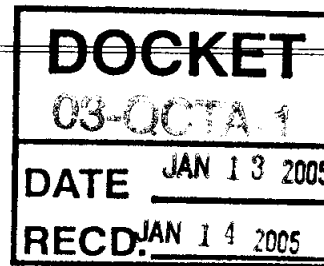


CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



Notice of Availability of 15-Day Language

Revisions to Proposed Regulations to Approve Certifiers and Technical Assistance Providers for the California Climate Action Registry

Docket Number 03-QCTA-1

The California Energy Commission has revised the proposed regulations to implement its responsibilities regarding the California Climate Action Registry (Registry), and invites the public to review and comment on the revised regulations.

The proposed revised regulations and other supporting documents are available on the Energy Commission website at [www.energy.ca.gov/global_climate_change/registry/]. For individuals that do not have access to the Internet, you may request copies of the proposed regulations by calling Jeff Wilson, Project Manager, at (916) 657-4774, by e-mail at [jewilson@energy.state.ca.us] or by regular mail at:

California Energy Commission
Attn: Jeff Wilson
1516 Ninth Street, MS 41
Sacramento, California 95814-5512

Background

In 2000, Senate Bill 1771 (Sher, 2000) created the Registry, and in 2001, SB 527 (Sher, 2001) required the Registry to assist and enable participating entities to record their annual greenhouse gas emissions voluntarily in a consistent and certifiable format. SB 527 also required the Energy Commission to assist the Registry by qualifying third party organizations to certify emission baselines and inventories as well as provide technical assistance.

On June 11, 2003, the Energy Commission adopted an Order Instituting Rulemaking to establish regulations to implement the Energy Commission's responsibilities regarding the Registry. A Notice of Proposed Rulemaking was issued by the Office of Administrative Law on April 9, 2004, and the Energy Commission staff conducted a public workshop on May 10, 2004 to discuss proposed regulations and receive public comment.

In response to comments on the draft regulations, the Energy Commission, in consultation with the Registry, has revised the draft regulations. Under the revised regulations, significant portions of the qualification process previously proposed to be undertaken by the Energy Commission have been deleted and are now proposed to be conducted by the Registry, thus shifting much of the detailed review of the applicants' qualifications to the Registry.

The approach incorporated into the revised draft regulations allows greater flexibility in the overall qualification process and relies on coordination between the Energy Commission and Registry. To ensure a common understanding, the Energy Commission and Registry will enter into a Memorandum of Understanding (MOU) outlining respective roles and responsibilities with regard to the qualification process. The Energy Commission anticipates adopting revised regulations and the MOU at the February 23, 2005 Energy Commission Business Meeting.

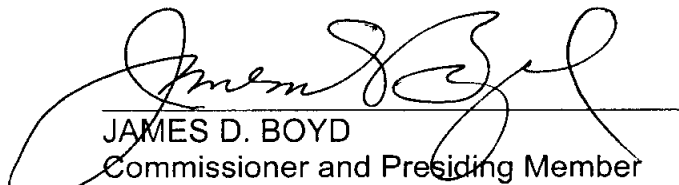
Invitation for Public Comments

The staff requests that parties submit comments on the proposed revised regulations by **5 p.m. on January 31, 2005**. Please send written comments to:


Docket Unit
California Energy Commission
Docket No. 03-QCTA-1
1516 Ninth Street, MS 4
Sacramento, California 95814-5512

Or parties may submit comments by e-mail to DOCKET@energy.state.ca.us or by fax to (916) 654-4354. For purposes of the rulemaking, comments must be submitted no later than February 23, 2005.

Any person with questions regarding this notice should contact Jeff Wilson, Project Manager, at (916) 657-4774 or jewilson@energy.state.ca.us. If you wish assistance in participating in the regulatory process, call Margret Kim, Public Adviser, at (916) 654-4489, toll free in California at (800) 822-6228 or e-mail at pao@energy.state.ca.us. News media inquiries should be directed to Assistant Executive Director Claudia Chandler at (916) 654-4989.



JAMES D. BOYD
Commissioner and Presiding Member
Transportation Committee



JACKALYNE PFANNENSTIEL
Commissioner and Associate Member
Transportation Committee

Note: California Energy Commission's formal name is State of California Energy Resources Conservation and Development Commission.

APPROVAL OF TECHNICAL ASSISTANCE PROVIDERS AND CERTIFIERS FOR THE CALIFORNIA CLIMATE ACTION REGISTRY

Chapter 10. Approval of Technical Assistance Providers and Certifiers

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Article 1. General Provisions

2800. Purpose of Regulations

This chapter specifies the criteria and procedures to be followed by the State Energy Resources Conservation and Development Commission in administering the Qualification Program for Certifiers and Technical Assistance Providers under Section 42870 of the Health and Safety Code.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2801. Definitions

In this chapter, unless otherwise indicated, the definitions found in Health and Safety Code section 42801.1 and the following definitions apply:

- (a) "Applicant" means a person submitting an application in response to an RFA.
- (b) "Applicant Team" means an applicant and all of the applicant's partners designated in one application.
- (c) "Certifier" means a person approved by the State as qualified under these regulations to certify the emissions results of Registry Participants.
- (d) "Certification Services" means any services performed in the course of determining whether a ~~Registry~~ Participant's greenhouse gas emissions inventory has met a minimum quality standard and complied with registry-approved procedures and protocols for submitting emissions inventory information.
- (e) "Commission" means the California State Energy Resources Conservation and Development Commission.
- (f) ~~"Conflict of Interest" means a situation in which, because of other activities or relationships with other persons, a person is unable to render an impartial certification opinion of a current or potential client's greenhouse gas emissions, or the person's objectivity in performing certification services is otherwise compromised.~~
- (g) ~~"Designated Staff" means staff designated in an application as qualified to perform greenhouse gas related services.~~
- (h) "Firm" means any individual, association, partnership, trust, corporation, company, or other organization.
- (i) "General Certifier" means a certifier who certifies greenhouse gas emissions pursuant to the Registry's General Reporting Protocol.

(j*h*) “Industry-Specific Certifier” means a certifier who certifies greenhouse gas emissions pursuant to any of the Registry’s Industry-Specific Reporting Protocols.

~~(k) “Key Topics” means those topics relevant to the certification of greenhouse gases pursuant to Health and Safety Code 42800 et seq., and include 1) utilizing engineering principles; 2) estimating greenhouse gas emissions; 3) developing and evaluating air emissions inventories; and 4) auditing and accounting principles.~~

(i*i*) “Partner” means a person designated as such in an application for qualification as a Certifier or a person with whom the applicant shares staff or financial capability for the purposes of the application.

(m*j*) “Registry” means the California Climate Action Registry.

(n*k*) “Registry Participant” means a participant in the California Climate Action Registry.

(o*l*) “Registry Service Provider” means a ~~e~~Certifier or ~~t~~Technical ~~a~~Assistance ~~p~~Provider.

(p*m*) “Related Entity” means an organization that is related by ownership to a firm, including, but not limited to, a parent company, a holding company, a subsidiary, and a subsidiary of a parent company.

(q*n*) “RFA” means a Request for Applications.

(r*o*) “Technical Assistance Provider” means a firm approved by the State as qualified under this section to provide technical assistance and advice to Registry Participants.

(s*p*) “Work Product” means any product produced for a client under contract.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Article 2. Applications for Technical Assistance Providers

2810 Information Requirements for Applications for Technical Assistance Providers

(a) Any firm that provides technical assistance or advice to ~~r~~Registry ~~p~~Participants pursuant to Health and Safety Code section 42800 et seq. may be approved by the State. An application for approval shall contain the following:

(1) A cover page listing the applicant’s name and address, contact person, contact e-mail, and contact telephone number, list or matrix of staff qualified to perform the relevant services.
~~Qualifications shall be demonstrated through education, professional licenses, titles of previous work products, and any other relevant information.~~

(2) A one-page description of at least two ~~list of any judicial proceedings filed against the firm within the previous five years, with an explanation as to the nature of the proceedings.~~

(3) ~~Two samples of work products performed for~~ delivered under contract to a client that represent demonstrate the applicant's mastery of one or more of the ~~key topics or the~~ following topics:

(A) utilizing engineering principles;

(B) estimating greenhouse gas emissions;

(C) developing and evaluating air emissions inventories;

(D) auditing and accounting principles;

~~(A)~~ (E) auditing environmental responsibility; or

~~(B)~~ (F) developing greenhouse gas-related software.

(b) Applications shall not contain any confidential information.

(c) All applications, consisting of one original and three copies, shall be delivered in person, by a messenger service, or through the U.S Mail to the California Energy Commission, Climate Change Program, 1516 Ninth Street, Sacramento, CA, 95814 by the deadline identified in the request for applications. Electronic mail or facsimile transmissions will not be accepted. Unless otherwise stated, all submittals and correspondence relating to ~~Technical a~~ Assistance p ~~Providers~~ shall also be directed to this address.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2811. Minimum Requirements for Technical Assistance Providers

An applicant shall have at least two years of greenhouse gas or other air emissions-related experience in one or more of the ~~key topics or the~~ following topics:

(a) utilizing engineering principles;

(b) estimating greenhouse gas emissions;

(c) developing and evaluating air emissions inventories;

(d) auditing and accounting principles;

~~(a)~~ (e) auditing environmental responsibility; or

~~(b)~~ (f) developing greenhouse gas-related software.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Article 3. Applications for General and Industry-Specific Certifiers

2820. Information Requirements for Applications for General and Industry-Specific Certifiers

(a) Any firm that certifies a ~~Registry~~ Participant's greenhouse gas emissions inventory pursuant to Health and Safety Code 42800 et seq. must be approved by the State. An application for approval shall contain the following:

~~(1) Financial statements for the previous fiscal year. If the financial statement is in the name of a related entity, the applicant shall describe the financial relationship between the applicant and the related entity and provide documentation supporting the description, such as an organizational chart.~~

~~(2) A copy of the an insurance policy showing that the applicant has a minimum of one million U.S. dollars of professional liability insurance. If the insurance is in the name of a related entity, the applicant shall also describe the financial relationship between the applicant and the related entity and provide documentation supporting the description.~~

~~(3) A list identifying staff designated to conduct certification services. The list shall identify the name and address of the firm employing each staff member and include the name, phone number, and e-mail address of each designated staff member, their title, and whether they are employed by another firm. Each applicant shall also submit short resumes for each designated staff member describing each staff member's job classification, education, academic degrees, professional licenses, training, technical knowledge, and experience related to certification services.~~

~~(4) A list of any judicial proceedings filed against the applicant within the previous five years that might adversely affect the ability of the applicant to perform certification services and a description of the nature of the proceedings.~~

~~(5) A one-page description of at least three minimum of three samples of actual work products produced within the previous five years. Work products may be designated as confidential pursuant to section 2837. Alternatively, work products may be redacted to protect confidential information. These work products shall have been produced, in part or in whole, by the applicant and shall consist of final reports or other materials provided to clients under contract in previous work. For work products that were jointly produced by the applicant and a related another entity, the role of the applicant in the work product shall be clearly explained. Sample work products may be submitted on CD. They work products must demonstrate the applicant's ability to organize and manage a team of technical experts to effectively complete complex work tasks in a timely manner and demonstrate experience in multiple industry sectors for gGeneral eCertifier applicants, and the relevant industry sector for iIndustry-sSpecific eCertifier applicants, in each of the key following topics:~~

- ~~(A) utilizing engineering principles;~~
- ~~(B) estimating greenhouse gas emissions;~~
- ~~(C) developing and evaluating air emissions inventories;~~
- ~~(D) auditing and accounting principles.~~

~~(6) At least one reference for each submitted project work example. Each reference must be from the client firm's project manager or someone with equivalent knowledge of the work performed by the applicant. References shall include the name of the company, contact person and title, mailing address, telephone number, and e-mail address.~~

~~(7) A description of the applicant's anticipated approach to certification work for Registry participants. The description shall explain how the applicant would accomplish each of the following:~~

- ~~(A) scope and plan a participant's certification services;~~
- ~~(B) coordinate with the Commission before, during, and after site visits;~~
- ~~(C) conduct certification services;~~
- ~~(D) coordinate with the Registry; and~~

~~(83) A cover page listing the applicant's name and address, contact person, contact e-mail, and contact telephone number.~~

~~(9) A firm status sheet listing the applicant's Federal Employer ID number and the firm's organizational structure. If the applicant is a corporation, the sheet shall list the place and date of incorporation and the names of all corporate officers. If the applicant is a partnership, the sheet shall list each partner, including limited partners, stating their true name and their interest in the partnership. If the applicant is a sole proprietorship, the sheet shall list the true name of the sole proprietor. If the applicant's structure is something other than these, the sheet shall describe the nature of the structure.~~

~~(10) A description of how individual staff knowledge is updated through training or other means.~~

~~(11) A demonstration that the applicant has policies and mechanisms in place to prevent conflicts of interest and to identify and resolve potential conflict of interest situations if they arise, including:~~

~~(A) Identification of the type of service the applicant offers, the industries and customers the applicant serves, and the locations where these services are provided.~~

~~(B) An organization chart that:~~

- ~~1. includes the applicant and any related entities;~~
- ~~2. briefly describes the type of service offered by the related entities, the industries and customers served, and the locations where these services are provided; and~~
- ~~3. identifies any related entities that have participated in, or may participate in, any of the services identified in Section 2841(b)(2). The applicant shall also submit documentation, such as an organization chart, describing the management structure of the applicant and the related entities as well as how profits are distributed to or from the related entities.~~

~~—(C) Measures that protect and ensure the applicant's impartiality, including:—~~

- ~~1. any committees or structures intended to protect and ensure the applicant's impartiality;~~
- ~~2. any steps taken in order to minimize any risks to the applicant's impartiality;~~
- ~~3. any policies or arrangements that demonstrate the applicant's independence in its operations;~~
- ~~4. any procedures or records that demonstrate that the applicant's staff and senior management are not involved in any commercial, financial or other processes that might influence their judgment; and~~
- ~~5. any arrangements for the identification of situations involving conflicts of interest and measures that address and resolve those situations in a timely and responsible manner.~~

~~—(D) A signed declaration attesting to the applicant's ability to perform a case by case evaluation of conflict of interest and of the applicant's intent to comply with the Commission's conflict of interest process and requirements.~~

~~(b) Each application shall be dated and signed by the applicant attesting under penalty of perjury to the truth and accuracy of such application. Applications shall not contain any confidential information.~~

~~(c) Nothing in this section shall be construed as preventing the Commission from requesting additional information or documentation from an applicant after the receipt of a completed application, or from seeking additional information from other persons or entities regarding the applicant's fitness for qualification during the review period.~~

~~(d)~~ All applications, consisting of one original and six copies, shall be delivered in person, by a messenger service, or through the U.S. Mail to the California Energy Commission, Climate Change Program, 1516 Ninth Street, Sacramento, CA, 95814 by the deadline identified in the request for applications. Electronic mail or facsimile transmissions will not be accepted. Unless otherwise stated, all submittals and correspondence relating to qualifying eCertifiers shall also be directed to this address.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2821. Minimum Requirements for General Certifiers

Any firm who certifies a ~~r~~Registry ~~p~~Participant that falls under the Registry's General Reporting Protocol shall meet the following criteria:

~~(a) Each applicant shall have been in existence for at least four continuous years prior to applying for qualification as a certifier.~~

~~(b) Each applicant shall have a minimum revenue of four million dollars for the year prior to applying for qualification.~~

~~(c) Each applicant shall have a minimum of 15 designated staff. At least seven staff shall be employed solely by the applicant; a partner cannot be relied upon to satisfy this requirement. No more than five staff may be individual subcontractors to the applicant.~~

~~(d) Each designated staff shall have demonstrated experience in at least one of the key topics or employing knowledge of information management systems.~~

(ea) Each applicant shall demonstrate knowledge in each of the key following topics and:

(1) utilizing engineering principles;

(2) estimating greenhouse gas emissions;

(3) developing and evaluating air emissions inventories;

(4) auditing and accounting principles;

(45) the purpose of the Registry and Registry Protocols; and

(26) knowledge of information management systems.

(fb) Each applicant shall have at least two years' experience in certification or verification of greenhouse gas or ~~other conducting air emissions activities inventories~~. ~~Staff experience shall only be considered as firm experience if the applicable staff person(s) was employed by the applicant when performing relevant work.~~

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2822. Minimum Requirements for Industry-Specific Certifiers

Any applicant for approval to certify an industry-specific ~~Registry~~ Participant shall meet the following criteria:

(a) Each applicant shall meet all of the requirements in section 2821, ~~with the exception of subsections (b) and (c).~~

~~(b) Each applicant shall have a minimum combined revenue of one million dollars for the year prior to applying for qualification.~~

~~(c) Each applicant shall have a minimum of seven staff. At least five staff shall be employed solely by the applicant; a partner cannot be relied upon to satisfy this requirement. No more than two staff may be individual subcontractors to the applicant.~~

(db) Each applicant, or applicant team, shall employ staff with professional licenses, knowledge, and experience appropriate to the specific industry that it seeks to certify.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2823. Partnering

(a) Additional firms may be used by the applicant to meet any of the criteria identified in Sections 2821 or 2822, ~~except for the years in existence and the staff to be employed solely by the applicant~~. These additional firms shall be designated as partners to the applicant.

~~(b) The following shall automatically be deemed partners to the applicant:~~

~~(1) If any of the designated staff are employed by a firm other than the applicant, then the firm for which they work shall be considered a partner.~~

~~(2) If any experience cited by the applicant is the experience of a related entity, then the related entity shall be considered a partner.~~

~~(3) If the applicant relies upon a related entity to satisfy the financial capability requirement of Section 2821(b) or 2822(b), then the related entity shall be considered a partner.~~

~~(c) Each partner shall separately submit the required information identified in Section 2820 of this chapter as it pertains to each particular partner, except for subsections (2), (5), (7), and (8).~~

(db) Each partner shall ~~also~~ submit a one-page description of at least one ~~sample of a~~ work product. The work product shall have been produced, in part or whole, by the partner and shall consist of a final report or other material provided to clients under contract in previous work. For a work product that was jointly produced by the partner and ~~a related~~ another entity, the role of the partner in the work product shall be clearly explained. The work product will be taken into consideration when evaluating the sum of experience provided by the applicant team.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Article 4. Procedures for Considering Applications for Technical Assistance Providers, General Certifiers, and Industry-Specific Certifiers

2830. Issuance of Request for Applications

When issuing a Request for Applications, the Commission shall set a deadline for the submission of applications no less than 30 calendar days after the RFA is issued. All applications must be submitted in response to an RFA and must be submitted by the deadline identified in the RFA.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2831. Review of Applications

(a) The Commission shall review each application to determine its completeness and compliance with the format requirements. The Commission shall then organize an Evaluation Committee to review and score all applications that are complete and comply with the required format.

(b) The Evaluation Committee shall consist of at least three members with at least one member from the Commission and one member from the Registry. Other members may be from other State agencies that have expertise in certification subject areas, as needed.

(c) In order to qualify, each applicant must achieve a passing score for each pass/fail criteria and must achieve a passing cumulative score of at least ~~60~~ 80 percent for the criteria that are ~~numerically~~ quantitatively scored. The evaluation criteria for applications for ~~e~~Certifiers and ~~t~~Technical ~~a~~Assistance ~~p~~Providers are contained in Appendix A and Appendix B, respectively.

(d) Applications meeting the minimum evaluation criteria shall automatically be approved for recommendation to the Registry's Service Provider approval process. For applications that do not meet the minimum required score, ~~or are close to the minimum required score~~, the Evaluation Committee may conduct interviews with applicants to clarify the applicant's qualifications. Upon completion of the interviews, the Evaluation Committee may make adjustments to the scores and approve or deny the applications accordingly.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2832. Grounds for Rejection of an Application

(a) An application may be rejected for any of the following reasons:

- (1) it is incomplete or is received after the deadline established for receipt of the application;
- (2) it contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the applicant;
- (3) it is not prepared using the appropriate forms;
- (4) it is unsigned; or
- (5) it contains any confidential information.
- ~~(5) with regard to applications for certifiers, the entire application or an excessive portion of the application is classified as proprietary or confidential or the confidential information is not contained in a separately filed document;~~
- ~~(6) with regard to applications for technical assistance providers, the application contains any confidential information;~~
- ~~(7) the applicant, or any firm in the applicant team, has a conflict of interest with the Commission's Climate Change Program or with the Registry.~~

(b) The Commission may waive any immaterial defect or deviation contained in an application. The Commission's waiver shall in no way modify the application requirements or excuse the applicant from substantial compliance.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2833. Modifying an Application

An applicant may, by letter to the Commission's Contact Person, modify a submitted application prior to the application submission deadline.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2834. Notification of the Results of the Evaluation

The Commission shall notify applicants of the results of the evaluation of their applications by mail no later than 30 working days after the deadline for submission ~~or, in the case of applications for certifiers, 10 working days after all of the conflict of interest information is received, whichever is later. Applicants that have been approved shall be listed on the Commission's website as qualified certifiers or technical assistance providers.~~ The Commission shall recommend to the Registry for its Service Provider approval process those applicants that pass the Commission's evaluation process.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2835. Appeal of Determination

If an application receives a failing score in the evaluation process, an applicant may dispute the evaluation by first filing an appeal with the Evaluation Committee within 30 days of receiving the results of the evaluation. The appeal shall consist of written statements explaining how the application meets the criteria and minimum score required. The Evaluation Committee shall grant or deny the appeal within 10 working days. If the applicant is not satisfied with the Evaluation Committee's response, the applicant may file a subsequent appeal with the Commission's Transportation Committee within 5 10 days of the Evaluation Committee's determination. The Transportation Committee shall consult with the Registry President and issue a decision on the appeal within 30 working days of receipt of the appeal.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2836. Document Disposition

(a) On the submission date, all applications and related material submitted in response to an RFA become the property of the State and public record ~~with the exception of confidential material.~~

(b) At the conclusion of the evaluation, the original application will be retained in its entirety; ~~including confidential information, for at least three years. Any remaining copies of confidential information will be returned to the applicant.~~

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

~~2837. Confidential Data.~~

~~Any applicant, partner, certifier, or Registry participant submitting information pursuant to these regulations may file a request for confidentiality pursuant to Title 20, California Code of Regulations, section 2501 et seq.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

Article 5. Conflict of Interest

~~2840. Applicability~~

~~The conflict of interest provisions of this chapter apply only to approved certifiers.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

~~2841. Conflict of Interest Submittal Requirements for Approved Certifiers~~

~~— (a) Prior to the commencement of any work related to certifying a Registry participant's emission reports, a certifier shall submit to the Commission a self-evaluation of the potential for any conflict of interest that it, its partners, and the individuals performing certification services have with the Registry participants for which it will perform certification services. The submittal shall include the following:~~

~~— (1) identification of whether the potential for conflict of interest is high, low, or medium based on factors included in subsections (b), (c) and (d);~~

~~— (2) an organizational chart and brief description of the Registry participant and any related entities;~~

~~— (3) identification of whether the certifier has previously provided certification services for the Registry participant, and if so, the years in which such certification services were provided;~~

~~— (4) identification of whether the certifier, or related entity, has engaged in any non-certification services of any nature with the Registry participant either within or outside California during the previous three years. If non-certification services have previously been provided, the following information shall also be submitted:~~

~~(A) identification of the nature of the work performed for the Registry participant and whether the work is similar to the type of work to be performed during certification such as auditing, energy efficiency, renewable energy, or other work with implications for greenhouse gas emissions or accounting of greenhouse gas emissions;~~

~~(B) the nature of past, present or future relationships with the Registry participant including:~~

~~1. when the certifier performed, or will perform, the work for the Registry participant;~~

~~— 2. identification of whether work is currently being performed for the Registry participant, and if so, the nature of the work;~~

~~3. how much work was performed for the Registry participant in the last three years, in dollars or percentage of certifier's revenue or gross;~~

~~4. whether the certifier has any contracts or other arrangements to perform work for the Registry participant or related entity;~~

~~5. what related entities will be involved;~~

~~6. how much greenhouse gas related work the certifier has performed for the Registry participant or related entities in the last three years, in dollars or percentage of the certifier's revenue or gross;~~

~~7. identification of whether the amount of work is such that the certifier's credibility and lack of bias could be questioned or challenged;~~

~~(C) the monetary value of the proposed certification services;~~

~~(D) identification of whether the conflict of interest is related to work performed at the same site, in California, in the United States, or outside the United States;~~

~~(E) identification of whether there are any extenuating circumstances that would cause this work to be considered sensitive or highly visible; examples of such extenuating circumstances include situations that may have political or environmental repercussions or that are the subject of judicial proceedings.~~

~~(F) identification of whether the certifier and related entities share any board members or senior management with the Registry participant;~~

~~— (5) a list of names of the staff that may perform certification services for that particular Registry participant and a description of any instances of personal or employee relationships or financial interests that may represent a conflict of interest; and~~

~~— (6) identification of any other circumstances that could result in a conflict of interest.~~

~~(b) The potential for a conflict of interest shall be deemed to be high where:~~

~~— (1) the certifier and Registry participant share any management, or if any of the Registry participant's managers of greenhouse gas related activities were previously employed with the certifier, or vice versa, within the last three years;~~

~~— (2) the certifier or any related entity has provided to the Registry participant, within the last three years, any of the following non-certification services:~~

~~— (A) designing, developing, implementing, or maintaining a greenhouse gas emissions inventory;~~

~~— (B) designing or developing greenhouse gas information systems;~~

~~— (C) developing greenhouse gas emissions factors or other greenhouse gas related engineering analysis;~~

~~— (D) designing energy efficiency, renewable, or other projects which explicitly identify greenhouse gas reductions as a benefit;~~

~~— (E) preparing or producing greenhouse gas related manuals, handbooks, or procedures specifically for the Registry participant;~~

~~— (F) appraisal services of carbon or greenhouse gas liabilities or assets;~~

~~— (G) brokering in, advising on, or assisting in any way in carbon or greenhouse gas related markets;~~

~~— (H) managing any health, environment or safety functions; or~~

~~— (I) providing legal or expert services unrelated to Registry certification; or~~

~~— (3) the certifier has provided certification services to a Registry participant for six previous consecutive years, or had a lapse in providing certification, without thereafter abstaining from providing certification services to that Registry participant for three consecutive years.~~

~~(c) The potential for a conflict of interest shall be deemed to be low where no potential for a conflict of interest is found under subsection (b) and:~~

~~— (1) The Registry participant's annual entity wide emissions inventory is less than 500 tons CO₂ equivalent, and the certifier has not performed certification services in the previous year for the Registry participant; or~~

~~— (2) The services provided by the certifier to the Registry participant within the last three years are valued at less than 20% of the certification fee, or the services are provided outside the United States and are valued at less than 50% of the certification fee.~~

~~— (d) The potential for a conflict of interest shall be deemed to be medium where the potential for a conflict of interest is not deemed to be either high or low as determined in subsections (b) and (c).~~

~~— (e) If a certifier identifies a medium potential for conflict of interest, the certifier shall submit a plan to avoid, neutralize, or mitigate the potential conflict of interest situation if it wishes to certify the Registry participant. The Commission shall evaluate the plan to determine whether the potential for a conflict of interest is acceptable or unacceptable.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

2842. Conflict of Interest Determinations

~~(a) If a certifier has an unacceptable potential for a conflict of interest with a Registry participant, the Commission shall recommend that the Registry not accept the certifier's certification report. In evaluating whether the potential for a conflict of interest is acceptable or unacceptable, the Commission shall consider the self-evaluation submitted by the certifier.~~

~~(1) If the Commission concurs with the certifier that the certifier has a high potential for a conflict of interest, then the Commission shall determine that the certifier's potential for a conflict of interest is unacceptable.~~

~~(2) If the Commission concurs with the certifier that the certifier has a low potential for a conflict of interest, then the Commission shall determine that the certifier's potential for a conflict of interest is acceptable.~~

~~(3) If the Commission concurs with the certifier that the certifier has a medium potential for a conflict of interest, or if the Commission does not concur with the certifier's determination of the potential for a conflict of interest, the Commission may consider a number of factors, including, but not limited to, the nature of previous work performed, the current relationship between the certifier and the registry participant, and the cost of the certification services to be performed in the determination of whether the potential for conflict of interest is acceptable or unacceptable.~~

~~(b) The Commission may request additional information from the applicant to complete the determination.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

2843. Notification of Determination

~~— The Commission shall notify the certifier in writing when the conflict of interest evaluation information submitted under section 2841 is deemed complete. Within ten working days of deeming the evaluation information complete, the Commission shall determine whether the potential for conflict of interest is acceptable or unacceptable and so notify the certifier in writing.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

2844. Notice of Certification Services

~~— (a) No earlier than the date on which the Commission has made a determination that the potential for a conflict of interest is acceptable, the certifier shall submit a notice of certification services. The notice shall include the following information:~~

~~— (1) general information on the certifier and the Registry participant including:~~

~~— (A) the name of the certifying firm and the lead certifier, telephone number, firm address, and e-mail address;~~

~~— (B) the Registry participant's name, technical contact, address, telephone number, and e-mail address;~~

~~— (C) the industry sector, the Standard Industrial Code, the North American Industry Classification System (NAICS) code, and the total number of facilities of the Registry participant;~~

~~— (D) whether the reporting is for California only or for the entire United States;~~

~~— (E) whether the reporting is for the baseline year, and if so, what year;~~

~~— (F) whether a General Reporting Protocol or an Industry Specific Protocol will be used;~~

~~(G) the number of facilities expected to be visited for certification, including a list of the sites to be visited, their address, contact and anticipated date of the visits;~~

~~—(H) the estimated date for the following activities:~~

~~—1. emissions inventory data submitted to the Climate Action Registry Reporting Online Tool (CARROT);~~

~~—2. first on-site certification visit;~~

~~—3. last on-site certification visit; and~~

~~—4. completion of certification services;~~

~~—(I) a brief description of the certification services to be performed; and~~

~~—(J) a list of any information the Registry participant will provide to the certifier, including the CARROT certification checklist.~~

~~—(2) Information on the staff who will be designated to undertake certification activities including the name of each designated staff member, whether they are the lead certifier, and a description of the roles and responsibilities each designated staff member will have during certification. For those individuals that have not been previously listed by the certifier as designated staff, include their job classifications, relevant experience, education, academic degrees, and professional licenses;~~

~~—(3) A Conflict of Interest form signed by an authorized employee of the firm; and~~

~~—(4) A form signed by the Registry participant acknowledging the right of the Commission to conduct visits of the participant's premises.~~

~~—(b) The certifier may provide certification services to the Registry participant ten working days after the notice is received by the Commission or earlier if stated by the Commission in writing.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

2845. Monitoring Conflict of Interest Situations

~~—(a) After commencement of certification services, the certifier shall monitor and immediately make full disclosure in writing to the Commission regarding any potential for a conflict of interest situation. This disclosure shall include a description of actions that the certifier has taken or proposes to take to avoid, neutralize, or mitigate the potential for a conflict of interest.~~

~~—(b) The certifier shall monitor arrangements or relationships that may be present for a period of one year after the completion of certification services. During that period, within 30 days of entering into any contract with the participant for which the certifier has provided certification services, the certifier shall notify the Commission of the contract and the nature of the work to be performed.~~

~~(c) The certifier shall report any organizational changes in the certifier's firm, including mergers, acquisitions, or divestitures, for one year after certification.~~

~~(d) The Commission may recommend to the Registry that the results of a certification in which a conflict of interest has arisen be invalidated.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

Article 65. Post-Qualification Changes and Submittal Requirements

~~2850. Adding or Deleting Designated Staff~~

~~(a) A certifier may add or delete staff at any time. To add or delete designated staff, the certifier shall submit the following information:~~

- ~~(1) designation of whether the staff person is being added or removed; and~~
- ~~(2) the staff specific information identified in Section 2820(a)(3).~~

~~(b) At no time may a General Registry Participant certifier fall below the minimum level of 15 designated staff. At no time may an Industry Specific Participant certifier fall below the minimum level of 7 designated staff.~~

~~(c) Certifiers shall provide the Commission with an updated designated staff list prior to providing certification services to each Registry participant.~~

~~NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.~~

~~2851. 2840. Renewal of Approval~~

Approval to act as a Registry sService pProvider shall expire three years from the date of the notice of approval issued pursuant to section 2834, after which time the Registry sService pProvider must re-apply pursuant to Section 2810 or 2820, as appropriate, to maintain approval.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

~~2852. 2841. Rescission of Approval~~

~~—(a) The Commission, in consultation with the Registry, may rescind the approval of a Registry sService pProvider for any of the following reasons:~~

- ~~(1a) the Registry sService pProvider is no longer qualified due to changes in staffing or other criteria;~~
- ~~(2b) the eCertifier has not complied with the Registry's certification and certifier policies; or~~
- ~~—(3) the certifier has not complied with the conflict of interest requirements as outlined in Article 5 of this chapter; or~~
- ~~(4c) the Registry sService pProvider is guilty of:~~
 - ~~(A1) gross negligence;~~
 - ~~(B2) inexcusable neglect of duty;~~
 - ~~(C3) intentional misrepresentation of data or other intentional fraud; or~~
 - ~~(D4) a felony or misdemeanor involving certification services or moral turpitude.~~

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

2853. Commission Visits to Registry Participants' Sites

(a) Prior to any site visit the Commission shall inform the eCertifier and Registry pParticipant in writing of the Commission's intent to make a site visit. At the Commission's

request, the Registry ~~p~~Participant shall provide to the Commission prior to a site visit any information provided to the eCertifier for the purposes of certification.

(b) During the site visit, the Registry ~~p~~Participant shall provide the Commission or the Commission's contractor with documentation sufficient to ascertain whether the Registry ~~p~~Participant has a program consistent with Registry protocols and the reasonableness of the emissions information being reported for a sample of estimates or calculations, ~~including, but not limited to,~~ This documentation may include the following:

- (1) facility, emission source, stationary source, mobile source, and fuel inventories;
- (2) organization chart, greenhouse gas management plan, documentation and retention plan;
- (3) training manual, procedures manual, consultant qualifications statement;
- (4) any protocols used in addition to Registry protocols;
- (5) monthly electric utility bills, and emission factors of electricity use, if not a default factor;
- (6) fuel purchase records, fuel in stock, vehicle miles traveled, inventory of vehicles, and emission factors of mobile combustion, if not a default factor;
- (7) monthly utility bills from stationary combustion, fuel purchase records, inventory of stationary combustion facilities, and emission factors of stationary combustion, if not a default factor;
- (8) monthly utility bills, fuel and efficiency data from supplier, and emission factors, if not a default factor, for each of the following:
 - (A) cogeneration;
 - (B) imported steam;
 - (C) district heating;
 - (D) district cooling; and
 - (E) process activities;
- (9) refrigerant purchase records, refrigerant sales records, calculation methodology, and emission factors;
- (10) waste-in-place data, waste landfilled, calculation methodology, and emission factors;
- (11) coal production data submitted to ~~EIA~~ the Energy Information Administration, calculation methodology, and emission factors;
- (12) gas throughput data, calculation methodology, and emission factors; and
- (13) sulfur hexafluoride purchase records, calculation methodology, and emission factors.

(c) If, as a result of a site visit, the Commission determines that a Registry ~~p~~Participant does not have a program for reporting greenhouse gases consistent with Registry protocols or that the ~~p~~Participant's reported data is not reasonable, then the Commission shall recommend to the Registry to not certify the ~~p~~Participant's data.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 42870 Health and Safety Code. Reference: Section 42870, Health and Safety Code.

Appendix A

Evaluation Criteria Table for Technical Assistance Providers

CRITERIA	
Does the applicant :	
Provide a Cover Page and follow formatting requirements?	PASS/FAIL
Have at least two (2) years experience in one or more of the categories?	PASS/FAIL
Provide a description of two (2) relevant work products?	PASS/FAIL
Identify staff qualified to provide relevant services?	PASS/FAIL
Demonstrate knowledge of the Registry?	PASS/FAIL
Disclose judicial proceedings during the previous five (5) years?	PASS/FAIL

Appendix B

Evaluation Criteria for Certifiers

CRITERIA	POINTS*
ADMINISTRATIVE RESPONSE	
Does the applicant have:	
A Cover Page that follows formatting requirements?	PASS/FAIL
At least four (4) years existence?	PASS/FAIL
Adequate financial capability?	PASS/FAIL
Adequate insurance coverage?	PASS/FAIL
Adequate staffing?	PASS/FAIL
TECHNICAL RESPONSE	
Has the applicant demonstrated knowledge in:	
Purpose of the Registry and Registry Protocols	2
Engineering principles	2
Knowledge of information management systems	2
GHG emissions estimation techniques	2
Evaluating air emissions inventories	2
Auditing and accounting principles	2
Does the applicant have a means of updating staff knowledge?	2
Does the applicant have two (2) years experience?	PASS/FAIL
Does the applicant provide a description of three (3) work products?	PASS/FAIL
Has the applicant demonstrated experience in:	
Managing teams undertaking complex projects	40
Purpose of the Registry and Registry Protocols	10
Engineering principles	10
Knowledge of information management systems	10
GHG emissions estimation techniques	10
Evaluating air emissions inventories	10
Auditing and accounting principles	10
Has the applicant demonstrated an effective and efficient approach to:	
Scoping and planning	5
Conducting certification activities	15
Coordinating with the Energy Commission on site visits	3
Coordinating with the Registry	3
CONFLICT OF INTEREST	
Has the applicant:	
Disclosed potential organizational COI?	PASS/FAIL
Complete COI Declaration of Ability and Intent to Comply Form?	PASS/FAIL

* Responses from references will be considered when scoring the criteria.

Document Management Form (Revised 4/29/04)

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