

| DOCKETED | |
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| Docket Number: | 17-OIR-02 |
| Project Title: | Rulemaking to Amend Provisions of the Commission's Power Plant Licensing Process and General Procedures Under Title 20 of the California Code of Regulations |
| TN #: | 224044 |
| Document Title: | CEQA memo and Notice of Exemption |
| Description: | N/A |
| Filer: | Liza Lopez |
| Organization: | California Energy Commission |
| Submitter Role: | Commission Staff |
| Submission Date: | 7/3/2018 10:32:53 AM |
| Docketed Date: | 7/3/2018 |

Memorandum

To: Docket 17-OIR-02

Date: June 22, 2017

Telephone: CALNET (916) 654-3951

From: Jared Babula 
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California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: Basis for Finding an Exemption under the California Environmental Quality Act

I INTRODUCTION

The California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; see also CEQA Guidelines, Cal. Code Regs., tit. 14, § 15000 et seq.) requires that state agencies consider the environmental impact of their discretionary decisions. An activity is not subject to CEQA if, (1) the activity is not a "project" as defined in section 15378 of the regulations. (Cal. Code Regs., tit. 14, § 15060(c)), or (2) the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Code Regs., tit. 14, § 15061(b)(3).)

II DISCUSSION

The development and adoption of amendments to the commission's siting and general process and procedure regulations would not be subject to CEQA for two reasons. First, the rulemaking activity is not a project. Section 15378(b) of the CEQA Guidelines state that a project does not include, *continuing administrative or maintenance activities, such as...general policy and procedure making*. Projects also do not include *organizational or administrative activities of governments that will not result in a potentially significant physical impact on the environment*. (Cal. Code Regs., tit. 14, § 15378(b)(2) and (5).) In this case, the regulations proposed to be amended are procedural in nature related to the process used by the commission to review proposed changes to power plant licenses and updates to other regulations covering administrative functions. The adoption of such regulations would not result in any impact on the environment.

Second, even if development and adoption of the regulations are considered a project under Section 15378, the development and adoption of the regulations are exempt from CEQA under the *common sense* exemption. CEQA only applies to projects that have the potential for causing a significant effect on the environment. (Cal. Codes Regs., tit. 14, § 15061(b)(3).) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.)

The action in this case is to update and improve the commission's internal process and procedure regulations which include how proposed changes to power plant licenses are processed, the scope of commission activities subject to the amendment processing fee, clarifications on terminology in the request for investigation process and repeal of certain obsolete provisions. In this case, the action relates to purely procedural practices of the commission's administrative functions and would not result in a direct or indirect physical change to the environment. Because it can be seen with certainty that there is no possibility that the process and procedure regulations would have a significant effect on the environment, and nothing in the record suggests otherwise, adoption of the commission's process and procedure regulations would not be subject to CEQA under the *common sense* exemption of section 15061(b)(3).

III CONCLUSION

Based on the above discussion, the development of the regulations and adoption of the proposed language would not be subject to CEQA and a Notice of Exemption may be filed with the Office of Planning and Research.

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Statewide

From: (Public Agency): California Energy Commission
1516 9th Street
Sacramento CA 95814

(Address)

Project Title: Amendments to Title 20 Process and Procedure Regulations

Project Applicant: California Energy Commission

Project Location - Specific:

Statewide

Project Location - City: Statewide

Project Location - County: Statewide

Description of Nature, Purpose and Beneficiaries of Project:

Updates to various provisions to the Energy Commission's regulations

Name of Public Agency Approving Project: California Energy Commission

Name of Person or Agency Carrying Out Project: California Energy Commission

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: 15060(c), 15061(b)(3), 15378(b)(2) & (5)
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The action is not a project under section 15378(b). The action is to update the Energy Commission's procedural regulations relating to internal process and how power plant amendments are reviewed and approved. The action relates to purely procedural processes and would not result in a direct or indirect physical change to the environment.

Lead Agency

Contact Person: Jared Babula

Area Code/Telephone/Extension: 916-651-1462

If filed by applicant:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: [Signature] Date: 6-25-18 Title: Exec Dir

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____