

DOCKETED

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 #:	224371
Document Title:	Resolution Adopting a Notice of Exemption, and Amendments to the Title 20 Siting and Procedural Regulations
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STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

***PROPOSED AMENDMENTS TO TITLE 20
COMMISSION SITING AND
PROCEDURE REGULATIONS***

Docket No. 17-OIR-02

**RESOLUTION ADOPTING
A NOTICE OF EXEMPTION,
AND AMENDMENTS TO THE
TITLE 20 SITING AND
PROCEDURAL REGULATIONS**

WHEREAS, on May 25, 2018, the California Energy Commission (Commission) published a Notice of Proposed Action and made available to the public the Express Terms of the proposed amendments, along with an Initial Statement of Reasons that summarized and explained the rationale for the proposed amendments. The Commission also prepared the legally-required fiscal and economic analysis of the proposed regulations. Collectively, these materials are the rulemaking documents.

WHEREAS, the rulemaking documents were provided to every person on the Commission's 17-OIR-02 docket general siting mailing lists, to a representative number of small business enterprises or representatives, and to every person who had requested notice of such matters. The rulemaking documents were also posted on the Commission's website. The cumulative comment period on the rulemaking documents went from May 25, 2018, through July 10, 2018.

WHEREAS, on July 6, 2018, the Commission published a notice postponing the hearing on the rulemaking from July 11, 2018, until August 1, 2018, and extending the public comment period from July 10, 2018, until July 20, 2018.

WHEREAS, none of the comments received during the comment period, and nothing else in the record, justify any additional changes to the proposed amendments.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

A. The Warren-Alquist Act. The adopted regulations:

1. Refine the regulatory language changes developed under the comprehensive 2015 process and procedure updates under docket number 15-OIR-01;
2. Consolidate the small power plant exemption process into one article;
3. Repeal obsolete sections 2301 through 2309 covering implementation of the California Environmental Quality Act; and
4. Update the procedures to amend power plant licenses and add language implementing the statutory cost recovery requirements for processing amendments.

B. The Administrative Procedure Act. The adopted regulations:

1. Are consistent and compatible with existing state regulations;
2. Are consistent and compatible with existing federal law;
3. Will impose no direct costs, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code;
4. Will result in no costs or savings in federal funding to the State of California;
5. Will result in no additional costs to state agencies;
6. Will result in no nondiscretionary costs or savings to local agencies or school districts;
7. Will have no impact on housing costs;
8. Will have no significant, statewide adverse effect on businesses in general or small businesses in particular;
9. Will have no cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the regulations; and
10. Have no alternatives that would be more effective in carrying out the purposes of the Warren-Alquist Act, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

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).)

After considering the entire record, including the memorandum titled *Basis for Finding an Exemption under the Environmental Quality Act*, the Commission finds the amendment and adoption of the Commission's siting and procedural regulations would not be subject to CEQA and the adoption of the Notice of Exemption, is appropriate because the rulemaking activity is not a project under the CEQA Guidelines. (Cal. Code Regs., tit. 14, § 15378(b)(2) and (5).) In this case, the regulations are procedural in nature related to the Commission's administrative functions and the adoption of such regulations would not result in any impact on the environment. In addition, 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 siting and procedure regulations would not be subject to CEQA under the *common sense* exemption of section 15061(b)(3).

THEREFORE, BE IT RESOLVED, that the Commission hereby adopts the Notice of Exemption (Pub. Resources Code, § 21000 et seq.), and amendments to its siting and procedural regulations (California Code of Regulations, title 20, sections 1201–2309.) We take this action under the authority of, and to implement, interpret, and make specific, sections 25210, 25213, 25218(e), and 25218(f), of the Public Resources Code.

DELEGATION OF AUTHORITY AND DIRECTIVES TO THE EXECUTIVE DIRECTOR

The Commission directs the Executive Director to take, on behalf of the Commission, all actions reasonably necessary to have the adopted amendments go into effect, including but not limited to making any appropriate non-substantial changes, changes for consistency within the regulations, and preparing and filing all appropriate documents, such as the Final Statement of Reasons with the Office of Administrative Law and the Notice of Exemption with the State Clearinghouse.

CERTIFICATION

The undersigned Secretariat to the California Energy Commission does hereby certify that the foregoing is a full, true, and correct copy of a Resolution approved duly and regularly adopted at a meeting of the California Energy Commission held on August 1, 2018:

AYE: Weisenmiller, Douglas, McAllister, Hochschild, Scott

NAY: None

ABSENT: None

ABSTAIN: None

Original Signed by:

Cody Goldthrite
Secretariat