

AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 20, 2015
AMENDED IN SENATE APRIL 16, 2015
AMENDED IN SENATE APRIL 14, 2015
AMENDED IN SENATE MARCH 26, 2015
AMENDED IN SENATE MARCH 12, 2015

SENATE BILL

No. 180

Introduced by Senator Jackson

February 9, 2015

An act to add Section 25544 to the Public Resources Code, and to amend the heading of Chapter 3 (commencing with Section 8340) of Division 4.1 of, and to amend, repeal, and add Sections 8340 and 8341 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 180, as amended, Jackson. Electricity: emissions of greenhouse gases.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities are under the direction of their governing board. Existing law prohibits any load-serving entity and any local publicly owned electric utility from entering into a long-term financial commitment for baseload generation unless that baseload generation complies with a greenhouse gases emission performance standard. Existing law requires the Public Utilities Commission, by February 1, 2007, through a rulemaking proceeding and in consultation

with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities. Existing law requires the State Energy Resources Conservation and Development Commission, by June 30, 2007, at a duly noticed public hearing and in consultation with the Public Utilities Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities.

This bill would, on July 1, 2017, replace the greenhouse gases emission performance standards for baseload generation with greenhouse gases emission performance standards for nonpeaking generation and peaking generation. The bill would require the Public Utilities Commission, by June 30, 2017, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all nonpeaking generation of load-serving entities, and a separate standard for peaking generation. The bill would require the State Energy Resources Conservation and Development Commission, by June 30, 2017, at a duly noticed public hearing and in consultation with the Public Utilities Commission and the State Air Resources Board, to establish a greenhouse gases emission performance standard for all nonpeaking generation of local publicly owned electric utilities, and a separate standard for peaking generation. The bill would require that, taking into consideration siting factors such as altitude, regional climate, and operating capacity, the greenhouse gases emission performance standard for nonpeaking generation and peaking generation be established at the lowest level that the respective commissions determine to be technologically feasible without putting reliability of the electrical grid and of electric service at risk and without hampering further deployment of renewable generation resources or reductions of greenhouse gases emissions. The bill would require that the commissions update their respective greenhouse gases emission performance standards every 5 years based on new technology.

Existing law makes any public utility that fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime. Existing law additionally makes every corporation or person other than a public utility who fails to comply

with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime.

Because this bill would require action by the Public Utilities Commission to implement its requirements with respect to a load-serving entity, and a violation of an order or decision of the Public Utilities Commission would be a crime, the bill would impose a state-mandated local program by expanding what is a crime.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. The act grants the commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto.

The California Environmental Quality Act (CEQA) generally requires all state and local governmental lead agencies to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any discretionary project that they propose to carry out or approve that may result in a significant effect on the environment, that is, a substantial, or potentially substantial, adverse change in the physical conditions that exist within the area that will be affected by the project. CEQA authorizes the plan or other written documentation containing environmental information of state agencies to be submitted in lieu of an otherwise required environmental impact report if the Secretary of the Natural Resources Agency has certified the regulatory program in a specified manner.

This bill would provide that any carbon capture and storage project associated with an application for certification is a related facility for purposes of the certification of a thermal powerplant by the State Energy Resources Conservation and Development Commission and for purposes of the secretary's authority with respect to a certified regulatory program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25544 is added to the Public Resources
2 Code, to read:

3 25544. Any carbon capture and storage project associated with
4 an application for certification is a related facility pursuant to this
5 chapter and for purposes of Section 21080.5. For purposes of this
6 section, “carbon capture and storage,” also known as carbon capture
7 and sequestration, means any method that prevents the release of
8 greenhouse gases into the atmosphere.

9 SEC. 2. The heading of Chapter 3 (commencing with Section
10 8340) of Division 4.1 of the Public Utilities Code is amended to
11 read:

12
13 CHAPTER 3. GREENHOUSE GASES EMISSION PERFORMANCE
14 STANDARD
15

16 SEC. 3. Section 8340 of the Public Utilities Code is amended
17 to read:

18 8340. For purposes of this chapter, the following terms have
19 the following meanings:

20 (a) “Baseload generation” means electricity generation from a
21 powerplant that is designed and intended to provide electricity at
22 an annualized plant capacity factor of at least 60 percent.

23 (b) “Combined-cycle natural gas” with respect to a powerplant
24 means the powerplant employs a combination of one or more gas
25 turbines and steam turbines in which electricity is produced in the
26 steam turbine from otherwise lost waste heat exiting from one or
27 more of the gas turbines.

28 (c) “Electric service provider” means an “electric service
29 provider” as defined in Section 218.3, but does not include
30 corporations or persons employing cogeneration technology or
31 producing electricity from other than a conventional power source
32 consistent with subdivision (b) of Section 218.

33 (d) “Greenhouse gases” means those gases listed in Section
34 38505 of the Health and Safety Code.

1 (e) “Load-serving entity” means every electrical corporation,
2 electric service provider, or community choice aggregator serving
3 end-use customers in the state.

4 (f) “Long-term financial commitment” means either a new
5 ownership investment in baseload generation or a new or renewed
6 contract with a term of five or more years, which includes
7 procurement of baseload generation.

8 (g) “Output-based methodology” means a greenhouse gases
9 emission performance standard that is expressed in pounds of
10 greenhouse gases emitted per megawatthour and factoring in the
11 useful thermal energy employed for purposes other than the
12 generation of electricity.

13 (h) “Plant capacity factor” means the ratio of the electricity
14 produced during a given time period, measured in kilowatthours,
15 to the electricity the unit could have produced if it had been
16 operated at its rated capacity during that period, expressed in
17 kilowatthours.

18 (i) “Powerplant” means a facility for the generation of electricity,
19 and includes one or more generating units at the same location.

20 (j) “Zero- or low-carbon generating resource” means an
21 electrical generating resource that will generate electricity while
22 producing emissions of greenhouse gases at a rate substantially
23 below the greenhouse gases emission performance standard, as
24 determined by the commission.

25 (k) This section shall become inoperative on July 1, 2017, and,
26 as of January 1, 2018, is repealed.

27 SEC. 4. Section 8340 is added to the Public Utilities Code, to
28 read:

29 8340. For purposes of this chapter, the following terms have
30 the following meanings:

31 (a) “Electric service provider” has the same meaning as defined
32 in Section 218.3, but does not include corporations or persons
33 employing cogeneration technology or producing electricity from
34 other than a conventional power source consistent with subdivision
35 (b) of Section 218.

36 (b) “Greenhouse gases” means those gases listed in Section
37 38505 of the Health and Safety Code.

38 (c) “Greenhouse gases emission performance standard” means
39 the permissible levels of emissions of greenhouse gases established

1 pursuant to Section 8341 for nonpeaking generation and peaking
2 generation.

3 (d) “Load-serving entity” means every electrical corporation,
4 electric service provider, or community choice aggregator serving
5 end-use customers in the state.

6 (e) “Long-term financial commitment” means either a new
7 ownership investment in nonpeaking generation or peaking
8 generation or a new or renewed contract with a term of five or
9 more years, which includes procurement of nonpeaking generation
10 or peaking generation.

11 (f) “Nonpeaking generation” means electricity generation from
12 a powerplant that is designed and intended to provide electricity
13 at an annualized plant capacity factor to be determined by the
14 commission and the Energy Commission, in consultation with the
15 Independent System Operator. In making this determination,
16 consideration shall be given to both current energy generation
17 needs, as well as energy generation needs as the greenhouse gases
18 emission performance standards for nonpeaking generation are
19 implemented. “Nonpeaking powerplant” means a powerplant that
20 provides nonpeaking generation.

21 (g) “Output-based methodology” means a greenhouse gases
22 emission performance standard that is expressed in pounds of
23 greenhouse gases emitted per megawatthour and factoring in the
24 useful thermal energy employed for purposes other than the
25 generation of electricity.

26 (h) “Peaking generation” means electricity generation from a
27 powerplant that is designed and intended to provide electricity at
28 an annualized plant capacity factor to be determined by the
29 commission and the Energy Commission, in consultation with the
30 Independent System Operator. In making this determination,
31 consideration shall be given to both current energy generation
32 needs, as well as energy generation needs as the greenhouse gases
33 emission performance standards for peaking generation are
34 implemented. “Peaking powerplant” means a powerplant that
35 provides peaking generation.

36 (i) “Plant capacity factor” means the ratio of the electricity
37 produced during a given time period, measured in kilowatthours,
38 to the electricity the unit could have produced if it had been
39 operated at its rated capacity during that period, expressed in
40 kilowatthours.

1 (j) “Powerplant” means a facility for the generation of electricity,
2 and includes one or more generating units at the same location.

3 (k) “Zero- or low-carbon generating resource” means an
4 electrical generating resource that will generate electricity while
5 producing emissions of greenhouse gases at a rate substantially
6 below the greenhouse gases emission performance standard, as
7 determined by the commission.

8 (l) This section shall become operative on January 1, 2017.

9 SEC. 5. Section 8341 of the Public Utilities Code is amended
10 to read:

11 8341. (a) No load-serving entity or local publicly owned
12 electric utility may enter into a long-term financial commitment
13 unless any baseload generation supplied under the long-term
14 financial commitment complies with the greenhouse gases emission
15 performance standard established by the commission, pursuant to
16 subdivision (d), for a load-serving entity, or by the Energy
17 Commission, pursuant to subdivision (e), for a local publicly owned
18 electric utility.

19 (b) (1) The commission shall not approve a long-term financial
20 commitment by an electrical corporation unless any baseload
21 generation supplied under the long-term financial commitment
22 complies with the greenhouse gases emission performance standard
23 established by the commission pursuant to subdivision (d).

24 (2) The commission may, in order to enforce this section, review
25 any long-term financial commitment proposed to be entered into
26 by an electric service provider or a community choice aggregator.

27 (3) The commission shall adopt rules to enforce the requirements
28 of this section, for load-serving entities. The commission shall
29 adopt procedures, for all load-serving entities, to verify the
30 emissions of greenhouse gases from any baseload generation
31 supplied under a contract subject to the greenhouse gases emission
32 performance standard to ensure compliance with the standard.

33 (4) In determining whether a long-term financial commitment
34 is for baseload generation, the commission shall consider the design
35 of the powerplant and the intended use of the powerplant, as
36 determined by the commission based upon the electricity purchase
37 contract, any certification received from the Energy Commission,
38 any other permit or certificate necessary for the operation of the
39 powerplant, including a certificate of public convenience and
40 necessity, any procurement approval decision for the load-serving

1 entity, and any other matter the commission determines is relevant
2 under the circumstances.

3 (5) Costs incurred by an electrical corporation to comply with
4 this section, including those costs incurred for electricity purchase
5 agreements that are approved by the commission that comply with
6 the greenhouse gases emission performance standard, are to be
7 treated as procurement costs incurred pursuant to an approved
8 procurement plan and the commission shall ensure timely cost
9 recovery of those costs pursuant to paragraph (3) of subdivision
10 (d) of Section 454.5.

11 (6) A long-term financial commitment entered into through a
12 contract approved by the commission, for electricity generated by
13 a zero- or low-carbon generating resource that is contracted for,
14 on behalf of consumers of this state on a cost-of-service basis,
15 shall be recoverable in rates, in a manner determined by the
16 commission consistent with Section 380. The commission may,
17 after a hearing, approve an increase from one-half to 1 percent in
18 the return on investment by the third party entering into the contract
19 with an electrical corporation with respect to investment in zero-
20 or low-carbon generation resources authorized pursuant to this
21 subdivision.

22 (c) (1) The Energy Commission shall adopt regulations for the
23 enforcement of this chapter with respect to a local publicly owned
24 electric utility.

25 (2) The Energy Commission may, in order to ensure compliance
26 with the greenhouse gases emission performance standard by local
27 publicly owned electric utilities, apply the procedures adopted by
28 the commission to verify the emissions of greenhouse gases from
29 baseload generation pursuant to subdivision (b).

30 (3) In determining whether a long-term financial commitment
31 is for baseload generation, the Energy Commission shall consider
32 the design of the powerplant and the intended use of the
33 powerplant, as determined by the Energy Commission based upon
34 the electricity purchase contract, any certification received from
35 the Energy Commission, any other permit for the operation of the
36 powerplant, any procurement approval decision for the load-serving
37 entity, and any other matter the Energy Commission determines
38 is relevant under the circumstances.

39 (d) (1) On or before February 1, 2007, the commission, through
40 a rulemaking proceeding, and in consultation with the Energy

1 Commission and the State Air Resources Board, shall establish a
2 greenhouse gases emission performance standard for all baseload
3 generation of load-serving entities, at a rate of emissions of
4 greenhouse gases that is no higher than the rate of emissions of
5 greenhouse gases for combined-cycle natural gas baseload
6 generation. Enforcement of the greenhouse gases emission
7 performance standard shall begin immediately upon the
8 establishment of the standard. All combined-cycle natural gas
9 powerplants that are in operation, or that have an Energy
10 Commission final permit decision to operate as of June 30, 2007,
11 shall be deemed to be in compliance with the greenhouse gases
12 emission performance standard.

13 (2) In determining the rate of emissions of greenhouse gases
14 for baseload generation, the commission shall include the net
15 emissions resulting from the production of electricity by the
16 baseload generation.

17 (3) The commission shall establish an output-based methodology
18 to ensure that the calculation of emissions of greenhouse gases for
19 cogeneration recognizes the total usable energy output of the
20 process, and includes all greenhouse gases emitted by the facility
21 in the production of both electrical and thermal energy.

22 (4) In calculating the emissions of greenhouse gases by facilities
23 generating electricity from biomass, biogas, or landfill gas energy,
24 the commission shall consider net emissions from the process of
25 growing, processing, and generating the electricity from the fuel
26 source.

27 (5) Carbon dioxide that is injected in geological formations, so
28 as to prevent releases into the atmosphere, in compliance with
29 applicable laws and regulations shall not be counted as emissions
30 of the powerplant in determining compliance with the greenhouse
31 gases emissions performance standard.

32 (6) In adopting and implementing the greenhouse gases emission
33 performance standard, the commission, in consultation with the
34 Independent System Operator shall consider the effects of the
35 standard on system reliability and overall costs to electricity
36 customers.

37 (7) In developing and implementing the greenhouse gases
38 emission performance standard, the commission shall address
39 long-term purchases of electricity from unspecified sources in a
40 manner consistent with this chapter.

1 (8) In developing and implementing the greenhouse gases
2 emission performance standard, the commission shall consider
3 and act in a manner consistent with any rules adopted pursuant to
4 Section 824a-3 of Title 16 of the United States Code.

5 (9) An electrical corporation that provides electric service to
6 75,000 or fewer retail end-use customers in California may file
7 with the commission a proposal for alternative compliance with
8 this section, which the commission may accept upon a showing
9 by the electrical corporation of both of the following:

10 (A) A majority of the electrical corporation's retail end-use
11 customers for electric service are located outside of California.

12 (B) The emissions of greenhouse gases to generate electricity
13 for the retail end-use customers of the electrical corporation are
14 subject to a review by the utility regulatory commission of at least
15 one other state in which the electrical corporation provides
16 regulated retail electric service.

17 (e) (1) On or before June 30, 2007, the Energy Commission,
18 at a duly noticed public hearing and in consultation with the
19 commission and the State Air Resources Board, shall establish a
20 greenhouse gases emission performance standard for all baseload
21 generation of local publicly owned electric utilities at a rate of
22 emissions of greenhouse gases that is no higher than the rate of
23 emissions of greenhouse gases for combined-cycle natural gas
24 baseload generation. The greenhouse gases emission performance
25 standard established by the Energy Commission for local publicly
26 owned electric utilities shall be consistent with the standard adopted
27 by the commission for load-serving entities. Enforcement of the
28 greenhouse gases emission performance standard shall begin
29 immediately upon the establishment of the standard. All
30 combined-cycle natural gas powerplants that are in operation, or
31 that have an Energy Commission final permit decision to operate
32 as of June 30, 2007, shall be deemed to be in compliance with the
33 greenhouse gases emission performance standard.

34 (2) The greenhouse gases emission performance standard shall
35 be adopted by regulation pursuant to the Administrative Procedure
36 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
37 Division 3 of Title 2 of the Government Code).

38 (3) In determining the rate of emissions of greenhouse gases
39 for baseload generation, the Energy Commission shall include the

1 net emissions resulting from the production of electricity by the
2 baseload generation.

3 (4) The Energy Commission shall establish an output-based
4 methodology to ensure that the calculation of emissions of
5 greenhouse gases for cogeneration recognizes the total usable
6 energy output of the process, and includes all greenhouse gases
7 emitted by the facility in the production of both electrical and
8 thermal energy.

9 (5) In calculating the emissions of greenhouse gases by facilities
10 generating electricity from biomass, biogas, or landfill gas energy,
11 the Energy Commission shall consider net emissions from the
12 process of growing, processing, and generating the electricity from
13 the fuel source.

14 (6) Carbon dioxide that is captured from the emissions of a
15 powerplant and that is permanently disposed of in geological
16 formations in compliance with applicable laws and regulations,
17 shall not be counted as emissions from the powerplant.

18 (7) In adopting and implementing the greenhouse gases emission
19 performance standard, the Energy Commission, in consultation
20 with the Independent System Operator, shall consider the effects
21 of the standard on system reliability and overall costs to electricity
22 customers.

23 (8) In developing and implementing the greenhouse gases
24 emission performance standard, the Energy Commission shall
25 address long-term purchases of electricity from unspecified sources
26 in a manner consistent with this chapter.

27 (9) In developing and implementing the greenhouse gases
28 emission performance standard, the Energy Commission shall
29 consider and act in a manner consistent with any rules adopted
30 pursuant to Section 824a-3 of Title 16 of the United States Code.

31 (f) The Energy Commission, in a duly noticed public hearing
32 and in consultation with the commission and the State Air
33 Resources Board, shall reevaluate and continue, modify, or replace
34 the greenhouse gases emission performance standard when an
35 enforceable greenhouse gases emissions limit is established and
36 in operation, that is applicable to local publicly owned electric
37 utilities.

38 (g) The commission, through a rulemaking proceeding and in
39 consultation with the Energy Commission and the State Air
40 Resources Board, shall reevaluate and continue, modify, or replace

1 the greenhouse gases emission performance standard when an
2 enforceable greenhouse gases emissions limit is established and
3 in operation, that is applicable to load-serving entities.

4 (h) This section shall become inoperative on July 1, 2017, and,
5 as of January 1, 2018, is repealed.

6 SEC. 6. Section 8341 is added to the Public Utilities Code, to
7 read:

8 8341. (a) (1) Beginning July 1, 2017, no load-serving entity
9 or local publicly owned electric utility may enter into a new
10 long-term financial commitment unless any nonpeaking generation
11 supplied under the long-term financial commitment complies with
12 the greenhouse gases emission performance standard established
13 by the commission, pursuant to subdivision (d), for a load-serving
14 entity, or by the Energy Commission, pursuant to subdivision (f),
15 for a local publicly owned electric utility.

16 (2) Beginning July 1, 2017, no load-serving entity or local
17 publicly owned electric utility may enter into a new long-term
18 financial commitment unless any peaking generation supplied
19 under the long-term financial commitment complies with the
20 greenhouse gases emission performance standard established by
21 the commission, pursuant to subdivision (e), for a load-serving
22 entity, or by the Energy Commission, pursuant to subdivision (g),
23 for a local publicly owned electric utility.

24 (3) The nonpeaking emissions performance standard shall apply
25 only to nonpeaking powerplants and the peaking emissions
26 performance standard shall apply only to peaking powerplants.

27 (b) (1) (A) The commission shall not approve a long-term
28 financial commitment by an electrical corporation unless the
29 nonpeaking generation supplied under the long-term financial
30 commitment complies with the greenhouse gases emission
31 performance standard established by the commission pursuant to
32 subdivision (d).

33 (B) The commission shall not approve a long-term financial
34 commitment by an electrical corporation unless the peaking
35 generation supplied under the long-term financial commitment
36 complies with the greenhouse gases emission performance standard
37 established by the commission pursuant to subdivision (e).

38 (2) The commission may, in order to enforce this section, review
39 any long-term financial commitment proposed to be entered into
40 by an electric service provider or a community choice aggregator.

1 (3) The commission shall adopt rules to enforce the requirements
2 of this section, for load-serving entities. The commission shall
3 adopt procedures, for all load-serving entities, to verify the
4 emissions of greenhouse gases from any nonpeaking generation
5 or peaking generation supplied under a contract subject to the
6 greenhouse gases emission performance standard to ensure
7 compliance with the standard.

8 (4) In determining whether a long-term financial commitment
9 is for nonpeaking generation or peaking generation, the commission
10 shall consider the design of the powerplant and the intended use
11 of the powerplant, as determined by the commission based upon
12 the electricity purchase contract, any certification received from
13 the Energy Commission, any other permit or certificate necessary
14 for the operation of the powerplant, including a certificate of public
15 convenience and necessity, any procurement approval decision
16 for the load-serving entity, and any other matter the commission
17 determines is relevant under the circumstances.

18 (5) Costs incurred by an electrical corporation to comply with
19 this section, including those costs incurred for electricity purchase
20 agreements that are approved by the commission that comply with
21 the respective greenhouse gases emission performance standards,
22 are to be treated as procurement costs incurred pursuant to an
23 approved procurement plan and the commission shall ensure timely
24 cost recovery of those costs pursuant to paragraph (3) of
25 subdivision (d) of Section 454.5.

26 (6) A long-term financial commitment entered into through a
27 contract approved by the commission, for electricity generated by
28 a zero- or low-carbon generating resource that is contracted for,
29 on behalf of consumers of this state on a cost-of-service basis,
30 shall be recoverable in rates, in a manner determined by the
31 commission consistent with Section 380. The commission may,
32 after a hearing, approve an increase from one-half to 1 percent in
33 the return on investment by the third party entering into the contract
34 with an electrical corporation with respect to investment in zero-
35 or low-carbon generation resources authorized pursuant to this
36 paragraph.

37 (c) (1) The Energy Commission shall adopt regulations for the
38 enforcement of this chapter with respect to a local publicly owned
39 electric utility.

1 (2) The Energy Commission may, in order to ensure compliance
2 with the greenhouse gases emission performance standard by local
3 publicly owned electric utilities, apply the procedures adopted by
4 the commission to verify the emissions of greenhouse gases from
5 nonpeaking generation and peaking generation pursuant to
6 subdivision (b).

7 (3) In determining whether a long-term financial commitment
8 is for nonpeaking generation or peaking generation, the Energy
9 Commission shall consider the design of the powerplant and the
10 intended use of the powerplant, as determined by the Energy
11 Commission based upon the electricity purchase contract, any
12 certification received from the Energy Commission, any other
13 permit for the operation of the powerplant, any procurement
14 approval decision for the load-serving entity, and any other matter
15 the Energy Commission determines is relevant under the
16 circumstances.

17 (d) (1) On or before June 30, 2017, the commission, through a
18 rulemaking proceeding, and in consultation with the Energy
19 Commission and the State Air Resources Board, shall establish a
20 greenhouse gases emission performance standard for all nonpeaking
21 generation of load-serving entities. Taking into consideration siting
22 factors such as altitude, regional climate, and operating capacity,
23 the greenhouse gases emission performance standard for
24 nonpeaking generation shall be established at the lowest level that
25 the commission determines to be technologically feasible without
26 putting reliability of the electrical grid and of electric service at
27 risk and without hampering further deployment of renewable
28 generation resources or reductions of greenhouse gases emissions.
29 Enforcement of the greenhouse gases emission performance
30 standard for nonpeaking generation shall begin on July 1, 2017.
31 The commission, in consultation with the Energy Commission and
32 the State Air Resources Board, shall update the greenhouse gases
33 emission performance standard for nonpeaking generation every
34 five years based on new technology. All combined-cycle natural
35 gas powerplants that are in operation, or that have an Energy
36 Commission final permit decision to operate as of June 30, 2017,
37 shall be deemed to be in compliance with the nonpeaking emission
38 performance standard.

39 (2) In determining the rate of emissions of greenhouse gases
40 for nonpeaking generation, the commission shall include the net

1 emissions resulting from the production of electricity by the
2 nonpeaking generation.

3 (3) The commission shall establish an output-based methodology
4 to ensure that the calculation of emissions of greenhouse gases for
5 cogeneration recognizes the total usable energy output of the
6 process, and includes all greenhouse gases emitted by the facility
7 in the production of both electricity and thermal energy.

8 (4) In calculating the emissions of greenhouse gases by facilities
9 generating electricity from biomass, biogas, or landfill gas energy,
10 the commission shall reconsider ~~and modify~~ its prior decisions
11 implementing this section, including, but not limited to,
12 D.07-01-039, in light of the best and most recent scientific
13 information available regarding methodologies for determining
14 the greenhouse gas emissions associated with producing energy
15 from different biomass feedstocks.

16 (5) Greenhouse gases that are ~~prevented from being released~~
17 *permanently sequestered so as to prevent their release* into the
18 atmosphere as a result of carbon capture and storage or carbon
19 capture and sequestration, in compliance with applicable laws and
20 regulations, shall not be counted as emissions of the powerplant
21 in determining compliance with the greenhouse gases emission
22 performance standard for nonpeaking generation.

23 (6) In adopting and implementing the greenhouse gases emission
24 performance standard for nonpeaking generation, the commission,
25 in consultation with the Independent System Operator, shall
26 consider the effects of the standard on system reliability and overall
27 costs to electricity customers.

28 (7) In developing and implementing the greenhouse gases
29 emission performance standard for nonpeaking generation, the
30 commission shall address long-term purchases of electricity from
31 unspecified sources in a manner consistent with this chapter.

32 (8) In developing and implementing the greenhouse gases
33 emission performance standard for nonpeaking generation, the
34 commission shall consider and act in a manner consistent with any
35 rules adopted pursuant to Section 824a-3 of Title 16 of the United
36 States Code.

37 (9) An electrical corporation that provides electric service to
38 75,000 or fewer retail end-use customers in California may file
39 with the commission a proposal for alternative compliance with

1 this subdivision, which the commission may accept upon a showing
2 by the electrical corporation of both of the following:

3 (A) A majority of the electrical corporation's retail end-use
4 customers for electric service are located outside of California.

5 (B) The emissions of greenhouse gases to generate electricity
6 for the retail end-use customers of the electrical corporation are
7 subject to a review by the utility regulatory commission of at least
8 one other state in which the electrical corporation provides
9 regulated retail electric service.

10 (e) (1) On or before June 30, 2017, the commission, through a
11 rulemaking proceeding, and in consultation with the Energy
12 Commission and the State Air Resources Board, shall establish a
13 greenhouse gases emission performance standard for all peaking
14 generation of load-serving entities. Taking into consideration siting
15 factors such as altitude, regional climate, and operating capacity,
16 the greenhouse gases emission performance standard for peaking
17 generation shall be established at the lowest level that the
18 commission determines to be technologically feasible without
19 putting reliability of the electrical grid and of electric service at
20 risk and without hampering further deployment of renewable
21 generation resources or reductions of greenhouse gases emissions.
22 Enforcement of the greenhouse gases emission performance
23 standard for peaking generation shall begin on July 1, 2017. The
24 commission, in consultation with the Energy Commission and the
25 State Air Resources Board, shall update the greenhouse gases
26 emission performance standard for peaking generation every five
27 years based on new technology.

28 (2) In determining the rate of emissions of greenhouse gases
29 for peaking generation, the commission shall include the net
30 emissions resulting from the production of electricity by the
31 peaking generation.

32 (3) The commission shall establish an output-based methodology
33 to ensure that the calculation of emissions of greenhouse gases for
34 cogeneration recognizes the total usable energy output of the
35 process, and includes all greenhouse gases emitted by the facility
36 in the production of both electrical and thermal energy.

37 (4) In calculating the emissions of greenhouse gases by facilities
38 generating electricity from biomass, biogas, or landfill gas energy,
39 the commission shall reconsider ~~and modify~~ its prior decisions
40 implementing this section, including, but not limited to,

1 D.07-01-039, in light of the best and most recent scientific
2 information available regarding methodologies for determining
3 the greenhouse gas emissions associated with producing energy
4 from different biomass feedstocks.

5 (5) Greenhouse gases that are ~~prevented from being released~~
6 *permanently sequestered so as to prevent their release* into the
7 atmosphere as a result of carbon capture and storage or carbon
8 capture and sequestration, in compliance with applicable laws and
9 regulations, shall not be counted as emissions of the powerplant
10 in determining compliance with the greenhouse gases emission
11 performance standard for peaking generation.

12 (6) In adopting and implementing the greenhouse gases emission
13 performance standard for peaking generation, the commission, in
14 consultation with the Independent System Operator, shall consider
15 the effects of the standard on system reliability and overall costs
16 to electricity customers.

17 (7) In developing and implementing the greenhouse gases
18 emission performance standard for peaking generation, the
19 commission shall address long-term purchases of electricity from
20 unspecified sources in a manner consistent with this chapter.

21 (8) In developing and implementing the greenhouse gases
22 emission performance standard for peaking generation, the
23 commission shall consider and act in a manner consistent with any
24 rules adopted pursuant to Section 824a-3 of Title 16 of the United
25 States Code.

26 (9) An electrical corporation that provides electric service to
27 75,000 or fewer retail end-use customers in California may file
28 with the commission a proposal for alternative compliance with
29 this subdivision, which the commission may accept upon a showing
30 by the electrical corporation of both of the following:

31 (A) A majority of the electrical corporation's retail end-use
32 customers for electric service are located outside of California.

33 (B) The emissions of greenhouse gases to generate electricity
34 for the retail end-use customers of the electrical corporation are
35 subject to a review by the utility regulatory commission of at least
36 one other state in which the electrical corporation provides
37 regulated retail electric service.

38 (f) (1) On or before June 30, 2017, the Energy Commission, at
39 a duly noticed public hearing and in consultation with the
40 commission and the State Air Resources Board, shall establish a

1 greenhouse gases emission performance standard for all nonpeaking
2 generation of local publicly owned electric utilities. Taking into
3 consideration siting factors such as altitude, regional climate, and
4 operating capacity, the greenhouse gases emission performance
5 standard for nonpeaking generation shall be established at the
6 lowest level that the Energy Commission determines to be
7 technologically feasible without putting reliability of the electrical
8 grid and of electric service at risk and without hampering further
9 deployment of renewable generation resources or reductions of
10 greenhouse gases emissions. The greenhouse gases emission
11 performance standard for nonpeaking generation established by
12 the Energy Commission for local publicly owned electric utilities
13 shall be consistent with the standard adopted by the commission
14 for load-serving entities. Enforcement of the greenhouse gases
15 emission performance standard for nonpeaking generation shall
16 begin on July 1, 2017. The Energy Commission, in consultation
17 with the commission and the State Air Resources Board, shall
18 update the greenhouse gases emission performance standard for
19 nonpeaking generation every five years based on new technology.
20 All combined-cycle natural gas powerplants that are in operation,
21 or that have an Energy Commission final permit decision to operate
22 as of June 30, 2017, shall be deemed to be in compliance with the
23 nonpeaking emission performance standard.

24 (2) The greenhouse gases emission performance standard for
25 nonpeaking generation shall be adopted by regulation pursuant to
26 the Administrative Procedure Act (Chapter 3.5 (commencing with
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
28 Code).

29 (3) In determining the rate of emissions of greenhouse gases
30 for nonpeaking generation, the Energy Commission shall include
31 the net emissions resulting from the production of electricity by
32 the nonpeaking generation.

33 (4) The Energy Commission shall establish an output-based
34 methodology to ensure that the calculation of emissions of
35 greenhouse gases for cogeneration recognizes the total usable
36 energy output of the process, and includes all greenhouse gases
37 emitted by the facility in the production of both electricity and
38 thermal energy.

39 (5) In calculating the emissions of greenhouse gases by facilities
40 generating electricity from biomass, biogas, or landfill gas energy,

1 the Energy Commission shall act consistent with the commission's
2 reconsideration—~~and modification~~ of its prior decisions
3 implementing this section, including, but not limited to,
4 D.07-01-039, in light of the best and most recent scientific
5 information available regarding methodologies for determining
6 the greenhouse gas emissions associated with producing energy
7 from different biomass feedstocks.

8 (6) Greenhouse gases that are ~~prevented from being released~~
9 *permanently sequestered so as to prevent their release* into the
10 atmosphere as a result of carbon capture and storage or carbon
11 capture and sequestration, in compliance with applicable laws and
12 regulations, shall not be counted as emissions of the powerplant
13 in determining compliance with the greenhouse gases emission
14 performance standard for nonpeaking generation.

15 (7) In adopting and implementing the greenhouse gases emission
16 performance standard for nonpeaking generation, the Energy
17 Commission, in consultation with the Independent System
18 Operator, shall consider the effects of the standard on system
19 reliability and overall costs to electricity customers.

20 (8) In developing and implementing the greenhouse gases
21 emission performance standard for nonpeaking generation, the
22 commission shall address long-term purchases of electricity from
23 unspecified sources in a manner consistent with this chapter.

24 (9) In developing and implementing the greenhouse gases
25 emission performance standard for nonpeaking generation, the
26 Energy Commission shall consider and act in a manner consistent
27 with any rules adopted pursuant to Section 824a-3 of Title 16 of
28 the United States Code.

29 (g) (1) On or before June 30, 2017, the Energy Commission,
30 through a rulemaking proceeding, and in consultation with the
31 commission and the State Air Resources Board, shall establish a
32 greenhouse gases emission performance standard for all peaking
33 generation of load-serving entities. Taking into consideration siting
34 factors such as altitude, regional climate, and operating capacity,
35 the greenhouse gases emission performance standard for peaking
36 generation shall be established at the lowest level that the Energy
37 Commission determines to be technologically feasible without
38 putting reliability of the electrical grid and of electric service at
39 risk and without hampering further deployment of renewable
40 generation resources or reductions of greenhouse gases emissions.

1 The greenhouse gases emission performance standard for peaking
2 generation established by the Energy Commission for local publicly
3 owned electric utilities shall be consistent with the standard adopted
4 by the commission for load-serving entities. Enforcement of the
5 greenhouse gases emission performance standard for peaking
6 generation shall begin on July 1, 2017. The Energy Commission,
7 in consultation with the commission and the State Air Resources
8 Board, shall update the greenhouse gases emission performance
9 standard for peaking generation every five years based on new
10 technology.

11 (2) The greenhouse gases emission performance standard for
12 peaking generation shall be adopted by regulation pursuant to the
13 Administrative Procedure Act (Chapter 3.5 (commencing with
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
15 Code).

16 (3) In determining the rate of emissions of greenhouse gases
17 for peaking generation, the Energy Commission shall include the
18 net emissions resulting from the production of electricity by the
19 peaking generation.

20 (4) The Energy Commission shall establish an output-based
21 methodology to ensure that the calculation of emissions of
22 greenhouse gases for cogeneration recognizes the total usable
23 energy output of the process, and includes all greenhouse gases
24 emitted by the facility in the production of both electricity and
25 thermal energy.

26 (5) In calculating the emissions of greenhouse gases by facilities
27 generating electricity from biomass, biogas, or landfill gas energy,
28 the Energy Commission shall act consistent with the commission's
29 reconsideration—~~and—modification~~ of its prior decisions
30 implementing this section, including, but not limited to,
31 D.07-01-039, in light of the best and most recent scientific
32 information available regarding methodologies for determining
33 the greenhouse gas emissions associated with producing energy
34 from different biomass feedstocks.

35 (6) Greenhouse gases that are ~~prevented from being released~~
36 *permanently sequestered so as to prevent their release* into the
37 atmosphere as a result of carbon capture and storage or carbon
38 capture and sequestration, in compliance with applicable laws and
39 regulations, shall not be counted as emissions of the powerplant

1 in determining compliance with the greenhouse gases emission
2 performance standard for peaking generation.

3 (7) In adopting and implementing the greenhouse gases emission
4 performance standard for peaking generation, the Energy
5 Commission, in consultation with the Independent System
6 Operator, shall consider the effects of the standard on system
7 reliability and overall costs to electricity customers.

8 (8) In developing and implementing the greenhouse gases
9 emission performance standard for peaking generation, the Energy
10 Commission shall address long-term purchases of electricity from
11 unspecified sources in a manner consistent with this chapter.

12 (9) In developing and implementing the greenhouse gases
13 emission performance standard for peaking generation, the Energy
14 Commission shall consider and act in a manner consistent with
15 any rules adopted pursuant to Section 824a-3 of Title 16 of the
16 United States Code.

17 (h) This section shall become operative on January 1, 2017.

18 SEC. 7. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.