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Comment Received From: Heena Singh (California Environmental Justice Alliance)
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CEJA Comments on Proposed Amendments to the Opt-In Certification Program

Additional submitted attachment is included below.

November 10, 2026

Re: Comments on Proposed Amendments to the Opt-In Certification Program Regulations

Dear Commissioners and Staff,

The California Environmental Justice Alliance (CEJA) is a statewide coalition of environmental justice organizations representing Asian, Pacific Islander, Latine, and Black residents disproportionately impacted by environmental pollution and related health burdens. Our member organizations work across the Bay Area, San Joaquin Valley, Central Coast, Los Angeles, Inland Valley, and San Diego–Tijuana regions, collectively representing more than 40,000 residents in low-income communities and communities of color on the frontlines of environmental hazards.

We appreciate the opportunity to comment on the proposed amendments to the Opt-In regulations that implement SB 254 and SB 283. **The focus of our comments is specifically on battery energy storage system (BESS) projects going through the Opt-In Certification process.**

We recognize that BESS can help retire fossil fuel plants in environmental justice communities. But utility-scale battery energy storage systems (BESS) are being permitted rapidly, sometimes near homes, schools, and workplaces, and they carry risks of fire, toxic exposure, supply-chain harm, and unaccountable cost. Our comments below reflect CEJA's Responsible Utility-Scale BESS Equity Principles (linked here and attached at the end of our comments) that were published on November 10, 2026. These principles were developed through a series of BESS community education workshops in October 2026 to share our vision of what equitable BESS implementation can look like and the role developers, agencies, and utilities can play in supporting our principles. At a high level, the principles call for communities to consent to projects and help shape them, for safety to be non-negotiable, for developers to be accountable, for communities to hold a real stake in projects, and for transparency at every stage.

1. Pre-filing meeting (Section 1876.5)

We support amending this section to allow the invitation of California Native American tribes. We ask the Commission to go further, in line with our Principle 1:

- Require applicants to invite Tribes where the project may affect Tribal territories or cultural resources
- Require applicants to invite host community members and community-based organizations (CBOs) to the pre-filing meeting, especially environmental justice and public health organizations, with plain-language notice in the languages the community speaks.
- Require applicants to describe in the application how they sought community consent early in planning, including when CBO engagement began and how community members and CBOs were compensated for their time and expertise.

2. Withdrawal, Suspension, and Early Termination of Opt-In Application (Section 1877.5)
We support the CEC having the ability to terminate a project's opt-in application if it has significant deficiencies. Significant deficiencies should include the following:

- No evidence of working with impacted communities before filing, or no host community workshops
- Notices and materials not provided in the primary languages the community speaks
- Tribal consultation not conducted where Tribal territories or cultural resources are affected
- Battery chemistry, materials, or hazards not disclosed
- No alternatives analysis was conducted
- No documentation of how community concerns were addressed
- No documented fire department consultation, or no emergency response plan coordinated with the fire department
- Setbacks, emergency access, or emergency response capacity not addressed
- No named responsible party, or no insurance
- No decommissioning plan, or no stated funding for it
- False or materially misleading information

3. Community benefits agreements (Sections 1879 and 1879.5A)
We support requiring an executed community benefits agreement (CBA). At the same time, CBAs do not necessarily mean the community is demonstrating support for a project as they may not be represented by the parties in the contract. We are aligned with the comments that Leadership Counsel for Justice and Accountability (LCJA) have submitted regarding the following:

- Benefits should be community-shaped and determined by the impacted community. CBAs should include at least three forms of benefits (policies, programs, and direct financial contributions), such as direct investments in community priorities, clean energy affordability, and workforce development and worker transition.
- Minimum financial contributions should be tied to a project's anticipated economic value, not averages from past CBAs, and indexed to inflation over the project's life.
- The Commission should evaluate the quality of CBAs, not just how many exist. That means considering the diversity of direct benefits, whether they respond to identified community needs, and how the community was engaged.
- The 120-day CBA development period should not be shortened as this could result in rushed CBAs.
- The regulations should name who monitors CBA compliance and set a dispute resolution process for unmet commitments.
- CBAs should be entered with, or structured to give main decision-making authority to, community residents, such as community collaboratives, community groups, and community-based organizations. We also support their recommendation that the Commission review Massachusetts' March 2026 standards and guidelines for community benefit plans and agreements.

Consistent with CEJA's Principle 5, specifically for BESS projects:

- We ask that:
    - The agreement is legally binding, with a clear enforcement path and public reporting.
    - It was developed with local CBOs from the project proposal stage and negotiated with impacted community groups that include people who live, work, and go to school near the project site. Where possible environmental justice, public health, and labor organizations should be parties in a CBA process.
    - Community engagement and negotiation should begin well before filing.
    - The full signed agreement should be published publicly before any decision is made. Developers should not be allowed to make confidentiality a condition of the agreement, and any redaction should be narrow, specific, and justified in writing.
    - It includes enforceable local and targeted hiring commitments, prevailing wages, high-road labor standards,with apprenticeship pathways and dedicated job opportunities for residents and workers displaced from fossil fuel and agricultural jobs.
    - It includes an opportunity for community ownership or co-ownership of the project if that is desired by the community.
    - It includes a dedicated fund for decommissioning and site remediation.
- We ask that the Commission not count anything the project must provide to ensure project safety as a community benefit. This includes: minimum setbacks, public notification, emergency response capacity, fire department training and equipment, insurance, and required disclosures.
- We ask that any minimum monetary amount in subsection C remain a floor, and not replace benefits that communities develop for themselves through the CBA process.

4. Fire department consultation and emergency response (Sections *1876.5 and* 1879.6)
We support requiring applicants to document consultation with the local fire department. Consistent to our Principle 2, we ask:

- The authority with jurisdiction over fire suppression be required to participate in the pre-filing consultation for any project with battery storage.
- The Commission set minimum inspection standards for energy storage systems
- The 90-day inspection provision be revised so a project cannot proceed without an inspection.
- The required documentation be specific and not limited to a single meeting. It should show:
    - Emergency response plans were coordinated with the local fire department, will be publicly shared in the languages most commonly spoken in the community, and will be updated annually.

    - The fire department's capacity to respond to an emergency was assessed, the site is reachable by trained fire and emergency responders within a reasonable time, and there is a pathway to close any gaps, with any added capacity funded by the developer.
    - The developer pays for fire department training and equipment specific to battery systems.
    - The project includes an incident response protocol that protects people who live, work, and go to school nearby, including families, children, elderly residents, tenants, and farmworkers.
    - There is a pathway to a community emergency notification system and evacuation plan that is accessible to the community.

5. Accountability, financial assurance, and ownership changes (Section 1882)
We support requiring the Commission to be notified of and to approve changes in ownership or operational control. Consistent with Principle 2, a named party must stay responsible for a project's entire life, including after a sale or transfer. We ask that:

- Any ownership change be communicated to the host community.
- Any successor assumes the project's insurance, decommissioning, and CBA obligations.

6. Application information for BESS projects (Appendix B)
We support the new requirement that BESS applicants describe their decommissioning and closure plan. Consistent with Principles 2, 5, and 6, we ask that:

- The plan states how decommissioning will be funded.
- Battery chemistry, materials, and hazards are disclosed publicly as part of the application.
- Applicants provide an alternatives analysis that weighs different battery types, sizes, and non-storage options, including community-scale and distributed resources, energy efficiency, demand response, and siting with solar where possible.
- The Commission prioritizes non-combustible battery types and chemistries with lower-impact minerals where possible.

7. Community oversight and participation
Consistent with Principles 1 and 9, we ask the Commission to:

- Consider requiring a Community Oversight Committee for each BESS project, made up of local environmental justice, public health, labor, and utility representatives, with defined authority to approve, deny, or require changes to the project plan and to review safety and compliance throughout the project's life.
- Provide compensation for CBOs and EJ organizations that take part in a project's permitting process.

8. Transparency and public access
Consistent with Principle 1, we ask that notices and materials be written in plain language, translated into the languages the community speaks, and issued at least 90 days before each

decision point. We also ask for easy ways to track each project and submit comments, and that emergency safety protocols for each site be shared with the community.

We understand staff are considering whether to hold another workshop on the proposed amendments. We ask the Commission to hold at least one additional workshop that includes dedicated time for questions and answers with staff, with an enabled chat to document questions and responses, and time for verbal Q&A as well. The workshop on Nov 2 was entirely presentations of highly technical content with no opportunity to ask follow up or clarification questions. Consistent with Principle 1, communities need real opportunities to learn about proposals and ask questions before the Commission acts.

Thank you for your consideration of our comments. We would welcome the chance to meet with staff to discuss these points.

Respectfully submitted,

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Equity Principles for Responsible Utility-Scale Battery Energy Storage Systems (BESS)



California Environmental Justice Alliance

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Introduction

The California Environmental Justice Alliance (CEJA) is a statewide coalition of environmental justice organizations representing Asian, Pacific Islander, Latine, and Black residents disproportionately impacted by environmental pollution and related health burdens. Our member organizations work across the Bay Area, San Joaquin Valley, Central Coast, Los Angeles, Inland Valley, and San Diego–Tijuana regions, collectively representing more than 40,000 residents in low-income communities and communities of color on the frontlines of environmental hazards. Grounded in deep community relationships, policy expertise, and firsthand experience, CEJA advances equitable, community-driven solutions that protect public health, strengthen community power, and safeguard California's environment. We envision a 100% renewable energy future where everyone has access to affordable, reliable, clean energy.

We see battery energy storage systems (BESS) as an opportunity to help retire fossil fuel plants in environmental justice (EJ) communities. We prioritize community-scale solar and storage, behind-the-meter distributed energy resources, microgrids, energy efficiency, and demand response solutions over large-scale projects, in order to localize benefits and avoid the build-out of costly transmission. We also understand the need for responsible utility-scale BESS to be implemented as a way to leverage the vast amounts of solar on our grid to retire gas plants, serve system reliability, and support a more affordable grid for all. Utility-Scale BESS are being permitted rapidly, sometimes near homes, schools, and workplaces, and carry risks of fire, toxic exposure, supply-chain harm, and unaccountable cost.

In these principles, CEJA considers utility-scale BESS as front-of-the-meter interconnected systems that have a capacity of at least 1 MW. These principles were developed through a series of community education workshops in October 2026 attended by 49 participants across 6 organizations: APEN, CAUSE, CBE, CRPE, PODER, and SCOPE LA.

These principles share our vision for what equitable implementation of responsible utility-scale BESS looks like: prioritizing safety, transparency, and community collaboration to achieve a just transition away from fossil fuel plants that is clean, affordable, and community-designed.

Who We Are

The California Environmental Justice Alliance (CEJA) and the following member and partner organizations have endorsed these principles. Asian Pacific Environmental Network (APEN), Central Coast Alliance United for a Sustainable Economy (CAUSE), Communities for a Better Environment (CBE), Center on Race, Poverty & The Environment (CRPE), Environmental Health Coalition (EHC), and Physicians for Social Responsibility Los Angeles (PSR-LA).

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Our Principles

1. Host communities consent to a project, help shape it before applications are filed, and stay involved throughout the life of the project.

Before the application is submitted, developers must:

- Seek informed consent from the communities that will live next to a BESS project early in the planning and before an application is filed.
- Engage in the languages communities speak, through trusted messengers and CBOs, and reach residents directly, not only their elected officials.
- Fund CBO engagement at least 6 months before any application is filed, and compensate CBOs and residents for their time and expertise through stipends, transit, meals, and childcare.
- Form a Community Oversight Committee before the application stage, made up of local EJ, public health, labor, and utility representatives with defined authority to approve, deny, or require changes to the project plan, and reviews safety and compliance throughout the project's life.
- Begin Tribal consultation if the project affects Tribal territories or cultural resources.
- Publish the battery chemistry, materials, hazards, and alternatives analysis (Principle 5) before the first workshop, so communities can consent with full information.
- Host community workshops that answer the following questions:
    - What alternatives were considered, and why was this battery type chosen?
    - What are the emergency and safety plans?
    - What does the life-cycle analysis show?
    - How are materials sourced?
    - What are the potential impacts of fires, spills, or other failures?
    - What are the liability and insurance plans?
    - How will decommissioning be funded?
    - What are the municipality's contingency plans if the developer goes bankrupt?
    - What other day-to-day impacts, such as construction, noise, smells, water, and aesthetics, should residents expect?

During permitting, developers and agencies must:

- Provide plain-language notices and materials, in the languages the community speaks, at least 90 days before each decision point.
- Offer easy ways to track the project and submit comments.

- Share the site's emergency safety protocols.
- Offer residents a tour of the facility when possible.

After each decision, developers and agencies must:

- Explain how community concerns were addressed, and justify any community recommendation they do not adopt.

2. Safety is non-negotiable, never a bargaining chip.

The following conditions are part of every project, and are not tradeable for community benefits. Developers must provide:

- Consistent minimum setbacks from homes, schools, and other sensitive sites.
- Emergency response plans coordinated with local fire departments, with public notification in languages most commonly spoken in the community, and annual updates.
- A site reachable by trained fire and emergency responders within a reasonable amount of time.
- Payment for fire department training and equipment specific to BESS.
- Public disclosure of battery chemistry and hazards (see Principle 5).
- An incident response protocol & protections for folks who live, work, and go to school in the community (including but not limited to families, children, elderly, farmworkers) in the event of an emergency.
- Maintain insurance for remediation in case of fire or other malfunction.
- Be the named responsible party for the project's entire life (even after a sale) and not pass fire or failure costs on to ratepayers.

3. BESS must deliver savings that residents can see on their bills.

Renters and homeowners must receive savings on their electricity bills from the project. The developer must:

- Work with the utility to provide households and businesses near the project with bill credits that reduce their electricity bills.
- Publish the project financial and carbon costs as compared to gas-burning power generation, and the savings that go to the host community.

4. BESS must strengthen local resilience for host communities.

For every project, the following is required:

- Developers and agencies must locate projects where they can relieve communities of risks from transmission and/or distribution systems that are less robust because of historic grid design or in the face of wildfire, flood, or other climate emergencies.
- Developers provide 24/7 backup power to nearby households and critical facilities. This would serve communities for day-to-day needs as well as during outages and utility shutoffs via a microgrid or islanding capability where possible. If not possible, this would be achieved through the direct financing of a solar-powered community microgrid.

5. Developers and local municipalities must protect communities at every stage of a BESS project's life: responsible sourcing and installation, safe operation, and end of life.

Developers are responsible for a BESS project's entire life, from sourcing through recycling as detailed below. We have a preference for non-combustible BESS types and battery types that use minerals with less environmental impact (i.e. sodium, iron/air, flow-state) where possible. We have a preference for siting storage with solar where possible so storage can charge from clean energy and not extend reliance on fossil fuel plants.

Before the project application stage, developers must:

- Undergo and provide an alternatives analysis to the public that weighs different battery types, sizes, and non-storage options for the project based on safety, materials production impacts, end-of-life impacts, efficiency, siting, and cost. The analysis should explicitly consider whether distributed energy resources, energy efficiency, or demand response could meet the same need.
- Publish the project's battery materials and chemistry.

During the sourcing stage, developers must:

- Disclose where BESS materials come from and prefer lower-impact sources, with particular attention to lithium extraction, cobalt mining, rare earth extraction, and other critical minerals. Supply chains should prioritize ethically sourced materials when possible.

During the operation stage:

- Developers must protect host communities at the site.

- Developers must commit to developing safety plans for installation, operation, and end of life.
- Local municipalities should develop contingency planning in cases where developers are unable to meet their commitments.

During the end of life, developers must:

- Decommission the project, remediate the site, and recycle materials without harming the host community or exporting harm to other communities.
- Work with municipalities to identify recycling pathways, and invest in them where viable recycling does not yet exist, to help build a circular economy where possible.
- Dispose of waste in ways that do not concentrate pollution in other communities or create Superfund sites.

6. Developers must consider local workforce opportunities and community ownership models in a CBA.

It is prudent for developers to offer communities a real stake in the projects built in their neighborhoods, especially environmental justice and frontline communities. Developers must negotiate a CBA that is:

- Legally binding, with a clear enforcement path and public reporting.
- Developed with local trusted CBOs from the project proposal stage, and negotiated with impacted community groups that include people who live, work, and go to school near the project. The developer should make every effort to negotiate CBAs with trusted community organizations that include local environmental justice organizations, labor, public health organizations, as well as Tribes.
- Inclusive of enforceable local and targeted hire commitments, prevailing wages, and high-road labor standards, with apprenticeship pathways and dedicated job opportunities for residents and workers displaced from fossil fuel and agricultural jobs.
- Inclusive of an opportunity for community ownership or co-ownership of the project if that is desired by the community.
- Posted on a searchable public website before any decision is made, and at least 90 days before a final decision.

7. BESS must not be used to enable data center growth.

Storage should serve communities' reliability, resiliency, and clean energy needs. It should not be built to support new data center load or other large industrial demand that takes priority over local needs.

8. Utilities must share decision-making power over procurement, siting, and spending with the communities affected by their projects.

We ask that utilities do the following to share decision-making power with impacted communities:

- Evaluate community-scale solar, storage, and demand-side options before procuring large-scale storage.
- Design a formal role for impacted CBOs and EJ organizations in utility planning, procurement, and rate proceedings.
- Mandate Community Oversight Committees be required for BESS projects.
- Compensate communities to participate in a project's permitting process for CBOs and EJ organizations.
- Publish what storage procurement costs ratepayers for transparency.

9. BESS projects must help retire fossil fuel plants, starting in local capacity areas.

State and local agencies must prioritize clean energy resources and BESS procurement in local capacity areas to retire fossil fuel resources. BESS should only be sited at a fossil fuel plant as a means to retire the plant. BESS projects sited at a fossil fuel plant will include a binding retirement date and a plan, with funding, for decommissioning and cleaning up the existing plant. Closure should be prioritized for plants in or near EJ communities. BESS must not extend a plant's life, and the plant must not remain as backup.



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