

**DOCKETED**

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**CALIFORNIA ENERGY COMMISSION**

715 P Street  
Sacramento, California 95814  
[energy.ca.gov](http://energy.ca.gov)

CEC-057 (Revised 1/21)

**NOTICE OF PROPOSED ACTION**

Rulemaking to Amend Regulations Governing the Power Source Disclosure Program

Docket No. 21-OIR-01

Notice Published on May 17, 2024

**INTRODUCTION**

The California Energy Commission (CEC) proposes to amend and reorganize Sections 1391, 1391.1, 1392, 1393, 1393.1, 1394, 1394.1 and 1394.2 of Chapter 3, Article 5 of Title 20 in the California Code of Regulations (CCR) related to the Power Source Disclosure (PSD) program, after considering all comments, objections, and recommendations regarding the proposed regulations.

The PSD program requires retail electricity suppliers to disclose, through a power content label (PCL), “accurate, reliable, and simple to understand information on the sources of energy, and the associated emissions of greenhouse gases, that are used to provide electric services.” The PSD program also requires retail electricity suppliers to report additional data to the CEC on an annual basis. Two recent pieces of legislation modified the PSD program. Assembly Bill (AB) 242 (Holden, Chapter 228, Statutes of 2021) established annual deadlines for retail suppliers to post and distribute their PCLs to customers. Senate Bill (SB) 1158 (Becker, Chapter 367, Statutes of 2022) requires the reporting of hourly data to the CEC starting in 2028. As a result of this new legislation, the PSD program will be responsible for the reporting of power sources and greenhouse gas (GHG) emissions at both the annual and hourly levels. Annual data will remain the basis for the PCL, while SB 1158 directs that retail electricity suppliers provide additional hourly data in their annual report to the CEC, in part for use by the California Public Utilities Commission (CPUC) and the governing boards of publicly owned utilities to track progress toward GHG emissions reduction targets.

**PUBLIC HEARING**

**PLEASE TAKE NOTICE** that the CEC staff will hold a public hearing on the proposed regulations at the CEC Business Meeting on the date and time listed below. Interested persons, or their authorized representative, may present statements, arguments, or contentions relevant to the proposed regulations at the public hearing during the public comment period. Comments at the public hearing may be limited to two minutes or less. The CEC will conduct the hearing so that anyone wishing to comment has a

chance to be heard. The record for this proceeding will be closed at the end of the hearing.

### **BUSINESS MEETING**

**PLEASE TAKE NOTICE** that the CEC will hold a public hearing and consider the proposed regulations at a CEC Business Meeting at the date and time listed below. Interested persons, or their authorized representative, may present statements, arguments, or contentions relevant to the proposed regulations at the Business Meeting.

#### **California Energy Commission Business Meeting**

August 14, 2024

10:00 a.m. (Pacific Time)

California Natural Resources Building

715 P Street

Sacramento, CA 95814

#### **Attendance Instructions**

**In-person** participants may join the public hearing business meeting at 715 P Street in Sacramento, California.

**Remote** participants may join via Zoom by internet or phone.

- **To join via Zoom.** Click on <https://energy.zoom.us/j/95443784424?pwd=OWVJL1FqTDIYeSs0RVpFOC8vaDJ5Zz09> or login in at <https://zoom.us/> and enter the Webinar ID **938-6923-0237** and passcode **mtg@10am** and follow all prompts.
- **To join by telephone.** Call toll-free at (888) 475-4499 or toll at (669) 219-2599. When prompted, enter the Webinar ID **938-6923-0237** and passcode **mtg@10am**.

**Zoom Closed Captioning Service.** At the bottom of the screen, click the Live Transcript CC icon and choose "Show Subtitle" or "View Full Transcript" from the pop-up menu. To stop closed captioning, close the "Live Transcript" or select "Hide Subtitle" from the pop-up menu. If joining by phone, closed captioning is automatic and cannot be turned off. While closed captioning is available in real-time, it can include errors. An accurate transcript of the workshop will be docketed and posted as soon as possible after the meeting concludes.

#### **PUBLIC ADVISOR**

The CEC's Office of the Public Advisor, Energy Equity, and Tribal Affairs assists the public with participation in CEC proceedings. To request assistance, interpreting services, or reasonable modifications and accommodations, reach out via email at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov) or by phone at (916) 957-7910 as soon as possible, but at least five days in advance. The CEC will work diligently to meet all requests based on availability.

## **MEDIA INQUIRIES**

Direct media inquiries to the Media and Public Communications Office to (916) 654-4989 or [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

## **ORAL STATEMENTS AND WRITTEN COMMENT PERIOD**

Interested persons may present oral and written statements, arguments, or contentions regarding the proposed regulations at the public hearing, or they may submit written comments to the CEC for consideration on or prior to 5:00 p.m. on July 3, 2024. The CEC appreciates receiving written comments at the earliest possible date. The CEC may, but is not required to, respond to comments submitted after the deadline, including those raising significant environmental issues.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address if provided in a comment) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01>, which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the "Comment Text" box or attached as a downloadable, searchable document consistent with California Code of Regulations, Title 20, Section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 21-OIR-01 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit  
Docket No **21-OIR-01**  
715 P Street, MS-4  
Sacramento, CA 95814

Pursuant to California Code of Regulations, Title 20, Section 1104(e), any person may make oral comment on any agenda item at the August 14, 2024, Business Meeting. Please consult the public agenda, which will be posted at least ten days before the August 14, Business Meeting, for instructions on how to participate.

To ensure you receive notice of any changes to the proposed regulations in this proceeding, please follow the instructions provided at the end of this notice to join the subscription or visit the docket page for this proceeding for updates.

## **STATUTORY AUTHORITY AND REFERENCE**

Public Resources Code sections 25213 and 25218(e) and Public Utilities Code sections 398.5(c) and 398.6(c) authorize the CEC to adopt the proposed regulations.

The proposed regulations would implement, interpret, and make specific provisions of Public Utilities Code sections 398.1-398.6.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Power Source Disclosure (PSD) program was first established by SB 1305 (Sher, Chapter 796, Statutes of 1997) to provide information to California consumers about the mix of energy resources generated and purchased by retail suppliers to serve retail customers. The program's intent, as described in statute, is for "entities offering electric services to disclose accurate, reliable, and simple to understand information on the sources of energy, and the associated emissions of greenhouse gases, that are used to provide electric services."<sup>1</sup>

The CEC initially promulgated a rulemaking in 1998 to implement the PSD program codified by SB 1305, adding Article 5 including Sections 1391-1394 to Chapter 3 in Title 20 of the California Code of Regulations. In 2016, the CEC amended the regulations to incorporate statutory changes required by AB 162 (Ruskin, Chapter 313, Statutes of 2009) and AB 2227 (Bradford, Chapter 606, Statutes of 2012) that modified program rules and clarified reporting requirements. In 2019, the CEC made further amendments to the regulations to incorporate statutory changes required by AB 1110 (Ting, Chapter 656, Statutes of 2016) that added greenhouse gas (GHG) accounting and disclosure to the program.

AB 242 revised and clarified due dates for data reporting each year. SB 1158 established new requirements for hourly accounting of electricity resources, to be performed in addition to existing annual accounting requirements.

Existing regulations require retail suppliers offering an electricity portfolio for sale to retail consumers in California to report all electricity procurements each year based on an annual matching of electricity resources and electrical load. Pursuant to SB 1158, these regulations would require retail suppliers to additionally report all procurements each year based on an hourly matching of resources and load. Existing regulations require retail suppliers to disclose to consumers the fuel mix and GHG intensity of all electricity resources directly serving retail sales. These proposed regulations make necessary amendments to implement SB 1158 and would additionally require retail suppliers to disclose to consumers the fuel mix and GHG emissions intensity of the retail supplier's total power content, which includes electricity resources directly serving retail sales and additional electricity resources used to support retail sales such as line losses and retail supplier self-consumption. The proposed regulations make conforming amendments to the accounting methods in each retail supplier's

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<sup>1</sup> Public Utilities Code, section 398.1(b).

annual report pursuant to Public Utilities Code section 398.6, as well as to the content and format of the Power Content Label previously adopted by the CEC pursuant to Public Utilities Code section 398.4(e).

### **Difference from existing comparable federal regulations or statute**

These proposed regulations do not duplicate or conflict with any federal statute or regulations contained in the Code of Federal Regulations.

### **Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments**

The objectives of this rulemaking are to update the Power Source Disclosure program regulations necessary to implement statutory requirements under AB 242 and SB 1158. The rulemaking also clarifies existing definitions and reporting requirements to improve the accuracy, reliability, and transparency of information retail electricity suppliers report and disclose about the sources of electricity serving customers. Finally, CEC proposes non-substantive grammatical, numbering, and organizational changes to the regulations for clarity and concision.

Implementation of revised due dates for data reporting under AB 242 will benefit retail suppliers that have struggled to complete verification processes in time to meet the reporting deadline. Implementation of hourly resource accounting requirements under SB 1158 will benefit consumers by providing transparency about their reliance on unspecified power (derived primarily from fossil fuels) during hours in which a retail supplier has not procured sufficient renewable or zero-GHG resources to meet its electrical demand.

Expanding disclosures on the program's Power Content Label (PCL) to include a retail supplier's total power content will benefit consumers by ensuring they receive a complete and simple to understand picture of all power sources and associated GHG emissions provided by their retail supplier. The amendment to move quantitative data on GHG emissions from geothermal sources from the PCL to the CEC's Power Source Disclosure website will benefit consumers by acknowledging the distinction between electricity sources with GHG emissions targeted for decarbonization under California's Cap-and-Trade, such as natural gas, and those that are not, like geothermal. Instead, the proposed update to the PCL will point consumers to the Power Source Disclosure website where a more detailed analysis and discussion of renewable electricity resources and associated GHG emissions will be presented. Other amendments to the regulations will benefit consumers by providing greater clarity, such as the change to note on the PCL that unspecified power is primarily derived from fossil fuels.

### **Determination of inconsistency or incompatibility with existing state regulations**

The CEC has conducted a search for any other regulations in this area and has concluded that these are the only regulations concerning hourly retail electricity accounting and retail electricity consumer disclosure. Therefore, the CEC has

determined that the proposed regulations are neither inconsistent nor incompatible with any existing state regulations.

### **DOCUMENTS INCORPORATED BY REFERENCE**

The CEC does not propose to incorporate by reference any documents.

### **MANDATED BY FEDERAL LAW OR REGULATIONS**

None.

### **OTHER STATUTORY REQUIREMENTS**

None.

### **FISCAL IMPACTS**

The CEC has made the following initial determinations:

- **Mandate on local agencies and school districts:** Yes, only on local agencies. Pursuant to Government Code section 17556(d), the costs from this mandate 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 sections 10001, 11501, 15501, and 20500 et seq. provide revenue sources for local agencies to recoup any costs incurred through compliance with these proposed regulations. The regulations would not impose a mandate on any school district that would require reimbursement pursuant to Government Code section 17500 et seq.
- **Cost to any local agency or school district requiring reimbursement pursuant to Government Code Section 17500 et seq.:** No, pursuant to Government Code section 17556(d), any costs to local agencies would not be required to be reimbursed because 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 sections 10001, 11501, 15501, and 20500 et seq. provide revenue sources for the local agencies to recoup any costs incurred through compliance with these proposed regulations. The regulations would not impose any costs on any school district that would require reimbursement pursuant to Government Code section 17500 et seq.
- **Cost or savings to any state agency:** Yes, the CEC will incur costs associated with updating its reporting infrastructure, providing new guidance, and administering additional program data. These costs peak in 2029/30 at \$261,907. No savings to the CEC have been identified.
- **Non-discretionary cost or savings imposed upon local agencies:** Yes, to fulfill new hourly reporting requirements, local agencies will incur annual nondiscretionary costs of \$105,715 for full implementation in 2028/29. Local

agencies will incur annual savings of \$11, 317 because of streamlined data collection and reporting procedures and simplified record retention rules.

- Cost or savings in federal funding to the state: No.

## **SIGNIFICANT EFFECT ON HOUSING COSTS**

None.

## **INITIAL DETERMINATION RE SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES**

The CEC has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Full implementation of the new hourly data reporting and auditing requirements in 2028/29 will result in \$28,719 in annual statewide cost impacts to businesses; simplified record retention requirements will result in \$12,862 in annual statewide savings to businesses.

The three large investor-owned utilities (Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric) are the only businesses required to report actual hourly data under the proposed regulations. Other businesses subject to the reporting requirement are only required to report simple proxy data based on estimates provided by the CEC. The costs upon the three large investor-owned utilities can be recovered through ratepayer fees spread across millions of customer accounts; thus, the small costs identified above represent a negligible impact to ratepayers' monthly utility bills.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

Based on its analysis, the CEC has concluded that the proposed regulations: (1) may create jobs within California, (2) will not eliminate jobs within California, (3) will not create new businesses in California, (4) will not eliminate existing businesses within California, and (5) will not result in the expansion of businesses currently doing business within the state.

## **BENEFIT OF THE PROPOSED REGULATIONS**

The proposed rulemaking will benefit the health and welfare of California residents and the state's environment by providing improved public data about the sources of retail electricity and the associated GHG emissions, including new granular analysis at the hourly level. Ensuring that consumers have information that is reliable, accurate, timely, consistent, and simple to understand through an improved Power Content Label will increase consumer awareness of climate impacts about the electricity the

use and could better inform customers about their choices in electricity consumption. The regulations likely will not affect worker safety.

### **COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

Commencing with full implementation in 2028/29, reasonable compliance with new reporting and auditing requirements of hourly data will result in an annual net cost of \$1,515 in 2028/29 for a representative privately-owned retail supplier. The three large investor-owned utilities are the only businesses required to provide actual hourly data; full implementation in 2028-29 for these three entities will result in an average annual net cost of \$5,963. No individuals or other business types will be impacted.

### **BUSINESS REPORT**

The existing regulations require load-serving entities, including businesses, to report annually to the CEC. To implement AB 242 and SB 1158, the proposed regulations overhaul the reporting form to incorporate hourly data, load data, and updated terms and fuel categories. To fulfill statutory obligations and ensure consumers have access to retail electricity information that is reliable, accurate, and simple to understand, it is necessary for the health, safety, or welfare of the people of the state that the rulemaking applies to businesses.

### **EFFECT ON SMALL BUSINESS**

The proposed regulations impact businesses in the utility or power transmission industry as reporting entities subject to the regulations. Government Code § 11342.610 defines small businesses in the utility or power transmission industry as entities that transmit fewer than 4.5 million kilowatt-hours of electricity. No reporting entity under the Power Source Disclosure program fits this definition. Consequently, CEC staff has concluded that the proposed regulations have no effect on small businesses.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the CEC must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the regulations are proposed, would be as effective and less burdensome to affected private persons than 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.

### **CONTACT PERSON**

Questions should be addressed to:

Jordan Scavo, Program Lead  
Energy Assessments Division

916-980-7970

[Jordan.Scavo@energy.ca.gov](mailto:Jordan.Scavo@energy.ca.gov)

If Jordan Scavo is unavailable, you may contact Reneé Webster-Hawkins, Senior Staff Attorney, at (916) 237-2507 or [renee.webster-hawkins@energy.ca.gov](mailto:renee.webster-hawkins@energy.ca.gov).

### **COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE**

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 715 P Street, Sacramento CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Initial Statement of Reasons and any documents relied upon. Copies may be obtained through the CEC website at [Docket 21-OIR-01](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01> or by contacting Jordan Scavo.

### **AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS**

Participants should be aware that any of the proposed regulations could be changed due to public comment, staff recommendation, or recommendations from Commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the proposed regulations pursuant to Government Code Section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

### **COPY OF THE FINAL STATEMENT OF REASONS**

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons once it has been prepared, by visiting the CEC website at [Docket 21-OIR-01](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01> or contacting Jordan Scavo.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking have been posted on our website at [Docket 21-OIR-01](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01>.

### **INSTRUCTIONS FOR RECEIVING NOTICES AND DOCUMENTS IN THIS PROCEEDING**

To stay informed about this proceeding and receive documents and notices of upcoming workshops and hearings as they are filed please subscribe to the Power Source Disclosure subscription, which can be accessed here: <https://www.energy.ca.gov/subscriptions>. The subscription sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable or do not wish to sign up for the subscription but still would like to receive documents and notices by other means, please contact the contact person listed in this notice.