

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814



**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:)	ORDER NO.
)	
)	
PETITION TO COMMISSION TO REQUEST RULEMAKING)	ORDER DENYING PETITION FOR
CHANGE TO SECTION 1769)	RULEMAKING
_____)	

On October 15, 2014, Rob Simpson and Helping Hand Tools filed a petition requesting, among other things, the Energy Commission initiate a rulemaking proceeding to modify California Code of Regulations, title 20, section 1769.

Staff completed its review and determined that the petition meets the requirements under California Code of Regulations, title 20, section 1221.

STAFF RECOMMENDATION

Mr. Simpson requests that a rulemaking proceeding be opened to modify California Code of Regulations, title 20, section 1769 to add the following language: "Notice of all proposed amendments or violations is to be communicated to the original service list and interested parties list for the license unless such parties have specifically requested to be removed from the notice list."

Mr. Simpson is requesting this change because, although he was an active participant in the original Carlsbad Application for Certification (AFC) proceeding, he asserts that he was not provided notice of the Petition to Amend for such facility until several months after it was formally filed with the Commission.

For the reasons cited below, staff believes that modifications to this section are premature and recommends the Commission deny Mr. Simpson's petition to enter in a rulemaking immediately for the sole purpose of modifying section 1769.

On December 1, 2010, the California Energy Commission adopted an Order Instituting an Informational Proceeding (Lessons Learned) on issues that are critical to the licensing of power plants. Commission staff has been assessing the Energy Commission's siting processes and examining critical issues common among solar-thermal and conventional power plants. Information from this intensive almost four year process resulted in Commission staff identifying comprehensive revisions to the Commission's regulations to improve Commission process and procedures and to address stakeholder concerns. Given the extensiveness of the changes identified, staff proposes to address changes to the regulations in several phases, the first dealing with the handling of applications for certification. These proposed changes to the

regulations were published on September 30, 2014 and the Commission plans to consider an Order Instituting Rulemaking to embark on this phase in November.

Once this rulemaking is complete, staff intends to recommend a second phase concerning changes to the power plant compliance regulations and potential changes to Appendix B, dealing with completeness requirements for applications for certification. Staff anticipates this rulemaking beginning in early 2015. Any proposed changes to section 1769, which concerns post-certification amendments, such as the change recommended by Mr. Simpson, would be best handled in this second phase of the proposed rulemaking. Given the comprehensiveness of the regulations, and the effort that has already been expended to methodically consider proposed changes, staff believes it is preferable to embark on these rulemakings in a systematic, organized, and planned manner.

ENERGY COMMISSION FINDINGS

Based on staff's analysis, the Energy Commission concludes that there is already in place a plan to consider modifications the Energy Commission's regulations and consideration of any changes to section 1769, including that proposed by Mr. Simpson, would best take place during phase two.

The Energy Commission finds that:

- The petition meets the requirements under California Code of Regulations, title 20, section 1221; and
- The petition is premature and ultimately rendered unnecessary due to staff's plan to place before the Commission a proposal to enter into the second phase of rulemaking to consider changes to compliance regulations, which would include post-certification amendments, in early 2015.

CONCLUSION AND ORDER

The California Energy Commission hereby adopts staff's recommendation and denies the petition pursuant to California Code of Regulations, title 20, section 1221(c).

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the California Energy Commission held on October 29, 2014.

AYE:

NAY:

ABSENT:

ABSTAIN:

Harriet Kallemeyn
Secretariat
California Energy Commission