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<b>Filer:</b>	Dorothy Murimi
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
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# ITEM 5

## Rulemaking to Amend Regulations for Delegation of Certification Authority and Small Power Plant Exemptions



**21-OIR-02**

# **Rulemaking to Amend Regulations for Delegation of Certification Authority and Small Power Plant Exemptions**

Briefing to the Disadvantaged Communities Advisory Group

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Chief Counsel's Office  
21 January 2022



# Rulemaking Underway:

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- Small Power Plant Licensing Procedures
- Geothermal Power Plant Licensing Procedures



# Priorities Urging Amendments to Certain Siting Procedures:

- Governor Gavin Newsom's [Emergency Proclamation](#) (July 30, 2021)
- CPUC's June 2021 [mid-term reliability directive](#) to procure 11,000 MW of net new electricity by 2026 including 1,000 MW from geothermal resources
- CEC's geothermal delegation and SPPE regulations haven't been updated since the 1970s



# Warren-Alquist Act: Exclusive Certification Authority

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The California Energy Commission has the exclusive power to certify all thermal power plants and related facilities generating **50 megawatts** and greater.

**“One-stop-shop”**



# Warren-Alquist Act Power Plant Certification Requirements

- CEC certification has several aspects:
  - **Conformity** with all applicable local, regional, state and federal standards, ordinances and laws (**LORS**)
    - Safety and reliability
    - Air and water quality
  - **Environmental review:** Lead agency in certified regulatory program pursuant to CEQA
  - **Evidentiary process** under the Administrative Procedures Act (APA)



# Exception #1 to CEC Exclusive Permitting:

**Delegation of Geothermal Power Plant Siting Authority** to a county requires that the county have:

- A geothermal element in county's general plan
- An equivalent certification program
- A process providing for input and review by other public agencies and members of the public
- An adjudicative process

*This delegation has never been sought nor approved*





# Exception #2 to CEC Exclusive Permitting:

## Small Power Plant Exemption (SPPE)

- Thermal powerplants from 50 MW to < 100 MW generating capacity
- Required CEC Findings:
  - No substantial adverse impact on the environment
  - No substantial adverse impact on energy resources
- Approval requires project proponent to seek permits from all other agencies



# CEQA Requirements for Lead Agencies: Public Participation

- Lead Agency is required to provide **notice and public review and comment opportunities for CEQA determinations**
  - Opportunities for public participation at every stage of the CEC SPPE process
    - Scoping Meeting
    - Comment period on environmental document
    - Before close of the hearing on the project
  - Lead agency evaluates and responds in writing to comments on environmental issues



# CEQA Requirements for Lead Agencies: Potentially Impacted Resources

- Resources to be evaluated for potentially significant impacts in Initial Study or Environmental Impact Report

Aesthetics	Agricultural & Forestry Resources	Air Quality
Biological Resources	Cultural Resources	Energy
Geology/Soils	Greenhouse Gas Emissions	Hazards and Hazardous Materials
Hydrology & Water Quality	Land Use/Planning	Mineral Resources
Noise	Population/Housing	Public Services
Recreation	Transportation	Tribal Cultural Resources
Utilities/Service Systems	Wildfire	Mandatory Findings of Significance



# The Proposed Amendments

***Streamline CEC's administrative procedures without sacrificing public participation in government decisions, or the substantive requirements of the Warren Alquist Act, CEQA or other environmental or public health and safety laws.***

- **Delegation of geothermal power plant siting authority to local government:**
  - Eliminate redundant administrative process
  - Specify and strengthen requirements for local government
  - Retain public participation in CEC's review of petition, and in local review and certification of geothermal power plants
  - Retain all requirements of the Warren Alquist Act: environmental, safety and reliability, air and water quality, and LORS
- **SPPE approval:**
  - Eliminate redundant administrative process
  - Retain CEC as CEQA Lead Agency
  - Retain other local, regional and state agency permitting requirements
  - Specify and strengthen data requirements for applicants



# Benefits to California

- **Align:**
  - State policy to accelerate procurement of reliable, renewable and carbon free energy
- **Streamline:**
  - Remove redundant and obsolete processes while ensuring ample public participation and compliance with all substantive environmental and public health and safety laws.



# Draft Timeline for Rulemaking

Event	Date
Stakeholders submit pre-rulemaking written comments	12/6/2021
CEC Business Meeting: Order Instituting Rulemaking	12/8/2021
Notice of Proposed Action published by OAL	2/18/2022
Begin 45-day Public Comment Period	2/18/2022
End 45-day Public Comment Period	4/4/2022
Conduct public hearing	4/5/2022
CEC Business Meeting: Proposed Adoption	4/8/2022
<i>[If additional 15-day language is necessary]</i>	
<i>Post 15-day Language and Start 15-day Public Comment Period</i>	<i>5/17/2022</i>
<i>End 15-day Public Comment Period</i>	<i>6/1/2022</i>
<i>CEC Business Meeting: Proposed Adoption</i>	<i>6/8/2022</i>
Submit Final Rulemaking Package to OAL	6/28/2022
Secretary of State publishes regulations	8/17/2022
Effective Date of Regulations	8/17/2022





# How to Follow and Engage

- **CEC Docket 21-OIR-01 - All filings will be posted to the following list servers:**
  - *Siting Division General List*
  - *Rulemaking*
  - *Geothermal*
- **Public Advisor's Office**
  - [Publicadvisor@energy.ca.gov](mailto:Publicadvisor@energy.ca.gov)
- **Chief Counsel's Office**
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