

CALIFORNIA ENERGY COMMISSION1516 Ninth Street
Sacramento, California 95814Main website: www.energy.ca.gov

34985

DOCKET 03-QCTA-1
DATE _____
RECD. JUN 27 2005



Notice of a Public Hearing on Regulations to Approve Certifiers and Technical Assistance Providers for the California Climate Action Registry

On February 16, 2005, the California Energy Commission adopted regulations to implement its responsibilities regarding the California Climate Action Registry (Registry). SB 527 (Sher), Chapter 769, Statutes of 2001 requires the Registry, created by SB 1771 (Sher), Chapter 1018, Statutes of 2000 to assist and enable participating entities to voluntarily record their annual greenhouse gas emissions in a consistent and certifiable format. SB 527 also requires the Energy Commission to assist the Registry by qualifying third-party organizations to certify emission baselines and inventories (Certifiers) and to provide technical assistance (TAs).

The adopted regulations were submitted to the Office of Administrative Law (OAL) as required by the California Administrative Procedure Act. The OAL disapproved the regulations. In order to respond to the problems identified by OAL, the Energy Commission will conduct a public hearing on:

THURSDAY, JULY 7, 2005
1:30 p.m.
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room B
Sacramento, California
(Wheelchair Accessible)

The hearing will consider the justification for various items in the adopted regulations, as discussed in the attached "Expert Opinion of Jeff Wilson." This hearing will also constitute the rescheduling, pursuant to Government Code section 11346.8, of the hearing that was scheduled for June 2, 2004, in the original rulemaking proceeding. Following the hearing, the Energy Commission intends to resubmit the regulations, as originally adopted, to OAL, unless comments received justify a change.

The adopted regulations and other supporting documents are available on the Energy Commission website at www.energy.ca.gov/global_climate_change/registry/. Individuals who do not have access to the internet 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

Any comments on the hearing or any other aspect of the regulations must be received by the Energy Commission no later than **5:00 pm July 7, 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 [\[DOCKET@energy.state.ca.us\]](mailto:DOCKET@energy.state.ca.us) or by fax (916) 654-4354.

Questions regarding this notice should be directed to Jeff Wilson, Climate Change Project Manager, at (916) 657-4774 or jewilson@energy.state.ca.us]. If you need assistance in participating in this workshop or in the regulatory process, call Margaret Kim, Public Adviser at (916) 654-4489, toll free in California at (800) 822-6228 or e-mail at [\[pao@energy.state.ca.us\]](mailto:pao@energy.state.ca.us). If you require special accommodation at the workshop, please call Lou Quiroz at (916) 654-5146 at least five days before the workshop. News media inquiries should be directed to Assistant Executive Director, Claudia Chandler at (916) 654-4989.

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

IN RESPONSE TO THE OFFICE OF ADMINISTRATIVE LAW THE CALIFORNIA ENERGY COMMISSION PROVIDES THE QUALIFICATIONS AND EXPERT OPINION OF JEFF WILSON

Jeff Wilson has extensive experience in matters concerning evaluating air emissions inventories and air pollution, including greenhouse gas emissions. He has a B.S. in Mathematics and a B.S. in Chemistry, with over 20 years of relevant experience at the California Energy Commission, California Air Resources Board, and other positions in private industry. He is currently a Project Manager in the Climate Change Program at the California Energy Commission and has spent several years working with the California Climate Registry and others in determining the necessary minimum qualifications that Certifiers and Technical Assistance Providers should possess in order to adequately certify emissions or otherwise provide assistance in such matters.

Basis for the decision to require two years' experience for the technical assistance providers and certifiers, both general and specific, in Sections 2811, 2821, and 2822. Two years' greenhouse gas (GHG) or other air emissions-related experience is the minimum amount of experience needed to gain competence in the various areas identified. Evaluating GHG emissions inventories is a relatively new field, not many firms have direct experience, but may have all of the necessary skills required to certify a GHG inventory. Therefore, the regulations permit firms that have experience in evaluating other air emissions-related experience to satisfy the experience required. We considered requiring a greater or lesser amount of experience, but concluded that three years was too constraining, and would eliminate otherwise qualified individuals, and one year of experience was too lax and would potentially jeopardize the quality of services provided to the Registry members, if adopted. Over a two year period a company could perform several emissions evaluation tests, analyze results under varying physical environment and climatic conditions, and gain confidence from feedback comments and scrutiny of the results. Therefore, two years' GHG or other air emissions-related experience was deemed to be the most appropriate.

Basis for decision to require insurance in the amount of one million dollars in Section 2820. The proposed regulations set one million dollars as the appropriate amount of insurance to be carried by Registry certifiers. One million dollars of insurance is considered adequate to cover any potential liability but not too much to be burdensome on companies contracting with the Registry members. The specific terms of a contract a certifier may have with a Registry member will be determined by the certifier and Registry member while negotiating for certification services. These terms may include liability for the value of potential greenhouse gas emissions credits; this value will vary from company to company but for some companies could be on the order of one million dollars in future market conditions. Therefore, insurance in the amount of one million dollars is the most appropriate amount of insurance to require an applicant to have.

Basis for decision in Section 2831 to require a minimum score of 80 percent in satisfaction of the criteria in Appendix B. A score of 80 percent in Appendix B represents a minimum amount of proficiency in the subject matter that would still ensure competency to perform the necessary work. Requiring a score of more than 80 percent would be too constraining and would risk eliminating qualified applicants. Requiring a score of less than 80 percent would be too lax and would risk qualifying applicants who could not competently perform the necessary duties. The 80 percent threshold is also consistent with state government bidding requirements for relatively new contract functions. Therefore, a minimum score of 80 percent is the most appropriate minimum score to qualify certifiers.

Basis for decision to allot the specific points for each criteria in Appendix B. The number of points selected for the enumerated categories is the most appropriate number of points. For the evaluation criteria for certifiers, experience in the various categories has a maximum value of 10 points per category, whereas knowledge in the various categories have a maximum value of 2 points. This reflects the greater importance placed on demonstrated experience over knowledge in qualifying certifiers; experience weighs more heavily because it is a better indication of an applicant's ability to competently perform the necessary work.