

DOCKETED

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Project Title:	Rulemaking to Amend Regulations for Small Power Plant Exemptions
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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**Rulemaking to Amend Regulations
for Small Powerplant Exemptions**

Docket No. 21-OIR-04

**RESOLUTION ADOPTING
REGULATIONS**

WHEREAS, on December 8, 2021, the California Energy Commission (CEC) adopted an order instituting rulemaking proceeding to consider amending its existing processes and procedures for, among other things, the small powerplant exemption (SPPE) proceedings (Cal. Code Regs., tit. 20, §§ 1934-1948); and

WHEREAS, on July 14, 2022, the CEC mailed to the subscription service, including to a representative number of small business enterprises or their representatives that are likely to be affected by the proposed action, and posted on the CEC's website a Notice of Proposed Action (NOPA) formally notifying the public of the CEC's intent to adopt proposed regulations amending the process for reviewing SPPE applications, the Express Terms of the proposed regulations, an Initial Statement of Reasons (ISOR) describing the rationale for the proposal, and the fiscal and economic impact analysis; and

WHEREAS, on July 15, 2022, the NOPA was published in the California Regulatory Notice Register, and delivered to the Secretary of the California Natural Resources Agency; and

WHEREAS, each of these documents and notices were provided to every person on the CEC's Siting General subscription and Rulemaking subscription and to every person who had requested notice of such matters; were posted to the project docket; and were mailed to a representative number of entities that are likely to be affected by the proposed action; and

WHEREAS, on August 29, 2022, the 45-day written comment period established by the NOPA closed; and

WHEREAS, on August 30, 2022, the CEC held a public hearing to receive comments on the proposed regulations; and

WHEREAS, on September 6, 2022, a Notice of Postponement of Adoption Hearing was sent out to inform interested parties and the public that the proposed regulations would be considered for adoption at a time later than the originally posted date identified in the NOPA; and

WHEREAS, on September 30, 2022, the CEC provided notice designating October 12, 2022, as the date for the business meeting to consider adoption of the proposed regulations; and

WHEREAS, on October 12, 2022, the CEC considered adopting the proposed regulations at its business meeting and adopted the proposed regulations as published on July 14, 2022.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to the California Environmental Quality Act (CEQA):

- The CEC has considered the application of CEQA to the proposed regulations and concluded that the proposed regulations are not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the regulations will not result in a physical change to the environment or reasonably foreseeable indirect physical change to the environment. In the alternative, adoption is exempt from the CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

With regard to the Administrative Procedure Act:

- The proposed regulations will not result in the creation of new businesses or elimination of existing businesses, will not result in the expansion of businesses currently doing business in California, and will not result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and
- The proposed regulations will impose no direct costs or savings, 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; and
- The proposed regulations will not result in the creation or elimination of jobs within California; and
- The proposed regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed regulations will result in no nondiscretionary costs or savings to any state agencies, local agencies, or school districts; and

- The proposed regulations will have no impact on housing costs; and
- The proposed regulations will result in no cost impacts to representative private persons or businesses in reasonable compliance with the regulations; and
- The proposed regulations will not adversely impact the health and welfare of California residents, worker safety, or the state's environment; and
- The proposed regulations have no alternatives that would be more effective in carrying out the purposes of the statutes for which they are proposed, 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; and
- The proposed regulations will not have a significant adverse economic impact on small business; and
- The proposed regulations will not require completion of any new report; and
- None of the comments received during the comment period, at the public hearing on August 30, 2022, or at the business meeting on October 12, 2022, and nothing else in the record, justified any changes to the proposed regulations as published on July 14, 2022.

THEREFORE, BE IT RESOLVED that, based on the entire record before it, the CEC finds that the proposed regulations are not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the regulations will not result in a direct physical change to the environment or reasonably foreseeable indirect physical change to the environment. In the alternative, adoption is exempt from the CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

FURTHER BE IT RESOLVED that, after considering all comments received and based on the entire record of this proceeding, the CEC hereby adopts the amendments to its SPPE regulations, as set forth in the Express Terms that were published on July 14, 2022. The CEC takes this action under the authority of sections 25213 and 25218(e) of the Public Resources Code, which authorize the CEC to adopt rules or regulations, as reasonable and necessary, to implement Public Resources Code section 25541; and

FURTHER BE IT RESOLVED that documents and other materials that constitute the rulemaking record can be found at the CEC, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online in [Docket Number 21-OIR-04](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-04), at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-04> and posted on the CEC's website.

FURTHER BE IT RESOLVED that the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed regulations go into effect, including but not limited to making any appropriate

non-substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and filing a notice of exemption with the Office of Planning and Research.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on October 12, 2022.

AYE: Hochschild, Gunda, McAllister, Monahan, Vaccaro

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE

Dated: October 13, 2022

SIGNED BY:

Liza Lopez
Secretariat