

**DOCKETED**

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TN 72470

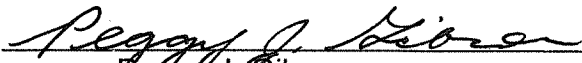
JAN 10 2014

**State of California  
Office of Administrative Law****In re:**  
**California Energy Commission****NOTICE OF APPROVAL OF REGULATORY  
ACTION****Regulatory Action:****Government Code Section 11349.3****Title 20, California Code of Regulations****OAL File No. 2013-1125-05 S****Adopt sections:****Amend sections: 1660, 1661, 1662, 1663,  
1664, 1665****Repeal sections:**

The California Energy Commission is amending 6 sections and an appendix in Title 20 of the California Code of Regulations. The purpose of the amendments is to simplify the application and review process for the Geothermal Grant and Loan Program. Previously it required a pre-application and an application. They have reduced that to one application. They have also simplified the process involved in the awarding of grants or loans. The rulemaking also establishes how private entity applicants can demonstrate compliance with statutory requirements. Additionally there are amendments made to update provisions to reflect changes made to the relevant statutes.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/8/2014.

Date: 1/8/2014

  
Peggy J. Gibson  
Senior CounselFor: DEBRA M. CORNEZ  
DirectorOriginal: Karen Douglas  
Copy: Deborah Dyer

# REGULAR

(See instructions on reverse)

For use by Secretary of State only

ENDORSED FILED  
 IN THE OFFICE OF

2014 JAN -8 PM 3:23

*Debra Bowen*  
 DEBRA BOWEN  
 SECRETARY OF STATE

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2013-0813-01</b>	REGULATORY ACTION NUMBER <b>2013-1125-05 S</b>	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE  AUG 13 '13      AUG 23 '13  Office of Administrative Law  NOTICE	2013 NOV 25 PM 2:41  OFFICE OF ADMINISTRATIVE LAW  REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY <b>California Energy Commission</b>	AGENCY FILE NUMBER (if any)
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**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE <b>Geothermal Grant and Loan Program</b>	TITLE(S) <b>20</b>	FIRST SECTION AFFECTED <b>1660</b>	2. REQUESTED PUBLICATION DATE <b>Aug. 23, 2013</b>
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON <b>Robin M. Mayer</b>	TELEPHONE NUMBER <b>(916) 651-2921</b>	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE <b>8-23-2013</b>	

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) <b>Geothermal Grant and Loan Program</b>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) <b>N/A</b>
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) 20 ADOPT AMEND <b>Title 20, Chapter 4, Article 7, Sections 1660, 1661, 1662, 1663, 1664 and 1665, Appendix A</b> REPEAL

3. TYPE OF FILING
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  
**August 23, 2013**

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)  
 Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))     Effective on filing with Secretary of State     5100 Changes Without Regulatory Effect     Effective other (Specify) \_\_\_\_\_

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY  
 Department of Finance (Form STD. 399) (SAM §6660)     Fair Political Practices Commission     State Fire Marshal  
 Other (Specify) \_\_\_\_\_

7. CONTACT PERSON <b>Deborah Dyer</b>	TELEPHONE NUMBER <b>916.654.3870</b>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <b>Deborah.Dyer@energy.ca.gov</b>
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Robert Oglesby</i>	DATE <b>11-5-13</b>
TYPED NAME AND TITLE OF SIGNATORY <b>Robert Oglesby, Executive Director</b>	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 08 2014

Office of Administrative Law

# Proposed Amendments to the Geothermal Grant and Loan Program Regulations

## ADOPTED AMENDMENTS

October 9, 2013

### Title 20, Chapter 4, Article 7. Regulations for the Geothermal Grant and Loan Program for Local Jurisdiction

#### § 1660. Purpose.

This article specifies the criteria and procedures to be followed by for the State Energy Resources Conservation and Development Commission's ("Energy Commission's") in administering the Geothermal Grant and Loan Program. for Local Jurisdictions under Sections 3822 and 3823 of the Public Resources Code.

Note: Authority cited: Sections 3822, 25213, and 25218(e), Public Resources Code.  
Reference: Sections 3820, 3822, 3823, and 25216(c), Public Resources Code.

#### § 1661. Definitions.

In this article:

(a) ~~"Committee" means the committee of the commission, appointed under Section 1204 of these regulations and authorized to approve members of the Technical Advisory Committee and to review geothermal grant and loan applications.~~

(b) ~~"Contingent Award" means financing provided through this program for high-risk resource development activities conditioned upon the outcome of the proposed project. If the project is successful, the contingent award will become a loan and the terms for repayment will be based on the resulting revenues or energy savings. If the project is not successful, the contingent award will become a grant.~~

(ae) ~~"Eligible Applicant" means (1) a local jurisdiction as defined in Public Resources Code Section 3807 that has geothermal resources or is impacted by geothermal development as specified in Public Resources Code Section 3800; or (2) a private entity as defined in Public Resources Code Section 3809.~~

(d) ~~"Eligible activity" means any one of the eleven purposes listed in Public Resources Code Section 3823.~~

(be) "GRDA" means the Geothermal Resources Development Account established by Public Resources Code Section 3820 that provides funding for the Energy Commission's Geothermal Grant and Loan Program. The Energy Commission's Geothermal Grant and Loan Program may also be called the "GRDA Program" after its funding source.

~~(f) "Mitigation project" means an eligible activity that identifies the adverse environmental or public service impacts of geothermal energy development, or implements measures to reduce or eliminate those impacts.~~

~~(g) "Planning project" means an eligible activity that regulates or guides the development and use of geothermal resources.~~

~~(ch) "Resource development project" means an eligible activity project that assesses, develops, or converts a geothermal resource for direct use or electrical generation.~~

~~(i) "Technical Advisory Committee" or "TAC" means the group approved by the Committee and composed of staff members, representatives from other state agencies, and representatives from the geothermal industry who review and score all final applications before they are considered by the Committee.~~

(d) "Project" means an activity designed to carry out one or more of the purposes identified by Public Resources Code section 3823.

Note: Authority cited: Sections 3822, 25213, and 25218(e), Public Resources Code.  
Reference: Sections 3800, 3807, 3808, 3809, ~~3820, 3822, 3823, 25214, and 25216(c)~~ and ~~25218(e)~~, Public Resources Code.

## **§ 1662. Types of Financial Assistance.**

~~(a) The Energy Commission shall distribute an award funds as a grant, or a loan, or a contingent award.~~

~~(b) Eligible applicants seeking funds for planning projects, mitigation projects, or resource development projects that will not produce revenue or result in energy savings may apply for a grant or loan award.~~

~~(c) Eligible applicants seeking funds for resource development projects that may produce revenue or result in energy savings may apply for a contingent award.~~

~~(d) The Committee shall review the results of each project funded with a contingent award to determine if the recipient is capable of repaying a loan from the expected revenue or energy savings. The Committee shall review the results when the project is complete; that is, when the resource is developed or when the system is~~

operational after a reasonable test period, which shall include such time as is necessary for the staff to calculate the expected revenues or energy savings.

(1) ~~The Staff shall calculate the expected revenue or energy savings based on actual resource temperatures, flow rates and quality.~~

(2) ~~The Committee shall submit its recommendations to the Commission for approval.~~

Note: Authority cited: Sections 3822, 25213, and 25218(e), Public Resources Code.  
Reference: Sections 3822, 3823 and 25216(c), Public Resources Code.

### **§ 1663. Terms for Loan Payment.**

In approving a loan, the Energy Commission shall specify the interest rate, consistent with subdivision (f) of section 3822 of the Public Resources Code, and shall specify the repayment term, the principal, and the number of installments.

(a) ~~The Committee shall recommend to the Commission for approval the interest rate at the beginning of each funding cycle, which shall not exceed eight percent.~~

(1) ~~All loan awards made in any one funding cycle shall bear the same interest rate published in the program opportunity notice for that cycle.~~

(2) ~~A contingent award that becomes a loan shall carry the interest rate published in the program opportunity notice for the funding cycle during which the contingent award was made.~~

(b) ~~The Committee shall recommend to the Commission for approval the repayment term for each loan, which shall not exceed six years.~~

(1) ~~For a loan award, the repayment term shall be determined when the award is made.~~

(2) ~~For a contingent award that becomes a loan, the repayment term shall be determined when the project is complete. After repayment begins, the Committee may renegotiate the term for Commission approval if revenues or energy savings become insufficient to repay the original loan.~~

(c) ~~The Committee shall recommend to the Commission for approval the principal for each loan which shall not exceed 80 percent of the project cost.~~

(1) ~~For a loan award, the principal shall be determined when the award is made.~~

~~(2) For a contingent award that becomes a loan, the principal shall be determined when the project is complete. After repayment begins, the Committee may renegotiate the principal for Commission approval if revenues or energy savings become insufficient to repay the original loan.~~

~~(d) The Committee shall recommend to the Commission for approval the number of installments for each loan, which shall include at least one annual payment.~~

~~(1) For a loan award, the installments shall be determined when the award is made.~~

~~(2) For a contingent award that becomes a loan, the installments shall be determined when the project is complete.~~

Note: Authority cited: Sections 3822, 25213, and 25218(e), Public Resources Code.  
Reference: Sections 3822, ~~3823~~ and 25216(c), Public Resources Code.

**§ 1664. Notice of Availability of Funds Funding Cycle; Schedule.**

~~(a) The funding cycle is the annual period of time during which the Commission solicits applications and makes awards.~~

~~(b) The Energy Commission shall announce the availability of funds for Geothermal Grant and Loan Program awards by posting a notice to the Energy Commission's website, mailing the notice to all persons who have requested notices about the Geothermal Grant and Loan Program by mail, and electronically sending the notice to all persons who have consented to receive notices about the Geothermal Grant and Loan Program by electronic service. The Committee shall initiate the funding cycle by mailing a program opportunity notice to all interested persons on a list established by the Committee in consultation with the Public Adviser.~~

~~(c) The Committee shall include in the program opportunity notice the due dates for preapplications and final applications, and the interest rate for loans to be awarded during the funding cycle. Preapplications shall be due no earlier than 45 days after the program opportunity notice is mailed. Final applications shall be due no earlier than 45 days after the due date for preapplications. The Committee may change previously established due dates for preapplications and final applications.~~

Note: Authority cited: Sections 3822, 25213, and 25218(e), Public Resources Code.  
Reference: Sections ~~3820, 3822, 3822.1~~, 25216(c), Public Resources Code.

**§ 1665. Application and Award Procedures.**

~~(a) PreApplication Requirements. An applicant shall submit an preapplication for each project proposed under this article. The preapplication shall contain:~~

(1) a cover page with the project name; the applicant's name, and mailing address; telephone number, and related Internet websites, if any; the names, mailing addresses, and telephone numbers, and e-mail addresses of the project director, the budget officer, and the project manager; and an abstract of the project.

(2) a budget, including, but not limited to, estimates for labor costs, personnel services, operating expenses, professional and consultant services, equipment, materials, and any construction expenses.

(3) a project narrative describing:

(A) the purpose or objective of the proposed project;

(B) the need for the project;

(C) related activities undertaken;

(D) ~~the benefits~~ to the local community;

(E) other funding sources investigated or secured for the project;  
and

(F) ~~the anticipated effects~~ of the project on geothermal energy development in the area; and

(G) the products that will result from the project.

(4) a detailed work statement listing and describing the tasks to be undertaken and all documents and products that will be submitted to the Energy Commission.

~~(b) — Preapplication Review. The purpose of the preapplication is to allow the staff early review of a proposed project. This review shall be used to determine the eligibility of the applicant, to make a preliminary evaluation of the proposed project, and to provide specific direction to improve the project proposal.~~

~~(1) — The staff shall review all preapplications submitted by the deadline published in the program opportunity notice and shall provide written comments addressing the adequacy of the information.~~

~~(2) — Any applicant may request a meeting to discuss staff's comments concerning the proposed project.~~

~~(c) Final Application Requirements. The final application is the formal submittal to the Commission. The final application shall contain all the matter listed in Section 1665(a) and:~~

~~(54) a work schedule showing personnel requirements and a timeline for completing the projects; tasks.~~

~~(62) a detailed description of the purpose for and benefits of each product to be submitted to the commission;~~

~~(73) for local jurisdiction applicants: a resolution from the local jurisdiction's governing body authorizing submittal of the application;~~

~~(8) for private entity applicants: a discussion of how the applicant, if awarded a grant or loan, will obtain approval for the grant or loan from a representative of the city, county, or Indian reservation where the project is to be located, in accordance with Public Resources Code section 3822(g)(3).~~

~~(94) analyses, assessments, or other documents sufficient to support an Energy Commission determination that a decision approving an award for the project is in compliance with evidence of compliance with the California Environmental Quality Act to the project; and~~

~~(105) for resource development projects that will directly result in revenue or energy savings, a feasibility study. The study shall include:~~

~~(A) a summary of conclusions;~~

~~(B) a description of the geothermal project;~~

~~(C) a discussion of the quality and availability of the geothermal resource, based on, but not limited to, technical evaluations such as published information, water samplings, temperature and other logs, geophysical surveys, or flow tests;~~

~~(D) a schematic drawing including, but not limited to, well locations, distribution piping, structures, and end-use equipment, and controls;~~

~~(E) a table including, but not limited to a description of any new equipment, itemized capital costs (in current dollars), annual operating costs for the new geothermal system, and annual energy savings (in current dollars and energy units); and a cash flow analysis table including, but not limited to, year-by-year estimates (in current dollars) of the energy cost of any existing nongeothermal systems, the energy cost associated with the proposed geothermal system, operation and maintenance costs~~



associated with the proposed geothermal system, net energy savings, debt service, and net cash flow.

(bd) Final Application Review and Scoring. Energy Commission Staff shall separate all final applications into one of three following project categories: (1) resource development, (2) planning, or (3) impact mitigation. The Technical Advisory Committee shall review and evaluate and score all final applications using the applicable criteria set forth in Appendix A. Staff may also invite other governmental entities to participate in scoring. After scoring is complete, Staff shall recommend projects for funding based on application scores, notify applicants of projects recommended for funding in a published notice, and submit recommended awards to the Energy Commission for approval.

~~(1) The TAC shall rank the applications based on their scores.~~

~~(2) The TAC shall recommend for funding those applications receiving at least 80 out of the maximum 120 points.~~

~~(e) Modifications. The TAC, with the approval of the applicant, may modify the application's work statement, schedule, product description, or budget, but may not change the intent of the proposed project. The TAC shall rescore the application without requiring a resubmittal. Any modification shall:~~

~~(1) avoid the duplication of work or research;~~

~~(2) break the project down into logical steps of development;~~

~~(3) reduce administrative requirements;~~

~~(4) include tasks that are necessary for the success of the project or to prepare for potential contingencies during project development; or~~

~~(5) bring the costs of the project within the bounds of past and current projects of a similar nature and extent.~~

~~(f) Committee Review. The TAC shall submit all final applications and its recommendations to the Committee. The TAC's recommendations are not binding on the Committee or on the Commission. The Committee shall review all applications and submit its recommendations to the Commission for approval.~~

~~(g) Commission Allocation of Funds. The Commission shall fund at least one project in each category and shall allocate at least 25 percent of the funds available to each project category. The Commission may allocate the remaining funds available to any project category.~~

(ch) Declined Awards. If an applicant declines all or part of an award, the Energy Commission may use the amount declined to fund another application or may

be used to supplement an existing other awards or fund an application rejected because of a lack of funds during the given approved during the same funding cycle.

(di) Requests for Evaluation. After the Energy Commission notifies applicants of proposed awards, Energy Commission Staff shall make its evaluation and the score for an application available to that applicant upon request. Notification. The Staff shall notify all final applicants in writing regarding the TAC's evaluation and scoring before the Commission acts on the Committee's recommendations. For each final application, a scoresheet showing the number of points received from the TAC shall be available to the applicant upon request. Nothing shall prevent an unsuccessful eligible applicant in one funding cycle from submitting an application for an eligible activity in another funding cycle.

(e) After the Energy Commission approves an award to a private entity and before the Energy Commission disburses funds for the award, the private entity shall, pursuant to Public Resources Code section 3822(g)(3), submit to the Energy Commission evidence that a representative of the city, county, or Indian reservation within which the project is to be located has approved the award. The Energy Commission will accept a written document, including an e-mail, indicating that the city, county, or Indian reservation has approved the award for the proposed project.

Note: Authority cited: Sections 3822, 25213, and 25218(e), Public Resources Code. Reference: Sections 3807, 3822, 3823, and 25216(c), Public Resources Code.

## Appendix A

### Final Application Evaluation Criteria

- 1. Resources Development Project
  - a. Economic and Employment Benefit ..... (1015 points)
  - b. Demonstration Demonstrated Need or Value..... (2015 points)
  - c. Payback and Cost Effectiveness ..... (1015 points)
  - d. Proven Extent of the Resource ..... (15 points)
  - e. Likelihood of Success ..... (15 points)
  - f. Match Contribution ..... (515 points)
  - g. Contribution to Development of California's Geothermal Energy..... (15 points)
  - h. Public Involvement.....(10 points)
  - g. Overriding Issue ..... (30 points)
- 2. Planning Project
  - a. Demonstrated Need ..... (15 points)
  - b. Stimulation of Geothermal Energy Development ..... (15 points)
  - c. Proven Extent of the Resource ..... (15 points)
  - d. Public Involvement..... (15 points)
  - e. Implementation ..... (15 points)
  - f. Match Contribution ..... (15 points)

- g. Overriding Issues ..... (30 points)
- 3. Impact Mitigation Project
- a. Documented Impact ..... (15 points)
- b. Demonstrated Need ..... (15 points)
- c. Availability of Alternatives for Mitigating the Impact ..... (15 points)
- d. Match Contribution ..... (15 points)
- e. Timeliness ..... (15 points)
- f. Likelihood of Success ..... (15 points)
- g. Overriding Issues ..... (30 points)