



California Energy Commission



Department of Fish and Game



Bureau of Land Management



U.S. Fish and Wildlife Service

## **RENEWABLE ENERGY ACTION TEAM**

### **Milestones to Permit California Renewable Portfolio Standard Energy Projects by December, 2010**

California Governor Arnold Schwarzenegger issued Executive Order S-14-08 on November 17, 2008, requiring 33 percent of the electricity sold in California to come from renewable energy resources by 2020. The Order further directs the California Natural Resources Agency (Resources Agency) to lead a joint collaboration between the California Energy Commission (CEC) and the Department of Fish and Game (DFG) to expedite the development of Renewable Portfolio Standard (RPS) eligible renewable energy resources.

In November 2008, the CEC, DFG, the Bureau of Land Management (BLM) and the U. S. Fish and Wildlife Service (FWS) signed a Memorandum of Understanding (MOU) formalizing the Renewable Energy Action Team (REAT) to address permitting issues associated with specific renewable energy projects. Federal participation is supported by Secretarial Order 3285 (March 2009), the Secretary of the Interior, Ken Salazar's, directive to all Department of the Interior agencies and departments (which include the BLM and FWS) to encourage the timely and responsible development of renewable energy, while protecting and enhancing the nation's water, wildlife, and other natural resources.

On October 12, 2009, Governor Schwarzenegger and Secretary Salazar signed an MOU to confirm commitments to the development of RPS renewable energy projects in California and to distribute permitting milestone guidance that provides applicants with permitting schedules required for meeting a December, 2010 construction date. December, 2010 marks the current deadline for developers to begin construction on renewable energy projects in order to receive a federal grant in-lieu of an energy tax credit from the Federal Government. The Renewable Energy Action Team (REAT) is providing the Schedules and Worksheets below for applicants intending to meet a December, 2010 permitting deadline.

**Dates for applicant submissions reflect the latest possible dates for submission. Dates for agency actions are only feasible if all applicant submissions are complete, adequate, and on time or early. All applicants should consult with the REAT Agencies as early as possible for advice when preparing project applications in order to ensure successful integration of the multiple federal and state permitting laws and regulations.**

**The data adequacy and quality of the submitted documents must meet BLM, CEC, FWS, and DFG standards and regulations in order to meet the scheduled milestones. Any submission or process completion past the stated milestones may result in a processing delay past December, 2010.**

The primary State laws governing permitting for CEC and DFG are the Warren-Alquist Act, California Environmental Quality Act, California Endangered Species Act, and Section 1600 of the Fish and Game code pertaining to streambed alterations.

The primary federal laws governing permitting for the BLM and FWS are Federal Land Management and Policy Act, National Environmental and Policy Act (NEPA), and the Endangered Species Act (ESA).

These milestones apply to the most common RPS renewable energy project Agency permitting scenarios. In the future, additional milestones may be added for other permitting scenarios. Checklists and more information can be found on each of the agencies websites listed below.



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## Acronyms

AFC – Application for Certification  
BA – Biological Assessment  
BLM- Bureau of Land Management  
BO – Biological Opinion  
CD - Consistency Determination  
CEC – California Energy Commission  
DFG - California Department of Fish and Game  
EIR – Environmental Impact Report  
EIS – Environmental Impact Statement  
FEIS – Final Environmental Impact Statement  
ITP - Incidental Take Permit  
LSAA - Lake and Streambed Alteration Agreement  
MOU – Memorandum of Understanding  
MW - megawatt  
MND – Mitigated Negative Declaration  
NOA – Notice of Availability  
NOC – Notice of Completion  
NOI – Notice of Intent  
POD – Plan of Development  
REAT - Renewable Energy Action Team  
ROD – Record of Decision  
RPS - Renewable Portfolio Standard  
SA – Staff Assessment  
SAE – Staff Assessment Errata  
SHPO - State Historical Preservation Office  
PMPD – Presiding Member’s Proposed Decision  
RPS – Renewable Portfolio Standard  
FWS - U.S. Fish and Wildlife Service

## SCHEDULES

### **Projects on BLM land, or on Private or State land with BLM as the lead Federal Agency**

**Schedule A** provides a list of key milestones for solar thermal projects 50 megawatts (MW) or larger with joint BLM-CEC jurisdiction. Projects are proposed on BLM land, or private or state land with a confirmed BLM federal ESA section 7 consultation lead [Permitting agencies: BLM, CEC, FWS, DFG]

**Schedule B** provides a list of key milestones for solar thermal projects smaller than 50 MW or other non-thermal solar technology projects proposed on BLM land that do not require a CEC permit and that may result in the take of state or federally listed species. [Permitting agencies: BLM, FWS, DFG]

### **Projects on Private or State land, and no involvement by BLM**

**Schedule C** provides a list of key milestones for solar thermal projects smaller than 50 MW or other non-thermal solar technology projects proposed on private or state land that do not require a CEC permit or BLM permit, but have federal lead agency involvement, other than the FWS (ie. ESA section 7 consultation federal nexus). [Permitting agencies: Lead federal agency [determined at project level], FWS, DFG, local agency]

**Schedule D** provides a list of key milestones for solar thermal projects 50 MW or larger on private or state land that are likely to result in the take of federal and state listed species, that also require CEC, or local agency permits, and have no federal lead agency involvement other than the FWS. When a proposed project has no federal lead agency, other than the FWS, compliance for the ESA is through section 10, Habitat Conservation Planning with the non-federal entity. [Permitting agencies: CEC, FWS, DFG, local agency]

**Schedule E** provides a list of key milestones for solar thermal projects smaller than 50 MW. This schedule also applied to any other non-thermal solar technology projects proposed on private or state land that do not require a CEC permit, or have federal lead agency, other than FWS, and that may result in the take of state or federally-listed species. California Endangered Species Act compliance is through a section 2081 Incidental Take Permit (ITP) or section 2080.1 Consistency Determination (CD). Projects must also comply with Fish and Game Code Section 1600 requirements for the issuance of a Lake and Streambed Alteration Agreement (LSAA). ESA compliance is through Section 10, Habitat Conservation Planning with FWS and the non-federal entity. [Permitting agencies: FWS, DFG].

**Worksheet A** provides a template to work with BLM field offices and CEC staff to determine milestones for completing the activities necessary to permit a utility-scale solar thermal project.

For proponents wishing to meet a permitting deadline in **2011 or beyond**, please work with field office staff, using **Worksheet A**, to develop a reasonable permitting schedule.

## Milestones to Permit Solar Thermal Energy Projects with Joint BLM-CEC Jurisdiction by December, 2010

### Schedule A

<b>For solar thermal projects 50 MW or larger with joint BLM-CEC jurisdiction. Projects are proposed on federal land, or private or state land with a confirmed BLM federal ESA section 7 consultation lead. [Permitting agencies: BLM, CEC, FWS, DFG]</b>	
Complete	Applicant BLM Plan of Development (POD) approved
11/4/2009	Project AFC deemed data adequate by the California Energy Commission (CEC)
	BLM publishes Notice of Intent in Federal Register
	CEC/BLM staff file Issues Identification Report
	CEC/BLM staff file data requests
11/19/2009	Informational hearing and site visit/BLM scoping meeting
	CEC/BLM staff data request workshop
12/1/2009	Applicant provides data responses
12/10/2009	Data response and issue resolution workshop
	Initiate consultation with State Historical Preservation Offices (SHPOs)
1/11/2010	Administrative Staff Assessment (SA)/Draft EIS circulated for agency staff review
1/15/2010	Selected draft SA sections posted on CEC and BLM websites
2/19/2010	Notice of Availability (NOA) of SA/Draft EIS in Federal Register
	SA/DEIS filed (90-day comment period begins)
	BLM submits Biological Assessment (BA) to FWS. Start 135-day section 7 consultation
3/19/2010	BA determined adequate by FWS
5/3/2010	Prehearing/Evidentiary hearings start (evidentiary record remains open until key items such as FWS Biological Opinion are received)
5/20/2010	Close BLM comment period
5/20-7/15/2010	BLM and FWS consultation
7/1/2010	Prepare responses to comments and Staff Assessment Errata (SAE)/FEIS
7/9/2010	Administrative SAE/FEIS circulated for agency staff review
7/15/2010	USFWS issues Biological Opinion
7/30/2010	NOA of SAE/FEIS in Federal Register
	SAE/FEIS distributed
8/30/2010	Expedited Governor's review period ends
	BLM Plan Amendment Protest period ends
9/15/2010	CEC Committee files Presiding Member's Proposed Decisions (PMPD)
10/8/2010	CEC Comment Hearing on PMPD
10/15/2010	Close of public comments on PMPD
10/29/2010	Addendum/revised PMPD
11/3/2010	BLM Record of Decision/Right-of-Way issued
	CEC Decision
12/3/2010	Notice to Proceed Issued

## Milestones to Permit Non-CEC Jurisdictional Solar Projects by December, 2010

### Schedule B

<b>For solar thermal projects smaller than 50 MW or other non-thermal solar technology projects proposed on BLM land that do not require a CEC permit and that may result in the take of state or federally listed species. [Permitting agencies: BLM, FWS, DFG]</b>	
11/4/2009	BLM Notice of Intent (NOI) published in the Federal Register
	DFG files Notice of Preparation (NOP) with State Clearinghouse
12/10/2009	Complete CESA Incidental Take Permit (ITP) Application submitted to DFG
	Complete Draft Lake and Streambed Alteration Agreement (LSAA) Notification Package submitted to DFG (if applicable)*
1/11/2009	BLM Administrative Draft Environmental Impact Statement (DEIS) circulated for internal staff review
2/19/2010	Biological Assessment (BA) submitted to US Fish and Wildlife Service (FWS). Begin 135-day section 7 consultation
	Notice of Availability (NOA) of DEIS in Federal Register/Notice of Completion (NOC) of DEIR filed with State Clearinghouse
	DEIS/DEIR 90-day comment period begins
3/19/2010	BA determined adequate by FWS
5/20/2010	Close BLM/DFG comment period
5/20-7/15/2010	BLM and FWS consultation
	Initiate consultation with DFG to ensure consistency with CESA
06/1/2010	Final LSAA Notification Package submitted to DFG (if applicable)
7/9/2010	Administrative FEIS/ FEIR circulated for agency staff review
7/15/2010	FWS issues Biological Opinion
7/30/2010	NOA of FEIS in Federal Register/DFG NOC filed with State Clearinghouse
7/30/2010	FEIS/Plan Amendment/FEIR distributed
8/30/2010	Expedited Governor's review period ends
8/30/2010	BLM Plan Amendment Protest period ends
9/1/2010	Final LSA Agreement issued by DFG Director (if applicable)
9/1/2010	CESA Consistency Determination request due to DFG Director (if applicable)**
9/30/2010	CESA Consistency Determination issued by DFG Director (if applicable)
9/30/2010	CESA ITP Decision issued by DFG Director
11/3/2010	BLM Record of Decision/ Right-of-Way issued
12/3/2010	Notice to Proceed Issued

\* A Lake and Streambed Alteration Agreement (LSAA) is required if a project will affect the bed, bank or channel of a stream or lake, as determined by DFG. DFG will advise project applicant regarding applicability.

\*\* California Endangered Species Act (CESA) compliance may be achieved through the issuance of a CESA Incidental Take Permit (ITP), or in certain circumstances a CESA Consistency Determination. DFG will advise the project applicant regarding applicability.

## Milestones to Permit Non-CEC, Non-BLM Jurisdictional Solar Projects By December, 2010

### Schedule C

<b>For solar thermal projects smaller than 50 MW or other non-thermal solar technology projects proposed on private or state land that do not require a CEC permit or BLM permit but have federal lead agency involvement, other than FWS (ie. ESA section 7 consultation federal nexus). [Permitting agencies: FWS, lead federal agency*, DFG, local agency]</b>	
11/4/2009	County and local government permitting processes initiated, including the California Environmental Quality Act (CEQA) Environmental Review Process **
11/4/2009	Notice of Intent to prepare NEPA document in Federal Register by lead federal agency
2/19/2010	Notice of Availability (NOA) Draft NEPA in Federal Register (begin 90 day comment period)
2/19/2010	Biological Assessment (BA) to FWS by lead federal agency. Start 135-day section 7 consultation.
2/19/2010	Initiate consultation with DFG to ensure consistency with CESA
03/1/2010	Complete CESA Incidental Take Permit Application submitted to DFG (DFG is prohibited by law from issuing a final ITP prior to completion of the lead agency CEQA process).***
3/19/2010	BA determined adequate by FWS
04/1/2010	Complete Draft LSAA Notification Package submitted to DFG (if applicable)****
5/20/2010	NEPA comment period closes
06/1/2010	LSAA Notification Package submitted to DFG (if applicable) (DFG is prohibited by law from issuing a final LSAA prior to completion of the lead agency CEQA process).
7/15/2010	FWS issues Biological Opinion to lead federal agency
7/30/2010	Notice of Availability – Final NEPA document (30 days)
8/30/2010	Final NEPA document closes
10/30/2010	Final NEPA documents and decision by lead federal agency
10/30/2010	County and local government permitting processes complete, including the California Environmental Quality Act (CEQA) Environmental Review Process CESA Consistency Determination request due to DFG Director (if applicable)
11/15/2010	Final LSA Agreement issued by DFG Director (if applicable)
11/30/2010	CESA Consistency Determination issued by DFG Director (if applicable)
11/30/2010	CESA ITP Decision issued by DFG Director

\* The lead federal agency for Schedule C is not yet determined. A lead federal agency will be determined on a project specific basis. Therefore, the milestones for the Schedule C federal process are only hypothetical.

\*\* The lead agency for the California Environmental Quality Act (CEQA) would be a city, county, or other local entity (or the State Lands Commission (SLC) on State lands) for generation projects with a capacity of less than 50 megawatts (MW).

\*\*\*California Endangered Species Act (CESA) compliance may be achieved through the issuance of a CESA Incidental Take Permit (ITP), or in certain circumstances a CESA Consistency Determination. DFG will advise the project applicant regarding applicability.

\*\*\*\*A Lake and Streambed Alteration Agreement (LSAA) is required if a project will affect the bed, bank or channel of a stream or lake, as determined by DFG. DFG will advise project applicant regarding applicability.

## Milestones to Permit Solar Thermal Energy Projects with CEC Jurisdiction on State or Private Lands by December, 2010

### Schedule D

<b>For solar thermal projects 50 MW or larger proposed on state or private land that are likely to result in the take of federally listed species, and no federal lead agency, other than FWS exists. ESA compliance is through section 10, Habitat Conservation Planning. [Permitting agencies: CEC, FWS, DFG]</b>	
10/16/2009	Habitat Conservation Plan (HCP) submitted to FWS and near completion
10/16/2009	Draft NEPA document in process, administrative draft submitted to FWS and near completion
11/4/2009	Project AFC deemed data adequate by the California Energy Commission (CEC)
	Notice of Intent to prepare NEPA document in Federal Register by FWS
	CEC staff file Issues Identification Report
	CEC staff file data requests
11/19/2009	Informational hearing and site visit/FWS scoping
	CEC staff data request workshop
12/1/2009	Applicant provides data responses
12/10/2009	Initiate consultation with State Historical Preservation Offices (SHPOs)
	Data response and issue resolution workshop
12/14/2009	Complete public review Draft HCP and NEPA documents submitted to FWS
	Applicant submits ESA section 10 application to FWS
1/11/2010	Administrative Staff Assessment (SA) circulated for agency staff review
1/15/2010	Selected draft SA sections posted on CEC websites
2/19/2010	Notice of Availability (NOA) of SA/Draft NEPA in Federal Register (begin 90 day comment period)
	CEC SA distributed for public comment
	FWS initiates intra-Service section 7 consultation
5/3/2010	Prehearing/Evidentiary hearings start
5/20/2010	NEPA, HCP and SA Comment period closes
7/1/2010	Prepare responses to public comments on NEPA, HCP and Staff Assessment Errata (SAE)
	Modify and finalize HCP and NEPA
7/9/2010	Administrative SAE/final NEPA document circulated for agency staff review
7/30/2010	Notice of Availability – Final SA/NEPA document (30 days) distributed
8/30/2010	Final NEPA document closes
	Expedited Governor's review period ends
9/15/2010	CEC Committee files Presiding Member's Proposed Decisions (PMPD)
10/8/2010	CEC Comment Hearing on PMPD
10/15/2010	Close of public comments on PMPD
10/29/2010	Addendum/revised PMPD
11/3/2010	NEPA and ESA decision documents finalized by FWS
	CEC Decision
11/30/2010	ESA section 10 incidental take permit decision by FWS

## Milestones to Permit Solar Energy Projects on State and Private Land with No CEC Jurisdiction by December, 2010

### Schedule E

<b>For solar thermal projects smaller than 50 MW and any other solar project of any size on non-federal land that are likely to result in the take of State and Federal listed species. Federal compliance is through Endangered Species Act section 10, habitat conservation planning. [Permitting Agencies: FWS, DFG, State Lands Commission or Local Agency]</b>	
10/16/2009	Habitat Conservation Plan(HCP) submitted to FWS and near completion
10/16/2009	Draft NEPA document in process, administrative draft submitted to FWS and near completion
11/4/2009	Notice of Intent to prepare NEPA document in Federal Register from FWS
11/4/2009	County and local government permitting processes initiated, including the California Environmental Quality Act (CEQA) Environmental Review Process*
12/14/2009	Complete public review Draft HCP and NEPA documents submitted to FWS Applicant submits ESA section 10 application to FWS
2/19/2010	Notice of Availability – Draft NEPA document out for public comment (90 day comment period) FWS initiates Intra-Service section 7 consultation
03/1/2010	Complete CESA Incidental Take Permit Application submitted to DFG (DFG is prohibited by law from issuing a final ITP prior to completion of the lead agency CEQA process)**
04/1/2010	Complete Draft LSAA Notification Package submitted to DFG (if applicable)
5/20/2010	NEPA Comment period closes
06/1/2010	LSAA Notification Package submitted to DFG (if applicable) (DFG is prohibited by law from issuing a final LSAA prior to completion of the lead agency CEQA process)***
7/1/2010	Prepare responses to public comments on NEPA and HCP Modify and finalize HCP and NEPA
7/30/2010	Notice of Availability – Final NEPA document (30 days)
8/30/2010	Final NEPA document closes
10/30/2010	County and local government permitting processes complete, including the California Environmental Quality Act (CEQA) Environmental Review Process
11/3/2010	NEPA and ESA decision documents finalized by FWS
11/15/2010	Final LSA Agreement issued by DFG Director (if applicable)
11/30/2010	ESA section 10 incidental take permit decision by FWS CESA ITP Decision issued by DFG Director

\*The lead agency for the California Environmental Quality Act (CEQA) would be a city, county, or other local entity (or the State Lands Commission (SLC) on State lands) for generation projects with a capacity of less than 50 megawatts (MW).

\*\* A Lake and Streambed Alteration Agreement (LSAA) is required if a project will affect the bed, bank or channel of a stream or lake, as determined by DFG. DFG will advise project applicant regarding applicability.

\*\*\* California Endangered Species Act (CESA) compliance may be achieved through the issuance of a CESA Incidental Take Permit (ITP).

## Worksheet for Use in Developing a Schedule to Permit Solar Thermal Energy Projects with joint CEC-BLM Jurisdiction by December, 2010

### Worksheet A

Working with your BLM field office and the CEC, use the worksheet below to determine deadlines for completing the activities necessary to permit a utility-scale solar thermal project on BLM land.

	Applicant BLM Plan of Development (POD) approved
	Project AFC deemed data adequate by the California Energy Commission (CEC)
	BLM publishes Notice of Intent in Federal Register
	CEC/BLM staff file Issues Identification Report
	CEC/BLM staff file data requests
	Informational hearing and site visit/BLM scoping meeting
	CEC/BLM staff data request workshop
	Applicant provides data responses
	Data response and issue resolution workshop
	Initiate consultation with State Historical Preservation Offices (SHPOs)
	Administrative Staff Assessment (SA)/Draft EIS circulated for agency staff review
	Selected draft SA sections posted on CEC and BLM websites
	Notice of Availability (NOA) of SA/Draft EIS in Federal Register
	SA/DEIS filed (90-day comment period begins)
	BLM submits Biological Assessment (BA) to FWS. Start 135-day section 7 consultation
	BA determined adequate by FWS
	Prehearing/Evidentiary hearings start (evidentiary record remains open until key items such as FWS Biological Opinion are received)
	Close BLM comment period
	BLM and FWS consultation
	Prepare responses to comments and Staff Assessment Errata (SA)/FEIS
	Administrative SAE/FEIS circulated for agency staff review
	USFWS issues Biological Opinion
	NOA of SAE/FEIS in Federal Register
	SAE/FEIS distributed
	Expedited Governor's review period ends
	BLM Plan Amendment Protest period ends
	CEC Committee files Presiding Member's Proposed Decisions (PMPD)
	CEC Comment Hearing on PMPD
	Close of public comments on PMPD
	Addendum/revised PMPD
	BLM Record of Decision/Right-of-Way issued
	CEC Decision
	Notice to Proceed Issued