

MODIFICATION OF REGULATIONS ESTABLISHING A GREENHOUSE GASES  
EMISSION PERFORMANCE STANDARD FOR BASELOAD GENERATION OF LOCAL  
PUBLICLY OWNED ELECTRIC UTILITIES

California Energy Commission

**DOCKETED**

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**TN 72995**

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**Chapter 11. Greenhouse Gases Emission Performance Standard**

**Article 1. Provisions Applicable to Powerplants 10 MW and Larger**

**§2901 Definitions**

- (i) “Local publicly owned electric utility” or “POU” means a “local publicly owned electric utility” as defined in Public Utilities Code Section ~~9604~~ 224.3.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Sections 224.3, 8340 and 8341, Public Utilities Code.

**§ 2908 Public Notice**

(a) The Energy Commission shall create, maintain, and make available on its website a master contact list containing the names and e-mail addresses of all persons who have requested to be notified when a POU issues a notice pursuant to subdivision (b).

(b) Each local publicly owned electric utility shall post notice in accordance with Government Code Section 54950 et seq. whenever its governing body will deliberate in public on a covered procurement or any investment of \$2.5 million or more to meet environmental regulatory requirements at a non-EPS compliant baseload facility.

(a) (1) At the posting of the notice of a public meeting to consider a covered procurement or any investment of \$2.5 million or more to meet environmental regulatory requirements at a non-EPS compliant baseload facility, the local publicly owned electric utility shall notify the Commission and all persons on the Commission’s master contact list for notification of POU investments of the date, time and location of the meeting so the Commission may post the information on its website. This requirement is satisfied if the local publicly owned electric utility provides the Commission and all persons on the Commission’s master contact list for notification of POU investments with the uniform resource locator (URL) that links to this information.

(b) (2) Upon distribution to its governing body of information related to a covered procurement's compliance with the EPS or any investment of \$2.5 million or more to meet environmental regulatory requirements at a non-EPS compliant baseload facility, for its consideration at a noticed public meeting, the local publicly owned electric utility shall make such information available to the public, shall provide an electronic copy to all persons on the Commission’s master contact list established pursuant to subdivision (a), and shall provide the Commission with an electronic copy of the document for posting on the Commission’s website. This requirement is satisfied if the local publicly owned electric utility provides the Commission and all persons on the Commission’s master contact list for notification of POU investments with the URL that links to the documents or information regarding other manners of access to the documents.

- (e) (3) For a covered procurement involving a new or renewed contract with a term of five years or more, the documentation made publicly available at the time of posting pursuant to Subsections (a~~1~~) and (b~~2~~) shall include at a minimum:
  - (1) (A) A description of the terms of the contract and option(s) to extend the contract;
  - (2) (B) A description and identification of the powerplant(s) providing energy under the contract, including, but not limited to, power generation equipment and fuel type;
  - (3) (C) A description of the design or operation of the powerplant(s) so as to indicate whether or not the powerplant(s) operates to supply baseload generation;
  - (4) (D) An explanation as to how the contract is compliant with the EPS; and
  - (5) (E) Supporting documents or information that allow for assessment of compliance with the standard, including, but not limited to, staff assessments and reports to the local publicly owned electric utility's governing body, planned or historical production and fuel use data, and applicable historical continuous emissions monitoring data.
- (d) (4) For a covered procurement involving a new ownership investment, the documentation made available at the time of posting pursuant to Subsections (a~~1~~) and (b~~2~~) shall include at a minimum:
  - (1) (A) For new construction or purchase of an existing generating unit or powerplant, a description and identification of the planned powerplant or the purchased asset specifying the power generating equipment, power source, such as fuel type, wind, or biomass, all supplemental fuel sources, and all available historical production and fuel use data;
  - (2) (B) For an incremental investment that is a covered procurement as defined in Section 2901(d), a description of the modifications to the unit(s) and their impact on generation capacity, carbon dioxide emissions, and planned operation.
  - (3) (C) For non-renewable resources, the heat rate or carbon dioxide emissions profile of the powerplant and the source of this information.
- (c) Except as provided below, each local publicly owned electric utility shall file annually a notice identifying all investments of \$2.5 million or more that it anticipates making in the subsequent 12 months on non-EPS compliant baseload facilities to comply with environmental regulatory requirements. The filing shall contain a description of the investment and its intended purpose, the associated costs, and an indication of when a decision to move forward is expected. The filing shall also include any such investments made in the previous 12 month period that were not identified in the previous annual notice. The filing shall be made within 10 days of the local publicly owned utility's approval of the annual budget for the non-EPS compliant baseload facility.
- (d) A local publicly owned electric utility that has entered into a binding agreement to divest itself of any non-EPS compliant baseload facility within 5 years is exempted from compliance with subsection (c) for that facility for as long as the binding agreement is in place or until such time that it has completed divestment of the facility.
- (e) Investments of \$2.5 million or more to meet environmental regulatory requirements at a non-EPS compliant baseload facility that are not also covered procurements are not subject to the compliance filing requirement under Section 2909 or compliance review under Section 2910.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code; Section 54950, Government Code.

**§ 2913 Case-by-Case Review for Pre-existing Multi-Party Commitments**

(a) A local publicly owned electric utility may petition the Commission for an exemption from application of this chapter for investments ~~covered procurements~~ required under the terms of a contract or ownership agreement that was in place January 1, 2007. The Commission may exempt investments ~~covered procurements~~ from application of this chapter if the local publicly owned electric utility demonstrates that:

- (1) the investments ~~covered procurements~~ are required under the terms of the contract or ownership agreement; and
- (2) the contract or ownership agreement does not afford the local publicly owned electric utility applying for the exemption the opportunity to avoid making such investments ~~covered procurements~~.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code; Section 8341, Public Utilities Code. Reference: Section 8341, Public Utilities Code.