

Initial Statement of Reasons

Amendments to Regulations Implementing the Geothermal Grant and Loan Program (Cal. Code Regs., tit. 20 § 1660 et seq.)

Background

In 1980, the Legislature established the Geothermal Resources and Development Account (Stats.1980, c. 139, p. 330, § 1) for the receipt and management of royalty monies paid to the state by the federal government from geothermal leases on federal land in California. 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, § 3800 et seq.) The Energy Commission uses the funds to provide loans and grants to local jurisdictions and private entities for geothermal energy research and development projects. Local jurisdictions and private entities applying for funds may devote a project to purposes related to the development of geothermal resources or to mitigate the effects of development. (See Pub. Resources Code, § 3823 [acceptable purposes for spending grants or loans].) Since 1981, the Energy Commission has distributed nearly \$69 million in grants or loans to applicants for a variety of geothermal projects. During the last round of funding in 2011, the Energy Commission distributed close to \$5.5 million in grants for geothermal research and development projects.

General Objectives of the Rulemaking

This section contains an overview of the Energy Commission's Geothermal Grant and Loan Program and a discussion of the general objectives of this proposed rulemaking. The specific purpose, problem, rationale, and benefits of each specific change are discussed below.

The Geothermal Grant and Loan Program (Program) was established to help local jurisdictions promote the development of geothermal resources, mitigate adverse impacts caused by geothermal development, and offset the costs of providing services necessitated by the development of geothermal resources. The Energy Commission adopted the existing Program regulations in 1985. They establish requirements for local jurisdictions, the Energy Commission, staff, and others to follow when applying for a loan or grant. (Cal. Code of Regs., tit. 20, §§ 1660 – 1665, appen. A.) Despite several statutory changes affecting the administration of the program, the regulations have never been updated. As a result, some provisions do not conform to statutory amendments, such as the express inclusion of private entity applicants added to Public Resources Code, section 3822. (Stats. 1990, c. 644 (SB 2200), § 2 [adding private entities as loan applicants]; Stats. 1991, c. 520 (SB 634), § 1 [adding grants for private entities].) Other

provisions, such as requiring outside entities to score applications, do not conform to current Energy Commission practice in overseeing the distribution of grants and loans. In addition, the Energy Commission has determined that some of the steps in the application and review process can be shortened and simplified, and that clarification of several statutory provisions would be beneficial. Finally, the existing regulations contain many unnecessary, confusing, or vague terms.

These amendments have four objectives. The primary purpose of the amendments is to streamline the procedures for applicants seeking to obtain loans and grants under the program and for the Energy Commission's review of applications and awarding of loans and grants. The proposed amendments will also clarify several statutory requirements by identifying what the Energy Commission accepts as proof of 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 the California Environmental Quality Act (CEQA). In addition, the amendments will delete provisions that are outdated due to changes in statute or Energy Commission practice, or that unnecessarily limit the distribution of funds by type of project. Finally, the amendments make non-substantive stylistic and grammatical changes to clarify the regulations. Realizing these objectives will result in specific cost savings and nonmonetary benefits.

Cost Savings. The 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 contingent awards, deleting the requirement that the Energy Commission make awards in three project categories, reducing the number of scoring criteria, and assigning criteria points to total 100 rather than 120. The more efficient process will save costs for private entity applicants, local agency applicants, and the Energy Commission in its administration of the program. Savings realized by applicants help meet the statutory objective of stimulating the state's economy through the entity's development of geothermal resources (§ 3800, subd. (a)) and offsetting costs of resource development (Pub. Resources Code, §§ 3800, subd. (c), 3823, subd. (f)).

Nonmonetary Benefits. In addition, the proposed amendments will provide guidance that is currently lacking by 1) describing what documentation the Energy Commission will accept from private entity awardees demonstrating compliance with the statutory provision contained in Public Resources Code section 3822, subdivision (g)(3) that requires awards to private entities be approved by the city, county, or Indian reservation within which the project is to be located, and 2) 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 will also conform the regulations to specific statutory requirements and current Energy Commission practice by adding references to private entities as applicants, deleting the existing cap of six years on loans, deleting the existing limit on interest rates, and deleting references to an Energy Commission Committee that no longer exists.

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

The Energy Commission believes that simplifying the application and review process, 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 better functioning program and increased use of the program by both local jurisdictions and private entities. In addition, by increasing the funding process efficiency, the amendments may shorten the time between application submittal and award approval. In turn, a more efficient program and clearer directions to applicants 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).)

Other Nonmonetary Benefits. At this time, the Energy Commission believes that the increased efficiencies and clarity provided by the amendments will provide some nonmonetary benefits, such as reducing the time from program application to project award. However, the Commission 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 the increase in openness and transparency in business and government, among other things.

Specific Purpose for Each Proposed Amendment -- Gov. Code, § 11346.2, subd. (b)(1)

The following presents the purpose for each proposed amendment, the problem the Energy Commission intends to address, the rationale for the determination that it is reasonably necessary to carry out the purpose and to address the problem for which it is proposed, and the benefits of the proposed amendment.

Article 7 Title. The title is amended to delete “for Local Jurisdiction.”

- **Specific purpose of amendment:** This amendment reflects the fact that private entities may apply for loans and grants. Although the statute was amended in 1990 and 1991 to allow private entity applicants to receive awards, the regulations have not yet been amended to reflect this fact.
- **Problem addressed:** The existing language does not reflect amendments to the statutory language that allow private entities to receive awards.
- **Rationale for necessity:** This amendment is necessary to reflect the statutory language allowing private entities to apply for grants and loans. It fixes the inconsistency between the statute and the current regulatory language.

- Benefits anticipated: Because the statutory change broadened the pool of applicants to include private entities (Stats.1990, c. 644, §2 [adding private entities as loan applicants]; Stats. 1991, c. 520, § 1 [adding grants for private entities]), the proposed amendments will have the benefit of ensuring that the regulations do not create any confusion about the expanded pool of entities that may apply for grants and loans.

Section 1660. Purpose.

The section is amended to delete the phrase “to be followed by,” adds the word “for,” adds the phrase “Energy Commission’s,” deletes the phrase “in administering,” and deletes “for Local Jurisdictions under Sections 3822 and 3823 of the Public Resources Code.”

- Specific purpose of amendments: These amendments clarify that the regulations apply to applicants as well as the Energy Commission, add the commonly-used name for the Energy Resources Conservation and Development Commission, and reflect that statutory language does not limit the availability of awards to local jurisdictions.
- Problem addressed: The existing language implies that the Energy Commission is the only party to which the regulations are applicable, omits the commonly-used name for the Energy Resources Conservation and Development Commission and purports to limit the availability of awards to local jurisdictions, which is a limitation no longer reflected in statute.
- Rationale for necessity: The amendments are needed because they clarify ambiguity that suggests that the regulations are only applicable to the Energy Commission, reflect the fact that the term “Energy Commission” is the commonly-used name for the Energy Resources Conservations and Development Commission, and reflect statutory changes expanding eligibility for awards to private entities.
- Benefits anticipated: The benefits of these amendments are to conform the language of the regulations to the scope of the statutes, which apply to applicants for and recipients of loans and grants as well as to the Energy Commission and which allow private entity applicants, and to use the commonly-used name of the Energy Resources Conservation and Development Commission. Conforming the regulations to statutory law and clarifying their applicability, and adding the commonly-used term for the Energy Commission will result in a regulation that is more understandable than the existing regulation.

In addition, the Authority and Reference notes for this section are corrected to add the serial comma before “and.” These amendments and all like amendments to Authority and Reference notes are necessary to correct the grammar to proper legal style and to clarify that each element in the series applies independently.

Section 1661. Definitions.

The amendments in this section delete: subdivision (a), the definition for [Energy Commission] “Committee;” subdivision (b), the definition for “Contingent Award;” subdivision (d), “Eligible Activity;” subdivision (f), the definition of “Mitigation Project;” subdivision (g), the definition of “Planning Project;” and subdivision (i), the definition of “Technical Advisory Committee.”

- Specific purpose of amendments: these amendments eliminate definitions that will no longer be used in the amended regulations.
- Problem addressed: The Energy Commission no longer designates Committees to review geothermal grant and loan applications. In addition, if adopted, the proposed amendments will no longer use the terms “Contingent Award,” “Eligible Activity,” “Mitigation Project,” and “Planning Project.” In addition, the proposed amendments will delete the current role of the Technical Advisory Committee. Therefore, no definition of those terms is needed.
- Rationale for necessity: The deletions are necessary to align the definitions with terms that will exist in the amended regulations. The rationale for deleting the Energy Commission Committee is explained below in section 1663, subdivision (b). The rationale for deleting contingent awards is explained in section 1662, subdivision (a). The rationales for deleting the term “eligible activity,” deleting the award categories of mitigation projects and planning projects, and deleting the Technical Advisory Committee are explained in section 1665.
- Benefits anticipated: The benefits of the proposed amendments will include ensuring that there are no definitions of terms that are unused in the regulations, and ensuring clarity and understandability, consistent with the requirements of Gov. Code, § 11346.2, subd. (a)(1).

Additional amendments in this section modify several definitions.

Existing Subdivision (c) (new subdivision(a)) defining “Eligible Applicant” is amended to delete “Eligible” from the term, delete “as specified in Public Resources Code Section 3800” and add “a private entity as defined in Public Resources Code Section 3809.”

- Specific purpose of amendments: The amendments eliminate the unnecessary word “eligible,” remove an inaccurate statutory reference, and clarify that a private entity may apply for grants and loans under the program.
- Problem addressed: There is no meaningful difference between “eligible applicant” and “applicant” in the regulations. The reference to section 3800 is inaccurate and unnecessary. Finally, existing language refers only to local jurisdiction applicants without reflecting the amendments to Public Resources Code section 3822 that added private entities as potential applicants.

- Rationale for necessity: Deleting “eligible” is necessary to remove a potentially confusing term, as there is no distinction between “eligible applicants” and “applicants.” Deleting the section 3800 reference is necessary to express the regulation simply and accurately. Adding private entities is necessary to clarify that the regulations and the program apply to them as well as to local jurisdictions, and that both types of entities may receive awards.
- Benefits anticipated: The benefits of the proposed amendments include improved clarity and accuracy, which will result from deleting a confusing term and incorrect statutory reference, and alignment of the regulations with statutory provisions allowing private entity applicants. As a result, the amendments will ensure clarity and understandability, consistent with the requirements of Gov. Code, § 11346.2, subd. (a)(1).

Nonsubstantive amendments add “(1)” and “(2)” to separate the different types of applicants. The amendments are necessary to aid clarity.

Existing Subdivision (e) (new subdivision (b)) defining the “GRDA” acronym is amended to add the Geothermal Resources and Development Account as the account “that provides funding for the Energy Commission’s Geothermal Grant and Loan Program.” The amendments also add that the Energy Commission’s Geothermal Grant and Loan Program may also be called the “GRDA Program” after its funding source.

- Specific purpose of amendment: This amendment explains the commonly-used term for the Geothermal Grant and Loan Program and its relationship to the program.
- Problem addressed: Virtually every participant in the Geothermal Grant and Loan Program refers to the program as “GRDA.” Existing language does not explain the relationship between the account and the Grant and Loan Program.
- Rationale for necessity: This amendment is necessary to ensure that applicants and the public are aware that the program they refer to as GRDA is the same as the Geothermal Grant and Loan Program that is the subject of these regulations.
- Benefits anticipated: The benefits of the amendments are to aid clarity and communication between applicants and the Energy Commission.

Existing Subdivision (h) (new subdivision (c)) defining “Resource development project” is amended to replace the term “eligible activity” with “project”. In a parallel amendment, new subdivision (d) is added to define project.

- Specific purpose of amendments: The purpose of replacing the phrase “eligible activity” with the word “project” is to use a single term in the regulations for the types of activities that can be funded through the Geothermal Grant and Loan Program.
- Problem addressed: Existing language defining “eligible activity” is unclear in defining an activity as a purpose. Moreover, other references to the activity for which funding is

sought use the term “project” to refer to the activity. Finally, some projects may encompass more than one activity and may fulfill multiple purposes identified by Public Resources Code section 3823. The existing regulations do not reflect these facts.

- Rationale for necessity: These amendments are necessary to reduce confusion created by existing language, which uses two terms rather than one in referring to a project, and defines “eligible activity” in a way that is both grammatically unclear, and more limited in scope than provided in statute.
- Benefits anticipated: The benefits of the amendments are that applicants will have a better understanding of the purposes their projects must advance. This in turn aids the Energy Commission in communication with applicants and in the selection of projects.

Authority notes are corrected to add the serial comma before “and.”

Reference notes are updated to align with the amendments. The reference to section 3800 is deleted because the section does not refer to the statutory objectives described by that provision. Section 3809 is added because the definition of “applicants” refers to the statutory definition of “private entity.” Sections 3820 and 3822 are deleted because the revised definitions do not implement, interpret, or make specific those provisions. Section 25211 is deleted because it refers to the Energy Commission committee process, and the amendments would eliminate the Committee. “And” is added for correct grammar and for clarity. Section 25218, subdivision (e) is deleted because the amended definitions do not implement, interpret, or make specific that provision.

Section 1662. Types of Financial Assistance.

Subdivision (a), describing types of financial assistance, is amended to add “Energy” to Commission and to change the term “funds” to “award.”

- Specific purposes of amendments: These amendments implement the use of the commonly-used term “Energy Commission” to refer to the agency throughout the regulations and use a single term to refer to “awards.”
- Problem addressed: The existing regulations do not consistently refer to “Energy Commission,” which is the name most commonly used for the agency, and use various terms to refer to awards.
- Rationale for necessity: These amendments are needed to ensure that the regulations use both commonly-understood and consistent terms throughout the regulations.
- Benefits anticipated: The benefits of the proposed amendments will include ensuring that commonly-understood and consistent terms are used in the regulations, and ensuring clarity and understandability, consistent with the requirements of Gov. Code, § 11346.2, subd. (a)(1).

Subdivision (a) is further amended to delete “contingent award” and make related grammatical changes.

- Specific purpose of amendment: To delete the contingent award designation and process.
- Problem addressed: Existing regulations allow “contingent awards” for development projects that may produce revenue or energy savings; these awards become a loan if a project is successful and a grant if the project fails. (§§ 1661, subd. (b), 1662, 1663.) However, offering contingent awards serves no statutory purpose. In practice, contingent loans may encourage failure as any project owner would prefer to ultimately receive a grant instead of a loan. Contingent loans add uncertainty about whether applicants will be responsible for paying back loans and burden the Energy Commission with additional responsibilities during the application review process that would be better spent on promoting successful projects.
- Rationale for necessity: These amendments are necessary to delete an unnecessary and potentially counter-productive procedure.
- Benefits anticipated: The proposed amendments simplify the application review process, save the Energy Commission costs, and save applicants uncertainty as to whether their funds are a loan or a grant over the long term.

Subdivision (b) describing what type of award applicants proposing projects without revenue production or energy savings may apply for is deleted.

- Specific purpose of amendment: The proposed amendment eliminates a provision that refers to categories of project, thereby matching other amendments that will delete provisions assigning projects to categories.
- Problem addressed: The provision refers to three categories of projects that will no longer exist in the regulations.
- Rationale for necessity: See explanation below in section 1665 for why it is necessary to delete categories for awarded projects. With the deletion of project categories, there is no need for this section, as amended subdivision (a) identifies the types of awards that are available to all applications and all projects.
- Benefits anticipated: The benefit of the proposed amendment is conformity with other proposed amendments that eliminate the use of project categories.

Subdivisions (c) and (d) regarding contingent awards and associated processes are deleted. The purpose, problem, rationale, and benefits for this change are the same as for deletion of contingent awards in subdivision (a) of this section.

Authority notes are corrected to add the serial comma before “and.”

Reference notes are updated to delete the reference to section 3823 of the Public Resources Code. The amended regulation does not refer to purposes for projects listed in section 3823.

Section 1663. Terms for Loan Payment.

This section is entirely replaced by one statement that “[i]n approving a loan, the Energy Commission shall specify the interest rate consistent with subdivision (f) of section 3822 of the Public Resources Code, and shall specify the repayment term, the principal, and the number of installments.”

- **Specific purpose of amendment:** The purpose of this amendment is to delete provisions that are unnecessary or conflict with the enabling statute, as well as delete references and tasks assigned to an Energy Commission Committee that no longer exists. The addition to the section aligns the language of the regulation with the enabling statute.
- **Problem addressed:** The section refers to contingent awards that will no longer exist if the proposed amendments are adopted, refers to a committee that no longer exists, does not conform to amended section 3822 regarding interest rate caps and the maximum loan term, and needlessly replicates the statutory provision regarding loan principal.
- **Rationale for necessity:** These amendments are needed to omit unnecessary subsections as well as provisions that reflect outdated Energy Commission practice or conflict with statutory provisions.
- **Benefits anticipated:** These amendments better describe the actual process that the Energy Commission follows in establishing loan repayment terms, and will align with other amended regulations and the enabling statute.

Subdivisions (a), (a)(1), and (a)(2) are deleted.

- **Specific purpose of amendment:** The purpose of the amendments is to delete provisions that are potentially in conflict with the enabling statute, are unnecessary, don't reflect Energy Commission practice, and conflict with other proposed amendments.
- **Problem addressed:** Existing language in (a) setting the existing cap on the interest rate at eight percent potentially does not conform to the requirements of section 3822, subdivision (f), which sets the lowest interest rate as that of the Pooled Money Investment Account. Historically, the Pooled Money Investment Account has sometimes exceeded eight percent. In addition, existing language in (a)(1) setting all loan award interest rates as the same as in the program opportunity notice is unnecessary. In making the awards, the Energy Commission adheres to all specifications announced in the notice of available loans and grants as a matter of policy to ensure fairness and proper notice to applicants. Furthermore, the Energy Commission Committee no longer exists. Finally, existing language in (a)(2) references contingent awards. The proposed amendments will delete contingent awards throughout the regulations.

- Rationale for necessity: The proposed amendments are necessary to conform the language about interest rates to that of the enabling statute, which would allow interest rates in excess of 8 percent. In addition, the proposed amendments are necessary to delete language that is unneeded. The Energy Commission is obligated to utilize the interest rate identified in the program opportunity notice in any event; no regulation is needed to impose that requirement. (Energy Commission Loan Manual, § 1, p.4 [interest rate one of the minimum requirements for a loan solicitation].) The proposed amendments are also necessary to reflect current Energy Commission practice, which does not involve the use of a Committee in the application review process. Finally, the necessity for deleting the contingent award provisions is the same as that provided in the explanation in section 1662, subdivision (a).
- Benefits anticipated: The benefits associated with the deletion of this subdivision include deleting provisions that are potentially in conflict with the enabling statute, are unnecessary, don't reflect Energy Commission practice, and conflict with other proposed amendments. As a result, the amendments will ensure clarity and understandability, consistent with the requirements of Gov. Code, § 11346.2, subd. (a)(1).

Subdivision (b) regarding the loan repayment term is deleted because it refers to the Committee, which no longer exists, includes provisions for contingent awards, and because the maximum loan repayment term identified in the subdivision is inconsistent with that provided in the enabling statute.

- Specific purpose of amendment: The purpose of the amendment is to remove the reference to an Energy Commission Committee that no longer exists, remove provisions for contingent awards, and align to language in the subdivision addressing the repayment term with that in the enabling statute.
- Problem addressed: Existing regulations require actions and recommendations by an Energy Commission Committee during certain steps of the application process. (§§ 1661, subd. (a), 1662, subd. (d), 1663, 1664, subs. (b),(c), 1665, subd. (f).) In October 2011, the Energy Commission eliminated Commission committees from policy (non-adjudicatory) matters (Energy Commission Order No. 11-1005-2 (Oct. 5, 2011)), including administration of the Geothermal Grant and Loan Program. The proposed amendments instead require Energy Commission staff to review applications, recommend interest rates and other terms for loans, set deadlines for applications, and notice the availability of loans and grants. Proposed awards and their terms would still be taken to the full Energy Commission for approval.

In addition, existing language in (b) refers to a prior version of Public Resources Code section 3822, subdivision (f)(B), which had capped loan repayment terms to six years. (See Stats.1990, c. 644 (S.B.2200), § 2.) The current statutory cap is 20 years. Subdivision (b)(2) also refers to contingent awards, which will no longer exist. Finally, existing language in (b)(1) stating that the repayment term shall be determined when the

award is made is unnecessary - *all* terms and conditions for a loan are set when the Energy Commission awards a loan.

- Rationale for necessity: The proposed amendments are necessary to reflect actual Energy Commission practice, which does not involve the use of a committee, and to align the language of the regulation with that of the enabling statute.
- Benefits anticipated: The benefits of the proposed amendments include regulatory language that reflects Energy Commission practice and ensures consistency between the regulation and the statute.

Subdivisions (c), (c)(1), and (c)(2) are deleted.

- Specific purpose of amendment: The purpose of the amendment is remove language governing the principal for each loan.
- Problem addressed: Existing language in (c) refers to the Committee, which no longer exists, and cites the statutory limit of 80 percent of the project cost for loans to local jurisdictions from Public Resources Code section 3822, subdivision (f)(1)(A) for each loan, without acknowledging that loans to private entities require a 50 percent match. Existing language in (c)(1) stating that the principal shall be determined when the award is made is also unnecessary. As noted above, all terms and conditions for a loan are set when the Energy Commission awards a loan. In addition, subdivision (c)(2) refers to contingent awards, which will no longer exist.
- Rationale for necessity: The proposed amendments are necessary to reflect current Energy Commission practice, which does not involve the use of a committee. The amendment deleting language limits on the principal for loans is necessary to avoid duplication with the statute. The deletion of language establishing timing of determination of the principal is necessary to avoid unneeded language. See the explanation in section 1662, subdivision (a) for deleting contingent awards.
- Benefits anticipated: The benefits of the proposed amendments include regulatory language that reflects Energy Commission practice, deletes unnecessary provisions, and ensures consistency between the regulation and the statute.

Subdivisions (d), (d)(1), and (d)(2) are deleted.

- Specific purpose of amendment: The purpose of the amendment is to remove language governing the number of installments for each loan.
- Problem addressed: Existing language refers to the Committee, which no longer exists, and sets a minimum number of installment payments for applicants at one annual payment. Existing language stating that installments shall be determined when the award is made is unnecessary because all loan terms are established when the Energy

Commission approves an award. Existing language also refers to contingent awards, which will no longer exist.

- Rationale for necessity: The proposed amendments are necessary to reflect the fact that the Energy Commission no longer administers any part of the Geothermal Grant and Loan Program through the use of a committee, to delete an unnecessary restriction on the Energy Commission’s flexibility in determining the frequency of installments, to avoid the use of unneeded language addressing the number of installments, and to reflect the fact that contingent awards will no longer exist.
- Benefit anticipated: The benefits of the proposed amendments include regulatory language that reflects Energy Commission practice, deletes unnecessary provisions, and ensures consistency with other proposed amendments.

Authority notes are corrected to add the serial comma before “and.”

Reference notes are updated to delete the reference to section 3823 of the Public Resources Code. The amended regulation does not refer to purposes for projects listed in section 3823.

Section 1664. Notice of Availability of Funds.

The Title of “Funding Cycle; Schedule” is changed to “Notice of Availability of Funds” to accurately describe the amended regulation.

Subdivision (a) defining “funding cycle” is deleted, and a new subdivision governing the announcement of the availability of funds is added.

- Specific purpose of amendment: The purpose of the amendment is to eliminate the word “annual” when addressing funding cycles and to identify the notification procedures the Energy Commission will use when announcing funding opportunities and other program developments.
- Problem addressed: Existing language defines “funding cycle” but in a way that does not reflect the fact that the period of time between solicitations may last more than a year. In addition, the existing regulations identify funding notification procedures that are out of date and do not address website posting and electronic notification practices currently used by the Energy Commission.
- Rationale for necessity: These amendments are necessary to reflect the fact that program funding opportunities are not usually offered on an annual basis and to identify what noticing procedures the Energy Commission will use when funds are offered. Specifically, the additions addressing noticing conform to current Energy Commission practice, which relies on e-mail and website postings as quick, inexpensive, and accurate ways to reach the public and potential applicants. The duty to mail notices to interested persons who have requested notice by mail is clarified to separate those persons from those receiving electronic notice and to clarify that those persons need to express interest

directly, as the Energy Commission's website subscription service does not collect physical mailing addresses. Mandatory consultation with the Public Adviser regarding the list is deleted as unnecessary. The "list" of mailing addresses may not exist as a single document, and staff may consult the Public Adviser as needed without a regulated duty.

- Benefits anticipated: The benefits of the proposed amendments include regulatory language that is more accurate about the timing of the availability of funds and provides information for potential applicants about the types of noticing procedures that the Energy Commission will follow in noticing the availability of funds.

Subdivision (c), prescribing duties for the Committee regarding deadlines, is deleted.

- Specific purpose of deletion: The purpose of the proposed amendment is to delete references to the Committee duties and to timing requirements applicable to filing preapplications and applications.
- Problem addressed: Existing language refers to the Committee, which no longer exists, and the two-step application process, which will no longer exist. Additionally, the provision identifies information to be included in the program opportunity notice, thereby duplicating requirements established in the Energy Commission Grants Manual, pp. 1-4, and the Energy Commission Loans Manual, pp. 1-4. Finally, the existing language establishing a deadline for final applications but allowing the Committee the flexibility to change it has no regulatory effect.
- Rationale for necessity: See the explanation for deleting the Energy Commission Committee in section 1663, subdivision (b), and the explanation for amending the application to a one-step process in section 1665. The deletion of language identifying information to be included in the program opportunity notice is necessary to avoid duplication with state contracting manual. Deletion of language providing for the 45-day deadline for final application but allowing it to be changed is necessary because the language has no regulatory effect.
- Benefits anticipated: The benefits of these amendments include regulatory language that conforms to the Energy Commission Grants and Loans Manuals, reflects Energy Commission practice, and allows flexibility for the Energy Commission to set deadlines as appropriate for the particular notice. It also provides for satisfaction of clarity and plain English standards for the express terms. (Gov. Code, § 11346.2, subd. (a)(1).)

Authority notes corrected to add "and."

Reference notes are updated to delete sections 3820 (GRDA account funds), 3821 (disbursement of funds), and 3821.1 (execution of funding agreements). The regulation no longer implements, interprets, or makes specific these statutes.

Section 1665. Application and Award Procedures

This section is revised throughout to combine the necessary elements of the preapplication and the final application into a single application, to eliminate references to the Technical Advisory Committee, to eliminate mandatory categories for awarded projects, to amend the requirements for CEQA documentation by applicants, to add requirements for obtaining local approval by private entity awardees, to add clarification that staff may invite other governmental entities to assist with scoring applications, and to make minor changes to the required application contents. Specific explanations for each change are as follows:

Subdivision (a) is amended to change “preapplication” to application and to make an associated grammatical correction. The proposed amendments require a single application.

- Specific purpose of amendments: The purpose of the amendments is to streamline the application process by eliminating the pre-application.
- Problem addressed: the existing regulations require a two-step application process that is cumbersome and time-consuming for applicants. (§§ 1664, subd. (c), 1665, subds. (a), (b).) The two-step process is not mandated by the program statutes and costs all parties involved more time and money than is necessary. The pre-application step lengthens the solicitation process by two to three months, involves redundant review of an application, and requires applicants to produce two sets of documents, comply with two sets of procedures, and stand by for two waiting periods. It also requires more Energy Commission resources to conduct a two-stage review.
- Rationale for necessity: The proposed amendments are necessary to eliminate the two-step application process. Use of a one-step application process is necessary to simplify and shorten the application and review process for both applicants and the Energy Commission.
- Benefits anticipated: The benefits of the proposed amendments to applicants include potential cost savings and a shortened application timeline. The single-step process also saves the Energy Commission time and resources that can then be used for other program activities, such as workshops on topics of interest to program applicants, local jurisdictions and the general public.

Subdivision (a)(1)-(a)(7). Subdivision (a)(1) is amended to add requirements to make the cover page more complete by including the project name, contact mailing and e-mail addresses, and related websites. Subdivision (a)(2) is amended to delete “personnel services” in favor of the more precise “labor costs” and to specifically include “equipment, materials,” and “any” construction expenses to ensure that the proposed budget incorporates all appropriate and necessary expenses. Subdivision (a)(3) is amended to pluralize local “benefit” and “anticipated effect” and to make nonsubstantive changes. Subdivision (a)(4) is amended to add “detailed” to the work statement and to add “all documents and products that would be submitted to the Energy Commission.” Proposed subdivision (a)(5) (existing subdivision (c)(1)) specifies that the schedule for project tasks -- not just the project -- must be identified. Proposed subdivision (a)(6)

also requires additional information that the Energy Commission will use in evaluating the purpose and benefits of the project products. Finally, subdivision (a)(7) is amended to reflect the fact that it is only local jurisdiction applicants that must provide a resolution authorizing the application.

- Specific purpose of (a)(1)-(7) amendments: The purpose of the proposed amendments is to provide clarity and add detail to applications that is necessary to allow the Energy Commission to better evaluate proposed projects.
- Problems addressed: The existing language for preapplication requirements tends to be general and does not include detail necessary for project evaluation using the proposed single application process. Additionally, existing language does not take into account electronic communication.
- Rationale for necessity: The amendments to the cover page requirements are necessary for the Energy Commission to correctly title the project, to easily and quickly communicate with the applicant, and to electronically access basic information on the project and applicant. The amendments substituting “labor costs” for “personnel services” more precisely describe the budget item. Adding detail to descriptions of budget expenses and work statements is necessary to ensure an applicant supplies sufficient detail in the single application for the Energy Commission to evaluate the types of costs that the project entails and the benefits the project creates. The amendments pluralizing “benefit” and “anticipated effect” are to aid clarity and to ensure the Energy Commission receives complete information. The amendment requiring that the detailed work statement list and describe all documents and products that will be submitted to the Energy Commission is necessary for the Energy Commission to ensure that the identified tasks are appropriate for the project and that each task provides viable and appropriate products. The detailed workplan, budget, and schedule information provided in each application is especially important and necessary for Energy Commission evaluation of the likelihood of project success within the award term. The amendments requiring identification of the purpose for and benefits of each product will similarly aid the Energy Commission in assessing whether the proposed project is consistent with the purposes defined in the authorizing statute, as well as determine if a private entity project provides tangible benefits to a local jurisdiction, as required by Public Resources Code section 3822(g)(2). Finally, adding “for local jurisdiction applicants” to proposed subdivision (a)(7) reflects the fact that the statute allows both private entities and local jurisdictions to apply for awards, and that it is the local jurisdiction that is subject to the requirement to provide a resolution authorizing submittal of the application. (See Pub. Resources Code section 3822, subd. (b).)
- Benefits anticipated: The benefits of the proposed amendments include the development of more detailed applications, more thorough review of proposed projects, as well as better communication with applicants regarding the project.

Proposed subdivision (a)(8) is added to require an explanation of how a private entity applicant, if awarded a grant or loan, will obtain the statutorily required approval of the grant or loan from a representative of the city, county, or Indian reservation where the project will be located. (See proposed subdivision (e) of this section; Pub. Resources Code section 3822, subd. (g)(3).)

- **Specific purpose of amendments:** The purpose of the proposed amendment is to require private entity applicants to include an explanation of how they will obtain local agency approval should they win an award, per Public Resources Code, section 3822, subdivision (g)(3).
- **Problem addressed:** The existing regulation language pre-dates the amendments to Public Resources Code, section 3822 adding private entities as applicants. Because there is a requirement that awards to private entity applicants receive approval from the city, county, or Indian reservation where the project will be located, the Energy Commission needs to know at the time of the application what steps a private entity applicant is taking, or will be taking, to obtain that approval if it is selected for an award. Projects that lack a clear path to local agency approval may be less viable than others, a factor that the Energy Commission would like to consider in the application review process.
- **Rationale for necessity:** The proposed amendments are necessary to alert applicants early in the process that the approval is required and to give notice to the Energy Commission in advance of any award of how the applicant intends to comply.
- **Benefits anticipated:** The benefits provided by the proposed amendments include motivating applicants to identify the steps necessary for obtaining local agency approval well in advance of winning an award, and allowing the Energy Commission to evaluate those steps in review of an application.

Proposed subdivision (a)(9) (existing subdivision (c)(4)) is amended to replace “evidence of compliance with” the California Environmental Quality Act (CEQA) with “analyses, assessments, or other documents sufficient to support an Energy Commission determination that a decision approving an award for the project would be in compliance with” CEQA.

- **Specific purpose of amendments:** To ensure the Energy Commission receives the documentation and analyses it requires to make a determination that its decision to approve an award is consistent with CEQA requirements.
- **Problem addressed:** Existing language implies that CEQA compliance must occur prior to submitting an application. This may be the case for projects with activities requiring permits or other authorization, where the local jurisdiction or another state agency is the Lead Agency for the activity and the Energy Commission is a Responsible Agency. In such a case, the Energy Commission will consider the CEQA documents and determination made by the Lead Agency and then make its own determination 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 prior to approving an award. The existing

regulations do not address the information needs of the Energy Commission in the latter circumstance.

- Rationale for necessity: This amendment is necessary to ensure that the Energy Commission receives all relevant documentation for CEQA purposes at the application stage. In the event that the local jurisdiction or other state agency is the Lead Agency, the Energy Commission should receive evidence of the local jurisdiction or other state agency CEQA determination that it can use to make its own determination of CEQA compliance. In the event that the Energy Commission is the Lead Agency, the information necessary for CEQA analysis and compliance will be presented directly to the Energy Commission for its CEQA determination.
- Benefits anticipated: The benefits of the proposed amendments include greater clarity about the documentation required for an Energy Commission determination of CEQA compliance, regardless of which entity is the Lead Agency. Thorough documentation also broadly supports the environmental goals listed in Public Resources Code, section 3800 as well as the goals of CEQA, Public Resources Code, section 21000 et seq.

Proposed subdivision (a)(10)(C) (existing subdivision (c)(5)(C)) is amended to change “published information” to “technical evaluations such as” and to add “geophysical surveys” as another example of an acceptable technical evaluation of the resource.

- Specific purpose of amendments: To clarify and provide examples of what is required for a feasibility study and to ensure the Energy Commission receives the information it needs to evaluate a proposed project.
- Problem addressed: Existing language referring to “published information” is vague.
- Rationale for necessity: This amendment is necessary to clarify that the Energy Commission is not looking for any “published information” but will require technical evaluations to support feasibility studies. In addition, the amendment identifies the types of technical evaluations that help the Energy Commission evaluate the strengths of a particular project.
- Benefits anticipated: The benefits of the proposed amendments are greater clarity for applicants and more precise information in the applications.

Proposed subdivision (a)(10)(D) (existing subdivision (c)(5)(D)) is amended to delete “end use” from “equipment.” “End use equipment” is not a commonly-used or well-defined term and the term “end use” is an unnecessary and confusing qualifier in the context of this subdivision.

Proposed subdivision (a)(10)(E) (existing subdivision (c)(5)(E)) is amended to make nonsubstantive changes in punctuation and style.

Subdivisions (b), (b)(1), and (b)(2) are deleted because they describe the preapplication process. See the explanation for consolidating the preapplication and final application to a one-step process in subdivision (a) of this section.

Subdivision (c) is deleted because it introduces and defines the “final” application, which would no longer be necessary with the proposed one-step application process. See the explanation for consolidating the preapplication and final application to a one-step process in subdivision (a) of this section.

Proposed subdivision (b) (existing subdivision (d)) is amended to delete references to the “final” application. See the explanation for consolidating the preapplication and final application into a one-step process in subdivision (a) of this section. Additional amendments to the language of this subdivision delete the requirement to separate applications into categories.

- **Specific purpose of amendments regarding categories:** The purpose of the proposed amendments is to remove the requirement to separate and score applications based on the following three categories: mitigation projects, planning projects, and resource development projects. The proposed amendments also identify the process the Commission will follow in selecting projects for awards, in the absence of the Technical Advisory Committee.
- **Problem addressed:** The existing regulations establish three categories for projects, require the Energy Commission to fund at least one project in each category, and to allocate at least 25% of available funds to each category, with the remaining funds allocated to any category. (§ 1665, subs. (d),(g).) However, the Energy Commission does not consistently receive applications for each category, and the category restriction may hamper the selection of superior projects. The requirement to fund projects by categories may therefore result in funding of a lower-quality project or gamesmanship to put projects in a different category to ensure compliance. The statute succinctly offers eleven acceptable purposes for projects without restrictions as to what may be funded in a given solicitation. (Pub. Resources Code, § 3823.) With the elimination of the Technical Advisory Committee, the process for selecting for awards needs to be clarified.
- **Rationale for necessity:** The proposed amendments are necessary to eliminate the categorical restrictions, which are not required by statute and which experience has demonstrated to be unproductive. The amendments would allow the Energy Commission to award projects exclusively on merit, better fulfilling the purposes of Public Resources Code, section 3823. The amendments also clarify what the roles of staff and Commission are in selecting project for awards.
- **Benefits anticipated:** The benefits of the proposed amendments include cost savings for the Energy Commission because deleting the categories simplifies the application review process. In addition, the amendments create greater flexibility in selecting awards based on purely on merit, which should result in a more appropriate distribution of awards.

Additional amendments to proposed subdivision (b) (existing subdivision (d)) delete references to the Technical Advisory Committee and amend to allow staff to utilize other governmental entities to assist with scoring as determined necessary.

- Specific purpose of amendments: To delete the use of the Technical Advisory Committee for the application review process and to clarify that staff may invite other governmental entities to assist with scoring applications.
- Problems addressed: Existing regulations require the Technical Advisory Committee made up of Energy Commission staff, representatives from other state agencies, and representatives from the geothermal industry to review and score applications. (§§ 1661, subd. (i), 1665 subds. (d)-(f).) In recent years, it has been burdensome, time-consuming, and difficult for staff to assemble this committee. Representatives from other state agencies have not always been able to participate due to workload or availability issues. There are also concerns that allowing private entities to review and score applications may create conflicts of interest. Additionally the State Contract Manual bars private consultants from voting on contract awards and states they may “only be used to provide clarification of subject matter expertise.” (State Contracting Manual, § 5.15, p. 55.)¹ Generally staff for other grant programs offered by the Energy Commission independently reviews and scores applications without outside help. In the event that additional expertise is needed, program staff consults with other agencies, such as the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, according to agency expertise and availability. The proposed amendments would not hinder this consultation option or the hiring of private consultants if additional expertise is needed to better assess applications, and the Energy Commission would retain the option to invite other government agencies to assist with application scoring as necessary. However, because the nature of the consultation varies depending on the types of projects under review, it is not appropriate to establish specific consultation requirements.
- Rationale for necessity: The amendments are necessary to make the application review process simpler and faster, as well as consistent with the Energy Commission’s and the state’s contracting procedures.
- Benefits anticipated: The benefits of the proposed amendments include a faster and more efficient application review process, and conformity with Energy Commission and state contracting practices and procedures

Additional amendments to proposed subdivision (b) (existing subdivision (d)) state that it is staff’s duty to evaluate, score, and recommend awards to the Energy Commission based on application scores.

¹ Available at <http://www.documents.dgs.ca.gov/ols/SCM%202012/Chapter%205%20-%20Competitive%20Bidding%20Methods.pdf>.

- **Specific purpose of amendments:** The purpose of the amendments is to clarify who is responsible for reviewing an application and that the recommendations for awards will be based on the application scores.
- **Problems addressed:** The language in existing subdivisions (d), (d)(1), and (d)(2) requires the Technical Advisory Committee to review, score and rank applications based on the application scores. However, with the proposed amendments the Technical Advisory Committee will no longer exist, and there is a need to identify who will carry out those functions.
- **Rationale for necessity:** This addition is necessary to identify who will evaluate and score applications and to clarify that the recommendations from staff will be based on the application scores.
- **Benefits anticipated:** Benefits of the proposed amendments include clarity about the amended procedures for reviewing applications.

Subdivisions (d)(1) and (2) are deleted because they describe procedures for the Technical Advisory Committee. See explanation for deleting the Technical Advisory Committee in amendments to proposed subdivision (b) (existing subdivision (d)) of this section.

Subdivisions (e) and (e)(1)-(5) are deleted in their entirety.

- **Specific purpose of amendments:** The purpose of the amendments is to delete the application modification process.
- **Problems addressed:** The existing language allows the Technical Advisory Committee to modify applications. As noted above, the Energy Commission proposes to eliminate the use of the Technical Advisory Committee. The Energy Commission also proposes to eliminate the application modification process. The process is difficult to administer fairly, requires rescoring of applications, and can result in applications that do not reflect what an applicant is interested in or capable of doing.
- **Rationale for necessity:** The proposed amendments are necessary to eliminate the reference to a body that will no longer exist, and to remove a procedure that is potentially unfair and not as effective as other options in improving the quality of applications. The Energy Commission believes that the use of workshops and other pre-application consultation is more effective in improving applications, and is a fairer practice than trying to modify applications during the review process. Since the need for workshops and consultation will vary depending on the projects under review, it is not appropriate to establish specific consultation requirements.
- **Benefits anticipated:** The benefits of the proposed amendments include regulatory language that accurately reflects the application review process, and the elimination of potential unfairness and ineffectiveness caused by existing language.

Subdivision (f) is deleted because it describes procedures for the Technical Advisory Committee and the Energy Commission Committee. See explanation for deleting the Technical Advisory Committee in amendments to proposed subdivision (b) (existing subdivision (d)) of this section. See the explanation for deleting the Energy Commission Committee in section 1663, subdivision (b).

Subdivision (g) is deleted because it requires allocation of funding into three categories. See explanation for deleting the categories in amendments to proposed subdivision (b)(existing subdivision (d)) of this section.

Proposed Subdivision (c), (existing subdivision (h)), is amended to remove the use of the passive voice and to clarify the use of declined funds.

- Specific purpose of amendments: The purpose of the amendments is to avoid the use of the passive voice, clarify that declined awards will be used to fund another application or awardee in the same funding cycle instead of funding an existing award, and clarify the language addressing declined awards.
- Problems addressed: The existing language uses the passive voice instead of identifying the role of the Energy Commission in re-directing declined award funds. Existing language also is more complicated than necessary and broader than appropriate in explaining the use of declined funds.
- Rationale for necessity: The proposed amendments are necessary to avoid the use of the passive voice and to clarify that the use of declined funds to supplement another award is limited to those applications and awards granted during the same funding cycle.
- Benefits anticipated: The benefits of the proposed amendments include increased clarity of the regulatory language and fairness in distribution of declined award money.

Proposed Subdivision (d) (existing subdivision (i)), is amended to remove references to the Technical Advisory Committee and scoring notification to applicants, to identify when an applicant may receive a project's evaluation and scores, and to delete the provision that unsuccessful applicants may submit an application in another funding cycle.

- Specific purpose of amendments: The purpose of the amendments is to clarify the procedures used for supplying a project's evaluation and scores to that project's applicant and to delete superfluous language.
- Problems addressed: The Technical Advisory Committee will no longer exist in the amended regulations. Regarding notification, the existing language is awkward and unnecessary because it describes the notice process that is now addressed in proposed subdivision (b). Existing language stating that nothing prevents an "unsuccessful" applicant from applying again is unnecessary as nothing prevents any applicant, successful or not, from applying for a future grant or loan under the program.

- Rationale for necessity: The amendments are necessary to establish that staff will supply evaluations and scores after the notice of proposed awards is made public. The deletion of language allowing applicants who did not receive an award in one cycle to apply in a future cycle is necessary to prevent superfluous language.
- Benefits anticipated: The benefits of the proposed amendments include the establishment of a timeline for providing an applicant with a project’s evaluation and scores that is fair and consistent with Energy Commission and state contracting procedures.

Proposed Subdivision (e) requires that before the Energy Commission disburses any award funds to a private entity awardee, the private entity must provide evidence that a representative of the local agency has approved the award. The subdivision also explains how an applicant may demonstrate that an award has received local approval.

- Specific purpose of amendment: The purpose of the proposed amendment is to ensure private entity awardee compliance with the requirement of local agency approval of a private entity award requirement identified in Public Resources Code section 3822, subdivision (g)(3), and to provide a simple way for applicants to comply with that requirement.
- Problem addressed: The existing language does not address how and by when an applicant must demonstrate that an award has received local agency approval.
- Rationale for necessity: Public Resources Code section 3822, subdivision (g)(3) requires that a loan or grant made to a private entity shall “be approved by the city, county, or Indian reservation within which the project is to be located.” The statute does not define what local approval means, and existing regulations do not define it as they predate the 1990 amendment that added the subdivision. Private entity awardees have lacked direction about how to comply with the statute and what documents the Energy Commission would accept as proof of local approval. The amendment is necessary to explain to applicants how and by when they may satisfy the requirement. The proposed requirement requires that the evidence of local approval be provided in writing so that the Energy Commission can maintain a written record of the approval, but provides flexibility and minimizes costs by allowing the written approval to be provided in an e-mail.
- Benefits anticipated: The benefits of the proposed amendments include providing certainty about what evidence of approval may be submitted in order to collect the award, and the timing of the submittal.

Authority notes are corrected to add the serial comma before “and.”

Reference notes are updated to include section 3807 of the Public Resources Code, which defines local jurisdiction. Notes are corrected to add the serial comma before “and.”

Appendix A includes revised scoring criteria. The amendments delete categories for projects, delete the criteria “Overriding Issue,” “Documented Impact,” “Implementation,” “Timeliness,” and “Availability of Alternatives for Mitigating the Impact,” and change “Demonstration Value” and “Demonstrated Need” to “Demonstrated Need or Value,” and change “Stimulation of Geothermal Energy Development” to “Contribution to Development of California’s Geothermal Energy.” The criteria are also revised to create a 100-point scoring system and to assign criteria points based on the relative importance of the criterion.

- Specific purpose of amendment: The purpose of the proposed amendment is to simplify the application evaluation criteria and to make them applicable to all types of projects and establish a 100-point scoring system to make scoring easier.
- Problem addressed: The existing language separates criteria for project categories of “Resources Development,” “Planning,” and “Impact Mitigation” that will no longer exist. Tying categories to criteria sets up an “apples to oranges” comparison of projects that potentially hampers application review. Existing language contains a number of criteria that are vague or poorly defined, and that experience has shown to be unproductive. Existing language also identifies a 120-point system that is harder to understand than a 100 point system.
- Rationale for necessity: The rationale for deleting the categories can be found in the discussion of amendments to proposed subdivision (b) (existing subdivision (d)) of section 1665. Deletion of the category-specific criteria is also necessary because the existing criteria are tailored for each specific category and are not applicable to all project types. Providing a single set of criteria that apply to all projects is necessary to avoid confusion among applicants about how their applications are to be scored and aids transparency. Combining “Demonstration Value” and “Demonstrated Need” into “Demonstrated Need or Value” is necessary to create a similar and equally-weighted criterion for all projects. Amending “Stimulation of Geothermal Energy Development” to “Contribution to Development of California’s Geothermal Energy” is necessary to create a broader criterion applicable to all types of projects. The amended criteria and criteria point values reflect the Energy Commission’s experience and determination of the most relevant and most important factors for scoring after years of scoring applications and making awards.
- Benefits anticipated: The benefits of the proposed amendments include consistency in scoring projects across different types of projects. In addition, by simplifying the criteria and omitting category specific-criteria, the proposed amendments will allow applicants to better understand what factors are important for the winning of awards. Over the long term, the proposed amendments may result in an increased number or variety of applications submitted to the Energy Commission due to the elimination of awarded categories and applicants’ better understanding of the scoring process.

Standardized Regulatory Impact Analysis--Gov. Code § 11346.2, subd. (b)(2)

The proposed amendments do not constitute a major amendment, defined as having an economic impact of more than \$50 million. (Gov. Code, § 11342.548.) Therefore, no standardized regulatory impact analysis is required by Government Code section 11346.3, subdivision (c)(1). The economic impact assessment prepared in compliance with Government Code section 11346.3, subdivision (b)(1) is identified below as a document relied on.

Documents Relied On--Gov. Code § 11346.2, subd. (b)(3)

In proposing these amendments, the Energy Commission is relying on the following documents:

- Energy Commission Staff, “Form 399 and Economic Impact Assessment,” docketed August 23, 2013.
- Legislative history of amendment adding subdivision (g)(3) to Public Resources section 3822, requiring local approval for awards to private entities. (Amends. to Sen. Bill No. 2200 (1989-1990 Reg. Sess.) Feb. 26, 1990.) Docketed August 23, 2013.
- Letters from local jurisdictions requesting local approval of private entity awards as an amendment to Public Resources Code section 3822. (L.D. Franklin, Chairman, Lake County Board of Supervisors, letter to Senator Jim Nielsen, re Sen. Bill No. 2200 (1989-1990 Reg. Sess.) Apr. 4, 1990; Daniel L. Lyster, Director, Mono County Energy Development Department, letter to Senator Jim Nielson, re Sen. Bill No. 2200 (1989-1990 Reg. Sess.) April 4, 1990; Michael B. Hanford, County Administrator, County of Siskiyou, letter to Senator Jim Nielsen, re Sen. Bill No. 2200 (1989-1990 Reg. Sess.) May 4, 1990.) Docketed August 23, 2013.
- Pre-NOPA workshop transcript, docketed Aug. 23, 2013.
- Energy Commission Contract Manager Manual, § 3, p. 9, docketed Aug. 23, 2013.
- Energy Commission Grants Manual, docketed Aug. 23, 2013.
- Energy Commission Loans Manual, docketed Aug. 23, 2013.
- State Contracting Manual, docketed Aug. 23, 2013.

Specific Technologies or Equipment--Gov. Code § 11346.2, subd. (b)(4)

The proposed amendments do not mandate the use of specific technologies or equipment.

Reasonable Alternatives to the Proposed Amendments--Gov. Code § 11346.2, subd. (b)(5)

The Energy Commission must consider reasonable alternatives to the proposed amendments that are proposed as less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statutes and other law being implemented or made specific by the proposed amendments.

The Energy Commission considered these alternatives to the amendments:

- Leave interest rate cap at eight percent (workshop comment). The existing regulations set a cap on loan interest rates of eight percent. However, section 3822, subdivision (f) requires that the Energy Commission set interest rates no lower than the Pooled Money Investment Account. Historically, the Pooled Money Investment Account rate has been above eight percent. The existing regulations would be inconsistent with the authorizing statute whenever the Pooled Money Investment Account rate exceeds eight percent. Therefore, the Energy Commission decided that eliminating the eight percent cap would ensure Program compliance with the statute.
- Leave the Technical Advisory Committee as a scoring entity (workshop comment). The existing regulations require a Technical Advisory Committee to review and score applications. This conflicts with current Energy Commission practice, which generally follows state contracting procedures in awarding of grants, and allows private entity consultants to offer recommendations on applications but not to score them. Moreover, use of a Technical Advisory Committee raises confidentiality concerns and can slow down the scoring process. Given these factors, the Energy Commission decided that eliminating the Technical Advisory Committee is appropriate, while clarifying that the Energy Commission may invite other governmental agencies as needed to participate in scoring applications.
- Specific actions and procedures--local approval. The Energy Commission considered simply requiring approval of the governing body of the local jurisdiction without requiring written documentation of that approval. By requiring that the approval be provided in writing (which could be an e-mail), the Energy Commission has balanced its own need to ensure that the statutory requirement is met with providing maximum flexibility for applicants.
- Small business. Because there is no adverse impact on small business, no reasonable alternatives proposed would lessen any adverse impact on small business.

Evidence of No Significant Adverse Impact on Business--Gov. Code § 11346.2, subd. (b)(6)

The proposed amendments simplify and shorten the application process. Business, including small business, will benefit from the use of a one-stage, rather than two-stage application process and faster review by the Energy Commission.

- Estimated savings for a private entity applicant stemming from amending to a one-step application process are \$2,652 per application.
- The proposed amendments add a provision that requires private entities to submit CEQA documents, analyses, and assessments. This clarification enables the Energy Commission to make any necessary determinations of the applicability of CEQA to a

project at the time of making an award. The impacts on the applicant are minimal because the applicant must produce these documents regardless of which governmental entity is lead agency on the project. (See Pub. Resources Code, § 21100.)

- Should a private entity win an award, a new provision requires the entity to submit written proof of local approval of that award. This approval is required by Public Resources Code, section 3822, subdivision (g)(3). By offering maximum flexibility in how approval may be obtained and demonstrated, any extra costs related to the regulation do not rise to a significant adverse impact.
- Estimated increased costs for a private entity applicant are \$1,000 per application and \$40 per any award made.

Federal Regulations--Government Code, section 11346.2, subdivision (b)(7)

The proposed amendments do not duplicate and do not conflict with federal regulations.