the unit is a heat pump, heat pump system configuration (ducted, ductless, minisplit) of each unit;
 - ~~(4)~~(8) Name of the buyer;
 - (A) The reported name shall be a company or business name if available, and a personal name only if there is not a company or business name associated with the buyer.
 - ~~(5)~~(9) Business or billing address of the buyer;
 - ~~(6)~~(10) Either:
 - (A) Buyer's CSLB-issued contractor license number, if issued; or
 - (B) Buyer's FTB-issued Business Entity ID number, if issued;
 - ~~(7)~~(11) Year and month of sale; and
 - ~~(8)~~(12) Number of units of that model sold to that buyer in that month within the reported calendar year.
- (c) In addition to the data required to be included in the report, reporting entities shall provide the following self-identifying information when submitting their report:
- (1) The name, address, telephone number, e-mail address, and, if available, fax number and URL (web site) address of the reporting entity; provided, however, that if a parent entity is filing on behalf of a subsidiary entity, if a subsidiary entity is filing on behalf of a parent entity, or if an affiliate entity is filing on behalf of an affiliate entity, then each entity shall be clearly identified and the information shall be provided for both entities;

(2) The name, address, telephone number, e-mail address, and, if available, fax number of the individual to contact concerning the report; and

(3) The name, address, telephone number, e-mail address, and, if available, fax number of the person submitting the report.

§ 1396.5. Data Access.

(a) Consistent with Public Resources Code section 25322(a)(2), data submitted under section 1396.4 shall be designated confidential by the Commission.

(b) The Commission may release records that are masked, aggregated, or anonymized to the extent necessary to ensure confidentiality consistent with Public Resources Code section 25322(a)(4) and its implementing regulations.

(c) Consistent with Public Resources Code section 25224, the Commission may share collected data with other California governmental entities in a confidential manner, for purposes including but not limited to improving compliance with other laws or reducing the need for duplicative or redundant parallel data collection.

§ 1396.6. Enforcement for Failing to File Timely Reports.

(a) The Commission may enforce against an entity obligated to submit reports for late or willfully inaccurate submittals, including by issuing civil penalties, consistent with Public Resources Code section 25321.