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SEIA Comments on Emergency Rulemaking Amending the Opt-In Certification Program Regulations

Additional submitted attachment is included below.

November 10, 2026

California Energy Commission
Docket Unit, MS-4
Docket No. 26-OIR-04
715 P Street
Sacramento, California 95814

Submitted Electronically

Re: Docket No. 26-OIR-04 –The Solar Energy Industries Association Comments on the Emergency Rulemaking Amending the Opt-In Certification Program Regulations

In accord with the *Updated Notice of Remote-Only Opt-In Certification Program Rulemaking Workshop* issued on October 6, 2026, the Solar Energy Industries Association ("SEIA") comments on the California Energy Commission's ("CEC" or "Commission") September 29, 2026 proposed emergency regulations for the Opt-In Certification Program and the associated November 2, 2026 workshop. SEIA is a trade association representing companies in all aspects of the solar generation and storage market, including utility-scale providers, who have substantial existing and planned investments in California, the viability of which could be impacted by the proposed emergency regulations for the Opt-in Certification Program. Given the significance of the proposed regulatory changes, SEIA supports the Comments of American Clean Power California ("ACP-CA") recommending that the Commission bifurcate the proceeding into two tracks to ensure reasoned and measured consideration of all issues.

As noted in ACP-CA's comments, the proposed regulations go well beyond the scope required to implement Senate Bills ("SB") 283 and SB 254. Given this fact, the proceeding lends itself to bifurcation - the first track to address the statutory requirements and the second track to address the remaining staff recommended changes to the regulations as well as other reforms offered by stakeholders. While it is completely appropriate for the Commission to use its emergency rulemaking authority to implement SB 254 and SB 283 mandates, such should not be extended to discretionary updates to the regulatory construct.

Looking at the proposed amendments that are directed toward implementing the provisions of SB 254 and SB 283, SEIA is fully supportive of the following changes:

1. Replacing references to an "environmental impact report" with "environmental document" in Sections 1879, 1880.5, 1881, and 1882. These changes conform the regulations to SB 254, which authorizes the CEC to certify an environmental impact report, mitigated negative declaration, or negative declaration for an opt-in project.

2. Deleting the requirement to submit preliminary economic benefit information (Section 1877(f)) and revising Section 1879(a)(7) to reflect the rebuttable presumption of an overall net positive economic benefit. These changes implement Public Resources Code section 25545.9(b).

3 Implementing the amendments to Public Resources Code section 25545.2 by accepting an applicant's affirmation and description of its real property rights as adequate evidence absent evidence to the contrary, and by allowing projects on federal land to describe the status of their right-of-way applications.

4. Implementing the amendments to Public Resources Code Section 25545.4 by limiting pre-completeness requests to missing information and extending the Staff Assessment schedule only for delays in receiving requested information.

5. Limiting reimbursable costs to the technical areas identified in staff's request (Section 1878.1) so as to clarify that local agencies are not expected to perform studies or retain consultants and that applicants and local agencies are allowed to execute their own reimbursement agreements.

6. Establishing a clear, staff-level process for approving a change in ownership or operational control (Section 1882).

These changes to the current regulatory construct, however, should only be applicable to projects with applications submitted *after* the amendments take effect. Failing to do so could result in the new regulations applying to steps that have already occurred for certain applications, causing confusion, duplication and unnecessary delay.

Beyond the above the listed changes which are necessary to implement the provisions to SB 254 and SB 283, all other recommended changes to Opt-in Certification program should not be advanced at this time but await further consideration in a second track of this rulemaking proceeding. To this end, SEIA echoes the concerns raised in ACP-CA's comments regarding proposed changes to the regulations addressing such matters as community benefits agreements, battery energy storage system requirements and site control. These proposed changes, which are purportedly being made to "refine previously adopted regulations to enhance clarity based on lessons learned from Opt-In cases,"[1] should be taken outside of the emergency rulemaking construct and more carefully vetted with the luxury of additional time.

Respectfully submitted

/s/

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[1] *Proposed Opt-In Emergency Regulations,* November 2, Public Workshop Docket Number: 26-OIR-04, slide 5.