

DOCKETED

Docket Number:	16-RPS-02
Project Title:	Appeal by Los Angeles Department of Water & Power re Renewables Portfolio Standard Certification Eligibility
TN #:	213298
Document Title:	RPS Eligibility Guidebook 2nd Edition CEC-300-2007-006-CMF
Description:	N/A
Filer:	Pam Fredieu
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	8/31/2016 1:00:37 PM
Docketed Date:	8/31/2016



*RENEWABLE
ENERGY
PROGRAM*

**CALIFORNIA
ENERGY
COMMISSION**

RENEWABLES PORTFOLIO STANDARD ELIGIBILITY

GUIDEBOOK

SECOND EDITION

MARCH 2007
CEC-300-2007-006-CMF



Arnold Schwarzenegger, Governor

CALIFORNIA ENERGY COMMISSION

Jackalyne Pfannenstiel
Chairman

James D. Boyd
Vice Chair

Commissioners:
Arthur H. Rosenfeld
John L. Geesman
Jeffrey D. Byron

B.B. Blevins
Executive Director

Heather Raitt
Technical Director
RENEWABLE ENERGY OFFICE

Mark Hutchison
Office Manager
RENEWABLE ENERGY OFFICE

Valerie Hall
Deputy Director
**EFFICIENCY, RENEWABLES, AND
DEMAND ANALYSIS DIVISION**

This guidebook was formally adopted by the Energy Commission on April 21, 2004, under Public Utilities Code Section (PUC) 383.5, Subdivision (h), and subsequently revised under this authority and Public Resources Code Section 25747, Subdivision (a), on May 19, 2004, August 11, 2004, May 21, 2005, April 26, 2006, and March 14, 2007.

The requirements in this guidebook are based on applicable law, the *Renewables Portfolio Standard Decision on Phase 1 Implementation Issues* (publication number 500-03-023F), the *Renewables Portfolio Standard Decision on Phase 2 Implementation Issues* (publication number 500-03-049F), staff analysis, advice from the Energy Commission's technical support contractor, and public input.

Abstract

The *Renewables Portfolio Standard Eligibility Guidebook* describes the eligibility requirements and process for certifying renewable resources as eligible for California's Renewables Portfolio Standard (RPS) and Supplemental Energy Payments (SEPs) and describes the Energy Commission's accounting system to verify compliance with the RPS. California's Renewable Portfolio Standard has a goal of obtaining 20 percent of the state's electricity from renewable resources by 2010. This *Guidebook* outlines eligibility and legal requirements, describes reporting requirements, and includes necessary forms and instructions for program participants. This *Guidebook* also describes the Energy Commission's system for tracking and verifying compliance with the RPS.

Keywords

biodiesel, biogas, biomass, certification, digester gas, eligibility, geothermal, landfill gas, municipal solid waste, ocean wave, photovoltaic, power purchase agreement, renewable energy, renewables portfolio standard, repowered, retail sales, small hydroelectric, solar, thermal, supplemental energy payments, wind

TABLE OF CONTENTS

Abstract	.....
Keywords	.....
I. Introduction	.....	1
A. Related Reports	.....	2
B. Outstanding Issues	.....	2
C. Guidebook Organization	.....	4
II. Eligibility Requirements	.....	6
A. Renewables Portfolio Standard Targets	.....	6
B. Eligibility for the Renewables Portfolio Standard	.....	7
1. Biodiesel	.....	12
2. Biomass	.....	12
3. Small Hydroelectric	.....	13
a. Small Hydroelectric (not conduit)	.....	14
b. Conduit Hydroelectric	.....	15
c. New and Repowered Small Hydroelectric and Conduit Hydroelectric	.....	17
4. Municipal Solid Waste	.....	19
5. Solar Energy and Distributed Generation	.....	20
6. Hybrid Systems	.....	21
7. Other Renewable Facilities Using Fossil Fuel	.....	23
C. Eligibility for Supplemental Energy Payments	.....	24
D. Eligibility of Out-of-State Facilities	.....	25
E. Delivery Requirements	.....	26
F. Eligibility of Tradable Renewable Energy Credits	.....	28
III. Certification Process	.....	29
A. Applying for Certification and Pre-Certification	.....	30
B. Renewing Certification and Pre-Certification	.....	33
C. Amending Certification and Pre-Certification	.....	33
D. Supplemental Information	.....	34
1. Supplemental Instructions for Biomass Facilities	.....	34
2. Supplemental Instructions for Small Hydroelectric and Conduit Hydroelectric Facilities	.....	35
3. Supplemental Instructions for Municipal Solid Waste Conversion Facilities	.....	37
4. Supplemental Instructions for Out-of-State Facilities	.....	39
5. Supplemental Instructions for Repowered Facilities	.....	41
IV. Generation Tracking System	.....	46
A. Reports to the Energy Commission	.....	46
B. Accounting for Out-of-State, Incremental Generation	.....	48
C. Energy Commission RPS Verification Report	.....	48
1. Verification of Delivery	.....	49
2. Verification Methodology using the Interim Tracking System	.....	49
D. Accounting for Tradable Renewable Energy Credits	.....	50
V. Publicly Owned Utilities	.....	51
Appendix A - Forms	.....	A-53
Appendix B - Acronyms	.....	B-1
Appendix C - Summary of RPS Reporting Requirements	.....	C-1

I. Introduction

The California Energy Commission (Energy Commission) developed this *Guidebook* to implement and administer its responsibilities under California's Renewables Portfolio Standard (RPS) under Senate Bill 1038,¹ Senate Bill 1078,² Senate Bill 1250,³ and Senate Bill 107.⁴ These laws require retail sellers of electricity to increase the amount of renewable energy they procure each year by at least 1 percent until 20 percent of their retail sales are served with renewable energy by December 31, 2010. Under these laws, the Energy Commission is required to certify eligible renewable energy resources that may be used by retail sellers of electricity to satisfy their RPS procurement requirements, develop an accounting system to verify a retail seller's compliance with the RPS, and award supplemental energy payments (SEPs) to cover the above market cost of procuring eligible renewable energy resources.

This *Guidebook* describes the requirements and process for certifying eligible renewable energy resources for the RPS and SEPs. This *Guidebook* also describes how the Energy Commission will track and verify compliance with the RPS using an interim generation tracking process.

This *Guidebook* establishes efficient and effective processes to encourage participation in California's RPS and assure program credibility to benefit stakeholders, regulators, and consumers. Although this *Guidebook* addresses the Energy Commission's role in implementing the RPS, the Energy Commission recognizes that the California Public Utilities Commission (CPUC) also has a key RPS implementation role.

The enabling legislation established specific roles for the Energy Commission and the CPUC and directs the two agencies to work together to implement the RPS. Although the law assigns lead roles for specific implementation efforts to each agency, the roles of the two agencies are interrelated. The Energy Commission is responsible for certifying eligible renewable resources and tracking the procurement of such resources to ensure compliance with the RPS. The CPUC is responsible for establishing targets for the amount of eligible renewable energy resources that retail sellers of electricity must procure to comply with the RPS and verifies compliance with the requirements. Retail sellers include investor-owned utilities (IOUs), electric service providers (ESPs), and community choice aggregators (CCAs).

¹ SB 1038; Chapter 515, Statutes of 2002. The pertinent provisions of SB 1038 were formerly codified in Public Utilities Code Sections 383.5 and 445, but are now codified in Public Resources Code Sections 25740 through 25751 as a result of Senate Bill 183 (Chapter 666, Statutes of 2003).

² SB 1078; Chapter 516, Statutes of 2002. The pertinent provisions of SB 1078 are codified in Public Utilities Code Section 399.11 through 399.15. This law was subsequently amended to add Sections 399.16, 399.17, and 399.12.5 under Senate Bill 67 (Chapter 731, Statutes of 2003), Assembly Bill 200 (Chapter 5, Statutes of 2005), and Assembly Bill 2189 (Chapter 747, Statutes of 2006), respectively.

³ SB 1250; Chapter 512, Statutes of 2006. SB 1250 amends pertinent provisions in Public Resources Code Sections 25740 through 25751.

⁴ SB 107; Chapter 464, Statutes of 2006. SB 107 amends pertinent provisions in Public Resources Code Sections 25740 through 25751 and Public Utilities Code Sections 399.11 through 399.16.

In February 2003, the CPUC issued a ruling formalizing collaboration on RPS issues, and in March 2003, the Energy Commission adopted a reciprocal agreement. The Energy Commission subsequently developed this *Guidebook* collaboratively with the CPUC.

While this *Guidebook* reflects current requirements, the Energy Commission recognizes that it may need to periodically revise program guidelines to reflect market, regulatory, and legislative developments as well as incorporate the lessons learned from experience implementing the RPS.

A. Related Reports

This *Guidebook* is one of several guidebooks the Energy Commission has adopted to implement and administer the various program elements of its Renewable Energy Program. The Energy Commission's *Overall Program Guidebook for the Renewable Energy Program (Overall Program Guidebook)* describes how the Renewable Energy Program will be administered and includes information and requirements that apply overall to the Renewable Energy Program and the program elements. To qualify for certification as a renewable energy resource eligible for the RPS and SEPs, an applicant must satisfy the requirements specified in this *Renewables Portfolio Standard Eligibility Guidebook* and the *Overall Program Guidebook*.

To receive SEPs, applicants must also satisfy the requirements specified in the Energy Commission's *New Renewable Facilities Program Guidebook*. Parties interested in receiving SEPs may refer to the *New Renewable Facilities Program Guidebook* for information on how to apply for and receive SEPs. Please note that the Energy Commission also provides production incentive payments to eligible existing renewable resources that are not eligible for SEPs but may be eligible for the RPS. For more information, refer to the *Existing Renewable Facilities Program Guidebook*. For general information on the process of creating, appealing, and implementing RPS guidelines, please refer to the *Overall Program Guidebook*. Program guidebooks are available online at the Energy Commission's website at <www.energy.ca.gov>.

B. Outstanding Issues

There are several ongoing issues that could affect these guidelines. The Energy Commission will continue to address these issues collaboratively with the CPUC:

- Renewable Energy Credits/Certificates (RECs) trading:

RECs represent renewable and environmental attributes associated with energy production. Public Utilities Code Section 399.12, Subdivision (g)(1), defines a REC for California RPS purposes to mean a certificate of proof, issued through the accounting system established by the Energy Commission under Public Utilities

Code Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

Section 399.12, Subdivision (g)(2), specifies that a REC includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued under Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

In addition, Section 399.12, Subdivision (g)(3), specifies that no electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimus quantity as determined by the Energy Commission, shall result in the creation of a REC.

RECs and energy procured together as a “bundled” commodity are eligible for the California RPS. RECs sold separately from energy are termed “tradable” or “unbundled” in this *Guidebook* and are not currently eligible toward California RPS procurement requirements.

The law as amended by Senate Bill 107, however, authorizes the use of tradable RECs associated with energy produced from RPS-eligible resources to qualify towards RPS procurement requirements in the future, once certain conditions have been met. Tradable RECs may be allowed for RPS compliance after the CPUC and Energy Commission conclude that the Western Renewable Energy Generation Information System (WREGIS) is operational, capable of independently verifying delivery of renewable energy to a retail seller, and can assure that RECs are not double counted by any seller within the Western Electricity Coordinating Council (WECC).

Also, the CPUC may limit the amount of tradable RECs that a retail seller may procure to satisfy its RPS requirements. The CPUC is addressing RECs and other RPS implementation issues in its Rulemaking 06-05-027 and Rulemaking 06-02-012 and subsequent RPS Rulemakings.

A preliminary discussion of eligibility requirements and tracking requirements for tradable RECs is provided in this *Guidebook* in anticipation of their possible use for purposes of California RPS compliance.

- Determining how customer-side renewable distributed generation resources fit into the RPS:

The law includes solar energy as an eligible resource for the RPS. The CPUC Rulemaking 06-03-004 has been addressing if and how output from renewable distributed generation may be counted towards a retail seller’s RPS obligations. The CPUC issued a final decision (D.07-01-018) on January 11, 2007, that would allow

distributed generation system owners to retain 100 percent of the RECs associated with the distributed generation energy produced. Similarly, the Energy Commission does not require participants of its New Solar Homes Program to relinquish their claims of renewable energy credits or to transfer ownership of any such credits to the Energy Commission or any other entity as a condition of receiving New Solar Homes Program funding. This *Guidebook* describes distributed generation issues in the section on eligibility requirements.

The Energy Commission will certify distributed generation facilities as RPS-eligible only if and when the CPUC authorizes applying tradable RECs toward RPS obligations.

- Defining fuel specific issues:

The Energy Commission anticipates that new issues may arise that will need to be addressed as implementation continues. The Energy Commission recognizes that some parties may be interested in using hydrogen fuel to generate electricity but recommends deferring the development of implementation guidelines for such facilities. The Energy Commission recommends, however, that only eligible RPS fuel stock may be used to produce hydrogen for use at an RPS-eligible facility.

- Hybrid technologies:

A hybrid facility that uses a mix of fuels including fossil fuel may qualify for the RPS under the scenarios described in Section II (B) (6), with the exception of facilities that meet the criteria described in “Fossil Fuel Use at Qualifying Small Power Production Facilities.”

The Energy Commission may adopt tracking mechanisms to account for the renewable generation from hybrid technologies as appropriate. For example, the Energy Commission has developed a methodology to account for the amount of RPS-eligible energy generated from a hybrid technology that uses a mix of natural gas and biogas injected into a gas transportation pipeline. Once WREGIS is operational, the Energy Commission anticipates that it will account for generation from biogas injected into the pipeline transportation system and for other hybrid technologies.

C. Guidebook Organization

This *Guidebook* is organized as follows:

- I. Introduction
- II. Eligibility Requirements
- III. Certification Process
- IV. Generation Tracking System

V. Publicly Owned Utilities

Appendix A. Forms

Appendix B. List of Acronyms

Appendix C. Summary Table of Reporting Requirements

Section II covers eligibility requirements for generators interested in producing electricity that can be procured by retail sellers to comply with the RPS. For this *Guidebook*, “retail sellers” refers to California’s three largest IOUs (Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), to PacifiCorp and Sierra Pacific Power (electrical corporations with 60,000 or fewer customer accounts in California that also serve retail end-use customers outside California under Public Utilities Code 399.17), and to ESPs and CCAs.

Section II also addresses eligibility requirements for generators interested in producing electricity that can be procured to comply with the RPS and eligible to receive SEPs.

Section III discusses the Energy Commission’s certification process, including the following:

- Pre-certification application process for developers of renewable facilities that are not online but who are seeking a preliminary determination that their facility will be eligible for the RPS or SEPs.
- Certification application process for generators with renewable facilities that are online who are interested in serving energy to meet an RPS obligation or be eligible for SEPs.
- Application process to renew certification and pre-certification at least every two years.
- Process to amend certification or pre-certification.

Section IV discusses the data submission requirements for a generation tracking system that will be used to verify retail sellers’ compliance with the RPS and to verify that generation is counted only once in California or any other state.

Section V addresses participation of local publicly-owned electric utilities in the RPS.

II. Eligibility Requirements

This section describes eligibility requirements for the RPS, for SEPs, and for out-of-state facilities that seek RPS or SEP eligibility (to be eligible for SEPs, a facility must meet applicable RPS and SEP eligibility requirements). In general, a facility is eligible if it uses an eligible renewable resource or fuel, satisfies resource-specific criteria, and is either located within the state or satisfies applicable requirements for out-of-state facilities.

A. Renewables Portfolio Standard Targets

The CPUC sets annual procurement targets (APTs) for the amount of RPS eligible energy each retail seller must procure. Public Utilities Code Section 399.15, Subdivision (b)(1), requires the retail sellers to annually increase their renewable procurement by at least 1 percent of retail sales per year so that 20 percent of their retail sales is procured from RPS-eligible resources not later than December 31, 2010. The CPUC sets an “incremental procurement target” (IPT) for this 1 percent or greater annual increase and sets the APT for total annual RPS-eligible procurement requirements. The first year in which PG&E, SCE, and SDG&E were subject to an APT and IPT was 2004.⁵ The first year ESPs were subject to an APT was 2006.⁶

CPUC Decision 06-10-050 (Rulemaking 06-05-027) determined that “any RPS-eligible procurement may be used to satisfy any portion of the APT.” Further, any RPS-eligible procurement may be used to satisfy the IPT.⁷ When a retail seller procures energy and the associated RECs from a facility that is eligible for the RPS (or eligible for the RPS and SEPs), then the procurement may count towards the retail seller’s APT, including its IPT, assuming the transaction meets applicable delivery requirements and other eligibility criteria.⁸ The Energy Commission verifies RPS procurement, and the CPUC determines whether a retail seller is in compliance with its procurement targets, consistent with CPUC rules for flexible compliance.⁹

⁵ CPUC Decision 06-10-050, Rulemaking 06-05-027, *Opinion on Reporting and Compliance Methodology for Renewables Portfolio Standard Program*, October 19, 2006.

⁶ Public Utilities Code Section 399.12, Subdivision (h)(3). The CPUC is setting procurement targets for ESPs, CCAs, and multi-jurisdictional utilities. The CPUC defined targets for these entities in the *Interim Opinion*, Decision 06-10-019, Rulemaking 06-02-012, October 5, 2006, which may be further refined in Rulemaking 06-02-012 and Rulemaking 06-05-027 and subsequent CPUC rulemakings.

⁷ The CPUC is refining its definitions and compliance rules through Rulemaking 06-02-012 and R.06-05-027.

⁸ Under Public Utilities Code Section 399.16, Subdivision (a)(5) and (a)(6), RECs shall not be created for electricity generated under contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits, and shall not be created for contracts with QFs under the federal Public Utility Regulatory Policies Act executed after January 1, 2005. Deliveries under those contracts shall be tracked through WREGIS and automatically retired as counting towards the retail seller’s baseline. This is discussed in the section on “Eligibility of Tradable RECs.”

⁹ Public Utilities Code section 399.14 (a)(2)(C).

The Energy Commission's RPS certification identifies if a facility is RPS eligible, or RPS and SEP-eligible. The methodology to account for and verify RPS-eligible procurement is discussed in this *Guidebook* under Section IV, Generation Tracking System.

B. Eligibility for the Renewables Portfolio Standard

The Energy Commission has determined that it is appropriate to define eligible renewable energy resources by renewable resource or fuel, rather than by the specific technology used. For certain eligible renewable energy resources, however, the law contains specific requirements, and the Energy Commission must consider both the resource or fuel and the technology to determine RPS eligibility.

To qualify as eligible for California's RPS, a generation facility must use one or more of the following renewable resources or fuels (see the *Overall Program Guidebook* for full definitions):

- Biodiesel
- Biomass
- Conduit hydroelectric
- Fuel cells using renewable fuels
- Digester gas
- Geothermal
- Landfill gas
- Municipal solid waste
- Ocean wave, ocean thermal, and tidal current
- Photovoltaic
- Small hydroelectric (30 megawatts or less)
- Solar thermal electric
- Wind

Table 1 summarizes the requirements for a facility to qualify for the RPS and be eligible for SEPs. The table does not reflect any additional requirements that may apply to facilities located out-of-state.

Please note that, in some cases, the criteria for RPS eligibility depend on the date that a facility begins commercial operations. If a facility shuts down and later recommences operations, it is subject to the eligibility requirements that apply to the original operation date. If a facility is repowered as provided in this *Guidebook*, its commercial operation date is considered its repowering date, and the facility may then qualify for SEPs as provided in the *New Renewable Facilities Program Guidebook*.

Facilities using biodiesel, biomass, hydroelectric, or municipal solid waste (MSW) resources are subject to the additional resource or fuel-specific requirements described below. Also addressed below are requirements for photovoltaic facilities, as well as

those for hybrid and other facilities that use a mix of fuels, including those that operate in part by using fossil fuels.

Table 1: Renewables Portfolio Standard Eligibility Requirements for Renewable Electricity Facilities

Resource Used	RPS Eligibility	RPS and SEP Eligibility
Biodiesel	Yes, subject to RESTRICTION ¹	Yes, if New or Repowered
Biomass	Yes	Yes, if New or Repowered <u>AND IF</u> it meets fuel use specifications. See notes below. ^{2,3,4}
Digester Gas	Yes	Yes, if New or Repowered
Fuel Cells	Yes, if a renewable fuel is used.	Yes, if New or Repowered
Geothermal	Yes	Yes, if New or Repowered
Hydroelectric	Yes, RESTRICTED to facilities 30 MW or less. Facilities operational on or after January 1, 2006, are eligible if owned by or under contract to a retail seller as of January 1, 2006. Facilities that exceed 30 MW as a result of efficiency improvements made after January 1, 2003, may be eligible if the improvement does not require a new or increased appropriation or diversion of water from a watercourse. Facilities originally operational on or AFTER January 1, 2006, are eligible if they will not require a new or increased appropriation or diversion of water from a watercourse.	Yes, if 30 MW or less, commences commercial operations or is repowered after January 1, 2006, <u>AND IF</u> it does NOT require a new or increased appropriation or diversion of water under Water Code Section 1200 et seq. or any other provision of law authorizing an appropriation of water. Facilities that exceed 30 MWs as a result of efficiency improvements made after the facility commences commercial operations may be eligible if the improvement does not require a new or increased appropriation or diversion of water from a watercourse.
Hydroelectric - conduit	Yes, if facility operational on or after January 1, 2007. Facilities operational on or after January 1, 2007, are eligible if they will not require a new or increased appropriation or diversion of water from a watercourse. Facilities that exceed 30 MW as a result of efficiency improvements made after January 1, 2003, may be eligible if the improvement does not require a new or increased appropriation or diversion of water from a watercourse.	Yes, if 30 MW or less, commences commercial operations or is repowered on or after January 1, 2007, <u>AND IF</u> it does NOT require a new or increased appropriation or diversion of water under Water Code Section 1200 et seq. or any other provision of law authorizing an appropriation of water. Facilities that exceed 30 MWs as a result of efficiency improvements made after the facility commences commercial operations may be eligible if the improvement does not require a new or increased appropriation or diversion of water from a watercourse.
Landfill Gas	Yes	Yes, if New or Repowered

Resource Used	RPS Eligibility	RPS and SEP Eligibility
MSW Combustion	Yes, but only eligible IF the electric generation facility is located wholly within Stanislaus County and began operating before September 26, 1996.	Combusted MSW is NOT SEP-eligible.
MSW Conversion	Yes, if it meets the definition of "solid waste conversion." ⁵	Yes, if New or Repowered AND IF it meets the definition of "solid waste conversion." ⁵
Photovoltaic	Yes ⁶	Yes, if New or Repowered
Solar Thermal	Yes	Yes, if New or Repowered
Tidal Current	Yes	Yes, if New or Repowered
Ocean Wave	Yes	Yes, if New or Repowered
Ocean Thermal	Yes	Yes, if New or Repowered
Wind	Yes	Yes, if New or Repowered

Notes to Table 1

¹ **Biodiesel:** Electricity produced from biodiesel is eligible for the RPS IF the biodiesel is derived either from 1) a biomass feedstock such as "agricultural crops and agricultural wastes and residues" or as a result of an eligible "solid waste conversion" process (see Municipal Solid Waste Conversion) and 2) if it meets the requirements for hybrid technologies.

² **New:** Resources that first begin commercial operation or are repowered on or after January 1, 2005, and meet the other eligibility requirements of Public Resources Code Section 25743, including Subdivision (f), are eligible for SEPs.

³ **Repowered:** Repowered generators will be eligible for SEPs if they replace their prime generating equipment and use tax records, or an acceptable alternative, to demonstrate that they have made capital investments in the facility equal to "at least 80 percent of the value of the repowered facility," as required by Public Resources Code Section 25743, Subdivision (c). For generators with existing long-term contracts originally entered into before September 26, 1996, only generation above and beyond what is already under contract, as determined in accordance with Public Resources Code Section 25740.5, Subdivision (e), paragraph (1)(C), may compete to satisfy the RPS obligation of a retail seller and be eligible for SEPs.

⁴ **Biomass:** Biomass facilities seeking SEP eligibility must certify to the satisfaction of the Energy Commission that their biomass fuel utilization is limited to the following under Public Resources Code Sections 25742, Subdivision (d), and 25743, Subdivision (f):

(A) Agricultural crops and agricultural wastes and residues.

(B) Solid waste materials including waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(C) Wood and wood wastes that meet all of the following requirements:

(i) Have been harvested following an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973, Chapter 8 (commencing with Section 4511 of Part 2 of Division 4 of the Public Resources Code).

(ii) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(iii) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by those agencies.

⁵ **Municipal Solid Waste Conversion:** A facility is eligible for the RPS if 1) it uses a two-step process to create energy whereby in the first step (gasification conversion) a non-combustion thermal process that consumes no excess oxygen is used to convert MSW into a clean burning fuel, and then in the second step this clean burning fuel is used to generate electricity, 2) it is located in-state or satisfies the out-of-state requirements, and 3) it meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(C) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream before the conversion process, and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used complies with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the Energy Commission.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling and composting. To qualify for SEPs, the facility must certify that any local agency sending solid waste to the facility is in compliance with Division 30 of the Public Resources Code (commencing with Section 40000), and has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

⁶ **Photovoltaic:** The Energy Commission will certify distributed generation facilities, particularly solar photovoltaic, as RPS-eligible only if and when the CPUC authorizes applying tradable RECs toward RPS obligations.

1. Biodiesel

The electricity produced from combusting biodiesel is eligible for the RPS and SEPs if the biodiesel is derived from the following fuel sources and complies with the requirements for these fuel sources and hybrid systems:

1. A biomass feedstock such as “agricultural crops and agricultural wastes and residues,” including but not limited to food waste, recycled cooking oil, and straight vegetable oil, and consistent with the applicable requirements for hybrid technologies (refer to the guidelines for biomass eligibility and for hybrid technologies below), or
2. An eligible “solid waste conversion” process using MSW, and consistent with applicable requirements for hybrid technologies (refer to the guidelines for MSW eligibility and for hybrid technologies below).

In addition, the facility must be located in California or satisfy the out-of-state eligibility requirements discussed later in this *Guidebook*.

2. Biomass

The generation from a biomass facility is eligible for the RPS provided the facility uses a “biomass” fuel as defined in the *Overall Program Guidebook*. In addition, if the facility is seeking RPS eligibility and funding under the Existing Renewable Facilities Program (ERFP), its biomass fuel must be limited to the biomass fuels specified below for SEPs. Additionally, its annual fossil fuel use must not exceed a de minimus amount. For these facilities, de minimus is defined as 5 percent of all fuels used and measured on an annual energy input basis.

The generation from a biomass facility is eligible for SEPs if the facility operator certifies to the satisfaction of the Energy Commission that the biomass fuel used is limited to the following:

1. Agricultural waste: including agricultural crops and agricultural wastes and residues.
2. Solid waste materials: including waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.
3. Wood and wood wastes that meet all of the following requirements:
 - a. Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8

[commencing with Section 4511] of Part 2 of Division 4 of the Public Resources Code).

- b. Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.
- c. Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by these agencies.

In addition, the facility operator must certify that the facility's use of all fossil fuels exceeds no more than 2 percent of the total energy input for the facility during a given calendar year. The total energy input of the facility shall be determined in a manner consistent with Section 292.204(b) of Title 18 of the Code of Federal Regulations.

When applying for SEP pre-certification or certification, biomass facility operators must state their intent in writing to (1) procure biomass fuel supplies that meet the applicable statutory requirements noted above, and (2) comply with annual reporting requirements.

After receiving certification and commencing commercial operations, facility operators that are awarded SEPs must report to the Energy Commission annually on the type and quantity of biomass fuel used as specified in the three categories listed above: (1) agricultural waste, (2) solid waste materials, and (3) wood waste. In addition, the facility operator must report on the type and the amount of all fossil fuel used on a total energy input basis for the facility. The annual report shall include an attestation from the facility operator stating that the biomass fuel used meets the applicable statutory requirements. In addition, the report shall include an attestation from the facility's fuel supplier(s) stating that the biomass fuel delivered to the facility meets the applicable statutory requirements.

The annual report and attestation are due to the Energy Commission by January 31st of each year and should apply to fuel use for the previous calendar year. Biomass facility operators must also provide documentation upon request by the Energy Commission to verify ongoing compliance with these requirements between reporting dates.

3. Small Hydroelectric

The RPS and SEP eligibility of small hydroelectric facilities and conduit hydroelectric facilities are addressed separately in Subsections a and b, respectively. Subsection c describes the eligibility criteria for new and repowered small hydroelectric facilities and conduit hydroelectric facilities.

With exceptions for eligible efficiency improvements, an RPS-eligible hydroelectric facility or conduit hydroelectric facility must not exceed 30 MW. However, the law allows

a facility to retain its RPS eligibility if efficiency improvements cause the facility to exceed 30 MW. The Energy Commission interprets the 30-MW size limit such that if a 30-MW facility had an eligible 5-MW energy efficiency increase, energy from the 35-MW capacity would be RPS-eligible. However, a 5-MW energy efficiency increase to a 50 MW facility would not qualify for the RPS because the original size of the facility exceeded 30 MW.

a. Small Hydroelectric (not conduit)

The RPS eligibility of small hydroelectric facilities depends in part on whether the facility was operational on or after January 1, 2006, and whether energy efficiency improvements were made after January 1, 2003.

RPS Eligibility

- January 1, 2006: Generation from a small hydroelectric facility that commenced commercial operations before January 1, 2006, is eligible for the California RPS if the facility meets all of the following criteria:
 1. The facility is 30 MW or less, with an exception for eligible efficiency improvements as discussed below.
 2. The facility is located in-state or satisfies the out-of-state requirements.
 3. The facility was under contract to, or owned by, a retail seller as of January 1, 2006.

Eligible Efficiency Improvements: A small hydroelectric facility shall not lose its RPS eligibility if efficiency improvements undertaken after January 1, 2003, cause it to exceed 30 MW and do not require a new or increased appropriation or diversion of water from a watercourse. The entire generating capacity of the facility shall be RPS-eligible.

- Post-January 1, 2006: Generation from a small hydroelectric facility that commences commercial operations or is repowered on or after January 1, 2006, is eligible for the California RPS if the facility meets all of the following criteria:
 1. The facility is 30 MW or less, with an exception for eligible efficiency improvements, as discussed below.
 2. The facility is located in-state or satisfies the out-of-state requirements.
 3. The facility does not require a new or increased appropriation or diversion of water from a watercourse.

Eligible Efficiency Improvements: A small hydroelectric facility shall not lose its RPS eligibility if efficiency improvements undertaken after the facility commences commercial operations cause it to exceed 30 MW and do not require a new or increased appropriation or diversion of water from a watercourse. The entire generating capacity of the facility shall be RPS-eligible.

RPS and SEP Eligibility

- Post-January 1, 2006: Generation from a small hydroelectric facility that commences commercial operations or is repowered on or after January 31, 2006, is eligible for SEPs if the facility meets all of the following criteria:
 1. The facility is 30 MW or less, with an exception for eligible efficiency improvements, as discussed below.
 2. The facility is located in-state or satisfies the out-of-state requirements.
 3. The facility does not require a new or increased appropriation or diversion of water under Water Code Section 1200 et seq. or any other provision of law authorizing an appropriation of water.

Eligible Efficiency Improvements: A small hydroelectric facility shall not lose its RPS or SEP eligibility if efficiency improvements undertaken after the facility commences commercial operations cause it to exceed 30 MW and do not require a new or increased appropriation or diversion of water from a watercourse. The entire generating capacity of the facility shall be RPS-eligible. However, the facility may only qualify for SEPs for capacity of 30 MW or less.

b. Conduit Hydroelectric

The RPS eligibility of a conduit hydroelectric facility depends in part on whether the facility was operational on or after January 1, 2007.

RPS Eligibility

- January 1, 2007: Generation from a conduit hydroelectric facility that commenced commercial operations before January 1, 2007, is eligible for the RPS if the facility meets all of the following criteria:
 1. The facility is 30 MW or less, with the exception of eligible efficiency improvements, as discussed below.

2. The facility is not located on federal lands and uses for its generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity as specified in Section 823a of Title 16 of the United States Code.
3. The facility is located in-state or satisfies the out-of-state requirements.

Eligible Efficiency Improvements: A conduit hydroelectric facility shall not lose its RPS eligibility if efficiency improvements undertaken after the facility commences commercial operations cause it to exceed 30 MW and do not require a new or increased appropriation or diversion of water from a watercourse. The entire generating capacity of the facility shall be RPS-eligible.

- Post-January 1, 2007: Generation from a conduit hydroelectric facility that commences commercial operations or is repowered on or after January 1, 2007, is eligible for the California RPS if the facility meets all of the following criteria:
 1. The facility is 30 MW or less, with the exception of eligible efficiency improvements, as discussed below.
 2. The facility is not located on federal lands and uses for its generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity as specified in Section 823a of Title 16 of the United States Code.
 3. The facility is located in-state or satisfies the out-of-state requirements.
 4. The facility does not require a new or increased appropriation or diversion of water from a watercourse.

Eligible Efficiency Improvements: A conduit hydroelectric facility shall not lose its RPS eligibility if efficiency improvements undertaken after the facility commences commercial operations cause it to exceed 30 MW and do not require a new or increased appropriation or diversion of water from a watercourse. The entire generating capacity of the facility shall be RPS-eligible.

RPS and SEP Eligibility

- Post-January 1, 2007: Generation from a conduit hydroelectric facility that commences commercial operations or is repowered on or after

January 1, 2007, is eligible for RPS and SEPs if the facility meets all of the following criteria:

1. The facility is 30 MW or less, with the exception of eligible efficiency improvements, as discussed below.
2. The facility is not located on federal lands and uses for its generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity as specified in Section 823a of Title 16 of the United States Code.
3. The facility is located in-state or satisfies the out-of-state requirements.
4. The facility does not require a new or increased appropriation or diversion of water under Water Code Section 1200 et seq. or any other provision of law authorizing an appropriation of water.

Eligible Efficiency Improvements: A conduit hydroelectric facility shall not lose its RPS or SEP eligibility if efficiency improvements undertaken after the facility commences commercial operations cause it to exceed 30 MW and do not require a new or increased appropriation or diversion of water from a watercourse. The entire generating capacity of the facility shall be RPS-eligible. However, the facility may only qualify for SEPs for capacity of 30 MW or less.

c. New and Repowered Small Hydroelectric and Conduit Hydroelectric

This subsection describes the eligibility criteria for new and repowered small hydroelectric facilities and conduit hydroelectric facilities. The on-line dates that define new and repowered small hydroelectric facilities and conduit hydroelectric facilities are given above in subsections a and b, respectively.

For purposes of new or repowered small hydroelectric and conduit hydroelectric facilities, and efficiency improvements to these facilities, the terms “appropriation” and “diversion” shall be defined as follows:

“Appropriation” shall be defined in a manner consistent with Water Code Section 1201 to mean the right to use a specified quantity of water from any surface streams or other surface bodies of water or from any subterranean streams flowing through known and definite channels.

“Diversion” shall be defined in a manner consistent with Water Code Section 5100(b) to mean the taking of water by gravity or pumping from a surface stream or subterranean stream flowing through a known and definite channel, or other

body of surface water, into a canal, pipeline, or other conduit, and includes impoundment of water in a reservoir.

Hydroelectric Facilities Located within California

A new or repowered small hydroelectric facility or conduit hydroelectric facility located within California is NOT eligible for the RPS or SEPs if it requires any of the following:

1. A new permit from the State Water Resources Control Board (SWRCB) for a new appropriation of water.
2. A new permit or license from the SWRCB for a new diversion of water.
3. An increase in the volume or rate of water diverted if the increase would require a new permit or approval of a time extension petition from the SWRCB.
4. An increase in the volume or rate of water diverted under an existing right, even if such an increase would not require a water right permit or license from the SWRCB.

If a new or repowered small hydroelectric facility or conduit hydroelectric facility can demonstrate that it may operate without a new or increased appropriation or diversion of water, it may be eligible for the RPS and SEPs. For example, a small hydroelectric facility that can operate by simply adding hydroelectric power generation as an authorized purpose of use to its existing SWRCB permit or license may be eligible for the RPS and SEPs if this change in use does not require a new appropriation and does not increase the volume or rate of water diverted beyond that which otherwise would be diverted under that permit or license.

Hydroelectric Facilities Located Outside California

A new or repowered small hydroelectric facility or conduit hydroelectric located outside California is NOT eligible for the RPS or SEPs if it requires any of the following:

1. A new permit or license from any government body for a new appropriation of water.
2. A new permit or license from any government body for a new diversion of water.

3. An increase in the volume or rate of water diverted under an existing right, even if such an increase would not require a new permit or license from any government body.

If a new or repowered small hydroelectric facility or conduit hydroelectric facility located outside California can demonstrate that it may operate without a new or increased appropriation or diversion of water, it may be eligible for the RPS and SEPs. For example, a small hydroelectric non-conduit or conduit facility that can operate by simply adding hydroelectric power generation as an authorized purpose of use to its existing government permit or license may be eligible for the RPS and SEPs if this change in use does not require a new appropriation or increased diversion and does not change the volume or rate of water withdrawn or released under that permit or license.

The applicant is responsible for showing that its facility qualifies for the RPS or SEPs. Information required of applicants for small hydroelectric or conduit hydroelectric facilities is discussed in the section on certification.

4. Municipal Solid Waste

Applicants representing facilities using MSW fall into two categories:

1. **Solid Waste Combustion Facilities:** A facility that directly combusts MSW to produce electricity is only eligible for the RPS if it is located in Stanislaus County and was operational before September 26, 1996. Applicants for combustion facilities must submit documentation to the Energy Commission demonstrating that the facilities meet these requirements. Generation from these facilities does not qualify for SEPs.
2. **Solid Waste Conversion Facilities:** A facility is eligible for the RPS if 1) it uses a two-step process to create energy whereby in the first step (gasification conversion) a non-combustion thermal process that consumes no excess oxygen is used to convert MSW into a clean burning fuel, and then in the second step this clean burning fuel is used to generate electricity, 2) it is located in-state or satisfies the out-of-state requirements, and 3) it meets all of the following criteria in accordance with Public Resources Code Section 25741, Subdivision (b)(3):
 - a. The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.
 - b. The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.
 - c. The technology produces no discharges to surface or groundwaters of the state.

- d. The technology produces no hazardous wastes.
- e. To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream before the conversion process, and the owner or operator of the facility certifies that those materials will be recycled or composted.
- f. The facility at which the technology is used complies with all applicable laws, regulations, and ordinances.
- g. The technology meets any other conditions established by the State Energy Resources Conservation and Development Commission (formal name of the Energy Commission).
- h. The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting.

To qualify for SEPs, the facility must meet the criteria above for RPS eligibility and certify that any local agency sending solid waste to the facility complies with Division 30 of the Public Resources Code (commencing with Section 40000); has reduced, recycled, or composted solid waste to the maximum extent feasible; and has been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

5. Solar Energy and Distributed Generation

Generation from facilities using solar energy is eligible for the RPS. Both central station and distributed generation facilities are eligible, but the Energy Commission has not yet determined how to include distributed generation for RPS compliance or these guidelines.

Solar thermal electric central station facilities delivering electricity to the grid are relatively straightforward to integrate into RPS implementation because the generation can be readily measured and procured toward meeting RPS requirements. It is possible that a photovoltaic (PV) central station facility could also produce electricity that is eligible for the RPS with standard metering employed for central station facilities.

Distributed generation PV facilities and other distributed renewable energy technologies, however, have qualities that make them more difficult than central station facilities to integrate into RPS implementation. For example, distributed PV facilities are typically small-scale applications designed to meet a consumer's on-site energy demands. In addition, generation from distributed generation PV may be metered differently than central station facilities or not metered at all. Also, as described in the

New Renewable Facilities Program Guidebook, on-site generation is not eligible for SEPs.

Both the Energy Commission and the CPUC have roles in determining RPS implementation for distributed generation. However, the Energy Commission is deferring any decisions on how to integrate distributed generation PV and other forms of customer-sited renewable energy into the RPS until the CPUC has further addressed RPS implementation issues for distributed generation. The Energy Commission will certify distributed generation facilities as RPS-eligible only after the CPUC decides how to treat the output from renewable distributed generation toward utility RPS obligations. Facilities that receive funding under the Energy Commission's New Solar Homes Partnership program or Emerging Renewables Program or under the CPUC-approved Self Generation Incentive Program or California Solar Initiative are considered distributed generation and may not be certified as RPS-eligible at this time.

6. Hybrid Systems

The Energy Commission will allow two options for eligibility of facilities that operate on co-fired fuels or a mix of fuels that includes fossil fuel:

1. If the annual fossil fuel use at the facility does NOT exceed a *de minimus* amount, then 100 percent of the electricity production from the facility may count as RPS-eligible provided the facility otherwise satisfies the applicable California RPS standards. *De minimus* for purposes of facilities seeking RPS or SEP eligibility is 2 percent of all fuels used and measured on an annual energy input basis. *De minimus* for purposes of existing facilities seeking RPS eligibility and funding under the Energy Commission's Existing Renewable Facilities Program is 5 percent of all fuels used and measured on an annual energy input basis.
2. If the annual fossil fuel use at the facility exceeds a *de minimus* amount, then only the renewable portion of the electricity production can qualify for the RPS, and only once an appropriate tracking system for such electricity production is developed.

The Energy Commission will need to develop a methodology as part of the tracking system to measure the renewable fraction of generation before such a hybrid facility may be certified as RPS-eligible. This methodology could be based on the total energy input of the fuel, for example. As part of their application for certification from the Energy Commission, parties interested in certifying such facilities are invited to propose an appropriate tracking methodology for their facility.

- **Pumped storage**

Pumped storage hydro may qualify for the RPS to the extent that: 1) the facility meets the eligibility requirements for small hydro, and 2) the electricity used to pump the water

qualifies as RPS eligible. The amount of energy that may qualify for the RPS is the amount of electricity dispatched from the system.

The Energy Commission clarifies that pumped storage facilities qualify for the RPS on the basis of the renewable electricity used for pumping, and that electricity storage facilities will not be certified for the RPS as distinct or separate renewable facilities. A facility certified as RPS-eligible may include an electricity storage device if it does not conflict with other RPS-eligibility criteria, but the storage unit itself will not be separately certified.

- **Biogas Injected into a Natural Gas Pipeline**

RPS-eligible biogas (gas derived from RPS-eligible biomass or digester gas) injected into a natural gas transportation pipeline system and delivered into California for use in an RPS-certified hybrid facility may result in the generation of RPS-eligible electricity. The biogas must meet strict heat content and quality requirements within a narrow band of tolerance to qualify as pipeline-grade gas. Quantifying RPS-eligible energy production requires accurate metering of the volume of biogas injected into the transportation pipeline system and the measured heat content of the injected gas. Although blending the biogas into the transportation pipeline system mixes the biogas with other pipeline gas, natural gas regulations require gas entering the system to be “nominated” for use at a specific power plant or to a pipeline system owned by a publicly owned utility or other load-serving entity (LSE). Consequently, the amount and energy content of the biogas or other RPS-eligible gas produced can be measured and either nominated for use at a specific power plant or nominated to a pipeline system owned by an LSE. If the biogas is nominated to a pipeline system, the owner of the system must designate the facility in which the biogas will be used.

The operator of a facility to which biogas is nominated (or designated) must certify its facility as RPS-eligible, recognizing that the facility will use a blend of RPS-eligible and ineligible fuel. The amount of RPS-eligible electricity produced shall be calculated by multiplying the generation of the facility (MWh) by the ratio of the biogas used and the total gas (biogas and natural gas) used by the facility. The electricity generated and gas use must be measured over an equal period (such as MWh produced per month and gas used per month).

Any production or acquisition of gas that is directly supplied to the gas transportation pipeline system and used to produce electricity may generate RPS-eligible electricity as follows:

1. The gas must be produced from an RPS-eligible resource, such as biomass or digester gas.
2. The gas must be injected into a natural gas pipeline system that is either within the WECC region or interconnected to a natural gas pipeline system in the WECC region that delivers gas into California.

3. The energy content produced and supplied to the transportation pipeline system must be measured and reported annually, disaggregated by month. Reporting shall be in units of energy (e.g. MMBtu) based on metering of gas volume and adjustment for measured heat content per volume. In addition, the total amount of gas used at the RPS-eligible facility must be reported in the same units measured over the same period and the electricity production must be reported in MWh.
4. The gas must be used at a facility that has been certified as RPS-eligible. As part of the application for certification, the applicant must attest that the RPS-eligible gas will be nominated to that facility or nominated to the LSE-owned pipeline serving the designated facility.
5. In its annual verification report, the Energy Commission will calculate the RPS-eligible energy produced using the same methodology discussed above.

When applying for RPS and SEP pre-certification, certification, or renewal, the application must include the following: (1) an attestation from the hybrid facility operator of its intent to procure biogas fuel that meets RPS eligibility criteria, and (2) an attestation from the fuel supplier that the fuel meets eligibility requirements.

Two other options for eligibility of facilities that operate on co-fired fuels or a mix of fuels that includes fossil fuel are discussed in Section 7.

7. Other Renewable Facilities Using Fossil Fuel

In the past, the Energy Commission's Renewable Energy Program (REP) provided that renewable facilities using fossil fuels were eligible for funding as long as the percentage of fossil fuel used did not exceed 25 percent of the total energy input of the facility during a given calendar year. As long as a facility did not use more than 25 percent fossil fuel for its total generation, including the portion produced with fossil fuels, it was considered eligible for funding by the Energy Commission. The Energy Commission will provide the same treatment under the RPS for existing facilities that originally commenced commercial operations prior to January 1, 2002.

Further, any facility that is developed and awarded a power purchase contract as a result of an Interim RPS procurement solicitation approved by the CPUC under Decision 02-08-071 and Decision 02-10-062 may use up to 25 percent fossil fuel in its facility and count 100 percent of the electricity generated as RPS-eligible (assuming the electricity meets all other eligibility requirements).

In addition to hybrid technologies using a *de minimus* amount of fossil fuel, 100 percent of the electricity generated from a facility that operates on a mix of fuels that includes fossil fuel may be RPS-eligible if the facility satisfies either 1 or 2 below:

- 1) a.) Is certified as Qualifying Small Power Production Facility (QF) under the federal Public Utility Regulatory Policies Act, and b.) Became operational before 2002,

—or—

- 2) Was or will be developed and awarded a power purchase contract as result of an Interim RPS solicitation approved by the CPUC under Decision 02-08-071 and Decision 02-10-062.

If a facility meets the above criteria, the Energy Commission will certify the facility as the fuel type of the renewable fuel used. For example, if a solar thermal electric facility is co-fired with natural gas (fossil fuel use must meet the criteria of the Public Utility Regulatory Policies Act [PURPA] including not to exceed 25 percent of the fuel use), then the facility will be certified as “solar thermal electric.”

C. Eligibility for Supplemental Energy Payments

A facility that is eligible for the RPS may also be eligible for SEPs. To qualify as eligible for SEPs, a facility must meet the RPS eligibility requirements above, as well as the additional requirements below.

1. The facility is either:
 - a. “New,” meaning the facility first commences commercial operations on or after January 1, 2005, with the commercial operation date used to designate a facility as “new” to be periodically updated by the Energy Commission, or
 - b. “Repowered,” such that the prime generating equipment of the facility is replaced and the applicant demonstrates that the capital investments equal “at least 80 percent of the value of the repowered facility,” as required by Public Resources Code Section 25743, Subdivision (c). A facility qualifies as “repowered” only if it re-enters commercial operations on or after the commercial operations date that distinguishes “new” facilities. Only investments made in the two years prior to re-entering commercial operations qualify toward the 80 percent investment threshold. More information about the requirements to qualify as a repowered facility is provided in the section on certification.
2. A small hydroelectric facility may qualify for SEPs if it commences commercial operations or is repowered on or after January 1, 2006.
3. A conduit hydroelectric facility may qualify for SEPs if it commences commercial operations or is repowered on or after January 1, 2007.

4. If a facility has an existing long-term contract with a retail seller that includes fixed energy or capacity payments, then generation sold under the contract does not qualify for SEPs, except as provided in criterion 5 below.
5. If a facility has an existing long-term contract with a retail seller originally entered into before September 24, 1996, then only incremental new or repowered generation that is above and beyond what is already under contract, as determined in accordance with Public Resources Code Section 25740.5, Subdivision (e)(1)(C), may qualify for SEPs.

For information about applying for and receiving SEPs, please refer to the *New Renewables Facilities Program Guidebook*.

D. Eligibility of Out-of-State Facilities

This section applies to renewable facilities that are located out-of-state and have their first point of interconnection to the WECC transmission system outside the state, as defined in the *Overall Program Guidebook*. Facilities that have their first point of interconnection to the WECC transmission system within the state are considered to be in-state facilities and are not subject to the requirements of this section for purposes of RPS or SEP eligibility. Out-of-state facilities that are not or will not be interconnected to the WECC transmission system are not eligible for the RPS.

Note that the delivery requirements described here for out-of-state facilities do not apply to electric corporations that serve retail end-use customers outside California and have 60,000 or fewer customer accounts in California under Public Utilities Code Section 399.17. Section 399.17 modifies the definition of an eligible renewable energy resource to include out-of-state facilities for certain electric corporations, such as PacifiCorp and Sierra Pacific Power, which serve customers both in and outside California.

Generation from renewable facilities located out-of-state is potentially eligible for both the RPS and SEPs. To qualify for the RPS or SEPs, generation from an out-of-state facility must meet the RPS eligibility requirements described above and must satisfy all of the following criteria.

- a) Is located so that it is or will be connected to the WECC transmission system.
- b) Commences initial commercial operations on or after January 1, 2005, (except in the case of small hydroelectric and conduit hydroelectric facilities, which must commence initial commercial operations on or after January 1, 2006, and January 1, 2007, respectively, to qualify for SEP eligibility).
- c) Demonstrates delivery of its generation to an in-state market hub or in-state location, as specified in the delivery requirements below.

- d) Does not cause or contribute to any violation of a California environmental quality standard or requirement.
- e) If located outside the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in California.
- f) Participates in an RPS tracking and verification system approved by the Energy Commission.
- g) Satisfies the “Delivery Requirements” set forth below.

If the facility meets all of the above criteria except it commenced commercial operations before January 1, 2005 (criterion “b” above), then it may be RPS-eligible (but not SEP-eligible) if it meets one of the following two criteria:

- a) The electricity is from incremental generation resulting from project expansion or repowering of the facility, or
- b) The facility is part of a retail seller’s existing baseline procurement portfolio as identified by the CPUC.

For retail sellers that serve end-use customers outside California and have 60,000 or fewer customer accounts in California under Public Utilities Code Section 399.17, such as PacifiCorp and Sierra Pacific Power, electricity procured from a facility located out-of-state must, in lieu of the foregoing criteria, meet the following criteria to be eligible for the RPS:

- a) The generation must be procured by the retail seller on behalf of its California customers and is not used to fulfill its renewable energy procurement requirements in other states or any other renewable energy retail claim.
- b) The facility is connected to the WECC.
- c) The facility and retail seller must participate in an RPS tracking and verification system approved by the Energy Commission.

Generation procured by retail sellers under Public Utilities Code Section 399.17 is not eligible for SEPs.

E. Delivery Requirements

For purposes of RPS compliance, electricity is deemed delivered if it is either generated at a location within the state or is scheduled for consumption by California end-use retail customers as specified in Public Resources Code Section 25741, Subdivision (a). Consequently, electricity generated by facilities located in-state or having their first point

of interconnection to the WECC transmission system in-state satisfies California RPS delivery requirements.

To count generation from out-of-state facilities for purposes of RPS compliance, the facility must enter a power purchase agreement with the retail seller or procurement entity and electricity must be delivered to an in-state market hub (also referred to as “zone”) or in-state point of delivery (also referred to as “node”) located within California. The retail seller or procurement entity and Seller may negotiate which party is responsible for securing transmission at any point along the delivery path as long as the energy is delivered into California. The retail seller or procurement entity may document delivery from a control area operator (also referred to as “balancing authority”) in the WECC transmission system. The Energy Commission will compare the amount of RPS-eligible energy generated by the RPS-eligible facility per calendar year with the amount of energy delivered into California for the same calendar year and the lesser of the two amounts may be counted as RPS-eligible procurement (for more discussion see “verification of delivery”). The generation from the facility must be under a power purchase agreement with the retail seller or procurement entity. The delivery must be made consistent with North American Electric Reliability Corporation (NERC) rules and documented with a NERC tag as described below.

The following deliverability requirements were developed in consultation with the California ISO. These requirements must be satisfied for an out-of-state facility to qualify for the RPS or SEPs (with the exception noted above for retail sellers subject to Public Utilities Code Section 399.17). The delivery requirements do not apply to facilities located outside of California whose first point of interconnection to the WECC transmission system is located in California.

1. The retail seller, procurement entity, or facility representative must either (a) arrange for an interchange transaction with the California ISO to deliver the facility’s energy to a point of delivery in California, or (b) arrange for an interchange transaction with another balancing authority to deliver energy to the point of delivery in California. In accordance with the policies of the NERC, the interchange transaction must be tagged as what is commonly referred to as a “NERC tag,” which requires, among other things, that information be provided identifying the Generation Providing Entity, the “Source” or “Point of Receipt,” the physical transmission path for delivery showing intermediary “Points of Delivery,” the contract or market path, the final Point of Delivery or load center known as the “sink,” and the Load Serving Entity responsible for the consumption of electricity delivered.
2. The Source identified on the NERC tag may be a specific RPS-eligible facility registered as a unique source or may be any balancing authority located in the WECC.
3. The RPS certification number of the facility or facilities (or RPS pre-certification number, in the case of local publicly-owned electric utilities) that is/are engaged in a power purchase agreement with a retail seller or procurement entity (or local

publicly-owned electric utility implementing these delivery requirements as part of compliance with its RPS) must be shown on the comment field of the NERC tag.

4. The facility must provide the Energy Commission with its NERC identification (Source point name)¹⁰ if it registers as a unique source, or the Source point name of its balancing authority when it applies for RPS certification.
5. The facility representative, retail seller, or procurement entity (or local publicly-owned electric utility implementing these delivery requirements as part of compliance with its RPS) must request and receive acceptance of a NERC tag between a balancing authority in California and a balancing authority in WECC.
6. The applicable parties (the Generation Providing Entity and Load Service Entities) must agree to make available upon request documentation of the NERC tag to the Energy Commission. On May 1 of each year (or the next business day), the retail seller or procurement entity must submit an annual report documenting compliance with this NERC tag requirement for the previous calendar year to the Energy Commission.
7. The facility must submit verification of its generation to the Energy Commission annually. Please refer to the section on the “Generation Tracking System.” The Energy Commission will use these data to verify the actual generation of power that was scheduled for delivery via NERC tags.
8. If a facility has obtained a SEP award, the Energy Commission will verify that SEPs were granted only for generation that satisfies delivery requirements. For more information, please refer to the *New Renewable Facilities Program Guidebook*.

F. Eligibility of Tradable Renewable Energy Credits

As noted in the section on “Outstanding Issues,” RECs traded separately from energy (tradable or unbundled RECs) do not qualify for the California RPS at this time. The law, however, authorizes the use of RECs for RPS procurement requirements once (1) the CPUC establishes rules for REC procurement and (2) the CPUC and Energy Commission conclude that the WREGIS is operational, capable of independently verifying delivery of renewable energy to a retail seller, and can assure that RECs are not double counted by any seller within the WECC.

Tradable RECs that in the future may be counted toward California’s RPS requirements may be created for electricity delivered from RPS-eligible resources to local publicly owned utilities, the California Independent System Operator, or a retail seller. RECs associated with energy delivered to publicly owned utilities may be certified by the

¹⁰ The NERC identification is the Source point name, an alpha-numeric code the generator uses to identify itself when it registers with the Transmission Services Information Network (TSIN). Registration with TSIN is mandatory for participation in the NERC tagging system.

Energy Commission as RPS-eligible if the Energy Commission determines that the publicly owned utility has satisfied certain conditions. For more information, see the section on “Publicly Owned Utilities” in this *Guidebook*.

No tradable RECs shall be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a publicly owned utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those RECs. Deliveries under those contracts will be tracked through WREGIS and automatically retired as counting towards the retail seller’s baseline.

Similarly, no tradable RECs shall be created for contracts with QFs under the federal Public Utility Regulatory Policies Act executed after January 1, 2005. Deliveries of energy under these contracts will be tracked through WREGIS and will automatically be retired as counting towards a retail seller’s RPS procurement requirement.

The Energy Commission will not allow electricity beyond a *de minimus* quantity of fossil fuel to result in the creation of a tradable REC. The energy input of an RPS-eligible facility may use fossil fuel for no more than 2 percent of its total annual fuel input (on a BTU basis) and the Energy Commission’s tracking system will issue RECs for the facility’s entire energy output. This provision will not go into effect before WREGIS is operational. As described above, however, the 2 percent *de minimus* provision will not apply to RPS eligible generation from the following since tradable RECs will not be issued for:

- Facilities under contract with a retail seller or a local publicly owned utility if the contract was executed before January 1, 2005, unless the contract specifies the ownership or disposition of those RECs, and
- QFs under contracts executed on or after January 1, 2005.

A REC shall be counted only once for compliance with the California RPS and may not be also used to count towards the regulatory requirements of any other state or to satisfy any other retail product claims. RPS-eligible facilities, publicly owned utilities, and retail sellers who enter tradable REC transactions for RPS compliance purposes must participate in the RPS tracking and verification system approved by the Energy Commission.

RECs will only be certified for generation from an RPS certified facility that is also eligible to generate tradable RECs. If the facility loses its RPS certification status, any RECs produced will not be RPS certified, effective upon the date the facility becomes ineligible for the RPS.

III. Certification Process

This section covers pre-certification and certification of renewable facilities eligible only for the RPS, and eligible for both the RPS and SEPs. This section also describes required supplemental information for renewable facilities using technologies that must meet special eligibility requirements. Although retail sellers are required to meet their annual procurement requirements with generation from RPS-certified facilities, the Energy Commission also certifies facilities as RPS-eligible if they serve a local publicly-owned electric utility, and encourages publicly owned utilities to meet their RPS obligations with certified facilities. Also, the Energy Commission will pre-certify small hydroelectric facilities that intend to sell to a local publicly-owned electric utility that would be otherwise eligible for certification except that the facility was owned by or under contract to a publicly-owned electric utility.

Electricity generation from a facility cannot be counted toward meeting a retail seller's RPS procurement requirement until the Energy Commission certifies the facility as a Renewable Supplier Eligible for the RPS or as a Renewable Supplier Eligible for the RPS and SEPs. Any facility operator interested in entering into a contract to generate electricity that will count toward a retail seller's RPS obligation must certify the facility with the Energy Commission.

Procurement may count toward a retail seller's RPS obligation even though facilities were not RPS certified at the time of procurement. The electricity will not be considered eligible, however, and will not be counted toward meeting an RPS obligation until the facility is certified by the Energy Commission as being eligible for the RPS. This applies to all facilities regardless of whether they previously registered with the Energy Commission's Renewable Energy Program.

In applying for certification, the facility operator, or the IOU on the operator's behalf, agrees to participate in the Energy Commission's generation tracking system. For more information about the tracking system, please refer to the section of this *Guidebook* titled "Generation Tracking System."

The generation from facilities certified as eligible for SEPs may qualify for funding under the Energy Commission's New Renewable Facilities Program. To receive SEPs, eligible facilities must satisfy the requirements specified in the Energy Commission's *New Renewable Facilities Program Guidebook*.

A. Applying for Certification and Pre-Certification

Facilities seeking certification as eligible for the RPS or SEPs consistent with the eligibility requirements noted above must submit a completed application, along with any necessary supporting documentation, to the Energy Commission at the address shown on the form. An application may be submitted for a facility by the facility operator or its agent on the facility's behalf (CEC-RPS-1A) or by the procuring retail seller on the operator's behalf (CEC-RPS-2) for facilities under contract with the retail seller prior to April 21, 2004, the initial adoption date of this *Guidebook*. A publicly-owned electric

utility, for purposes of its RPS program, may certify a facility on the operator's behalf using form CEC-RPS-2 for facilities under contract with the publicly-owned electric utility and subject to the requirements applicable to retail sellers.

Except for CPUC-ordered extensions to existing QF power purchase contracts, retail seller certification on the operator's behalf becomes void in the event that the facility's contract with the retail seller expires, or is voluntarily extended, or is otherwise renegotiated by the retail seller and the facility operator. Once the contract expires or is voluntarily renegotiated, the facility operator must apply for certification from the Energy Commission on its own behalf, and the retail seller may not recertify the facility on the operator's behalf. For CPUC-ordered extensions, retail seller certification may continue until the extension expires.

The Energy Commission will review the application to determine eligibility as a Renewable Supplier Eligible for the RPS or as a Renewable Supplier Eligible for the RPS and SEPs and will notify applicants once a determination of eligibility is made.

Facilities certified by a retail seller will only be granted certification for the generation procured under contract by that retail seller. The facility operator must separately certify any facility capacity that is not subject to the retail seller's procurement contract but is procured to satisfy the RPS targets of another retail seller. If a facility operator seeks certification on its own behalf, however, the facility operator need submit only one application per facility regardless of whether generation from the facility is sold to one or multiple retail sellers.

When a retail seller applies on a facility's behalf, the retail seller must furnish all required supplemental information.

Provisional or "pre" certification as an eligible renewable resource is available for applicants whose facilities are not yet online. Applicants seeking pre-certification must complete CEC-RPS-1B. The information submitted by these applicants will be subject to further verification once the pre-certified facility comes online. Applicants must indicate their desire to be pre-certified on their completed CEC-RPS-1B form and must submit all required supplemental information, as described below, to the extent available. If the required supplemental information is not available at the time of pre-certification because of the facility's stage of development, then the applicant must explain this in its application and identify the missing information and the date(s) when the information is expected to be available. Facilities that are pre-certified must submit a complete and updated certification application (CEC-RPS-1A) with all required supplemental information and be certified as RPS- or SEP-eligible before any of its generation may be counted toward satisfying a retail seller's RPS procurement requirements.

The Energy Commission will make every effort to notify applicants if their facility is eligible for the RPS as soon as possible. For facilities that are not required to submit supplemental information as described below, the Energy Commission expects to review and process applications for certification and pre-certification within 10 business

days of their receipt, unless questions or concerns arise regarding the applications. If questions arise, the applicant will be contacted and may be asked to submit additional information. If the applicant does not respond within 60 days to a request for clarification or additional information regarding the application, the application will expire without approval and be returned. The applicant must submit a new application with complete information to reinstate the certification request. The Energy Commission recognizes that it may receive a large volume of applications at the onset of this program or when renewals are due (discussed later in this section) and that the 10-day goal may not be met.

The Energy Commission will notify applicants in writing of its determination on the application for certification. If the application for certification or pre-certification is approved, the Energy Commission will issue a certificate stating that the facility is certified or pre-certified as eligible for the RPS or SEPs, as appropriate. The certificate will list the Energy Commission-issued certification number for the facility as well as the size, fuel type and percentage of annual fossil fuel usage (if any), name, location, and owner/operator of the facility. The certificate will also indicate whether the facility was certified by the facility owner/operator or a retail seller on the owner/operator's behalf.

In addition, the certificate will identify any limits on certification or pre-certification. For example, a certificate issued for a facility that has been certified by a retail seller will indicate certification by the retail seller, rather than the facility operator, and will limit certification to the generation procured under contract by the retail seller. The certificate will also include an expiration date.

The Energy Commission encourages local publicly owned electric utilities to meet their RPS obligations through procurement from RPS-certified (or pre-certified) facilities. However, for a small hydro facility to become RPS-certified, it is eligible only if a retail seller owned or procured electricity from the facility as of January 1, 2006. By statute, the definition of a "retailer seller" excludes local publicly owned electric utilities. Consequently, a small hydro facility that is owned by or is selling its generation exclusively to a local publicly owned electric utility as of January 1, 2006, is not RPS eligible and may not apply for RPS certification but may apply for pre-certification. If the Energy Commission determines that the facility is eligible for pre-certification and is otherwise eligible for certification except that it was owned by or under contract to a publicly owned utility, then the Energy Commission will note this determination in the pre-certification notification upon request by the applicant.

For applicants that must submit supplemental information, such as small hydroelectric, conduit hydroelectric, MSW/solid waste conversion, out-of-state, or repowered facilities, the Energy Commission must conduct an extensive review of the supplemental data. Review of these applications will require a minimum of 30 days from when the Energy Commission receives a complete application. The 30-day clock starts on the date a complete application is date-stamped by the Energy Commission as received and the Executive Director makes a determination on any related applications for confidential designation. After completing its review, the Energy Commission will either notify the

applicant of its proposed determination, or will request additional information from the applicant.

If the applicant disagrees with the Energy Commission's determination on a certification or pre-certification application, the applicant may petition the Renewables Committee and the Energy Commission for reconsideration as described in the *Overall Program Guidebook*.

The Energy Commission will post information on its website listing those facilities that are certified or pre-certified as eligible for the RPS or for SEPs. Any changes in a facility's certification status will also be posted on the Energy Commission's website.

Consistent with the *Overall Program Guidebook*, the Energy Commission may conduct periodic or random reviews to verify records submitted for certification or pre-certification as a renewable supplier eligible for the RPS or SEPs. Further, the Energy Commission may conduct on-site audits and facility inspections to verify compliance with the requirements for certification or pre-certification. The Energy Commission may request additional information it deems necessary to monitor compliance with the certification requirements specified in this *Guidebook*.

To the extent that the facility's agent or a retail seller applies for certification on a facility's behalf, the agent or retail seller must secure and have available for inspection records to verify the application for certification or pre-certification. In addition, the agent or retail seller must possess documents to verify a facility's compliance with the requirements of certification and pre-certification. These documents must be available to the Energy Commission upon request for auditing purposes.

B. Renewing Certification and Pre-Certification

Certification and pre-certification must be renewed at least every two years to confirm that facilities certified as renewable energy resources remain eligible for the RPS. In addition, facilities may be required to renew their certification based on changes in the law after being notified in writing by the Energy Commission. These renewal requirements also apply to facilities certified by a retail seller. All facilities certified in 2004 will be subject to re-certification in January 2007, with facilities certified in 2005 re-certifying in January 2008, and so on. Applications to renew certification are due October 15 (or the next business day) each year, as applicable. In addition, if a representative of a certified or pre-certified facility does not respond to the Energy Commission's request for an informational update in a timely manner, it risks losing its certification status.

C. Amending Certification and Pre-Certification

Representatives of certified and pre-certified facilities must notify the Energy Commission promptly of any changes in information previously submitted in an

application for certification or pre-certification. A facility failing to do so risks losing its certification status. Any changes to a certification or pre-certification application should be reported on an amended CEC-RPS-1 form (CEC-RPS-1A to amend certification and CEC-RPS-1B to amend pre-certification). For example, if a facility's annual fossil fuel use changes from the percentage identified in its previous application for certification, the facility must submit an amended application. The Energy Commission will review the amended application and notify the applicant of any modifications to their certification status.

Also, any changes to the status of a facility's certification will be posted on the Energy Commission's website and any affected retail seller contracting with that facility will be promptly notified.

D. Supplemental Information

The following supplemental instructions apply to applications for biomass, small hydroelectric (including conduit hydroelectric), and MSW/solid waste conversion facilities. Supplemental instructions are also included for applicants seeking certification or pre-certification of repowered facilities and facilities located outside California. The information described below must be submitted as an attachment to the applicant's completed CEC-RPS-1A or CEC-RPS-1B form, along with the appropriate supplement form.

1. Supplemental Instructions for Biomass Facilities

Applicants for certification or pre-certification of biomass facilities must submit an attestation attached to the applicant's completed CEC-RPS-1A or CEC-RPS-1B that they comply or will comply, in the case of pre-certification, with the biomass fuel requirements described above.

Additionally, Public Resources Code Section 25748 requires the Energy Commission to identify the types and quantities of biomass fuels used by facilities receiving funds under (Public Resources Code) Sections 25742 or 25743 and their impacts on improving air quality. To meet this requirement, biomass facility operators receiving SEPs or production incentives from the Energy Commission's Existing Renewable Facilities Program must submit an annual report to the Energy Commission describing their biomass fuel use as follows: tons of biomass by type of biomass, the air district from which the biomass originated if the fuel may have been open-field burned had it not been used for electricity production, and an attestation from the fuel supplier(s) that the biomass fuel continues to meet the RPS eligibility standards. In addition, the operators must report on the amount of all fossil fuel used on a total energy input basis for the facility. The total energy input of the facility shall be determined in a manner consistent with Section 292.204(b) of Title 18 of the Code of Federal Regulations. The report is due to the Energy Commission on February 15th of each year to report on the biomass supply consumed in the previous calendar year.

2. Supplemental Instructions for Small Hydroelectric and Conduit Hydroelectric Facilities

An applicant must provide additional information to substantiate its self-certification that a small hydroelectric facility or conduit hydroelectric facility is eligible for the RPS or SEPs if the facility:

- Commenced commercial operations or was repowered on or after January 1, 2006, for small hydro facilities and after January 1, 2007, for conduit hydroelectric facilities.
- Was added to an existing water conduit.
- Was subject to efficiency improvements undertaken after January 1, 2003 that caused it to exceed 30 MW.

Supplemental water-use data and documentation described below must be attached to a completed CEC-RPS-1A (for certification) or CEC-RPS-1B (for pre-certification) form. These requirements apply to facilities located within California as well as those located out-of-state. Applicants possessing a permit or license from the State Water Resources Control Board (SWRCB) – or from another governing body, if located out-of-state – must submit a copy of the permit or license as well as the application for the permit or license.

1. Name of the Facility
2. Ownership of the Facility
3. Source Water Description

The application must identify the source of the water for the small hydro project. The source must be characterized as surface, groundwater, or other (for example, recycled water). For surface water sources, a map at a scale of 1:24,000 must be provided. The map should also identify the location of the diversion point and all other facilities. In addition, a written description of the location of the diversion should be provided (county and nearest city) as well as the name of the body of water at the point of diversion. For groundwater, the location of the well(s) and conveyance facilities shall be identified on a map of 1:24,000 scale. The applicant must also specify how much water is used for each of the identified beneficial uses.

4. Water Rights

Both in-state and out-of-state applicants must clearly establish their right to divert water by submitting all necessary information as well as all appropriate licenses or permits. Within California, this information must establish the applicant's legal right to appropriate or divert water and identify the permitted volume and rate of water diversions, the place of diversion, and beneficial uses. This may be achieved through submittal of the appropriate SWRCB appropriation permit or license, or the

Statement of Water Diversion and Use filed with SWRCB. Out-of-state facilities must provide similar documentation of an existing water right for the water diversion of the project.

5. Hydrologic Data

The applicant must submit appropriation and/or diversion data for the last five years, or for the period of operation if the project has been operating less than five years. Information contained in any legally required reports may be used to meet this requirement if sufficient information is included in the report. For other projects, the hydrologic data submitted must be accompanied by a description of how the data is collected. Flow data shall be provided at the frequency set forth in the applicable water appropriation permit; for example, if the permit specifies minimum and maximum flows on a monthly basis that is the level of information necessary to be submitted.

6. Other Permits

The applicant must submit all other applicable permits, including those permits and exemptions issued by the Federal Energy Regulatory Commission (FERC).

7. Environmental Documentation

The applicant must submit copies of any permits, agreements, contracts, or other requirements affecting the operation of the facility, especially those that affect the volume and rate of flows.

8. Capacity

The applicant must demonstrate how the project will comply with the size limitations under the RPS. For repowering projects, the applicant must describe how capacity will be increased without an increase in the appropriation and/or diversion of water or a change in the volume or rate of flows.

9. Efficiency Improvements

Applicants seeking certification of hydro facilities that exceed 30 MW due to efficiency improvements are required to provide the following:

- a) Verifiable generation data for the 10 years preceding efficiency improvements (if the facility has not been operating 10 years, then provide data for the years it has been operational).
- b) The actual or expected efficiency improvement and increase in production in MWh resulting from the efficiency improvement and a discussion of the

methodology used to estimate increased energy production. If production data are available for years following the efficiency improvement, provide those data.

- c) Evidence that the efficiency improvement from the facility resulted (or will result if the applicant is seeking pre-certification) from a capital expenditure in the project. The capital investment must exclude monies that would have been spent on operation and maintenance in the normal course of doing business. The applicant must provide a brief description of each capital investment made for project efficiency, including a discussion of the nature of the capital investments and how they resulted in efficiency improvements. In substantiating an application, the burden of proof will be on the applicant to submit compelling evidence to demonstrate the effect of the capital investments on improving facility efficiency.

10. Conduit Hydroelectric Facilities

Applicants seeking pre-certification of prospective conduit hydroelectric facilities must submit documentation showing the facility has applied to the FERC for a license as a conduit hydroelectric facility under Section 823a of Title 16 of the United States Code or been issued one of the following by FERC:

- a. A Preliminary Permit;
- b. A Conduit Exemption as provided under Section 4.31(b)(2) of Title 18 of the Code of Federal Regulations;
- c. A license as a conduit hydroelectric facility under Section 823a of Title 16 of the United States Code.

Applicants seeking certification of conduit hydroelectric facilities must submit documentation showing the facility has been issued one of the following:

- a. A Conduit Exemption from FERC as provided under Section 4.31(b)(2) of Title 18 the Code of Federal Regulations.
- b. A license by FERC as a conduit hydroelectric facility under Section 823a of Title 16 of the United States Code.

3. Supplemental Instructions for Municipal Solid Waste Conversion Facilities

Applicants for certification of solid waste conversion facilities must provide copies of permits issued by the California Integrated Waste Management Board (CIWMB) attached to the completed CEC-RPS-1A or CEC-RPS-1B form to verify compliance with the requirements specified above. Applicants seeking pre-certification must attach copies of their application to CIWMB for a permit. The Energy Commission will verify

compliance in consultation with the CIWMB and based on CIWMB's proposed or adopted regulations for solid waste conversion technologies as set forth in Title 14, California Code of Regulations, Division 7, Chapter 3, Article 6.0, commencing with Section 17400. CIWMB is considering regulations for this purpose under Assembly Bill 2770 (Mathews, Chapter 704, Statutes of 2002), which establishes requirements for solid waste conversion technologies that mirror the requirements for these technologies found in Public Resources Code Section 25741, Subdivision (b)(3). The regulations being considered are part of CIWMB's Transfer/Processing Operations and Facilities Regulatory Requirements and will require facilities using solid waste conversion technologies to obtain a Conversion Technology Facility Permit. Pending the adoption of these regulations, the CIWMB may permit facilities using solid waste conversion technologies on a case-by-case basis following its existing regulations for the Transfer/Processing Operations and Facilities Regulatory Requirements.

To become certified as a renewable energy resource eligible for RPS (and SEPs), an applicant for a solid waste conversion facility must submit to the Energy Commission a copy of its Conversion Technology Facility Permit approved by the CIWMB. In the event that CIWMB's regulations for solid waste conversion technologies are not adopted at the time the facility seeks RPS certification, the facility must request and obtain from CIWMB a Solid Waste Facility Permit under CIWMB's existing regulations for the Transfer/Processing Operations and Facilities Regulatory Requirements. The Energy Commission will confirm that the permit is approved, active, and applicable to the facility seeking RPS certification. These permits must demonstrate the following:

1. The facility is using only a "gasification" conversion technology, as defined in Public Resources Code Section 40117.
2. The facility accepts and processes "solid waste" as defined in Public Resources Code Section 40191 and is not limited to receiving and processing "source separated" waste as defined in Title 14, California Code of Regulations, Section 17402.5(b)(4).
3. The facility processes solid waste from which, to the maximum extent feasible, all recyclable materials and marketable green waste compostable materials have been removed prior to the solid waste conversion process.

In addition, an applicant must certify to the Energy Commission the following:

1. All recyclable materials and marketable green waste compostable materials that have been removed from solid waste delivered to the facility are recycled or composted.
2. Any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this certification, "local agency" means any city,

county, or special district, or Subdivision thereof, that is authorized to provide solid waste handling services.

To become pre-certified as RPS- or SEP- eligible, the applicant must submit to the Energy Commission the information required to receive a Conversion Technology Facility Permit from CIWMB. In the event CIWMB's regulations for solid waste conversion technologies have not been adopted at that time, then the applicant must submit to the Energy Commission the information required to receive a Solid Waste Facility Permit. This information is identified in Title 14, California Code of Regulations, Sections 18221.5 and 18221.6. The Energy Commission will review this information in consultation with the CIWMB to determine if the information is complete and satisfies the requirements specified in Public Resources Code Section 25741(a)(3).

If a pre-certified applicant does not obtain a Conversion Technology Facility Permit from CIWMB by the time the project commences commercial operation, or if it is denied approval for a permit, the Energy Commission will revoke the applicant's pre-certification.

4. Supplemental Instructions for Out-of-State Facilities

All out-of-state facilities must provide additional information when applying for certification as RPS-eligible. Further reporting requirements apply to facilities that commenced commercial operations before January 1, 2005, as described below.

The supplemental reporting requirements for out-of-state facilities do not apply, however, to a facility that is:

- 1) Exclusively serving retail sellers subject to Public Utilities Code Section 399.17, or
- 2) Seeking pre-certification and is not yet on-line.

Representatives of all other out-of-state facilities seeking certification as RPS- or SEP-eligible must submit the following additional information with a completed CEC-RPS-1A form.

1. Impact on California Environmental Quality Standards: The applicant must provide a) a comprehensive list and description of all California environmental quality laws, ordinances, regulations, and standards (collectively referred to as "LORS") that may be directly or indirectly impacted by the facility's development or operation, and b) an assessment as to whether the facility's development or operation will cause or contribute to a violation of any of these LORS in California.

At a minimum, the LORS described shall address the following environmental areas consistent with Appendix B, Section (g), of the Energy Commission's regulations for power plant certification, Title 20, California Code of Regulations, Sections 1701, et seq:

- Cultural Resources
- Land Use
- Traffic and Transportation
- Visual Resources
- Socioeconomics
- Air Quality
- Public Health
- Hazardous Materials Handling
- Workers' Safety
- Waste Management
- Biological Resources
- Water Resources
- Agriculture and Soil
- Paleontologic Resources
- Geological Hazards and Resources
- Transmission System Safety and Nuisance

The applicable LORS for a given facility will vary depending on the facility's location, since the LORS across California vary. For example, the air quality standards in Southern California may differ from the air quality standards in Northern California.

If an out-of-state facility commenced commercial operations before January 1, 2005, the applicant may qualify for RPS certification if either: 1) the facility was part of a retail seller's baseline, or 2) the facility produces incremental generation due to project expansion or repowering. The supplemental information needed for each case is described below.

1. Baseline: If an out-of-state facility commenced commercial operations before January 1, 2005, the applicant must identify the retail seller that procured electricity from the facility, the baseline year, and the amount sold to the retail seller.

2. Incremental generation: The Energy Commission may certify incremental generation from out-of-state facilities as RPS-eligible if it finds that the incremental generation exceeds the project's historical production. The methodology for quantifying incremental generation is described in the "Generation Tracking System" section of this *Guidebook*. The applicant must provide the following information:

- For small hydro facilities, the applicant must provide verifiable generation data for the 10 years preceding project expansion or repowering. If the project has not been operational for 10 years, then provide generation data on all previous years to date. The applicant must also provide the information described in "Supplemental Instructions for Hydropower Facilities."

- For all RPS-eligible technologies except small hydro, the applicant must provide data on annual generation for the 36 months preceding the project expansion or repowering (for example, if the project expansion comes on-line January 1, 2007, then generation data must be provided from January 1, 2004 through 2006). If the project has not been operational for 36 months, then provide generation data for all previous months to date.
- All applicants seeking certification of incremental generation must provide evidence that the incremental generation from the facility resulted (or will result if the applicant is seeking pre-certification) from a capital expenditure in the project. This information is needed to verify that the incremental production is not a result of weather fluctuations or some other recurring or random event. The capital investment must exclude monies that would have been spent on operation and maintenance in the normal course of doing business. The applicant must provide a brief description of each capital investment made for project expansion or repowering, including a discussion of the nature of the capital investments and how they resulted in the incremental generation. In substantiating an application to certify incremental production, the burden of proof will be on the applicant to submit compelling evidence to demonstrate the effect that capital expenditures had on production.

All data submitted are expected to be public. However, the Energy Commission is interested only in data with a direct bearing on the application. For example, although information on capital investments and the resulting production increases is expected to be submitted publicly, the Energy Commission has no interest in any proprietary underlying economic analyses that may have led to the decision to make such an investment.

2. **Out-of-Country Facilities:** In addition to the above information, an applicant for a facility located outside the United States must provide all of the following:
 - A comprehensive list and description of all California environmental quality LORS that would apply to the facility if the facility were located within California.
 - An assessment as to whether the facility's development or operation will cause or contribute to a violation of any of these LORS.
 - An explanation as to how the facility's developer and/or operator will meet these LORS in developing or operating the facility, including whether the developer and/or operator will secure and put in place mitigation measures to ensure that these LORS are complied with.

5. Supplemental Instructions for Repowered Facilities

To apply for certification or pre-certification as a repowered facility, an applicant must submit a completed CEC-RPS-1A or CEC-RPS-1B form, along with documentation confirming the replacement of the facility's prime generating equipment and the capital investments made to repower the facility as well as the value of those investments.

1. Prime Generating Equipment: The applicant must document that the facility's prime generating equipment is new and that the repowered facility re-entered commercial operations on or after January 1, 2005. Applicants for repowered small hydroelectric facilities and conduit hydroelectric facilities must document the facilities re-entered commercial operations on or after January 1, 2006, and January 1, 2007, respectively.
 - a. The "prime generating equipment" for each renewable resource is defined as follows:
 - Wind: the entire wind turbine, including the generator, gearbox (if any), nacelle, and blades.
 - Biomass: the entire boiler. Stoker boilers may be replaced with boilers using improved stoker technology or fluidized bed technology.
 - Geothermal: the entire steam generator, including the turbine rotors, shaft, stationary blades, and any gear assemblies.
 - Small hydroelectric: the entire turbine and structures supporting the turbine.
 - Solid waste conversion: the entire gasifier (gasifying equipment) and combustion turbine.
 - Landfill gas: the entire internal combustion engine or combustion turbine as applicable.
 - Digester gas: the entire digester unit and internal combustion engine or combustion turbine as applicable.
 - Solar thermal: the entire steam turbine.
 - b. All prime generating equipment at the facility must be replaced with new equipment for the facility to qualify as a repowered facility. For example, a 25-MW wind facility consisting of 50 separate wind turbines must at a minimum replace each of the 50 wind turbines with new turbines of like or greater capacity for the entire 25-MW facility to qualify as a repowered facility. The Energy Commission recognizes that a wind facility owner may want or need to repower only a portion of the turbines owned at a site and does not exclude that option. In the event that

a generator is interested in repowering a portion of a site, then it will need to re-certify the remaining portion of the site that is not being repowered.

2. Capital Investments: The applicant must document that the value of the capital investment made to repower the facility equals at least 80 percent of the total value of the repowered facility. In addition, the applicant must document that capital investments were made not more than two years prior to the date that the facility re-entered commercial operations. Capital investments may only be considered for purposes of meeting the 80 percent threshold if they were made for that portion of the facility that contributes directly to the production of electricity. This includes the prime generating equipment as well as the electricity generators and related equipment, fuel processing, enhancing, and delivery equipment, control equipment, and structures used to structurally support the aforementioned equipment. As discussed below, the electrical generators, fuel processing, enhancing and delivery equipment, control equipment, and related structures do not need to be replaced for the facility to qualify as a repower. However, if this equipment is replaced, the capital investment to do so may be considered for purposes of meeting the 80 percent threshold.
 - Electrical Generators and/or Fuel Processing, Enhancing, and Delivery Equipment: It is generally not necessary for a facility to replace its existing electrical generators or fuel processing, enhancing, and delivery equipment because replacing this equipment may produce little or no improvement to the facility's efficiency and, therefore, does not warrant the additional expense. Exceptions are cases in which the electrical generator is an integral part of the prime generating equipment, such as for wind facilities, or where the fuel processing, enhancing, and delivery equipment is an integral part of the prime generating equipment via the fuel conversion process, such as for solid waste conversion facilities and digester gas facilities. The facility's environmental control equipment, such as air pollution control equipment, would not be considered for purposes of meeting the 80 percent threshold, because such equipment does not contribute directly to the production of electricity.
 - Any associated process control equipment and structures used for structural support of the prime generating equipment, electrical generators, fuel processing, enhancing, and delivery equipment, and associated process control equipment, as appropriate, would also fall into this category and are generally not necessary to replace.

The applicant must provide documentation, such as invoice receipts, verifying the replacement of the old equipment, as well as other components of the technology relevant to the repowering application. The Energy Commission will confirm that the equipment listed is appropriate for certification as a repowered facility.

The applicant must document the value of the capital investments made to the facility and the total value of the repowered facility. The value of the capital

investments must equal at least 80 percent of the total value of the repowered facility.

The “repowered facility” is defined as all of the new and/or existing prime generating equipment, electrical generators, fuel processing, enhancing, and delivery equipment, and any associated process control equipment and structures at the facility. The land on which the facility sits will not be considered part of the repowered facility for purposes of determining the 80 percent threshold. Similarly, intangibles such as the value of a facility’s power purchase contract or its goodwill will not be considered part of the repowered facility.

The applicant may show that it has met the 80 percent threshold by submitting either tax records or an assessment of the “replacement value” of the facility along with documentation of the cost of the new equipment. The applicant must notify the Energy Commission which method it is using and provide the appropriate information as described below.

a. Tax Records Methodology:

The applicant must submit to the Energy Commission all relevant tax records needed to demonstrate that the capital investments made to repower the facility are equal to at least 80 percent of the value of the repowered facility.

- The applicant must document the value of the capital investments and the year the investments were made. In this case, the value of capital investments is the original tax “basis” declared to the Internal Revenue Service to calculate depreciation. The tax basis should reflect the value of the equipment the applicant has attested to purchasing. The tax basis is generally what a business pays for an item to be depreciated.
- The applicant must document the value of the repowered facility. In this case, the value of the repowered facility is based on the sum of the tax basis declared for all of the equipment and structures in the repowered facility as of the year the facility is repowered. For new equipment and structures, the value of the repowered facility is the original tax basis; for existing equipment and structures, the value of the repowered facility is the tax basis as adjusted for depreciation. For facilities financed using a sale/lease-back or similar structure, the original tax basis of the equipment and structures for both the lessor and lessee will be considered.
- The applicant must divide the total value of capital investments by the total value of the repowered facility. This calculation must show that the investment is equal to or greater than 80 percent of the total value of the facility for it to qualify as repowered.

b. Replacement Value Methodology:

This alternative approach may make it more difficult for a facility to meet the 80 percent repowering threshold but it is a reasonable alternative for parties who are unable or unwilling to secure the necessary tax records to use the adjusted tax basis approach.

- The applicant must document the value of the equipment replaced in the facility. The replacement cost of new equipment is based on the equipment's purchase price and, consequently, is the same value when compared to the adjusted tax basis approach.
- The applicant must submit an independent evaluation of the replacement cost of existing, unreplaced equipment ("retained equipment"). The evaluation should be an estimate of the capital costs that would have to be incurred to replace the retained equipment. This estimate must be provided by an accountant in good standing with the American Institute of Certified Public Accountants or a member in good standing and certified as an Internal Auditor with the Institute of Internal Audits.
- The applicant must divide the total value of capital investments by the sum of the replacement cost of the new equipment and the independent estimate of the replacement cost of the retained equipment. This calculation must show that the investment is equal to or greater than 80 percent of the total value of the facility for it to qualify as repowered.

IV. Generation Tracking System

The Energy Commission is responsible for developing a tracking system to verify compliance with the RPS. The Energy Commission is required to:

Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that renewable energy output is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, and for verifying retail product claims in this state or any other state. In establishing the guidelines governing this system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 [commencing with Section 6250] of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the CPUC.

Similarly, the Energy Commission is required to design and implement an accounting system to track RECs that are certified as produced by RPS-eligible resources. The tracking system will be used to verify compliance with the RPS program. The CPUC may authorize the use of RECs to satisfy the requirements of the RPS, and may limit the quantity that may be procured unbundled from the underlying electricity generation by any retail seller to satisfy its RPS requirements. RECs may not be used to satisfy RPS procurement requirements, however, until such rules are established and not until the Energy Commission and the CPUC conclude that the Energy Commission's tracking system is operational.

The Energy Commission is developing an electronic tracking system to meet its tracking requirements, including the tracking of RECs. Once the long-term, electronic tracking system, WREGIS, is in place and operational, the Energy Commission will require RPS and SEP certified facilities, retail sellers, and procurement entities to participate in the WREGIS as part of RPS compliance. WREGIS will issue a REC, termed a WREGIS Certificate, for each reported megawatt-hour of eligible generation.

The Energy Commission will use an interim generation tracking system until the electronic system is operational. In the interim, the Energy Commission staff culls data from various self-reported sources to verify procurement.

A. Reports to the Energy Commission

Retail sellers must report annually to the Energy Commission on the amount of RPS eligible electricity they procure per facility, called a "specific purchase." Using the CEC-

RPS-Track form, retail sellers must report the amount of energy they procured per month from each RPS eligible facility, and provide various identification numbers for each facility. The CEC-RPS-Track form must be executed by an authorized agent of the retail seller who can attest that the specific purchases reported on the form were sold once and only once to retail consumers.

The CEC-RPS-Track form is due to the Energy Commission on May 1 (or the next business day) of each year until WREGIS is operational. Once WREGIS is operational, the CEC-RPS-Track form reporting requirement is expected to be satisfied with reports generated through WREGIS. The CEC-RPS-Track form and instructions are provided in Appendix A.

Although PG&E, SCE, and SDG&E began reporting their procurement to the Energy Commission in 2005, the first year that other retail sellers are required to submit procurement data is 2007. ESPs, CCAs, and multi-jurisdictional utilities subject to Public Utilities Code Section 399.17 must submit the CEC-RPS-Track form for years 2005 and 2006 by May 1, 2007.¹¹ In subsequent years, all retail sellers and multi-jurisdictional utilities subject to Public Utilities Code Section 399.17 will report their 2007 procurement in 2008, their 2008 procurement in 2009, and so on.

A facility that certifies as RPS or SEP eligible with the Energy Commission must annually submit data on its monthly generation, including any generation sold to an entity that does not qualify as a retail seller under Public Utilities Code Section 399.12, Subdivision (c). These data must be reported on the CEC-RPS-GEN form by May 1 (or the next business day) of each year. To verify generation, the facility must submit monthly payment statements from the retail seller as an attachment to the form showing the amount of energy procured from the facility. If the facility is serving an entity that does not qualify as a retail seller under Public Utilities Code Section 399.12, Subdivision (c), and is participating in the Energy Commission's RPS tracking system, then the verification may be from that entity. The Energy Commission intends to simplify program implementation by using the retail seller's payment statement to serve as the verification rather than allowing alternate sources of data. The facility should strike out any price or other data on the statement that it does not want to make publicly available. Once WREGIS is operational, this reporting requirement is expected to be satisfied with reports generated through WREGIS. The CEC-RPS-GEN form and instructions are provided in Appendix A.

For cases in which the retail seller certifies a facility on the facility's behalf, the retail seller is responsible for reporting the generation data for the facilities it certifies. This reporting requirement will be satisfied through the CEC-RPS-Track form until WREGIS is operational, and retail sellers do not need to file separate CEC-RPS-GEN forms for

¹¹ SB 107 revised Public Utilities Code Section 399.12, Subdivision (h)(3) to establish January 1, 2006 as the first year of RPS obligations for ESPs. CPUC Decision 06-10-019, Rulemaking 06-02-012 sets 2005 as the baseline year and 2006 as the first year with an IPT for ESPs. For CCAs, the IPT and APT shall be determined based on the CCA's retail sales in its first year of operation and shall apply to the CCA's second year of operation.

the facilities they certify. Also, since the retail seller is providing the data, the retail seller does not need to separately provide third party verification of the generation.

In addition, a facility, or a retail seller on the facility's behalf, must submit documentation verifying compliance with the NERC tag requirements (described under "Delivery Requirements" in the "Eligibility of Out-of-State Facilities" section). This documentation is required annually beginning in 2005, and is due to the Energy Commission by May 1 (or the next business day) each year. The Energy Commission intends to work with industry to establish a standardized, annual summary report and a standardized format for supporting documentation.

If necessary, the Energy Commission will request that the CPUC direct the retail sellers to submit the CEC-RPS-Track form data and documentation showing compliance with the NERC tag requirement if the Energy Commission does not receive these data promptly.

B. Accounting for Out-of-State, Incremental Generation

The incremental generation resulting from the expansion or repowering of an out-of-state facility that commences commercial operations before January 1, 2005, is eligible for the RPS. To determine the amount of energy from a facility that qualifies as incremental, the Energy Commission will first determine the historical baseline of the facility. For hydro-power facilities, the baseline is the annual average generation calculated from 10 years prior to project expansion or repowering. For all other technologies, the baseline is the average annual generation calculated from the 36 months prior to project expansion or repowering. If the project has not been operational for the specified time period (e.g. 10 years for hydro facilities), then the project must provide the annual average generation for its operation to date.

The Energy Commission will certify the facility's annual production net of the baseline calculated for that facility. For example, if the facility produces 250 MWh in 2008 and its baseline is 150 MWh, then 100 MWh generated from the facility are RPS-eligible.

C. Energy Commission RPS Verification Report

The Energy Commission intends to prepare an annual RPS Verification Report specifying the quantity of RPS-eligible energy each retail seller procured in the previous calendar year. This report will be transmitted to the CPUC and is intended to help the CPUC determine RPS procurement targets and evaluate retail sellers' RPS compliance. The Energy Commission will account for procurement consistent with the requirements of this *Guidebook* and applicable CPUC decisions. The Energy Commission anticipates

adopting the Verification Report for 2006 procurement and subsequent reports by the end of each calendar year.¹²

1. Verification of Delivery

As part of the RPS Verification Report, the Energy Commission will also verify compliance with delivery requirements for out-of-state facilities. The Energy Commission will annually verify that the delivery requirements were satisfied for the previous calendar year.

To verify deliveries from out-of-state facilities, the Energy Commission intends to compare the generation procured from an RPS eligible facility with the monthly NERC tag data annually. Generation of RPS certified facilities under power purchase agreements with a retail seller and NERC tag documentation of delivery must be reported annually to show generation and delivery per month for the entire calendar year. The NERC tag must reference the RPS certification number of the facility for which deliveries are being matched with generation. The Energy Commission will compare the total amount generated in the previous calendar year with the total amount delivered in the previous calendar year and the lesser of the two may be accounted for as RPS-eligible. For example, if the annual energy delivery shown on the NERC tag exceeds the annual amount of energy generated, then the Energy Commission will count the amount generated as RPS eligible. Conversely, if the amount generated exceeds the annual amount that was delivered as demonstrated by the NERC tags, the Energy Commission will assume some of the generation was delivered elsewhere and will only count as RPS eligible the amount of procurement supported by the NERC tag data.

2. Verification Methodology using the Interim Tracking System

As discussed above, the Energy Commission has developed an interim accounting system for use until WREGIS is operational. The Energy Commission will verify that the RPS procurement reported in the CEC-RPS-Track form is certified as RPS eligible. Also, to the extent possible the Energy Commission will ensure that RPS eligible energy procured by retail sellers is counted only once in California or any other state. In the interim until WREGIS is operational, the Energy Commission will conduct this verification by cross-checking RPS procurement with retail claims reported under the Energy Commission's Power Source Disclosure Program and other similar data.

The Energy Commission will apply statutory provisions and CPUC rules to report on the amount of RPS-eligible procurement. The Energy Commission will verify the energy generation to the extent possible, and will verify that the amount of RPS eligible procurement as reported in the CEC-RPS-Track form did not exceed the facility's total generation. As part of the interim tracking system, the Energy Commission will check

¹² The first Verification Report is publicly available: California Energy Commission, February 2006, *Renewables Portfolio Standard Procurement Verification Report*, Commission Report, CEC-300-2006-002-CMF.

that if two or more retail sellers procured energy from the same facility, the cumulative amount of energy procured does not exceed the facility's total generation. If procurement exceeds generation, the Energy Commission will report the discrepancies.

D. Accounting for Tradable Renewable Energy Credits

When WREGIS is determined to be operational and if the CPUC allows the procurement of tradable RECs for RPS compliance purposes, the Energy Commission will track tradable RECs. The electronic accounting system, WREGIS, is currently being developed to satisfy current RPS tracking requirements and will be capable of tracking tradable RECs.

Any RECs procured to satisfy an RPS obligation must be "retired" such that the RECs may not be resold or used to meet any other regulatory requirement or any other market claim.

V. Publicly Owned Utilities

Publicly owned utilities serve over 25 percent of the state's electricity load, and as such they have an important role in California's efforts to meet its statewide RPS goals.

Public Utilities Code Section 387, Subdivision (a) states:

Each governing body of a local publicly owned electric utility, as defined in Section 9604, shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

The law as amended by SB 107 requires publicly owned utilities to report the following information to their customers and to the Energy Commission:

1. Expenditures of public goods funds for eligible renewable energy resource development (program descriptions, expenditures, and expected or actual results);
2. Resource mix used to serve customers by fuel type, including the contribution of each type of renewable energy resource, with separate categories for those fuels that are eligible renewable energy resources as defined in Public Utilities Code Section 399.12 and those fuels that would be eligible renewable energy resources as defined in Section 399.12, except that the electricity is delivered to the publicly owned utility and not a retail seller; and
3. Its status in implementing a renewables portfolio standard.

The Energy Commission encourages publicly owned utilities to send this information by May 1 of each year (or the following business day). Receipt of the data by this date will allow for a full accounting of the publicly owned electric utilities' contributions towards meeting the statewide RPS goals and overall state progress. The Energy Commission requests that publicly owned utilities use the reporting format provided in Appendix A.

The law also establishes new provisions for publicly owned utilities that take effect if:

1) tradable REC sales are approved for retail sellers to use towards their RPS compliance, and 2) a publicly owned utility seeks to sell RECs for a retail seller to use towards RPS compliance. The law requires the Energy Commission to certify, for purposes of compliance with the RPS by a retail seller, the eligibility of tradable RECs that are created from electricity delivered to a publicly owned utility. The Energy Commission may certify as RPS-eligible tradable RECs associated with electricity delivered to a publicly owned utility only if the Energy Commission determines that the publicly owned utility:

- Is in compliance with the requirements of Section 387 of the Public Utilities Code.

- Has established annual procurement targets comparable to an electric corporation, is procuring sufficient RPS-eligible resources to satisfy the targets, and will not fail to meet its targets in the event that the RECs are sold to another retail seller.
- Seeks certification of RECs associated with energy produced from facilities the Energy Commission has certified as eligible for the California RPS.

In making its determination to certify RECs from electricity delivered to a publicly owned utility, the Energy Commission will:

1. Verify that the publicly owned utility is in compliance with its RPS program and is satisfying its RPS targets as reported to the Energy Commission.
2. Verify that energy generation associated with the RECs is from an RPS-eligible facility,
3. Require that RECs be tracked through WREGIS. Any RECs procured by retail sellers must be RPS-eligible, tracked through WREGIS, and retired for RPS compliance. Consequently, any RECs sold by a publicly owned utility to retail sellers must also satisfy these criteria.
4. The quantity of RECs certified will not impede the publicly owned utility from meeting its RPS targets.

If a publicly owned utility anticipates seeking RPS certification of tradable RECs, the utility must provide data to inform the Energy Commission's determination. The Energy Commission requests that such data be provided using the template provided in Appendix A. The Energy Commission will evaluate the quantity of tradable RECs associated with RPS-eligible delivery to the publicly owned utility that it does NOT need to maintain compliance with its own RPS target. The Energy Commission will only certify tradable RECs for a quantity over and above any amount that may be needed to satisfy the publicly owned utility's own RPS targets.

Note that RECs will only be certified for generation from an RPS certified facility that is also eligible to produce tradable RECs as described in "Eligibility of Tradable RECs." If the facility loses its RPS certification status, any RECs produced after the facility becomes ineligible will not be RPS certified. After evaluating the application to certify RECs, the Energy Commission may proceed to certify RECs under the process discussed in this *Guidebook*.

Appendix A–Forms

Note: Current versions of these forms (downloadable) are available online at:
www.energy.ca.gov/portfolio/documents/index.html

- CEC-RPS-Track, Interim Data Collection from retail sellers
- CEC-RPS-GEN, Interim Data Collection from RPS-eligible facilities
- CEC-RPS-1A, Application for Certification, California Renewables Portfolio Standard Program
- CEC-RPS-1A-S1, Certification Supplement 1 – Biodiesel
- CEC-RPS-1A-S2, Certification Supplement 2 – Biomass
- CEC-RPS-1A-S3, Certification Supplement 3 – Small Hydroelectric
- CEC-RPS-1A-S4, Certification Supplement 4 – Municipal Solid Waste
- CEC-RPS-1A-S5, Certification Supplement 5 – Repowered Facilities
- CEC-RPS-1A-S6, Certification Supplement 6 – Out-of-State Facilities
- CEC-RPS-1B, Application for Pre-Certification, California Renewables Portfolio Standard Program
- CEC-RPS-1B-S1, Pre-Certification Supplement 1 – Biodiesel
- CEC-RPS-1B-S2, Pre-Certification Supplement 2 – Biomass
- CEC-RPS-1B-S3, Pre-Certification Supplement 3 – Small Hydroelectric
- CEC-RPS-1B-S4, Pre-Certification Supplement 4 – Municipal Solid Waste
- CEC-RPS-1B-S5, Pre-Certification Supplement 5 – Repowered Facilities
- CEC-RPS-1B-S6, Pre-Certification Supplement 6 – Out-of-State Facilities
- CEC-RPS-2, Utility Application for Certification of Renewable Facility, California Renewables Portfolio Standard Program
- CEC-RPS-POU, Reports by Publicly-Owned Utilities

Appendix B - Acronyms

APT	—	annual procurement target
CA ISO	—	California Independent System Operator
CCA	—	community choice aggregator
CIWMB	—	California Integrated Waste Management Board
CPUC	—	California Public Utilities Commission
DG	—	distributed generation
ESP	—	electric service provider
FERC	—	Federal Energy Regulatory Commission
IOU	—	investor owned utility
IPT	—	interim procurement target
kWh	—	kilowatt-hour
LFG	—	landfill gas
LORS	—	laws, ordinances, regulations, and standards
LSE	—	load-serving entity
Btu	—	British Thermal Unit
MSW	—	municipal solid waste
MW	—	megawatt
MWh	—	megawatt-hour
NERC	—	North American Electric Reliability Corporation
NRFP	—	New Renewable Facilities Program
PGC	—	Public Goods Charge
PG&E	—	Pacific Gas and Electric Company
PURPA	—	Public Utilities Regulatory Policies Act
PV	—	photovoltaic
QF	—	Qualifying Small Power Production Facility
REC	—	Renewable Energy Credit/Certificate
REP	—	Renewable Energy Program
RPS	—	Renewable Portfolio Standard
SB	—	Senate Bill
SCE	—	Southern California Edison Company
SDG&E	—	San Diego Gas and Electric Company
SEP	—	supplemental energy payments
SWRCB	—	State Water Resources Control Board
WECC	—	Western Electricity Coordinating Council
WREGIS	—	Western Renewable Energy Generation Information System

Appendix C - Summary of RPS Reporting Requirements

Reporting Party	Reporting Requirement	Due Date
Facility	Certification/ Pre-certification, CEC-RPS-1A or CEC-RPS-1B and Supplement Forms as appropriate	Anytime
Out-of-State Facility	Compliance documentation of the NERC tag requirement	May 1, 2005, and annually thereafter
Biomass Facility (or Biodiesel facility using biomass)	Annual attestation from fuel supplier(s) verifying ongoing compliance with fuel requirements	February 15, 2005, and annually thereafter
Facility or retail seller	Renewal of Certification/Pre-certification	Once every two years, due October 15. Facilities certified in 2004 must renew in January 2007. Facilities certified in 2005 must renew in January 2008 and so forth.
Facility or retail seller	Amendment of Certification/ Pre-certification	As needed
Facility or retail seller	retail seller monthly payment statement showing the amount of energy procured reported annually to the Energy Commission	May 1 , 2005, and annually thereafter until data are reported through WREGIS
Retail seller	Report on Procurement, CEC-RPS-Track	May 1, 2005, and annually thereafter until data are reported through WREGIS
Retail seller	Utility Certification for Pre-Existing Contracts, CEC-RPS-2	Anytime until contract expires or is voluntarily re-negotiated
Publicly owned utility	Annual report	Requested May 1, 2007 and annually thereafter