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California Code of Regulations, title 1, section 100 Request

September 2023

Introduction

The California Energy Commission (CEC) submits this request to the Office of Administrative Law (OAL) under California Code of Regulations, title 1, section 100, to amend California Code of Regulations, title 20, sections 1221 and 1222(a). The proposed changes update citations and have no regulatory effect.

California Code of Regulations, title 20, section 1221

CEC requests a change to section 1221.

California Code of Regulations, title 1, section 100 states that a change without regulatory effect is one that “does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element.” In California Code of Regulations, title 20, section 1221, the Authority and Reference provisions cite Government Code sections 11347 and 11347.1. In 1994, AB 2531 was passed which reorganized Chapter 3.5 (commencing with section 11340) of Division 3 of title 2 of the Government Code. Sections 11347 and 11347.1 were renumbered to sections 11340.6 and 11340.7. Because OAL is the agency with authority to further implement, interpret, and make specific the specific Government Code sections, rather than update the obsolete Reference citations, the CEC proposes to replace the Reference citations with a citation to the CEC’s implementing statute, specifically Public Resources Code section 25218(e), which authorizes the CEC to issue regulations. This change does not alter any responsibility, right, or regulatory element, nor does the change add or remove any person or entity from the regulated population.

California Code of Regulations, title 20, section 1222(a)

CEC requests a change to section 1222(a).

California Code of Regulations, title 1, section 100 states that a change without regulatory effect is a change that “does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element.” California Code of Regulations, title 20, section 1222(a) reads: “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.”

These four enumerated sections of the Government Code are contained within Article 5 entitled, *Public Participation: Procedure for Adoption of Regulations*. (Gov. Code, §§ 11346-11348.) The CEC is subject to all provisions found in Article 5 beyond the four

listed in California Code of Regulations, title 20, section 1222(a). Thus, the CEC's regulations contain an incomplete list of the applicable Government Code provisions.

In 2000, AB 505 amended Government Code section 11346.7 to state: "The office shall maintain a link on its website to the website maintained by the Small Business Advocate that also includes the telephone number of the Small Business Advocate." Hence, this provision no longer applies to the CEC and should not be cited to in the CEC's regulations.

To address the incomplete listing of applicable Government Code provisions in the CEC's regulations ("Sections 11346.4, 11346.5 11346.7, and 11346.8.") and in the case of section 11346.7, a provision that is no longer applicable, the CEC is proposing replacing the existing language with a broader citation to "Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." The language is consistent with Public Resources Code section 25213(a) which authorizes the CEC to adopt rules and regulations, as necessary, to carry out the provisions of its implementing statute in conformity with the cited Government Code provision.

This change does not alter any responsibility, right, or regulatory element, nor does the change add or remove any person or entity from the regulated population.