

CALIFORNIA ENERGY COMMISSION1516 Ninth Street
Sacramento, California 95814Main website: www.energy.ca.gov

In the matter of: Amendments to) Docket No. 12-OIR-02
 Regulations Implementing the Geothermal)
 Grant and Loan Program, California Code of) Order No. 13-1009-03
 Regulations, Title 20, Sections 1660-1665)
 and Appendix A)

California Energy Commission

DOCKETED**12-OIR-02**

TN 72133

OCT. 22 2013

Order Adopting Amendments to Regulations and Directing Additional Rulemaking Activities

The California Energy Commission hereby adopts amendments to regulations for the Geothermal Grant and Loan Program, California Code of Regulations, Title 20, Sections 1660 – 1665 and Appendix A. The Energy Commission takes this action under the authority of its general rulemaking powers provided by Public Resources Code, sections 25213 and 25218, subdivision (e).

The proposed amendments implement, interpret, and make specific Public Resources Code, section 3800 et seq. (state allocation of geothermal revenues) and section 25216, subdivision (c) (Energy Commission to carry out research and development into alternative sources of energy).

Background

The California Energy Commission's Geothermal Grant and Loan Program was created by Assembly Bill 1905 (Stats.1980, c. 139, p. 330, § 1) and has been in operation since 1981. During the first decade, the program promoted geothermal energy development in the state by extending financial and technical assistance to public entities to support direct uses, planning, and mitigation projects. In 1992, the program was expanded to extend financial assistance to private entities as well as local jurisdictions for a wide variety of geothermal research, development, and commercialization projects. The mission of the program is to promote research and development of California's vast geothermal energy resources. The program funding comes from payments made to the state by the federal government for a portion of the royalty and lease revenues generated by geothermal development on federal lands in California. Typically, the Energy Commission makes program awards every two to three years through competitive project solicitations called Program Opportunity Notices.

Proposed Amendments

The regulations implementing the Energy Commissions Grant and Loan Program are in the California Code of Regulations, title 20, sections 1660 through 1665 and Appendix A. The regulations have not been amended since their adoption in 1985. These amendments have four objectives. The primary purpose of the amendments is to simplify both the procedures for applicants seeking to obtain loans and grants under the program and the procedures for the Energy Commission's review of applications and awarding of loans and grants. The proposed amendments would also clarify several statutory requirements by identifying what the Energy Commission will accept as documentation for local approval of grants or loans awarded to private entities, and addressing the information needed for the Energy Commission to be able to determine that a decision approving an award for the project is in compliance with CEQA. In addition, the amendments would delete provisions that are outdated due to changes in statute or Energy Commission practice. Finally, the amendments make non-substantive stylistic and grammatical changes to clarify the regulations.

Proceeding History

Pre-Formal Rulemaking. Staff reviewed the existing regulations in detail and drafted proposed amendments. Staff conducted a publicly-noticed workshop on January 23, 2013 and collected comments regarding stakeholder concerns and their views on an early draft of the amendments.

45-Day Comment Period. A Notice of Proposed Action (NOPA) announcing the proposed amendments was published on August 23, 2013, launching a 45-day public comment period. The NOPA was mailed to interested parties and announced via e-mail to subscribers of the Energy Commission's Geothermal listserv. The NOPA, the express terms of the amendments, the Initial Statement of Reasons explaining the necessity for each amendment, and all documents relied on for the rulemaking were also posted to the Energy Commission's Geothermal Grant and Loan Program rulemaking web page.

To date, no comments have been received.

No Further Changes. No comments and no material in the record justify further changes to the proposed regulations as they were published on August 23, 2013.

Findings

As a result of the Energy Commission's economic assessment prepared for this rulemaking per Government Code section 11346.3, subdivision (b), and based on the entire record for Docket No. 12-OIR-02, the Energy Commission finds as follows:

The adopted amendments:

- (1) are based on adequate information concerning the need for, and consequences of, the proposed action;
- (2) will not result in a significant statewide adverse impact directly affecting business, including the ability of California businesses to compete with businesses in other states;
- (3) will not have a significant adverse effect on business;
- (4) will affect small business as a small business may be legally required to comply with the regulations should it apply for a grant or loan under the program;
- (5) will not create jobs and will not eliminate jobs within the state;
- (6) will not create new businesses within the state and will not eliminate existing businesses within the state;
- (7) will not expand businesses currently doing business within the state;
- (8) will not impact the health and welfare of California residents, or worker safety, or the state's environment; and
- (9) do not impose a mandate on local agencies and school districts.

No reasonable alternatives considered by the Energy Commission or which have otherwise been identified and brought to the attention of the Energy Commission would be more effective in carrying out the purpose for which the regulations are proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CEQA Exemption

The California Environmental Quality Act (CEQA) requires that state agencies consider the environmental impact of their discretionary decisions, including the adoption of regulations. (Pub. Resources Code, § 21000 et seq.; Cal. Code of Regs., tit. 14, § 15000 et seq.)

The requirements of CEQA apply only to projects that have the potential for causing a significant effect on the environment. (Cal. Code of Regs., tit. 14, § 15061 (b)(3).) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment. (Pub. Resources Code, § 21068; Cal. Code of Regs., tit. 14, § 15382.)

Amendments to the Geothermal Resources Grant and Loan Program do not have potential for causing a significant effect on the environment. The amendments largely simplify and streamline the application process for grants and loans, lessen the need for paper, and encourage electronic communications to the extent currently feasible under Energy Commission practices. Therefore, although adopting these regulations is arguably a "project" as defined under the Act, (see Pub. Resources Code, § 21065; Cal. Code of Regs., tit. 14, § 15378) the Energy Commission has determined that adoption of the amendments is exempt from further environmental review under CEQA (see 14 CCR 15061(b)(3)).

Adoption of Regulations

After considering the record in its entirety, including recommendations of Commission Staff, comments from the public, and documents relied upon, the Energy Commission hereby adopts the amendments as published on August 23, 2013.

Directives to Staff

The Energy Commission directs Commission Staff to take all actions reasonably necessary to implement these amendments, including but not limited to, making appropriate non-substantive or purely grammatical changes to the express terms, as well as preparing and filing all appropriate documents, such as the Final Statement of Reasons with the Office of Administrative Law, and the CEQA Notice of Exemption with the Office of Planning and Research.

It is so Ordered.

CERTIFICATION


The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the California Energy Commission held on October 9, 2013.

AYE: Weisenmiller, Douglas, McAllister, Hochschild, Scott

NAY: None

ABSENT: None

ABSTAIN: None



Harriet Kallemeyn

Secretariat

California Energy Commission