

DOCKETED

Docket Number:	18-SIT-02
Project Title:	Power Plant Compliance Enforcement Policy
TN #:	223174
Document Title:	Power Plant Compliance Petition to Amend Screening Form and Power Plant Complaint Enforcement & Notice of Staff Workshop
Description:	Workshop is on Tuesday, May 15, 2018
Filer:	Patty Paul
Organization:	California Energy Commission
Submitter Role:	Commission Staff
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CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



April 10, 2018

TO: Project Owners and Interested Parties

FROM: Christine Root, Compliance Office Manager

SUBJECT: POWER PLANT COMPLIANCE PETITION TO AMEND SCREENING FORM and POWER PLANT COMPLIANCE ENFORCEMENT

The Energy Commission Siting, Transmission and Environmental Protection (STEP) Division Compliance Office will be holding a workshop on May 15, 2018 to discuss the following two topics:

1. Power Plant Compliance Petition to Amend Screening Form
2. Power Plant Compliance Enforcement

POWER PLANT COMPLIANCE PETITION TO AMEND SCREENING FORM

In an effort to create a more streamlined post-certification amendment process, California Energy Commission staff has created a voluntary Petition to Amend Screening Form.

Background

Pursuant to California Code of Regulations, title 20, section 1769, Post Certification Amendments and Changes, a project owner shall file a post-certification petition (petition) for "any modifications it proposes to the project design, operation, or performance requirements."

Section 1769 states that where staff determines that there is no possibility that the proposed modifications to project design, operation, or performance 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 Energy Commission in the project's final decision or make changes that would cause the project not to comply with any applicable laws, ordinances, regulations, or standards, no Commission approval of the petition is required and the petition may include a statement to this effect, which has come to be known as a Staff Approved Project Modification. If staff determines that a modification does not meet these criteria, or if a person objects to a staff determination that a modification does meet the criteria, the petition must be processed as a formal amendment to the decision and must be approved by the Commission (the appointed members of the Commission or a quorum of those members) at a noticed business meeting or hearing.

Proposed activities or project changes that are requested, may be considered “maintenance” or would not result in a change to the project’s design, operation, or performance requirements as described or listed in the project’s Final Commission Decision and any documents incorporated by reference (e.g., the Application for Certification, Final Staff Assessment, etc.).

To help us make the determination as to whether a proposed change would require a petition to be filed or not, the Energy Commission Compliance Office is requesting that the attached Petition Screening Form be filled out when considering post-certification changes at a project site. Completing this form is voluntary, but it will enable staff to streamline requests for changes by collecting as much upfront information as possible, to avoid back and forth email questions in order to make a determination.

If staff determines that no petition is required, a letter will be sent in response, stating staff’s determination. This form is strictly voluntary and is intended to enable us to streamline requests for changes at project sites by collecting specific information needed to determine if your project change requires a post-certification petition. This will be beneficial to the project owners by providing a screening tool to avoid submitting unnecessary petitions to amend and provide additional clarity on what factors staff takes into consideration when making these determinations. This process is not subject to the petition filing fee and will be used to improve communication between staff and power plant owners.

POWER PLANT COMPLIANCE ENFORCEMENT

Among the other tools at its disposal, the Energy Commission uses Compliance Advice Letters and Notices of Violation to help with power plant compliance enforcement. A description of both of these is provided below.

Compliance Advice Letters

A Compliance Advice Letter can be issued for a wide range of issues that may come up on a project and serves primarily as a formal communication tool between staff and project owners. The purpose of the Compliance Advice Letter is to educate power plant owners and to encourage corrective actions be taken. The Compliance Advice Letter maybe advisory or may ask that specific corrections be made at a facility.

For example, these letters may be used to provide a formal interpretation of a condition of certification when there is ambiguity in a condition’s language. A Compliance Advise Letter may also be issued when the Energy Commission determines that corrective action is needed at a project. In these circumstances, a Compliance Advice Letter gives the facility owner an opportunity to correct the identified violation and may avert the need for staff to issue a Notice of Violation.

The compliance advice letter may address a variety of issues including, but not limited to the following:

1. Provide staff interpretation of how to comply with a project's license;
2. Provide guidance on how to comply with unique circumstances at a facility not anticipated in the project license; and/or
3. Provide corrective action notification.

Notices of Violation

A Notice of Violation (NOV) is another enforcement tool that staff has to gain power plant compliance. When a project is issued an NOV, the project owner will be requested to attend a meeting with management to review the allegations against the project.

NOVs may be issued for non-conformance to the project's license or applicable laws, ordinances, regulations or standards (LORS). NOVs may include a fine and/or a change to a facilities license to ensure compliance in the future. All NOVs and/or Settlement Agreements that result from an NOV, will be heard at an Energy Commission Business Meeting.

The Warren-Alquist Act provides that the Energy Commission may administratively impose a civil penalty for a "significant failure to comply with any terms or conditions of approval in its Final Decision." (Public Resources Code § 25534, subd. (a)(2) and (b)). Section 25534(b) provides in relevant part that "[a]ny civil penalty shall be imposed in accordance with section 25534.1 and may not exceed seventy-five thousand dollars (\$75,000) per violation, except that the civil penalty may be increased by an amount not to exceed one thousand five hundred dollars (\$1,500) per day for each day in which the violation occurs or persists, but the total per day penalties may not exceed fifty thousand dollars (\$50,000)."

An NOV will state the maximum allowable fine for the specific violation(s) which are subject of the NOV. An NOV may address a variety of issues including, but not limited to, the following:

1. A violation of applicable conditions of certification.
2. A violation of applicable laws, ordinances, regulations and standards.
3. Failure to correct items addressed a Compliance Advice Letter.

Public and worker safety are the utmost priority of the Energy Commission. The Energy Commission is committed to ensuring that jurisdictional power plants are constructed and operated under safe working conditions and are complying with all applicable safety and health requirements pertaining to the project's conditions of certification and all applicable LORS.

WORKSHOP

The Energy Commission will be holding a workshop to discuss the proposed Compliance Petition to Amend Screening Form and Compliance Enforcement to obtain further input (see attached Notice of Staff Workshop).

COMMENTS

We invite you to provide written comments on the above noted topics. We ask that written comments on these two topics be provided by June 5, 2018. To use the Energy Commission's electronic commenting feature, go to the Energy Commission's Siting Transmission and Environmental Protection webpage at <http://www.energy.ca.gov/siting/>. Under the Special Siting Division Meetings and Workshops, Compliance Petition to Amend Screening Form and Compliance Enforcement, click on the "Submit e-Comment" link, and follow the instructions in the on-line form.

Please include the individual Docket number "**18-SIT-01 Power Plant Compliance Petition Screening Form**" or Docket number **18-SIT-02 Power Plant Compliance Enforcement** in the title of your comments. When receipt of your document is confirmed by the Energy Commission's Docket Unit, you will receive an e-mail notification with a link to your document.

Please be sure that comments for **18-SIT-01 Power Plant Compliance Petition Screening Form** and **18-SIT-02 Power Plant Compliance Enforcement** are filed separately in the correct docket.

Written comments may also be mailed or hand-delivered to:

California Energy Commission
Dockets Unit, MS-4
Docket No. **18-SIT-01 or 18-SIT-02**
1516 Ninth Street
Sacramento, CA 95814-5512

All comments and materials filed with and approved by the Dockets Unit will be added to the Docket Log and become publicly accessible on the Energy Commission's webpage.

We look forward to discussing these topics and hearing your comments at the workshop.

If you have any questions or concerns, please contact Mary Dyas, Compliance Project Manager, at (916) 1-8891, or by fax to (916) 654-3882, or via e-mail at mary.dyas@energy.ca.gov.

Sincerely,

Signature on file

Christine Root
Compliance Office Manager
Siting, Transmission, & Environmental Protection
Division

Attachments

- Petition Screening Form
- Workshop Notice

Sent to:

- Project Owners/Reps; hard copy and email
- PAO e-mail list

Posted to:

- <http://www.energy.ca.gov/siting/>

CALIFORNIA ENERGY COMMISSION PETITION TO AMEND SCREENING FORM



PROJECT:

DOCKET No.:

CONTACT:

DATE:

1. Please describe the proposed project change.

2. Would the proposed project change cause a direct physical change or reasonably foreseeable indirect physical change to the site or equipment on site? If yes, please explain.

a. Is the proposed project change to software? ☐ Yes ☐ No

b. Is there a change to method of operation or how the facility is being operated?

3. Please describe why the project change is needed (e.g., due to changes in regulation or operation and maintenance specifications, equipment or component failure)?

4. Would the proposed project change require a change to existing conditions of certification? ☐ Yes ☐ No

If yes, please list the conditions of certification affected.

5. Would the proposed project change result in a temporary or permanent non-conformance with existing LORS? ☐ Yes ☐ No

If yes, please list the applicable LORS and describe the non-conformance.

6. Would the proposed project change affect the project's design, operation, or performance requirements as described in the Final Commission Decision and any documents incorporated by reference (e.g. AFC, FSA, etc.)?

☐ Yes ☐ No.

7. Is there a change to the project description as listed in the Final Commission Decision? ☐ Yes ☐ No

8. Would the proposed project change have any significant adverse environmental or public health and safety impacts? ☐ Yes ☐ No

If so, how were the impacts determined and what mitigation measures are proposed?

9. Does the proposed project change affect the public, including nearby property owners and residents? ☐ Yes ☐ No

If so, how?

10. Are there any additional permits from other agencies required and proposed timing? ☐ Yes ☐ No

11. What is the proposed timing/schedule for demolition, construction, and commissioning?

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814
Main website: www.energy.ca.gov

**NOTICE OF STAFF WORKSHOP:****Power Plant Compliance
Petition to Amend Screening Form
(18-SIT-01)****and****Power Plant Compliance Enforcement
(18-SIT-02)**

The California Energy Commission Siting, Transmission and Environmental Protection (STEP) Division Compliance Office invites power plant owners/operators and other stakeholders to participate in a workshop to discuss the proposed Petition to Amend Screening Form and Compliance Enforcement.

This workshop will be held:

TUESDAY MAY 15, 2018**Beginning at 10:00 a.m.**

California Energy Commission
Charles Imbrecht Hearing Room

1516 Ninth Street

Sacramento, CA 95814

(Wheelchair Accessible)

Map Enclosed

Remote Access Available by Computer or Phone via WebEx™

Toll-free: **(866) 469-3239** / Meeting Access Code **928 924 446**

PURPOSE

The purpose of this workshop is to provide a forum to discuss the proposed Power Plant Compliance Petition to Amend Screening Form and Power Plant Compliance Enforcement. This workshop will give the project owners/representatives and other stakeholders an opportunity to present their perspective and input on these two topics. At the workshop we will discuss: 1) the Compliance Petition to Amend Screening Form which will help streamline the amendment process; and 2) Compliance Enforcement and the use of Compliance Advice Letters and Notices of Violation.

BACKGROUND

Compliance Petition to Amend Screening Form

To help the Energy Commission make the determination as to whether a proposed change would require a Petition to Amend be filed or not, the Energy Commission Compliance Office created a Petition Screening Form which can be voluntarily filled out when project owners are considering post-certification changes at a project site. This form will enable staff to streamline requests for project changes by collecting upfront information to help make a determination.

Compliance Enforcement

Among the other tools at its disposal, the Energy Commission Compliance Office uses Compliance Advice Letters and Notices of Violation to help with power plant compliance enforcement. The purpose of the Compliance Advice Letter is to educate power plant owners and to encourage corrective actions be taken. Notices of Violation may be issued for non-conformance to the project's license or applicable laws, ordinances, regulations or standards. Notices of Violation may include a fine and/or a change to a facility's license to ensure compliance in the future.

COMMENTS

Oral comments: Staff will accept oral comments during the workshop. Any comments may become part of the public record for this workshop.

Written comments: If you would like to provide written comments on the Compliance Petition Screening Form or Compliance Enforcement, your comments should be submitted to the Dockets Unit by **5:00 p.m. on Tuesday, June 5, 2018**. Written comments will be also accepted at the workshop; however, the Energy Commission may not have time to review them before the conclusion of the workshop.

To use the Energy Commission's electronic commenting feature, go to the Energy Commission's Siting Transmission and Environmental Protection webpage at <http://www.energy.ca.gov/siting/>. Under the Special Siting Division Meetings and Workshops, Compliance Petition Screening Form and Compliance Enforcement Workshop, click on the "Submit Comments" link, and follow the instructions in the on-line form. Please include **18-SIT-01 Compliance Petition Screening Form** or **18-SIT-02 Compliance Enforcement** in the title of your comments. Once submitted, the Energy Commission Dockets Unit reviews and accepts your comments, and you will receive an e-mail with a link to them.

Please be sure that comments for **18-SIT-01 Compliance Petition Screening Form** and **18-SIT-02 Compliance Enforcement** are filed separately in the correct docket.

Written comments may also be mailed or hand-delivered to the following address.

California Energy Commission
Dockets Unit, MS-4
Docket No. **18-SIT-01 or 18-SIT-02**
1516 Ninth Street
Sacramento, CA 95814-5512

All comments and materials filed with and approved by the Dockets Unit will be added to the facility Docket Log and become publicly accessible on the Energy Commission's webpage.

Public Adviser and Other Commission Contacts

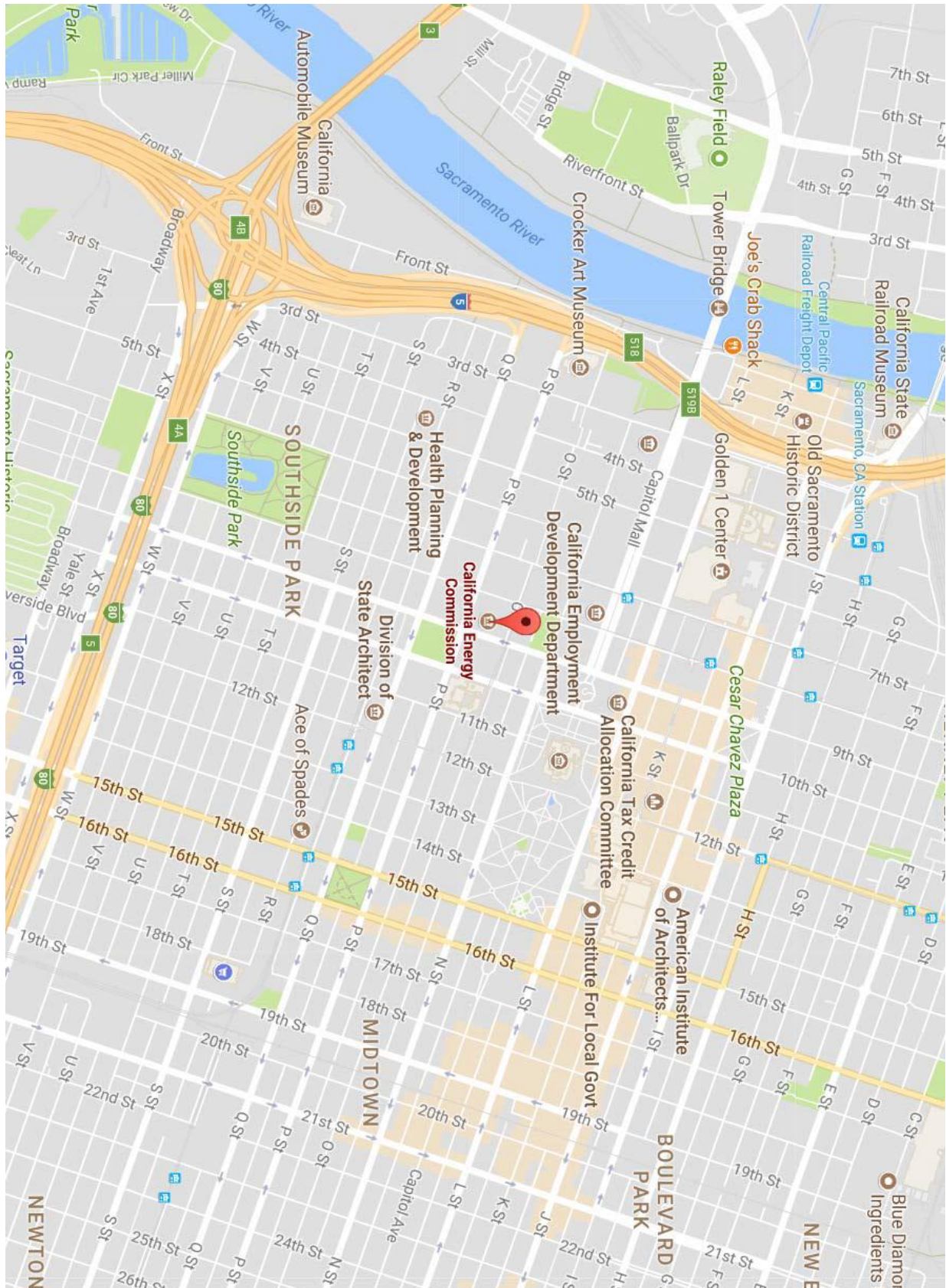
If you desire information on participating in the Energy Commission's workshop, please contact the Energy Commission's Public Adviser, Alana Mathews, at (916) 654-4489 or toll free in California, at (800) 822-6228. The Public Adviser's Office can also be contacted via email at publicadviser@energy.ca.gov.

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 meeting, please contact Compliance Project Manager Mary Dyas, at mary.dyas@energy.ca.gov or (916) 651-651-8891.

<< Signature on file >>

CHRISTINE ROOT
Compliance Office Manager
Siting, Transmission, & Environmental Protection
Division



REMOTE ATTENDANCE

You may participate in this workshop 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 will be recorded

PARTICIPATION BY WEBEX

To participate in the meeting using the WebEx onscreen and audio functions, please go to the following URL in your web browser on the date and time of the meeting:

To join the meeting on-line (now for mobile devices)

1. Go to
<https://energy.webex.com/energy/j.php?MTID=m550f9b1acb862ee2316f009208e60821>
2. If requested, enter your name and email address.
3. If a password is required, enter the meeting password: (This meeting does not require a password.)
4. Click "Join".
5. If the meeting includes a teleconference, follow the instructions that appear on your screen.

To join the audio conference only (no computer access)

To receive a call back, provide your phone number when you join the meeting, or call the number below and enter the access code.

Call-in toll-free number (US/Canada): **1-866-469-3239**

Call-in toll number (US/Canada): **1-650-429-3300**

Access code: 928 924 446

Global call-in numbers:

<https://energy.webex.com/energy/globalcallin.php?serviceType=MC&ED=660381487&tollFree=1>

Toll-free dialing restrictions:

https://www.webex.com/pdf/tollfree_restrictions.pdf

CCP: +16504293300x924452141#

IMPORTANT NOTICE: This WebEx service includes a feature that allows audio and any documents and other materials exchanged or viewed during the session to be recorded. By joining this session, you automatically consent to such recordings. If you do not consent to the recording, discuss your concerns with the meeting host prior to the start of the recording or do not join the session. Please note that any such recordings may be subject to discovery in the event of litigation.

TECHNICAL SUPPORT

* Go to <https://energy.webex.com/energy/mc> and in the left navigation column look under the "Support" heading.

* To check your computer's compatibility, please see <https://support.webex.com/MyAccountWeb/systemRequirement.do?root=Tools&parent=System> and refer to the WBS 28 section.

* To check whether you have the appropriate players installed for UCF (Universal Communications Format) rich media files, go to <https://energy.webex.com/energy/systemdiagnosis.php>.

To add this meeting to your calendar program (for example Microsoft Outlook), click this link:

<https://energy.webex.com/energy/j.php?MTID=m40560cec376a37291f3f350c23729d65>

<https://www.webex.com>

CALENDAR

To add this meeting to your Microsoft Outlook or compatible calendar program, click the following link or copy the link and paste it into your Web browser:

<https://energy.webex.com/energy/j.php?MTID=m40560cec376a37291f3f350c23729d65>

Please be aware that the workshop's WebEx audio and onscreen activity will be recorded.