

**DOCKETED**

<b>Docket Number:</b>	18-OIR-01
<b>Project Title:</b>	Energy Data Collection - Phase 2
<b>TN #:</b>	238240
<b>Document Title:</b>	Phase 2 Data Rulemaking NOPA
<b>Description:</b>	Notice of Planned Action for the Phase 2 Data Rulemaking
<b>Filer:</b>	Ryan Eggers
<b>Organization:</b>	Energy Commission
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**CALIFORNIA ENERGY COMMISSION**

1516 Ninth Street  
Sacramento, California 95814

[energy.ca.gov](http://energy.ca.gov)

CEC-057 (Revised 1/21)

**NOTICE OF PROPOSED ACTION**

Title 20. Public Utilities and Energy  
Division 2. State Energy Resources Conservation and Development Commission  
Chapter 3. Data Collection  
Articles 1, 2, 3. And 4  
And  
Chapter 7. Administration  
Article 2. Disclosure of Commission Records

Docket No. 18-OIR-01  
Notice Published on June 18, 2021

Notice is hereby given that the California Energy Commission (CEC) proposes to adopt changes to the California Code of Regulations (CCR), Title 20, Chapter 3, Data Collection, and Chapter 7, Administration, after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The CEC will hold a public hearing for the proposed regulations at the date and time below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulations at the hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

**Tuesday August 6, 2021  
9:00 a.m. (Pacific Time)**

The public hearing will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

**REMOTE ATTENDANCE**

The public hearing may be accessed by clicking the Zoom link below or visiting [Zoom](https://join.zoom.us) at <https://join.zoom.us> and entering the Webinar ID and password listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Public Advisor's Office at

[publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov) or (800) 822-6228.

Link: <https://energy.zoom.us/j/94456419141?pwd=cUdydWpkZVRibWVOWkJiZWpFV0FTdz09>  
Webinar ID: 944 5641 9141  
Password: 185423

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the Webinar ID and password above. To comment or ask a question over the telephone, dial \*9 to “raise your hand” and \*6 to mute/unmute your phone line.

## **PUBLIC ADVISOR**

The CEC’s Public Advisor’s Office provides the public with assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Public Advisor’s office via email or phone.

## **NEWS MEDIA INQUIRIES**

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

## **WRITTEN COMMENT PERIOD**

Any interested person, or their authorized representative, may submit written statements, arguments, or contentions to the CEC for consideration on or prior to August 2, 2021. The CEC appreciates receiving written comments as soon as possible.

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

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01> which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with 20 CCR section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 18-OIR-01 in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

A paper copy may be sent to:

California Energy Commission  
Docket Unit, MS-4  
Docket No. 18-OIR-01  
1516 9th Street  
Sacramento, California 95814

## STATUTORY AUTHORITY AND REFERENCE

Public Resources Code (PRC) sections 25213, 25218(e), 25320 and Government Codes Section 6253 (e) authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, or make specific PRC sections 25005.5, 25100-25141, 25216, 25216.5, 25223, 25300, 25301, 25302, 25302.5, 25303, 25304, 25305, 25305.1, 25310, 25322, 25324, 25350-25366, 25364, 25366, 25401, 25401.2, 25403, 25403.5, 25602 and 25604; and Public Utilities Code sections 9615 and 9620..

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Warren-Alquist Act establishes the CEC as California’s primary energy policy and planning agency. Sections 25213, 25218(e), and 25320 of the PRC mandate and authorize that the CEC adopt rules and regulations, as necessary, to manage a data collection system for obtaining information necessary to develop the policy reports and analysis as required by statute.

The CEC is required by statute to “conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices.” (PRC section 25301(a).) These forecasting and assessment activities are developed as part of the Integrated Energy Policy Report (IEPR) that is mandated every two years. (*Id.* section 25303.) As part of the IEPR process, the CEC adopts a detailed demand forecast that is used by other energy agencies—including the California Independent System Operator—to identify resource additions needed to ensure reliability, while still meeting California air pollution mitigation goals. (*Id.* section 25302(c) & (f).) In addition, the demand forecast is used for “analyzing the success of and developing policy recommendations for public interest energy strategies.” (*Id.* section 25305.) As part of this comprehensive energy assessment, the CEC also conducts a natural gas demand forecast, a transportation energy demand forecast, and an electricity demand forecast, and performs various energy market assessments which evaluate energy supply constraints and system performance. (*Id.* section 25301(a); *id.* Section 25303(a); and *id.* Section 25304(a), (c), (d), (f), & (g); *id.* sections 25350, *et seq.*) To this end, the CEC is authorized to collect data from a broad range of market participants, including utilities, independent generators, gas utilities, petroleum producers, load-serving entities, and utility distribution companies.<sup>1</sup> The

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<sup>1</sup> Pursuant to Public Resource Code section 25108 “electric utility” includes all generators and distributors of electric power. The latter group includes utility distribution companies or “UDCs,” and load-serving entities or “LSEs.” A UDC is an electric utility that distributes electricity to end-use customers, whereas an LSE sells electricity to end-use customers. A UDC can be either an investor-owned utility or a local publicly owned electric utility. All UDCs in California are also LSEs, but there are LSEs—such as

CEC is also required to develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish targets for statewide annual energy efficiency savings and demand reduction. (*Id.* section 25310.) Pursuant to the Public Records Act, the CEC is required to provide access to public records but may withhold certain records if they are exempt. (Gov. Code, sections 6253, 6254; PRC, sections 25223, 25322, 25366.).

The CEC's regulations also outline how access to public records is provided and the circumstances under which records may be withheld from disclosure. The proposed regulatory changes help ensure that the CEC has access to sufficient information for its analytical mandates while complying with its duties to disclose or withhold documents under the Public Records Act.

In compliance with statute, the CEC proposes the following amendments:

- Simplify the procedure for applying for extensions to report data.
- Relocate existing wind performance reporting requirements.
- Modify water data reporting by requiring specific water data be reported.
- Eliminate the reporting requirement for service account, premise identification, and meter identification numbers for UDC's not required to report disaggregated demand data.
- Remove duplicative reporting requirements by adding a sunset date for the provision of data that will be provided in disaggregated form.
- Broaden the classification categories by which gas sales by utilities are reported.
- Align the regulations to conform with changes to statutory reporting requirements.
- Add reporting requirements for Property Assessed Clean Energy (PACE) program administrators to submit data to the CEC on an annual basis.
- Add reporting requirements for owners of underground storage gas projects that are interconnected to California gas utility systems.
- Align reporting of disaggregated demand data with data the utilities collect and use and in a manner in which they organize and store it.
- Correct typographical errors and references to standards which have been changed.
- Add reporting requirements for alternative fuel data, such as hydrogen, biodiesel and renewable diesel production data.
- Update confidentiality regulations to align with the requirements of the Public Records Act.
- Add a provision that would provide an end date for confidentiality protection under the CEC's confidentiality provisions.
- Delete regulations related to inspection and copying.

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community choice aggregators—that rely on a UDC to distribute the power the LSE sells. The proposed changes affect regulations governing UDC data reporting requirements.

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

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

The requirements contained in section 1384, as amended, cover information that is also required to be reported to the EIA pursuant to federal regulations. As discussed in Section I (Problem Statement) and Section II (Purpose and Necessary), the CEC is imposing comparable reporting requirements in these regulations to comply with state requirements set forth by PRC section 25304 to assess trends in transportation fuels, technologies, and infrastructure supply and demand within California. It was suggested to the CEC that information from the EIA would comply with the need for data. As production data that is specific to a location is considered confidential by the EIA, the CEC is creating this regulation to directly obtain this information from alternative fuel producers and will accept EIA forms with similar information for ease of reporting purposes. As noted above, the CEC considered stakeholder feedback in drafting this regulation to allow reporting entities flexibility to avoid duplication of work and potential conflicting standards between the CEC and EIA.

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

The broad objective of this proposed action is to enable the CEC to meet its statutory and analytical requirements supporting the reliable operation of the state's electricity and natural gas supply systems and assessing progress in, and developing recommendations for, meeting state energy goals.

The specific benefit of the proposed action will be that the CEC will more accurately depict when, where, and for what purpose energy is being used. It will more accurately identify the specific effect of various energy programs and policies on electricity, transportation, and natural gas consumption patterns. This will improve CEC forecasts geographically, by sector, and by end-use, and will allow for better tracking and targeting of policies designed to promote state energy goals. Current data collection does not track new trends and the proposed changes to regulations will assist the CEC in capturing new energy sources and new patterns of energy demand. Specifically, collection of hydrogen, bio-diesel, and renewable diesel production data will reduce errors in the CEC's modeling and analytical work and provide a better understanding of key transportation fuel production needs to respond to energy emergencies. PACE data will allow for better estimation of energy efficiency savings. In addition, obtaining natural gas storage inventory data will allow the state to evaluate supply uncertainties and the sufficiency of natural gas supplies and infrastructure to ensure electric system reliability. The proposed changes to the confidentiality regulations will better align the circumstances of disclosing or withholding records under the regulations with the parallel requirements under the Public Records Act.

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

The CEC has evaluated other state regulations in this area and has determined that the proposed regulations are consistent and compatible with existing state regulations. Where possible, the CEC has noted data reporting schedules imposed by other state agencies and sought to align the reporting schedules in these regulations for administrative ease.

## **DOCUMENTS INCORPORATED BY REFERENCE**

The CEC proposes to incorporate the following document by reference:

Arizona Administrative Code R3-7-701 (Current through Volume 27, Issue 13, March 26, 2021; last amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018.)

All documents are available for review at the CEC at 1516 Ninth Street, Sacramento, California 95814 and at

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01>.

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

None

## **OTHER STATUTORY REQUIREMENTS**

None

## **FISCAL IMPACTS**

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: None
- Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.: None
- Cost or savings to any state agency: None
- Non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the state: None

## **SIGNIFICANT EFFECT ON HOUSING COSTS**

None

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

The CEC estimates that roughly 247 businesses may be impacted by the regulations. The proposed regulations are unlikely to result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed updates to the data collection regulations enable the CEC to meet its statutory and analytical responsibilities supporting the reliable operation of the state's electricity and natural gas supply systems and assessing progress in, and developing recommendations for, meeting state energy goals. Current data collection does not track new trends and the proposed changes to regulations will assist the CEC in capturing new energy sources and new patterns of energy demand.

The proposed regulations consist of four types of changes: 1) data submission procedural changes, 2) general language modernization, 3) confidentiality process changes, and 4) new data collection requirements. Type 1, 2, and 3 changes are being undertaken to lessen or keep consistent the reporting burden on energy business entities. For new data requirements, the data is either information that is reported to federal entities that is deemed confidential by federal entities or that is collected by other agencies that the CEC is asking to include in the transmission of that data. Any impact on business is strictly clerical in nature.

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

The CEC concludes that 1) it's unlikely the proposal will create jobs within California, 2) it's unlikely the proposal will eliminate jobs within California, 3) it's unlikely the proposal will create new businesses in California, 4) it's unlikely the proposal will eliminate existing businesses within California, and 5) it's unlikely the proposal will result in the expansion of businesses doing business in California.

The benefits of the proposed changes will 1) allow the CEC to monitor regional energy trends; 2) develop regional energy demand forecasts; and 3) track and develop targeted energy policies to ensure the reliability of the electricity and gas system and supply for the health, safety, and welfare of the people of California.

The proposed changes will not adversely affect the health and welfare of California residents, worker safety, or the environment.

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

The CEC is not aware of any significant cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action.

The proposed updates to the data collection regulations will enable the CEC to meet its statutory and analytical responsibilities supporting the reliable operation of the state's electricity and natural gas supply systems and assessing progress in, and developing recommendations for, meeting state energy goals. Current data collection does not track new trends and the proposed changes to regulations will assist the CEC in capturing new energy sources and new patterns of energy demand.

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changes, and 4) new data collection requirements. Type 1, 2, and 3 changes lessen or keep consistent of level reporting burden of energy business entities. For new data requirements, data requested is either information that is reported to federal entities that is deemed confidential by federal entities or that is collected for other uses by other agencies that the CEC is asking to included in the transmission of that data. Thus any impact on individuals is strictly clerical in nature.

## **BUSINESS REPORT**

There are no proposed additions to the current reporting requirements.

## **SMALL BUSINESS**

The proposed regulations may affect small business.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the CEC must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposed action; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The CEC invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## **CONTACT PERSON**

Please direct inquiries about the rulemaking process, including requests for copies of the proposed text (express terms), the initial statement of reasons (ISOR), any modified version of the regulations, the substance of the proposed regulations, or other information about the rulemaking to:

Ryan Eggers, Supervisor  
California Energy Commission  
Transportation Fuels Data and Analysis Unit  
(916) 776-3597 [ryan.eggers@energy.ca.gov](mailto:ryan.eggers@energy.ca.gov)

If Ryan Eggers is unavailable, you may contact

Justin Delacruz, Attorney  
California Energy Commission  
Chief Counsel's Office  
(916) 931-5867 [Justin.delacruz@energy.ca.gov](mailto:Justin.delacruz@energy.ca.gov)

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

The CEC will have the rulemaking file available for inspection and copying during the rulemaking process at the above address. As of the date this notice is published, the rulemaking file consists of this notice, the express terms, the Economic and Fiscal Impacts (form 399) and the ISOR. Copies may be obtained by contacting Corrine Fishman at the address or phone number above or accessed online at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01>.

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

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

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

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01> or contacting the contact person above.

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

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the CEC for this rulemaking are posted at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-OIR-01>.