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FINAL STATEMENT OF REASONS

Modification of Regulations Governing the Power Source Disclosure Program
Docket No. 16-OIR-05
OAL File No. Z-2019-0827-02

I. UPDATE OF THE INITIAL STATEMENT OF REASONS

Government Code section 11346.9(a)(1) requires the Final Statement of Reasons (FSOR) to include an update of the information contained in the Initial Statement of Reasons (ISOR). Other than the changes noted below, no other changes to the ISOR are necessary and items from the ISOR that are not addressed below are incorporated by reference.

The following changes were made in 15-Day Language:

Section 1391 Definitions

California Balancing Authority
Modifications clarify the definition to align with the same definition under the Mandatory Reporting Regulation (MRR).

Custom electricity portfolio
Modifications clarify definition.

Delivered electricity
Modification provides specific guidance for multijurisdictional utilities such as PacifiCorp to ensure such entities have the ability to demonstrate delivery of electricity associated with California customers.

Electricity portfolio
Non-substantive modifications move statutory terms not used in these regulations from the definition title to a separate sentence within this definition.

Eligible firmed-and-shaped product
Modification substitutes the term “agreement” for “contract” to ensure the full range of relevant contractual arrangements are subject to the provisions of this subdivision.

Generating unit
Modification clarifies requirements to avoid ambiguity.

Mandatory Reporting Regulation

Non-substantive modifications ensure the official name of the defined regulations is reflected accurately.

Report electronically
Modification accommodates the use of new reporting software as improved technological options become available.

Scheduling coordinator
Modification deletes the subdivision lettering to be consistent with the rest of the definitions in this section. Subdivision lettering is unnecessary because all terms in this section are organized alphabetically.

Specified purchase
Modifications clarify that agreements are not required for facilities owned outright by a retail supplier. In addition, the term "purchase agreement" has been amended to "agreement" and the term "purchased electricity" amended to "procured electricity" to improve clarity and avoid ambiguity.

Specified system power of an asset-controlling supplier
Modification substitutes the term "agreement" for "contract" to ensure the full range of relevant contractual arrangements are subject to the provisions of this subdivision.

Unbundled REC
Modifications substitute the term "agreement" for "contract" and "ownership arrangement" for "ownership agreement." These changes are necessary to improve clarity and avoid ambiguity, and to cover the broader range of contractual and ownership circumstances.

Western Electricity Coordinating Council
Non-substantive modifications remove extraneous language that is unnecessary for purposes of the definition.

Section 1393 Accounting Methodology
Section 1393(a)(2)
Non-substantive modifications to this subdivision abbreviate terms previously referenced in Section 1391.

Section 1393(a)(6)
Modifications of this subdivision incorporate a clarifying change and amend the provision that allowed for adjustments to procurements of large hydro and nuclear resources, instead subjecting all remaining specified procurements to proportional adjustment. This change is necessary to ensure parity of treatment between renewables and non-renewable zero-carbon resources.

Section 1393(a)(7)
New section added states that a retail supplier cannot claim large hydro or nuclear power as specified purchases if they have sold or otherwise provided the environmental attributes to another party. This change is necessary to avoid double-counting as required under Public Utilities Code section 398.4(k)(2)(E) and to be consistent with the treatment of the environmental attributes of unbundled renewable energy credits (RECs) under these regulations.

Section 1393(b)(1)
Modifications of this subdivision replace “products” with “agreements” for clarity, as well as add a provision that RECs shall not be resold if a retail supplier chooses to use those RECs to substantiate marketing claims on the power content label. This change is necessary to avoid double-counting as required under Public Utilities Code section 398.4(k)(2)(E).

Section 1393(b)(2)
Non-substantive modification of this subdivision updates an internal reference.

Section 1393(c)(1)(A)
Modification of this subdivision clarifies that ownership arrangements are acceptable in lieu of purchase agreements, which is necessary to cover circumstances in which a retail supplier owns a facility outright. A second modification updates the term “purchased electricity” to “procured electricity” to improve clarity and avoid ambiguity. The third modification removes the phrase “to a California balancing authority,” which is redundant due to the definition of the term “delivered electricity,” to improve clarity.

Section 1393(c)(1)(B)
Modification of this subdivision restricts RECs from being resold if a retail supplier chooses to use those RECs to substantiate marketing claims on the power content label. This change is necessary to avoid double-counting as required under Public Utilities Code section 398.4(k)(2)(E).

Section 1393(c)(4)(A)
Non-substantive modification of this subdivision updates an internal reference.

Section 1393(d)(1)
Modification of this subdivision updates the term “ownership agreement” for “ownership arrangement.” This change is necessary to cover a broader range of contractual and ownership circumstances.

Section 1393(d)(1)(A)

Modifications to this subdivision substitute the term “agreement” for “contract” and “ownership arrangement” for “ownership agreement.” These changes are necessary to improve clarity and avoid ambiguity, and to cover a broader range of contractual and ownership circumstances. Additional minor modifications to this subdivision are necessary to improve clarity.

Section 1393(d)(1)(B)
Modification to this subdivision updates the term “ownership agreement” for “ownership arrangement,” which is necessary to cover a broader range of contractual and ownership circumstances and to avoid ambiguity. Further modifications specify exactly which types of contract amendments or extensions would require the referenced emissions to be included in the GHG emissions intensity calculation. These modifications are necessary to provide specific reporting guidance, improve clarity, and avoid ambiguity.

Section 1393(d)(2)(A)
Modification to this subdivision adds language regarding negative credits to improve clarity and avoid ambiguity. Additional modification abbreviates a term previously defined in Section 1391. The details regarding exactly how the Energy Commission will inform the local POU and how the local POU will provide the corrected report have not yet been established. The Energy Commission does not expect this provision to be used frequently. The statutory requirements of this provision are so narrowly defined that, to date, only San Francisco Public Utilities Commission qualifies, and that utility procures significantly more zero-GHG electricity than it consumes over a 20-year rolling average. The Energy Commission considers it unlikely that a qualifying utility will make claims on zero-GHG electricity credits it does not have banked since the utility will rely on data that will be co-tracked by itself and the Energy Commission. Therefore, establishing these details at this time was determined to be unnecessary. If and when the stated scenario ultimately arises, the Energy Commission will likely inform the POU via phone or letter and give the entity a period of time determined to be reasonable to respond.

Section 1393(d)(2)(C)
Modification substitutes the term “agreement” for “contract” to ensure the full range of relevant contractual and ownership arrangements are subject to the provisions of this subdivision.

Section 1394 Annual Submission to the CEC
Section 1394(b)
This subdivision was modified to specify that retail suppliers will begin reporting GHG data in 2021 for procurements starting January 1, 2020. This change is necessary to reflect a delay between adoption of regulatory requirements and the start of reporting as anticipated in statute. Public Utilities Code section 398.4(k)(2)(F)(i) requires that the California Energy Commission (CEC) adopt these regulations by

January 1, 2018, and, based upon that, specified that reporting on the GHG emissions intensity should commence on June 1, 2020, for 2019 procurements. It is clear that these two deadlines are linked, as they are specified in the same subdivision; one is clearly intended to flow from the other. Due to the complexity of issues involved and markedly differing interests and concerns that had to be balanced, these regulations were adopted later than the date required in statute.

Because the regulations have been delayed, it is reasonable for the reporting requirement to also be delayed. Public Resources Code section 398.4(k)(3) requires that “any marketing or retail product claims relating to the greenhouse gas (GHG) emissions intensity of the electric supply portfolio of a retail supplier shall be consistent with the methodology adopted by the CEC pursuant to this section.” Retail suppliers have already made GHG claims about 2019 purchases that are not consistent with the methodology adopted by the CEC in December 2019. Were the regulations to apply to 2019 purchases, retail suppliers would be in violation of the statute and regulations immediately upon the regulations becoming effective, putting the retail suppliers in an untenable position. It would also be confusing to customers who have received claims regarding the GHG emissions of the electricity they have purchased to be presented with a label that in some cases would differ markedly from the claims (where, for instance, a retail supplier has relied heavily on firmed-and-shaped RECs for its claims).

The proposed delay avoids putting retail suppliers in an unfair position and avoids the potential for customer confusion, ensuring that when the GHG information is provided in 2021 (for 2020 purchases) it will meet the statutory requirement of being simple-to-understand for the consumer. This approach is supported by compelling stakeholder comment and honors the intent of the legislation to ensure retail suppliers have time to adjust to the new methodology and ensure their claims about their products comply with the statutory directive that they not conflict with the adopted methodology. Public Utilities Code section

Section 1394(b)(1)(B)(4)
Non-substantive modification to this subdivision updates an internal reference.

Section 1394(b)(1)(B)(5)
This subdivision provides new requirements for the reporting of unspecified power, which is necessary to ensure retail suppliers report unspecified power under the revised requirements of these regulations.

Section 1394(b)(1)(C)(2)(B)
Non-substantive modification to this subdivision adds the word “also” to improve clarity.

Section 1394(b)(3)(A)
Non-substantive modification to this subdivision updates an internal reference.

Section 1394(c)(1)
Non-substantive modifications to this subdivision abbreviate a term previously defined in Section 1391.

Section 1394.1 Retail Disclosure to Consumers

Section 1394.1(a)

Modification to this subdivision parallels the modifications made to Section 1394(b) stating that GHG reporting shall begin in 2021 for 2020 procurements. As discussed above regarding the modifications to Section 1394(b), this change is necessary to reflect a reasonable transition between adoption of these regulations and the start of reporting of GHG data, consistent Public Utilities Code section 398.4(k)(2)(F)(i).

Section 1394.1(a)(3)

Non-substantive modification to this subdivision amends the term “total system electricity” to “total statewide retail electricity sales” to align the term as it is used in Public Utilities Code section 398.4(k)(1).

Section 1394.1(b)(1)

Modifications to this subdivision replace language pertaining to a retail supplier’s webpage and add language from Public Utilities Code section 398.4(b). This change improves clarity and avoids ambiguity.

Section 1394.1(b)(2)

Modification to this subdivision reverts previously proposed regulatory language back to statutory language in Public Utilities Code section 398.4(c). This change addresses stakeholder comment on the previously proposed interpretation of the statutory deadline. The CEC concluded that incorporating this provision exactly as written in statute better serves program and stakeholder needs. Further modification clarifies that the requirement for a retail supplier to display its power content label on its website only applies to entities that maintain a webpage dedicated to communicating information about electric service. This change is necessary to reflect statutory requirements.

Section 1394.1(c)

Non-substantive modifications to this subdivision rephrase the sentence for clarity.

Section 1394.1(c)(1)

Non-substantive modification to this subdivision amends the term “total system electricity” to “total statewide retail electricity sales” to align the term as it is used in Public Utilities Code section 398.4(k)(1).

Section 1394.1(c)(3)

Non-substantive modification to this subdivision amends the term “total system electricity” to “total statewide retail electricity sales” to align the term as it is used in Public Utilities Code section 398.4(k)(1).

Section 1394.1(d)

Modifications of this subdivision amend the requirement for multijurisdictional utilities to disclose a proportional share of system resources associated with California retail load, rather than the full share of resources associated with all customers of the multijurisdictional utility. This change is necessary to adhere more closely to the statutory intent to disclose resources associated with California retail load as stated under Public Utilities Code section 398.1(a).

Section 1394.1(e)
Modification of this subdivision substitutes the term “agreement” for “contract” to ensure the full range of relevant contractual arrangements are subject to the provisions of this subdivision.

Section 1394.1(i)
Modification of this subdivision removes a reference to an internet address for the Power Source Disclosure (PSD) program as the location where the power content label template can be found. This change is necessary to ensure the CEC can determine the most appropriate mechanism for providing the template to retail suppliers as improved technological and administrative options become available.

Section 1394.1(j)
Modifications of this subdivision clarify guidance to retail suppliers that elect to include additional information on their power content label. The modifications add additional information and further describe the approval process and timelines. These changes are necessary to make specific the statutory provision under Public Utilities Code section 398.4(h)(7) and to avoid ambiguity.

The form of submission of this information is not proscribed. The Energy Commission anticipates that retail suppliers will submit the proposed information electronically, either by emailing Energy Commission staff directly, or by docketing the information in the Power Source Disclosure Program docket for that year. The additional information must be provided by May 1. The Energy Commission will have until June 15 to make a decision and would issue the template shortly thereafter, most likely by emailing the revised template to the requesting party. The June 15 deadline was chosen to ensure that retail suppliers are provided the template early enough to distribute the power content label by the deadline provided in the regulations. The May 1 deadline was chosen to give the Energy Commission enough time to consider the proposed language and make coordinate with the retail supplier on any changes if necessary.

The entities that are subject to these regulations are a small and limited group and, being subject to numerous other Energy Commission programs as well, are in close contact with Energy Commission staff throughout the year. Thus, the Energy Commission determined it was not necessary to specify in the regulations how exactly the information was to be provided or circumscribe how communication with the Energy Commission regarding this matter was to occur.

Section 1394.1(k)
Non-substantive modification to this subdivision change the term “electricity supply portfolio” to “electricity portfolio” to ensure consistent terminology usage throughout the regulations.

Section 1394.1(l)
Non-substantive modifications to this subdivision rephrase the provision for clarity.

Section 1394.1(l)(1)
Modifications to this subdivision remove introductory material to the footnote language and change the footnote language to characterize unbundled RECs more accurately. These changes are necessary for to present information that is simple-to-understand, as required by Public Utilities Code section 398.1(b).

Section 1394.1(l)(2)
Addition of this new subdivision sets apart this sentence as a discrete footnote and removes a quotation mark. These changes are necessary for clarity of information on the power content label.

Section 1394.1(l)(3)
Modifications to this subdivision remove introductory material to the footnote language and remove a quotation mark. These changes are necessary for clarity of information on the power content label.

Section 1394.2(b)(1)(A)
Modifications to this subdivision remove references to specific schedules and specifically identify unbundled RECs as subject to the provisions of this subdivision. These changes are necessary for clarity.

Section 1394.2(b)(1)(C)
Non-substantive modifications to this subdivision change the organizational heading for clarity and specify that the auditor is the party subject to these provisions to avoid ambiguity.

Section 1394.2(b)(2)
Modifications to this subdivision remove references to specific schedules and the one percent threshold for exceptions, which is necessary to improve the accuracy and transparency of the audit.

II. LOCAL MANDATE DETERMINATION

If adopted, the proposed regulations would impose a mandate on local agencies, but not school districts. Pursuant to Government Code section 17556(d), the costs would not be required to be reimbursed because the local agencies have the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. Public Utilities Code section sections 10001, 11501, 15501, and 20500 et seq. provide revenue sources for the affected entities to recoup any costs incurred through compliance with these proposed regulations.

III. UPDATED INFORMATIVE DIGEST

Pursuant to Government Code section 11346.9(b), other than as discussed below, there have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

After the NOPA was filed on October 11, 2019, the CEC published a notice extending the comment period to October 28, 2019. On November 8, 2019, a notice of postponement of the originally scheduled public hearing was mailed and, on November 25, 2019, a new notice for a December 11, 2019, public hearing was mailed.

IV. CONSIDERATION OF ALTERNATIVE PROPOSALS

The CEC determined that no alternative before it would be more effective in carrying out the purpose for which this action is proposed; would be as effective and less burdensome to affected persons than the adoption of the proposed regulations; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

In the ISOR, the CEC discussed alternatives considered during the informal portion of the rulemaking and incorporates that discussion here by reference.

Beyond the alternatives addressed in the ISOR, the CEC has considered the following additional alternatives.

Reconcile total procurements to retail sales using a different method

The CEC received suggested alternatives to the adjustment mechanism under Section 1393(a)(6) to account for procurement in excess of retail sales by adjusting tiers of resources according to their similarity to the emissions profile of unspecified power.[1] Some stakeholders suggested that the reconciliation method should only adjust all non-renewables proportionally to account for the difference between total procurement and retail sales. Other stakeholders suggested that all resources should be proportionally adjusted. Either method, stakeholders argued, would more accurately reflect the portfolio of resources associated with retail sales.

[1] See, for example, Anaheim Comments, December 6, 2019.

The CEC proposed proportionally adjusting all resources through an early pre-rulemaking white paper. The CEC received broad stakeholder objections to this approach, as retail suppliers argued they should be able to designate preferred resources as specifically attributed to retail sales. In response, the CEC proposed and adopted its tiered adjustment mechanism that preferentially assigns renewables and zero-GHG procurements to retail sales and identifies resources for adjustment based on their similarity to the emissions profile of unspecified power. This means that natural gas resources, which bear more similar emissions profiles to unspecified power, will be adjusted before coal resources. The CEC believes this approach is appropriate since over-procured resources may be resold back to the grid as unspecified power. Adjusting coal and natural gas proportionally would provide retail suppliers with a method to mask the GHG emissions of coal, which are substantially higher than the GHG emissions of unspecified power and natural gas generators.

Retrospective allocation of GHG-free attributes

Some stakeholders advocated for a modification to the proposed regulations to allow an investor-owned utility to retrospectively allocate the GHG-free attributes of large hydro and nuclear resources to other retail suppliers that share in the financial obligations of such resources through the Power Charge Indifference Adjustment.[2] These stakeholders argued this change would fairly allocate resources among all parties that participate in the Portfolio Charge Indifference Adjustment.

The CEC considered this approach but determined that retrospective allocation of attributes in effect parallels unbundled REC trading. The adopted AB 1110 framework does not allow unbundled RECs to adjust the fuel mix or GHG emissions intensity. Consequently, the CEC concluded that modifying the regulations to allow retrospective allocation of zero-GHG attributes would undermine the adopted regulatory framework and would be less effective at meeting the statutory requirements to provide information to consumers that is accurate, reliable, and simple-to-understand as required under Public Utilities Code section 398.1(b).

Require retail suppliers to true up power content labels if they resold claimed RECs in a subsequent year

Some stakeholders argued that the regulations must require a true up of power content label claims to ensure retail suppliers accurately adjust their marketing claims if the retail supplier resold RECs associated with directly delivered and firmed-and-shaped products in a subsequent year.[3] Without this requirement, the stakeholders contended, the proposed regulations could allow for double-counting.

[2] See, for example, CalCCA Comments, December 10, 2019.
[3] See, for example, CRS Comments, September 6, 2019.

The CEC considered such a provision during pre-rulemaking. However, the CEC concluded that the power content label is meant to be an annual snapshot, and thus should be accurate at the point in which it was created. Furthermore, a resold REC cannot be repackaged as a directly delivered or firmed-and-shaped product; it must be reclassified as an unbundled REC, which means there is no risk of double-counting for the purposes of calculating fuel mixes and GHG emissions intensities. To ensure against potential double-counting, however, the CEC inserted language in sections 1393(b)(1) and (c)(1)(B) specifying that the environmental attributes of electricity cannot be sold once a retail supplier has claimed it on the power content label.

Present dual accounting methodologies on the power content label

Some stakeholders suggested presenting a REC-based accounting methodology alongside the proposed accounting methodology on the power content label.[4] This approach would allow retail suppliers to communicate to their consumers how their fuel mix and GHG emissions intensities would appear if RECs were used as the basis for calculations.

The CEC considered and rejected this proposal. Incorporating a competing methodology that fundamentally contradicts the adopted methodology for calculating the fuel mix and GHG emissions intensity would undermine the goal to present information that is accurate, reliable, and simple-to-understand.

Transition to all-generation tracking in WREGIS

One commenter recommended that the State work with the governing board of WREGIS to pursue all-generation tracking, which could be used to support the PSD program and would allow for a more precise calculation of unspecified power.

The CEC considered and rejected this proposal as falling outside the scope of this rulemaking. WREGIS is not controlled by the CEC and any changes to that program involve a lengthy undertaking involving many interested parties. While this approach might be beneficial in the long term, it would not meet the immediate needs expressed in AB 1110 and is not something the CEC could implement on its own. For these reasons the CEC rejected this approach in favor of that reflected in the adopted regulations.

V. ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The CEC considered impacts to small businesses and alternatives in the Notice of Proposed Action and the Initial Statement of Reasons, and hereby incorporates these discussions by reference. The CEC did not identify any small businesses that will be adversely impacted by the

[4] See, for example, SMUD Comments, October 28, 2019.

adopted regulations. The adopted regulations will not have a significant adverse economic impact on small business and no alternatives were proposed that would lessen any adverse economic impact on small business. For the purposes of this analysis, the CEC used the consolidated definition of small business in Government Code section 11346.3(b)(4)(B).

VI. DOCUMENTS RELIED UPON

No materials were relied upon that were not already identified in the ISOR.

VII. INCORPORATION BY REFERENCE

The CEC provided in the Notice of Proposed Action that the following two documents would be incorporated by reference:

United States Government Accountability Office, *Government Auditing Standards*, July 2018 (GAO-18-568G)

This document is incorporated by reference because it would be cumbersome, unduly expensive, and impractical to publish in the California Code of Regulations. This document is 232 pages long and sets forth the auditing standards that must be followed during the audits required pursuant to section 1394.2. Incorporating these requirements in these regulations would be cumbersome and interfere with the readability of the proposed regulations; therefore, the CEC believes incorporating this document by reference is justifiable and a preferable approach.

The document was available throughout the course of this rulemaking, from September 5, 2019 to present at the Warren-Alquist State Energy Building at 1516 Ninth Street, Sacramento, California 95814, on business days from 9:00 am to 5:00 pm., by request from the CEC and directly form the Government Accountability Office website at: https://www.gao.gov/assets/700/693136.pdf.

California Public Utilities Commission, *Energy Division's Portfolio Content Category Classification Review Process Handbook*, *pg. 3*, October 2017.

The relevant portion of this document is one page long and sets forth Portfolio Content Category 2 (PCC 2) requirements for retail sellers under the California Public Utilities Commission's (CPUC) RPS Program. Incorporating these requirements in these regulations would be cumbersome and interfere with the readability of the proposed regulations. Because these regulations deal with numerous complicated concepts, it is important that the definitions be as streamlined as possible and not unnecessarily duplicate work done by other agencies. The CPUC has already defined the concept of firmed-and-shaped resources (which it labels PCC 2) as it applies to the entities it regulates, and referencing that definition, instead of inserting lengthy duplicative language in our definitions, ensures that there is no room for confusion as to whether we are adopting that definition or creating a new one.

The document was available throughout the course of this rulemaking, from September 5, 2019, to present at the Warren-Alquist State Energy Building at 1516 Ninth Street, Sacramento, California 95814, on business days from 9:00 am to 5:00 pm., by request from the CEC, online in our dockets, and directly from the CPUC's website at: https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442454933

VIII. SUMMARY OF RESPONSES TO PUBLIC COMMENTS RECEIVED

LEGEND

The commenter	Comment Nos./Date
Anaheim Public Utilities (Anaheim)	1A:1-3/October 17, 2019 1C:1-2/December 6, 2019 1D:1/December 11, 2019
The City of Pasadena, Water and Power Department (Pasadena)	2A:1-3/October 28, 2019
Southern California Public Power Authority (SCPPA)	3A:1-4/October 28, 2019 3C:1-4/December 10, 2019 3D:1-4/December 11, 2019
California Municipal Utilities Association (CMUA)	4A:1-4/October 28, 2019 4C:1-2/December 10, 2019 4D:1-4/December 11, 2019
Sacramento Municipal Utility District (SMUD)	5A:1-16/October 28, 2019 5B:1-9/October 7, 2019 5C:1-10/December 10, 2019 5D:1-6/December 11, 2019
Turlock Irrigation District (TID)	6A:1-2/October 28, 2019 6C:1-2/December 10, 2019
Los Angeles Department of Water and Power (LADWP)	7A:1-8/October 28, 2019 7C:1-6/December 11, 2019
M-S-R Public Power Agency (M-S-R)[5]	8A:1-2/October 28, 2019 8C:1-2/December 10, 2019 8D:1-4/December 11, 2019
Northern California Power Agency (NCPA)	9A:1-6/October 28, 2019 9B:1-5/October 7, 2019 9D:1-6/December 11, 2019

[5] M-S-R is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding.

California Community Choice Association (CalCCA)	10A:1-10/October 28, 2019 10B:1-8/October 7, 2019 10C:1-2/December 10, 2019
American Wind Energy Association California (AWEA-CA)	11A:1-3/October 28, 2019 11B:1-2/October 7, 2019
Avangrid Renewables	12A:1-4/October 28, 2019 12B:1-5/October 7, 2019
Silicon Valley Clean Energy (SVCE)	13C:1/December 10, 2019
Marin Clean Energy (MCE)	14B:1-4/October 7, 2019 14C:1/December 10, 2019
Idaho Power Company (Idaho Power)	15A:1-4/October 28, 2019
The Regents of the University of California (UC)	16A:1-9/October 28, 2019 16B:1-10/October 7, 2019
Powerex Corp. (Powerex)	17A:1/October 28, 2019
Shell Energy North America (US), L.P. (Shell Energy)	18A:1-3/October 28, 2019 18B:1-3/October 7, 2019
PacifiCorp d/b/a Pacific Power (PacifiCorp)	19A:1-7/October 28, 2019 19C:1-7/December 10, 2019
San Diego Gas and Electric Company (SDG&E)	20A:1-4/October 28, 2019
Pacific Gas and Electric Company (PG&E)	21A:1-6/October 28, 2019 21B:1-4/October 7, 2019 21C:1-4/December 10, 2019 21D:1-4/December 11, 2019
California Wind Energy Association (CalWEA)	22A:1-3/October 28, 2019
The Utility Reform Network (TURN)	23A:1-5/October 28, 2019 23B:1-6/October 7, 2019 23D:1-4/December 11, 2019
Coalition of California Utility Employees (CUE)	24A:1-4/October 28, 2019 24B:1-4/October 7, 2019 24D:1/December 11, 2019
Sierra Club	25A:1-2/October 28, 2019 25D:1/December 11, 2019
Near Zero	26A:1-7/October 25, 2019
Center for Resource Solutions (CRS)	27A:1-48/October 28, 2019 27B:1-3/October 7, 2019 27C:1-5/December 9, 2019 27D:1-7/December 11, 2019
Jeremy D. Weinstein, Esq.	28A:1-10/October 28, 2019
3Degrees Group Inc. (3Degrees)	29A:1-8/October 28, 2019 29B:1-4/October 7, 2019 29C:1-9/December 10, 2019
Resources for the Future (RFF)	30A:1-2/October 24, 2019
The Climate Registry (TCR)	31A:1-5/October 28, 2019 at 4:23:51 PM (Comments submitted on October 28, 2019 at 4:15:46PM withdrawn and superseded by 31A)

Robert Johnson	32A:1-8/October 28, 2019
Steve Uhler	33A:1/October 6, 2019 at 9:11:19 PM 33A:2-4/October 8, 2019 at 7:25:39 AM 33A:5-7/October 7, 2019 at 10:38:14 PM 33A:8/October 7, 2019 at 8:59:17 PM 33A:9-10/October 8, 2019 33A:11-13/October 27, 2019 33A:14/September 11, 2019 at 10:55:36 PM 33A:15/September 29, 2019 at 6:17:04 PM 33A:16/September 29, 2019 at 6:26:12 PM 33A:17/October 6, 2019 at 11:33:44 PM 33B:1-11/October 7, 2019 33B: 12-20/October 7, 2019 33C:1-2/December 1, 2019 33C:3-5/December 2, 2019 33C:6/December 4, 2019 33C:7/December 8, 2019 33C:8/December 10, 2019 33D:1-3/December 11, 2019
City of Roseville/Roseville Electric Utility	34B:1-4/October 7, 2019
San Francisco Public Utilities Commission (SFPUC)	35B:1-4/October 7, 2019
East Bay Community Energy (EBCE)	36B:1-2/October 7, 2019
Peninsula Clean Energy Authority (PCE)	37B:1-2/October 7, 2019
Philip Shofield	38B:1 /October 7, 2019
Susie Berlin	39B:1/October 7, 2019

Note: Responses to comments are indented. Responses apply to all comments grouped together above, including situations in which multiple paragraphs are grouped above one response.

SECTION 1391: "CUSTOM ELECTRICITY PORTFOLIO"

COMMENT NO. 33A16, 33B1: The commenter expressed uncertainty about the meaning of a private contract as it relates to the definition of a "custom electricity portfolio." The commenter questioned whether public contracts are excluded or whether the retail supplier could impair public contracts at will. The commenter further suggested referring to a standard contract or tariff to distinguish between public and private contracts.

> **RESPONSE**: In response to comments, the CEC modified the definition language to avoid potential areas of ambiguity. The adopted definition does not include portfolios "offered in the retail supplier's general marketing materials," as noted in the definition language.

SECTION 1391: "DELIVERED ELECTRICITY"

COMMENT NO. 20A2: The commenter recommended that these regulations recognize Portfolio Content Category 0 products through the definition of "delivered electricity," and to count such generation as renewable and GHG-free under this program.

> **RESPONSE**: No change to the regulations. Portfolio Content Category 0 is not otherwise defined in regulation; rather it is a term used by the CEC to refer to electricity products procured under contracts or ownership agreements executed before June 1, 2010, from a facility that met the requirements to be certified according to the Renewables Portfolio Standard (RPS) Eligibility Guidebook in place at the time the contract was executed, in accordance with Section 3202 (a)(2) of the RPS POU Regulations. Portfolio Content Categories are constructs of the RPS program, rather than the PSD program. Nevertheless, renewables procured prior to legislative requirements for such procurement are eligible for the grandfathering provision under Section 1393(d)(1) that allows undelivered renewables to be counted according to the emissions profile of the associated REC.

COMMENT NO. 33C2: The commenter asserted that the definition of "delivered electricity" be amended to ensure that delivery includes consumption. To this end, the commenter suggested that the definition require that the *final* point of interconnection must be within a California balancing authority, rather than the *first* point of interconnection, and that delivered electricity must *serve electricity portfolio customers.*

> **RESPONSE**: No change to the regulations. The purpose of this provision is to identify resources that are directly interconnected to a California balancing authority. Changing the point of interconnection from the *first* point to the *final* point would make any generator in the West potentially a directly delivered resource, which undermines the purpose of this definition. Furthermore, the regulations already require that electricity disclosed on the power content label should serve retail sales, which means the electricity must serve electricity portfolio customers.

SECTION 1391: "ELECTRICITY PORTFOLIO"

COMMENT NO. 33A10: The commenter expressed uncertainty about the shared definition of the terms "electricity portfolio," "electric supply portfolio," and "electricity offering."

COMMENT NO. 33B12: The commenter requested clarification about why "electricity offering" and "electricity supply portfolio" are not used in the express terms while "electricity portfolio" is.

> **RESPONSE:** To improve clarity, the CEC removed the alternate terms "electricity offering" and "electric supply portfolio" from the definition subject, and instead mentioned that those terms, as used under relevant statutes, are meant to have the same definition as "electricity portfolio," which is the term used in these regulations.

COMMENT NO. 33B14, 33B15: The commenter requested clarification as to why the CEC is choosing to use the term portfolio instead of simply using the term "offer" or "tariff". The commenter expressed concern that use of the term portfolio adds confusion.

> **RESPONSE:** As explained in the response directly above, the CEC choose "electricity portfolio" to consolidate several terms that are used in statute and in the industry as the CEC believes that term best characterizes the electric service options offered by retail suppliers.

COMMMENT NO. 33B13: The commenter requested clarification as to whether "portfolio" and "electricity portfolio" were synonymous. Additionally, the commenter requested clarification as to whether customers, whose utility has many tariffs, who purchase one of their portfolios, can expect to receive a power content label.

> **RESPONSE**: Yes, "portfolio" and "electricity portfolio" are synonymous under these regulations. And yes, all customers should receive a power content label if they subscribe to an electricity portfolio offered by a retail supplier.

COMMENT NO. 16A3: The commenter noted retail suppliers can have dozens of different rate tariffs and that electric service providers (ESPs) are free to negotiate customized contracts. The commenter further observed that if it is not the intention for each of these rates to require a separate fuel mix and GHG calculation, then this definition should be amended.

> **RESPONSE**: No change to the regulations. The regulations intend for retail suppliers to provide separate disclosure of each electricity portfolio.

SECTION 1391: "ELECTRICITY PRODUCT"

COMMENT NO. 33A9: The commenter expressed uncertainty about the definition of "electricity product," questioning whether unbundled RECs and resources categorized as "Other" count as electricity products.

> **RESPONSE**: No change to the regulations. The term "electricity product" is a common industry term and is used in these regulations to define another term, "electricity portfolio." These regulations reflect an established understanding of the term "electricity product" as it is defined under Title 20, Section 3201(j) of the California Code of Regulations. No reporting entity has submitted comments expressing confusion about the meaning of "electricity product" as it is used under these regulations.

SECTION 1391: "ELIGIBLE RENEWABLE"

COMMENT NO. 5A12: The commenter suggested the regulations not require renewables to be sourced from RPS-eligible resources if they serve voluntary green electricity portfolios, since procurement for those portfolios does not contribute to RPS compliance.

RESPONSE: No change to the regulations. Public Utilities Code section 398.4(h)(5) stipulates that eligible renewables must be sourced from RPS-certified resources.

SECTION 1391: "PRODUCT-SPECIFIC WRITTEN PROMOTIONAL MATERIALS"

COMMENT NO. 33A3: The commenter suggested that the definition of "product-specific written promotional materials" should only pertain to products offered, rather than "advertised or offered."

RESPONSE: No change to the regulations. This pre-existing regulatory definition covers various means of marketing an electricity portfolio and provides clear understanding of the regulatory requirements.

SECTION 1391: "REPORT ELECTRONICALLY"

COMMENT NO. 33C4: The commenter suggested revising the "report electronically" definition from "data entry systems developed by the CEC" to "reporting systems approved by the CEC to minimize the reporting burden and cost of reporting under this Article." The commenter states that such a change is necessary to ensure that least cost data reporting systems can be adopted by the program to ensure the reporting burden is minimized.

RESPONSE: No change to the regulations. The phrase "developed by the CEC" is meant to include reporting systems indirectly developed by the CEC through contracted parties.

SECTION 1391: "SPECIFIED PURCHASE"

COMMENT NO. 10B7: The commenter requested clarification for how a retail supplier should report transactions through the Energy Imbalance Market and suggested defining such transactions in the regulations.

RESPONSE: No change to the regulations. As expressed in the adopted regulations, retail suppliers must be able to substantiate specified purchases of imported electricity through e-tags and preexisting procurement agreements. Spot market transactions, including those through the Energy Imbalance Market, cannot be substantiated through such documentation and are therefore classified as purchases of unspecified power.

COMMENT NO. 7A4: The commenter recommended clarifying that specified purchases derived from a generator owned by the retail supplier should not require purchase agreements. The commenter suggested simplifying the term "purchase agreement" to "agreement" to cover a broader set of procurement circumstances.

RESPONSE: The CEC revised the 45-day language to address the commenter's suggestion, making it clear that owned generation requires a more general agreement, rather than a purchase agreement, to demonstrate a preexisting procurement arrangement.

COMMENT NO. 10A6, 21A6, 10C1 and 13C1: The commenters recommended the CEC modify the definition of “specified purchase” to accommodate retrospective reallocation of environmental attributes of GHG-free resources subject to the Power Charge Indifference Adjustment (PCIA).

> **RESPONSE**: No change to the regulations. A preexisting agreement is necessary to demonstrate a specified purchase. Moreover, retrospective reallocation of attributes for non-RPS resources parallels allowing unbundled RECs to be used to make specified fuel type or GHG emissions claims under the PSD program, which is not allowed for in these regulations.

SECTION 1391: “UNBUNDLED REC”

COMMENT NO. 19A4 and 19C2: The commenter recommended changes to the definition of “unbundled REC” to accommodate circumstances in which a retail supplier owns the generator outright and lacks any sort of ownership agreement.

> **RESPONSE**: The CEC amended this definition from “ownership agreement” to “ownership arrangement” to provide retail suppliers with flexibility in substantiating ownership status.

SECTION 1391: GENERAL COMMENTS

COMMENT NO. 33A4, 33B2, AND 33D3: The commenter recommended using an organizational nesting structure for headings of subdivisions in this section, e.g., 1391(a), 1391(b), etc.

> **RESPONSE**: No change to the regulations. The CEC removed organizational headers to simplify administering changes to the definitions section of these regulations. All definitions are organized alphabetically, which means alphabetical organizational headers would provide little value to readers.

SECTION 1392(b)(3)(C)

COMMENT NO. 19C1: The commenter suggested that the two “other” fuel types referred to in Section 1392(b)(3)(C) should be defined to avoid confusion, especially the renewable “other” fuel type. The commenter contends that the renewable “other” fuel type should include firmed-and-shaped products.

> **RESPONSE**: No change to the regulations. Section 1392 pertains to generator data, rather than procurement data, which means electricity arrangements such as a firming-and-shaping are not applicable to this provision. However, the commenter might have intended for this comment to apply to the use of the “other” fuel type categories in other sections of these regulations, such as the fuel types represented on the power content label. If so, the Initial Statement of Reasons noted that these categories are designated for marginal non-renewable fuel types such as distillate fuel oil and for marginal or emergent renewable fuel types such as tidal power.

SECTION 1392: GENERAL COMMENTS

COMMENT NO. 8A2, 8C2 and 8D3: The commenter recommended that entities subject to the provisions of this section should only be required to report to their respective balancing authorities if those entities have not already reported the same data to the Energy Information Agency. The commenter suggested such a change would minimize reporting requirements.

> **RESPONSE**: No change to the regulations. The comment is outside the scope of the rulemaking, addressing existing regulatory language the CEC has chosen not to change.

SECTION 1393(a)(1)

COMMENT NO. 23D1, 24A1 and 24B1: The commenters support the CEC's proposed treatment of unbundled RECs, noting that it accurately portrays unbundled RECs, as well as aligns with State GHG emissions accounting practices at the California Air Resources Board (CARB) through MRR and the CPUC through the Integrated Resource Planning Process.

> **RESPONSE**: The CEC appreciates these statements of support.

COMMENT NO. 27A19: The commenter noted that the proposed treatment of firmed-and-shaped products implies that a REC conveys the fuel type attribute, in which case all unbundled RECs should be eligible in fuel type reporting.

COMMENT NO. 27A18, 27D4, 29C1: The commenters asserted that the proposed regulations are inconsistent with the attributes of RECs. The commenters contended that if RECs are required for fuel type and GHG emissions reporting to substantiate retail claims on renewable generation to avoid potential double counting, then it should not matter if the REC is bundled or unbundled.

COMMENT NO. 5A5: The commenter noted that the proposed regulations are inconsistent with the RPS as it would not allow a retail supplier to include RPS-eligible renewable procurement of unbundled RECs under the "eligible renewable" power content label category.

COMMENT NO. 27A24 and 27A25: The commenter requested removal of the ISOR explanation that *unbundled RECs are not electricity* as a basis for the CEC's decision to limit reporting of unbundled RECs for the purpose of accurate accounting. The commenter agreed that the above statement is true, but physical delivery of electricity cannot be used to determine the source of the electricity - contractual delivery and allocation of specified generation to customers is nevertheless possible and beneficial. The commenter further noted that AB 1110 does not state or indicate that the historical lack of distinction between unbundled and bundled renewable energy on the PCL affects the accuracy of PSD.

COMMENT NO. 27A28: The commenter requested removal of the ISOR explanation that *PSD and RPS are different programs* as a basis for the CEC's decision not to include unbundled RECs in fuel mix calculations. The commenter asserted that PSD and RPS both verify renewable energy as a percent of retail electricity sales and that it is unclear how reporting eligible renewable procurement to meet retail sales under the RPS could be inaccurate under PSD.

RESPONSE: No change to the regulations. For the reasons expressed in the Initial Statement of Reasons, various documents relied upon, and the letters of support referenced above, the CEC has determined that, to best implement AB 1110, unbundled RECs will not be used in fuel mix or GHG emission accounting and will be included as a separate item on the power content label. The legislature directs the PSD program to provide information on the fuel mix and GHG emissions intensity of "electricity sources."[6] Unbundled RECs are purchased separately from the electricity provided to consumers. Additionally, there is considerable disagreement about how to quantify the benefits an unbundled REC conveys, leading to potential confusion for the consumer if such products are included in the fuel mix and GHG emissions intensity calculations. As discussed in the Initial Statement of Reasons, the PSD program has a different purpose than the RPS program and while the CEC has endeavored to ensure the two programs align where feasible and reasonable to do so, it was determined that it was not reasonable to do so here. Unbundled RECs have purpose and value through California's RPS program, and this rulemaking does not restrict the use of unbundled RECs for RPS compliance.

At the same time, procurements made to satisfy RPS requirements do not necessarily reflect the sources of electricity associated with retail load in California. The PSD program is not RPS, and cannot fully harmonize with RPS without contradicting provisions of the enabling statutes. For all these reasons, the CEC determined that its adopted treatment of unbundled RECs best meets the program requirements to provide accurate, reliable, and simple-to-understand information.

COMMENT NO. 27A35: The commenter requested removal of the ISOR explanation that *there is contention among industry experts about RECs* as a basis for the CEC's decision to limit reporting of unbundled RECs for the purpose of accurate accounting. The commenter believed this to be a mischaracterization. The commenter noted that the World Resources Institute, the World Business Council for Sustainable Development, the International Organization for Standardization, the U.S. Environmental Protection Agency, the National Renewable Energy Laboratory, the U.S. Department of Energy, the Federal Trade Commission, The Climate Registry, the Union Concern of Scientists, the Natural Resources Defense Council, and the Center for Energy Efficiency & Renewable Technologies, to name a few, all recognize the role of RECs in retail GHG accounting but were not referenced in the ISOR.

RESPONSE: No change to the regulations. The CEC acknowledges that some parties believe RECs are suitable instruments for GHG emissions accounting. However, that fact does not diminish the perspective of parties who disagree, as noted in the Initial Statement of Reasons.

COMMENT NO. 27A37 and 27A39: The commenter requested removal of the ISOR explanation that *the current market price of unbundled RECs is too low* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter contended that the question of the impact of unbundled RECs on renewable energy

[6] Public Utilities Code §398.4(a).

development is separate from the question of whether unbundled RECs can be used for accurate PSD, and that public data consistently shows that markets for unbundled RECs drive the development of new renewable resources through voluntary and compliance activities.

> **RESPONSE**: No change to the regulations. The Initial Statement of Reasons did not present an argument that the current market price of unbundled RECs is too low. However, the Initial Statement of Reasons did highlight contentions by some industry experts that unbundled RECs have questionable value in reducing GHG emissions. For the reasons expressed in the Initial Statement of Reasons, various documents relied upon, letters of support, and response to comments above such as Comment 5A5, the CEC has determined that, to best implement AB 1110, it is necessary to include unbundled RECs as a separate item on the power content label.

COMMENT NO. 27A10 and 27A11: The commenter proposed an alternate treatment of unbundled RECs that would allow unbundled RECs paired with unspecified power to be counted as renewable and GHG-free for fuel mix and GHG emissions intensity calculations. This alternate treatment could be restricted to unbundled RECs associated with generators that directly deliver electricity to California but are not located behind-the meter.

COMMENT NO. 27A42: The commenter requested removal of the ISOR explanation that *unbundled RECs from behind-the-meter generators would be double counted since this generation reduces retail sales reported for PSD* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter notes that RECs from behind-the-meter generation might be ineligible, but unbundled RECs derived from generators that deliver electricity to a California balancing authority could be allowed from both non-behind-the-meter generation and excess generation to the grid from behind-the-meter systems.

> **RESPONSE**: No change to the regulations. In addition to the reasons provided above for excluding unbundled RECs from the fuel mix and GHG emissions intensity, it is unclear how the CEC would determine which in-state unbundled RECs were derived from behind-the-meter generators and which were not. A systematic analysis of all RECs to determine this would encumber additional State resources, and the need for such an accommodation seems negligible considering that few in-state unbundled RECs would qualify for such an alternate treatment.

COMMENT NO. 27A26: The commenter requested removal of the ISOR explanation that *RECs do not convey GHG emissions benefits* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter noted that unbundled RECs are clearly defined in California and convey GHG benefits under CPUC Decision 08-08-028 and the Low Carbon Fuel Standard.

> **RESPONSE**: No change to the regulations. The Initial Statement of Reasons notes the difficulty in determining the GHG emissions benefit of various classes of RECs and cites public comments to

that effect. Furthermore, these regulations are consistent, to the extent practicable, with the GHG emissions accounting practices for the electricity sector as performed through CARB's MRR and CPUC's Integrated Resource Planning.

COMMENT NO. 2A1, 2A2, and 4A2: The commenters recommended that unbundled RECs should be allowed to characterize the fuel mix and to adjust the GHG emissions intensity of an electricity portfolio. The commenters noted that such an approach would harmonize with RPS and reduce rate impacts for customers.

COMMENT NO. 5A7, 5A15, 5C2, and 5D1: The commenter recommended that unbundled RECs should be allowed to characterize the fuel mix and to adjust the GHG emissions intensity of an electricity portfolio. Failure to do so, the commenter noted, would decrease the marketing value of unbundled RECs. The commenter suggested that a footnote could be included indicating the percentage of unbundled RECs comprising an electricity portfolio.

COMMENT NO. 27A8 and 27B1: The commenter noted the proposed treatment of unbundled RECs creates undesirable and less impactful procurement outcomes by retail suppliers by potentially causing retail suppliers to shift procurement from unbundled RECs to old, large, unsustainable hydropower or otherwise constraining a retail supplier's purchasing options.

RESPONSE: No change to the regulations. As noted above, the RPS is a separate program with distinct rules and accounting practices, and RPS procurements do not necessarily reflect the sources of electricity associated with retail load. PSD is a consumer transparency program. It does not require a retail supplier to make changes to its electricity sources, and issues of market facilitation are outside the scope of these regulations. For the reasons expressed in the Initial Statement of Reasons, various documents relied upon, letters of support, and response to comments above such as Comment 5A5, the CEC has determined that, to best implement AB 1110, it is necessary to include unbundled RECs as a separate item on the power content label.

COMMENT NO. 27A38: The commenter requested removal of the ISOR explanation that *there may be double claiming of onsite renewable energy* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter contends that standards, accounting guidance, and disclosure and marketing rules, for example, from the Federal Trade Commission, are intended to reduce the risk of double claiming by reinforcing that the REC is the basis of a renewable energy usage claim in the U.S. - nevertheless, the potential for double claiming is not unique to unbundled RECs.

RESPONSE: No change to the regulations. While the CEC recognizes there are checks in place to attempt to reduce the risk of double-counting associated with unbundled RECs, the rules and guidance referenced by the commenters cannot prevent all forms of potential double-counting, particularly inferred or informal claims made by or on behalf of homeowners with rooftop solar installations.

COMMENT NO. 16A1, 16B4: The commenter stated that RECs, bundled or not, convey all environmental and GHG emission attributes from buyer to seller.

COMMENT NO. 32A2: The commenter contends that the CEC ignored a statutory requirement that RECs include all environmental attributes including GHG-free attributes of the underlying generation in favor of an administrative decision by CARB on how to determine GHG emissions intensity.

COMMENT NO. 27A6: The commenter asserted that unbundled RECs represent legal contractual procurements of fuel type and GHG emissions attributes from renewable generators. Therefore, the categorical exclusion of unbundled RECs from PSD is unnecessary and inadvisable because it infringes on REC owners' property rights and violates the state's REC definition.

COMMENT NO. 27A41: The commenter requested removal of the ISOR explanation that *there is no federal recognition or definition of the environmental value of a REC* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter noted that the Federal Trade Commission has recognized RECs as representing "a property right in the technological and environmental attributes of renewable energy", as have the United States Court of Appeals, Second Circuit, and the Armed Services Board of Contract Appeals. The commenter noted that although there is no single national definition of a REC, California has its own definition, which includes "all renewable and environmental attributes."

> **RESPONSE**: No change to the regulations. The Legislature conferred authority to the CEC to determine how unbundled RECs should be displayed on the power content label, as codified under Public Utilities Code section 398.4(h)(7). Moreover, in the final rulemaking documentation for the MRR in 2011, CARB found that although a REC is defined to contain all renewable and environmental attributes, the "definition does not state under what circumstances a REC has value in California, nor does it say where the electricity would be delivered."[7] The CEC agrees with CARB's finding, and CEC alignment with CARB's GHG accounting practices supports consistency between State programs and policies. For the reasons expressed in the Initial Statement of Reasons, various documents relied upon, letters of support, and response to comments above such as Comment 5A5, the CEC has determined that, to best implement AB 1110, it is necessary to include unbundled RECs as a separate item on the power content label.

SECTION 1393(a)(2)

COMMENT NO. 23B6: The commenter requested clarification about what the resource attribute would be for a purchase coming from an asset-controlling supplier that does not report its fuel mix to the CEC.

[7] Final Statement of Reasons, California Air Resources Board, Cap-and-Trade Program Regulatory Documents, October 2011, p. 616.

RESPONSE: If an asset-controlling supplier does not report its fuel mix to the CEC, then that fuel mix cannot be claimed as a specified purchase by a retail supplier. Instead, those procurements will be classified as unspecified power.

SECTION 1393(a)(3)

COMMENT NO. 7A5 and 7C4: The commenter suggested that wholesale sales of unspecified power should be included in PSD reporting to avoid overcounting GHG emissions.

RESPONSE: No change to the regulations. The revised method for calculating unspecified purchases under Section 1393(a)(4) estimates net procurement rather than relying on hourly transaction data to report purchases and resales. This method, therefore, already accounts for wholesale sales of unspecified power.

SECTION 1393(a)(4)

COMMENT NO. 1A2, 1C2, 3A4, 3C4, and 3D3: The commenters asserted the proposed method for calculating purchases of unspecified power is inaccurate because it would not align with hourly balancing authority settlement data. The commenters recommended using hourly settlement data instead of the proposed method.

COMMENT NO. 7A1, 7C1: The commenter argued that the proposed calculation method for unspecified power is inaccurate and recommended retaining the existing method for reporting unspecified power.

RESPONSE: No change to the regulations. As explained in the Initial Statement of Reasons, determining unspecified power using hourly settlement data is inconsistent with specified purchase accounting that relies on annual transaction data rather than an hourly matching of resources to load. Determining unspecified power using hourly settlement data has in prior reporting years produced irreconcilable accounting errors, which undermines the statutory requirements to provide information that is accurate, reliable, and simple-to-understand.

SECTION 1393(a)(5)

COMMENT NO. 21A2, 21B1, 21C2, 21D2, 25A2, 20A3, 22A1, and 23A3: The commenters asserted the proposed treatment of Cost Allocation Mechanism (CAM) resources would undercount GHG emissions and provide inaccurate information to customers. The commenters suggested that all retail suppliers should claim a share of CAM resources. One commenter suggested that if CAM resources are not allocated to all relevant retail suppliers, no retail supplier should claim CAM resources.

RESPONSE: No change to the regulations. As explained in the Initial Statement of Reasons, the adopted treatment of CAM resources will not result in substantial discrepancies in GHG emissions accounting because CAM resources are similar in their emissions profile to unspecified power, and unallocated CAM resources will be factored back into retail supplier procurement reports to this program as unspecified power. Regardless of how CAM resources are reflected in PSD reports, CAM resources represent overgeneration, which is subject to adjustment through the mechanism described under Section 1393(a)(6). Consequently, the CEC does not expect any party, whether claiming CAM resources or not, to experience a significant GHG emissions impact.

COMMENT NO. 35B4: The commenter requested clarification about whether CAM resources show up on publicly owned utilities' power content labels.

RESPONSE: No change to the regulations. The CPUC does not assign CAM resources to publicly owned utilities, so there are no CAM resources to be displayed on those utilities' power content labels.

COMMENT NO. 10A2: The commenter expressed support for the proposed treatment of CAM resources.

RESPONSE: The CEC appreciates this statement of support.

SECTION 1393(a)(6)

COMMENT NO. 1A1, 1C1, 1D1, and 26A4: The commenter noted that the proposed tiered adjustment mechanism to account for procurement in excess of retail sales unfairly allocates certain resources to electricity end-uses other than retail sales. Rather than adjusting natural gas first, then adjusting coal and other fossil fuels, the commenter suggested all resources should be proportionally reduced so that total net procurement equals retail sales.

COMMENT NO. 7A2 and 7C2: The commenter asserted that the proposed tiered adjustment mechanism to account for procurement in excess of retail sales inaccurately increases coal's representation and decreases natural gas' representation on the power content label. The commenter recommended reverting to the prior adjustment mechanism of adjusting all non-renewables proportionally.

RESPONSE: No change to the regulations. The CEC proposed to proportionally reduce all resources through a staff paper early in the pre-rulemaking process. That proposal elicited broad opposition from stakeholders, who noted that certain resources, such as renewables and large hydroelectric sources, should be attributed first to retail sales since the retail supplier should be able to assign its preferred resources to customers (on whose behalf the resources were specifically purchased with the valued characteristics) and ensure customers are able to see all such clean resources represented on the power content label. The CEC found this argument compelling, and thus developed the tiered adjustment mechanism under Section 1393(a)(6).

As stated in the Reasonable Alternatives section of this document, the adjustment mechanism under Section 1393(a)(6) reduces resources based on their degree of similarity in emissions profile to unspecified power, since specified resources adjusted out of a retail supplier's portfolio of resources associated with retail sales means those resources may be resold back to the grid as unspecified power . Adjusting coal and natural gas proportionally would provide retail suppliers with a method that masks the GHG emissions of coal, which are substantially higher than the GHG emissions of unspecified power and natural gas generators. Requiring renewables to be reduced equally with all other resources would prevent any entity from providing or marketing a 100% renewable or GHG-free portfolio, which some consumers desire. The lack of availability of environmentally cleaner portfolios would be confusing to consumers since a market already exists for such portfolios. The CEC finds that structuring the accounting methodology in these regulations to result in this outcome would not be consistent with legislative direction or fulfill the requirement to provide a simple to understand power content label.

COMMENT NO. 3A3, 3C3, and 3D4: The commenter noted that an overprocured retail supplier with natural gas and coal resources will show a coal percentage and lower emissions intensity when it dispatches more coal and less natural gas. The commenter recommends maintaining the current methodology of proportionally reducing all resources so that total net procurement equals retail sales. If infeasible, the commenter recommends either using the corresponding year's California Power Mix or retail supplier's power mix to reduce excess procurement.

COMMENT NO. 23A4: The commenter noted that the tiered adjustment mechanism does not differentiate between a retail supplier that matches load hour-by-hour and a retail supplier that relies heavily on unspecified purchases to meet peak demand while also greatly overprocuring specific resources during off-peak hours. The commenter recommends the CEC proportionally adjust unspecified and specified power when procurement exceeds retail sales.

COMMENT NO. 19A3: The commenter asserted that all resources, including unspecified power, should be proportionally reduced in cases where procurement exceeds retail sales.

RESPONSE: No change to the regulations. As noted above, the CEC proposed to proportionally reduce all resources through a staff paper early in the pre-rulemaking process. That proposal elicited broad opposition from stakeholders, who noted that certain resources, such as renewables and large hydroelectric sources, should be attributed first to retail sales since the retail supplier should be able to assign its preferred resources to customers (on whose behalf the resources were specifically purchased with the valued characteristics) and ensure customers are able to see all such clean resources represented on the power content label. The CEC found this argument compelling, and thus developed the tiered adjustment mechanism described in Section 1393(a)(6).

As explained in the response to Comment 7A2, the CEC believes the best treatment of GHG emissions that are not disclosed on the power content label is to adjust a portfolio's resources in a manner that reflects the assumptions of unspecified electricity on the grid.

COMMENT NO. 33B18: The commenter sought clarification as to how contracts for net metered generation and generation that is sold on the wholesale market is treated under the reduction order to reconcile procurement with retail sales.

RESPONSE: If a retail supplier procures electricity from net metered exports as a specified resource to serve retail sales, such procurements would be subject to the tiered adjustment mechanism. Procured generation that is resold as a specified source would not be subject to the tiered adjustment mechanism because such generation would be deducted from the retail supplier's net procurements before the tiered adjustment mechanism is applied.

COMMENT NO. 20A1: The commenter noted that the Clean Net Short method should be used because the proposed tiered adjustment mechanism may result in the undercounting of GHG emissions, mismatch between GHG free resources and GHG emissions under high load departure scenarios, and ability of a retail supplier that relies on system power to inaccurately claim 100% renewable and zero GHG emission electricity. The commenter further notes that the statute does not require an annual calculation which leaves open the opportunity to use the Clean Net Short method.

COMMENT NO. 33B9: The commenter inquired about why the CEC has not required retail suppliers to provide customers with more granular information on the real-time GHG intensity of an electricity product.

COMMENT NO. 33B10: The commenter inquired about whether there are any limitations, statutory or other, with a retail supplier voluntarily supplying customers with the hourly GHG emissions intensity of their electricity portfolios.

RESPONSE: No change to the regulations. As described in the Initial Statement of Reasons, the CEC considered the Clean Net Short methodology. during the pre-rulemaking process. That proposal elicited broad opposition from stakeholders, who noted that certain resources, such as renewables and large hydroelectric sources, should be attributed first to retail sales since the retail supplier should be able to assign its preferred resources to customers (on whose behalf the resources were specifically purchased with the valued characteristics) and ensure customers are able to see all such clean resources represented on the power content label. The CEC found this argument compelling, and thus developed the tiered adjustment mechanism under Section 1393(a)(6).

Although the statute doesn't require an annual accounting method, it explicitly allows an annual accounting method, which means the CEC can't require an hourly accounting method to determine a retail supplier's purchases of electricity from specified sources. In addition, optional disclosure of hourly GHG emissions by some retail suppliers would result in incompatible methodologies, which would make comparison between retail suppliers' portfolios impossible. Consistent with the statutory requirements, the CEC proposed to require annual accounting for all reporting under this program.

COMMENT NO. 35B3: The commenter requested clarification about how the reduction order for reporting entities aligns with statute that only requires the reporting of retail sales. Additionally, the commenter requested clarification about whether net procurement from owned generation that is resold wholesale to others is subject to the proposed reduction order.

RESPONSE: Public Utilities Code 398.4(g)(1) establishes retail sales as the denominator in the PSD calculations. Statute does not specify how net procurements should be reconciled with retail sales, so the CEC developed the tiered adjustment mechanism in this subdivision to ensure that the calculations are mathematically sound. Furthermore, procured generation that is resold as a specified source would not be subject to the tiered adjustment mechanism because such generation would be deducted from the retail supplier's net procurements before the tiered adjustment mechanism is applied.

COMMENT NO. 9A2, 9B1, and 9D3: The commenter asserted that customers of Western Area Power Administration (WAPA) federal hydropower resources, like the Central Valley Water Project, are prohibited from laying off these resources, even in wet years. The commenter therefore recommends that these federal hydropower resources shouldn't have the potential to be excluded in the proposed tiered reduction mechanism in cases where procurement exceed retail sales.

RESPONSE: No change to the regulations. The proposed tiered adjustment mechanism, which adjusts procurement to account for electrical end-uses other than retail sales, does not constitute a resale, and thus does not violate the WAPA contract provision that prohibits resales of WAPA power; these regulatory provisions affect only how electricity is labeled for the consumer and do not interfere or conflict with federal contractual requirements.

COMMENT NO. 5C5: The commenter recommended that no renewable specified purchases should have the potential to be reduced under the tiered adjustment mechanism because it may result in underreporting of renewable energy investments.

RESPONSE: No change to the regulations. The tiered adjustment mechanism resulted from robust stakeholder outreach. The resulting methodology enables retail suppliers to assign its preferred resources to customers and ensure customers are able to see all such clean resources represented on the power content label while also fulfilling the statutory requirement to provide accurate, reliable, and simple-to-understand information. Stakeholder comments indicated mixed opinions about whether large hydroelectric sources and nuclear power should be adjusted before renewables. To balance the range of stakeholder perspectives and consistent with the State's goal to supply all retail sales with renewable or GHG-free electricity, the CEC concluded that renewables, large hydro, and nuclear power should all be adjusted proportionally on the final tier of the adjustment mechanism.

COMMENT NO. 33C8, 33D2: The commenter urged the CEC not to adopt section 1393's GHG emissions calculations as proposed under this rulemaking because it will allow resource shuffling which is prohibited under Public Utilities Code section 454.53.

RESPONSE: No change to the regulations. Public Utilities Code section 454.53 does not govern the PSD program. Nevertheless, the CEC does not find resource shuffling as it is perceived by the commenter to be relevant in the GHG emission calculations under section 1393. The adjustment mechanism under Section 1393(a)(6) directs how resources are claimed on the power content label provided to consumers and does not provide for the swapping of resources or transfer attribution of any emitting resources to another party. The methodology allocates which resources should be identified on the label given the reality that most if not all entities overprocure resources to ensure there will not be a potential shortfall in electricity supply and to account for losses during the transmission of electricity and other incidental consumption not directly attributed to retail sales. The regulations identify which resources should be attributed to retail sales and which attributed to other electricity end-uses, which is necessary to meet statutory requirements as explained in the Initial Statement of Reasons through its rationale for Section 1393(a)(6).

SECTION 1393(a)(7)

COMMENT NO. 27A5: To avoid double-counting, the commenter recommended that the CEC require suppliers to retain the non-power attributes and RECs with power assigned the specified emissions of a renewable generator.

COMMENT NO. 26A2: The commenter recommended making large hydro's inclusion explicit, rather than implicit, to avoid ambiguity.

RESPONSE: In response to stakeholder comments, the CEC revised the 45-day language to add the provision under Section 1393(a)(7) that prohibits procurement from nuclear or large hydroelectric generating units from being classified as specified purchases if the associated environmental attributes have been claimed by, or traded to, a separate party. The addition of this provision will prevent potential double-counting.

COMMENT NO. 27C1 and 29C4: The commenters expressed support for the additional language that prohibits nuclear and large hydroelectric procurement from being classified as specified purchases if the associated RECs have been sold to, or claimed by, a separate party.

RESPONSE: The CEC appreciates this statement of support.

COMMENT NO. 10C2: The commenter suggested addition of language to section 1393(a)(7) to reinforce the concept that the party trading the environmental attributes away cannot classify the procurement as specified purchases.

> **RESPONSE**: No change to the regulations. The CEC concluded the meaning of the adopted language of this subdivision is sufficiently clear without the suggested clarification.

SECTION 1393(b)(1)

COMMENT NO. 27A2, 27D2, 29A1, and 29B1: The commenters expressed support for the requirement that RECs be procured and retained in order for a retail supplier to report the fuel type of an eligible renewable generator, otherwise it will be classified as unspecified power.

COMMENT NO. 27C2, 29C5, 27D1: The commenters expressed support for the provision that the associated RECs shall not be sold if claimed as a specified purchase on the power content label.

> **RESPONSE**: The CEC appreciates these statements of support.

SECTION 1393(b)(2)

COMMENT NO. 33A15: The commenter identified an incorrect cross-reference.

> **RESPONSE:** The CEC corrected the cross-reference.

SECTION 1393(c)(1)(A) and 1393(c)(1)(B)

COMMENT NO. 38B1: The commenter requested clarification on the verification requirements for zero emissions sales, specifically whether a power purchase agreement contract would suffice.

> **RESPONSE:** As stated in this provision, retail suppliers must be able to substantiate procurements of specified purchases through purchase agreements or ownership arrangements, as well as with e-tags for specified imports.

COMMENT NO. 12A1, 12B1: The commenter requested modification of the proposal to allow firmed-and-shaped products to be reported based on the generation resource rather than substitute power, otherwise costs to customers will increase. One commenter estimates that the price per megawatt for firmed-and-shaped products will increase from five to eight dollars per megawatt.

COMMENT NO. 12A4, 12B3, 15A4, 16A2, and 16B6: The commenters requested modification of the proposal to allow firmed-and-shaped products to be reported based on the generation resource rather than the incremental energy because this approach aligns with the RPS program and offers flexibility to retail suppliers to meet compliance obligations.

COMMENT 11A1 and 6C2: The commenters urged, in order to avoid devaluing ratepayer investments in carbon-free electricity, revision of the proposed treatment of firmed-and-shaped products to reflect that all firmed-and-shaped products are bundled transactions that include both the energy and RECs from the renewable generator.

COMMENT NO. 10A9: The commenter requested that the CEC reconsider the treatment of firmed-and-shaped imports and unbundled RECs by deferring to a REC-based accounting system when attributing emissions from renewable energy purchases.

> **RESPONSE**: No change to the regulations. As explained in the Initial Statement of Reasons, this provision is necessary to establish a GHG emissions accounting methodology that is accurate, reliable, and simple-to-understand. The proposed methodology is consistent with GHG emissions accounting policy established by the State under the MRR.
>
> The CEC has examined economic impacts of these regulations. As noted elsewhere in this and other rulemaking documents, the CEC has not found a less costly implementation method that meets the purpose and requirements of AB 1110 and the preexisting enabling statutes of the PSD program. Furthermore, the PSD program does not mandate any procurement changes to a retail supplier's portfolios. A retail supplier that makes procurement changes in response to the implementation of AB 1110 does so voluntarily.

COMMENT NO. 32A5: The commenter asserted that CARB has recognized that RECs do represent a reduction in GHG emissions in the Voluntary Renewable Energy program which allows purchasers of renewable electricity above and beyond their RPS requirements to retire the RECs in exchange for a direct and corresponding retirement of a cap-and-trade GHG allowance.

> **RESPONSE**: No change to the regulations. As noted elsewhere in this and other documents supporting this rulemaking, CARB does not consider RECs on their own to represent reductions in GHG emissions. Only RECs associated with directly delivered renewables can be eligible for CARB's Voluntary Renewable Energy program. This is consistent with the methodology adopted in these regulations regarding GHG emissions and RECs.

COMMENT NO. 28A7: The commenter contended that the statement on pg. 17-18 of the Initial Statement of Reasons stating that "under MRR, all firmed-and-shaped electricity imported by a retail supplier or on its behalf is assigned the GHG emissions intensity of the substitute power" is misleading because the financial value of firmed-and-shaped imports as assigned through the RPS Adjustment demonstrates that a REC represents a solid store of emissions reductions.

COMMENT NO. 12B2, 15A1, 5A16, 11B1, 12A2, and 12B4: The commenters requested the RPS Adjustment should be applied to align with the cap-and-trade program and MRR, asserting that the Cap-and-Trade program was put in place specifically to acknowledge that these firmed-and-shaped products exist.

COMMENT NO. 11A2: The commenter noted that an inconsistent approach between PSD and CARB on the topic of the RPS Adjustment may lead to inadvertent disclosure of confidential data.

COMMENT NO. 18A3, 18B3: The commenter asserted that CARB zeroes out the carbon obligation of firmed-and-shaped imports. The commenter contends that if the CEC proceeds with the treating firmed-and-shaped imports as having the GHG emissions of the delivered power, the CEC should state that the state doesn't impose any carbon obligation associated with those imports or include a footnote stating these imports are carbon-free or carbon-neutral according to CARB.

COMMENT NO. 27A40: The commenter requested removal of the ISOR explanation that *the RPS adjustment mechanism in the Cap-and-Trade program does not recognize firmed-and-shaped contracts as zero-emissions* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter noted that nevertheless the RPS Adjustment has the effect of aligning Cap-and-Trade with what is considered to be a renewable import under RPS by adjusting compliance obligations to diverge from the emissions reported under MRR - and that the CEC could institute a similar mechanism in PSD.

> **RESPONSE**: No change in the regulations. These comments mischaracterize the RPS Adjustment mechanism. As noted in the Initial Statement of Reasons, the RPS Adjustment is a reduction of a compliance obligation under Cap-and-Trade. It does not represent a reduction in California's GHG emissions. For consistency with CARB's program, the CEC has determined that PSD cannot allow the use of RECs to reduce the GHG emissions of firmed-and-shaped products.

COMMENT NO. 10B2, 15A2, 5A8, 5C3, 5C9, 5C10, 5D2, and 27A27: The commenters asserted the proposed treatment of firmed-and-shaped products is inconsistent with the RPS, CARB, and GHG best practices, which, they contend, creates customer confusion. One commenter further noted that disaggregating the GHG emissions rate from other generation attributes included in the REC would create discrepancies between the fuel type and emissions benefits that would be factually inconsistent and damage the integrity of voluntary and compliance renewable energy programs.

COMMENT NO. 27A15 and 29A3: The commenters recommended an alternative treatment of firmed-and-shaped products where all existing and new firmed-and-shaped products are classified as eligible renewable in fuel type and having the emissions factor of the renewable resource.

COMMENT NO. 27A16: The commenter recommended an alternative treatment of firmed-and-shaped products where all such products are required to be reported based on substitute power in fuel type and GHG emissions.

> **RESPONSE**: The CEC recognizes that splitting the accounting treatment of firmed-and-shaped imports with respect to the fuel type and emissions profile may appear to be inconsistent. However, as described under Sections 1393(a)(1) and (c)(1) of the Initial Statement of Reasons, the CEC has been tasked with creating a new accounting methodology bridging two

fundamentally different accounting bases. The proposal put forward by the CEC recognizes the historical role that the RPS Program has played in defining and tracking procurement of renewable resources while establishing a GHG emissions accounting framework that best meets the statutory intent of providing accurate and simple-to-understand information to customers. At the same time, each State program serves a different purpose and may be associated with different bases of statutory authority and mandates; consequently, complete harmonization is not always possible. Nevertheless, the CEC has sought to align with established State resource accounting frameworks to the extent practicable. As discussed in the Initial Statement of Reasons, various documents relied upon, and responses to comments above, such as Comment 5A5, the CEC has determined that it is necessary to assign an electricity portfolio the GHG emissions associated with the electricity actually delivered to best implement AB 1110.

COMMENT NO. 23B1: The commenter noted that the CPUC adopted the exact same treatment for firmed-and-shaped products as part of the Integrated Resource Plan process which states that entities submitting integrated resources plans may not make zero carbon claims based on forward procurement of Portfolio Content Category 2 or firmed-and-shaped products. The commenter noted that the CEC's proposed treatment of firmed-and-shaped products is in alignment with how the CPUC treats these resources. The commenter expressed support of the proposed treatment of firmed-and-shaped products as having the GHG emissions based on the delivered electricity.

RESPONSE: The CEC appreciates these statements of support.

COMMENT NO. 23B2, 23D2: The commenter noted that the RPS Adjustment does not demonstrate that the state has adopted a zero-GHG policy for firmed-and-shaped imports. The RPS Adjustment simply relieves importers of a financial obligation to pay for carbon pricing associated with the import. The commenter noted that this approach results in no change to the MRR accounting.

RESPONSE: The CEC appreciates these statements of support.

COMMENT NO. 10A3: The commenter asserted that attributing GHG emissions from firmed-and-shaped imports and unbundled RECs based on delivered electricity instead of the eligible renewable generator undermines renewable resource development and overstates emissions.

COMMENT NO. 27A14: The commenter asserted that the proposed treatment of GHG accounting of firmed-and-shaped products may result in double-counting and over-reporting of emissions.

RESPONSE: No change to the regulations. The PSD program represents a consumer transparency program, not a tool meant to spur the market for renewable resource development. The regulations would not result in overcounting of GHG emissions specifically attributable to California retail load. On the other hand, using an alternative approach like REC-based accounting may result in undercounting GHG emissions since it would be possible that no retail supplier (anywhere in the Western Interconnection) would claim the emissions from the substitute power that was purchased and delivered to serve California retail load. The CEC believes the proposed treatment more closely meets the statutory requirement for accuracy to risk overcounting, rather than undercounting, GHG emissions.

COMMENT NO. 19A2: The commenter noted that the proposed language for treatment of firmed-and-shaped products requires multi-jurisdictional utilities who serve out-of-state customers to apply an emissions component to renewable energy in its portfolio without RECs, even if energy and associated RECs were delivered outside of California.

RESPONSE: The CEC amended the definition of "delivered electricity" in 15-day Language to provide additional delivery options for multi-jurisdictional utilities that are not located within a California balancing authority.

COMMENT NO. 7A6, 7C5: The commenter recommended amending the requirement for e-tags in cases in which imports do not have e-tags. Further, the commenter urges expanded language beyond e-tags to include settlement quality meter data or invoices.

RESPONSE: No change in the regulations. The CEC is unaware of cases in which specified imports do not have an e-tag. Therefore, the CEC has concluded that no additional changes to this provision were warranted.

COMMENT 27C5 and 29C6: The commenters expressed support for the requirement that prevents the sale of RECs if eligible renewable energy is claimed as specified zero-emission power by the LSE.

COMMENT 27A3, 27D3, 29A2, 29B2: The commenters expressed support for the requirement that procurement of associated RECs is required in order to report the GHG emissions intensity of an eligible renewable generator, otherwise it is classified as unspecified power.

RESPONSE: The CEC appreciates these statements of support.

COMMENT NO. 27A13: The commenter asserted that the proposed treatment of firmed-and-shaped products' GHG emissions intensity infringes on REC owners' property rights and violates the state's REC definition.

RESPONSE: No change to the regulations. As discussed in the Initial Statement of Reasons, various documents relied upon, and responses to comments above, such as Comment 27A6, the CEC has determined that it is necessary to assign to an electricity portfolio the GHG emissions associated with the electricity actually delivered to best implement AB 1110.

COMMENT NO. 26A1: The commenter made a general comment that the proposed regulations would strengthen the quality of GHG emissions accounting for electricity that serves California customers, and pointed particularly at the proposed treatment of firmed-and-shaped, and unbundled contracts.

RESPONSE: The CEC appreciates this statement of support.

COMMENT NO. 24A3, 24B3: The commenter expressed support for the treatment of firmed-and-shaped products by not allowing them to count as carbon-free. The commenter expressed further support of the proposed treatment that firmed-and-shaped products should be based on the emissions profile of the delivered substitute energy, which is consistent with CARB's treatment of such products.

RESPONSE: The CEC appreciates these statements of support.

COMMENT NO. 35B2: The commenter sought clarification that for in-state transactions, no e-tags are associated with it and therefore are not required to be classified as a specified purchase; e-tags are only required for imports into California in addition to a pre-existing contract to be classified as a specified purchase.

COMMENT NO. 16A4: The commenter asserted that section 1393(c)(1)(A) needed to clarify that e-tags are not typically created for in-state generation and are therefore not required to count as a specified purchase.

RESPONSE: No change to the regulations. The CEC agrees with the statement that e-tags are typically not created for in-state generation, but clarification is unnecessary. The provision states that, for specified purchases, only imported electricity must have e-tags in order to be assigned the GHG emissions intensity of the associated generator. The provision does not require specified purchases from in-state generation to have e-tags in order to be assigned the GHG emissions intensity of the associated generator.

SECTION 1393(c)(2)(A)

COMMENT NO. 7A7, 7C6: The commenter requested that the CEC use "the most recent verified annual MRR data" rather than the "previous calendar year" MRR data.

COMMENT NO. 9B5: The commenter made the point that the GHG emissions data used in the power content label may be using yet-to-be verified CARB data for that reporting year.

RESPONSE: No change to the regulations. The CEC intends to use the most recent verified GHG emissions data published by CARB, rather than emissions data from the previous calendar year.

SECTION 1393(c)(3)

COMMENT NO. 20A4: The commenter recommended using the RESOLVE model from the CPUC IRP proceeding to determine a reasonable estimate for an in-state unspecified emissions factor. The commenter recommended this estimated in-state emissions factor be available for retail suppliers to use in PSD reporting.

COMMENT NO. 18A2, 18B2: The commenter recommended having two unspecified source emissions rates – one for imports (out-of-state) and one associated with a CAISO system purchase (in-state), for example.

> **RESPONSE**: No change to the regulations. There is no reliable method, including through the RESOLVE model, to distinguish between open market purchases of unspecified power made from in-state or imported sources. As explained in the Initial Statement of Reasons, the CEC decided that using CARB's default emissions factor to characterize all sources of unspecified power best meets the statutory requirements to provide accurate information based on the most recent verified GHG emissions data.

COMMENT NO. 26A3: The commenter urged the CEC to monitor any new research addressing the default unspecified emissions factor because it is out-of-date and may be inaccurate.

> **RESPONSE**: No change to the regulations. The proposed regulations incorporate reference to CARB's most recent emissions factor for unspecified power. If CARB updates their emissions factor for unspecified power, the PSD regulations will use this updated emissions factor.

SECTION 1393(c)(4)(A)

COMMENT NO. 5A11: The commenter noted a possible citation error in the 45-day language, Section 1393(c)(4)(A) when it references Section 1393(a)(7).

> **RESPONSE**: The regulations were updated in 15-day Language to fix the incorrect reference.

COMMENT NO. 33C5: The commenter asserted that the proposed GHG emissions calculation in 1393(c)(4)(A) for specified adjusted net purchases is "not accurate and is inconsistent" with the "GHG emissions intensity of a generator" definition in section 1391. The commenter suggested the definition in section 1391 is more accurate and should be used in section 1393(c)(4).

> **RESPONSE**: No change to the regulations. Net purchases must be adjusted to reconcile procurement to retail sales since Public Utilities Code section 398.4(k)(1) establishes electricity associated with retail sales as the denominator in the calculation of the GHG emissions intensity of an electricity portfolio.

SECTION 1393(d)(1)(A) and SECTION 1393(d)(1)(B)

COMMENT NO. 11A3, 11B2: The commenter urged the CEC to allow all firmed-and-shaped products to be grandfathered, irrespective of the contract execution date.

COMMENT NO. 15A3: The commenter urged the CEC to consider allowing the grandfathering provision to apply to all contracts executed prior to the effective date of the regulations in order to help guard against cost increases and modifications that may be required for existing contracts.

COMMENT NO. 10A4: The commenter recommended adopting December 31, 2019 as the grandfathering cut-off date for firmed-and-shaped products as the earliest date. The commenter noted that this approach would provide relief to ratepayers, avoid confusion to ratepayers, and provide time for retail suppliers to adapt their planning and procurement.

> **RESPONSE**: No change to the regulations. The purpose of this provision is to recognize that prior to the implementation of AB 1110, some retail suppliers entered into contracts for eligible firmed-and-shaped products to meet RPS targets or to support voluntary renewable procurement. This approach avoids imposing a considerable burden on retail suppliers and unfairly penalizing retail suppliers that have made pre-existing investments in firmed-and-shaped imports to meet RPS and voluntary renewable goals. On the other hand, the CEC has signaled to stakeholders since June 2017 that the GHG emissions accounting methodology that best meets the requirements of AB 1110 must exclude the use of RECs in the calculation. Extending the grandfathering date for firmed-and-shaped contracts beyond the January 1, 2019, cut-off date would be counter to the CEC's clearly indicated intent and counter to the timeframe the legislature established for the accounting methodology to apply. Additionally, some stakeholders expressed support for limiting the scope of GHG exclusion to pre-existing contracts to prevent "gaming" of the provisions of this GHG exclusion.[8]

COMMENT NO. 21A5, 21B4, 22A2: The commenter asserted that it is inappropriate to expand the eligibility window for grandfathering firmed-and-shaped resources because grandfathering provides inaccurate information on the power content label to customers and unfairly punishes retail suppliers that adjusted procurement in anticipation of the proposed regulations. LSEs had received ample notice by February 1, 2018 and the CEC should hold to that.

COMMENT NO. 23A5 and 25A1: The commenters urged the CEC to not extend grandfathering of firmed-and-shaped products for any reason because the CEC made its proposed treatment of firmed-and-shaped products abundantly clear months ago. One commenter asserted that parties should not be allowed to sneak additional contracts in under the grandfathering provision.

> **RESPONSE**: No change to the regulations. The CEC has not recommended any expansion of grandfathering provided for in the 45-day Language (January 1, 2019). Regarding previously considered dates for cutting off the grandfathering provision, the CEC considered stakeholder comments that early staff deliberations regarding these regulations were not necessarily definitive enough to provide the necessary *notice* on which they could base purchasing decisions, especially since those decisions could result in increased costs for their customers. Additionally, the CEC was concerned that establishing a date that early could possibly be considered a retroactive application of the regulations, even though the regulations themselves

[8] The Utility Reform Network and Sierra Club, Comments on the Third Draft of the AB 1110 Implementation Proposal, October 25, 2018, pg. 7-8, https://efiling.energy.ca.gov/GetDocument.aspx?tn=225087&DocumentContentId=55740

only apply to reporting that will be done on a forward going basis. Nevertheless, the CEC determined that the legally cautious approach was best, and since the statute anticipates that the regulations will apply to 2019 procurements (Pub. Utilities Code section 398.4(k)(2)(F)(i).), the CEC determined that establishing the cutoff at the beginning of that year was in keeping with statutory intent, legally supported, and established a time by which the regulated entities had sufficient notice on which they could have fairly relied, should they have desired to alter their purchasing accordingly.

COMMENT NO. 24A4 and 24B4: The commenter noted that the proposed treatment of firmed-and-shaped products, by grandfathering them until their contract ends, is a good compromise.

COMMENT NO. 23B3: The commenter noted that the grandfathering provision is imperfect but fairly consistent with how the CEC treated biomethane transactions by counting historical transactions but not new ones. The commenter noted that there are parallels that justify the proposed treatment.

COMMENT NO. 23D4: The commenter has some concerns with the proposed grandfathering provision but understands that it was a compromise. The commenter is supportive of the grandfathering provision.

COMMENT NO. 4A1, 4D1: The commenter supported the grandfathering provision for firmed-and-shaped agreements.

RESPONSE: The CEC appreciates these statements of support.

COMMENT NO. 23A1: The commenter urged the CEC to clarify that the grandfathering treatment only applies to minimum procurement quantities and duration specified in pre-January 1, 2019 executed contracts, in a manner consistent with how the CEC treated historical biomethane contracts. The commenter further urged the CEC to implement a review process for firmed-and-shaped contracts consistent with the treatment of historical biomethane contracts

RESPONSE: No change to the regulations. The CEC developed these regulatory provisions to prevent an expansion or extension of contractual arrangements eligible for grandfathering, including extending or renewing the duration of a contract, rather than to restrict contractual procurements to minimum quantities.

COMMENT NO. 8A1, 9A3: The commenter noted that the grandfathering provision does not parallel grandfathering in the RPS program. The commenter recommended changes to the grandfathering provision in order to align with the RPS program language.

COMMENT NO. 34B1: The commenter inquired about what constitutes a contract “amendment” for firmed-and-shaped contracts executed prior to January 1, 2019, as described in Section 1393(d)(1)(B).

COMMENT NO. 26A6: The commenter urged the CEC to ensure that the grandfathering provision for firmed-and-shaped products has tight and clear language that limits legacy contracts consistent with its ISOR language.

> **RESPONSE**: The CEC clarified in the 15-day language that amendments to contracts that would void the grandfathering provision are restricted to changes that increase procurement quantities, increase the length of the agreement, or substitute a different eligible renewable resource.

COMMENT NO. 8D2: The comment supported the 15-day language to the grandfathering provision for firmed-and-shaped products which acknowledges the value of long-term procurement of RPS eligible resources.

> **RESPONSE**: The CEC appreciates this statement of support.

COMMENT NO. 6A1, 6C1: The commenter requested additional language in the grandfathering provision for firmed-and-shaped products that explicitly recognizes ownership agreements made prior to the RPS mandate as eligible under the grandfathering provision and that extensions or amendments do not change their grandfathering status. If the CEC does not add the requested language, the commenter requests that the grandfathering cut-off date be removed entirely.

> **RESPONSE**: No change to the regulation. The CEC intended the grandfathering provision to apply to pre-existing contractual and ownership arrangements, but not to cover future expansions or extensions of such arrangements.

SECTION 1393(d)(2)

COMMENT NO. 27A20: The commenter noted that the proposed provisions under Section 1393(d)(2) allow POUs to bank excess renewable energy generation for future use within 20 years. The commenter asserts that banking excess renewable generation for future use is unbundling attributes from delivered electricity. If this is allowed, the commenter contended, retail suppliers should be able to similarly trade renewable energy attributes among themselves in a particular reporting year using unbundled RECs.

> **RESPONSE**: No change to the regulations. The provisions under Section 1392(d)(2) stem from a specific statutory exemption under Public Utilities Code section 398.4(k)(2)(D). This specific treatment written into statute does not inform the development of the general body of regulations implementing this program.

SECTION 1393: GENERAL COMMENTS

COMMENT NO. 5B8: The commenter requested clarification as to whether the CEC is going to ensure that the power that's sunk out of state has a zero GHG attribute associated with it or is that attribute just going to be lost to the procurement transaction.

RESPONSE: This program only governs electricity that is delivered to provide electric service associated with California retail sales; it does not govern GHG emissions accounting for jurisdictions outside California.

COMMENT NO. 33B20: The commenter requested clarification about where the regulations explain the methodology that will be used to calculate the generators' emissions factor and GHG emissions intensity for each reporting entities' electricity procurement.

RESPONSE: These methodologies are described in Section 1393(c).

COMMENT NO. 32A4: The commenter recommended that the CEC should rely on RECs to track GHG emissions for AB 1110. The commenter noted that although the CEC and CARB now claim that RECs do not represent real GHG emissions reductions, this conflicts with CARB's findings in its Initial Statement of Reasons for the Renewable Energy Standard in 2010 which stated that use of the WREGIS REC program met all of the criteria required as a GHG reduction measure under AB 32, including that RECs met the requirement that GHG emissions reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the State board.

RESPONSE: No change to the regulations. The Renewable Electricity Standard Regulation never went into effect due to the passage of SBX1-2 (2001) and the subsequent development of the Renewables Portfolio Standard. CARB has adopted the MRR, which reflects the current and enforceable method of source-based accounting for California's GHG emissions. The RPS and MRR are separate programs with distinct reporting requirements and structures. CARB does not require that RECs be retired for specified source imports for compliance with the Program, nor does it consider that the assignment of a zero-emission factor constitutes avoided emissions or a claim on a REC. Through the reporting of actual emissions, MRR accurately tracks and accounts for California's GHG emissions. The CEC's proposed treatment of RECs with respect to GHG emissions is consistent with current practices under CPUC's Integrated Resource Planning and CARB's MRR.

COMMENT NO. 27A29: The commenter requested removal of the ISOR explanation that *RECs do not reduce emissions and cannot be used as offsets* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter noted that they are not suggesting that RECs be used in this way for either the Cap-and-Trade or PSD programs. Instead, the commenter argued that this is not an explanation for why RECs do not verify the use of electricity with the direct emissions profile of a renewable resource to serve retail sales, which may lower a supplier's reported emissions under the PSD program.

RESPONSE: No change to the regulations. This comment seems to mischaracterize the Initial Statement of Reasons, which never asserted that "RECs do not reduce emissions and cannot be used as offsets." Rather, the Initial Statement of Reasons concluded that RECs cannot be used to calculate the GHG emissions intensity under this program. That decision was based on several factors: stakeholder concerns about the accuracy of using RECs for GHG emissions accounting, the lack of verified data quantifying the GHG emissions impacts of RECs, concerns that the inclusion of RECs in the GHG emissions intensity would contradict CARB's established GHG emissions accounting practice, and retail suppliers' differing practices of attributing unbundled RECs to fuel mixes.

COMMENT NO. 27A32, 27A33, and 27A34: The commenter requested removal of the ISOR explanation that *PSD must be consistent with the MRR, which does not recognize unbundled RECs or RECs associated with firmed-and-shaped imports for GHG reporting* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter argued that recognizing unbundled RECs and RECs associated with firmed-and-shaped products for GHG reporting in PSD would not contradict the MRR because the MRR is source-based accounting, rather than retail-level accounting. The commenter further noted that the CEC's proposed methodology will not fully align with MRR accounting. The commenter recommended the CEC simply accept the differences between differing emissions totals from Cap-and-Trade, Integrated Resource Planning, and PSD, and noted that it is entirely appropriate and may be helpful for the state measure and set targets using different GHG emissions accounting standards for different programs.

RESPONSE: No change to the regulations. As explained in the Initial Statement of Reasons, the CEC has sought to align its GHG emissions accounting methodology with the MRR to the extent practicable. This means areas of potential inconsistency may exist due to differing statutory requirements and program parameters. Nevertheless, the CEC has concluded that, to best meet the purpose and requirements of AB 1110, RECs cannot be used to calculate or adjust the GHG emissions intensity of electricity associated with California retail sales.

COMMENT NO. 30A2: To maximize consumer choice and information, the commenter suggested provisions that would allow retail suppliers to provide customers with two labels: one with the fuel mix and GHG emissions intensity treatment proposed by the CEC, and another with calculations based on bundled and unbundled RECs combined (which could include a disclaimer that there may be double-counting of renewable and GHG emissions benefits). Such an approach, the commenter contended, would provide consumers with a verified lower bound and upper bound on the renewable and GHG emissions benefits of their electricity portfolio.

COMMENT NO. 5A14: The commenter recommended that retail suppliers be allowed to include a "stacked bar," or a lower and upper line – one line representing the GHG emissions factor if unbundled RECs are treated as having the GHG emissions of unspecified power, and a second, lower, line representing the GHG emissions factor if unbundled RECs are treated as zero-GHG.

RESPONSE: No change to the regulations. Presenting competing methodologies on the power content label would undermine the requirement to provide information that is accurate, reliable, and simple-to-understand.

COMMENT NO. 33A5: The commenter questioned the value of disclosing unbundled RECs on the power content label and recommended only disclosing information about renewable energy that is not the property of customers.

> **RESPONSE**: No change to the regulations. The disclosure of unbundled RECs on the power content label is required by Public Utilities Code section 398.4(h)(7). Furthermore, the provisions of Section 1393 do not allow a retail supplier to claim customer-owned generation.

COMMENT NO. 27A4, 21A1, 31A1, and 31A2: The commenters expressed concern about the removal of the requirement proposed in pre-rulemaking that retailer suppliers must submit an amended annual report if the retail supplier subsequently resells RECs used for marketing claims on a power content label. If this requirement is not reinstated, the commenters suggested requiring retail suppliers to demonstrate the eventual retirement of RECs used to make marketing claims on the power content label and issue corrected labels in cases in which the RECs have been resold or otherwise not retired to support the marketing claims embodied in the power content label. The commenters noted that without such changes, the proposed regulations may allow double-counting.

> **RESPONSE**: The adopted regulations already require retirement for unbundled RECs that are claimed on the power content label. RECs associated with directly delivered electricity and firmed-and-shaped products, on the other hand, do not require retirement, as that would impose new constraints inconsistent with the RPS compliance requirements for retail suppliers. However, in response to comments, provisions under sections 1393(b)(1) and (c)(1)(B) were added requiring that RECs associated with specified purchases of electricity must not be subsequently sold if the retail supplier claimed those products on a power content label.

COMMENT NO. 18A1, 18B1: The commenter urged the CEC to work with the Legislature to align actual sales with procurement, regardless of the year it was generated to accommodate the three-year window in RPS for retiring RECs. Otherwise, the commenter asserted, the CEC should update its footnote in the power content label to explain that the label only reflects the prior year generation and may not include prior years' procurement.

> **RESPONSE**: No change to the regulations. Resource accounting based on the prior year's generation is a statutory requirement for this program and engaging the Legislature for statutory changes is outside the scope of this rulemaking. As discussed regarding other provisions, the CEC has attempted to align portions of these regulations to the RPS program where feasible and reasonable, but the annual report statutorily required for PSD is fundamentally irreconcilable with the three-year retirement window allowed for in RPS. The CEC has determined that it is necessary to keep extra information on the label to a minimum to keep the label simple to understand. Nothing, however, would constrain a retail supplier from providing additional information to consumers outside of its power content label.

COMMENT NO. 33A1, 33B3: The commenter suggested using yield factors to scale up the amount of electricity attributed to retail sales.

> **RESPONSE**: No change to the regulations. The suggested modification is unnecessary; the methodology needs to reduce total procurement to match retail sales, not scale up generation attributed to retail sales to equal total procurements, as required by Public Utilities Code section 398.4(g)(1).

COMMENT NO. 27A30 and 27A48: The commenter requested removal of the ISOR explanation that *null power is not necessarily assigned emissions in other states* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter noted that they are unaware of any existing or proposed regulatory or voluntary program that allows null power to be reported as either a renewable fuel type or having the emissions profile of a renewable generator. Moreover, the commenter noted, if such a program existed, such a program would violate Federal Trade Commission guidance for marketing renewable energy and CPUC decision that said system owners cannot make green claims without RECs. The commenter further noted that the potential for null power to be counted as renewable in another hypothetical program did not prevent California from allowing unbundled RECs to be used for compliance under the RPS.

> **RESPONSE**: No change to the regulations. These comments seem to misunderstand the point of the observation referenced above. The Initial Statement of Reasons did not assert that programs in other states may be miscounting GHG emissions associated with null power; rather, the point was to note that most jurisdictions in the Western Interconnection do not perform retail-level GHG emissions accounting, which means that the GHG emissions associated with null power may go unaccounted for.

COMMENT NO. 27A36: The commenter requested removal of the ISOR explanation that *there is no verified data to quantify the GHG benefits of RECs* as a basis for the CEC's decision to limit reporting of unbundled RECs and firmed-and-shaped products for the purpose of accurate accounting. The commenter argued that there are verified, reliable data sources for the emissions and emission rates of renewable generating facilities, such as the U.S. EPA's Emissions & Generation Resource Integrated Database. The commenter further asserted that the balance of emissions across the West is the same whether unbundled, firmed-and-shaped, or bundled renewable power, as long as the null power is not counted as zero-GHG or renewable - and the only way to ensure consistent accounting would be to use an all-generation certificate tracking system.

> **RESPONSE**: No change to the regulations. As discussed in the Initial Statement of Reasons, the CEC does not believe that the GHG emissions benefits of RECs attributed to California can be accurately and reliably quantified. As noted in the response to Comment 27A30, retail-level GHG accounting is not practiced uniformly in the Western Interconnection. Finally, as discussed in the alternatives analysis, WREGIS is not controlled by the CEC and any changes to that program

involve a lengthy undertaking involving many interested parties. While this approach might be beneficial in the long term, it would not meet the immediate needs expressed in AB 1110 and is not something the CEC could implement on its own.

COMMENT NO. 21A3, 21B2, 21D4: The commenter urged the CEC to commit to further revisions to the GHG emissions methodology and to reconsider the Clean Net Short methodology after the rulemaking is complete. The commenter asserted that the GHG emissions methodology undercounts GHG emissions, ignores GHG emissions from transmission and distribution losses, and fails to reward retail suppliers who pair solar plus energy storage.

COMMENT NO. 21C4: The commenter argued that the annual GHG emissions accounting methodology does not reflect the actual operations of the grid and is misaligned with the CPUC GHG planning process. The commenter urged the CEC to commit to a second phase of the proceedings after adopting the current Express Terms to address these sources of error.

COMMENT NO. 22A3: The commenter urged the CEC to commit to investigating, once the rulemaking is over, whether an hourly accounting methodology like the Clean Net Short is feasible for backward-looking reporting, asserting that hourly accounting is the only method that accurately matches resources with hourly needs.

RESPONSE: No change to the regulations. The CEC will continue to monitor the energy landscape as it evolves and new State policies and legislation emerge. As stated previously, hourly accounting is not required and annual accounting is explicitly allowed under the current statute underlying the PSD program.

COMMENT NO. 6A2: The commenter disagreed with other stakeholders' arguments in favor of using the Clean Net Short tool for firmed-and-shaped products because 1) it is a forward-looking planning tool and has no bearing on GHG emissions; 2) alignment with cap-and-trade and it's amendment to allow importers to claim the RPS Adjustment indefinitely is more important; 3) strict alignment with the CPUC increases the difficulty and cost of compliance with the RPS; and 4) it will be more difficult to convey the nature of firmed-and-shaped products to customers through the PSD program.

RESPONSE: No change to the regulations. The CEC has not proposed to adopt the Clean Net Short methodology.

COMMENT NO. 16B9: The commenter stated that the direct delivery requirement and treatment of unbundled RECs support California's environmental objectives.

RESPONSE: The CEC appreciates this comment of support.

COMMENT NO. 27A43, 27A44, and 27A45: The commenter argued that CARB's 2011 FSOR for revisions to the MRR do not support the PSD implementation proposal in the ways intended by the CEC. The commenter urged the CEC to change or remove references to this material in the FSOR. The commenter noted that the referenced portions of the MRR FSOR 2011 do not address whether RECs should be used in accounting for GHG emissions in retail electricity portfolios. The commenter further noted that the MRR does not require REC retirement, which allows for double-counting, so alignment with MRR on this matter is inappropriate. Additionally, the commenter noted that much of the referenced discussion in the MRR FSOR 2011 relates to the quantification and potential use of avoided GHG emissions incorporated in RECs to comply with a GHG regulatory program, and contended that the MRR should only be used in the PSD to verify the emissions profile of renewable energy in retail electricity portfolios.

> **RESPONSE**: No change to the regulations. The Initial Statement of Reasons relied on CARB's findings pertaining to the value of GHG emissions benefits of RECs, conclusions that continue to underpin CARB's GHG emissions accounting under MRR. While the MRR does not require retirement, the CEC designed these regulations to avoid double-counting by mandating that any RECs claimed on the label not be sold.

COMMENT NO. 27A46: The commenter argued that the materials from Brander and Gillenwater do not support this proposal or existing GHG accounting methods in California, which recognize the contractual delivery of specified power and emissions on the grid.

> **RESPONSE**: No change to the regulations. The Initial Statement of Reasons referenced work by Brander and Gillenwater to provide another example of technical experts in the field who disagree with the position that RECs are suitable instruments for GHG emissions accounting.

COMMENT NO. 27A47: The commenter offered a selection of materials beyond the documents referenced in the Initial Statement of Reasons on which to rely for an analysis of the GHG emissions benefits of RECs, including but not limited to, various CPUC decisions, U.S. Environmental Protection Agency, National Renewable Energy Laboratory, U.S. Department of Energy, the Federal Trade Commission, The Climate Registry, World Resources Institute, and Center for Resource Solutions guidance documents.

> **RESPONSE**: No change to the regulations. The CEC is aware of the position staked out by these entities as they relate to RECs and GHG emissions accounting. On this matter, this CEC developed its evidentiary record in response to contentions by some stakeholders that there is consensus on the role of RECs in GHG emissions accounting, and therefore cited examples to demonstrate that this is not the case.

COMMENT NO. 10B1: The commenter requested that GHG-free transactions in the Energy Imbalance Market count in the PSD program.

> **RESPONSE**: No change to the regulations. EIM imports are transacted on the open market through mechanisms that parallel other purchases of unspecified power. Until CARB and the California Independent System Operator develop additional measures of the emissions profile of specific EIM transactions, the CEC believes that continuing to treat EIM imports as unspecified

power best meets the statutory requirements to disclose accurate, reliable, and simple-to-understand information about the emissions associated with retail load.

SECTION 1394(b)

COMMENT NO. 14C1, 8C1, 8D1: The commenters expressed support for the revision which defers GHG emissions data reporting to starting in 2021 for the 2020 procurement year.

COMMENT NO. 5C4, 5D5: The commenter expressed support for delay in GHG emissions data reporting because it allows marketing material to be consistent between GHG emissions claims for portfolios and power content label disclosure to customers.

RESPONSE: The CEC appreciates these statements of support.

COMMENT NO. 5D6: The commenter opposed the adoption of the 15-day express terms and urged the CEC to take another look at the issues. The commenter thinks that the proposed regulations will damage the renewable market. The comment further urged the CEC, if they were going to proceed, to add an item in the Resolution to say that the power mix reporting should be grandfathered to be under the rules in place when that procurement occurred for 2019.

COMMENT NO. 5C7: Although the commenter expressed support for the delay in GHG emissions data reporting, the commenter suggested an effective date no sooner than one year after adoption for the changes to fuel mix and GHG emissions accounting.

RESPONSE: No change to the regulations. As noted in the rationale for the modification of Section 1394(b) in this document, this change is necessary to reflect a delay between adoption of regulatory requirements and the start of reporting as anticipated in statute. AB 1110 requires that the CEC adopt these regulations by January 1, 2018, and, based upon that, specified that reporting on the GHG emissions intensity should commence on June 1, 2020, for 2019 procurements. It is clear that these two deadlines are linked, as they are specified in the same subdivision; one is clearly intended to flow from the other. Unfortunately, due to the complexity of issues involved and markedly differing interests and concerns that had to be balanced, these regulations were adopted later than the date required in statute. The CEC has determined that because the regulations have been delayed, the reporting requirement should also be delayed, as the legislature intended.

COMMENT NO. 12A3, 12B5: The commenter recommended that the grandfathering cut-off date for firmed-and-shaped products should be moved out to 2021 at the earliest unless the CEC removes the grandfathering cut-off date entirely.

COMMENT NO. 9A1, 9D1, 5A2, 4A3, 4D3: The commenters requested the CEC follow statutory direction by allowing one year from when the regulations are in place for the procurement to be adjusted.

COMMENT NO. 3A2, 5A1, 5C8, 5B2: The commenters requested that the CEC delay the effective date of the new rules to 2020, given that the regulations have been delayed and most entities have procured based on existing rules in place.

COMMENT NO. 4C2, 4D4: The commenter expressed support for the delay in GHG emissions reporting to 2021 but urged further delay to 2022 to ensure it follows statutory direction which provides for one year to elapse before GHG emissions reporting requirements start applying.

> **RESPONSE**: No further change to the regulations. As explained in the rationale for the change to Section 1394(b) in this document, the CEC determined that implementing GHG tracking in 2020 for reporting in 2021 best meets the statutory and program needs. Commenters' suggestion to delay the implementation of the regulations entirely, meaning the modifications to fuel mix accounting would also be delayed, does not adhere to the rationale the CEC provided for delaying GHG accounting. Fuel mix accounting has been part of these regulations for decades, and the modest changes required by AB 1110 implementation do not represent a significant burden for reporting entities or CEC staff. The CEC signaled its intended treatment of unbundled RECs more than two years ago, giving retail suppliers ample direction and time to make any adjustments they saw fit in anticipation of the CEC adopting these regulations. Therefore, the CEC rejected the recommendation to delay implementation of these regulations as a whole.
>
> The statute anticipates that the regulations will apply to 2019 procurements (Pub. Utilities Code section 398.4(k)(2)(F)(i).); therefore, the CEC determined that establishing the cutoff for the grandfathering provision at the beginning of that year was in keeping with statutory intent, legally supported, and established a time by which the regulated entities had sufficient notice on which they could have fairly relied, should they have decided to change their purchasing in response, as these regulations have been the subject of active CEC consideration and stakeholder involvement since 2016. These regulations are not retroactive, per se, as they apply to reporting that is to be performed in the future; they do not require that past purchases comply with any particular requirements. They simply prescribe how those purchases may be characterized and described on future labels. Any decision by retail suppliers to change their purchasing in response to these regulations is voluntary. Even if one were to find that the regulations have some retroactive effect, regulations may be applied retroactively if such is supported by statute. Public Utilities Code section (k)(2)(F)(i) expresses the legislature's intent that the new requirements apply to the 2019 procurement year. While the CEC determined it was necessary to delay implementation of the GHG emissions intensity information, this does not remove its authority to implement for that procurement year other of the provisions provided for in AB 1110.

COMMENT NO. 10B5, 14B2: The commenters requested the CEC follow statutory direction by allowing one year from when the regulations are in place for the procurement to be adjusted. The commenters also noted that inclusion of EIA numbers associated with generators supplying substitute electricity deviates from typical commercial terms and may be difficult to comply with.

> **RESPONSE**: No further change to the regulations. As explained in the response directly above, the CEC rejected the recommendation to delay implementation of these regulations as a whole. EIA numbers should only be provided if the retail supplier's firming-and-shaping agreement specifies the resource used to supply substitute energy; EIA numbers are not required for firming-and-shaping agreements that do not specify the resource used to supply substitute energy.

COMMENT NO. 3C1, 3D1: The commenter expressed support of the proposed delay of GHG emissions reporting as proposed in the 15-day language.

> **RESPONSE**: The CEC appreciates this statement of support.

COMMENT NO. 21A1, 21C1, 21D1: The commenter urged the CEC to not delay the implementation date of the PSD regulations over the objections by POUs that represent a small fraction of the state.

COMMENT No. 25D1: The commenter noted that the delay in GHG emissions reporting is unfortunate and unnecessary.

> **RESPONSE**: No further change to the regulations. As explained in the rationale for the change to Section 1394(b) in this document, the CEC determined that implementing GHG tracking in 2020 for reporting in 2021 best meets the statutory and program needs.

SECTION 1394(b)(1)(B)(4)

COMMENT NO. 33B4: The commenter noted that there may be a citation error in section 1394(b)(1)(B)(4) when it references Section 1393(a)(7).

> **RESPONSE**: Section 1394(b)(1)(B)(4) has been updated to fix the incorrect reference.

SECTION 1394(b)(1)(C)(2)

COMMENT NO. 35B1: The commenter urged the CEC to consider limiting reporting of EIA numbers to non-RPS resources so as to cut down on retail suppliers' reporting requirements.

> **RESPONSE**: No change to the regulations. EIA numbers are necessary to enable the reporting form to auto-populate with GHG emissions data, which ultimately reduces the reporting burden for retail suppliers.

COMMENT NO. 33A14, 33B5: The commenter inquired about whether the CEC has considered using a universal numbering system specific to the CEC's jurisdiction, as opposed to EIA's numbering system.

> **RESPONSE**: No change to the regulations. The CEC has proposed to use EIA's numbering system because it is an existing industry resource, closest to a universal numbering system for generators, and will not require additional state resources to implement a new tracking system.

SECTION 1394(b)(2)(C)

COMMENT NO. 34B2: The commenter inquired about why this provision is necessary, given that the CEC already receives by July 1 annually WREGIS reports showing Portfolio Content Category 1 and 3 RECs retired for RPS compliance.

> **RESPONSE**: No change to the regulations. This provision is necessary because the PSD covers procurements in the prior year which does not necessarily align with retirements made for purposes of RPS reporting and compliance.

SECTION 1394(b)(3)(B)

COMMENT NO. 10A5: The commenter urged the CEC to remove the proposed regulatory provision that retail suppliers describe their transmission and distribution losses after the requirement was removed in the second staff proposal. The commenter also sought clarification on the need to disclose transmission and distribution losses and whether such losses are included in the GHG emissions intensity calculation.

> **RESPONSE**: No change to the regulations. As noted in the Initial Statement of Reasons, distribution losses and other electricity end-uses are necessary data for verifying thorough and accurate reporting of procurement and retail sales claims.

COMMENT NO. 21A4, 21C3, 21B3, 21D3: The commenter urged the CEC to include transmission and distribution losses in the GHG emissions intensity calculations. Doing otherwise, the commenter noted, would underreport GHG emissions.

COMMENT NO. 33B19: The commenter requested clarification on whether a net purchase of, for example, 1.2 kilowatts factors in all the costs and line losses that entail delivery of 1 kilowatt.

> **RESPONSE**: No change to the regulations. Public Utilities Code section 398.4(k)(1) establishes electricity associated with retail sales as the denominator in the calculation of the GHG emissions intensity of an electricity portfolio. Grid losses are not included in retail sales, so GHG emissions associated with grid losses are not included in the GHG emissions intensity associated with electricity associated with retail sales.

SECTION 1394(c)

COMMENT NO. 17A1: The commenter requested clarification on how asset-controlling suppliers shall report non-CEC-certified renewable resources in their reporting requirements.

> **RESPONSE**: No change to the regulations. As noted in the Initial Statement of Reasons, the "Other" category should be used for resource types that do not fall into one of the specified fuel types in these regulations. In this specific case, renewable resources that are not RPS certified under California's program will be categorized as "Other."

SECTION 1394: GENERAL COMMENTS

COMMENT NO. 33C7: The commenter urged the CEC to collect the raw procurement data for each electricity product in a retail supplier's electricity portfolio in order to ensure grid losses do not go ignored in subsequent GHG emissions calculations.

> **RESPONSE**: No change to the regulations. These regulations already require retail suppliers to report total specified procurement. However, grid losses are not included in retail sales, so GHG emissions associated with grid losses are not included in the GHG emissions intensity associated with electricity associated with retail sales.

SECTION 1394.1(a)(3)

COMMENT NO. 33A8, 33B7: The commenter noted that the proposed regulations do not specify how total system power and total system GHG emissions intensity will be calculated.

> **RESPONSE:** No change to the regulations. These regulations specify calculation methods for reporting entities to perform calculations for data reporting under this program, as required by Public Utilities Code section 398.4(k)(2)(A). As noted under Section 1394.1(c)(3), the CEC will calculate the GHG emissions intensity of total statewide retail electricity sales (total system power) in accordance with the method specified under Section 1393(c).

SECTION 1394.1(a)(2)

COMMENT NO. 31A5: The commenter encouraged the CEC allow disclosure of additional information relating to GHG emissions beyond the required disclosure on the power content label.

COMMENT NO. 29A6: The commenter requested the CEC allow retail suppliers discuss the environmental and other generational benefits of Portfolio Content Category 2 and 3 RECs for voluntary renewable energy offerings.

> **RESPONSE:** No change to the regulations. These regulations reflect statutory requirements under Public Utilities Code section 398.4(k)(3).

SECTION 1394.1(b)(2)

COMMENT NO. 5C1: The commenter expressed support for the added flexibility which allows retail suppliers to deliver the power content label through the end of the first complete billing cycle for the third quarter of the year.

COMMENT NO. 3C2, 3D2, 4C1, 4D2: The commenters expressed support for removal of the "on or before August 30" deadline to disclose the power content label to customers and reverting to the statutory language to provide the power content label disclosure to customers "on or before the end of the first complete billing cycle for the third quarter."

> **RESPONSE**: The CEC appreciates these statements of support.

COMMENT NO. 19A7, 19C6: The commenter sought clarification whether a product marketed under a voluntary program using unbundled RECs is considered an additional product and therefore necessitates reporting and disclosure as a separate power content label. The commenter urged that such products should not meet the definition of an electricity product.

> **RESPONSE**: No change to the regulations. If the electricity product is marketed as a distinct portfolio with a unique pricing structure and resource base, including the procurement of unbundled RECs, then that product needs to be disclosed separately on the power content label.

COMMENT NO. 1A3, 34B3, 2A3, 5A10, 5B4: The commenters asserted that the August 30 power content label disclosure deadline proposed in the 45-day language is infeasible and recommended changing the power content label disclosure deadline to October 1.

COMMENT NO. 9A4, 9B3, 9D4: The commenter asserted that the August 30 power content label disclosure deadline in the 45-day language is needlessly restrictive and contrary to the rules of statutory interpretation.

COMMENT NO. 10A7: The commenter noted that the current common practice among retail suppliers is to disclose the power content label by October 1 annually. The commenter recommended that the October 1 date should be adopted as the power content label disclosure deadline instead of August 30 in the 45-day language.

COMMENT NO. 7A3: The commenter contended that since it does not make sense to disclose the power content label before audits are completed, the CEC should move the disclosure deadline to December 31 annually in the 45-day language.

COMMENT NO. 7C3: The commenter requested to move the power content label disclosure deadline to the end of the first complete billing cycle for the *fourth* quarter of the year.

COMMENT NO. 3A1, 19A6, 19C5 and 4A4: The commenters recommended an October 31 power content label disclosure deadline because the proposed August 30 deadline in the 45-day language is unrealistic.

RESPONSE: In response to various stakeholder comments, in 15-day language the CEC changed the power content label disclosure deadline back to the original disclosure deadline as it exists in the current regulations. Statute requires the disclosure date to occur “by the end of the first complete billing cycle for the third quarter of the year.” The CEC has no authority to extend the disclosure deadline to a date that falls outside this window and so could not establish a later date as requested by some.

COMMENT NO. 9B2, 9D5: The commenter asserted that disclosure of the power content label via U.S. Mail is outdated and recommended it be replaced with a bill reference with information on where the power content label can be found online.

RESPONSE: No change to the regulations. The CEC concluded that direct delivery of disclosed materials to customers, as opposed to the alternative method suggested of simply providing this information on the website, best meets the purpose and intent of the PSD program. At the same time, the provisions of this subdivision do allow electronic delivery of the power content label in lieu of the United States mail so long as the customer has given prior consent to receive electronic communications from its retail supplier.

COMMENT NO. 16A5: The commenter noted that it does not serve electricity outside its organization and does not have marketing material or host a website. The commenter requested revision to the language in order to exclude them from being required to display their annual power content label disclosures on their website.

RESPONSE: The CEC revised this provision in 15-day Language to exclude retail suppliers who do not maintain a website for purposes of communicating information about electric service.

COMMENT NO. 23A2: The commenter urged the CEC to consider what measures could be adopted to permit individual POUs to request delays in the mailing date deadline for legitimate reasons.

RESPONSE: No change in regulations. Constraints on the power content label disclosure deadline are based on statutory requirements.

COMMENT NO. 5B3: The commenter contended that disclosure of the power content label to subscribed customers is unnecessary because custom contracts are already negotiated and agreed to between customer and POU.

RESPONSE: No change to the regulations. Disclosure of the power content label to all customers served by each electricity portfolio is required under Public Utilities Code section §398.4(c).

SECTION 1394.1(c)(5)

COMMENT NO. 24A2, 24B2: The commenter expressed support for requiring separate disclosure of unbundled RECs on the power content label.

RESPONSE: The CEC appreciates this statement of support.

SECTION 1394.1(e)

COMMENT NO. 33B17: The commenter requested clarification as to whether a public contract that a POU offers, whether it is for just one customer or many customers, requires that the POU give out a power content label to them?

RESPONSE: Yes, all customers must receive a power content label, even single customers subscribed to a custom electricity portfolio.

SECTION 1394.1(g)

COMMENT NO. 10A8, 36B1: The commenter inquired about whether the CEC expects to issue a template for new CCAs to use if they meet the criteria under 1394.1(g) since these CCAs will not have to begin reporting GHG emissions until two years following service of their first retail customer.

RESPONSE: No change to the regulations. Prior to 2020 reporting, the CEC will issue a modified reporting form for new CCAs in line with the optional GHG emissions reporting pursuant to 1394.1(g).

SECTION 1394.1(h)

COMMENT NO. 33A2: The commenter asserted that section 1394.1(h)(1) conflicts with section 1394.1(b)(1) and Public Utilities Code section 398.4(b) and should therefore be removed.

RESPONSE: No change to the regulations. The CEC disagrees with the commenter's proposed revision. The commenter does not specify how the subsection conflicts with other provisions, and the CEC has not identified any conflicts between the referenced provisions.

SECTION 1394.1(j)

COMMENT NO. 9A5: The commenter recommended that the proposed regulations be modified to require the CEC to provide a response within ten days of the submission of the proposed additional information.

COMMENT NO. 39B1: The commenter requested clarification about who will be reviewing footnote number two and what process will be used in the event there is disagreement about whether the proposed language is consistent with the statutory requirements.

COMMENT NO. 5B9: The commenter requested clarification on what the process would look like for the CEC's review of the additional footnote for unbundled RECs on the power content label.

COMMENT NO. 5A4: The commenter recommended that the proposed regulations be modified to provide guidance regarding the submittal of the information for approval pursuant to section 1394.1(j).

> **RESPONSE**: The CEC revised its 45-day language to address the commenters' suggestions, adding language to this provision which sets a deadline for retail suppliers to submit proposed additional information pursuant to this provision, and establishes the Executive Director or their designee as the reviewer of the proposed footnote language.

COMMENT NO. 29A4: The commenter recommended additional language specifying that retail suppliers may include additional information on the environmental benefits of unbundled RECs.

> **RESPONSE:** No change to the regulations. These modifications are already reflected in the regulatory language.

COMMENT NO. 29C7: The commenter expressed support for the timeline that describes when additional information related to unbundled RECs must be submitted to the CEC and when the CEC shall provide a response.

> **RESPONSE**: The CEC appreciates this statement of support.

SECTION 1394.1(l)

COMMENT NO. 16A6, 27A21, and 29A5: The commenters urged the CEC to revise this provision to avoid undermining voluntary and compliance REC markets that rely on RECs as contractual instruments that convey environmental and GHG emissions attributes of renewable energy.

COMMENT NO. 5A3: The commenter recommended clarifying changes to this subdivision of the 45-day regulations to make it clear that unbundled RECs do not represent "eligible" renewables and other minor syntactical changes.

COMMENT NO. 31A4: The commenter urged the CEC to revise this provision by not referring to unbundled RECs as "investments" but rather commodities that are tracked and transferred, bought and sold.

> **RESPONSE**: This subdivision was modified in 15-day language based on stakeholder feedback, removing the term "investments" and instead characterizing unbundled RECs as representing generation that has not been directly delivered to serve California retail sales. This description accurately reflects the role and status of unbundled RECs under this program. As noted in the Initial Statement of Reasons, these conclusions regarding unbundled RECs apply only to the PSD Program and are restricted to the use of unbundled RECs to characterize a fuel mix or GHG emissions intensity of an electricity portfolio associated with retail consumers under this program. They are not meant to assess the environmental benefits of unbundled RECs procured for RPS compliance or for voluntary purposes in the broader REC market.

COMMENT NO. 5C6, 27C4, 27D7, and 29C9: The commenters contended that the footnote provision's description of unbundled RECs as "renewable generation that was not delivered to serve retail sales" in the 15-day language is false and inconsistent with the RPS. One commenter urged the CEC to revise the footnote language to either align with Public Utilities Code section 399.12(h)(1) and (2) from Decision 08-08-028, remove the unbundled RECs sentence, or adopt the footnote as a discrete, severable component not specifically required by AB 1110.

COMMENT NO. 33C1: The commenter urged the CEC to replace *retail sales* with *this electricity portfolio* in this footnote provision's 15-day language because unbundled RECs do not represent a retail sale.

> **RESPONSE**: No change to the regulations. The footnote as written accurately describes the accounting of unbundled RECs in the PSD program. For the purposes of this rulemaking, generation associated with unbundled RECs cannot serve California retail sales as a specified resource. While the unbundled RECs themselves might be sold to retail customers in support of an electricity portfolio, the electricity those RECs represent is not served to retail customers as a specified resource in the context of these regulations.

COMMENT NO. 27C3, 29C8: The commenters expressed support for the removal of the word "investments" for this provision.

> **RESPONSE**: The CEC appreciates these statements of support.

SECTION 1394.1(l)(2)

COMMENT NO. 16A7, 16A9: The commenter requested that, if the CEC decides to limit the boundary of PSD reporting to *delivered electricity* from *specified purchases*, footnote 2 should be clarified to explain that unspecified power is electricity that was not purchased in advance of generation and delivered directly to California, which may include imported renewable power and unbundled RECs. The commenter asserts that clarification is necessary to ensure unspecified power that might be traced to a specific generation source is not inappropriately classified as a specified source.

> **RESPONSE**: No change to the regulations. Unbundled RECs are not electricity and are thus not considered to be unspecified power. At the same time, a "specified purchase" is defined to require an agreement executed prior to the point of generation, which precludes purchases of unspecified power from being classified as a specified purchase.

SECTION 1394.1: GENERAL COMMENTS

COMMENT NO. 19C3, 19C7: The commenter requested a minor change to the power content label to accommodate their unique situation as a multi-jurisdictional utility that leaves them unable to directly deliver to a California balancing authority.

RESPONSE: The CEC addressed this issue in 15-day Language by amending the definition of "delivered electricity" to provide additional delivery options for multi-jurisdictional utilities that are not located within a California balancing authority. The amended rules ensure that multi-jurisdictional utilities who procure firmed-and-shaped products do not have to deliver to a California Balancing Authority as a prerequisite to being assigned the GHG emissions intensity of the associated generator.

COMMENT NO. 33A6, 33A11: The commenter inquired about where net metered generation, such as SMUD's SolarShares program, is allowed to be included on the power content label. The commenter asserted that SolarShares is not electric generation offered for retail sale in California and should therefore not be included on the power content label.

RESPONSE: No change to the regulations. The power content label only displays information about generation procured to serve retail sales. However, the CEC cannot speak to the unique circumstances of a specific program implemented by a retail supplier.

COMMENT NO. 33A12: The commenter inquired about where in the regulations are retail sales such as SMUD's 50% Greenergy product allowed to not be included on the power content label. The commenter contends that 50% and 100% Greenergy product is available from SMUD, but the power content label filing for SMUD only shows the 100% Greenergy product.

RESPONSE: No change to the regulations. Section 1394.1(a) requires retail suppliers to provide disclosures for "each electricity portfolio that was served during the previous calendar year." The CEC has added language to the existing regulations to better inform the determination of what constitutes a discrete electricity portfolio. Specific questions about a retail supplier's compliance with existing regulations for previous filing years may be directed to the reporting entity and program staff, but are outside the scope of this rulemaking.

SECTION 1394.2(a)

COMMENT NO. 7A8: The commenter requested the removal of the requirement to provide proof of service of the annual power content label to customers in the annual audit report.

RESPONSE: No change to the regulations. The CEC requires proof of service to ensure retail suppliers comply with the essential purpose and intent of the PSD program.

SECTION 1394.2(a)(2)

COMMENT NO. 10A1, 9A6, 9D2, 34B4: The commenters expressed support for the provision which permits POUs' board of directors to attest to the veracity of each annual report and power content label for the previous year.

RESPONSE: The CEC appreciates these statements of support.

MISCELLANEOUS COMMENTS

COMMENT NO. 33B11: The commenter contended that, to improve accuracy and minimize reporting requirements, the CEC should provide a power content label format for retail suppliers and allow them to use other tools, e.g. SAP ad hoc reporting, instead of being required to use the CEC's reporting spreadsheet.

COMMENT NO. 33B6: The commenter contended that an Excel spreadsheet is not the appropriate tool for tracking GHG emissions and other software should be used.

> **RESPONSE**: No change to the regulations. The reporting spreadsheet best serves the program's data collection needs at present and provides a simple means for the CEC to evaluate and aggregate PSD data for verification and analysis.

COMMENT NO. **33A:17:** The commenter had several questions related to inputting values in the annual report template.

RESPONSE: No change to the regulations. The comments are outside the scope of the regulations and do not involve the proposed regulatory language.

COMMENT NO. 27A17: The commenter noted that the discrepancies between the RPS and PSD programs create confusion about how and what renewable energy can be delivered to customers. The commenter stated further that this approach does not make the information "simple-to-understand" as required by statute.

COMMENT NO. 16A8 and 16B8: The commenter asserted that the proposed regulations do not meet the stated objective of providing accurate and simple-to-understand information to consumers about their sources of energy and GHG emissions.

> **RESPONSE**: No change to the regulations. Retail-level electricity resource accounting is inherently complex. The CEC has endeavored to provide information that is simple-to-understand to the extent practicable given other statutory and program needs. As noted in the Initial Statement of Reasons, the CEC has been tasked with bridging two fundamentally different accounting bases. The method adopted by the CEC recognizes the historical role that the RPS Program has played in renewable resource accounting while establishing a GHG emissions intensity methodology that reflects GHG emissions accounting principles established by MRR.

COMMENT NO. 32A1: The commenter asserted that the CEC incorrectly relied on a Daily Journal letter from Assembly Member Phil Ting to justify using CARB's MRR reporting methodology to develop AB 1110's GHG emissions accounting methodology. The commenter contended that the CEC should use different justification for its use of CARB's MRR.

RESPONSE: No change to the regulations. As provided in the Initial Statement of Reasons, the CEC relied on multiple interrelated rationales and a broad set of evidence in justifying its alignment with CARB's established GHG accounting method under the MRR.

COMMENT NO. 19A1: The commenter recommended that a single accounting methodology should be developed in the long term. In the short term, the commenter recommended that the fuel mix accounting methodology should be consistent with the RPS and the GHG emissions methodology should be consistent with the MRR.

RESPONSE: No change to the regulations. The accounting methodologies meet the statutory requirements governing this program. To the extent practicable, the CEC has sought to align fuel mix and GHG accounting methods with existing practices established under RPS and MRR respectively. The CEC will continue to evaluate potential improvements to the accounting methodology of this program as the energy landscape evolves and new State policies emerge.

COMMENT NO. 23D3: The commenter asserted that the proposed regulations are consistent with other state GHG emissions accounting protocols. The commenter noted that unbundled RECs are treated in the same manner by CARB and CPUC. For example, in the Integrated Resource Plan process, the CPUC explicitly excludes firmed-and-shaped resources and unbundled RECs from being counted as zero-GHG resources. Similarly, CARB does not allow such procurement to adjust GHG emissions.

RESPONSE: The CEC appreciates this statement of support.

COMMENT NO. 5B5: The commenter expressed concern that voluntary green or Greenenergy customers' 2019 power content labels will not match what was promised and marketed to them. This may in turn have implications in terms of audits and compliance with CRS's Green-e program.

Response: No change to the regulations. This program enforces State requirements for electricity portfolio disclosure by retail suppliers, as required in statute. The CEC signaled its intended treatment of unbundled RECs more than two years ago, giving retail suppliers ample direction and time to make any adjustments they saw fit in anticipation of the CEC adopting these regulations. Moreover, the CEC is committed to providing sufficient contextual and explanatory information on the PSD website to assist retail suppliers as they inform their customers of the adopted treatment of unbundled RECs under this program.

COMMENT NO. 10B8, 14B4: The commenters explained that because they already procured under existing rules, and are unable to go backwards in time and make different procurement choices, that customers will receive a power content label under the proposed regulations that show their emissions much higher than was intended and promised. The commenters also noted concern with the requirement for firmed and shaped transactions to include EIA numbers associated with generators supplying substitute energy, since most firmed-and-shaped products are unlikely to be able to declare such resources in advance at the time the contract is executed.

COMMENT 10B6, 14B3: The commenters expressed concern that customers' 2019 GHG emissions will look higher than intended and expected because procurement was made under existing rules and not under proposed rules.

COMMENT NO. 16B2: The commenter expressed concern that the proposed regulations will cause confusion among stakeholders regarding the University of California's progress to carbon neutrality.

> **RESPONSE**: The CEC modified the 45-day language to incorporate a one-year delay in GHG emissions reporting. The CEC believes that beginning GHG tracking in 2020 for reporting in 2021 strikes the right balance between legislature's fundamental goal of timely consumer awareness and providing retail suppliers sufficient notice to make any procurement changes they may wish and to prepare marketing materials to socialize their customers to the adopted GHG accounting methodology. Moreover, the CEC is committed to providing sufficient contextual and explanatory information on the PSD website to assist retail suppliers as they inform their customers of the transition to the adopted GHG emissions accounting methodology.
>
> As stated above, EIA numbers should only be provided if the retail supplier's firming-and-shaping agreement specifies the resource used to supply substitute energy; EIA numbers are not required for firming-and-shaping agreements that do not specify the resource used to supply substitute energy.

COMMENT NO. 27A22: The commenter noted its overarching concern with the Initial Statement of Reasons is the CEC's argument that physical delivery of power from a renewable resource is required for accurate retail disclosure. The commenter is concerned with the CEC's assertion that bundled power contracts somehow represents physically delivered renewable electricity, since a customer's power can only be determined contractually and emissions do not travel through the grid.

COMMENT NO. 27B3, 27D5, 31A3, 27A23: The commenters request that the CEC revise the Initial Statement of Reasons' explanations that accurate accounting is the basis for excluding unbundled RECs from reporting and treatment of firmed-and-shaped products. The commenter urges the CEC to state instead that any proposed treatment of unbundled RECs and firmed-and-shaped imports is not a matter of accuracy but a programmatic decision to match the MRR boundaries, for example, and explain in a manner that will not undermine other markets or market instruments.

> **RESPONSE**: No change to the regulations. As reflected in this rulemaking record, the CEC recognizes the electricity system is inherently complex and there are varying opinions about what constitutes an accurate snapshot of an electricity portfolio's GHG emissions. These regulations establish an accounting framework for GHG emissions associated with electricity on a retail level for California. Decisions as to the treatment of unbundled RECs and firmed- and-shaped products and the reasons underlying those decisions are described in the appropriate sections of the Initial Statement of Reasons and this document. The CEC has developed this methodology in compliance with the parameters established by AB 1110 and has chosen to rely

heavily on existing state programs, as directed by statute and supported by substantial evidence in the record, with the goal of providing consistent and verifiable information for California consumers. The CEC has implemented “accuracy” in CEC documents supporting this rulemaking to mean accurate within the context and perspective of the State supported by multi-agency activities to perform resource accounting for various programs.

COMMENT NO. 33A13: The commenter expressed concern over double counting of voluntary green pricing or shared renewable generation program RECs on the power content label. The commenter urged the CEC to adopt regulations specifying enforcement regulations for Public Utilities Code section 399.21(a)(1) prior to codifying the use of RECs on the power content label.

RESPONSE: No change to the regulations. The resources associated with voluntary green pricing or shared renewables programs may only be claimed on the power content label if those programs contribute to retail sales, and the regulations specify rules for how such resources may be counted. The CEC is not aware of a method for such resources to be double counted under the adopted PSD regulations. The commenter further referenced an old statute pertaining to the establishment of WREGIS. This portion of the comment is outside the scope of these regulations.

COMMENT NO. 5A13: The commenter contends that the economic impact analysis grossly underestimates the cost to POUs to modify their offerings to meet the 100 percent renewable claim while ensuring zero reported emissions. The commenter estimates their cost, using 2017 procurement as the basis, would total $8 million. This cost would increase another $3 million if you use 2018’s procurement. The commenter contends the procurement changes will result in significant economic impacts and increase customer costs.

COMMENT NO. 5B6: The commenter inquired about whether the CEC expects that the proposed project may result in procurement changes in the voluntary renewable energy market.

COMMENT NO. 5B1, 5B7: The commenter inquired about what the CEC’s rationale is behind the statement that the regulation is expected to result in limited procurement changes, given written and oral comments to the contrary.

COMMENT NO. 16B7: The commenter expressed concern that the proposed regulations may disincentivize non-retail suppliers from participating in California’s energy markets if costs are prohibitive.

COMMENT NO. 10B3, 14B1: The commenters contended that the proposed regulations would shift purchases to in-state only, thus limiting supply, driving up ratepayer costs and curtailment, and causing reliability issues. The commenters noted that shifting procurement will cost $9 million annually.

COMMENT NO. 37B2: The commenter contended that the proposed treatment of firmed-and-shaped products will have market impacts and should not be ignored. The commenter requests that the CEC reexamine treatment of firmed-and-shaped products.

COMMENT NO. 10A10: The commenter contended that the economic impact analysis underestimates the costs associated with shifting procurement to meet governing boards' GHG-free procurement goals - $9 million per year for MCE and $8 million per year for EBCE.

> **RESPONSE**: No change to the regulations. The CEC conducted its economic impact analysis using the latest energy market benchmarks and retail supplier portfolio data. While it is possible to forecast costlier procurement changes, the CEC concluded that the most likely, the CEC estimated procurement changes using the least costly means to ensure renewable, GHG-free resources would be displayed on the label, which the CEC believes to be a reasonable assumption since retail suppliers are sensitive to ratepayer impacts. Largely, this meant backing up firmed-and-shaped RECs with Pacific Northwest large hydro as the substitute power. The CEC expects any new procurements to be derived from existing resources, rather than result in the construction of new generators change in operations of existing generators in California. The CEC believes the economic impact analysis it performed represents accurate, reliable, least-cost assumptions for potential procurement changes in response to implementation of AB 1110, and the Department of Finance reviews the fiscal and economic impact analysis supporting this rulemaking to ensure the CEC used reasonable assumptions and performed accurate analysis.

COMMENT NO. 26A7: The commenter urged the CEC to monitor the role of electricity exports and consider how a changing net import-export balance may affect the state's goals and implementation of the PSD program, e.g. how retail suppliers may be incentivized to overprocure specified resources only to sell them in regional markets.

> **RESPONSE**: No change to the regulations. The purpose of this program is to provide consumer transparency about a retail supplier's procurement, and these regulations are consistent with the statutory requirements. However, the CEC does have other programs and activities that monitor the energy market.

COMMENT NO. 9B4, 9D6: The commenter recommended the addition of a third power content label footnote that acknowledges that the information enclosed may not be 100 percent true to form.

> **RESPONSE**: No change to the regulations. The power content label displays information that is accurate, reliable, and simple-to-understand with respect to the accounting framework established by the CEC. The CEC determined that overloading the label with written information detracts from it being simple-to-understand and the requested addition was unnecessary.

COMMENT NO. 26A5: The commenter encouraged the CEC to consider future updates to the PSD program that monitor retail suppliers' progress towards real-time clean energy load-balancing and consider future updates to align with California's energy and climate goals.

> **RESPONSE**: No change to the regulations. The CEC will, as it does with all programs, monitor its implementation and make adjustments as necessary to ensure that it is effectively carrying out the goals for which it was adopted consistent with adopted regulations and statute.

COMMENT NO. 16B1: The commenter expressed concern that the proposed regulations limit renewable and carbon-free procurement options for them.

COMMENT NO. 16B3: The commenter expressed concern that the proposed regulations will undermine renewable energy investments and markets more broadly by devaluing these voluntary instruments.

COMMENT NO. 27B2, 27D6, 27A1, 29A7, 29C2, 29B3: The commenters contended that the proposed regulations would undermine the value of other markets and market instruments by excluding unbundled RECs and maintaining the proposed treatment of firmed-and-shaped products.

COMMENT NO. 27A7: The commenter asserted that the proposed treatment of unbundled RECs is inconsistent with the RPS and may negatively affect the renewable energy markets.

COMMENT NO. 30A1: The commenter noted that the proposed regulations may reduce demand for voluntary RECs. The commenter noted that when considering the expiring production tax credit for wind, voluntary RECs may become a valuable tool for continuing renewable energy deployment in the U.S.

COMMENT NO. 5A6, 5D3: The commenter expressed concern that the proposed regulations will disincentivize retail suppliers from voluntary participation in green power markets. The commenter noted that customers may shift from the retail suppliers' green power program to the voluntary market, which may cause retail suppliers to be reluctant to continue offering green programs.

COMMENT NO. 16B5: The commenter noted that energy curtailment may increase due to the emphasis on direct delivery of energy on an already congested grid during peak hours.

COMMENT NO. 27A9: The commenter noted that unbundled RECs have the benefits of making markets larger and bringing costs down, which is good for demand and scaling renewable energy production.

COMMENT NO. 28A10: The commenter contended that the proposed regulations would make firmed-and-shaped products less desirable to potential purchasers. The commenter continued to contend that state policy emphasized more new transmission line construction within the state over preventative action on existing lines, which lead to worse health effects and destruction from wildfires and blackouts. The commenter recommended the CEC consider whether construction of new transmission lines over maintaining existing ones is in the public's interest.

RESPONSE: No change to the regulations. As explained in the economic impact analysis supporting this rulemaking, the CEC concluded that these regulations will not result in the construction of generators within California or the change of operations of existing generators within California over the time period assessed. Instead, any potential procurement changes will be made from existing resources outside the state. The purpose of this program is to provide consumer transparency about a retail supplier's procurement, rather than to manage or require a retail supplier's procurement decisions or engage issues of market facilitation and grid dynamics.

COMMENT NO. 28A4: The commenter contended that the Initial Statement of Reasons incorrectly states that unbundled RECs do not support the development of new resources. The commenter asserted that anything that brings money to a resource promotes development of that resource.

COMMENT NO. 29A8, 29B4, 29C3: The commenter urged the CEC to revise the proposed language to not bring into question the validity of RECs by claiming RECs do not represent a valid claim to renewable energy and zero emission power usage. The commenter urged the CEC to state instead that the boundary for reporting is more aligned with the MRR boundary.

RESPONSE: No change to the regulations. The Initial Statement of Reasons cited sources and document relied upon in determining a treatment for unbundled RECs under the PSD program. The CEC recognizes that other commenters hold different opinions but maintains its position that the environmental benefits of unbundled RECs are contentious and difficult to quantify and in the context of the statutes which the CEC is directed to implement, should not contribute to the fuel mix or GHG emissions intensity calculations.

COMMENT NO. 32A6: The commenter contended that the CEC is incorrect that CARB's MRR methodology was used to set the GHG emissions cap under SB 350. The commenter argued that the cap was instead set using the RPS program and Cap-and-Trade program, both of which the CEC claims are ineffective in assigning GHG emissions to retail suppliers.

RESPONSE: No change to the regulations. CARB's 2017 Scoping Plan Update factored in projected GHG emissions reductions resulting from multiple state climate policies including the RPS and the Cap-and-Trade program. The 2017 Scoping Plan Update was used to set the SB 350 GHG reduction *planning targets* for the electricity sector and for individual utilities. The setting of *planning targets*, that are revisited periodically, is different than tracking progress towards AB 32 and SB 32 GHG reduction targets. CARB uses its GHG accounting method as established by MRR to measure actual emissions and progress towards the state's GHG emissions reduction goals. This ensures that progress towards these goals accurately reflects California's emissions flux into the atmosphere.

COMMENT NO. 36B2, 37B1: The commenters requested that this regulatory proceeding accommodate any transfer mechanisms that result from the CPUC's Power Charge Indifference Adjustment proceeding. The commenter also requested that the CEC delay rulemaking until the Power Charge Indifference Adjustment decision is made and Working Group Three's outcome on Cost Allocation Mechanism resources is adopted.

RESPONSE: No change to the regulations. The adoption of these regulations cannot be delayed based on speculative changes under CPUC proceedings. Furthermore, the desire by some retail suppliers for these regulations to accommodate retroactive allocation of energy attributes to other parties is not consistent with the framework of these regulations, as has been noted elsewhere in the Final Statement of Reasons.

COMMENT NO. 23B5: The commenter expressed concern about stakeholder proposals to allocate historical delivered attributes after the fact to retail suppliers under the CPUC's Power Charge Indifference Adjustment proceeding.

RESPONSE: No change to the regulations. As stated elsewhere in the Final Statement of Reasons, the CEC concluded that accommodating retroactive allocation of energy attributes to other parties is not consistent with the accounting framework established in these regulations.

COMMENT NO. 19A5, 19C4: The commenter proposed a modified power content label template for multi-jurisdictional utilities who operate outside of a California balancing authority and are unable to directly deliver to one.

RESPONSE: In response to these comments, the CEC amended the definition of "delivered electricity" to provide additional delivery options for multi-jurisdictional utilities that are not located within a California balancing authority. The amended rules ensure that multi-jurisdictional utilities who procure firmed-and-shaped products do not have to deliver to a California Balancing Authority as a prerequisite to being assigned the GHG emissions intensity of the associated generator.

COMMENT NO. 5A9: The commenter urged the CEC to consider explicitly allowing identically sourced products to be included in one column on the power content label if they have the exact same fuel type and percentages.

RESPONSE: No change to the regulations. The situation described by the commenter, in which customers may subscribe to different quantities of electric service from a voluntary green offering with the same underlying resources and same pricing structure per unit of electricity, is allowed to be disclosed as one electricity portfolio under the adopted regulations.

COMMENT NO. 16B10: The commenter urged the CEC to clarify that the proposed regulations are aimed at achieving state-specific policy objectives and do not intend on rewriting the GHG emissions accounting rules for voluntary markets.

RESPONSE: No change to the regulations. These regulations establish a GHG emissions accounting methodology for retail suppliers to describe the GHG emissions intensity associated with each electricity portfolio, as required by Public Utilities Code section 398.4(k)(2)(A). Furthermore, Public Utilities Code section 398.4(k)(3) requires that any marketing claims pertaining to GHG emissions made by retail suppliers must be consistent with the methodology established by these regulations.

COMMENT NO. 23B4: The commenter expressed support for the proposed regulations, noting there is a false notion that RPS eligibility is the same as calling an electricity product zero-GHGs. They represent different programs and do not mean the same thing.

RESPONSE: The CEC appreciates this statement of support.

COMMENT NO. 33B8, 33D1: The commenter inquired about whether the RECs shown on the power content label belong to each customer who bought that portfolio and whether the RECs are transferred to customers.

RESPONSE: No change to the regulations. Given the varied approaches that retail suppliers employ to construct electricity portfolios, it is not possible to issue a blanket statement regarding customer rights to RECs associated with electricity portfolios displayed on the power content label, and the issue of who fundamentally owns the RECs claimed for a particular electricity portfolio is outside the scope of this rulemaking.

COMMENT NO. 28A1: The commenter contended that the CEC can and should rely solely on applicable California laws and regulations to support its legal position regarding property rights of RECs; doing so will not threaten to damage investment in renewable generators and REC buyers.

COMMENT NO. 28A2: The commenter criticized CEC's statements that contract paths for GHG emission characteristics of imports under the MRR are legitimate but contract paths for RECs in WREGIS are not. The commenter requested that the CEC not establish a legal precedent that dispossesses renewable energy resource owners and REC purchasers from the value of their RECs.

COMMENT NO. 28A8: The commenter encouraged the CEC to review CRS's analysis which seeks to protect the property rights of owners and purchasers of RECs and by virtue of protecting property rights it encourages renewable energy investment.

RESPONSE: No change to the regulations. The CEC does not purport to opine on or determine the extent to which environmental attributes conveyed in RECs are property rights. In the final rulemaking documentation for the MRR in 2011, CARB found that although a REC is defined to contain all renewable and environmental attributes, the "definition does not state under what circumstances a REC has value in California, nor does it say where the electricity would be delivered."[9] The CEC agrees with CARB's finding. The CEC has been tasked with creating a methodology to inform consumers of their electricity's fuel mix and GHG emissions intensity in an accurate and simple-to-understand manner. As discussed in the Initial Statement of Reasons, various documents relied upon, and elsewhere in this document, the CEC has determined to assign an electricity portfolio the GHG emissions associated with the electricity actually delivered to best fulfill this task and implement AB 1110.

COMMENT NO. 28A6: The commenter urged the CEC to remove TURN's statement in the Initial Statement of Reasons on page 42 and any other statements that claim that owners and purchasers do not have property rights associated with their lawfully owned RECs.

RESPONSE: No change to the regulations. The CEC does not purport to opine on or determine the extent to which environmental attributes conveyed in RECs are property rights. The inclusion of TURN's statement in the ISOR demonstrated that there are differing opinions on this matter.

COMMENT NO. 28A3: The commenter contended that the Initial Statement of Reasons incorrectly states that RECs were developed for corporations and other entities to support the development of renewable energy without directly investing in renewable generators. Instead, the commenter asserts, RECs were developed to allow renewable energy consumption by consumers who did not have ready access due to factors outside their control.

ESPONSE: No change to the regulations. The CEC has a different perspective and the commenter's perspective does not change any of the conclusions the CEC made regarding RECs.

COMMENT NO. 32A7: The commenter contended that, under the proposed regulations, an owner of an RPS-eligible facility could sell the energy and its GHG attributes to another party while still retaining the associated RECs as Portfolio Content Category 1.

RESPONSE: No change to the regulations. The situation described in this comment does not raise any accounting concerns, including double-counting. Section 1393 of the adopted regulations makes it clear that procurements of electricity from a renewable generator that are transacted without the associated RECs may not be classified as a specified resource for fuel mix or GHG emissions intensity calculations.

COMMENT NO. 32A8: The commenter contends that the Initial Statement of Reasons' reliance on TURN's descriptive example of double counting when the owner and purchaser of a rooftop solar system both claim to be renewable is outside the scope of the rulemaking. The commenter asserted that

[9] Final Statement of Reasons, California Air Resources Board, Cap-and-Trade Program Regulatory Documents, October 2011, p. 616.

the CEC does not have the statutory authority to determine how non-retail suppliers claim GHG emissions reductions.

COMMENT NO. 28A5: The commenter asserted that the CEC should remove TURN's statement in the Initial Statement of Reason about double counting of rooftop generation because such claims would be illegal under the Federal Trade Commission regulations. The commenter contended that the CEC can be consistent with federal law and assume that lawful owners of lawful RECs will comply with federal law.

> **RESPONSE**: No change to the regulations. The CEC included TURN's observation about unbundled RECs to illustrate potential uncertainty regarding double-counting. The CEC does not intend to regulate non-retail suppliers through this regulation.

COMMENT NO. 28A9: The commenter cited the recent United State Department of Justice lawsuit against the state of California for an unlawful Cap-and-Trade agreement with the Province of Quebec. The commenter encouraged the CEC to obtain an expert, double-blind analysis of the commerce clause and Federal Power Act issues presented by rules disfavoring out-of-state resources.

> **RESPONSE**: The comment appears directed generally to California's environmental policies that may or may not affect out-of-state resources; to the extent the comment was directed specifically at these regulations, the CEC has analyzed all the legal issues surrounding implementation of these regulations and believes they are well within all legal and constitutional bounds.

COMMENT NO. 10B4: The commenter noted that the proposed treatment of firmed-and-shaped resources does not align with the treatment many parties anticipated when they supported the bill language of AB 1110.

> **RESPONSE**: No change to the regulations. AB 1110 did not prescribe a treatment of firmed-and-shaped resources; rather it tasked the CEC with developing a methodology for GHG emissions accounting, including the treatment of firmed-and-shaped resources. Any assumption of a particular outcome before the CEC adopted regulations implementing AB 1110 would have been necessarily premature.

COMMENT NO. 33A7: The commenter sought confirmation that WREGIS will prevent double counting of retired, unbundled RECs.

> **RESPONSE**: No change to the regulations. WREGIS was designed to prevent double-counting.

COMMENT NO. 27A12 and 27A31: The commenter urged the CEC to consider pursuing an all-generation tracking in WREGIS for certificate-based PSD that is consistent across the West and includes a precise calculation of the residual mix.

RESPONSE: No change to the regulations. As discussed in the alternatives analysis, the comment proposes an approach outside the scope of the rulemaking. WREGIS is not controlled by the CEC and any changes to that program involve a lengthy undertaking involving many interested parties. As this approach will not meet the immediate needs expressed in AB 1110 and is not something the CEC could implement on its own, the CEC rejected this approach in favor of that reflected in these regulations.

COMMENT NO. 32A3: The commenter contended that WREGIS meets AB 1110's requirement that it include the "most recent data" because RECs are issued within several months of generation, and the tracking mechanism is verifiable, and accurate. The commenter noted that for the CEC to now claim that the WREGIS/REC system which the CEC itself developed is not sufficient for accurately tracking electric generation and the associated environmental attributes throughout the Western United States would call into the question the accuracy of the entire RPS program.

RESPONSE: No change to the regulations. WREGIS is a tool the State uses for tracking of renewable general to support RPS compliance and other state programs. WREGIS does not track all electricity generated in the Western Interconnection. The State does not use WREGIS to track GHG emissions reductions. As discussed previously, the CEC has determined that relying on the MRR best meets statutory directives.

COMMENT NO. 24D1: The commenter expressed support for the proposed 15-day language to the PSD program regulations.

RESPONSE: The CEC appreciates this statement of support.

COMMENT NO. 8D4: The commenter encouraged the CEC, whether through staff or through legislative advocates, to work broadly with the stakeholder and go through and remove provisions in the regulations and statute that are impractical, obsolete, or infeasible to implement as drafted.

RESPONSE: No change to the regulation. The CEC is happy to meet with any stakeholder to discuss further improvements to its programs.

COMMENT NO. 27A24: The commenter argued that the CARB's October 28, 2011 Final Statement of Reasons for revisions to the MRR ("MRR FSOR 2011") and materials from Brander and Gillenwater do not support the PSD proposal and/or the Initial Statement of Reasons in the ways intended by the CEC. The commenter urged the CEC to change or remove references to these materials in the AB 1110 Final Statement of Reasons. The commenter concluded their comment by providing a list of suggested additional documents and materials for the CEC to use to support their proposal.

RESPONSE: No change to the regulations. The CEC believes the documents on which it has relied are germane and appropriately engaged.

COMMENT NO. 33C6: The commenter contended that the language in the Negative Declaration and in areas of the 15-day language suggest that new reporting will be required by the regulated entities. The commenter contends that this stands in contrast to the Resolution which states that the proposed regulations do not require completion of a new report. The commenter requested that the Resolution therefore be updated.

> **RESPONSE**: In response to this comment, the CEC clarified the Resolution language to state that the proposed regulations will not require completion of any new report, but that minimal additional information will be required.

COMMENT NO. 5D4: The commenter contended that the CEC's CEQA review failed to address the significant potential impacts on the renewable energy marketplace and potential impacts on air quality in California and throughout the West.

> **RESPONSE**: No change to the regulations. As noted in the Negative Declaration, the CEC concluded that these regulations will not result in the development of new electricity generators or increased operations of existing electricity generators in California, and consequently, will not result in any significant adverse environmental impacts.

COMMENT NO. 33C3: The commenter recommended reviewing use of the defined terms "generator" and "generating unit" in these regulations to ensure each term is used appropriately.

> **RESPONSE**: No change to the regulations. The CEC reviewed usage of these terms in the regulations and did not find situations in which clarifying changes were necessary.

COMMENT NO. 33B16: The commenter expressed concern that the proposed regulations has little effect on informing customers what their GHG emissions impact is because the labels will only disclose emissions associated with retail electricity sales.

> **RESPONSE**: No change to the regulations. At the direction of the Legislature, this program is only designed to disclose GHG emissions intensities associated with retail electricity sales.