

Proposed Renewable Portfolio Standard Program

Enforcement Regulation

Adopt new sections 60095, 60096, and 60097, Article 7, Subchapter 1.25, Chapter 1, Division 3, Title 17, California Code of Regulations to read as follows:

[Note: All of the text below is new language to be added to the California Code of Regulations]

Article 7. Imposition of Penalties for Violations of the Renewables Portfolio Standard by Local Publicly Owned Electric Utilities.

§ 60095. Purpose.

The purpose of this regulation is to implement section 399.30, subdivision (p) of the Public Utilities Code.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 38580, 42402, 42402.1, 42402.2, 42402.3, 42402.4, and 42403, Health and Safety Code; and Section 399.30, Public Utilities Code.

§ 60096. Referral of Notice of Violation by the California Energy Commission.

A referral of a notice of violation by the California Energy Commission pursuant to California Code of Regulations, title 20, section 1240, subdivision (h) shall be directed to the attention of the Executive Officer of the California Air Resources Board, to whom authority to impose penalties consistent with this section is delegated.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 38580, 42402, 42402.1, 42402.2, 42402.3, 42402.4, and 42403, Health and Safety Code; and Section 399.30, Public Utilities Code.

§60097. Determination of Penalty.

- (a) Upon receipt of the entire record of proceedings required to be delivered pursuant to California Code of Regulations, title 20, section 1240, subdivision (h), the Executive Officer may determine a civil penalty for some or all violations set out in the notice of violation in a manner consistent with Part 6 (commencing with section 38580) of Division 25.5 of the Health and Safety Code. Any civil penalty imposed shall be comparable to those adopted by the California Public Utilities Commission for noncompliance by retail sellers. For purposes of this Article, the term comparable shall not mean identical.

- (b) In determining whether a civil penalty should be imposed or if a civil penalty is to be imposed, the amount of such civil penalty, the Executive Officer shall rely solely on the record of proceedings transmitted by the California Energy Commission. The Executive Officer shall not consider any evidence or information other than the evidence and information transmitted with the referral.
- (c) If the California Energy Commission included a suggested penalty or suggested findings regarding the application of factors in mitigation or aggravation in its referral under California Code of Regulations title 20, section 1240, subdivision (g), the Executive Officer shall give deference to, but not be bound by such suggested penalty or suggested findings when determining whether a civil penalty is to be imposed, and if a civil penalty is to be imposed, the total amount of such civil penalty.
- (d) The determination by the Executive Officer is a final determination and shall not be subject to further review.

NOTE: Authority cited: Sections 38580, 39600, 39601, 42402, 42402.1, 42402.2, 42402.3, 42402.4, and 42403, Health and Safety Code. Reference: Sections 38580, 42402, 42402.1, 42402.2, 42402.3, 42402.4, and 42403, Health and Safety Code; and Section 399.30, Public Utilities Code.