

DOCKETED

Docket Number:	21-OIR-02
Project Title:	Rulemaking to Amend Regulations for Delegation of Certification Authority
TN #:	242930
Document Title:	Public Hearing transcript
Description:	Transcript of Public Hearing on April 14, 2022
Filer:	Ngoc Tran
Organization:	California Energy Commission
Submitter Role:	Committee
Submission Date:	5/4/2022 11:28:21 AM
Docketed Date:	5/4/2022

CALIFORNIA ENERGY COMMISSION

In the matter of:

Rulemaking to Amend)	Docket No. 21-OIR-02
Regulations for Delegation)	
of Geothermal Certification)	
Authority)	
_____)	

PUBLIC HEARING

REMOTE VIA ZOOM

THURSDAY, APRIL 14, 2022

10:00 A.M.

Reported by:

Martha Nelson

APPEARANCES

COMMISSIONER

Kourtney Vaccaro, Lead Commissioner

CEC STAFF

Jared Babula, Senior Attorney, Chief Counsel's Office
Kristen Driskell, Chief Counsel's Office
Corrine Fishman, Efficiency Division

PUBLIC COMMENT

Eric Thronson, Townsend Public Affairs

Scott Nichols, Ormat Technologies

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P R O C E E D I N G S

10:01 A.M.

THURSDAY, APRIL 14, 2022

MR. BABULA: Thank you, everybody. This is the Rulemaking to Amend Regulations for Delegation of Geothermal Certification Authority. And my name is Jared Babula and I will be running this presentation. I'm a Senior Attorney here at the Energy Commission.

Next slide.

So I want to welcome everybody to today's public hearing on the proposed amendments to the Geothermal Delegation Regulations.

Before we get started, a few housekeeping items to go over.

So all statements today in a hearing recording that we are -- will be doing will become part of the public record.

If you're not speaking, please mute your line so that we don't get any feedback.

And comments will be taken at the end of the presentation. So if you're online, you can click to raise your hand in the webinar controls and then the host will call on you. And then after speaking, you can just make sure to mute

1 yourself. If you're on the phone, you can dial
2 star nine to raise your hand and, again, the host
3 will then call on you to speak, and then dial
4 star six to mute and unmute. And be sure to
5 state your name and affiliation before speaking,
6 so that way we can get that into the record and
7 on the recording.

8 So just, right now, I'd just like to ask
9 if there any representatives from any county or a
10 local agency that's either on the Zoom call or on
11 the phone? So if you'd like to just raise your
12 hand and we can call on you, just to introduce
13 yourselves. So, again, any representatives from
14 county or local agencies participating today?
15 Okay. It doesn't -- I'm not hearing anything.

16 Do you see any hands, Ngoc or Liza?

17 MS. TRAN: I don't see any hand, Jared --

18 COMMISSIONER VACCARO: At this time.

19 MS. TRAN: -- at this time.

20 MR. BABULA: Okay. Well, we'll see if
21 they join later.

22 So I'd like to just turn it over to
23 Commissioner Vaccaro for some opening remarks for
24 this proceeding.

25 Commissioner, go ahead.

1 COMMISSIONER VACCARO: Thank you so much,
2 Jared. First of all, I apologize for not being
3 on camera. I'm having some technical
4 difficulties this morning.

5 But with that, I would just like to say
6 good morning to everyone who is participating
7 today. I'm Kourtney Vaccaro. I'm the newest
8 Energy Commission Commissioner as of early last
9 month. And I have just a few brief comments.

10 So first of all, I just wanted to state
11 that I'm pleased for the opportunity to be able
12 to listen in to today's hearing and learn from
13 the input that we'll receive. I've been
14 designated as the Lead Commissioner for the work
15 of the Siting, Transmission, and Environmental
16 Protection Division, and have a particular
17 interest in the regulations before us today.

18 I've been following the development of
19 these regulations over the past several months
20 and appreciate the comments received to date. I
21 would really like to acknowledge the outreach and
22 engagement work of CEC staff across several
23 divisions to reach stakeholders of all kinds
24 throughout the state, including reaching out to
25 tribes, to invite diverse perspective and

1 participation in this rulemaking.

2 And I also wanted to acknowledge staff's
3 efforts to make the CEC nimble and efficient in
4 its siting process while maintaining the
5 integrity of those processes and continuing to
6 prioritize public process and engagement,
7 environmental review, and public health and
8 safety.

9 So with that, you know, I'll just
10 conclude my remarks. And I look forward to
11 listening and learning today. Thanks so much.

12 MR. BABULA: Great. Thank you.

13 Next slide.

14 So the purpose of this public hearing is
15 to receive comments on the proposed expressed
16 terms, rulemaking documents, or rulemaking
17 process. Written comments submitted during the
18 45-day comment period and any oral comments made
19 today will be responded to by CEC staff in the
20 final Statement of Reasons. All comments made
21 today and this recording will become part of the
22 public record, as a remind.

23 Next slide.

24 So here's a list of some key events for
25 this rulemaking so that we can kind of catch up.

1 So the timeline here is the Order
2 Instituting Rulemaking starting this, it started
3 on December 8th. Then February 24th, we
4 published rulemaking documents. The 45-day
5 comment period closed April 11th. And then today
6 is April 14th, the public hearing.

7 We're proposing to take the rulemaking
8 package to the Commission for adoption on May
9 11th, so that would be the May 11th business
10 meeting. And then looking to submit to OAL in
11 June. And we're estimating a potential effective
12 date of the regulations August 1st, 2022. So
13 that would be the proposed schedule that we're
14 looking to achieve here.

15 Next slide.

16 So for background, the CEC has exclusive
17 jurisdiction to certify for construction
18 operation of thermal power plants 50 megawatts or
19 larger. And this authority include geothermal
20 facilities.

21 Next slide.

22 So the Warren-Alquist Act provides an
23 opportunity for counties to be delegated
24 authority to certify geothermal power plants. So
25 the regulations at issue today address the

1 process for this delegation. So it's important
2 to remember that the delegation only applies to
3 geothermal power plants within the CEC's
4 jurisdiction. So a power plant, a geothermal
5 power plant before 50 megawatts would be
6 typically already under the jurisdiction of the
7 county.

8 And so here we just lay out some of the
9 elements of the existing regulations. So there
10 would be -- the county would have a geothermal
11 element in its general plan. There would be a
12 requirement for petitions that -- a petition that
13 demonstrates the county has an equivalent
14 certification program.

15 And then there's a procedure that's
16 currently set forth in our regulations in Title
17 20 sections 1860 to 1870 which lay out this
18 approval process.

19 To date, no county has petitioned for a
20 delegation, so it hasn't occurred yet.

21 Next slide.

22 So the overall purpose of the amendments
23 we're proposing is to element redundant,
24 obsolete, or excessive administrative process
25 while retaining all the requirements of the

1 Warren-Alquist Act to ensure robust environmental
2 review and public participation.

3 And so the two key sections that had some
4 significant change would be section 1863, which
5 is the contents of the petition. So we included
6 greater tribal engagement to clear all
7 requirements of CEQA.

8 And then removed -- we're proposing to
9 remove some of the hearing details and simply
10 rely on the statutory provisions in the Warren-
11 Alquist Act that cite to Government Code section
12 65350 to just address the hearing details.

13 And then in section 1867, which is the
14 CEC's review of the petition, we streamlined that
15 review process. We reduced some of the hearing
16 process that was in the petition and eliminated
17 the need for two hearings.

18 So those are some of the key aspects of
19 the proposed changes.

20 Next slide.

21 So to ensure engagement, this slide shows
22 how to connect with this rulemaking if you're not
23 already aware. And so we've got the docket is
24 Docket 21-OIR-02, so that's where all the
25 documents related to this rulemaking are posted.

1 And there is a way to subscribe to that
2 docket through the LISTSERV. And so the
3 different LISTSERVs that would allow you to get
4 notice of any activity in that docket would be
5 the Citing Division General LISTSERV, Rulemaking
6 LISTSERV, and the Geothermal LISTSERV. And
7 there's the webpage, energy.ca.gov/subscriptions.
8 That's where you can find all the LISTSERVs to
9 subscribe to.

10 You can also contact the Public Advisor's
11 Office for assistance in participating in this
12 rulemaking.

13 And so now I'd like to start the public
14 comment period and invite folks who are on mute
15 on a telephone or the Zoom to make public
16 comments. You'll have three minutes per person.
17 And you can just raise your hand and then you'll
18 be called on. You can unmute yourselves and
19 start your comments.

20 So, again, the information is on the
21 screen. If you're on the telephone, you want to
22 press star nine to raise your hand and then star
23 six to unmute.

24 And with that, I'd like to start. Anyone
25 from the counties or local government, if you'd

1 like to go first, please, you could raise your
2 hand and we will call on you and you can make
3 your comment. Thank you.

4 So I don't see --

5 MS. TRAN: Hi, Jared.

6 MR. BABULA: Yeah. I don't see anybody
7 on the -- at least the Zoom participant list who
8 would not already be CEC staff.

9 MS. TRAN: Hi Jared. This is Ngoc. We
10 have one hand raised --

11 COMMISSIONER VACCARO: With a phone
12 number.

13 MS. TRAN: -- with a phone number --

14 MR. BABULA: Okay.

15 MS. TRAN: -- 17 -- 1512.

16 MR. BABULA: Yeah, please.

17 MS. TRAN: It's a call.

18 MR. BABULA: Go ahead.

19 MR. THRONSON: Hello. Can you hear me?

20 MR. BABULA: Yes. Thank you.

21 MR. THRONSON: Yes. This is Eric
22 Thronson with Townsend Public Affairs,
23 representing the Imperial County Board of
24 Supervisors. They are in strong support of the
25 change to the rulemaking, so the rulemaking

1 change.

2 MR. BABULA: Okay. Thank you for your

3 comment.

4 Any other comments?

5 MS. TRAN: Hi, Jared. We don't have any

6 more hand raising --

7 COMMISSIONER VACCARO: At this time.

8 MS. TRAN: -- at this time.

9 MR. BABULA: Okay. No. Yeah, I see.

10 Well, we'll make one more --

11 MS. TRAN: Hi, Jared. There is one more

12 hand raising --

13 MR. BABULA: Okay.

14 MS. TRAN: -- from Scott Nichols. Sorry.

15 MR. NICHOLS: Good morning. This is

16 Scott Nichols with Ormat Technologies. If you'd

17 like me to wait until you have comments from the

18 public comment, I can do that or I could comment

19 now. I didn't know if you were going to continue

20 comments or not.

21 MR. BABULA: Oh, okay. Yeah, let's just

22 open it to all comments now. Thank you. All

23 comments.

24 So go ahead.

25 MR. NICHOLS: Okay. Jared, again, this

1 is Scott Nichols. I'm the Regulatory Affairs
2 Manager for Ormat Technologies. We have projects
3 in Sonoma County and Imperial County. I've been
4 traveling to both of those areas, working with
5 county staff and local residents on projects.

6 And I guess we are -- I'd just like to
7 say, we are in strong favor and support this
8 designation or delegated authority and just want
9 to thank the California Energy Commission and the
10 State of California for taking a step and
11 allowing this designated authority to take place.

12 Thank you.

13 MR. BABULA: Thanks a lot for your
14 comment.

15 Any other public comments of anybody?

16 COMMISSIONER VACCARO: Jared, no.

17 MS. TRAN: Hi, Jared. I don't see any
18 hand raised at this time.

19 MR. BABULA: Yeah, and neither do I.
20 Let's give just a couple to consider their
21 thoughts.

22 Okay, it doesn't look like -- let me just
23 make one more check. I'm looking at our
24 attendees list. It looks like we had 18 people
25 participate. Okay, this could be pretty short.

1 One more time, any comments?

2 Okay, seeing none, Commissioner Vaccaro,
3 would you like an opportunity for any closing
4 remarks?

5 COMMISSIONER VACCARO: Thanks, Jared. I
6 think the only thing I'd like to do is, you know,
7 thank you for the presentation, again, just
8 acknowledge the work of the staff team across
9 divisions in moving this forward, and appreciate
10 those who commented today.

11 I look forward to this process continuing
12 to move forward.

13 MR. BABULA: Okay. Well, with that, I'll
14 take one more shot, any last comments? Okay.

15 I think we're done then, so we can close
16 this hearing, and we look forward to continuing
17 working with everybody as we move through this
18 process.

19 And that, I think we're done. Thanks a
20 lot, everybody.

21 MR. NICHOLS: Thank you. I sure
22 appreciate the opportunity.

23 (The public hearing adjourned at 10:16 a.m.)

24

25

CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of May, 2022.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

May 4, 2022