

DOCKETED

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Emergency Rulemaking for Assembly Bill 205/209, Strategic Reliability Reserve for DWR Facilities

September 30, 2022, Public Webinar



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September 30, 2022



Housekeeping

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Public Webinar

Purpose of this webinar is to hold a public discussion concerning the proposed regulations. As indicated in the public notice, the CEC will accept oral comments today during the scheduled webinar, as well as receive written comments submitted through the docket until October 3, 2022

NOTE: All statements today and all written comments are considered public records



Legislative History

- June 30, 2022: Assembly Bill 205 establishes the Strategic Reliability Reserve (SRR) program to address electricity demands that are anticipated to increase quickly over the next ten years. One piece of that strategic program is a directive to CEC to establish a process to expedite review of applications for certain facilities proposed to be developed by the California Department of Water Resources (DWR facilities)
 - CEC permit is in lieu of all other local, state, and regional permits, and federal permits to the extent allowed by federal law
 - Regulations to implement the SRR program to be adopted as emergency regulations
 - Public Resources Code section 25794 through 25794.10
- September 6, 2022: Assembly Bill 209 clarifies some programmatic requirements



2022 Emergency Rulemaking Schedule

- September 20: CEC publishes notice of public webinar on the draft emergency regulations
- CEC publishes draft emergency regulations prior to public webinar
- September 30: Public webinar on the emergency regulations
- October 3: Informal written comment deadline
- October 5: Notice of proposed emergency action published
- October 12: Proposed emergency rulemaking adoption date
- October 13: Submit rulemaking package to Office of Administrative Law (OAL)
- October 24: OAL issues decision on emergency regulations
- Estimated effective date: October 31



Overview

- DWR facilities program established; October 31, 2022 to October 31, 2026
- A certification process for four types of eligible facilities (Water Code §80710) to obtain a license to operate via the CEC process:
 - New emergency and temporary power generators of 5 MW or more. No diesel fuel use after July 31, 2023
 - New energy storage systems located outside the coastal zone and jurisdiction of San Francisco Bay Conservation and Development Commission (BCDC), of 20 MW or more, capable of discharging for at least two hours, and with an operational date no later than December 31, 2024
 - Generation facilities that are located outside of the coastal zone and BCDC jurisdiction using clean, zero-emission fuel technology of any size to produce electricity
 - Supporting the development of zero-emission generation capacity with a point of interconnection at a California balancing authority, with the majority of its capacity contracted for by a load-serving entity that has a service area primarily in California, with an operational date no later than December 31, 2024.



Permit Procedures Overview

1. Pre-filing meeting
2. Application submitted; CEC immediately transmits Notice of Receipt to public agencies and affiliated California Native American Tribes
3. Within 5 days, CEC requests additional information, if necessary, to be provided within 30 days of request
4. Within 10 days of receipt, CEC shall submit a copy of the application to California Native American Tribes affiliated with the site. If consultation requested, complete prior to publishing Preliminary Staff Analysis (PSA)
5. Application deemed complete (Day 0)
6. Within 30 days after application is deemed complete, public agencies may submit to the CEC an assessment of the application for compliance with laws, ordinances, regulations and standards (LORS)
7. Meet at least once with any agency submitting comments
8. Publish PSA
9. Public comment period (60 days)
10. Final Staff Analysis (FSA) published
11. Business Meeting approval - 180 days after application deemed complete



Scope (§1890)

- Applies only to facilities identified and deemed eligible in Water Code Section 80710 (see slide 6)
- Excludes facilities to be located at existing jurisdictional facilities because those may use the petition to amend process in Cal. Code Regs, tit. 20, sec. 1769



Filing the DWR Application -- Standard CEC Procedures Apply (§1891-1893)

- A docket number will be assigned and all filing rules for all CEC proceedings apply. (Cal. Code Regs., tit. 20, section 1208)
- Confidential designation of documents shall be requested and granted in accordance with Cal. Code Regs., tit. 20, section 2505
- Applications and the documents provided in support thereof shall be verified in accordance with Cal. Code Regs., tit. 20, section 1707



Pre-Filing Meeting (§1891)

- Prior to submitting any application, DWR staff shall meet with CEC staff to discuss
 - Informational needs to help ensure a complete application
 - Optimal location analysis under Public Resources Code section 24794.2(a)
 - DWR shall invite impacted agencies to participate in pre-filing meeting
- Quarterly meeting required between CEC and DWR to address location of facilities



SRR Application Content (§1892)

- Appendix SRR implements PRC 25794.2(b), enabling staff to assess all potential impacts to environment, public health and safety, and compliance with all laws, ordinances regulations and standards applicable to the facility
- Requires data that typically provide staff a full and reliable picture of the current state of all aspects of the site and related facility; data assist in accurately determining the potential impacts of the facility, as well as required mitigation measures



Appendix SRR Highlights

- ☐ Cultural Resources and Tribal Cultural Resources
- ☐ Land Use
- ☐ Noise
- ☐ Traffic and Transportation
- ☐ Socioeconomics
- ☐ Air Quality
- ☐ Public Health
- ☐ Hazardous Materials Handling
- ☐ Worker Safety
- ☐ Waste Management
- ☐ Biological Resources
- ☐ Water Resources
- ☐ Soils
- ☐ Paleontological Resources
- ☐ Geological Hazards and Resources
- ☐ Transmission System Safety and Nuisance
- ☐ Engineering
 - Transmission System Design
 - Reliability
 - Efficiency



Application Completeness (§1893)

- CEC may request additional information from the applicant within 5 days of receipt of application
- Applicant has 30 days to submit requested information
- Executive Director has 5 days to assess and determine if acceptable
- This process may continue until Executive Director is satisfied with all the information
- Immediately upon accepting all additionally requested information, or within 20 days of submission if no additional information is requested, application deemed complete (PRC 25794.4)
- Executive Director will file a statement when the application is complete, and notify agencies and tribal interests where to obtain a copy of the complete application



Tribal Consultation (§1894)

- The CEC shall provide the application to all California Native American tribes affiliated with the site within 10 days from receipt of the application
- PRC 25794.5 (b) requires consultation with tribes be offered in a manner consistent with CEQA requirements (PRC 21080.3.1 and 21080.3.2)
- Consultation may occur earlier than statutorily required to ensure effective engagement, meaningful process, and information exchange
- Consultation must conclude prior to publication of Preliminary Staff Assessment



Preliminary Staff Analysis (§1896)

- Written Environmental and Public Health and Safety Analysis to include:
 - Description of the site and related facility
 - Analysis of environmental impacts of the site and related facility
 - Mitigation proposed
 - Proposed conditions of certification
- Describe conformity with public safety standards, air and water quality standards, and otherwise applicable local, regional, state, and federal LORS
- Analysis of public benefits, including electricity reliability benefits
- Plans for the site and related facility at expiration of 5-year certificate



Final Staff Analysis (§1897)

- Publish Final Staff Analysis following a 60-day public comment period of the Preliminary Staff Analysis
 - Include responses to comments that raise substantial issues, and revised analysis as needed
- Provide a recommendation to CEC whether to approve or deny the application and issue, or not, a certification
- Determine whether the site and related facility is or is not prohibited pursuant to PRC 25794.6
- Present to CEC for vote at business meeting within 45 days of publication



Post-Certification Changes (§1899)

- If facility features change during the term of the certificate, changes to the certificate can be made by seeking an amendment
- Change can be approved by staff if there is no possibility the change may have a substantial effect on the environment, all LORS remain in compliance, and no changes to the conditions of certification need to be made
- The department shall file a petition with the CEC, with payment, containing:
 - Description of change, including newly applicable conditions of certification, and its necessity
 - Provide analysis of effects of change on environment, public health and safety, or LORS
 - List of parcel numbers and owner names within 1000 feet of site, and how change affects these interests
- If the petition does not meet the staff approval requirements, staff shall prepare an analysis and submit to the CEC for approval at a business meeting



Notification of DWR Certified Facilities (§1899.1)

- Notice from DWR to CEC of location and description of site and related facilities developed prior to October 31, 2022, as part of Strategic Reliability Reserve
- Describe:
 - Permit date
 - Construction schedule and anticipated date of completion
 - Expiration date
 - Whether facility is located on a site under the jurisdiction of the CEC



Written Comments

Comments are due by 5:00 pm on October 3, 2022

To submit electronically: Go to 22-OIR-02's [E-Commenting Page](#)

To send a hard copy:

California Energy Commission
Docket Unit, MS-4
Docket No. 22-OIR-02
715 P Street
Sacramento, CA 95814-6400

To send a digital copy: Email docket@energy.ca.gov, include docket number 22-OIR-02 and indicate "Webinar on Emergency Rulemaking for Assembly Bill 205/AB 209, Certification of Department of Water Resources Facilities" in the subject line



How to Follow & Engage

- All filings in CEC [Docket 22-OIR-02](#)
- Subscribe to *Siting Division General List* to receive filings
- Visit the [DWR Facilities Rulemaking Webpage](#)
- Contact the Office of the Public Advisor, Energy Equity, and Tribal Affairs
- Publicadvisor@energy.ca.gov



Public Comment and Discussion

Instructions

Zoom App/Online

- Click “raise hand”

Telephone

- Press *9 to raise hand
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When called upon

- Staff will open your line
- Unmute, state and spell name, state affiliation, if any



Thank You!