

**DOCKETED**

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**CALIFORNIA ENERGY COMMISSION**

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CEC-057 (Revised 1/21)

**INITIAL STATEMENT OF REASONS****Title 20. Public Utilities and Energy**

Article 1: Commission Business Meetings and Article 4. Rulemaking and Informational Hearings  
Sections 1102, 1105, and 1221.

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**INTRODUCTION**

The California Energy Commission (CEC) proposes to adopt amendments to the CEC's procedures, related to business meetings and requests for rulemakings, as contained in the California Code of Regulations (CCR), title 20, sections 1102, 1105, and 1221.

The purpose of this rulemaking is to: (1) allow the CEC to conduct business meetings as necessary, (2) remove the requirement for the CEC to take minutes and clarify that the transcript and decisions, orders, and resolutions approved in meetings shall be the original evidence of actions taken at the business meeting, and (3) ensure that the CEC has sufficient information to evaluate petitions for rulemakings and increase the time for the executive director to respond to a petition for rulemaking from seven to 14 days.

These proposed procedural changes related to business meetings and requests for rulemakings will allow the CEC to conduct its business and respond to the public more efficiently and will save CEC staff time and resources.

**PROBLEM STATEMENT**

As the state's primary energy policy and planning agency, the CEC's responsibilities have increased relative to helping the state reach its climate and energy goals. With the increase in responsibilities, the CEC's workload has also increased. As such, the CEC must have the flexibility to hold business meetings as needed. There have been months where the CEC has needed to hold multiple business meetings within a month in order to conduct the CEC's business. There are also occasions where a business meeting is not needed or cannot easily be convened due to lack of a quorum of commissioners. Unlike other boards and commissions, the CEC's commissioner positions are full time compensated positions. Commissioners have demanding work obligations which

include the need to travel outside of the region and country. Consequently, there is an urgent need for the CEC to have more flexibility in determining when and how often to conduct business meetings.

Additionally, it is vital that the CEC's regulations be amended to address recurring issues in the implementation of the regulations, to make the process more efficient and effective, and save staff time and resources. The regulations currently designate minutes as the original evidence of actions taken at CEC meetings. The CEC expends extensive staff resources to produce the minutes for business meetings. This process entails an assigned staff person typing notes of comments made at the business meeting. These notes are based on the perception and awareness of one person and are not the best evidence of the official record. The process is cumbersome, time consuming, inefficient and subject to error and in today's world, an obsolete process. Concurrently, the CEC utilizes court reporters to create an accurate record of business meeting proceedings. Such transcripts are the more accurate record of proceedings.

With respect to petitions for rulemakings, CEC frequently receives requests for rulemakings that are vague and/or difficult to understand. The CEC spends a considerable amount of time interpreting these requests. In addition, the short timeframe within which the CEC must respond to requests for rulemakings does not permit the CEC to thoroughly evaluate the petitions.

Therefore, the CEC is proposing to amend our procedures to: (1) allow the CEC to conduct business meetings as necessary, (2) remove the requirement for the CEC to take minutes and clarify that the transcript and decisions, orders, and resolutions approved in meetings shall be the original evidence of actions taken at any meeting, and (3) ensure that the CEC has sufficient information to evaluate petitions for rulemakings and increase the time for the executive director to respond to a petition for rulemaking from seven days to 14 days.

## **BENEFITS**

The specific benefits of this rulemaking are that the CEC's regulations related to business meetings would address recurring issues in the implementation of unnecessary or burdensome regulations, align with available recording technologies and current practices, and save CEC staff time and resources. These changes will allow the CEC to effectively conduct its business while improving public transparency and minimizing delays in responding to requests for rulemakings.

## **STATEMENT OF SPECIFIC PURPOSE AND NECESSITY**

### **SECTION 1102. Meetings - Scheduling.**

#### **SPECIFIC PURPOSE**

The specific purpose of the proposed amendments is to allow the CEC to conduct business meetings as necessary, which occasionally occurs more than once a month when the CEC's workload requires doing so, while still allowing flexibility for the CEC to

meet less frequently in order to accommodate the obligations of the commissioners or when a business meeting cannot easily be convened due to lack of a quorum of commissioners.

#### NECESSITY

The business of the CEC has fluctuated over time. The CEC now needs the flexibility to determine when and how often to conduct business meetings. The CEC's workload has frequently required that the CEC meet multiple times a month. At the same time, work obligations have required that the CEC commissioners frequently travel, which sometimes requires cancelling meetings. The CEC posts the meeting cadence on the CEC's website to increase public transparency. The proposed change is consistent with Public Resources Code section 25214 which states, "The commission shall hold meetings at such times and at such places as shall be determined by it."

### **SECTION 1105. Permanent Record.**

#### SPECIFIC PURPOSE

The specific purpose of the proposed amendments is to adapt the form of the record the CEC requires as the original evidence of actions taken at CEC meetings, with current technology to save staff resources and provide the most accurate record of proceedings to the public.

#### NECESSITY

The CEC currently expends staff resources to create the meeting minutes, which is cumbersome and time consuming. It is no longer necessary to keep minutes given that technology has adapted to be more efficient and effective. Transcripts generated by a professional court reporter provide a more accurate record of proceedings and require less staff resources to produce, therefore the CEC should designate transcripts as the original evidence of actions taken at CEC meetings. The CEC will retain the transcripts per the CEC's document retention schedule.

### **SECTION 1221. Petitions.**

#### SPECIFIC PURPOSE

The specific purpose of the proposed amendments is to ensure that members of the public provide the information necessary to evaluate petitions for rulemakings in a clear and concise manner, to avoid confusion and delays in responding to requests. The amendments would also allow staff to have sufficient time to thoroughly evaluate the requests for rulemakings.

#### NECESSITY

In the past, the CEC has received requests from members of the public for rulemaking hearings that are vague and/or difficult to understand. These requests are challenging for the CEC to respond to and require staff time to interpret. The amendments to Section 1221(a) would require that members of the public submitting requests for rulemaking hearings ensure that their requests are clear and concise. Once a petition is

filed the CEC has limited time to determine whether the petition contains the information required to evaluate and respond to the request for a rulemaking hearing. It is an inefficient use of the CEC's time and resources to have to decipher and interpret the meaning of vague requests for rulemaking. The amendment to require submission of clear and concise information would allow the CEC to effectively process requests and would minimize delays in responding. Additionally, the proposed amendment mimics the statutory language used in Government Code Section 11340.6, which requires that any person petitioning a state agency for a request for rulemaking clearly and concisely provided the specified information needed to evaluate the request. In addition, Section 1221(b) amendments are needed to ensure that the CEC has sufficient time to respond to requests. The current timeline of seven days presents challenges for the CEC to respond. The amendment would allow the CEC to have the needed time to evaluate the request, thus allowing the CEC to accomplish the purpose of Section 1221 which is to thoroughly evaluate the petitions for requests for rulemakings.

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### **The Creation or Elimination of Jobs within the State of California**

The CEC proposes procedural changes related to business meetings and requests for rulemakings. The proposed regulations do not impact private persons' job opportunities and there are no anticipated cost impacts to businesses. Therefore, the CEC has determined that jobs will not be created or eliminated as a result of the proposed regulations.

### **The Creation of New Businesses or the Elimination of Existing Businesses within the State of California**

The CEC proposes procedural changes that will save staff time and resources when holding business meetings and responding to requests for rulemakings. There are no anticipated cost impacts to businesses and there is no information indicating that the proposed regulations will change the number of businesses. Therefore, the CEC has determined that no new businesses would be created or eliminated as a result of the proposed regulations.

### **The Expansion of Businesses Currently Doing Business within the State of California**

The CEC proposes procedural changes that will save staff time and resources when holding business meetings and responding to requests for rulemakings. There are no anticipated cost impacts to businesses and there is no information indicating that the proposed regulations will change the size of businesses in the state. Therefore, the CEC has determined that the proposed regulations will not result in the expansion of businesses.

## Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed regulations are procedural in nature. They will impact the CEC's use of time and resources and will allow the CEC to effectively conduct its business while improving public transparency and minimizing delays in responding to requests for rulemakings. The proposed amendments will not impact the health and welfare of California residents, worker safety, or the state's environment as the proposed changes are procedural.

## Results of the Economic Impact Assessment/Analysis

The CEC concludes that the proposal: (1) will not create jobs within California, (2) will not eliminate jobs within California, (3) will not create new businesses in California, (4) will not eliminate existing businesses within California, and (5) will not result in the expansion of businesses currently doing business within the state.

## **TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR SIMILAR DOCUMENTS RELIED UPON.**

The CEC has not relied on any technical, theoretical, or empirical studies or reports to develop these proposed regulations. The CEC has conducted research and found that the proposed changes align with the practice and procedures of business meetings held by the California Air Resources Board, the California Public Utilities Commission, and the California Coastal Commission.

## **CONSIDERATION OF REASONABLE ALTERNATIVES INCLUDING THOSE THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

No reasonable alternatives to the proposed regulations have been proposed that would lessen any adverse impact on small business or that would be less burdensome and equally effective in achieving the purposes of the regulations.

## **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

The proposed regulations do not mandate specific technology or equipment.

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT AFFECTING BUSINESS**

The CEC has made an initial determination that the proposed regulations are unlikely to have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations are procedural in nature. They will impact the CEC's use of time and resources and will allow the CEC to effectively conduct its business while improving public transparency and minimizing delays in responding to requests for rulemakings. The proposed regulations do not impact private persons and there are no anticipated cost impacts to businesses associated with these proposed changes.

The proposed changes will allow the CEC to conduct business meetings as necessary. The CEC will continue to hold business meetings in a manner that reflects the CEC's workload. Therefore, any businesses that may be interested in the ongoings of CEC's business meetings will continue to have the opportunity to listen and be engaged in these meetings. The proposed changes also include procedural amendments that would remove the requirement for the CEC to take minutes and clarify that the transcript and decisions, orders, and resolutions approved in meetings shall be the original evidence of actions taken at any meeting, and would ensure that the CEC has sufficient information to evaluate petitions for rulemakings and increase the time for the executive director to respond to a petition for rulemaking from seven to 14 days. These procedural changes would not have a direct or indirect impact on businesses as their intended purpose would be to reduce the CEC's time and cost of preparing the original evidence of actions taken at meetings and responding to petitions for rulemakings. Regardless of the changes, the public would still have access to the ordinary course of business that occurs at business meetings and would have the same opportunities to petition for requests for rulemakings.

## **DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

These proposed amended regulations do not duplicate or conflict with any federal regulations or statute contained in the Code of Federal Regulations. The amended regulations are procedural in nature specific to the actions of state agencies and the CEC in conducting agency business thus are a matter of state law. The CEC has not identified any federal law that directs the frequency of agency meetings, or the way agency action is evidenced. The CEC has been conducting agency hearings and meetings for decades and no federal agency has identified a duplication or conflict between the relevant CEC regulatory provisions and federal regulations.