

**DOCKETED**

<b>Docket Number:</b>	21-OIR-04
<b>Project Title:</b>	Rulemaking to Amend Regulations for Small Power Plant Exemptions
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<b>Docketed Date:</b>	9/22/2022



# **21-OIR-04**

## **Rulemaking to Amend Regulations for Small Power Plant Exemptions**

August 30, 2022, Public Hearing

Jared Babula, Senior Attorney  
Chief Counsel's Office  
Eric Knight, Branch Manager  
Siting, Transmission, and Environmental Protection



# Housekeeping Rules

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- This Public Hearing will be recorded.
- Mute your line when not speaking.
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# Public Hearing

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- Public Hearing pursuant to the California Administrative Procedures Act, Government Code §11346.8
- Purpose is to provide an opportunity for oral comments. All written comments submitted during the comment period and oral comments made today will be responded to in the Final Statement of Reasons.

NOTE: All statements today and the hearing recording become part of the public record.



# Rulemaking History and Adoption Date

- December 8, 2021: Order Instituting Rulemaking issued
- July 14, 2022: Rulemaking documents published
- August 29, 2022: Close of the 45-day comment period
- **August 30, 2022: Public Hearing on the rulemaking**
- September 14, 2022: Proposed rulemaking adoption date
- September 23, 2022: Submit rulemaking package to OAL
- Estimated effective date: November 2022



# Warren-Alquist Act: Exclusive Certification Authority

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- CEC has exclusive power to certify all thermal power plants and related facilities generating **50 megawatts** and greater
- **"One-stop shop"** certificate in lieu of any other permit required by state, regional or local agencies



# Warren-Alquist Act: Exceptions to Exclusive Permitting: SPPE

- **Public Resources Code section 25541**
- The commission may exempt thermal powerplants with a generating capacity of up to 100 megawatts, if the commission finds:
  - no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility

This is known as the Small Power Plant Exemption.

Implementing Regulations: California Code of Regulations title 20 sections 1934-1947

Note: Approval of the exemption is not approval of the project



# Current SPPE Framework

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1. Application for SPPE filed with CEC
  2. Noticing with public and tribal outreach
  3. Staff drafts environmental document in accordance with CEQA
  4. Public review period on environmental document
  - 5. Evidentiary hearings on the SPPE application held by committee**
  - 6. Committee issues proposed decision**
  7. CEC considers proposed decision and adoption/certification of environmental document at business meeting
- If exemption granted, applicant must then seek approval of the project with the local city or county.





# Updating the SPPE Process

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- The regulatory provisions subject to this rulemaking were first adopted in the late 1970s and have not been significantly amended since then.
- Since the late 1970s, many changes have occurred in California's electricity sector.
  - Independent companies propose and operate electrical generating facilities and sell them to the market, as opposed to those facilities being owned by the investor-owned utilities.
  - CEC does not assess a utility's need for a specific powerplant
- CEQA has rigorous public procedures to ensure public participation in the environmental review process.
- The current adjudicatory framework applied to SPPEs is no longer appropriate given statutory and market changes.



# Proposal

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To update the SPPE regulations staff proposes the following:

- (1) Remove the adjudicatory process from the regulatory provisions that currently apply to SPPEs; and
- (2) Update the requirements for applications to conform to changes in the California Environmental Quality Act (CEQA) and ensure the CEC has sufficient information to prepare an environmental review.



# Regulatory Changes

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- To remove the evidentiary hearing component the following sections of Title 20 are proposed to be repealed: 1934, 1937, 1943, 1944, 1945, 1946, and 1947.
- Other sections have been amended for consistency with no longer having an evidentiary component or for consistency with other provisions related to the CEC's powerplant certification process.



# Appendix B

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The regulations currently contain two sets of information requirements that must be provided in applications to the CEC:

Appendix B: The data requirements for Applications for Certifications

Appendix F: The data requirements for SPPE

The data requirements should ensure incoming applications have sufficient information for staff and the public to understand the project and for staff to initiate the CEQA review process.



# Appendix B

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- Staff is proposing to repeal Appendix F, update Appendix B to reflect changes to CEQA and common data gaps in applications and have Appendix B set forth the data requirements for both Applications for Certification and SPPEs.

Updates to Appendix B include the following technical areas:

1. Tribal Cultural Resources
2. Land Use
3. Traffic and Transportation
4. Visual Resources
5. Socioeconomics
6. Biological Resources
7. Wildfire



# How to Follow and Engage

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- **CEC Docket 21-OIR-04: All filings will be posted to the following list servers:**
  - *Siting Division General List*
  - *Rulemaking*
- **Public Advisor's Office**
  - [Publicadvisor@energy.ca.gov](mailto:Publicadvisor@energy.ca.gov)



# Public Comment

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- 3 minutes or less per person
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