STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

Amendments, Title 20 Process and Procedure Regulations)	Docket No. 15-OIR-01
)	Order Number 15-0909-03
_____)	

RESOLUTION ADOPTING A NOTICE OF EXEMPTION, AND AMENDMENTS TO THE TITLE 20 PROCESS AND PROCEDURE REGULATIONS

I. INTRODUCTION AND BACKGROUND

The California Energy Commission ("Commission") hereby adopts the Notice of Exemption (Pub. Resources Code, § 21000 et seq.), and amendments to its process and procedure regulations (California Code of Regulations, title 20, sections 1000–2000.) We take this action under the authority of, and to implement, interpret, and make specific, sections 25210, 25213, 25218(e), and 25218(f), of the Public Resources Code.

On April 20, 2015, the Commission published a Notice of Proposed Action (NOPA) and made available to the public the Express Terms of the proposed amendments, along with an Initial Statement of Reasons (ISOR) that summarized and explained the rationale for the proposed amendments. The Commission also prepared the legally-required fiscal and economic analysis of the proposed regulations. Collectively, these materials are the rulemaking documents.

On May 13, 2015, the Commission published a revised Notice of Proposed Action extending the public comment period on the proposed amendments to June 23, 2015, and continued the adoption hearing date until July 8, 2015.

On July 1, 2015, the Commission published a Notice of 15-day language and made available to the public the Express Terms which contained additional proposed changes based on comments received, and continued the adoption hearing date until July 30, 2015. The hearing date was later continued until September 9, 2015.

On August 11, 2015 the Commission published a Notice of Supplemental 15-day language and made available to the public the Express Terms which contained additional proposed changes based on comments received, and reaffirmed the adoption hearing date of September 9, 2015.

The rulemaking documents were provided to every person on the Commission's Docket Number 15-OIR-01 and general siting mailing lists, to a representative number of small business enterprises or representatives, and to every person who had requested notice of such matters. The rulemaking documents were also posted on the Commission's website. The cumulative comment period on the rulemaking documents went from April 20, 2015 through August 28, 2015.

None of the comments received during the comment period, and nothing else in the record, justify any additional changes to the proposed amendments beyond the changes already incorporated into the final proposed language.

II. FINDINGS REGARDING THE PROPOSED AMENDMENTS

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.

Based on the entire record for Docket Number 15-OIR-01, the Commission finds as follows:

A. The Warren-Alquist Act. The adopted regulations:

1. Centralizes and alphabetizes definitions;
2. Clarifies the authority of the chair to manage proceedings;
3. Centralizes the role of the docket unit in document management;
4. Updates document filing and service to reflect document management technology;
5. Establishes a general centralized process for noticing public events;
6. Consolidates and clarifies rules applicable to adjudicative proceedings;
7. Clarifies that motions are the method by which a person asks the Commission to take or refrain from taking an action;
8. Clarifies the rights of parties, hearing record content, and basis for decisions in adjudicative proceedings;
9. 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;
10. Consolidates elements of the Presiding Members Proposed Decision into one section;
11. Creates a new *request for investigation* and *complaint* process that better reflects the role of the public and agency in enforcement; and
12. Makes other changes designed to streamline and clarify the Commission's internal procedures while ensuring effective public engagement.

B. The Administrative Procedure Act. The adopted regulations:

1. Are not inconsistent or incompatible with existing state regulations;
2. Are not inconsistent or incompatible with existing federal law;

3. Will impose no direct costs, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code;

4. Will result in no costs or savings in federal funding to the State of California;

5. Will result in no additional costs to state agencies;

6. Will result in no nondiscretionary costs or savings to local agencies or school districts;

7. Will have no impact on housing costs;

8. Will have no significant, statewide adverse effect on businesses in general or small businesses in particular;

9. Will have no cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the regulations; and

10. Have no alternatives that would be more effective in carrying out the purposes of the Warren-Alquist Act, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; see also CEQA Guidelines, Cal. Code Regs., tit. 14, § 15000 et seq.) requires that state agencies consider the environmental impact of their discretionary decisions. An activity is not subject to CEQA if, (1) the activity is not a "project" as defined in section 15378 of the regulations. (Cal. Code Regs., tit. 14, § 15060(c)), or (2) the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Code Regs., tit. 14, § 15061(b)(3).)

After considering the entire record, including the memorandum titled *Basis for Finding an Exemption under the Environmental Quality Act*, (Docket Number 15-OIR-01, Transaction Number 205210), the Commission finds the development and adoption of the Commission's process and procedure regulations would not be subject to CEQA and the adoption of the Notice of Exemption, (attached as Exhibit A) is appropriate because the rulemaking activity is not a project under the CEQA Guidelines. (Cal. Code Regs., tit. 14, § 15378(b)(2) and (5).) In this case, the regulations are procedural in nature related to the Commission's administrative functions and the adoption of such regulations would not result in any impact on the environment. In addition, because it can be seen with certainty that there is no possibility that the process and procedure regulations would have a significant effect on the environment, and nothing in the record suggests otherwise, adoption of the Commission's process and procedure regulations would not be subject to CEQA under the *common sense* exemption of section 15061(b)(3).

IV. ADOPTION OF PROPOSED AMENDMENTS FOR DOCKET 15-OIR-01

The Commission, after considering the entire record and all relevant public comments, hereby adopts the Notice of Exemption, (attached as Exhibit A) and adopts the proposed amendments to the Title 20 process and procedure regulations.

V. DELEGATION OF AUTHORITY AND DIRECTIVES TO THE EXECUTIVE DIRECTOR

The Commission directs the Executive Director to take, on behalf of the Commission, all actions reasonably necessary to have the adopted amendments go into effect, including but not limited to making any appropriate non-substantial changes, changes for consistency within the regulations, and preparing and filing all appropriate documents, such as the Final Statement of Reasons with the Office of Administrative Law and the Notice of Exemption with the State Clearinghouse.

CERTIFICATION

The undersigned Secretariat to the California Energy Commission does hereby certify that the foregoing is a full, true, and correct copy of an approved RESOLUTION duly and regularly adopted at a meeting of the California Energy Commission held on September 9, 2015:

AYE: [*List Commissioners*]
NAY: [*List Commissioners*]
ABSENT: [*List Commissioners*]
ABSTAIN: [*List Commissioners*]

_____
Tiffani Winter,
Secretariat

Exhibit A

Print Form

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: Statewide

From: (Public Agency): California Energy Commission
1516 9th Street
Sacramento, CA 95814
(Address)

Project Title: Amendments to Title 20 Process and Procedure Regulations

Project Applicant: California Energy Commission

Project Location - Specific:
Statewide

Project Location - City: statewide Project Location - County: statewide

Description of Nature, Purpose and Beneficiaries of Project:
Updates to the Energy Commission's process and procedure regulations

Name of Public Agency Approving Project: California Energy Commission

Name of Person or Agency Carrying Out Project: California Energy Commission

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: 15060(c), 15061(b)(3), 15378(b)(2) & (5)
- ☐ Statutory Exemptions. State code number:

Reasons why project is exempt:
The action is not a project under section 15378(b). The action is to update the Energy Commission's process and procedure regulations which include how hearings are managed, how documents are filed, how public comments are responded to and how request for investigations are processed. The action relates to purely procedural processes and would not result in a direct or indirect physical change to the environment.

Lead Agency Contact Person: Jared Babula Area Code/Telephone/Extension: 916-651-1462

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: Date: 7-7-15 Title: EXECUTIVE DIRECTOR

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: