

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov



In the matter of: Amendments to) Docket No. 12-OIR-02
 Regulations Implementing the Geothermal)
 Grant and Loan Program, California Code of)
 Regulations, Title 20, Sections 1660-1665)
 and Appendix A)

California Energy Commission

DOCKETED
12-OIR-02

TN 71870

AUG 23 2013

Notice of Proposed Action

Hearing for Consideration and Possible Adoption of Amendments to Regulations Implementing the Geothermal Grant and Loan Program

Hearing Date and Time – Gov. Code section 11346.5, subd. (a)(1)

The Energy Commission will conduct a hearing to consider adoption of amendments to the Geothermal Grant and Loan Program regulations, located in sections 1660-1665 and Appendix A of Title 20, California Code of Regulations. The Energy Commission will conduct the hearing during its regularly scheduled business meeting on:

October 9, 2013

10:00 a.m.

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street

1st Floor, Hearing Room A

Sacramento, California

Wheelchair Accessible

Remote Access Available by Computer or Phone via WebEx™
(Link to instructions below)

In addition to appearing in person, participants may choose to participate remotely. To participate by telephone, please call toll free 1-888-823-5065 on October 9, 2013 after 10:01 a.m. (Pacific Time). The passcode for the meeting is "Business Meeting." If you plan to speak on a specific item, please give the operator the subject matter of "Geothermal Grant and Loan Program rulemaking."

In addition, the Business Meeting is broadcast via WebEx, the Energy Commission's on-line meeting service. For the specific link to the October 9, 2013 Business Meeting, and to see the agenda and background materials, please go to:

www.energy.ca.gov/business_meetings/.

Public Comment – Gov. Code section 11345.6, subd. (a)(15)

The Energy Commission will accept public comment on the proposed amendments until the item has been heard at the October 9, 2013 hearing. Written comments should be submitted to the Dockets Unit. Paper copies will be accepted, although the Energy Commission encourages comments to be submitted by e-mail. Please include your name and any organization name in comments you file concerning these proposed amendments. Electronic comments should be in a downloadable attachment, such as Microsoft® Word (.doc) or Adobe® Acrobat® (.pdf). Please write "Geothermal Grant and Loan Program Rulemaking, Docket No. 12-OIR-02" in the subject line of the e-mail, and send to: docket@energy.ca.gov.

If you prefer, you may send a paper copy of your comments to:

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 12-OIR-02
1516 Ninth Street
Sacramento, CA 95814-5512

The Energy Commission will also accept oral comments during the hearing on October 9, 2013. Comments may be limited to three minutes per speaker. All comments will become part of the public record of this proceeding. Oral comments will be available in the hearing transcript and recording on the Energy Commission website for the October 9, 2013 business meeting. Additionally, written comments may be posted to the Energy Commission's website for the proceeding.

Public Adviser and Other Commission Contacts

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this forum, please contact the Public Adviser's Office at PublicAdviser@energy.ca.gov or (916) 654-4489 or toll free at (800) 822-6228.

If you have a disability and require assistance to participate, please contact Lou Quiroz at Lou.Quiroz@energy.ca.gov or (916) 654-5146 at least five days in advance of the hearing.

Media inquiries should be sent to the Media and Public Communications Office at mediaoffice@energy.ca.gov or (916) 654-4989.

If you have questions on the subject matter of this proceeding, please contact Cheryl Closson, Project Manager, at Cheryl.Closson@energy.ca.gov, (916) 327-2312 or Rizaldo Aldas, Team Lead, Renewable Energy Research and Development, Rizaldo.Aldas@energy.ca.gov, (916) 327-1417.

If you have legal questions about this proceeding, please contact Robin Mayer at Robin.Mayer@energy.ca.gov or (916) 651-2921.

Availability of Proposed Amendments

As noted above, the California Energy Commission is proposing to amend the regulations implementing the Geothermal Grant and Loan Program. (Cal. Code of Regulations, tit. 20, §§ 1660-1665, appen. A.) The Energy Commission invites the public to review and comment on the proposed amendments. The proposed amendments and other supporting documents are available on the Energy Commission's website at http://energy.ca.gov/geothermal/grda_rulemaking/.

The public may also request copies of the proposed amendments and other supporting documents by contacting Cheryl Closson, Project Manager, at Cheryl.Closson@energy.ca.gov, (916) 327-2312 or Rizaldo Aldas, Team Lead, Renewable Energy Research and Development, Rizaldo.Aldas@energy.ca.gov, (916) 327-1417.

Documents in the rulemaking file are also available from the Energy Commission's Dockets Office. For copies please contact:

CALIFORNIA ENERGY COMMISSION
Dockets Office
1516 Ninth Street, MS-4
Sacramento, California 95814-5512
(916) 654-5076
docket@energy.ca.gov

Background

The California Energy Commission's Geothermal Grant and Loan Program was created by Assembly Bill 1905 (Stats.1980, c. 139, p. 330, § 1) and has been in operation since 1981. During the first decade, the program promoted geothermal energy development in the state by extending financial and technical assistance to public entities to support direct uses, planning, and mitigation projects. In 1992, the program was expanded to extend financial assistance to private entities as well as local jurisdictions, for a wide variety of geothermal research, development, and commercialization projects. The mission of the program is to promote research and development of California's vast

geothermal energy resources. The program funding comes from payments made to the State by the federal government for a portion of the royalty and lease revenues generated by geothermal development on federal lands in California. Typically, the Energy Commission makes program awards roughly every two to three years through competitive project solicitations called Program Opportunity Notices.

The regulations implementing the Energy Commissions Grant and Loan Program are in the California Code of Regulations, title 20, sections 1660 through 1665 and Appendix A. The regulations have not been amended since their adoption in 1985. These amendments have four objectives. The primary purpose of the amendments is to simplify both the procedures for applicants seeking to obtain loans and grants under the program and the procedures for the Energy Commission's review of applications and awarding of loans and grants. The proposed amendments would also clarify several statutory requirements by identifying what the Energy Commission will accept as documentation for local approval of grants or loans awarded to private entities, and addressing the information needed for the Energy Commission to be able to determine that a decision approving an award for the project is in compliance with CEQA. In addition, the amendments would delete provisions that are outdated due to changes in statute or Energy Commission practice. Finally, the amendments make non-substantive stylistic and grammatical changes to clarify the regulations.

Authority and Reference – Gov. Code section 11346.5, subd. (a)(2)

The Energy Commission takes this action under the authority of its general rulemaking powers provided by Public Resources Code, sections 25213 and 25218, subdivision (e).

The proposed amendments implement, interpret, and make specific Public Resources Code, section 3800 et seq. (state allocation of geothermal revenues) and section 25216, subdivision (c) (Energy Commission to carry out research and development into alternative sources of energy).

Informative Digest – Gov. Code section 11346.5, subd. (a)(3)

Per Government Code, section 11346.5, subdivision (a)(3), the Energy Commission here supplies an informative digest of laws related to the proposed amendments.

Summary of existing directly related law and effect of the proposed action (Govt. Code section 11346.5, subd. (a)(3)(A)).

Existing law provides for the allocation of revenues distributed to the state pursuant to section 35 of the Mineral Lands Leasing Act of 1920, as amended (Pub. Resources Code § 3800 et seq.). Specifically, Public Resources Code section 3820 establishes the Geothermal Resources and Development Account in the state's general fund. (Pub. Resources Code, § 3820.) Thirty percent of the funds in the account are allocated to the Energy Commission's Geothermal Grant and Loan Program, the subject of the

regulations and the proposed amendments. (Pub. Resources Code, § 3822 and generally, § 3820 et seq.) The Energy Commission uses the funds to provide loans and grants to local jurisdictions and private entities for research and development of geothermal energy. Local jurisdictions and private entities applying for funds may devote a project to purposes related to planning for, assessing, researching or developing geothermal resources or to mitigation of the effects of development. (See Pub. Resources Code, § 3823 [acceptable purposes for spending grants or loans].) Existing regulations establish requirements for local jurisdictions, the Commission, staff, and others to follow during the application and review process. (Cal. Code of Regs., tit. 20, §§ 1660 – 1665, appen. A.) However, Public Resources Code 3822 has been amended three times since the adoption of the regulations, and consequently the existing regulations do not accurately reflect all of the current statutory provisions and requirements.

The Federal Oil and Gas Royalty Management Act of 1982 and the Geothermal Steam Act of 1970 provide the basis for the funding for the grant and loan program. (See 30 U.S.C. § 191.) Section 191 requires that the United States pay half the funds from sales, bonuses, rentals, and royalties from geothermal revenues produced on federally-owned land to the states in which the leased lands are located. California may use the funds as the state legislature may direct, giving priority to those subdivisions of the state that are socially or economically impacted by geothermal resources development, primarily for planning, construction and maintenance of public facilities, and provision of public service. (*Ibid.*) These requirements are reflected in the statutory provisions governing the Geothermal Grant and Loan Program.

The proposed amendments would accomplish four objectives:

1) Simplify the application and review process -

- Reduce the steps in the application process from two to one by using a single application and review process rather than a preapplication and a final application process.
- Eliminate use of a Technical Advisory Committee for review and scoring of applications, while still allowing the Energy Commission the discretion to invite other governmental entities to assist in application review and scoring.
- Delete contingent awards, which allow a loan to become a grant under certain circumstances.
- Delete the requirement that the Energy Commission make awards in three project categories.
- Reduce the number of scoring criteria and assign criteria points to total 100 rather than 120.

2) Provide guidance regarding several statutory requirements-

- Describe how private entity applicants may demonstrate compliance with the statutory requirement contained in Public Resources Code section 3822,

subdivision (g)(3) that awards to private entity applicants be approved by the local city, county or Indian reservation within which the project is to be located.

- Ensure that the Energy Commission has sufficient data and analysis from an application to make any determinations required by CEQA.

3) Update provisions to reflect statutory changes and changes in Energy Commission practice-

- Add references to private entities as applicants.
- Delete the existing repayment term cap of six years on loans, which is in conflict with current statutory provisions.
- Delete the existing limit on interest rates, which is in conflict with current statutory provisions.
- Delete references to an Energy Commission Committee that is no longer used for overseeing the Geothermal Grant and Loan Program.
- Add reference to electronic notification procedures to program notice mailing requirements to reflect the Energy Commission's use of electronic notification.

4) Provide stylistic and grammatical changes to improve clarity-

- Clarify provisions to remove vague and redundant terms, such as deleting "eligible activity" and defining "project" in its place; deleting "funding cycle"; consolidating references to "awards" and "funds" to "awards" only; changing "eligible applicant" to "applicant."

Comparable federal law - Gov. Code section 11346.5, subd. (a)(3)(B)

The proposed amendments do not differ substantially from an existing comparable federal regulation or statute because there is no comparable federal regulation or statute. Although the Geothermal Grant and Loan Program receives funding due to the provisions in federal law identified above, it is state law that establishes the program that is being implemented by these regulations.

Policy Statement Overview – Gov. Code section 11346.5, subd (a)(3)(C)

Objectives. Generally, the objectives of the Geothermal Grant and Loan Program are to reduce dependence on fossil fuels and stimulate the state's economy through the development of geothermal resources; mitigate the adverse social, economic, and environmental impacts caused by geothermal development; provide financial assistance to cities, counties, and districts to offset the costs of public services and facilities required by the development of geothermal resources in their jurisdictions; and to maintain the productivity of renewable resources. (Pub. Resources Code, § 3800.)

The broad objectives of the regulations are to meet these statutory goals as efficiently and fairly as possible. Because of statutory changes, changes in Energy Commission practice, and experience gained in implementing the program, the Energy Commission

has determined that the program can be improved by amending the regulations. These amendments will streamline the application and review procedures, clarify several statutory requirements, delete provisions that are outdated due to changes in statute or Energy Commission practice, and make non-substantive stylistic and grammatical changes to improve clarity.

Specific Benefits. The specific benefits anticipated by the proposed amendments include a simplification of the application process for applicants and the review and award process administered by the Energy Commission. This will occur by reducing the steps in the application process from two to one, eliminating the use of the Technical Advisory Committee, eliminating the use of contingent awards, deleting the requirement that the Energy Commission make awards in three project categories, reduce the number of scoring criteria, and assign criteria points to total 100 rather than 120. The more efficient process will provide cost savings for private entity applicants, local agency applicants, and the Energy Commission in its administration of the program.

In addition, the proposed amendments will provide guidance that is currently lacking by describing how private entity applicants can comply with the statutory requirement contained in Public Resources Code section 3822, subdivision (g)(3) that awards to private entity applicants be approved by the city, county, or Indian reservation within which the project is to be located, and by identifying the documentation needed to ensure that the Energy Commission's decision approving an award for the project is in compliance with CEQA.

The amendments would also conform the regulations to specific statutory requirements and current Energy Commission practice by adding references to private entities as applicants, deleting the existing repayment term cap of six years on loans, deleting the existing limit on interest rates, and deleting references to an Energy Commission Committee that is no longer used for overseeing the Geothermal Grant and Loan Program.

Finally, the proposed amendments will have the benefit of clarifying the regulations through non-substantive stylistic and grammatical changes.

The Energy Commission has determined that simplifying the application and review process, removing the project category funding limitations, providing guidance for statutory requirements, conforming the regulations to current law and Energy Commission practice, and making clarifying grammatical and stylistic changes may result in a more efficient program and clearer directions to applicants which in turn should result in projects being deployed more quickly, furthering the statutory goals of reducing dependence on fossil fuels and stimulating the state's economy through the development of geothermal resources, as well as mitigating the adverse social, economic, and environmental impacts caused by geothermal development. (Pub. Resources Code, § 3800, subs. (a)-(c).)

The Energy Commission believes that the increased efficiencies and clarity provided by the proposed amendments will provide some nonmonetary benefits, such as reducing the time from program application to project award. However, it does not anticipate nonmonetary benefits such as increased protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, or an increase in openness and transparency in business and government.

Existing State Regulations – Gov. Code section 11346.5, subd. (a)(3)(D)

The proposed amendments are not inconsistent or incompatible with existing state regulations. There are no other state regulations specifically governing the Geothermal Grant and Loan Program. The proposed amendments do reference the California Environmental Quality Act or CEQA (Pub. Resources Code section 21100 et seq.) by requiring in an application analyses, assessments, or other documents sufficient to support the Energy Commission’s determination that a decision approving an award for the project is in compliance with CEQA. These latter amendments complement CEQA’s guidelines and are neither inconsistent nor incompatible with them.

Documents Incorporated by Reference– Cal. Code Regs., tit. 1, section 20, subd. (c)(3)

The proposed amendments do not incorporate any documents by reference.

Mandated by Federal Law or Regulations – Gov. Code section 11346.2, sub. (c), 11346.9

The proposed amendments are not mandated by federal law or regulations nor are they identical to a previously adopted or amended federal regulation.

Other Matters – Gov. Code section 11346.5, subd. (a)(4)

No other matters prescribed by statute are applicable to the Energy Commission or to any specific regulation or class of regulations considered in these amendments.

Local Mandate – Gov. Code section 11346.5, subd. (a)(5)

The proposed amendments do not impose a mandate on local agencies, because they do not require local agencies to undertake a new program or increase the level of service in an existing program. (Cal. Const., Art. XIII B, § 6, Gov. Code, § 17514, State Administrative Manual, § 6606.) The proposed amendments do not affect school districts.

As noted above, most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process. Other

amendments making grammatical and stylistic changes are non-substantive in nature. Finally, updating the regulations to reflect changes in statute and Energy Commission practice will have no effect on local agencies.

There are two amendments that change – as opposed to eliminate - application requirements that could affect local agencies. These amendments provide guidance to applicants regarding several statutory requirements. First, the existing regulations imply that CEQA compliance has occurred prior to submittal of an application. This may be the case for projects with activities requiring permits or other authorization, where the local jurisdiction or other agency is the Lead Agency under CEQA and the Energy Commission is a Responsible Agency. In such a case, the Energy Commission will consider the CEQA documents and the determination made by the Lead Agency, and then make its own determination as required by CEQA, when approving an award for a project. However, for projects where no permit or other authorization is required, the Energy Commission is the Lead Agency and it will need to conduct any necessary CEQA analysis and determination prior to approving an award. The existing regulations do not address the information needs of the Energy Commission in the latter circumstance. These amendments address the Energy Commission’s CEQA information needs under both circumstances, but do not change the CEQA obligations currently applicable to local jurisdictions. Where the local jurisdiction is the Lead Agency, it will continue to be required to prepare a CEQA determination and associated documentation. Where the local jurisdiction is the applicant but not the Lead Agency, it will still be required – as are all applicants – to submit the information needed to enable the Lead Agency, be it another agency or the Energy Commission, to prepare the CEQA determination and documentation. Therefore, the proposed amendments remove a potential incompatibility with CEQA, but do not require local agencies to undertake any additional work or analyses. Hence, this modification does not create a local mandate.

The second amendment provides guidance to private entity applicants regarding the statutory requirement to obtain approval for the grant or loan from the city, county, or Indian reservation where the project is to be located. Local agency approval is an existing requirement of the statute (Pub. Resources Code, section 3822, subd. (g)(3)), but the existing regulations do not address how the applicant or the Energy Commission can address the requirement. Therefore, the proposed amendments: 1) require private entity applicants to describe how, if awarded a grant or loan, they will obtain approval for the grant or loan from a representative of the city, county, or Indian reservation where the project is to be located, in accordance with Public Resources Code section 3822(g)(3); 2) identify what written documentation the Energy Commission will accept from private entity applicants who must obtain approval of the award from a representative of the local city, county, or Indian reservation within which the project will be located, and 3) state that the Energy Commission will not disburse funds for an award until evidence of such approval is provided. The amendments both make the applicants aware of the statutory requirement as part of the application process, and specify that the approval must be provided in writing to the Energy Commission before award funds will be disbursed. Requiring written documentation, in the form of an e-

mail or other written evidence of the approval, is necessary so that the Energy Commission can demonstrate compliance with the statutory requirement. These amendments apply only to the private entity applicant and awardee but entail action by local agencies in order for the approved projects to be funded. However, the cost of providing written notice of an approval that has already been made does not constitute a new program or increase the level of service in an existing program and hence does not create a local mandate.

Fiscal Impact - Gov. Code section 11346.5, subd. (a)(6)

Per Government Code, section 11346.5, subdivision (a)(6), the proposed amendments would have impacts on the Energy Commission, a state agency; may have impacts on local agencies as applicants; and also may impact on local agencies when a private entity receives an award for a project within the local agency jurisdiction. The proposed amendments will not have an effect on school districts.

Most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process. These will create savings identified below. Other amendments making grammatical and stylistic changes are non-substantive in nature and have no cost impacts. Modifying the regulations to reflect changes in statute and Energy Commission practice will also have no cost or savings impacts. There are two amendments that change – as opposed to eliminate - requirements that could affect local agencies. These amendments provide guidance to applicants regarding several statutory requirements. The proposed amendment requiring that local jurisdiction provide approval of an award to a private entity applicant in writing will impose very minor costs that are identified below. The proposed amendment clarifying the documentation needed for a CEQA determination will impose no additional costs, as explained below.

Cost or Savings to Any State Agency

The proposed amendments would not increase costs for any state agency. Other than the Energy Commission, the proposed amendments would not create savings for any state agency. The proposed amendments would save the Energy Commission approximately 0.35 of a person-year per solicitation due to the simpler process for reviewing applications. Approximately \$53,000 in personnel costs would be saved per solicitation, which would take place approximately every two years, depending on the salary of staff analysts reviewing the applications. These savings would be used for other program outreach activities and training workshops to help local agency and private entity applicants and awardees (e.g. workshops on CEQA, preparation of project applications, and writing sound reports, etc.).

Cost to Any Local Agency or School District That is Required to be Reimbursed

As noted in the previous section, the proposed amendments would not impose a cost to local agencies that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies

As noted above, the statutory provisions implemented by the proposed regulations require the award to be approved by the local governmental jurisdiction within which the project is to be located. (Pub. Resources Code section 23822, subd. (g).) The proposed amendments interpret that provision by requiring that the approval be provided to the Energy Commission in writing and stating that e-mail is an acceptable means of doing so. Based on historical data, staff estimates that local agencies would need to supply six funding approvals per round of funding. The Energy Commission estimates that a local agency will expend \$20 to express its approval of a private entity award in writing. This estimate is based on the costs identified for preparing a business letter according to a study by Dartnell Institute of Business Research (2006). The total impact on local agencies will be \$120 per round of funding.

With respect to CEQA, the proposed amendments would require an applicant to provide documents sufficient to support an Energy Commission's determination that its decision approving an award for the project is in compliance with CEQA. This could consist of submitting evidence of the local jurisdiction's own determination about CEQA or, when the Energy Commission is the Lead Agency and responsible for CEQA compliance, submitting the documentation to the Energy Commission that the local government would develop were it the Lead Agency. There should be no additional cost for a local agency to present the information necessary to support a CEQA determination to the Energy Commission rather than to itself or another Lead Agency. Therefore, no additional costs are associated with this proposed amendment.

As applicants, local agencies would experience savings due to the simpler, one-step application process. These savings are estimated to average \$7,700 per application, and the Energy Commission expects approximately 10 local agency applications per funding cycle.

Cost or Savings in Federal funding

The proposed amendments would not impact federal funding to the state.

Housing Costs - Gov. Code section 11346.5, subd. (a)(12)

The proposed amendments do not impact housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete - Gov. Code sections 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8).

Per Government Code, section 11346.5, subdivision (a)(8), the Energy Commission has made an initial determination that the proposed amendments will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

As noted previously, these amendments have four objectives: creating a simpler application process by deleting steps in the application and review process, providing guidance regarding several statutory requirements, updating the regulations to reflect changes in statute and Energy Commission practice, and clarifying existing language by making grammatical and stylistic changes to the regulations. Businesses affected by these proposed amendments are private entity applicants for Energy Commission awards made pursuant to the Geothermal Grant and Loan Program. By simplifying and shortening the application and review process, the Energy Commission is making it easier for private entity applicants to apply for awards. And in clarifying statutory requirements related to local government approval and CEQA compliance, the proposed amendments will eliminate uncertainty that currently exists in the application and review process. The proposed amendments do require that a private business discuss obtaining approval with the local government, but the requirement to obtain local approval is imposed by statute and an applicant would need to undertake this discussion regardless of whether a discussion of compliance with the requirement is included in the application. (See discussion below, Impacts on a Representative Private Person or Business). Grammatical and stylistic changes and changes to reflect changes in statute and Energy Commission practice will have no effect on business. Therefore, these amendments will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Statement of the Results of the Economic Impact Assessment – Gov. Code section 11346.5, subd. (10)

The proposed amendments do not meet the statutory definition of a major regulation, because they will not have an economic impact on California business enterprises and individuals exceeding \$50 million as estimated by the Energy Commission. (Gov. Code, § 11342.548.)

Therefore, the Energy Commission here supplies the results of the economic impact assessment required as required by Government Code, section 11346.3, subdivision (b).

The Energy Commission has determined that the proposed amendments:

- Will not create or eliminate jobs within the State of California.
- Will not create new or eliminate existing businesses within the state of California.
- Will not expand business currently doing business in the State of California.
- Will not impact the health and welfare of California residents or worker safety, or the state's environment.

As noted above, most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process, and reduced costs for private entity applicants and local government applicants compared to the status quo. Proposed amendments clarifying statutory requirements related to local government approval and CEQA compliance eliminate uncertainty that exists in the current regulations. Updating the regulations to reflect changes in statute and Energy Commission practice will not create any impact on business. Finally, other amendments making grammatical and stylistic changes are non-substantive in nature, and would have no impact on business.

Impacts on a Representative Private Person or Business – Gov. Code section 11346.5, subd. (a)(9)

Per Government Code, section 11346.5, subdivision (a)(9), the Energy Commission here discusses the cost of the amendments that a representative private person or business would necessarily incur in reasonable compliance with the proposed amendments. As noted above, most of the amendments consist of the deletion of existing requirements, resulting in a simpler and shorter application and review process, and reduced costs for private entity applicants compared to the status quo. While there is no published data on costs and savings associated with the amendments, Energy Commission staff conducted informal surveys of previous applicants to the Geothermal Grant and Loan Program for estimates of their costs and savings. Based on these responses, staff developed conservative estimates for average savings to private applicants of \$2,652 per application or \$53,040 per solicitation, assuming 20 private entity applicants.

Other amendments making grammatical and stylistic changes are non-substantive in nature, and would have no cost impacts on private persons or businesses. Similarly, updating the regulations to reflect changes in statute and Energy Commission practice will not impose any costs on businesses. Finally, proposed amendments clarifying statutory requirements related to local government approval and CEQA compliance eliminate ambiguity that exists in the current regulations, and should impose only the minimal costs identified below.

Approval documents. Public Resources Code section 3822, subdivision (g) requires a private entity applicant to obtain local jurisdiction approval of any award issued under the Geothermal Grant and Loan Program. The proposed amendments require a private entity to explain in the application how it would obtain local approval for an award.

Drafting this explanation for inclusion in the application is conservatively estimated to take 10 hours at \$100/hour, or \$1,000 per application. The proposed amendments also state that if a private entity won an award, it would be required to provide a written copy of the approval. The time required for a private entity awardee to request that the approval be provided in writing and submit that approval to the Energy Commission is \$40, the cost of preparing two business letters.

CEQA assessments. As an applicant, a private entity would be required to produce documents sufficient to support an Energy Commission's determination that its decision approving an award for the project is in compliance with CEQA. This should impose no additional cost because an applicant must produce these documents for the lead agency on the project, whether the lead agency is the Commission or a local governmental agency.

Conclusion

The costs to a private entity associated with the regulation would average \$1,000 per application, and should the entity receive a grant or loan, \$40 per award. The savings to a private entity would average \$2,652 per application. Therefore, the Energy Commission has identified a net savings of \$1,612 to \$1,652 per application that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Reports by Business – Gov. Code sections 11346.5, subd. (a)(11), 11346.3, subd. (d)

Per Government Code, section 11346.5, subdivision (a)(11), the proposed amendments do not require any reports by business; therefore the finding identified in Government Code, section 11346.3, subdivision (d) is not required for this rulemaking.

Effects of the Regulation on Small Business - Cal. Code Regs., tit. 1, section 4

The proposed amendments are likely to affect small business. Some applicants to the program meet the definition of small businesses in Government Code, section 11342.610, and the Energy Commission anticipates future applicants would also meet that definition. The Energy Commission expects that 50-75% of applicants in a funding cycle could qualify as a small business. Impacts on a small business applicant are the same as any other private entity applicant. See further discussion above under "Impacts on a Representative Private Person or Business." As identified above, private entity applicants would see a reduction in costs due to the simpler application process; these savings are estimated to average \$2,652 per application. As above, the estimated costs are \$1,000 per application and should the entity win a grant or loan, \$40 per award. Net savings are therefore estimated to average \$1612-\$1652 per application.

Alternatives - Gov. Code section 11346.5, subd. (a)(13)

In this rulemaking proceeding, the Energy Commission must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Energy Commission considered alternatives in drafting the proposed amendments and may consider additional alternatives as the Commission proceeds with the formal rulemaking process, which begins with publication of this Notice of Proposed Action.

Energy Commission Contacts – Gov. Code section 11346.5(a)(14)

Per Government Code, section 11346.5, subdivision (a)(14) and section 11340.85, subdivision (b)(2), please direct inquiries concerning the proposed amendments to Cheryl Closson, Cheryl.Closson@energy.ca.gov, (916) 327-2312 or Rizaldo Aldas, Rizaldo.Aldas@energy.ca.gov, (916) 327-1417.

Legal questions may be directed to Robin Mayer, Robin.Mayer@energy.ca.gov, (916) 651-2921.

Availability of Materials – Gov. Code section 11346.5(a)(16)

Per Government Code, section 11346.5, subdivision (a)(16) and section 11340.85, subdivision (b)(2), the Energy Commission has prepared a statement of reasons for the proposed amendments, has available all of the information upon which its proposal is based, and has available the express terms of the proposed amendments in ~~strikeout~~/underline form.

Changes to the Proposed Amendments –Gov. Code section 11346.5, subd. (a)(18)

Per Government Code, section 11346.5, subdivision (a)(18), if changes are made to the proposed amendments pursuant to Government Code section 11346.8, the full text of the change will be available for at least 15 days prior to the date on which the Energy Commission adopts the resulting regulation. Any written comments received regarding the change will be responded to in the final statement of reasons.

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from Commissioners. Moreover, additional changes to the proposed regulations not indicated in the proposed amendments could be considered, if they

improve the clarity or effectiveness of the regulations or are supported by public comment.

Final Statement of Reasons - Gov. Code section 11346.5, subd. (a)(19)

Per Government Code, section 11346.5, subdivision (a)(19) and section 11340.85, subdivision (b)(2), the Energy Commission will make the Final Statement of Reasons for any adopted amendments available on the Energy Commission's website at http://energy.ca.gov/geothermal/grda_rulemaking/. In addition, any person may request copies of the Final Statement of Reasons from the Docket Unit, docket@energy.ca.gov, (916) 654-5076, or by mailing the request to:

Docket Unit
No. 12-OIR-02
California Energy Commission
1516 9th St. MS-14
Sacramento, CA 95814-5512

Internet Access - Gov. Code section 11346.5, subd. (a)(20)

Per Government Code section 11346.5, subdivision (a)(20) and section 11340.85, all notices, express terms (text of the amendments), changes to the express terms, initial and final statements of reasons, documents relied on, and orders related to the rulemaking are or will be available on the Energy Commission's website.

The Energy Commission will post these documents, which can be downloaded in Adobe® Acrobat® .pdf format, to http://energy.ca.gov/geothermal/grda_rulemaking/.