

DOCKETED

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Project Title:	Rulemaking to Amend Regulations Governing the Power Source Disclosure Program
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Document Title:	Resolution of the Rulemaking Adopting Amended Power Source Disclosure Regulations
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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**Rulemaking to Amend Regulations
Governing the Power Source Disclosure
Program**

Docket No. 21-OIR-01

**RESOLUTION
ADOPTING REGULATIONS**

WHEREAS, on March 11, 2022, the California Energy Commission (CEC) adopted this order instituting rulemaking (OIR) proceeding to consider amending its existing regulations to the Power Source Disclosure (PSD) regulations, California Code of Regulations, title 20, sections 1390 *et seq.* to implement Assembly Bill (AB) 242 (Holden, Chapter 228, Statutes of 2021); and

WHEREAS, after the CEC adopted the OIR, Senate Bill (SB) 1158 (Becker, Chapter 367, Statutes of 2022) was enacted in part to assess whether load-serving entities and local publicly owned electric utilities are demonstrating adequate progress toward achieving greenhouse gas (GHG) emissions reduction targets in their procurement plans. To that end, the legislation required the CEC to adopt and implement rules for retail suppliers to report specific information to the CEC on an annual basis about their hourly sources of electricity and the associated GHG emissions; and

WHEREAS, on April 14, 2023, the CEC issued a Request for Information under the OIR for electricity sellers and retail electricity suppliers to discuss the feasibility and financial impact of obtaining and providing certain data to implement SB 1158; and

WHEREAS, on September 20, 2023, the CEC posted pre-rulemaking proposed amendments to the PSD regulations to implement AB 242 and SB 1158 and make other modifications, and held a public workshop on September 26, 2023, to present the proposed amendments and solicit written and oral comment from stakeholders; and

WHEREAS, on January 31, 2024, the CEC posted revised pre-rulemaking proposed amendments to the PSD regulations in response to comments received from the public workshop, and solicited further comments on the revised language; and

WHEREAS, on May 17, 2024, the CEC mailed to the listserv, including electricity generators and retail suppliers that are likely to be affected by the proposed action, and posted on the CEC's website a Notice of Proposed Action (NOPA) formally notifying the public of the CEC's intent to adopt proposed amendments to the Power Source Disclosure regulations, including the Express Terms of the proposed amendments, an Initial Statement of Reasons (ISOR) describing the rationale for the proposal, and the fiscal and economic impact analysis; and

WHEREAS, on May 17, 2024, the NOPA was published in the California Regulatory Notice Register, and officially delivered to the Secretary of the California Natural Resources Agency; and

WHEREAS, each of these documents and notices was provided to every person on the CEC's list serve and Rulemaking list serve who likely to be affected by the proposed action, and to every person who had requested notice of such matters, and they were also posted to the CEC's website and docket in this OIR proceeding; and

WHEREAS, on July 3, 2024, the 45-day written comment period established by the NOPA closed; and

WHEREAS, the CEC revised the Express Terms in response to the comments submitted during the initial 45-day written comment period, and on October 4, 2024, the revised Express Terms were posted with a notice and opportunity for an additional 45-comment period ending on November 19, 2024; and

WHEREAS, the CEC made further revisions to the Express Terms in response to the comments submitted during the second 45-day written comment period, and on December 9, 2024, the further revisions to the Express Terms were posted with a notice and opportunity for an additional 15-comment period ending on January 3, 2025; and

WHEREAS, on January 31, 2025, the CEC provided notice designating February 12, 2025, as the date for the business meeting to consider adoption of the proposed amendments to the Power Source Disclosure regulations as posted in the further revised Express Terms on December 9, 2024, which includes a final opportunity for public comment; and

WHEREAS, the CEC staff recommends that the Commission adopt staff's determination that adopting the amendments to the PSD regulations is exempt from environmental review under the California Environmental Quality Act (CEQA) under the common sense exemption (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3)) because the amended regulations implement statutory changes related to the reporting and disclosure of electricity sources and GHG emissions under a data collection and consumer disclosure program, and will not have any significant adverse impact on the environment; and

WHEREAS, several statutes govern the CEC’s adoption of the amendments to the PSD regulations, including CEQA (Public Resources Code, § 21000 et seq.), the Warren-Alquist State Energy Resources Conservation and Development Act (Pub. Resources Code, § 25000 et seq.), the Public Utilities Code, § 398.1 et seq., and the administrative rulemaking provisions of the Administrative Procedure Act (APA) (Government Code, § 11340 et seq.). Pursuant to these statutes, the CEC has reviewed the entire record of this proceeding, including public comments, reports and other documents, transcripts of public events, and all other materials that have been filed in this proceeding (Docket No. 21-OIR-01) and all documents and other materials that constitute the rulemaking record found at the CEC, 715 P Street, Sacramento, California, 95814.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

Regarding the California Environmental Quality Act (CEQA):

- The CEC has considered the application of CEQA to the proposed regulations and concluded that the proposed regulations are exempt from CEQA under the common sense exemption (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3)) because it can be seen with certainty that there is no possibility that the proposed amendments will have a significant effect on the environment; and

Regarding the Administrative Procedure Act:

- The proposed regulations will not result in the creation of new businesses or elimination of existing businesses, will not result in the expansion of businesses currently doing business in California, and will not result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and
- The proposed regulations may impose direct costs or savings, or direct or indirect requirements or mandates, on the CEC as a state agency and public agencies who are obligated parties under the Public Utilities Code, but will not impose direct costs or savings, or direct or indirect requirements or mandates on other non-obligated state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; and
- The proposed regulations will not result in the creation or elimination of jobs within California; and
- The proposed regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed regulations may result in nondiscretionary costs or savings to the CEC as a state agency, and to local agencies that are obligated parties under the

Public Utilities Code, but will not impose such costs or savings on other local agencies or school districts; and

- The proposed regulations will have no impact on housing costs; and
- The proposed regulations may result in cost impacts to representative private persons or businesses that are obligated parties under the Public Utilities Code in reasonable compliance with the regulations; and
- The proposed regulations will not adversely impact the health and welfare of California residents, worker safety, or the state's environment; and
- The proposed regulations have no alternatives that would be more effective in carrying out the purposes of the statutes for which it is proposed, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes; and
- The proposed regulations will not have a significant adverse economic impact on small business; and
- The proposed regulations will not require completion of any new report; and
- None of the comments received during the 15-day comment period or at the business meeting on February 12, 2025, and nothing else in the record, justified any changes to the proposed regulations as published in the Express Terms on December 9, 2024.

THEREFORE, BE IT RESOLVED, that, on the basis of the entire record before it, the CEC finds that the proposed regulations are exempt from CEQA under the common sense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3)) because it can be seen with certainty that there is no possibility that the proposed regulations will have a significant effect on the environment; and

FURTHER BE IT RESOLVED, that, after considering all comments received and based on the entire record of this proceeding, the CEC hereby adopts the amendments to its Power Source Disclosure regulations, as set forth in the Express Terms that were published on December 9, 2024; and

The CEC takes this action under the authority of sections 25213 and 25218(e) of the Public Resources Code, and section 398.6(c) of the Public Utilities Code, which authorize the CEC to adopt rules or regulations, as reasonable and necessary, to implement the Power Source Disclosure program; and

FURTHER BE IT RESOLVED, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed

regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and preparing and filing the Notice of Exemption with the State Clearinghouse.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on February 12, 2025.

AYE: Hochschild, Gunda, McAllister, Gallardo, Skinner

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: February 13, 2025

SIGNED BY:

Kristine Banaag
Secretariat