



State of California

M e m o r a n d u m

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Subject: PREPONDERANCE OF EVIDENCE REQUIREMENTS FOR ACCELERATED REPLACEMENT OF DEEMED MEASURES

BACKGROUND

Resolution E-5115 issued on February 11, 2021 adopts “minimum evidence requirements guidance to support custom projects accelerated replacement measure type.”

This resolution adopts guidance for the documentation required when implementing the preponderance of evidence process adopted in Resolutions E-4818 and E-4939 for custom “accelerated-replacement” energy efficiency (EE) projects.¹ Accelerated-replacement refers to projects for which an energy efficiency incentive and/or program technical services induced a customer to replace an inefficient equipment or

¹ Custom Energy Efficiency Projects are those projects whose efficiency savings are derived from site-specific calculations, rather than pre-determined measure-level values. Custom Programs include projects in Commercial, Residential, Industrial & Agricultural Sectors.

*process with one that is more energy efficient while the existing equipment or process is still functioning.*²

To comply with previous directives, Resolution E-5115 “provides:

- Documentation required to demonstrate that existing energy inefficient equipment would continue to operate at an expected level of service for its remaining useful life,³
- Guidance on the minimum documentation required to demonstrate program influence,⁴ and

Resolution E-5115 Ordering Paragraph 10 further directs “CPUC staff shall update the existing Preponderance of Evidence Guidance Document to include the appropriate incentive tier levels and informational requirements for preponderance of evidence of **deemed measures** equipment viability and program influence to support an accelerated replacement baseline consideration.”

DEEMED MEASURE GUIDANCE

As of 2024-01-01, existing measure packages that currently require completion of questionnaires are no longer required to be completed to demonstrate Preponderance of Evidence (POE) for deemed measures. In its place, a Customer Affidavit Statement and additional documentation must be gathered for all accelerated replacement (AR) deemed measures as described in the sub-sections that follow. Upstream and midstream delivery of AR deemed measures is not permitted—including point-of-sale midstream offerings—since the viability of the existing equipment cannot reasonably be expected to meet the “preponderance of evidence” threshold.

CUSTOMER AFFIDAVIT STATEMENT

As of 2024-01-01, the Deemed Measure Customer Affidavit Statement must be completed by every customer implementing the accelerated replacement of a deemed measure—except for Small-Sized Business customers⁵ and hard-to-reach customers⁶—regardless of the customer incentive level.⁷

I, (name), hereby certify that I am authorized to make this declaration as the Customer or as an authorized representative of the Customer (name). By signing below, I certify the following to the best of my knowledge:

____ The existing equipment being replaced is in operating condition and in use.

____ Without the program’s rebate, incentive, support and energy savings information, we would have continued to maintain the existing equipment for at least another year.

I acknowledge that misrepresentation will result in a rejection of all or part of the project and that the Customer may be subject to additional scrutiny that may result in Customer exclusion from current and future incentive programs.

² Resolution E-5115, Section 1. Summary, p. 2.

³ Note that the required documentation varies by incentive level.

⁴ Program influence is defined as the replacement of an energy inefficient equipment or process, with a more energy efficient one, is being done so more likely than not, because of program offerings through a program administrator’s energy efficiency program.

⁵ Resolution E-4939, O.P. 10, pp. 48-49.

⁶ Resolution E-5115, O.P. 5, p. 32.

⁷ For the purpose of this guidance, the customer is defined as the decision maker.

Exhibit 1. Required Deemed Measure Customer Affidavit Statement⁸

DOCUMENTATION OF INFLUENCE

For all customers from which the Deemed Measure Customer Affidavit Statement is required, additional evidence requirements for deemed applications are as described in Table 1. The rigor of the documentation to be gathered depends upon the calculated incentive amount⁹ that equals the sum of the following values (even when the savings are negative for one of the fuels):

- \$0.10/kWh first-year gross savings¹⁰ of accelerated replacement measure(s)
- \$1.00/therm first-year gross savings of accelerated replacement measure(s)

Resolution E-5115 indicated that project developers “must not disaggregate custom project measures into multiple ‘customer applications’ that are actually a single activity carried out in phases or separate the project into multiple applications that act to avoid the customer incentive level thresholds.”¹¹ As of 2024-01-01, this rule also applies to deemed measure applications. Further, Resolution E-5115 indicates that the POE requirement guidance provided therein does not apply to accelerated replacement projects for the Small-Sized Business or the hard-to-reach customers¹² as defined at the time of the application.

Table 1. Evidence of Equipment Viability Requirements for Deemed Measures in Addition to Required Deemed Measure Customer Affidavit Statement¹³

Documentation for the following requirements may be provided in the form of brief summary paragraphs or bullet points, relevant customer documentation, inventory or maintenance reports, and email exchanges with dates to confirm the program influence information.

Rigor	Additional Requirements
Very Low (Calculated incentive < \$7,500)	Physical Evidence of Equipment Viability: None
	Program Influence Information: None
Low (Calculated incentive ≥ \$7,500 and < \$25,000)	Physical Evidence of Equipment Viability: Photos or videos (or one representative photo accompanied by purchase records to show equipment counts)
	Program Influence Information: 1. Describe the customer’s scheduled maintenance or equipment upgrade practices, as applicable
	Physical Evidence of Equipment Viability:

⁸ Modified version of that provided for custom measures in *Resolution E-5115*, Section 4.2. Preponderance of Evidence Requirements for Equipment Viability for the Very Low, Low and Medium Rigor Customer Incentive Level Tiers, p. 16.

⁹ A calculated incentive amount is used since actual incentives often vary by program.

¹⁰ Assuming an installation rate and realization rate of 1.00 for the purpose of determining the “calculated incentive” amount

¹¹ *Resolution E-5115*, Section 4.1. Customer incentive threshold tiers, p. 13.

¹² Current definitions of Small-Sized Business and hard-to-reach customers can be found in *D.23-06-055*, Section 7.3 Modifications to “Hard-to-Reach” Definition, pp. 52-54.

¹³ Custom projects that are not Deemed must continue to meet all Custom requirements for PoE.

Rigor	Additional Requirements
<p>Medium (Calculated incentive: ≥ \$25,000 and < \$100,000)</p>	<p>Photos or videos, plus application developer* to collect additional information (or one representative photo accompanied by purchase records to show equipment counts):</p> <ol style="list-style-type: none"> 1. Operating history or EMS data of existing equipment, as applicable <hr/> <p>Program Influence Information:</p> <ol style="list-style-type: none"> 1. Describe the customer’s scheduled maintenance or equipment upgrade practices, as applicable. 2. Describe the application’s development, including the customer’s motivating factors and decision criteria that were considered as it planned, designed, and selected the efficient equipment to replace the existing equipment. Where a given activity involves multiple “customer applications” spread out chronologically, provide an explanation for the phased approach. 3. What are the customer’s barriers (if any) to adopting the proposed new energy efficiency measure? What are its resource constraints (if any)? 4. What are the regulations (e.g., code, standards) applicable, if any, to the existing equipment and the relevant energy efficiency measure?
<p>Full (Calculated incentive: ≥ \$100,000)</p>	<p>Physical Evidence of Equipment Viability:</p> <p>Photos or videos, plus application developer* to collect additional information (or one representative photo accompanied by purchase records to show equipment counts):</p> <ol style="list-style-type: none"> 1. Operating history or EMS data of existing equipment, as applicable <hr/> <p>Program Influence and Equipment Viability Information:</p> <ol style="list-style-type: none"> 1. Describe the customer’s scheduled maintenance or equipment upgrade practices, as applicable. 2. Describe the application’s development, including the customer’s motivating factors and decision criteria that were considered as it planned, designed, and selected the efficient equipment to replace the existing equipment. Where a given activity involves multiple “customer applications” spread out chronologically, provide an explanation for the phased approach. 3. What are the customer’s barriers (if any) to adopting the proposed new energy efficiency measure? What are its resource constraints (if any)? 4. What are the regulations (e.g., code, standards) applicable, if any, to the existing equipment and the relevant energy efficiency measure? 5. Describe the project developer’s services provided to the customer and timing of developer’s engagement compared to customer’s decision-making process, as applicable. 6. Describe any maintenance issues for the existing equipment in the last 36 months.

* Application developers include program administrators and third-party program implementers

“We recognize that some customers will refuse to submit photos or videos due to security concerns. However, waiving provisions of required evidence based on customer security concerns should only be allowed when such evidence of currently installed and operating equipment divulges proprietary information or trade secrets or pertinent to national security. For example, pictures of HVAC equipment or standard off-the-shelf equipment should not be a waived requirement. A site having security constraints cannot have an automatic ability to deny the collection of evidence. The customer has the responsibility to provide evidence as needed to confirm eligibility and support their claims even if others are not able to access the site.”¹⁴ As of 2024-01-01, these limits to the waiving provisions of evidence requirement(s) also applies to deemed measures.

For some deemed measures, it may be appropriate to gather additional information. These will be identified in the relevant measure packages and handled on a case-by-case basis. Furthermore, as is indicated for custom projects in Resolution E-5115,¹⁵ a default net-to-gross ID expressly intended for hard-to-reach customers shall be applied for hard-to-reach customers receiving an accelerated replacement measure(s) via direct-install project delivery.

Program Administrators shall keep documentation for use in any future evaluations. If the deemed measures are part of a custom application, the documentation for the deemed measures must be submitted with the custom application.

BASIS FOR GUIDANCE THRESHOLDS

The thresholds set forth in Table 1 are supported by a review of the AR claims reported for program years 2021 and 2022. A summary of those claims is provided in Table 2 that follows.

Table 2. Accelerated replacement claims in PY2021 and PY2022¹⁶

Calculated Incentive Threshold	Program Year	Total AR Claims	Proportions		Measures
			Claims	Savings	
< \$ 7,500	2021	82,189	100%	90%	<ul style="list-style-type: none"> • General lighting • Street lighting (2021, only) • Refrigeration EC Motors (2022, only) • Low-flow showerheads
	2022	57,150	100%	90%	
≥ \$ 7,500 and < \$ 25,000	2021	12	<<1%	10%	
	2022	4	<<1%	4%	
≥ \$ 25,000	2021	0	0%	0%	
	2022	1	<<1%	7%	

¹⁴ Resolution E-5115, Section 4.2. Preponderance of Evidence Requirements for Equipment Viability for the Very Low, Low and Medium Rigor Customer Incentive Level Tiers, pp. 16-17.

¹⁵ Resolution E-5115, O.P. 3, p. 31.

¹⁶ SCE plans to submit lighting measure package involving millions of permutations in the coming months; the anticipated influx of claims is expected to significantly increase the numbers of claims compared to those shown for recent years.

