

San Francisco Department of the Environment Regulation #SFE-22-##-##
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)
Draft Effective Date: July 1, 2022

A. Authorization

The Use of 100% Renewable Energy Required for On-site Electricity Demands in Nonresidential Buildings of 50,000 Square Feet or More Ordinance, [Ordinance No. 220-19](#) (herein referred to as “the 100% Renewable Electricity for Commercial Buildings Ordinance” or “the Ordinance”), was signed by the Mayor October 4, 2019 and became effective on November 4, 2019. The ordinance created Chapter 30 of the Environment Code, and requires all nonresidential buildings of 50,000 gross square feet or larger to ensure that all on-site electricity uses are supplied from 100% greenhouse gas (GHG)-free or renewable sources, as codified in the Municipal Code: Environment Code Chapter 30.

The Director of the Department of the Environment promulgates these regulations pursuant to their authority to adopt rules necessary to implement and administer Chapter 30 under Section 3004(a). Unless otherwise noted, section numbers refer to Environment Code, Chapter 30.

B. Scope

This regulation provides rules and procedures to carry out the provisions of Chapter 30. These regulations do not duplicate the Ordinance, and must be read together with [the Ordinance](#).

C. Process

The Director provided a 10-day public comment period and conducted a publicly noticed hearing open to all members of the public on July 11, 2022 seeking public input to this regulation. This regulation was approved by the Director on [DATE] and becomes effective July 1, 2022.

[Charles to add detail if necessary.]

D. Definitions

Terms used in this regulation that are defined in Section 3002 shall have the same meanings set forth in Section 3002.

“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.

“Electrical generation service” means a service that is provided by a recognized Load Serving Entity that is subject to California Renewable Portfolio Standard disclosure requirements; OR a contract for retail electric service under California direct access regulations (e.g. an electric service provider as defined by California Public Utilities Code Article 16 Section 218.3 that is not an electrical corporation) where such contract is recognized by the Director as a GHG-free or renewable energy source as defined in Section 3002.

E. Means of Obtaining GHG-Free or Renewable Energy

Consistent with the State of California regulations referenced in the definition of GHG-free or renewable energy resources, electricity must be generated from sources that both minimize carbon emissions and contribute to the stability of the electric grid that serves California.

a. GHG-free or renewable energy resources may be provided via:

- i) Enrollment in a retail electric supply program such as service from a Community Choice Aggregation program or electric utility providing GHG-free or renewable energy;
- ii) Electricity service contract providing GHG-free or renewable energy as allowed under California direct access regulations; or
- iii) On-site generation of GHG-free or renewable energy.

F. Qualifying Electricity Products

- a. The Department of Environment shall publish a list of retail electricity providers that provide GHG-free or renewable electricity.
- b. Retail electricity suppliers such as a utility or community choice aggregation program may be recognized as providing GHG-free or renewable electricity for a given calendar year if the following conditions are met:
 - i. Annual [Power Source Disclosure](#) made available to the public by the California Energy Commission documents a retail product was sourced from GHG-Free or Renewable resources during the preceding calendar year; and
 - ii. The retail electricity supplier explicitly and publicly states an ongoing commitment to supplying electricity solely generated from qualifying sources, such as prominent information on the supplier's website.
- c. Electricity service contracts as allowed under California direct access regulations may be recognized as a qualifying GHG-free or renewable electricity product if:
 - i. The contracted generation resources consist of the combination of
 - 1. Generation in fulfillment of any applicable renewable portfolio standard requirements of the State of California; and
 - 2. Excluding electricity attributed to compliance with California renewable portfolio standard requirements:
 - a. All contracted generation sources are designated Portfolio Content Category Classification 1 (PCC1) or 2 (PCC2) consistent with the

[California Renewables Portfolio Standard Program Compliance Reporting Portfolio Content Category Classification Handbook](#), and

- b. All such renewable energy credits are attributed to the customer, and
- c. All such renewable electricity credits are retired in the same year generated.
- d. Electricity service contracts as allowed under California direct access regulations may be recognized as a qualifying GHG-free or renewable electricity product if the retail electricity provider submits to Department of Environment on an annual basis:
 - i. A Power Content Label report and 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 Content Label and Power Source Disclosure Annual Report shall document the sources of generation supplied to a specific contract, set of contracts, or all customer contracts containing a specific repeatable provision; and
 - ii. An annual affidavit from the retail electric service provider affirming the specific customer(s) receiving electric retail service consistent with the Power Content Label and Power Source Disclosure Annual Report. The retail electric service provider may document as necessary the customer's consent for the retail electric service provider to affirm to the Department of Environment the enrollment in a contract supplying electricity from qualified sources.
- e. To the extent allowed by law, the Department of Environment shall not disclose the Power Source Disclosure Annual Report for a retail electric provider, nor disclose the specific providers attributable to an individual building.
- f. To provide transparent information about impacts, the Department of Environment may publish a single combined Power Content Label reflecting the generation types supplied by direct access providers in aggregate. The Department of Environment may also post or 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

- a. On an annual basis, the Department of Environment shall collect from the building owner the following information:
 - i. Statement indicating each electric service accounts corresponding to each non-tenant utility electric meter was enrolled in a qualifying service providing GHG-free or renewable energy for the entire 12 months of the prior calendar year, and
 - ii. And either:
 - 1. A statement affirming all tenants with separate utility electric service are enrolled in a qualifying service providing GHG-free or renewable energy,
 - 2. Or:
 - a. A statement affirming all tenants with separate utility electric service have been notified of their responsibility to enroll in a GHG-free or renewable energy service,
 - b. Number of electric utility meters serving the building,
 - c. Number of utility electric meters where the tenant is directly responsible to the utility for payment of utility costs, and
 - d. No later than the second year of reporting in compliance with these regulations:
 - i. A list of tenants which have not demonstrated their separate utility electric service accounts have enrolled in a qualifying service,
 - ii. Contact information including name, title, organization, email, mailing address and phone number for each tenant that has not demonstrated their separate utility electric service accounts have enrolled in a qualifying service, and
 - iii. A good faith approximation of the aggregate floor area leased to such tenants.

- b. To the maximum extent possible Department of Environment shall minimize duplication of reporting. To do so, the methods and content utilized for Disclosure of Energy Performance Information as required by Environment Code Chapter 20 Sections 2002 and 2003 will be used to collect information necessary to tracking compliance with the 100% Renewable Electricity for Commercial Buildings Ordinance.
- c. Environment Code Chapter 20, Section 2003 requires the owner of each nonresidential building to annually submit an Annual Energy Benchmark Summary to the Department of Environment.
 - i. An Annual Energy Benchmark Summary is generated and submitted through US Environmental Protection Agency's ENERGY STAR Portfolio Manager.
 - ii. An Annual Energy Benchmark Summary must be prepared and submitted through the use of a reporting hyperlink provided by the Department of Environment.
 - iii. An Annual Energy Benchmark Summary must characterize the entire building and related facilities, and must include at least 12 continuous months of energy usage data for the entire building for each fuel utilized
- d. For newly constructed buildings, a Statement of Sources of Energy is due when the first Annual Energy Benchmark Summary is submitted, and annually thereafter. Consistent with Environment Code Chapter 20 Section 2008(c)(1) owners of newly constructed buildings may defer submission of an initial Annual Energy Benchmark Summary not less than 24 months from the date that a Certificate of Occupancy is issued, or the next applicable annual deadline, whichever is greater.
- e. The Department may either
 - i. Accept a single Annual Energy Benchmark Summary containing all information specified in Section G.(a.) above, or

- ii. The Director may publish a brief form for the purpose of collecting any information noted in Section G.(a.) which the Director determines cannot be satisfactorily collected via ENERGY STAR Portfolio Manager.

H. Verification

- a. The Department of Environment may either:
 - i. On a sampling basis, staff may review utility bills or equivalent documentation to confirm an Annual Statement of Sources of Electricity is complete and accurate; or
 - ii. Accept third-party verification by licensed Professional Engineer that an Annual Statement of Sources of Electricity is complete and accurate. Such verification shall include review of utility bills, contracts or equivalent documentation specifying the qualifying service GHG-free or renewable energy applicable to each electric meter for the entire 12 month reporting period. Third-party verification may be performed during an energy efficiency audit, retrocommissioning study, or equivalent as recognized by the Director.

I. Delegation of Reporting Duties to a Tenant

- a. If an Owner has leased a building and a principal tenant has assumed management, regulatory compliance, and/or capital improvement costs of the majority of the building, the owner may, with the consent of the tenant, delegate all responsibility for reporting to that tenant. The owner shall report such delegation via an online form provided by the Department of Environment and such delegation shall include provision of contact information for the principal tenant.

J. Implementation of Penalties

- a. For the first two years that the Ordinance applies to a given building, the Director may elect to not implement penalties as described in Section 3005 of the Ordinance and Chapter 20, section 2009 for failure of tenants to comply, provided such tenant leases in aggregate comprise no more than 15% of total floor area of the building.

K. Waiting Lists

- a. Enrollment in a waitlist as described in 3004(b)(2) of the Ordinance shall only be sufficient for compliance if both a qualified GHG-free or renewable program is running a waitlist, and no other qualified program is open for enrollment.