

DOCKETED

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2015 DRAFT REGULATIONS

Notice of Proposed Action



CALIFORNIA
ENERGY COMMISSION

Edmund G. Brown Jr., Governor

APRIL 7, 2015

NOTICE OF PROPOSED ACTION

Proposed Amendments to Title 20 Commission Process and Procedure Regulations

California Energy Commission

Docket No. 15-OIR-01

April 7, 2015

The California Energy Commission (commission) proposes to update its siting and process and procedure regulations, located in the 1000, 1100, 1200, 1600, 1700 and 2000 sections of Title 20 of the California Code of Regulations. The updates address issues raised by stakeholders regarding the commission's licensing procedures and general process issues. The rulemaking proceeding is being conducted under the authority of Public Resources Code sections 25210, 25213, and 25218(e), and of Title 20, California Code of Regulations section 1222(a).

PUBLIC HEARING (Gov. Code 11346.5(a)(1))

The commission will hold a public hearing for consideration and possible adoption of the 45-Day Language on the following date and time unless the commission decides to modify the Express Terms through issuance of 15-Day Language.

Date: June 10, 2015

10 a.m.

California Energy Commission

1516 Ninth Street

First Floor, Art Rosenfeld Room (Hearing Room A)

Sacramento, California

(Wheelchair accessible)

Audio for the June 10, 2015, adoption hearing will be broadcast over the internet. Information on agendas and how to use the commission's web system can be found at http://www.energy.ca.gov/business_meetings/.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 or Lou.Quiroz@energy.ca.gov at least 5 days in advance.

At this hearing, any person may present oral or written statements or arguments relevant to the proposed action. Interested persons may also submit written comments (see below).

WRITTEN COMMENTS (Gov. Code 11346.5(a)(15))

Written comments should be submitted by 4:00 p.m. on June 8, 2015. If you wish to provide comments on the draft regulatory language, please submit comments to the commission using the commission's e-commenting feature by going to the commission's TITLE 20 2014 UPDATES, webpage <http://www.energy.ca.gov/title20/2015-OIR-01/> and click on the "Submit eComment" link. A full name, e-mail address, comment title, and either a comment or an attached document (.doc, .docx, or .pdf format) is mandatory. After a challenge-response test used by the system to ensure that responses are generated by a human user and not a computer, click on the "Agree & Submit Your Comment" button to submit the comment to the commission Dockets Unit.

Please note that written comments, attachments, and associated contact information included within the written comments and attachments, (e.g., your address, phone, email, etc.) become part of the viewable public record.

You are encouraged to use the electronic filing system, described above, to submit comments. If you are unable to submit electronically, a paper copy of your comments may be sent to:

Docket Unit
California Energy Commission
Docket No. 15-OIR-01
1516 9th Street, MS-4
Sacramento, CA 95814

Or e-mailing them to: DOCKET@energy.ca.gov

PUBLIC ADVISER

The commission's Public Adviser's Office is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Adviser's Office, please call (916) 654-4489 or toll-free in California at (800) 822-6228, or send an email to pao@energy.ca.gov

STATUTORY AUTHORITY AND REFERENCE (Gov. Code 11346.5(a)(2))

The commission proposes to update its process and procedure regulations under the authority of Public Resources Code sections 25210, 25213, and 25218(e), and of Title 20, California Code of Regulations section 1222(a). The proposed regulations would implement, interpret, or make specific provisions of the following laws:

- Public Resources Code sections 21061.1, 21081, 25205, 25210, 25211, 25213, 25214, 25216.5, 25217, 25218, 25223, 25321, 25362, 25502, 25505, 25506, 25506.5, 25507, 25509, 25519, 25520, 25521, 25522, 25523, 25525, 25526, 25527, 25529, 25539, 25540, 25540.1, 25540.2, 25540.3, 25541, 25541.5, 25900, 25967, 25983
- Government Code sections 11020, 11104.5, 11180, 11445.10, 11455.60, 11513
- Code of Civil Procedure section 10, and
- Public Utilities Code section 399.30.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW (Gov. Code 11346.5(a)(2))

The 1000, 1100, 1200, and 1700 sections of Title 20 of the California Code of Regulations govern the commission's power plant licensing processes and general commission-wide process and procedures. The proposed language changes resulted from a multifaceted effort by commission staff to understand barriers to efficient process and effective public engagement. In response to stakeholder comments, commission staff performed a comprehensive review of the sections and developed language that addresses identified issues. The language makes the following changes to the regulations:

- Centralizes and alphabetizes definitions,
- Clarifies the authority of the Chair to manage proceedings,
- Centralizes the role of the Docket Unit in document management,
- Updates document filing and service to reflect document management technology,
- Establishes a general centralized process for noticing public events,
- Consolidates and clarifies rules applicable to adjudicative proceedings,
- Clarifies that motions are the method by which a person asks the commission to take or refrain from taking an action,

- Clarifies the rights of parties, hearing record content, and basis for decisions in adjudicative proceedings,
- Establishes a defined comment period on the Staff Assessment and establishes a clear mechanism for commission staff to respond to comments on significant environmental issues,
- Consolidates elements of the Presiding Members Proposed Decision into one section,
- Creates a new *request for investigation* and *complaint* process that better reflects the role of the public and agency in enforcement, and,
- Makes other changes designed to streamline and clarify the commission's internal procedures.

Proposed changes to Title 20, section 1240 covering the commission's Renewable Portfolio Standard program are conforming updates that parallel the edits proposed in the 14-RPS-01 proceeding. See Modification of Regulations Establishing Enforcement Procedures for Renewable Portfolio Standard for Local Publically Owned Electric Utilities, Docket Number 14-RPS-01 at http://www.energy.ca.gov/dockets/docket_redesign.php?docketNo=14-RPS-01.html

Those interested in changes related to the Renewable Portfolio Standard should participate in the 14-RPS-01 rulemaking. The changes identified to section 1240,(d)(1) and (g) may need to be modified to comport to the final version of section 1240 pending the completion of the 14-RPS-01 proceeding and adoption of the language.

The proposed revisions only involve updates to existing processes and procedures. The commission has conducted a search of any similar regulations on this topic and has concluded that these regulations are not inconsistent or incompatible with existing state regulations.

The objective and anticipated benefits of the language changes is to achieve procedures that are functional, efficient and fair for both those who have regular business with the commission and for those who only infrequently engage the commission. The use of electronic document management and automatic service should reduce the requirements for hard copies and mass mailings. This will save processing time for filers and commission staff. Changes in the structure of the regulations, such as grouping adjunctive proceedings in one section and centralizing and alphabetizing definitions will result in clearer and more functional regulations.

DOCUMENTS INCORPORATED BY REFERENCE (1 CCR 20(c)(3))

There are no documents incorporated by Reference.

FEDERAL LAW (Gov. Code 11346.2(c); 11346.9)

The proposed revisions are not mandated by federal law, and do not conflict with any federal law or other statutory requirements.

LOCAL MANDATE DETERMINATION (Gov. Code 11346.5(a)(5))

The proposed regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACTS (Gov. Code 11346.5(a)(6))

- Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.

Staff is unaware of any cost impacts that a local agency or school district would incur in compliance with the proposed action, as the changes are process and procedural in nature and are specific to commission activities and proceedings. No school district or local agency has informed the commission of any costs associated with the proposed regulatory language changes.

- Cost or savings to any state agency.

Staff is unaware of any cost impacts that a state agency would incur in compliance with changes to the process and procedure regulations. The proposed regulations do not change any existing requirement or impose a new requirement on any state agency. No state agency has informed the commission of any costs associated with the proposed regulatory language changes.

- Other non-discretionary cost or savings imposed upon local agencies.

Staff is unaware of any cost impacts that a local agency would incur in compliance with changes to the process and procedure regulations. The proposed regulations do not change any existing requirement or impose a new requirement on any local agency. No local agency has informed the commission of any costs associated with the proposed regulatory language changes.

- Cost or savings in federal funding to the state.

Staff is unaware of any cost or savings impacts on federal funding that would result from changes to its process and procedure regulations.

HOUSING COSTS (Gov. Code 11346.5(a)(12))

Staff is unaware of any costs impacts to housing from the proposed regulations which have no relation to the permitting, building or repair of housing.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE (Gov. Code 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8))

Staff has made an initial determination that the revised regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (Gov. Code 11346.5(a)(10) and 11346.3(b))

Based on the procedural and clarifying nature of the proposed changes, no additional costs or economic impacts have been identified or are anticipated. The proposed changes improve internal process and reorganize the structure of the commission's process and procedure provisions but do not change any obligations on those conducting business with the commission.

(A) The creation or elimination of jobs within the state.

There is no information in the record and staff is unaware of any reason why the proposed changes would have any impact on jobs in California. The changes are process and procedural in nature, and are specific to commission activities and proceedings.

(B) The creation of new businesses or the elimination of existing businesses within the state.

There is no information in the record and staff is unaware of any reason why the proposed changes would have any impact on the creation or elimination of businesses in California.

(C) The expansion of businesses currently doing business within the state.

There is no information in the record and staff is unaware of any reason why the proposed changes would have any impact on the expansion of businesses in California.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed changes to the regulations attempt to improve the functionality of the regulations and improve the ability for public participation. The proposed changes do not impact the health and welfare or worker safety of California residents or the state's environment.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS (Gov. Code 11346.5(a)(9))

Staff is unaware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT (Gov. Code 11346.5(a)(11) and 11346.3(d))

The proposed changes would not require a report to be made or create new reporting requirements.

SMALL BUSINESS IMPACTS (1 CCR 4(a) and (b))

The proposed regulations do not affect small businesses for the same reasons the proposed regulations do not impose economic impacts on any businesses, school districts, local agencies and other state agencies. The proposed changes are process and procedure in nature designed to improve agency functionality and procedural understanding by the public, especially those who do not normally conduct business before the commission. Headings have been added to the regulations and related provisions have been grouped together to improve organization of the regulations.

ALTERNATIVES STATEMENT (Gov. Code 11346.5(a)(13))

Prior to adopting the revised regulations, the commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be: more effective in carrying out the purpose for which the revisions are proposed, as effective and less burdensome to affected private persons than the proposed revisions, or more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The commission developed the proposed language in conjunction with stakeholder and public input which resulted in the incorporation of alternative or modified language. The proposed language achieves the clarity, functionality and fairness that underline the reason for

updating the regulations. The proposed language does not impose any additional obligations or costs on private persons.

CONTACT PERSON (Gov. Code 11346.5(a)(14))

Inquiries concerning all aspects of the rulemaking process, including the substance of the proposed regulations, should be directed to: Jared Babula at (916) 651-1462 or jared.babula@energy.ca.gov.

The designated backup contact person is: Angelique Juarez-Garcia who may be contacted at (916) 654-4048 or angelique.juarez-garcia@energy.ca.gov.

AVAILABILITY OF THE PROPOSED REGULATIONS, INITIAL STATEMENT OF REASONS, AND INFORMATION UPON WHICH THE PROPOSAL IS BASED (Gov. Code 11346.5(a)(16))

In order to obtain the proposed regulations (express terms), the commission's Initial Statement of Reasons for the proposed changes, and all documents relied upon by the commission; please visit the commission's website at: <http://www.energy.ca.gov/title20/2015-OIR-01/> or contact Angelique Juarez-Garcia at (916) 654-4048 or by e-mail at angelique.juarez-garcia@energy.ca.gov.

In addition, the commission's Docket Office has all information upon which the proposed regulations are based. To obtain copies, please contact:

Docket Unit
California Energy Commission
Docket No. 15-OIR-01
1516 9th Street, MS-4
Sacramento, CA 95814
(916) 654-5076
DOCKET@energy.ca.gov

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. Changes may also be considered if they improve the clarity or effectiveness of the regulations. If the commission considers changes to the proposed regulations, a full copy of the text will be available for review at least 15 days prior to the date on which the commission adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS (Gov. Code 11346.5(a)(19))

The commission will prepare a Final Statement of Reasons for the revisions, responding to all relevant comments made during the proceeding. The Final Statement of Reasons will be available at: <http://www.energy.ca.gov/title20/2015-OIR-01/>, and may also be obtained from Angelique Juarez-Garcia at (916) 654-4048 or by email at angelique.juarez-garcia@energy.ca.gov.

INTERNET ACCESS (Gov. Code 11346.4(a) (6) and 11346.5(a)(20))

The commission maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the commission for this rulemaking, including this Notice of Proposed Action, the Express Terms, the Initial Statement of Reasons, and the Economic and Fiscal Impact Statements, have been posted at: <http://www.energy.ca.gov/title20/2015-OIR-01/>.