

DOCKETED

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**BUSMTG-2023-01 Rulemaking petition to amend 20 CCR 1222(a)
and 1221(a)**

Docket Unit please distribute this rulemaking petition to the Executive Director pursuant to 20 CCR 1201(f).

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Additional submitted attachment is included below.

BUSMTG-2023-01 Rulemaking petition to amend 20 CCR 1222(a) and 1221(a)

Energy Commission Executive Director
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Current regulations:

Section 1222(a), The commission may, upon its own motion or upon granting a petition filed pursuant to section 1221 of these regulations, adopt an order to institute a rulemaking proceeding in accordance with the procedures of Sections 11346.4, 11346.5 11346.7, and 11346.8 of the Government Code.

Section 1221(a), Any person may petition the commission to request rulemaking hearings.

Reason for this petition:

The current regulations apply only to rulemaking hearings and informational hearings, not to rulemaking as a whole.

The Energy Commission has used these regulations, 1222 and 1221, to implement Sections 11340.6 and 11340.7 of the Government Code even though the regulations do not cite Sections 11340.6 and 11340.7 of the Government Code.

It is not clear in the current regulations as to the intent of the Energy Commission's legislative body. Denying a rulemaking hearing notwithstanding GOV 11346.5(a)(17), and GOV 11346.8(a), cited in current regulations, by denying a 1221 petition for rulemaking hearing is unlawful.

Perhaps the intent of the Energy Commission's legislative body is to implement what are now Sections 11340.6 and 11340.7 of the Government Code. If that is the intent of the Energy Commission's legislative body a substantial amendment is required to move from handling requests for rulemaking hearings to the regulations applying to rulemaking as a whole.

1221 clearly states the petition is for a rulemaking hearing. The Energy commission can not deny a hearing for a rulemaking pursuant to GOV 11346.5(a)(17), and GOV 11346.8(a). 1222(a) implies the Energy Commission can deny a rulemaking hearing by denying a 1221 petition for a rulemaking hearing notwithstanding GOV 11346.5(a)(17), and GOV 11346.8(a).

The current regulations cites sections of the Government Code that have been repealed and section numbers later used for provisions not applicable to the Energy Commission. Example GOV 11346.7 now applies only to the Office of Administrative Law.

Nature of the amendments that are needed are to ensure that appropriate legislative bills are implemented since the regulations were adopted to ensure clarity of of the Energy Commission's legislative intent.

GOV 11346.4 bills:

AB2540-19871988, AB2531-19931994, AB505-19992000

GOV 11346.5 bills:

AB1144-19931994, AB2531-19931994, AB1822-19992000, AB1822-19992000, AB505-19992000, AB505-19992000, AB1857-20012002, AB1612-20112012, AB1612-20112012, AB2041-20112012, AB2041-20112012, AB410-20112012, SB617-20112012

GOV 11346.7 bills:

AB2540-19871988, AB2531-19931994, AB505-19992000

GOV 11346.8 bills:

AB2540-19871988, AB2531-19931994, AB1822-19992000, AB505-19992000

Authority cited: Section 25213, Public Resources Code. Reference: Sections 25210 and 25214, Public Resources Code.

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