

DOCKETED

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Project Title:	Siting Compliance Process Review and Improvement Proceeding
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CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov



In the matter of:)	Docket No. 15-OII-01
)	
Siting Compliance Process Review and)	WORKSHOP
Improvement Proceeding)	RE: Amendment Processing and
)	Other Provisions of Title 20

Notice of Staff Workshop

California Energy Commission staff (Staff) will conduct a workshop on proposed changes to the California Code of Regulations related to power plant license amendments and other provisions of Title 20. Commissioner Karen Douglas and Commissioner Janea Scott may also attend the workshop.

Tuesday, January 30, 2018

11:00 AM

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street, 1st Floor, Imbrecht Room (Hearing Room B)
Sacramento, CA 95814
Wheelchair Accessible

Remote Access Available by Computer or Phone via WebEx™
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Background

On January 23, 2017, Staff conducted a workshop to discuss with stakeholders and the public potential changes to the Commission's Siting Amendment Process and Procedure, as well as the Commission's amendment fee process.

As a result of the discussions and comments received, as well as internal review of other provisions of the Commission's regulations, Staff proposes a number of revisions to Title 20 of the California Code of Regulations. These revisions are primarily related to the Commission's power plant siting process.

All documents associated with this pre-rulemaking and all comments received to date in this proceeding may be found on the Energy Commission's Website at:
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=15-OII-01>.

Draft Language

Staff's proposed revisions are explained briefly below (Note section headings include proposed text changes):

- Section 1201 Definitions. As part of a broader reorganization of the provisions related to the small power plant exemption, Staff proposes deleting the definition for "Application".
- Section 1209 Notice of Public Events. Staff proposes to clarify that publicly noticed events may be continued in a manner as provided by Government Code Section 11129.
- Section 1211.5 Motions. Staff proposes clarifying that subsection (b) applies in the context of business meetings before the Commission.
- Section 1211.7 Intervenor. Staff proposes to include a specific time period for intervention in cases where the time period between notice of the first evidentiary hearing and hearing is less than 30 days.
- Section 1212 Rights of Parties, Record and Basis for Decision. Staff proposes to make clarifying changes to various provisions of this section.
- Section 1231 Request for Investigation; Filing with the Commission. Staff proposes a grammatical correction.
- Section 1232 Request for Investigations; Commission Response. Staff proposes language refinements that better describe the request for investigation process and the actions taken by the Executive Director.
- Section 1232.5 Request for Investigation; Review by the Chair. Staff proposes changes to provide greater precision as to the nature of the request for investigation process and the role of the Energy Commission's Chair in that process.
- Section 1234 Jurisdictional Determination. Staff proposes a procedural change to have appeals filed with the Chief Counsel's office.
- Section 1704 Information Requirements for Notices of Intent and Applications for Certification. Provisions related to small power plant exemptions are consolidated in the 1900s and references to exemptions in the 1700s are deleted.
- Section 1706 Number of Copies. Provisions related to small power plant exemptions are consolidated in the 1900s and references to exemptions in the 1700s are deleted.
- Section 1708 Costs and Fees. Staff proposes to specify those activities which constitute the "processing of a petition to amend" pursuant to section 25806(e) of the Public Resources Code, and are therefore subject to the fee specified in that statute.

Proposed language changes eliminate obsolete provisions that have been changed by statute.

- Section 1709 Filing of Notices of Intent and Applications for Certification; Data Adequacy Review and Docking. Provisions related to small power plant exemptions are consolidated in the 1900s and references to exemptions in the 1700s are deleted.
- Section 1710 Staff as an Independent Party. Provisions related to small power plant exemptions are consolidated in the 1900s and references to exemptions in the 1700s are deleted.
- Section 1714 Distribution of Copies to Public Agencies and Tribal Governments; Request for Comments. Provisions related to small power plant exemptions are consolidated in the 1900s and references to exemptions in the 1700s are being deleted. Added the term “Tribal Government” to the heading to reflect the existing content of subsection (d).
- Section 1720.2 Termination of Notices of Intent and Application for Certification Proceedings. Staff proposes to remove acronyms in the section heading as well as remove reference to small power plant exemptions.
- Section 1745.5 Presiding Member’s Proposed Decision; Comment Period; Basis; Contents. Staff proposes grammatical and formatting edits as well as more precision in cross referencing to the Public Resources Code.
- Section 1748 Final Decision. Staff proposes conforming changes with proposed changes in section 1745.5.
- Section 1768 Notice of Decision; Filing with Resources Agency. Staff proposes renumbering this section and correcting the name of the Natural Resources Agency.
- Staff proposes adding Article 3.1 Post-Certification Activities.
- Section 1751 Post-Certification List Serve. Staff proposes a process to address the transition between the application for certification phase and the compliance phase.
- Section 1769 Post Certification Petition for Changes in Project Design, Operation or Performance and Amendments to the Commission Decision. Staff proposes revisions to section 1769 that would provide Staff flexibility to approve certain changes to Air Quality conditions of certification, as long as there are no impacts and no violations of applicable laws, ordinances, regulations, and standards resulting from the change. Other changes are proposed to add clarity and cross reference the California Environmental Quality Act.
- Section 1769.1 Staff and Project Owner Jointly Initiated Amendment. Staff proposes a new class of collaborative amendment.
- Section 1936 Scope, Filing, Review and Distribution of Applications for Exemption. Staff proposes to clarify that the exemption process is subject to CEQA and the process for filing and distributing the application for exemption.

- Section 1937 Staff as an Independent Party. This language clarifies that in the exemption proceeding Staff will act as an independent party.
- Section 1940 Information Requirements for Applications for Exemption. Staff proposes to remove out dated provisions that predate the Commission's electronic filing system. The added text directs applicants to the appropriate appendix that describes the required information necessary in the application.
- Section 1941 Obtaining Information. Staff proposes to cite the requirements of 1716 with a modification as to the timeline for information requests to reflect the shorter application for exemption schedule.
- Section 1942 Termination of an Application for Exemption. Staff proposes to cite to the termination provision for applications for certification, section 1720.2.
- Section 1943 Presentation of Evidence. Staff proposes a minor edit.
- Section 1944 Application for Exemption Proceedings and Hearings. Staff proposes to clarify exemption procedures.
- Section 1945 Proposed and Final Decision. Staff proposes to remove obsolete language for consistency with other sections related to power plant siting and to reflect use of the Commission's electronic filing system.
- Section 1946 Content of Decision. Staff proposes a minor edit.
- Sections 2300-2309. Staff proposes to incorporate CEQA by reference and repeal the remaining provisions as they are obsolete.

A draft of Staff's proposed revisions is provided as an attachment to this notice, and will also be posted in the "Documents for this Proceeding" section of the Siting Compliance Process Review and Improvement Proceeding, <http://www.energy.ca.gov/title20/2015-OII-01>.

Agenda

- 11:00 am: Introduction and opening remarks.
- 11:15 am: Staff presentation on the proposed revisions.
- 11:45 am: Open discussion and public comment.

Please note that the times provided above are tentative and subject to adjustment.

Written Comments

Written comments should be submitted by 4:00 p.m. on January 26, 2017 at the latest, although earlier submission is encouraged. If you wish to provide comments on these or related topics, please submit comments to the Energy Commission using the electronic commenting system on the Energy Commission's website. Visit the website at <http://www.energy.ca.gov/title20/2015-OII-01> and click on the "Submit e-Comment" link. A full name, e-mail address, comment title, and either a comment or an attached

document (.doc, .docx, or .pdf format) is mandatory. After a challenge-response test used by the system to ensure that responses are generated by a human user and not a computer, click on the "Agree & Submit Your Comment" button to submit the comment to the Energy Commission Dockets Unit.

You are encouraged to use the electronic commenting system, described above, to submit comments. If you are unable to submit electronically, a paper copy of your comments may be sent to:

**Docket Unit
California Energy Commission
Docket No. 15-OII-01
1516 9th Street, MS-4
Sacramento, CA 95814**

Alternatively you may e-mail your comments to: DOCKET@energy.ca.gov

For all comments, please include the docket number (15-OII-01”) in the subject line and on the cover page. Please note that electronic, e-mailed, written, and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the viewable public record.

Availability of Documents

Documents and presentations for this meeting will be available online at:
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=15-OII-01>

Public Adviser and Other Commission Contacts

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this proceeding, please contact Alana Mathews, Public Adviser at PublicAdviser@energy.ca.gov or (916) 654-4489 or toll free at (800) 822-6228.

If you have a disability and require assistance to participate, please contact Poneh Jones at least five days in advance of the workshop, at Poneh.Jones@energy.ca.gov or (916) 654-5146.

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

If you have questions on the subject matter of this workshop, please contact Chester Hong at chester.hong@energy.ca.gov or at (916) 654-4215.

Remote Attendance

You may participate in this meeting through WebEx, the Energy Commission's online meeting service. Presentations will appear on your computer screen, and you may listen to audio via your computer or telephone. Please be aware that the meeting may be recorded.

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Dated: January 12, 2018, Sacramento, California

List serves:

Siting Lessons

Siting Division General List

Express Terms

January 12, 2018

§ 1201. Definitions.

The following definitions shall apply unless otherwise indicated:

(c) ~~“Application” means either an Application for Certification or an application for a Small Power Plant Exemption, unless otherwise indicated.~~

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 21061.1, 25214, 25502, 25519, 25540, 25540.1, 25540.2 and 25541.5, Public Resources Code; and Title 14, California Code of Regulations, Section 15364.

§ 1209. Notice of Public Events.

(a) Unless otherwise required by law or directed by the presiding member, all public events, such as workshops and hearings, in all proceedings shall be noticed at least 10 days before the event. Notice consists of sending the notice electronically to all persons on the appropriate commission listserv and applicable proceeding's service list.

(b) In addition, when the presiding member, the public adviser, or the executive director believes that a significant number of members of an affected community lack internet access or are otherwise unlikely to be exposed to notice provided under subdivision (a), the presiding member may order other methods of notice to be used, such as first class mail.

(c) The public adviser shall be consulted on the scheduling, location, and noticing of all commission public events, so as to promote full and adequate public participation.

(d) Publicly noticed hearings, presentations, conferences, meetings, workshops, and site visits may be continued from the date, time, and place originally scheduled to a future date, time, and place by posting notice at the door in the same manner as provided by Government Code section 11129. If the continuance is to a date ten days or more in the future, then notice shall also be provided as set forth in subdivision (a) and, if applicable, any additional methods of notice ordered pursuant to subdivision (b).

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25214, Public Resources Code; and Section 11104.5, Government Code.

§ 1211.5. Motions.

(a) Any party may request the presiding member ~~or, where applicable, the commission,~~ to issue orders or rulings, including but not limited to requests to require another person to act or to refrain from acting, or requests for adjudication of procedural or substantive issues. ~~All such requests shall, e~~Except as provided by subdivision (c) otherwise required by these regulations or otherwise allowed by the presiding member, all such requests shall be in the form of a written motion. Motions shall be filed and responded to according to a schedule established by the presiding member. In the absence of such a schedule, responses to motions shall be filed within 14 days of the service of the motions. Unless otherwise ordered by the presiding member, there shall be no replies to responses. The presiding member shall rule on the motion within 21 days of its filing, or a later deadline established by the presiding member; if the presiding member does not rule within 30 days of the motion's filing, or the time prescribed, the motion is deemed denied.

(b) For a hearing noticed to take place at a meeting of the Energy Commission noticed pursuant to section 1103, written motions must be filed five days prior to the meeting date, unless otherwise provided by the presiding member.

~~(b)~~ Requests for action made during any hearing may be made orally to the presiding member and need not be in the form of a written motion. Rulings by the presiding member may be made orally. If the presiding member does not make a ruling on the motion by the end of the hearing, the motion is deemed denied.

~~(c) A party to a proceeding, currently before the commission for consideration and identified on the commission's agenda, must file any related motion, requiring the commission to take some action, five days prior to the meeting date. Consideration of the motion is at the discretion of the presiding member.~~

Note: Authority cited: Sections 25210, 25216.5(a) and 25218(e), Public Resources Code. Reference: Sections 25213(a) and 25214, Public Resources Code.

§ 1211.7 Intervenor.

(a) Subject to the provisions of specific proceedings, any person may file a petition to intervene. The petition shall set forth the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the petitioner desires to participate in the proceedings, and the name, mailing address, e-mail address, and telephone number of the petitioner.

(b) A petition for intervention shall be filed no later than the deadline established by the presiding member, or if none is established, at least 30 days before the first evidentiary hearing in the proceeding. If the time period between notice of the first evidentiary hearing and the hearing is less than 30 days, the notice shall ~~contain~~ set a the deadline for intervention of at least 10 days from the date of the notice.

(c) The presiding member may grant intervention and may impose reasonable conditions on an intervenor's participation, including, but not limited to, ordering intervenors with substantially similar interests to consolidate their participation or limiting an intervenor's participation to specific topics. An intervenor is a party to a proceeding.

(d) The presiding member may grant late petitions only on a showing of good cause by the petitioner. No person who becomes a party shall be permitted to reopen matters or reopen discovery dealt with in the proceeding prior to the time when such person became a party, without an order from the presiding member based upon a showing of good cause.

(e) Any ruling on a petition to intervene may be appealed by the petitioner, to the ~~full~~ commission within 10 days of the ruling. Failure to file a timely appeal will result in the presiding member's ~~denial~~ ruling becoming the final action on the matter.

(f) Any petitioner may withdraw from any proceeding by filing a notice to such effect.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1212. Rights of Parties, Record and Basis for Decision.

(a) Rights of Parties. Subject to the presiding member's authority to regulate a proceeding as prescribed in section 1210, and other rights identified in specific proceedings, each party shall have the right to call and examine witnesses, to offer oral and written testimony under oath, to introduce exhibits, to cross-examine opposing witnesses on any matters relevant to the issues in the proceeding, and to rebut evidence.

(b) Hearing Record.

(1) The "hearing record", in an adjudicatory proceeding, is ~~all of the information the commission may consider in reaching a decision~~. The hearing record shall contain:

(A) all documents, ~~filed comments~~, materials, ~~oral statements~~, or testimony, received into evidence by the committee or commission at a hearing;

(B) public comment, including comments from other government agencies, offered orally at a hearing, or written comments received into the record at a hearing;

(C) any materials or facts officially noticed by the committee or commission at a hearing ; and

(D) all transcripts of evidentiary hearings; and

(~~D~~ E) for siting cases, subject to 1212(b)(3), staff's Final Staff Assessment and any timely filed supplemental assessments.

(2) Parties may move to exclude information from the hearing record ~~consideration by the commission~~ on the ground that it is not relevant, is duplicative of information already in the record, or on another basis. If the presiding member grants such a motion, the information shall be excluded from the hearing record. While the hearing need not be conducted according to technical rules relating to evidence and witnesses, questions of relevance and the inclusion of information into the hearing record shall be decided by the presiding member after considering fairness to the parties, hearing efficiency, and adequacy of the record.

(3) In a siting case, if a party requests a staff witness be present to sponsor specific portions of the Final Staff Assessment, or any supplemental assessments, and no witness is made available for questioning, the relevant portions of the staff assessment or supplemental assessments at issue shall be treated as comment and shall not be sufficient, in and of itself, to support a finding by the commission.

(c) Basis for and Contents of Decisions.

1) Decisions in adjudicative proceedings shall be based on the evidence in the hearing record, explain the basis for the decision, and shall include but need not be limited to all legally-required findings of fact and conclusions of law.

2) A finding may be based on any evidence in the hearing record, if the evidence is the sort of information on which responsible persons are accustomed to relying on in the conduct of serious affairs. Such evidence does not include, among other things, speculation, argument, conjecture, and unsupported conclusions or opinions. ~~The committee or commission may rely on public comment, standing alone, to support a finding if the committee or commission provides notice of its intent to rely upon such comment at the time the comment is presented, other parties are provided an opportunity to question the commenter, and parties are given a reasonable opportunity, as ordered by the presiding member, to provide rebuttal evidence.~~ The committee or commission shall give appropriate weight to information in the record as allowed by law.

3) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objections in civil actions.

4) Public comments and briefs filed by parties in an adjudicative proceeding, as prescribed in section 1208, may be considered by the committee or commission, but shall not be sufficient in themselves to support a finding. The committee or commission may rely on public comment, standing alone, to support a finding if the committee or commission provides notice of its intent to rely upon such comment at the time the comment is presented, other parties are provided an opportunity to question the commenter, and parties are given a reasonable opportunity, as ordered by the presiding member, to provide rebuttal evidence.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code; and Section 11513, Government Code.

§ 1231. Request for Investigation; Filing with the Commission.

Any person may allege, in writing, a violation of a statute, regulation, order, program, or decision adopted, administered, or enforced by the commission. For a request to be acted on by the commission it must be submitted to the executive director, and include:

- (a) the name, address, email and telephone number of the person filing the request;
- (b) identifying information such as the name, address, email and telephone number of the person or entity allegedly violating the statute, regulation, order, program, or decision;
- (c) a statement of the facts upon which the request is based and any evidence and witness statements demonstrating the existence of those facts;
- (d) a statement indicating the statute, regulation, order, program, or decision that has been violated; ~~and~~
- (e) the names and addresses of any other individuals, entities, or organizations that are or are likely to have been affected by the violations; and
- (f) a statement indicating if the person or entity requesting the investigation has attempted to resolve the issue with the person or entity alleged to have committed the violation.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1232. Request for Investigation; Commission Response.

(a) The executive director, in consultation with the chief counsel, shall direct staff to perform an evaluation of the request. Within 30 days of ~~filing~~ receipt of a complete request, the executive director shall provide a written response identifying the action the executive director intends to take and the basis for that action. Such action may include, but is not limited to:

(1) ~~dismissing the request for lack of jurisdiction or insufficient evidence~~ determining that there has been no violation of a statute, regulation, order, program or decision adopted, administered or enforced by the commission, or that the action sought in the request for investigation cannot be taken;

(2) initiating a complaint pursuant to section 1233 et seq.;

(3) conducting further investigation;

(4) sending a warning or cease and desist letter;

(5) proposing a settlement;

(6) referring the matter to the Attorney General's office;

(7) referring the matter to another federal, state or local agency with jurisdiction over the violation; or

(8) correcting or modifying prior staff action.; ~~or~~

(9) ~~taking other appropriate action, including rejecting the request for being incomplete.~~

(b) The written response of the executive director and any final action summaries closing the matter shall be filed and sent to the person or entity that submitted the request.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1232.5. Request for Investigation; Appeal Review by the Chair.

(a) If the executive director declines to take action on a request for investigation as provided for in section 1232(a)(1), dismisses a request for lack of jurisdiction or insufficient evidence, the requester may appeal the dismissal to the chair request the chair review the executive director's determination. The request shall be made in writing and filed in accordance with section 1208 within 15 days of the date of the filing of the executive director's response. ~~The appeal must be in writing, filed in accordance with section 1208,~~ and must state the basis for challenging requesting review of the executive director's determination dismissal.

(b) The chair, within 45 days of ~~the filing of the appeal~~ receiving a request for review, shall issue a written ~~order~~ decision affirming or modifying the executive director's determination. The chair may also sustaining the determination, modifying it, overturning it, or referring refer the matter to a committee or ~~the full~~ commission for further evaluation. If the chair does not issue a written decision within 45 days, the request for review shall be deemed denied.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1234. Jurisdictional Determinations.

(a) Any person engaged in an activity potentially regulated by the commission may request a jurisdictional determination by the executive director as to whether the commission has regulatory authority over a particular activity. To request a determination, information detailing the facts, issues and law relating to the activity shall be filed with the commission. For issues relating to power plant output, a person seeking a jurisdictional determination may also follow the process under section 2010.

(b) Within 45 days of receiving a complete request, the executive director shall file a written determination as to whether the activity subject to the request is under the jurisdiction of the commission and what actions need to be taken to comply with commission regulations and orders.

(c) Within 10 days of the filing of the executive director's determination, an appeal ~~to the chair~~ may be filed by the person seeking the jurisdictional determination. The appeal shall be filed with the Office of the Chief Counsel and shall specify the alleged errors in fact or law that resulted in an incorrect determination.

(d) Within 30 days of the filing of the appeal, the chair shall file a hearing order identifying the schedule for hearings, whether the hearings will be before a hearing officer, committee, or the ~~full~~ commission, whether provisions of Government Code Section 11400 et seq. are applicable to the proceeding, the role of commission staff in the proceeding and other relevant information about the hearing.

(e) Section 1233.4 shall govern the decision of the appeal.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, 25900, 25967 and 25983, Public Resources Code.

§ 1704. Information Requirements for Notices of Intent and Applications for Certification.

(b) The informational requirements for notices, and applications ~~for certification, and applications for a small power plant exemption~~ are contained in this section and in appendices to this Chapter. Maps required in this section and in the appendices shall be provided at the scale specified in the appendices, except that applicants may provide maps at a different scale if the maps are legible and if a written explanation of why this different scale is more appropriate is included in the notice or application. The term region means a geographic area that is normally contiguous and exhibits similar geographic characteristics. The term vicinity means both that area in close proximity to the project site and which receives a preponderance of the direct impacts of the project. The area referred to by the terms vicinity and region will overlap, although, in most circumstances, the vicinity will be part of the region. The size of the region and vicinity that should be discussed in the filing will vary depending on the project's location (e.g., rural, urban, coastal), its technology (e.g., nuclear, coal, geothermal), and by technical area. Applicants should use their professional judgment in determining the appropriate size of the region and vicinity to be discussed in the application. A statement explaining the extent of the area described for each technical area shall be included.

~~(5) The application for small powerplant exemption shall contain all the information specified by Appendix F.~~

Note: Authority cited: Sections 25213, 25216.5(a), 25218(e) and 25541.5, Public Resources Code. Reference: Sections 21080.5, 25308.5, 25504, 25519(a), 25519(c), 25520, 25522(b), 25523(d)(1), 25540.1, 25540.2, 25540.6, ~~25541~~, Public Resources Code.

§ 1706. Number of Copies.

Consistent with section 1208.1, the executive director shall specify the number of copies and the format of notices of intent, and applications for certification, and small power plant exemptions, and any amendments, to be filed.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25502 and 25519, Public Resources Code.

§ 1708. Costs and Application, Compliance, and Reimbursement Fees.

~~(a) — A cashier's check or wire transfer in the amount required by subsections (c) and (d) shall accompany the filing of the notice.~~

(a) — A project owner shall pay all fees specified in Public Resources Code sections 25802 and 25806, and reimburse the commission for its actual costs of processing a petition to amend as specified in 25806(e). In calculating the fee required by Public Resources Code section 25806(a), generating capacity shall be determined in the manner specified in section 2003(a).

(b) — "Processing the petition to amend," as used in Public Resources Code section 25806(e), includes the activities of staff, staff subcontractors, and legal counsel representing staff in the preparation of the staff assessment and in any proceeding on a petition through the adoption of the commission decision, as well as the labor and administrative expenses associated with the production and distribution of staff, committee, and commission documents. The activities of commissioners and their advisors, commission hearing officers, and other attorneys and commission staff advising commissioners or the commission, are not considered part of processing the petition to amend.

~~(bc) — Upon the demand of the executive director, the applicant shall pay additional fees to the commission in the amount of any reimbursement made to local agencies by the commission pursuant to Section 1715 of this article.~~

~~(c) — A cashier's check or wire transfer for \$100,000 plus \$250 per megawatt (MW) of generating capacity shall accompany the filing of an Application for Certification (AFC). Generating capacity shall be determined in accordance with Section 2003(a).~~

~~(d) — The owner of each facility granted certification shall submit a cashier's check or wire transfer for \$15,000 annually. The first payment of the annual fee shall be due on the date the Commission adopts the final decision for the facility. Subsequent payments shall be paid on July 1 of each year in which the facility retains its certification.~~

~~(e) — The fees specified in (c) and (d) shall be adjusted annually to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the U.S. Department of Commerce.~~

~~(f) — A project which use a renewable resource as its primary fuel or power source is exempt from the filing and compliance fees identified in (c) and (d).~~

~~(g) — Fees paid pursuant to this section are non-refundable. Additional fees may be required in the event an amendment to the AFC increases the Gross generating capacity identified in (c).~~

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 25538, 25802 and 25806, Public Resources Code.

§ 1709. Filing of Notices of Intent and Applications for Certification; Data Adequacy Review and Docketing.

~~(e) On or before acceptance of a notice or application for certification or upon filing of an application for a small powerplant exemption, a committee, a presiding member and a hearing officer shall be designated pursuant to Sections 1204(a) and 1205 to conduct proceedings on the notice or application.~~

Note: Authority cited: Sections 25213 and 25541.5, Public Resources Code. Reference: Sections 25211, 25502, 25504, 25516.6, 25520, 25522, 25540.1, and 25540.2 ~~and 25544~~, Public Resources Code.

§ 1710. Staff as an Independent Party.

In carrying out its duties pursuant to this chapter, staff shall be an independent party to all notice, and application, ~~and exemption~~ proceedings. Staff is not required to petition to intervene in such proceedings.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25217(b), Public Resources Code.

§ 1714. Distribution of Copies to Public Agencies and Tribal Governments; Request for Comments.

(a) As soon as possible after receipt of the notice or application for a site and related facility requiring a certificate of public convenience and necessity, the executive director shall transmit a copy thereof to the Public Utilities Commission and shall request the Public Utilities Commission to perform an analysis and to offer comments and recommendations regarding the economic, financial, rate, system reliability, and service implications of the design, construction, operation, and location of the site and related facilities. For applications for a site and related facility which does not require a

certificate of public convenience and necessity, the executive director shall transmit a notice of receipt of the application to the Public Utilities Commission.

(b) Within ten days after receipt of the application for a site and related facility that is proposed to connect to the California Independent System Operator-controlled grid, the executive director shall transmit a copy thereof to the California Independent System Operator and shall request the California Independent System Operator to perform an analysis and to offer comments and recommendations regarding the system reliability implications and identification of interconnection facilities required for connection to the California Independent System Operator-controlled grid. For applications which do not connect to the California Independent System Operator-controlled grid, the executive director shall transmit a notice of receipt to the California Independent System Operator.

(c) The executive director shall also transmit a copy of the notice or application to the Coastal Commission for any site located in the coastal zone, to the Bay Conservation and Development Commission (BCDC) for any site located in the Suisun Marsh or the jurisdiction of the BCDC, to the California Department of Fish and Wildlife, to the Air Pollution Control District in which the project is located, to the Regional Water Quality Control Board in which the project is located, to all federal, state, regional, and local agencies which have jurisdiction over the proposed site and related facility, or which would have such jurisdiction but for the commission's exclusive authority to certify sites and related facilities pursuant to Chapter 6 (commencing with section 25500) of Division 15 of the Public Resources Code, and to any other federal, state, regional, or local agency which has been identified as having a potential interest in the proposed site and related facility, and shall request analyses, comments, and recommendations thereon.

(d) No later than 14 days after a ~~n~~Notice of Intent, ~~or a~~Application for Certification or Small Power Plant Exemption has been accepted, staff shall notify and invite tribal governments deemed traditionally and culturally affiliated with a project area by the Native American Heritage Commission, to participate in consultations with staff, consistent with Public Resources Code section 21080.3.1. For projects with a federal nexus, staff shall also invite tribal governments deemed traditionally and culturally affiliated with a project area by federal land managing agencies, to participate in consultations.

(e) Upon receiving a copy of the notice or application, each agency requested to file comments shall inform the presiding member (or the executive director if no committee has been appointed yet) of when such comments can be filed with the commission. Unless otherwise specified by law or by order of the presiding member, all such comments shall be filed prior to the conclusion of the evidentiary hearings held pursuant to Sections 1723, and 1745, ~~and 1944~~ on the notice or application.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code.
Reference: Sections 25505, 25506, 25506.5, 25507 and 25519, Public Resources Code.

§ 1714.3. Agency Comments on a Notice of Intent; Purpose and Scope.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code.

Reference: Sections 25506 and 25509.5, Public Resources Code.

§ 1714.5. Agency Comments on an Application for Certification; Purpose and Scope.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code.

Reference: Sections 25519(f), 25519(g) and 25519(j), Public Resources Code.

§ 1720.2. Termination of Notice of Intent and Application for Certification ~~NOI, AFG, and SPPE~~ Proceedings.

(a) The committee or any party may, based upon the applicant's failure to pursue an application or notice with due diligence, file a motion to terminate the notice or application proceeding. Within 30 days of the filing of such a motion, the committee may hold a hearing and provide an opportunity for all parties to comment on the motion. Following the hearing, the committee shall issue an order granting or denying the motion.

(b) A committee order terminating a proceeding must be approved by the full commission.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code.

Reference: Sections 25210, 25216.5, 25502, and 25519(b) and ~~25541~~, Public Resources Code.

§ 1745.5. Presiding Member's Proposed Decision; Comment Period; Basis; Contents; ~~Hearing~~.

(a) After the end of the evidentiary hearings, the presiding member, in consultation with the other committee members, shall prepare and file a proposed decision on the application that meets the requirements of section 1748.

(b) The presiding member's proposed decision shall: ~~(1) B~~ be based on a consideration of the entire hearing record and contain the following:

~~(21)~~ Environmental Factors:

(A) a description of potential significant environmental effects;

(B) an assessment of the feasibility of mitigation measures and a reasonable range of alternatives that could lessen or avoid the adverse effects; and

(C) if any significant effects are likely to remain even after the application of all feasible mitigation measures and alternatives, whether economic, legal, social, technological or other environmental benefits of the project outweigh the unavoidable adverse effects;

(32) Laws, Ordinances, Regulations, and Standards:

(A) a description of all applicable federal laws, ordinances, regulations and standards and an assessment of the project's compliance with them;

(B) a description of all applicable state, regional, and local laws, ordinances, regulations and standards, and the project's compliance with them;

(i) if the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation, a description of all staff communications with the agencies responsible for enforcing the laws, ordinances, regulations and standards for which there is noncompliance, in an attempt to correct or eliminate the noncompliance;

(ii) if the noncompliance with a state, local, or regional ordinance or regulation cannot be corrected or eliminated, the proposed decision shall discuss whether the proposed project is required for public convenience and necessity and whether there are more prudent and feasible means of achieving such public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability; and

(iii) If the noncompliance cannot be corrected or eliminated, the proposed decision shall satisfy the commission's obligation to inform the state, local, or regional governmental agency if it makes the findings required by Public Resources Code section 25525.

(C) to the extent not already covered under subdivisions (2) or (3), and for applications for certification, as defined in Public Resources Code section 25102, concerning sites in the Coastal Zones, as defined in Public Resources Code section 30103, or the Suisun Marsh, as defined in Public Resources Code section 29101, a discussion of the issues raised by the California Coastal Commission, if any, pursuant to section 30413(e) of the California Public Resources Code; or issues raised by the San Francisco Bay Conservation and Development Commission, if any, pursuant to section 66630 of the Government Code:

(D) to the extent not already covered under subdivisions (2) or (3), and for sites in the Coastal Zones or Suisun Marsh for which a notice of intent as defined in Public Resources Code section 25113 has been filed:

(i) a discussion of provisions to meet the objectives of the California Coastal Act, as may be specified in the applicable report submitted by the California Coastal Commission under section 30413(d); or to meet the requirements of objectives of the Bay Conservation and Development Act, as may be specified in the applicable report submitted by the San Francisco Bay Conservation and Development Commission under section 66645 of the Government Code;

(ii) if the provisions described in paragraph (i) would result in greater adverse effect on the environment or would be infeasible, an explanation of why; and

(iii) a statement of whether the approval of the public agency having ownership or control of the land has been obtained, whether or not such approval is subject to preemption under Public Resources Code section 25500;

(43) a description of land use, as necessary, consistent with Public Resources Code section 25528.

(54) for new sites proposed for location in the coastal zone or any other area with recreational, scenic, or historic value, proposed conditions relating to land that should be acquired, established, and maintained by the applicant for public use and access consistent with Public Resources Code Section 25529;

(65) for new sites proposed along the coast or shoreline of any major body of water, proposed conditions on the extent to which the proposed facilities should be set back from the coast or shoreline to permit reasonable public use and to protect scenic and aesthetic values consistent with Public Resources Code Section 25529

(76) for sites in areas specified in section 25527 of the Public Resources Code ~~state, regional, county, and city parks; wilderness, scenic, and natural reserves; areas for wildlife protection, recreation, and historic preservation; natural preservation areas in existence as of January 7, 1975; or estuaries in an essentially natural and undeveloped state~~: an analysis of whether (A) the facilities will be consistent with the primary land use of the area, (B) there will be any substantial adverse environmental effects, and ~~whether~~ (C) the approval of the public agency having ownership or control of the land has been obtained, whether or not such approval is subject to preemption under Public Resources Code section 25500.

(87) where a nuclear powered facility is proposed, an analysis of the factors in Public Resources Code sections 25524.1 and 25524.2;

(98) an analysis of the extent to which the applicant has complied with the recommended minimum standards of efficiency adopted under Public Resources Code section 25402(d);

(409) if the application is for a facility to be located on a potential multiple facility site, as determined under of the Public Resources Code section 25516.5, an analysis of the factors listed in Public Resources Code section 25524.5.

(4410) a discussion of any public benefits from the project, including, but not limited to, economic benefits, environmental benefits, and electricity reliability benefits;

(4211) provisions for restoring the site as necessary to protect the environment, if the commission does not certify the project; ~~and~~.

(4312) ~~A~~a recommendation as to whether the proposed site and related facilities should be certified, and if so under what conditions; and

(4413) an Engineering Assessment relating to facility efficiency, health and safety;

(4514) a Reliability Assessment;

(4615) ~~A~~any other relevant matter identified by the presiding member;:-

(4716) responses to all comments, on significant environmental issues, ~~points~~ raised during the evidentiary hearing; and

(4817) the reasons supporting the decision and reference to the bases for each of the findings and conclusions in the decision.

(c) Any person may file written comments on the presiding member's proposed decision. The presiding member shall set a comment period of at least 30 days from the date of ~~distribution~~ filing.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code.
Reference: Sections 25519(c), 25522, 25523 and 25525-25529, Public Resources Code.

§ 1748. Final Decision.

(a) At the conclusion of the hearings under Section 1747, the commission shall adopt a final written decision in conformity with section 1212 of this title, which includes all of the information specified by Public Resources Code section 25523.

(b) The decision shall not certify any site and related facility unless the commission finds that:

(1) as necessary, land use is consistent with Public Resources Code Section 25528.1;

(2) if the powerplant will require reprocessing of nuclear fuel rods or off-site storage of nuclear fuel rods in order to provide continuous onsite fuel core reserve storage capacity: facilities with adequate capacity to reprocess nuclear fuel rods or with adequate capacity to store them, as applicable, have been approved by an authorized agency of the United States, and are or will be in actual operation at the time the powerplant requires such reprocessing or storage, as required by Public Resources Code sections 25524.1 and 25524.2;

(3) with respect to sites in the locations designated by the California Coastal Commission pursuant to Public Resources Code section 30413(b), or by the San Francisco Bay Conservation and Development Commission pursuant to Government Code section 66645: that the findings required by Public Resources Code section 25526 have been made by the appropriate commission;

(4) with respect to sites in the areas specified in Public Resources Code section 25527~~state, regional, county, and city parks; wilderness, scenic, and natural reserves; areas for wildlife protection, recreation, and historic preservation; natural preservation areas in existence as of January 7, 1975; and estuaries in an essentially natural and undeveloped state, that:~~ (A) the facility will be consistent with the primary land use of the area, (B) there will be no substantial adverse environmental effects, and (C) the approval of the public agency having ownership or control of the land has been obtained;

(5) with respect to a facility proposed to be located in the coastal zone or any other area with regional, scenic, or historic value, as specified by Public Resources Code section 25529, a finding that an area will be established for public use, and that the facility to be located along the coast or shoreline of any major body of water will be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values;

(6) with respect to a facility which adds generating capacity to a potential multiple-facility site in excess of the maximum allowable capacity established by the commission

pursuant to section 25516.5, the findings required by section 25524.5 of the Public Resources Code;

(47) if the site or facility does not comply with an applicable state, local or regional laws, ordinances, regulations and standards; a finding that the facility is required for public convenience and necessity, and there are no more prudent and feasible means of achieving such public convenience and necessity, ~~a finding made pursuant to the requirements of~~ as required by section 25525 of the Public Resources Code;

(58) if the construction, operation, or shutdown and decommissioning of the powerplant will cause a significant environmental impact, either (A) or (B):

(A) (i) with respect to matters within the authority of the commission: changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects; and

(ii) with respect to matters not within the commission's authority but within the authority of another agency: changes or alterations required to mitigate such effects have been adopted by such other agency, or can and should be adopted by such other agency;

or

(B) (i) specific economic, social, or other considerations make infeasible all mitigation measures or project alternatives that would mitigate or avoid the significant environmental effects; and

(ii) ~~That that~~ the benefits of the project outweigh the unavoidable significant adverse environmental effects that may be caused by the construction and operation of the facility.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code.

Reference: Sections 21080.1, 21081, 25216.3, 25523, 25525-25527, 25529 and 25541.5, Public Resources Code; Title 14, California Code of Regulations, sections 15091 and 15093.

§ 174968. Notice of Decision; Filing with Resources Agency.

The executive director shall file a notice of the final decision with the Secretary of the Natural Resources Agency.

Note: Authority cited: Section 25541.5, Public Resources Code. Reference: Sections 21080.5 and 25541.5, Public Resources Code.

Article 3.1. Post-Certification Activities

§ 1751. Post-Certification List Serve.

After the final decision is issued, the commission shall create an electronic list serve for persons to receive filed documents related to post-certification activities, including compliance filings and proposed amendments to a facility license. In closing the application for certification proceeding the commission shall file a notice in the application for certification project docket providing instructions on how to receive post-certification related documents through the list serve.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code.
Reference: Sections 25523, 25532 and 25534, Public Resources Code.

§ 1769. Post Certification ~~Petition for Changes in Project Design, Operation or Performance and Amendments and Changes to the Commission Decision.~~

(a) ~~Project—Modifications~~ Change in Project Design, Operation, or Performance Requirements.

(1) After the final decision is effective under section 1720.4, the ~~applicant project owner~~ shall ~~file with petition~~ the commission a ~~petition~~ for approval of any modifications change it proposes to the project design, operation, or performance requirements. The petition must contain the following information:

(A) A complete description of the proposed ~~modifications~~ change, including new language for any conditions of certification that will be affected;

(B) A discussion of the necessity for the proposed ~~modifications~~; change and

~~(C) If the modification is based on information that was known by the petitioner during the certification proceeding, an explanation why the issue was not raised at that time;~~

~~(D) If the modification is based on new information that changes or undermines the assumptions, rationale, findings, or other bases of the final decision, an explanation of why the change should be permitted;~~

(C) A description of any new information or change in circumstances that necessitated the change;

~~(E)(D) An analysis of the impacts the modification~~ effects that the proposed change to the project may have on the environment and proposed measures to mitigate any significant ~~adverse impacts~~ environmental effects;

~~(F)(E)~~ A discussion An analysis of the impact of how the modification on proposed change would affect the facility's ability to comply project's compliance with applicable laws, ordinances, regulations, and standards;

~~(G)(F)~~ A discussion of how the modification affects proposed change would affect the public;

~~(H)(G)~~ A list of property owners potentially affected by the modification; and A list of current assessor's parcel numbers and owners' names and addresses for all parcels within 500 feet of any affected project linears and 1000 feet of the project site;

~~(I)(H)~~ A discussion of the potential effect of the proposed change on nearby property owners, residents, and the public and the parties in the application proceedings.; and

(I) A discussion of any exemptions from the California Environmental Quality Act, commencing with section 21000 of the Public Resources Code, that the project owner believes may apply to commission's approval of the proposed change.

~~(2) Within 30 days after the applicant files a petition pursuant to subsection (a)(1) of this section, the staff shall review the petition to determine the extent of the proposed modifications. Where staff determines that there is no possibility that the modifications may have a significant effect on the environment, and if the modifications will not result in a change or deletion of a condition adopted by the commission in the final decision or make changes that would cause the project not to comply with any applicable laws, ordinances, regulations, or standards, no commission approval is required and the staff shall file a statement that it has made such a determination with the commission docket and mail a copy of the statement to each commissioner and every person on the post-certification mailing list. Any person may file an objection to staff's determination within 14 days of service on the grounds that the modification does not meet the criteria in this subsection.~~

(2) Within 30 days after a petition is filed and the applicable fee is paid, staff shall review the petition to determine the extent of the proposed change and prepare a summary of the petition. The summary shall be concise and understandable, shall describe the content of the petition using the applicant's own words whenever possible, and shall include a description of the commission's procedures concerning proceedings on the petition, as appropriate. As soon as practicable after preparing the summary, staff shall provide a copy of the summary to each property owner described in subdivision (a)(1)(G) with instructions on how to receive future filings.

(3) Staff Approval of Proposed Change.

(A) Staff shall approve the change where staff determines:

(i) that there is no possibility that the change may have a significant effect on the environment, or the change is exempt from the California Environmental Quality Act;

(ii) that the change would not cause the project to fail to comply with any applicable laws, ordinances, regulations, or standards; and

(iii) that the change will not require a change to, or deletion of, a condition of certification adopted by the commission in the final decision or subsequent amendments.

(B) Staff, in consultation with the air pollution control district where the project is located, may approve any change to a condition of certification regarding air quality, provided:

(i) that the criteria in subdivisions (a)(3)(A)(i) and (ii) are met; and

(ii) that no daily, quarterly, annual or other emission limit will be increased as a result of the change.

(C) Staff shall file a statement summarizing its actions pursuant to subdivisions (a)(3)(A) or (B). Any person may file an objection to a staff action taken pursuant to subdivisions (a)(3)(A) or (B) within 14 days of the filing of staff's statement. Any such objection must state the reasons that the change does not meet the criteria in this subdivision.

(D) Staff may submit to the commission for consideration and a decision, a proposed change that could otherwise be approved by staff under subdivisions (a)(3)(A) or (B).

(34) Commission Approval of Proposed Change.

(A) If staff determines that a ~~modification change~~ does not meet the criteria for staff approval set forth in subsection ~~subdivision~~ (a)(23), or if a person objects to a staff determination files an objection that a ~~modification does meet the criteria in~~ complies with subsection subdivision (a)(23)(C), the petition must ~~shall~~ be processed as a formal amendment to the decision and must be approved ~~considered~~ by the full commission at a noticed business meeting or hearing. The commission shall issue an order approving, rejecting, or modifying the petition at the ~~scheduled hearing, unless it decides to~~ or assign the matter for further hearing proceedings before the full commission or an assigned committee or hearing officer. The commission may approve such ~~modifications~~ a change only if it can make the following findings:

(Ai) the findings specified in section 1748(b)(5), if applicable;

(Bii) that the project would remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code section 25525;

(C) that the change will be beneficial to the public, applicant, or intervenors; and

(D) that there has been a substantial change in circumstances since the Commission certification justifying the change or that the change is based on

~~information which was not known and could not have been known with the exercise of reasonable diligence prior to Commission certification.~~

~~(4B) The staff shall compile and periodically publish a list of petitions filed under this section and their status. In any matter assigned for further proceedings pursuant to subdivision (a)(34), the presiding member shall establish the schedule and process for the proceeding.~~

~~(5) The petitioner may withdraw its petition from consideration by the commission in the manner described for withdrawal of notices or applications in section 1709.8.~~

(b) Change in Ownership or Operational Control.

(1) A petition to transfer ownership or operational control of a facility shall contain the following information:

(A) a discussion of any significant ~~changes~~ change in the operational relationship between the owner and operator;

(B) a statement identifying the party responsible for compliance with the commission's conditions of certification; and

(C) a statement verified by the new owner or operator in the ~~same~~ manner as ~~provided~~ described in ~~Section~~ section 1707 that the new owner or operator understands the conditions of certification and agrees to comply with those conditions.

~~(2) The commission may approve changes in ownership or operational control after fourteen days' notice. Staff may approve a change in ownership or operational control by filing a statement approving the change no sooner than 14 days after filing of the petition. Any person may file an objection to a staff approval within 14 days of the filing of staff's statement. Any such objection must state the grounds for the objection. If a person files such an objection, the petition shall be considered by the commission at a noticed business meeting or hearing.~~

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code.
Reference: Sections 25523, 25532 and 25534, Public Resources Code.

1769.1. Staff and Project Owner Jointly Initiated Amendment.

(a) Staff and a project owner may jointly initiate an amendment to a final decision adopted under this chapter, provided that the purpose of the proposed amendment is to update the decision to reconcile the conditions of certification with other legal requirements or changes to compliance protocols or methodologies, or to modify a condition that is moot, impossible, or otherwise unnecessary to avoid potentially significant effects and remain in compliance with all applicable laws, ordinances, regulations, and standards.

(b) An amendment jointly initiated by staff and the project owner shall include the information specified in section 1769(a)(1), and be accompanied by a summary of the amendment consistent with the requirements of section 1769(a)(2). The amendment shall be considered by the commission in a manner consistent with the process set forth in section 1769(a)(4). The amendment shall not be approved by the commission unless the agreement of the project owner with the proposed amendment is reflected in the joint proposal presented to the commission for approval.

(c) An amendment initiated jointly by staff and a project owner pursuant to this section shall not be subject to section 25806(e) of the Public Resources Code.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25523, 25532, 25534, and 25806 Public Resources Code.

§ 1936. Scope, Filing, Review and Distribution of Applications for Exemption.

(a) Any person who proposes to construct a thermal power plant with a generating capacity not exceeding 100 megawatts, or proposes a modification to an existing thermal power plant which will add generating capacity not exceeding 100 megawatts may apply for an exemption from the provisions of Chapter 6 of Division 15 of the Public Resources Code.

(b) Applications for exemption shall be filed as set forth in sections 1208, 1208.1, 1706 and 1707.

(c) The review of the application for exemption shall follow the requirements of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the state CEQA Guidelines. (California Code of Regulations Title 14, Chapter 3)

(d) Applications for exemption shall be distributed and comments requested from public agencies and tribal governments as set forth in sections 1713 and 1714.

(e) An applicant may withdraw an application for exemption as set forth in section 1709.8.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1937. Staff as an Independent Party.

In carrying out its duties pursuant to this article, staff shall be an independent party and is not required to petition to intervene.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25217(b), Public Resources Code.

§ 1940. Information Requirements for Notice of Applications for Exemption.

~~(a) Upon receipt of an application the executive director in conjunction with the public adviser shall immediately take action to cause notice of the application and its date of receipt to be published in the commission's next meeting agenda and distributed to the public at large.~~

~~(b) The executive director shall transmit copies of the application to each member and ex-officio member, the commission general counsel, the public adviser, the hearing officer, the Attorney General and all other persons who have requested in writing that a copy be provided.~~

~~(c) The executive director shall also transmit copies of the application to all federal, state, regional, and local agencies which have an interest in the matter and shall request that these agencies submit their written comments and recommendations on the application. Such comments shall be filed with the executive director no later than the date of the first hearing held pursuant to Section 1944 of these regulations.~~

The application for an exemption shall contain all the information specified by Appendix F and meet the general information requirements set forth in section 1704(a)

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1941. Obtaining Information.

Information necessary to complete an analysis of the application for an exemption may be obtained by following the requirements of section 1716, except that all requests for information shall be submitted no later than 60 days from the application for exemption's filing date or a later date as approved by the presiding member.

Note: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210, 25502, 25519(b) and 25541, Public Resources Code; and Section 11181, Government Code.

§ 1942. Termination of an Application for Exemption.

The application for exemption proceeding may be terminated by following the procedures set forth in section 1720.2.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code.
Reference: Sections 25210, 25216.5, 25519(b) and 25541, Public Resources Code.

§ 1943. Presentation of Evidence.

All testimony together with any other relevant documentary evidence, such as any environmental impact documentation or other environmental document prepared by the lead agency, may be offered by any party and shall be filed with the Docket Unit no later than ~~seven (7)~~ days prior to the hearing at which such testimony is to be offered, or at such other time as ordered by the presiding member.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1944. Application for Exemption Proceedings and Hearings.

(a) A committee shall be appointed pursuant to Section 1204(a) to oversee ~~handle~~ the proceedings. ~~A hearing officer may also be appointed to assist the committee in the conduct of the proceeding.~~ The presiding member shall set the time and place for hearings, ~~conferences,~~ and site visits pursuant to this Section provided, however, that

(b) Unless otherwise directed by the presiding member, evidentiary hearings on the application shall commence no later than one hundred (100) days after the filing of the application.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1945. ~~Final Argument~~ Proposed and Final Decision.

(a) After the hearings conducted pursuant to Section 1944 of these regulations, the committee shall prepare and file a proposed decision on the application. ~~The proposed decision shall be distributed to the members, ex officio members, general counsel, the public adviser, the applicant, all intervenors, and any other persons designated by the presiding member.~~

~~(b) Within twenty-one (21) days a~~After publication of the proposed decision, a hearing shall be held before the full commission for final arguments on the formal record of the proceedings. ~~After the hearing, the commission shall adopt, or amend and adopt, the proposed decision, which shall thereupon become final.~~ The final decision shall be rendered issued by the commission within one hundred thirty-five (135) days after the filing of the application or at such later time as deemed necessary to permit full and fair examination of the issues.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25541, Public Resources Code.

§ 1946. Content of Decision.

~~(a)~~ The decision on the application shall either approve or disapprove the application and shall include a statement of reasons supporting the decision. The decision shall include, in the affirmative or negative, the findings required by Public Resources Code Section 25541.

Note: Authority cited: Section 25218, Public Resources Code. Reference: Section 25541, Public Resources Code.

Chapter 6.Environmental Protection

Article 1. Implementation of the California Environmental Quality Act of 1970

§ 2300. Incorporation by Reference of CEQA Guidelines. Authority. [Repealed]

Except for activities undertaken in connection with the commission's certified regulatory program for power plant site certification identified in Title 14 section 15251(j), the State CEQA Guidelines codified in Title 14 of the California Code of Regulations are incorporated by reference as the procedures to implement the California Environmental Quality Act.

Note: Authority cited: Sections 21082, 25213 and 25218(e), Public Resources Code; Section 15022(d), Title 14 of the California Code of Regulations. Reference: Sections 21080.5, 21082, 25213, 25519(c), and 25541.5, Public Resources Code; Section 15000 et seq., Title 14 of the California Code of Regulations.

§ 2301. Purpose. [Repealed]

~~These regulations specify the objectives, criteria, and procedures to be followed by the Commission in implementing the California Environmental Quality Act of 1970. (Public Resources Code Sections 21000 et seq.) (“CEQA”). These regulations should be read in conjunction with the State EIR Guidelines, as they are supplemental to and not repetitive of the Guidelines.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21082, Public Resources Code.~~

§ 2302. Definitions. [Repealed]

~~Terms issued in these regulations, unless otherwise defined, shall have the meaning ascribed to them in the State EIR Guidelines. In addition, the following definitions are used:~~

~~(a) Environmental Documents. “Environmental documents” mean draft and final Environmental Impacts Reports (EIRs), Initial Studies, Draft and Final Negative Declarations, Notices of Preparation, Notices of Determination, Notices of Exemption, Statements of Findings and Overriding Considerations, and the environmental manual.~~

~~(b) Environmental Manual. “Environmental manual” means a Commission-approved manual which details internal procedures for the preparation and review of environmental documents.~~

~~(c) State EIR Guidelines. “State EIR Guidelines” means the Guidelines for Implementation of the California Environmental Quality Act of 1970 by the Secretary for Resources (Div. 6, Title 14, Cal. Adm. Code, Sections 15000, et seq. with Appendices).~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21082, Public Resources Code.~~

§ 2303. General Responsibilities. [Repealed]

~~(a) Implementation of CEQA. Details for the implementation of the various environmental review procedures are set forth in the environmental manual.~~

~~(b) Contracted Documents. Where the Commission contracts with another person or agency to prepare environmental documents, the Commission retains responsibility for the adequacy, content, and objectivity of the environmental document.~~

~~(c) Availability of Environmental Documents. All environmental documents prepared by the Commission shall be available for public inspection upon request during normal Commission working hours at 1516 Ninth Street, Sacramento, other Commission field offices, or may be requested through the publications office. Copies shall be made available to the general public who may be charged an amount not in excess of the actual cost of reproducing such copies.~~

~~(d) Retention and Availability of Environmental Comments. Comments received through the consultation process shall be retained in the files of the Commission for one year from the date of final action on the document and shall be available for public inspection at an address provided in the final EIR. Comments which may be received independently of the review of the draft EIR shall also be considered and kept on file.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21082, 21082.1, 21100 and 21105, Public Resources Code; and 14 California Administration Code Section 15166.~~

§ 2304. Activities Not Requiring an Initial Study. [Repealed]

~~(a) Whenever the executive director and general counsel determine, based upon the review by the Commission staff, that a formal Initial Study is not required pursuant to this section, this determination and the reasons therefore shall be presented to the Commission for its concurrence. If the Commission concurs, no formal Initial Study, Negative Declaration, or EIR is required.~~

~~(b) Whenever an activity determined exempt from a formal Initial Study is approved by the Commission, the Commission shall file a Notice of Exemption with the Secretary for Resources.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21080.1 and 21108(b), Public Resources Code.~~

§ 2305. Initial Study. [Repealed]

~~Where an Initial Study is necessary, it will be available for public access and inspection either in the Negative Declaration or incorporated into a draft EIR, depending upon its findings on significant effect.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21105, Public Resources Code.~~

§ 2306. Negative Declaration. [Repealed]

~~Where a Negative Declaration is prepared, its completion and availability shall be announced in one or more newspapers of general circulation chosen on the basis of providing the most effective public notice.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21092, Public Resources Code.~~

§ 2307. EIR Preparation and Procedure. [Repealed]

~~(a) Hearings. The decision regarding the need for public hearings on a draft EIR shall be based upon the amount of public interest in the environmental impacts of the proposed activity and any other considerations which the Commission finds are compelling. It is the policy of the Commission that reasonable doubts concerning the appropriateness of public hearings shall be resolved in favor of holding such hearings. A decision not to hold such hearings shall be in writing including the reasons supporting the decision and shall be included in the Commission's record of decision on the activity.~~

~~(b) Duration of Comment Period. The executive director, at the time of certifying a draft EIR for public review, shall specify the length of the public review period after considering the complexities of the proposed project and the anticipated needs of the public. The executive director shall provide a minimum of 45 calendar days between the release of the draft EIR and the final receipt of comments. Any person may request that the executive director grant an extension of the comment and review period prior to termination of the original specified time period. Upon a showing of reasonable need, the executive director may grant such extensions. Any request to extend the comment and review period beyond 90 days or a request submitted after expiration of the original review period shall document unusual or extenuating circumstances; if such conditions are found to exist, such requests may be granted.~~

~~(c) Forwarding of Final EIR Copies. To the extent feasible, copies of the final EIR shall be forwarded to all persons, agencies, or organizations requesting such copies.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21100 and 21105, Public Resources Code; and 14 California Administration Code Sections 15160, 15164 and 15165.~~

§ 2308. Fees for EIR or Negative Declaration Expenses. [Repealed]

~~The executive director shall charge and collect a reasonable fee from any person proposing a project subject to CEQA to cover the estimated actual cost of preparing a Negative Declaration or an EIR. The deposit shall not be in excess of three percent (3%) of the estimated capital cost of the proposed project.~~

~~(a) The Commission staff shall separately account for the deposit collected and the charges thereto. The status of the account shall be provided to the project proponent at regular intervals established by mutual agreement. The executive director shall request additional deposits if the initial deposit has been exhausted. A final accounting shall be rendered by the Commission staff after the final EIR or Negative Declaration has been certified or adopted.~~

~~(b) If in the final accounting the deposits exceed the actual costs incurred by the Commission, the excess shall be refunded. If the actual costs exceed the amount of the deposits, the project proponent shall be billed for the difference.~~

~~(c) The executive director may adjust or waive deposits for minor projects. For projects with an estimated capital cost of more than \$1,000,000, the executive director shall permit payment of the deposit in increments.~~

~~(d) The executive director should collect the deposit prior to the preparation of environmental documents and no final EIRs or Negative Declarations shall be certified until the project proponent has reimbursed the Commission for the costs of preparing and processing them.~~

~~(e) Where a staged EIR is prepared the executive director shall collect a deposit sufficient to cover the expenses of each stage of the EIR before each stage is commenced. Such deposits shall be accounted for in the manner described in subsection (a) of this section, and a final accounting shall be rendered upon completion of each stage of the EIR at the request of the project proponent.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Section 21089, Public Resources Code.~~

§ 2309. Review of Environmental Documents of Other Lead Agencies. [Repealed]

~~When the Commission is a Responsible Agency for a project, and approves or determines to carry out a project for which an EIR or Negative Declaration has been prepared by the Lead Agency, it shall file a Notice of Determination.~~

~~(b) The executive director shall approve all comments to environmental documents prepared by the Commission staff pursuant to this section before such comments are submitted to the State Clearinghouse or the Lead Agency.~~

~~Note: Authority cited: Sections 21082 and 25213, Public Resources Code. Reference: Sections 21108(a) and 25404, Public Resources Code; and 14 California Administration Code Section 15085.5(i).~~