

DOCKETED

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Project Title:	Rulemaking to Amend Regulations for Delegation of Certification Authority
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CALIFORNIA ENERGY COMMISSION

715 P Street
Sacramento, California 95814

energy.ca.gov

CEC-057 (Revised 1/21)



NOTICE OF PROPOSED ACTION

Title 20. Public Utilities and Energy
Delegation of Geothermal Power Plant Siting Authority to Local Government
Sections 1802, 1860 through 1870

Docket No. 21-OIR-02
Notice Published on February 25, 2022

INTRODUCTION

Notice is hereby given that the California Energy Commission (CEC) proposes to adopt amendments to the CEC's procedures to delegate its site certification authority over geothermal power plants to counties contained in the California Code of Regulations (CCR), Title 20 (Proposed Action), after considering all comments, objections, and recommendations regarding the Proposed Action.

PUBLIC HEARING

The CEC staff will hold a public hearing on the proposed regulations at the date and time listed below. Interested persons, or their authorized representative, may present statements, arguments, or contentions relevant to the proposed regulations at the public hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

Public Hearing
Thursday, April 14, 2022
10:00 a.m. (Pacific Time)

The public hearing will be held remotely, consistent with recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

REMOTE ATTENDANCE

The public hearing may be accessed by clicking the Zoom link below or visiting [Zoom](https://join.zoom.us) at <https://join.zoom.us> and entering the ID and password for the public hearing listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Office of the Public Advisor, Energy Equity and Tribal Affairs at publicadvisor@energy.ca.gov or by phone at (916) 957-7910.

Zoom Link:

<https://energy.zoom.us/j/93639108124?pwd=dmt0ZnpYSEd3bTVnUUFZY3dhMTA0dz09>

Webinar ID: 936 3910 8124

Password: 041222

To participate by telephone dial (213) 338-8477 or (888) 475-4499 (toll free). When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the telephone, dial *9 to “raise your hand” and *6 to mute/unmute your phone line.

BUSINESS MEETING

Please take notice that the CEC will consider and possibly adopt the proposed regulations at a CEC Business Meeting at the date and time listed below. Interested persons, or their authorized representative, may present oral statements, arguments, or contentions relevant to the proposed regulations at the Business Meeting. If the date, time, place, or nature of the proposed adoption changes, the CEC will provide updated information in the rulemaking docket. Instructions for participating in the Business Meeting will be provided in the meeting notice consistent with COVID-19 guidance in place at the time.

Business Meeting
Wednesday, May 11, 2022
10:00 a.m. (Pacific Time)

PUBLIC ADVISOR

The CEC’s Office of the Public Advisor, Energy Equity and Tribal Affairs provides the public with assistance in participating in CEC proceedings. For information about how to participate in this proceeding or to request interpreting services or reasonable accommodations, please contact the [Public Advisor](#) via email at PublicAdvisor@energy.ca.gov or by phone at (916) 957-7910. Requests for interpreting services, modifications, and reasonable accommodations should be made as soon as possible and at least five days in advance of the public hearing or Business Meeting. The CEC will work diligently to accommodate all requests based on the availability of the service or resource needed.

Zoom: If you experience difficulties with the Zoom platform, please contact the Office of the Public Advisor, Energy Equity and Tribal Affairs via email or phone.

MEDIA INQUIRIES

Direct media inquiries to the Media and Public Communications Office at (916) 654-4989 or mediaoffice@energy.ca.gov.

PUBLIC COMMENT PERIOD

The public comment period for the proposed regulations will be held from February 25, 2022, through April 11, 2022. Any interested person, or their authorized representative, may submit written comments to the CEC for consideration on or prior to April 11, 2022. The CEC appreciates receiving written comments at the earliest possible date. Comments submitted outside this comment period are considered untimely. CEC may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages use of its electronic commenting system. Visit <https://efiling.energy.ca.gov/EComment/ECommentSelectProceeding.aspx>, type in docket number, 21-OIR-02. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the "Comment Text" box or attached as a downloadable, searchable document consistent with Title 20, California Code of Regulations, Section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include Docket Number 21-OIR-02 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit
Docket No. 21-OIR-02
715 P Street, MS-4
Sacramento, CA 95814

Pursuant to California Code of Regulations Title 20, Section 1104(e), any person may make public comment on any agenda item at the business meeting. Public comment may be limited to three minutes per commenter. Please consult the public agenda, which will be posted ten days before the business meeting, for important details.

To ensure you receive notice of any changes to the proposed regulations in this proceeding, please follow the instructions provided at the end of this notice to join the proceeding list serve or provide a valid email or mailing address with your comments.

STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25218(e) and 25541.5 authorize the CEC to adopt rules or regulations, as necessary, to implement, interpret, and make specific Public Resources Code Sections 25540-25540.3 and 25540.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CEC is undertaking this rulemaking in response to a Proclamation of a State of Emergency issued by Governor Gavin Newsom on July 30, 2021, directing state agencies to, among other things, perform any and all actions to accelerate the state's transition to carbon-free energy. This rulemaking will also support a June 2021 decision by the California Public Utilities Commission (CPUC) directing utilities to procure 11,500 megawatts (MW) of new electricity resources before 2026, with at least 1,000 MW coming from "firm resources with zero-onsite emissions" such as geothermal.

The CEC first adopted the regulations at issue in this proceeding in the late 1970s and has not significantly amended these regulations since then. These regulations have never been used because they are too burdensome for a county to petition for delegation of geothermal power plant certification authority, and for the CEC to approve such delegation. As a result, the CEC and counties have not been able to use this delegation authority, which could streamline the certification of geothermal power plants as intended by the Legislature. Streamlining these regulations would help remove barriers to geothermal power plant certification while maintaining robust environmental review and public participation as required under the California Environmental Quality Act (CEQA).

Therefore, the CEC is proposing to amend the CEC's procedures for delegating the CEC's full authority for the certification of geothermal power plants within a county which has adopted a geothermal element for its general plan and demonstrates that it has an equivalent certification program (Cal. Code Regs., tit. 20, §§ 1802 and 1860-1870).

Difference from existing comparable federal regulations or statute

These proposed regulations do not duplicate or conflict with any federal regulations or statute contained in the Code of Federal Regulations.

Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments

The broad objective of this rulemaking is to respond to the Governor's July 30, 2021, Emergency Proclamation to take steps to accelerate the state's transition to carbon-free energy. This rulemaking proposes to amend regulations that the CEC first adopted in the late 1970s and has not significantly amended since then. These regulations have never been used because they are too burdensome for a county to petition for delegation of geothermal power plant certification authority, and for the CEC to approve such delegation. As a result, the CEC and counties have not used

these regulations, which could streamline the certification of geothermal power plants as intended by the Legislature. Streamlining these regulations will help remove barriers to geothermal power plant certification while maintaining robust environmental review and public participation as required under CEQA. This rulemaking thus.

The specific benefits of this rulemaking are to streamline the CEC delegation of authority process to minimize cost and delay while maintaining a strong environmental review and mitigation program with opportunities for public participation and input under CEQA. Streamlining the regulations will help accelerate the state's transition to carbon-free energy by providing counties a simpler process to obtain a delegation of authority to site geothermal facilities.

Determination of inconsistency or incompatibility with existing state regulations

The CEC has conducted a search for any other regulations in this area and has determined that the proposed regulations are neither inconsistent nor incompatible with any existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The CEC does not propose to incorporate by reference any documents.

MANDATED BY FEDERAL LAW OR REGULATIONS

None.

OTHER STATUTORY REQUIREMENTS

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: No
- Cost to any local agency or school district requiring reimbursement pursuant to Government Code Section 17500 et seq.: No
- Cost or savings to any state agency: No
- Non-discretionary cost or savings imposed upon local agencies: No
- Cost or savings in federal funding to the state: No

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The CEC has made an initial determination that the proposed regulations will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The CEC proposes to streamline the delegation of authority processes to minimize cost and delay while maintaining a comprehensive environmental review and mitigation program with opportunities for public participation and input under CEQA. Amending portions of its delegation regulations will better reflect what is necessary to ensure an equivalent certification program while minimizing or eliminating unnecessary procedural steps that delay and complicate both the consideration of a petition for delegation and the requirements itself for the equivalent certification program.

The proposed amendments have no impact on business and only relate to those counties in the state that have geothermal resources within their jurisdiction. Thus, no economic or fiscal impacts are expected.

THE ECONOMIC IMPACT ASSESSMENT

The proposed amendments streamline the delegation process for counties that have geothermal resources but do not otherwise change the existing requirements that entities seeking to build and operate a geothermal power plant 50 MW or greater must obtain a certification. The CEC concludes that the proposal: (1) will not create jobs within California, (2) will not eliminate jobs within California, (3) is not expected to create new businesses in California, (4) is not expected to eliminate existing businesses within California, and (5) is not expected to result in the expansion of businesses currently doing business within the state. Further, the proposed amendments have no impact on business and only relate to those counties in the state that have geothermal resources within their jurisdiction.

Benefit of the Proposed Action: The proposed regulations will benefit the health and welfare of California residents and the state's environment through streamlining the CEC's delegation of authority processes to minimize cost and delay while maintaining a comprehensive environmental review and mitigation program with meaningful opportunities for public participation and input under CEQA.

The proposed regulation will have no effect on worker safety.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The CEC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed amendments have no impact on business and only relate to those counties in the state that have geothermal resources within their jurisdiction.

The CEC proposes to streamline the CEC delegation of authority processes to minimize cost and delay while maintaining a comprehensive environmental review and mitigation program with meaningful opportunities for public participation and input

under CEQA. The proposed regulations do not impact private persons and there are no anticipated cost impacts to businesses.

The CEC proposes to amend portions of its delegation regulations to better reflect what is necessary to ensure an equivalent certification program while minimizing or eliminating unnecessary procedural steps that delay and complicate both the consideration of a petition for delegation and the requirements itself for the equivalent certification program.

BUSINESS REPORT

The regulations do not impose a new reporting requirement.

EFFECT ON SMALL BUSINESS

The proposed regulations will not affect small business. The CEC is not aware of any significant costs impacts that a business, including a small business, would incur in reasonable compliance with the Proposed Action. This is because the Proposed Action only relates to those counties that have geothermal resources in their jurisdiction, and the Proposed Action merely streamlines procedures.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the CEC must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is 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.

CONTACT PERSON

Rulemaking process questions should be addressed to:

Corrine Fishman, Regulations Manager
715 P Street
Sacramento, CA 95814
(916) 805-7452
Corrine.Fishman@energy.ca.gov

If Corrine Fishman is unavailable, you may contact Jared Babula, Senior Staff Attorney, at (916) 891-8033 or at Jared.babula@energy.ca.gov.

COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 715 P Street, Sacramento California 95814. As of the date this notice is published in the Notice Register, the

rulemaking file consists of this notice, the express terms, the Initial Statement of Reasons, and any documents relied upon. Copies may be obtained by contacting Corrine Fishman above or accessed through the CEC website at [Docket No. 21-OIR-02](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02>.

AVAILABILITY OF CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be changed as a result of public comment, staff recommendation, or recommendations from commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the proposed regulations pursuant to Government Code Section 11346.8, a full copy of the text and any additional documents relied upon will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons, once it has been prepared, by visiting the CEC website at [Docket No. 21-OIR-02](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared for this rulemaking have been posted on the CEC's website at [Docket No. 21-OIR-02](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-02>.

INSTRUCTIONS FOR RECEIVING NOTICES AND DOCUMENTS IN THIS PROCEEDING

To stay informed about this project and receive documents and notices of upcoming workshops and hearings as they are filed, please subscribe to the **Rulemaking list serve or Geothermal list serve**, which can be accessed at https://ww2.energy.ca.gov/listservers/index_cms.html under Commission General Lists or Renewable Energy Lists. The list serve sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable or do not wish to sign up for the list serve but still would like to receive documents and notices, please contact the contact person listed in this notice.