



## CALIFORNIA ENERGY COMMISSION

*Executive Director: Stephen Rhoads*  
*Chairperson: Charles R. Imbrecht*  
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In 1974, the legislature enacted the Warren-Alquist State Energy Resources Conservation and Development Act, Public Resources Code section 25000 *et seq.*, and established the State Energy Resources Conservation and Development Commission—better known as the California Energy Commission (CEC)—to implement it. The Commission's major regulatory function is the siting of powerplants. It is also generally charged with assessing trends in energy consumption and energy resources available to the state; reducing wasteful, unnecessary uses of energy; conducting research and development of alternative energy sources; and developing contingency plans to deal with possible fuel or electrical energy shortages. CEC is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Division 2, Title 20 of the California Code of Regulations (CCR).

The Governor appoints the five members of the Commission to five-year terms, and every two years selects a chairperson from among the members. Commissioners represent the fields of engineering or physical science, administrative law, environmental protection, economics, and the public at large. The Governor also appoints a Public Adviser, whose job is to ensure that the general public and interested groups are adequately represented at all Commission proceedings.

There are five divisions within the Energy Commission: (1) Administrative Services; (2) Energy Forecasting and Planning; (3) Energy Efficiency and Local Assistance; (4) Energy Facilities Siting and Environmental Protection; and (5) Energy Technology Development.

CEC publishes *Energy Watch*, a summary of energy production and use trends in California. The publication provides the latest available information about the state's energy picture. *Energy Watch*, published every two months, is available from the CEC, MS-22, 1516 Ninth Street, Sacramento, CA 95814.

On February 6, Governor Wilson appointed Sally Rakow of Ross in Marin County, as a CEC commissioner; Ms. Rakow is CEC's current public member, replacing Robert Mussetter.

## MAJOR PROJECTS:

*CEC Publishes 1990 Electricity Report.* Pursuant to Public Resources Code section 25305 *et seq.*, CEC prepared its biennial Electricity Report (ER 90), which forecasts statewide electricity demand, analyzes available energy supply, and establishes future CEC resource planning policies and licensing requirements. The report will be used as a basis for energy policy recommendations by the Governor, the legislature, and other public agencies, and it will form the baseline for Public Utilities Commission (PUC) decisions regarding the procurement of alternative generation resources. The report will also play an important role in the powerplant siting process over the next two years, by serving as the basis for determining the need for new plants.

While the last three Electricity Reports addressed the problem of an overabundance of powerplants, ER 90 stresses the emerging problem of service areas needing additional resources to meet growing demand. The report forecasts that over the next twenty years, peak demand for electricity by the state's residential, business, and industrial consumers will grow by more than 23,000 megawatts (MW), representing an average growth rate of 2.7% per year and a 50% increase over current peak demand.

ER 90 recommends that the state rely on energy-efficient investments to reduce the need for new generation, and recommended that CEC work with municipal utilities to integrate state policies into their resource allocation.

ER 90 also emphasizes that California's serious air quality problem must be taken into account when choosing between alternative electricity resources. The report contends that electricity might be part of the overall solution to combat air pollution, through technologies which replace sources of combustion, gasoline, and diesel-fueled vehicles. However, ER 90 notes that all costs and emissions impacts of compliance with air quality regulations must be accounted for in the analysis of the cost-effectiveness of electric generation resource alternatives.

*CEC Seeks to Amend Its Intervenor Funding Program.* On August 9, 1989, CEC adopted standards and criteria for its Intervenor Funding Program (IFP), pursuant to SB 283 (Rosenthal) (Chapter 1436, Statutes of 1988), which appropriated a one-time amount of \$285,000 from the Petroleum Violation Escrow Account (PVEA) funds to establish the program on a trial basis. The IFP is intended to encourage public participation in certain CEC proceedings by

awarding financial reimbursement to organizations and individuals who apply for intervenor status, whose participation in the proceeding is determined to cause financial hardship, and who make a compensable contribution to the proceeding. The IFP applies to all CEC proceedings except those involving siting cases. SB 283 directed CEC to report on the program's status within two years of receiving the funds. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 128 and Vol. 9, No. 3 (Summer 1989) p. 118 for background information.)

In February 1991, the Commission completed the mandated report and concluded that the pilot IFP has proven successful. According to the report, the program has committed virtually all of the originally appropriated funds and delivered \$192,758 in actual reimbursements to intervenors, while expending only \$463 for program administration and public outreach. The major advantage of the program has been increased participation of individuals and organizations with unique or innovative points of view on matters of importance to the state's energy policy.

The report listed three difficulties encountered in the program: determining whether a true financial hardship existed for organizations with significant resources or with members who had significant resources; determining whether reimbursement should be made for legal fees when relatively little funding was available for energy and conservation research reimbursements; and reallocating Commission personnel resources to handle the unfunded increased workload caused by the program.

The report emphasized that, if the program is to continue, improvements must be considered. The Commission concluded that the recent budget augmentation of \$250,000 provided by SB 2211 (Rosenthal) (Chapter 1661, Statutes of 1990) appears to extend the program and, as a result, ordered the Public Adviser to commence a rulemaking proceeding to adopt permanent regulations for the program. The Public Adviser drafted proposed regulatory amendments and conducted three public workshops in February to gather comments regarding the proposed language.

The proposed regulatory action would adopt sections 2570-2582, 2584, and 2588, Article 4, Chapter 7, Division 2, Title 20 of the CCR. The regulations would modify, define, and make specific the guidelines adopted in 1989 establishing the pilot IFP. The proposed regulations would require that each year, at CEC's March business meeting, the Commission would determine the total



amount of funds available for the program for the following fiscal year and how much of those funds to allocate for awards to eligible intervenors throughout the next fiscal year.

To be eligible for funding under the program, the individual, group of individuals, or organization wishing to obtain intervenor status would be required to submit application information demonstrating financial hardship, defined as the applicant's inability to participate in qualified proceedings without IFP funding, during April of each year. The application must include a proposal summary, discussing the issue or viewpoint to be presented and the costs of the proposal; a section entitled program relevance, explaining the importance and relevance of the proposal to the proceeding; a statement of objectives; a description of the methods to be utilized; a timetable identifying specific deadlines; and a budget, including a line item description of anticipated expenses.

To be eligible to receive funding under the program, an intervenor must meet the following tests for each requested qualified proceeding: (1) the intervenor must face a financial hardship as defined by the CEC; (2) the intervenor's proposed presentation must meet CEC's standard of relevancy; and (3) the intervenor must have been granted, or will be granted by the Intervenor Funding Committee, intervenor status in the qualified proceeding.

Under the proposed regulations, the Intervenor Funding Committee would issue a proposed decision on all applications on or before June 15 of each year, and CEC would consider adoption of the proposed decisions at its business meeting in late June or early July. As an exception, the Committee would be able to issue a proposed decision recommending funding for an intervenor at any time during a fiscal year if the need for the proposed presentation was not readily apparent during the annual filing period and the Committee determines that the presentation should be made during the current fiscal year.

Finally, the regulations would establish procedures for the intervenor to apply for compensation for its participation in each qualified proceeding, appeal final committee decisions regarding any aspect of the intervenor's participation in the IFP, or submit a petition for reconsideration of the Commission's decision.

According to Public Adviser Thomas Maddock, CEC anticipates that the proposed regulations will be submitted to the Office of Administrative Law (OAL) this summer and be implemented by the

end of 1991. To expedite the distribution of funds this fiscal year, CEC was scheduled to consider proposed amendments to the current IFP guidelines at its April 3 business meeting in Sacramento; these amendments are virtually identical to the proposed regulatory package, so CEC will be able to determine whether the proposed regulations will operate effectively.

*Solar Energy Tax Credit Regulations Rejected.* In November 1990, CEC republished notice of its intent to repeal sections 2601-2607, Title 20 of the CCR, and adopt new sections 2600-2607, Title 20 of the CCR, pursuant to SB 227 (Chapter 1291, Statutes of 1989), which created a new state tax credit for commercial solar energy systems of 30 MW or more for tax years 1990-93, inclusive. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 200 for background information.)

New section 2600 would establish the scope of the proposed regulations and list the three subject areas addressed by CEC in the proposed regulations: eligibility requirements for the solar tax credit, collection of information by the Commission, and Commission evaluation of potentially ineligible facilities.

Section 2601 would define 25 terms used in connection with the solar energy tax credit to enhance the clarity of the regulations.

The enabling legislation requires CEC to present a report to the legislature by January 1, 1992, on the fiscal and environmental benefits and the fiscal costs of the solar tax credit legislation. Section 2602 would enable the preparation of the mandated report by imposing reporting requirements on all taxpayers claiming the tax credit for facilities which generate one kilowatt or more. Taxpayers would be required to file information concerning the cost, type, and size of the facility, the effect of the tax credit on the taxpayer's decision to install the facility, and the measures adopted to ensure compliance with Commission standards.

Section 2603 would impose basic safety, durability, reliability, and market readiness requirements on all claimed systems. This section would impose requirements for interconnection with the utility grid, length of useful life, testing for photovoltaic modules, battery use, environmental protection, provision of owner information and orientation for non-tracking solar devices, and would require manufacturer and contractor warranties as a means of ensuring market readiness of solar systems.

Section 2604 would establish a minimum standard of cost-effectiveness for

solar systems claiming the tax credit and would specify the types of costs that may be included in the basis for determining the tax credit and for determining the cost-effectiveness of the system.

Section 2605 would contain requirements for photovoltaic and solar thermal electric systems and additions to such systems with a peak capacity of 25 kilowatts or more.

Revenue and Taxation Code section 17052.5(k) states that "[a]ny solar system with a generating capacity in excess of 10 megawatts may claim the credit only if the owner of the solar energy system first obtains a finding from the Commission that the system is eligible for the credit under the guidelines and criteria established pursuant to the subdivision." Section 2606 would establish a process for solar energy systems with a generating capacity in excess of ten MW to obtain the required finding from the Commission.

Finally, section 2607 would establish a process for the Commission to investigate situations in which ineligible taxpayers are claiming the tax credit.

The proposed regulatory package was submitted to OAL in February; on March 13, OAL disapproved the regulatory action because it failed to meet the clarity, consistency, and necessity standards of Government Code section 11349.1, because it improperly incorporated by reference several documents, and because CEC did not adequately respond to a comment questioning the consistency of a provision of the proposed regulations. OAL's findings included a determination that eight separate provisions in CEC's rulemaking package failed to meet the clarity standard of Government Code section 11349.1(a)(3). Further, proposed section 2602(a) appeared to impose an additional eligibility requirement not contained in or authorized by the tax credit's enabling statutes, Revenue and Taxation Code sections 17052.5(k) and 23601.5(j).

*Financing Available for Energy-Efficient Projects.* On January 29, CEC announced the availability of \$7.5 million from the Energy Conservation Assistance Act (Public Resources Code section 25410 *et seq.*) account for financing energy-efficient projects, including streetlight conversions. Funds may be used to finance up to 100% of the cost of energy efficiency measures which are primarily intended to reduce energy consumption or which allow the use of a more desirable energy source.

Beginning May 1, funds will be available at an annual interest rate of 8.25%; there is no final due date for



## REGULATORY AGENCY ACTION

applications. Eligibility for financing is limited to cities, counties, special districts, public and nonprofit schools, public and nonprofit hospitals, and public care institutions. Applications will be reviewed and ranked by a CEC committee.

**CEC Releases Informational Guide.** In February, CEC released its Policy Proceedings Information Status Report for January-March 1991, describing the types of meetings and workshops held at CEC, when they occur, and how to participate. The report also informs the public about obtaining copies of documents, intervening in CEC proceedings, and the availability of intervenor compensation.

**Conference on Privatization in Latin America.** On April 14-16, CEC's Energy Technology Export Program was scheduled to cosponsor the Second International Conference on Privatization in Latin America, at the University of California in San Diego. Two hundred international business executives, financial authorities, and Latin American government ministers are expected to discuss national privatization plans, concentrating on opportunities and prospects for successful foreign participation in the privatization of electric utility projects, telecommunications, and other infrastructure facilities now available in various Latin American countries. The conference is designed to disseminate current information on planned privatizations, facilitate contacts between key national officials and U.S. businesses, suggest actions to bring buyer and seller expectations closer, and highlight possible areas of reform to aid future enterprise success.

**Powerplant Siting Activity.** CEC recently released its Spring 1991 Public Adviser's Report highlighting the status of the powerplant siting cases currently before the CEC and addressing Applications for Certification (AFC), Notices of Intent, Small Power Plant Exemptions, Amendments to AFCs, and Complaint and Investigation proceedings. The Spring 1991 report included status information on the following projects: Arco Watson Cogeneration, El Centro Unit #2 Repowering Project, Geothermal Public Power Line AFC, Los Angeles Department of Water and Power Harbor Generating Project, Luz SEGS (Units IX-X) at Harper Dry Lake AFC, Luz SEGS (Units XI-XII) at Harper Dry Lake AFC, SDG&E South Bay Unit 3 Augmentation Project AFC, SDG&E Combined Cycle project, and Texaco Cool Water AFC amendment.

**Energy Efficiency Building Standards.** CEC recently proposed amendments to its Energy Efficiency

Standards for Nonresidential Buildings, Highrise Residential Buildings, and Hotel/Motels, and Provisions Applicable to All Residential and Nonresidential Buildings. These standards, which are codified in Chapter 2-53, Title 24 of the CCR, specify energy efficiency requirements and contain provisions on compliance and enforcement. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 138-39 for detailed background information.) The amendments, which CEC adopted on March 8, contain major changes in the organization, wording, and structure of the nonresidential standards to make compliance easier; the amendments also strengthen some of the substantive requirements, particularly in the areas of lighting and building envelopes (walls, roofs, windows, and floors).

CEC also recently proposed amendments to its Energy Efficiency Standards for New, Low-Rise Residential Buildings, Additions, and Alterations. These standards are codified at Chapter 2-53, sections 2-5301 through 2-5304, 2-5311 through 2-5319, 2-5351 through 2-5352, and 2-5361 through 2-5364, Title 24 of the CCR. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 140 for detailed background information.) Under Public Resources Code section 25402(a) and (b), new low-rise (three or fewer stories) residential buildings must comply with CEC's prescribed energy conservation standards. The last general update of these standards was in 1981; the last limited update occurred in 1987. Since that time, many building products which allow greater energy efficiency, such as improved fenestration products (windows) and better insulation products, have become available; construction costs, energy prices, and other assumptions affecting cost effective calculations have changed; and state standards for heating and cooling equipment have been replaced by new effective federal efficiency standards. CEC considered adoption of its proposed amendments on January 16; the amendments were not, however, adopted at that time and have not been adopted at this writing.

### LEGISLATION:

**AB 920 (Hayden).** Existing law prescribes, or requires the establishment by regulation of, various air pollutant emission standards, but does not specifically require a reduction in the emission of gases that may contribute to global warming. As introduced March 4, this bill would require CEC to adopt and implement a plan to reduce annual emissions of such gases. This bill is pending in the Assembly Natural Resources Committee.

**AB 1064 (Sher),** as introduced March 4, would require CEC to include in its biennial report specified forecasts of energy efficiency for specified planning periods and to develop the forecasts in accordance with specified requirements. The bill would require CEC to conduct a comprehensive identification and evaluation of energy efficiency programs and delivery mechanisms, establish energy efficiency targets, and prepare energy efficiency action plans for each end use sector and subsector fuel types. The bill would require CEC, in conjunction with the PUC and investor-owned and municipal utilities, to establish a comprehensive demand-side data monitoring and evaluation system to provide detailed and reliable statistics on actual energy savings from all classes of demand-side management programs. It would further require the Air Resources Board (ARB), air pollution control districts, and air quality management districts to consider and utilize cost-effective energy efficiency as part of their air quality planning activities to meet federal and state ambient air quality standards, and to submit to CEC and the PUC all proposed energy-related plans, regulations, requirements, programs, and goals prior to their adoption for evaluation. This bill is pending in the Assembly Natural Resources Committee.

**AB 1090 (Hayden),** as introduced March 5, would require CEC to develop and implement a program increasing peak energy generation capacity through utilization of nonpolluting energy. This bill is pending in the Assembly Natural Resources Committee.

**AB 1122 (Sher),** as introduced March 5, and **SB 51 (Torres),** as introduced December 4, would both create the California Environmental Protection Agency (Cal-EPA) by reorganizing the Resources Agency and transferring functions of agencies outside the Resources Agency to the new Cal-EPA. AB 1122 would include within Cal-EPA the Air Resources Board, the California Integrated Waste Management and Recycling Board, the California Energy Commission, and the Water Resources Control Board; SB 51 would include all of those agencies except the Energy Commission. In addition, both bills would create the Department of Toxic Substances Control within Cal-EPA and transfer to it the duties of the Department of Health Services (DHS) with regard to hazardous waste, hazardous substances, and radioactive materials, and the duties of the California Department of Food and Agriculture (CDFA) with regard to pesticide regulation.



Governor Wilson has announced his intent to establish Cal-EPA; at this writing, however, it is unknown whether he will accomplish its creation through legislation or through "executive reorganization" under Government Code section 12080 *et seq.* (See *supra* agency report on CDFR for related discussion.)

**AB 1586 (Moore)**, as introduced March 8, would require CEC to certify home energy conservation rating systems and procedures that calculate energy and utility bill savings to be expected from conservation measures. CEC would also be required to certify a uniform rating scale for measuring dwelling energy efficiency and potential utility bill savings. This bill is pending in the Assembly Natural Resources Committee.

**SB 634 (Rogers)**. Existing law authorizes CEC to make loans from geothermal revenues deposited in the Geothermal Resources Development Account to entities engaged in the exploration and development of geothermal energy. As introduced March 4, this bill would also authorize CEC to make grants to those entities. This bill is pending in the Senate Committee on Energy and Public Utilities.

**SB 1203 (Committee on Energy and Public Utilities)**, as introduced March 8, would abolish CEC and create the California Energy Resources Board, and would provide for the Board to succeed to all powers, authority, responsibilities, and programs of CEC. The bill would require the Governor to prepare a California Energy Strategy every two years, commencing June 1, 1993, and would prohibit state entities from taking any action which is inconsistent with the strategy. This bill is pending in the Senate Committee on Energy and Public Utilities.

**SB 1204 (Committee on Energy and Public Utilities)**, as introduced March 8, would return CEC's authority to certify new powerplant sites and facilities utilizing non-nuclear energy, effective January 1, 1993. Cities and counties would be authorized to refer an application for such certification to CEC. It would require the PUC, municipal utility districts supplying electrical energy, and any utility supplying electrical energy to a city with a population of more than three million to use the forecasts prepared by CEC for determinations involving the acquisition of new electrical energy generation resources, including bidding and other competitive acquisition programs and requests for proposal type solicitations. This bill is pending in the Senate Committee on Energy and Public Utilities.

**SB 1205 (Committee on Energy and Public Utilities)**, as introduced March 8, would require CEC, by January 1, 1993, to evaluate and report to the legislature on economic and environmental benefits of energy-efficient appliance technologies which are commercially available, in comparison to minimum appliance efficiencies required by federal standards, and upon specified findings, to apply for a waiver of the federal preemption against more efficient state standards. The bill would require CEC to review and revise its appliance efficiency standards every five years, and its efficiency standards for new residential and nonresidential buildings every three years. This bill is pending in the Senate Committee on Energy and Public Utilities.

**SB 1206 (Committee on Energy and Public Utilities)**, as introduced March 8, would require CEC and the Department of General Services, on or before January 1, 1993, to adopt energy efficiency measures for new state buildings and to adopt goals for the reduction of energy consumption in existing state buildings. This bill is pending in the Senate Committee on Housing and Urban Affairs.

**SB 1207 (Committee on Energy and Public Utilities)**, as introduced March 8, would amend existing law which requires CEC to adopt, by June 30, 1992, home energy rating and labeling guidelines that may be used by homeowners to make cost-effective decisions regarding the energy efficiency of their homes. The bill would require CEC to adopt a single, consistent method for rating the energy efficiency of both new and existing homes by January 1, 1993. The bill is pending in the Senate Committee on Energy and Public Utilities.

**SB 1208 (Committee on Energy and Public Utilities)**, as introduced March 8, would require CEC, as part of the biennial report it must submit to the legislature, to establish priority technologies for research, development, and demonstration; establish specific performance goals for these priority technologies; and develop research, development, and demonstration programs which pursue these technologies. All energy technology research, development, and demonstration which is paid for in whole or part by taxpayer or by ratepayer funding would have to be evaluated against these priorities. CEC would be required to establish a statewide energy efficiency research, development, and demonstration database and computer network. The bill would also require CEC to establish a generation efficiency task force to study and report on the development of high-efficiency electric genera-

tion technologies. This bill is currently pending in the Senate Committee on Energy and Public Utilities.

**AB 1732 (Costa)**, as introduced March 8, would require CEC to develop best practice/best technology model codes for energy-efficient new residential and nonresidential buildings, which shall be available for voluntary adoption by local governments. This bill is pending in the Assembly Local Government Committee.

**AB 2130 (Brown)**. Existing law requires CEC to prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, to promote the use of energy efficiency appliances whose use, as determined by CEC, requires a significant amount of energy on a statewide basis.

As introduced March 8, this bill would instead direct CEC to prescribe, by regulation, standards for minimum levels of operating efficiency, maximum energy consumption, or efficiency design requirements, based on a reasonable use pattern, for appliances whose use, as determined by CEC, requires a significant amount of energy on a statewide basis; require CEC, on or before December 31, 1992, to determine whether any appliances that are currently not subject to CEC standards should be regulated and, for any such appliance, to adopt standards in accordance with prescribed procedures; require CEC, by December 31, 1992, to complete an investigatory proceeding to determine whether changes in the federal labelling rules would assist in achieving improvements in appliance efficiency or increased compliance with efficiency standards; and require CEC, by January 1, 1993, to adopt energy conservation measures that are cost-effective and feasible for privately-owned residential buildings. This bill is pending in the Assembly Committee on Utilities and Commerce.

#### FUTURE MEETINGS:

CEC meets every other Wednesday in Sacramento.

#### CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

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The California Integrated Waste Management and Recycling Board (CIWMB) was created by AB 939 (Sher)