



San Francisco Department of the Environment Regulation #SFE-22-01-RE

Regulations Implementing the Use of 100% Renewable Electricity Required for On-site Electricity Demands in Non-Residential Buildings of 50,000 Square Feet or More Ordinance

(Ordinance No. [220-19](#))

Effective Date: December 16, 2022

A. Authorization

1. Ordinance No. 220-19, The Use of 100% Renewable Energy Required for On-site Electricity Demands in Nonresidential Buildings of 50,000 Square Feet or More Ordinance (the "Ordinance"), was signed by the Mayor on October 4, 2019, and became effective on November 4, 2019. The Ordinance added Chapter 30 to the S.F. Environment Code ("Chapter 30"). The Ordinance requires owners of Nonresidential Buildings of 50,000 in Gross Floor Area or larger to ensure that all on-site electricity uses are supplied from 100% greenhouse gas ("GHG")-free or renewable sources by deadlines specified in Section 3003(a) of Chapter 30.
2. The Director of the Department of the Environment ("Department") promulgates these regulations pursuant to Chapter 30, Section 3004(a).

B. Scope

These regulations establish rules and procedures to implement the requirements of Chapter 30. These regulations must be read together with the requirements contained in Chapter 30.

C. Adoption Process

The Department held a public workshop on June 11, 2022, to obtain input on the initial draft of the regulations. The Department posted a revised draft of regulations on September 9, 2022, and required that any public comments be sent to the Department on or before September 30, 2022. The Department held a public hearing on the revised draft on October 26, 2022. The Director approved these regulations on December 16, 2022.



D. Definitions

1. The defined terms contained in Chapter 30, Section 3002, when capitalized, shall have the same meanings in these regulations.
2. Unless the context otherwise specifies or requires, when capitalized the terms defined in this Section shall mean the following for purposes of these regulations:

“Annual Statement of Sources of Electricity” means a report provided on an annual basis to the Department of Environment documenting the Load Serving Entity(ies) serving all utility meters supplying electricity to a building; and the electrical generation service(s) all meters are subscribed to.

“Direct Access Provider” means an entity that offers electrical service to customers within the service territory of an electrical corporation under Public Utilities Code section 365(b)(1). A list of Direct Access Providers (also known as Electric Service Providers) can be found on the California Public Utilities Commission’s website (see <https://apps.cpuc.ca.gov/apex/f?p=511:1:0::NO>).

“Load Serving Entity” means an entity that provides electricity to others, and includes community choice aggregators, Direct Access Providers, and investor-owned utilities.

“Renewable Electricity Requirement” shall mean the requirement, set forth in Section 3003, subsection (b), of Chapter 30 of the Environment Code, requiring that specified Nonresidential Buildings meet on-site electricity demands through 100% greenhouse gas (GHG)-free or renewable energy resources by applicable deadlines.

E. Means of Obtaining GHG-Free or Renewable Energy

1. Consistent with State of California laws referenced in the definition of GHG-free or renewable energy resources in Chapter 30, Section 3002, and applicable California Energy Commission and California Public Utilities Commission regulations and decisions, to meet the Renewable Electricity Requirement, electricity used by covered Nonresidential Buildings must be generated from sources that both minimize carbon emissions and contribute to the stability of the electric grid that serves California.
2. Consistent with these requirements, covered Nonresidential Buildings may meet the Renewable Electricity Requirement by obtaining GHG-free or renewable energy resources in the following ways:
 - a. Enrollment in a retail electric supply program such as service from a Load Serving Entity providing GHG-free or renewable energy;
 - b. An electric service contract with a Direct Access Provider providing GHG-free or renewable energy as allowed under California Public Utilities Commission decisions and regulations; or
 - c. On-site generation of GHG-free or renewable energy.



3. A covered Nonresidential Building may meet the Renewable Electricity Requirement notwithstanding use of electricity supplied on a temporary basis by on-site emergency backup generation equipment.
4. Electricity generated on-site from non-renewable sources is exempt from Chapter 30 when generated by devices that produce both useful heat and electricity for use in the building (“cogeneration device”), provided the device was leased or purchased prior to December 31, 2019. In the first year of reporting any Building Owner shall notify the Department of each electric cogeneration device, including:
 - a. Date of purchase, financing, or lease as applicable;
 - b. Type and quantity of equipment, including electric generation capacity;
 - c. Indication whether electric generation is metered; and
 - d. Indication whether the equipment is in regular use.
5. For each building where the Building Owner has notified the Department as required by Section E.4 above the Building Owner shall annually affirm they are aware it is the goal of the City and County of San Francisco to require zero onsite fossil fuel emissions from existing large commercial buildings by 2035 (Environment Code, Chapter 9, Section 902(b)(5)).

F. Qualifying Electricity Products

1. The Department shall publish a list of Load Serving Entities that provide GHG-free or renewable electricity.
2. Load Serving Entities may be recognized as providing GHG-free or renewable electricity for a given year if the following conditions are met:
 - a. The most recent Power Content Label made available to the public by the California Energy Commission via the Annual [Power Source Disclosure Program](#) documents the retail product was sourced from GHG-Free or Renewable resources; and
 - b. The Load Serving Entity explicitly and publicly states an ongoing commitment to supplying electricity solely generated from qualifying sources during the year in which electricity is purchased, such as prominent information on the supplier’s website.
3. Electric service contracts with Direct Access Providers as allowed under California Public Utilities Commission decisions and regulations may be recognized as a qualifying GHG-free or renewable electricity product if:
 - a. The contracted generation resources contribute to fulfillment of applicable renewable portfolio standard requirements of the State of California as set forth below:
 - i. All contracted generation sources are designated Portfolio Content Category Classification (“PCC”) 1 or PCC 2 consistent with the [California Renewables Portfolio Standard Program Compliance Reporting Portfolio Content Category Classification Handbook](#).
 - ii. Contracted generation sources designated PCC1 or PCC2 and attributed to the Direct Access Provider’s compliance with California



renewable portfolio standard (“RPS”) requirements may contribute to compliance with Chapter only up to the minimum percentage required by California RPS in the same year; and excluding generation for RPS compliance, all renewable energy credits are delivered to the customer directly for retirement, or retired on the customer’s behalf and are retired in the same compliance year generated. (Unbundled renewable energy credits or PCC 3 may not contribute to compliance with Chapter 30.)

- b. The Direct Access Provider prepares a Power Source Disclosure Annual Report utilizing templates published by the California Energy Commission and adhering to the California Energy Commission’s regulations governing the Power Source Disclosure Program. The completed Power Source Disclosure Annual Report shall document the sources of generation supplied to a specific contract, set of contracts, all customer contracts containing a specific repeatable provision, or all contracts located in a geographic area that includes all of San Francisco; and
 - c. If requested by the Department, the Direct Access Provider submits evidence of the retirement in Western Renewable Energy Generation Information System or successor tracking systems of the renewable energy credits.
- 4. The Department shall not disclose the Power Source Disclosure Annual Report for a Direct Access Provider, including the identity of the specific providers serving an individual building, unless required by law.
 - 5. To provide transparent information about impacts, the Department may publish a report reflecting the generation types supplied by Direct Access Providers in aggregate. The Department may also post a link to Power Content Labels posted by the California Energy Commission’s Power Source Disclosure program.

G. Procedure for Commercial Building Owners to Document Compliance with Renewable Electricity Requirements

- 1. On an annual basis, the Building Owner shall submit to the Department of Environment a Statement of Sources of Energy including the following information:
 - a. Owner compliance: Where the Building Owner is responsible for the payment for electric service to a Load Serving Entity, a statement indicating that each electric service account serving the building where the Building Owner or Owner’s representative is responsible for payment to the utility was enrolled in a qualifying service providing GHG-free or renewable energy for the entire 12 months of the prior calendar year.
 - b. Tenant compliance: Where Tenants are directly responsible for the payment for electric service to a Load Serving Entity, a statement from the Building Owner affirming either:
 - i. All Tenants with separate utility electric service are enrolled in a qualifying service providing GHG-free or renewable energy, or



- ii. All Tenants with separate utility electric service have been notified of their obligation to enroll in a GHG-free or renewable energy service and provided a copy of Chapter 30 by the Building Owner.
 2. Where Tenants are directly responsible for payment for the costs of electric service to a Load Serving Entity, Building Owners and Tenants shall have the following responsibilities:
 - a. In the first year that Chapter 30 applies to a given building as specified in Section 3003(a), each year thereafter, and each time applicable leases are renewed, the Building Owner shall notify each Tenant of the requirements of Chapter 30 by providing a copy of Chapter 30 to the Tenant.
 - b. The Tenant is responsible for annually confirming to the Building Owner that each meter for which the Tenant is the account holder is enrolled in a qualifying service providing GHG-free or renewable energy.
 - c. A Tenant that subleases spaces to a subtenant is deemed a Building Owner for purposes of compliance with these regulations if the subtenant is directly responsible for payment for the costs of electric service.
 - d. If the Building Owner does not affirm all such Tenants are enrolled in a qualifying service providing GHG-free or renewable energy, the Building Owner shall provide to Department the following information in the first applicable reporting period, and such information shall be updated upon commencement of an applicable lease:
 - i. An inventory of utility electric meters serving the building, which shall include:
 - I. Total number of electric utility meters;
 - II. Number of electric utility meters where the Building Owner or Owner's representative is directly responsible for payment of the costs of electric service; and
 - III. Number of electric utility meters where a Tenant is directly responsible for payment of the costs of electric service.
 - ii. A list of all Tenants that are both responsible for payment of the costs of electric service and lease 10,000 square feet of Gross Floor Area or more within the building. Such a list shall include the total floor area leased to each listed Tenant, and contact information for each listed Tenant, including name, organization, title, and telephone number or email address. The Building Owner shall also include on the list the specified contact details for Tenants responsible for payment of the costs of electric service and leasing less than 10,000 square feet of Gross Floor Area to the extent readily available.
3. For newly constructed buildings, Building Owners must submit a Statement of Sources of Energy on or before the date that the first Annual Energy Benchmark Summary is submitted, and annually thereafter by the same date. Consistent with Environment Code Chapter 20, Section 2008(c)(1), Building Owners of newly constructed buildings may defer submission of the first Annual Energy Benchmark Summary for up to 24 months from the



date that a Certificate of Occupancy is issued, or the next applicable annual deadline, whichever time period is longer.

4. The Department will accept submission of the information specified in Section G.1 above via:
 - a. In the Annual Energy Benchmark Summary; and/or
 - b. In a form published by the Department for this purpose.

H. Delegation of Compliance and Reporting Duties to a Tenant

1. One or more Tenants may agree in writing to assume responsibility for the compliance and reporting obligations set forth in Section 3003 with respect to an entire Nonresidential Building.
2. The Building Owner shall report such assumption of responsibility by one or more Tenants via an online form provided by the Department, and such assumption shall include provision of contact information for the Tenant(s) that have assumed such responsibilities.
3. Where a Tenant or Tenants assume such responsibility, the Building Owner shall annually confirm to the Tenant or Tenants that each meter for which the Building Owner is the account holder is enrolled in a qualifying service providing GHG-free or renewable energy.

I. Verification

For a period of up to two years after a report is due, the Department may require a Building Owner or Tenant to submit the following documentation for purposes of confirming the accuracy of an Annual Statement of Sources of Electricity:

1. Utility bills or equivalent documentation from the relevant time period; or
2. Verification by a licensed professional engineer or qualified Energy Professional that an Annual Statement of Sources of Electricity is complete and accurate. Such verification shall be based on a review of utility bills, contracts, or equivalent documentation specifying the GHG-free or renewable energy qualifying service applicable to each electric meter for the entire 12-month reporting period. Third-party verification may be performed during an energy efficiency audit, retro-commissioning study, or equivalent as recognized by the Director, performed in compliance with Environment Code Chapter 20 Section 2002.



J. Implementation of Penalties

1. If a Building Owner has provided contact information for a Tenant that has assumed responsibility for compliance and reporting obligations with respect to an entire Nonresidential Building, as set forth in Section G.2 above, the Building Owner shall not be subject to penalties for failure by Tenants that are directly responsible for the payment of the costs of electricity to comply with the renewable electricity provisions of Chapter 30, Section 3003(b). In such cases, the Department shall provide written warning to both the Building Owner and the Tenant prior to imposing penalties on the tenant specified by Chapter 20, Section 2009(b).
2. The Building Owner shall remain responsible for any penalties that may apply for violations pertaining to electric meters where the Building Owner is directly responsible for payment of the costs of electricity.
3. The penalties specified in Chapter 20, Section 2009(b) shall apply in full to any account holder that is not in compliance with the renewable electricity provisions of Chapter 30, Section 3003(b).

K. Waiting Lists

1. Placement on a waiting list to enroll in a program offered by a Load Serving Entity providing qualified GHG-free or renewable electricity shall be sufficient for compliance with Renewable Electricity Requirements as described in Chapter 30, Section 3003(d) if no other qualified programs are open for enrollment.
2. Programs offered by other Load Serving Entities providing qualified GHG-free or renewable electricity may be excluded from consideration under Section K.1 if the Building Owner demonstrates that either of the following apply to those other programs:
 - a. Investment in physical improvements to the facility or utility electric service infrastructure would be a prerequisite to enrollment; or
 - b. The cost of participating in the qualifying program would exceed the costs of the retail electric provider's default program offering by more than 5%, using the applicable rates, based on the PG&E-CleanPowerSF Joint Rate Comparison. Such comparison shall be posted to the Department website, and updated annually or when revised jointly by CleanPowerSF and PG&E.
3. Where an electric customer has applied to transition to a Load Serving Entity offering a qualified GHG-free or renewable energy program or establish new electric service from such a Load Serving Entity, the electric customer shall be considered to be on a waiting list satisfying the conditions of Chapter 30, Section 3003(b) until the applicable utility electric service is activated, or for any reason the application is canceled.



The Director hereby adopts this regulation as of the date specified below.

A handwritten signature in black ink, appearing to read "Tyrone Jue".

Tyrone Jue

Acting Director

Approved:

Date: December 16, 2022