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<b>Document Title:</b>	Orders and Resolutions for August 17, 2021 Business Meeting
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<b>Filer:</b>	Liza Lopez
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
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**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

*IN THE MATTER OF:*

**EMERGENCY PROCLAMATION**

**ORDER RE: PROCESS FOR POST-CERTIFICATION PETITIONS FOR CHANGES IN DESIGN, OPERATIONS OR PERFORMANCE OF EXISTING FACILITIES**

**I. Introduction**

California faces extreme climate impacts, including extreme drought, wildfire, and record-breaking heat events, even as it races to achieve a 100 percent clean electricity system that supports long-term energy reliability. This unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand. At the same time, immediate action is needed to accelerate the state's transition to clean electricity to help end the cycle of energy contributing to the very climate impacts that threaten energy supply.

The California Energy Commission (CEC) is responsible for licensing new thermal power plants of 50 megawatts (MW) or more, establishing energy efficiency standards to reduce energy demand, assessing energy supply and demand, implementing renewable portfolio standards, and investing in clean transportation and clean energy research. These core functions anchor the state's effort to meet the Senate Bill (SB) 100 target of requiring renewable energy and zero-carbon resources for 100 percent of electric retail sales to end-use customers by 2045.

On July 30, 2021, Governor Newsom issued a Proclamation of State of Emergency (Emergency Proclamation) proclaiming an emergency to exist in California as a result of sudden and severe energy shortages resulting from extreme drought, wildfires, and record-breaking heat events throughout the Western United States, which put significant demand and strain on California's energy grid. The Emergency Proclamation declares that, due to these extreme weather events, the state currently faces an energy supply shortfall of up to 3,500 megawatts in 2021, and a shortfall of up to 5,000 megawatts is now projected for the summer of 2022. To take immediate action to reduce the strain on energy infrastructure, increase energy capacity, and make energy supply more resilient this year to protect the health and safety of Californians, the Governor ordered the CEC to establish a process to expedite all post certification petitions for changes of existing facilities licensed by the CEC. Specifically, the Emergency Proclamation ordered as follows:

With respect to all post certification petitions for changes in power plant project design, operation, performance, including geothermal generation and integrating solar generation and battery storage with appurtenant facilities on an existing

site, the following statutes and regulations are suspended to the extent the California Energy Commission determines that the petitioned-for change should be granted and would reduce the energy shortfall resulting from this emergency by October 31, 2021.

The specific statutes and regulations suspended under the Emergency Proclamation include the California Environmental Quality Act in Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division; the California Coastal Act in Public Resources Code, Division 20 (commencing with section 30000) and regulations adopted pursuant to that Division; and Title 20, section 1769, of the California Code of Regulations.

The Emergency Proclamation further authorizes the CEC to delegate its authority to take the above actions to its Executive Director and exempts such actions from the rulemaking requirements in Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340).

## **II. Authority**

The CEC has authority under existing law to certify facilities with a generating capacity of 50 megawatts or more and amend such certifications as necessary. (Pub. Resources Code, §§ 25110, 25120, 25500 et seq.) In addition, if the commission determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency, and upon a declaration by the Governor or by an act of the Legislature that a threat to public health, safety, and welfare exists and requires immediate action, the commission shall authorize the construction and use of generating facilities under such terms and conditions as specified by the commission to protect the public interest. (Pub. Resources Code, § 25705.)

The Emergency Proclamation was issued pursuant to the Governor's authority under the California Emergency Services Act, Government Code sections 8567, 8571, 8625, and 8627, to take immediate action to address the energy supply shortfalls and achieve energy stability in the state. The Governor declared an energy supply emergency, and based on the findings in the Emergency Proclamation, the CEC has determined that all reasonable conservation, allocation, and service restriction measures currently being implemented may not be enough to alleviate the energy supply emergency.

The Governor's July 30, 2021, Emergency Proclamation provides the CEC authority to establish an expedited process for the approval of petitions for changes to facilities licensed by CEC that will contribute to reducing the energy shortfall by October 31, 2021, as specified in Section III as follows.

## **III. Criteria and Procedures for Emergency Approval of Changes to Existing Facilities**

For petitions filed requesting approval of changes to existing facilities licensed by the CEC that will contribute to reducing the energy shortfall by October 31, 2021, through the increase in power production, increase in operational hours, addition of solar

generation, or addition of battery storage, the following expedited emergency process shall be implemented:

(a) The facility owner shall file a petition to the Executive Director containing the following information:

(1) a description of the proposed facility changes detailing how these changes will reduce the energy shortfall by October 31, 2021, and whether the changes are permanent or temporary;

(2) a description of the existing site conditions (paved, graded, etc.) where the proposed facility changes will occur, including site plans and photographs; identifying any offsite equipment laydown or staging areas; describing any changes in type or volume of hazardous materials or wastes; and outlining the extent and depth of any ground disturbance associated with the facility changes;

(3) an assessment of whether the facility changes would result in the facility exceeding any permitted air quality or water quality standard or conditions of certification requirement and a description of the estimated exceedance;

(4) an identification of the existing conditions of certification and laws, ordinances, regulations, and standards applicable to construction and operation of the facility changes; and

(5) a proposed schedule evidencing the ability of the facility owner to implement the facility changes no later than October 31, 2021.

(b) Within 10 working days after a complete petition is filed, the Executive Director shall file a decision on the petition. A petition may be granted if, based on the information available at the time of review, the changes can reasonably be expected to contribute to reducing the energy supply shortfall by October 31, 2021 and if on balance the petition supports the stated purpose of the Emergency Proclamation directing the CEC to act immediately to achieve energy stability. The Executive Director may impose conditions or reporting requirements on the license as appropriate. The decision of the Executive Director is final and is not subject to further consideration or appeal.

(c) Upon approval by the Executive Director, the facility owner may commence the work to implement the requested changes consistent with all applicable conditions of certification, including use of a delegated chief building official (DCBO) when required.

(d) Up to and including October 31, 2021, no petition for change to a CEC license is necessary for a facility to operate in contravention of a permit limitation for the purpose of increasing output or hours of operation provided the increased output or hours of operation occurs only when all of the following conditions are met:

(1) the California Independent System Operator (CAISO) issues a Grid Warning or Emergency Notice;

(2) the limitation on increasing output or hours of operation is a permitting requirement or condition of certification adopted by the CEC or the local air quality management district that restricts the amount of power that a facility may generate, restricts the amount of fuel that a facility may use, or imposes air quality requirements that prevent the facility from generating additional power for use in California; and,

(3) the increased output occurs during the period running from two hours before the beginning of the effective time of the CAISO Grid Warning or Emergency Notice to one hour after the end of that effective time.

(e) To support the Emergency Proclamation's directive to the California Air Resources Board to develop and promptly implement, a state-funded plan to mitigate the effects of additional emissions authorized by the Emergency Proclamation beyond ordinarily permitted levels, facility owners operating in excess of permitted conditions as authorized by the Emergency Proclamation or through approval of a petition, shall report the excess emissions to the CEC for transmittal to the California Air Resources Board within 48 hours of each exceedance.

#### **IV. CALIFORNIA ENERGY COMMISSION FINDINGS**

Based on the Governor's July 30, 2021 Emergency Proclamation and the authority set forth in Public Resources Code section 25705, the CEC finds that:

- The unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand.
- All reasonable conservation, allocation, and service restriction measures currently being implemented may not alleviate the energy supply emergency.
- The July 30, 2021 Emergency Proclamation in conjunction with these findings, activates the CEC's emergency authority under Public Resources Code section 25705.
- In order to implement the directives of the Emergency Proclamation and Public Resources Code section 25705, the Executive Director is authorized to approve petitions for changes to existing facilities consistent with the process set forth in this Order.
- A petition for change filed under the process set forth in this order is not subject to an adjudicatory proceeding as defined in California Code of Regulations, Title 20, section 1201(b), therefore the ex parte restrictions set forth in Article 7 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code (sections 11430.10 et seq.) do not apply.

## **V. CONCLUSION AND ORDER**

The CEC hereby adopts this Order establishing criteria and procedures for approving changes to existing facilities and delegating approval of petitions to the Executive Director. This Order is effective through October 31, 2021, unless otherwise extended in a subsequent Emergency Proclamation or Executive Order, or by an act of the Legislature.

### **CERTIFICATION**


The undersigned Secretariat to the CEC 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 CEC held on August 17, 2021.

AYE: Hochschild, Douglas, McAllister, Monahan, Gunda

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

  
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Liza Lopez  
Secretariat

**STATE OF CALIFORNIA**  
**STATE ENERGY RESOURCES**  
**CONSERVATION AND DEVELOPMENT COMMISSION**

*IN THE MATTER OF:*

**EMERGENCY PROCLAMATION**

**ORDER RE: PROCESS FOR  
LICENSING NEW EMERGENCY AND  
TEMPORARY POWER GENERATORS**

**I. Introduction**

California faces extreme climate impacts, including extreme drought, wildfire, and record-breaking heat events, even as it races to achieve a 100 percent clean electricity system that supports long-term energy reliability. This unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand. At the same time, immediate action is needed to accelerate the state's transition to clean electricity to help end the cycle of energy contributing to the very climate impacts that threaten energy supply.

The California Energy Commission (CEC) is responsible for licensing new thermal power plants of 50 megawatts (MW) or more, establishing energy efficiency standards to reduce energy demand, assessing energy supply and demand, implementing renewable portfolio standards, and investing in clean transportation and clean energy research. These core functions anchor the state's effort to meet Senate Bill (SB) 100 target of requiring renewable energy and zero-carbon resources for 100 percent of electric retail sales to end-use customers by 2045.

On July 30, 2021, Governor Newsom issued a Proclamation of State of Emergency (Emergency Proclamation) proclaiming an emergency to exist in California as a result of sudden and severe energy shortages resulting from extreme drought, wildfires and record-breaking heat events throughout the Western United States, which put significant demand and strain on California's energy grid. The Emergency Proclamation declares that, due to these extreme weather events, the state currently faces an energy supply shortfall of up to 3,500 megawatts in 2021, and a shortfall of up to 5,000 megawatts is now projected for the summer of 2022. To take immediate action to reduce the strain on energy infrastructure, increase energy capacity, and make energy supply more resilient this year to protect the health and safety of Californians, the Governor ordered the CEC, among other things, to license new emergency and temporary power generators. Specifically, the Emergency Proclamation authorized the CEC to issue licenses as follows:

With respect to new emergency and temporary power generators of 10 megawatts or more that the California Energy Commission determines will deliver net peak energy before October 31, 2021, the provisions of Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent that the California Energy Commission determines that such generators should be licensed and that:

- a. generation will be located in a previously disturbed site;
- b. generation will use natural gas as soon after construction as practicable;
- c. there is a secure water supply for the project; and
- d. there is an available grid interconnection.

Under the Emergency Proclamation, the California Environmental Quality Act and related regulations are suspended for new emergency and temporary power generators that the CEC has determined meet the criteria set forth above. The Emergency Proclamation further authorizes the CEC to delegate its authority to issue licenses in accordance with the described criteria to its Executive Director and exempts such actions from the rulemaking requirements in Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340).

## **II. Authority**

On July 30, 2021, the Governor issued an Emergency Proclamation pursuant to the authority under the California Emergency Services Act, Government Code sections 8567, 8571, 8625, and 8627, to take immediate action to address the energy supply shortfalls and achieve energy stability in the state.

This Emergency Proclamation provides the CEC authority to establish an expedited process for the approval of licenses for new emergency and temporary power generators of 10 megawatts or more that the CEC determines will deliver net peak energy before October 31, 2021, and that meet certain criteria set forth in the Emergency Proclamation and specified in Section III below.

The CEC's approval and certification of a project is in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, and supersedes any otherwise applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law. (Pub. Resources Code, § 25500; Emergency Proclamation, paragraph 10.)

## **III. CRITERIA AND PROCEDURES FOR LICENSING OF NEW EMERGENCY AND TEMPORARY POWER GENERATORS**

For licensing of new emergency and temporary power generators of 10 megawatts or more, the following expedited process shall be implemented:



(a) The Executive Director or designee shall develop a self-certification template for license applicants within 3 days of the adoption of this Order. The self-certification template shall be developed to maximize efficient completion and staff review and shall require the following information be confirmed through appropriate documentation by the entity seeking the license:

(1) the power generator(s) will deliver 10 MW or more on a single grid intertie.

(2) the power generator(s) will deliver net peak energy no later than October 31, 2021.

(3) the owner or operator has control over the site and

i. generation will be located in a previously disturbed site;

ii. generation will use natural gas as soon after construction as practicable;

iii. there is a secure water supply for the project; and

iv. there is an available grid interconnection.

(4) the power generator(s) can accommodate best available control technology (BACT) and the owner or operator will install BACT as soon as practicable. Operators of sites on which generators and equipment procured by DWR have been located shall collaborate with DWR on the installation of BACT.

(5) the owner or operator will implement best management practices and a worker environmental awareness program, as appropriate, during installation and removal of the power generators to protect any environmental resources.

(6) the installation of the power generator(s) will be consistent with manufacturer specifications and safety codes and standards.

(7) the owner or operator has received authorization to interconnect the power generator(s) to the distribution or transmission grid by the relevant grid authority.

(8) the owner or operator will provide access to CEC for inspection of the power generating equipment and site, and provide all available documentation regarding the equipment and site as requested by the CEC.

(b) Within 10 days after an owner or operator files a self-certification, the Executive Director shall verify that the self-certification is complete and meets the requirements of section (a) and that, based on the information available at the time of review, the project will deliver net peak energy by October 31, 2021. The Executive Director shall file a decision on the self-certification granting or denying the license and may impose conditions or reporting requirements on the license as appropriate. The decision of the Executive Director is final and not subject to further consideration or appeal.

(c) The owner or operator is authorized to operate the power generators up to 5 years from the date that the Executive Director grants the license.

(d) To support the Emergency Proclamation's directive to the California Air Resources Board to develop and promptly implement a State-funded plan to mitigate the effects of additional emissions authorized by the Emergency Proclamation beyond permitted levels, all owners or operators of new and temporary power generators shall report emissions in excess of federal air permits to the CEC for transmittal to the California Air Resources Board.

#### **IV. CALIFORNIA ENERGY COMMISSION FINDINGS**

Based on the Governor's July 30, 2021 Emergency Proclamation, the CEC finds that:

- The unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand.
- Due to these extreme weather events, the state currently faces energy supply shortfall of up to 3,500 megawatts in 2021, and a shortfall of up to 5,000 megawatts is now projected for the summer of 2022.
- Emergency and temporary power generators are a technology that can be rapidly deployed to help alleviate energy supply shortfalls and other grid impacts.
- Expedited action by the CEC is necessary to install and utilize emergency and temporary power generators.
- In order to implement the directives of the Emergency Proclamation and rapidly deploy emergency and temporary power generators, a self-certification process as described in this Order is necessary.
- The Executive Director is authorized to approve self-certifications and grant licenses consistent with the process set forth in this Order.
- A self-certification filed under the process set forth in this order is not subject to an adjudicatory proceeding as defined in California Code of Regulations, Title 20, section 1201(b), therefore the ex parte restrictions set forth in Article 7 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code (sections 11430.10 et seq.) do not apply.

#### **V. CONCLUSION AND ORDER**

Consistent with the Governor's Emergency Proclamation and to ensure the rapid deployment of emergency and temporary generators the CEC hereby adopts this Order establishing a self-certification process and delegates approval of self-certifications and the granting of licenses to the Executive Director. This Order is effective through October 31, 2021, unless otherwise extended in a subsequent Emergency Proclamation or Executive Order, or by an act of the Legislature.

**CERTIFICATION**

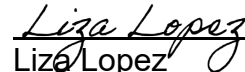
The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the CEC held on August 17, 2021.

AYE: Hochschild, Douglas, McAllister, Monahan, Gunda

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

  
Liza Lopez  
Secretariat