

INITIAL STATEMENT OF REASONS

FOR ADOPTION OF REGULATIONS GOVERNING DESIGNATION OF TRANSMISSION CORRIDOR ZONES

Title 20, Division 2
California Energy Commission
Docket No. 07-OIR-01

September 11, 2007

I. STATEMENT OF SPECIFIC PURPOSE AND RATIONALE

A. Background

The proposed regulations would make specific the process for implementing the California Energy Commission's new authority to designate transmission corridor zones for future high-voltage electric transmission lines within the state. The Commission's new authority stems from Senate Bill 1059, which was enacted in September 2006. (Stats. 2006, Ch. 638.) Specifically, SB 1059 added Chapter 4.3, or sections 25330 to 25341, to the Warren-Alquist Act, which is the Energy Commission's enabling statute in the Public Resources Code. Section 25331 of the Public Resources Code specifically authorizes the Energy Commission to designate transmission corridor zones on its own motion or by application of a person who plans to build a high-voltage electric transmission line in the state.

Current law directs the Energy Commission to adopt a strategic plan, representing an important part of the transmission planning process, to identify and recommend actions for investments in future transmission-line infrastructure. (Pub. Resources Code § 25324.) The goal of the strategic plan is to identify and recommend actions that will ensure transmission reliability, relieve congestion, and meet forecasted growth in load and generation in the state, with consideration given to renewable resources, energy efficiency, and other demand-reduction measures. The strategic plan sets forth the state's needs and objectives for developing infrastructure for the state's transmission grid, taking into account the state's energy and environmental policies. A designated transmission corridor zone must be consistent with the state's needs and objectives as stated in the most recently adopted strategic plan. (Pub. Resources Code §§ 25331 and 25337.)

Given its new authority to designate transmission corridors, the Energy Commission can now augment the transmission planning process, on which the strategic plan is based, by identifying feasible corridors for future use consistent with the state's needs and objectives for electric transmission. By validating the need for a proposed transmission corridor and evaluating potential environmental impacts and alternatives during the designation process, the subsequent permitting of transmission projects within those

corridors is expected to be a streamlined and more efficient final step in the regulatory process that results in needed electric transmission lines.

B. Overall Purpose of the Proposed Regulations

The proposed regulations, which interpret, implement, and make more specific, the statutory directives for designating transmission corridor zones, are patterned after the Energy Commission's regulatory program for power plant licensing cases. Both sets of regulations cover similar hearings, the production of environmental documents, involvement of government agencies and members of the public, and similar kinds of findings in the Commission's decisions. Thus, many of the procedural aspects of the proposed regulations refer to sections of existing regulations that also govern the Energy Commission's power plant licensing process. In addition, the Energy Commission has determined that the way evidentiary hearings are conducted for power plant applications, with testimony given under oath and subject to cross examination, results in a robust record upon which the Commission can base its decision. That same approach to hearings and an evidentiary record to support final corridor-designation decisions is reflected in the proposed regulations.

The Energy Commission's designation of a transmission corridor zone is subject to the California Environmental Quality Act (CEQA). The Energy Commission will serve as the lead agency for designating and regularly reviewing and revising corridor zones. The proposed regulations, thus, also serve to make specific the Commission's responsibilities for an environmental review of each proposed corridor in accordance with CEQA. The ultimate purpose is to produce well supported Commission decisions and environmental assessments that the permitting agency can subsequently use to help focus its environmental review and, thus, streamline the permitting process when an applicant seeks a permit to build a transmission line within a designated corridor.

C. Purpose and Rationale for Each Proposed Section

§ 2401. Scope and Objectives of Designation Process.

Subsection (a) serves as an introduction to describe the scope of Article 2, which would contain all the proposed regulations that govern the process for transmission corridor designations.

Subsection (b) presents six objectives to guide the process for designating corridors, whether initiated by third-party application or by the Commission's own motion.

Objective 1 implements the state's policy of encouraging the use of existing rights-of-way, recognizing the growing scarcity of land and the competing interests for development in the state. Stating this as the first objective clarifies and gives prominence to the option of proposing an existing right-of-way for designation. Otherwise, the regulations would appear to encourage the designation of only new corridors and new rights-of-way.

Objective 2 identifies the strategic plan that would apply based on the time of filing an application or the Energy Commission making a motion to designate a corridor. By statute, a designated corridor must be consistent with the state's needs and objectives set forth in the strategic plan, which is adopted every two years. (Pub. Resources Code § 25331.) This objective clarifies that the strategic plan most recently adopted at the time of filing or making a motion would apply.

Objective 3 promotes preparation of the environmental assessment of a proposed corridor and its alternatives so as to produce a useful document that could then be used to help streamline the permitting process. The purpose of this objective is to highlight the connection between designating transmission corridors and permitting transmission lines within those corridors and the importance of streamlining the permitting process as a key to making the designation process most useful in the grand scheme of planning and permitting needed transmission infrastructure in the state.

Objective 4 focuses on coordination of federal and state corridors. This objective specifies state coordination with federally designated corridors under section 368 of the Federal Energy Policy Act of 2005 or within adopted federal land use plans. By specifying the section of federal law and adopted land-use plans, this objective specifies and limits coordination to be with easily identifiable federal corridors.

Objective 5 aims at working cooperatively with local governments. This is consistent with statutory directives to consult with local governments in considering whether to designate a corridor. (Pub. Resources Code §§ 25333 and 25334.) This objective highlights the priority the Energy Commission places on coordination with local governments for purposes of eliciting their support for coordinating their land use plans with state planning for electric transmission.

Objective 6 places high value on public participation in the Commission's designation process and on making sure the Commission's decision is based on evidence in the record, which will be subject to public review and comment. This objective serves to underscore the Commission's commitment to maintaining a public process and arriving at well reasoned decisions supported by an evidentiary record.

Subsection (c) clarifies statutory language that allows applicants who plan to construct high-voltage electric transmission lines to apply for designation of their proposed corridors. Under the proposed clarification, such applicants include anyone planning to upgrade an existing transmission line that meets the criteria in the statute. This clarification is consistent with state policy and the first objective, which encourages the use of existing right-of-ways.

§ 2402. Information Requirements

This section helps organize the regulations by referring to Appendix A for all the informational requirements for an application or motion that proposes a corridor for designation.

§ 2403. Format and Number of Copies

This section serves to notify applicants of the filing requirements for applications with respect to number of copies and their format. The required numbers of paper and electronic copies are based on the Commission's experience in power plant siting cases that have similar filing requirements and similar needs for distribution of an application to local libraries, interested members of the public, and agencies at all levels of government. The number of documents required for filing help meet the statutory requirement to provide a copy of an application to all cities, counties, and state and federal agencies that have an interest in the proposed transmission corridor. Because a proposed corridor could be miles in length and cross several jurisdictions, the number of copies required for filing should try to match the large number of agencies likely to be interested in a proposed corridor. The purpose of the section is also to allow for some flexibility in format requirements by referring to an existing section (section 1209.5) that allows the executive director to waive format requirements for electronic documents based upon a showing of undue burden on the submitter of the documents.

Applications are required in both paper and electronic formats to satisfy docketing requirements and provide for agency and public participation in the project review. The original paper copy is the official record maintained in the Energy Commission's docket. Paper copies are provided to local and state repository libraries for public access. The paper document format specified in section 1209 provides for documents that can be easily filed and maintained by libraries and agencies. The electronic document format allows for a reduced number of paper copies to be provided and provides for a complete copy of the application to be posted on the Energy Commission's web site for public use.

§ 2404. Review and Acceptance of Application.

This section describes procedures and timelines for determining if an application meets all informational requirements (in Appendix A) for the purpose of being accepted as complete and thereby beginning the timeline for reviewing a proposed corridor and reaching a final decision. The procedures and timelines are patterned after those for power plant siting cases. Because such cases have been governed by a successful regulatory program, the Commission wishes to apply the same procedural framework to corridor designations. The one variation in this section allows for an assigned committee to determine if supplemental information, in fact, completes an application that the commission has determined to be deficient based on informational requirements. This option is a departure from the procedures in siting cases, which has the Commission deciding the sufficiency of supplemental information. The purpose of

this option is to allow for a committee determination that would probably take less time than requesting a determination from the full Commission at one of its biweekly business meetings. Allowing the committee to decide if an application is completed by supplemental information will likely accelerate the start of the process for reaching a final decision on the application.

§ 2405. Public Notification.

This section specifies by when the statutory directives for public notice must be met. The statute does not specify a deadline, so this section imposes a deadline of as soon as practicable and in no event later than 10 days from accepting an application as complete. This timeline is based on the Commission staff's practice of publishing and distributing notices in a power plant siting case soon after an application has been filed and is under review for completeness. The purpose is to notify the public, government agencies, California Native American tribes, and property owners as early in the process as possible to allow ample time for their participation and review of the application. This section also serves to specify the contents of the public notice so that whoever receives notice by whatever means--by publication, direct mail, or internet--receives the same information about the application and the Commission's process.

§ 2406. Coordination with Interested Agencies, Intervention, and Public Participation.

Subsection (a) informs governmental entities, including Native American tribes, that the notice they receive about an application for designation of a corridor will also contain requests for information about their respective land use plans and other matters in which they have expertise or interest. This serves two purposes. One is to implement the statutory directive to confer with interested governments about the proposed corridor and their concerns. The other is to follow requirements under CEQA to notify responsible agencies of a project and solicit their input. In addition, subsection (a) sets a 30-day timeline on governments to respond to requests for information, but allows for negotiation of more time if needed. The purpose of the timeline is to establish a reasonable period of time for governments to provide information and input. Responding within 30 days of a request is consistent with the time allowed parties to respond to data requests in a power plant licensing case. Setting a timeline also helps to manage the length of the proceeding so that it can be done within 12 months, similar to a power plant licensing case.

Subsection (b) directs the Commission's staff to use the information received from interested governments in discussions with them about their land use plans, areas of expertise, concerns, and recommendations. Its purpose is to implement the statutory directive to confer with interested governments about the proposed corridor.

Subsection (c) allows any person to intervene by filing a petition in accordance with section 1207 of the Commission's regulations and being subject to the same rules of intervention that apply in any Commission proceeding. The purpose of this subsection is to apply the same rules of intervention to corridor designations as apply to all other Commission

proceedings, including power plant licensing cases. Power plant cases, in particular, have shown that the rules for intervention work reasonably well in providing guidance, latitude, and orderliness in a case.

Subsection (d) distinguishes an interested member of the public from a formal intervener. The purpose of this subsection is to encourage public participation, whether through informal means or by formal intervention. Either way, the regulation invites public participation.

Subsection (e) applies the same ex parte rule to corridor designations as applies to the Commission's adjudicatory proceedings. The purpose is to model the corridor designation proceeding after power plant licensing cases with respect to rules of procedure.

§ 2407. Reimbursement

This section implements and makes specific Public Resources Code section 25334(d), which requires applicants to reimburse the Commission for all costs associated with reviewing an application, and section 25334(e), which allows a city or county to request reimbursement of its actual and added costs of reviewing an application when requested by the Commission. The purpose of this section is to specify when reimbursement to the Commission is due and how the accounting will be done and to do it in a manner that is transparent to the applicant.

The purpose is also to offer two options for reimbursement to local governments. One option is to use the existing protocol in section 1715 of the Commission's regulations. The other option is for an applicant to set up an account directly with a city or county seeking reimbursement. The reason for two options is to take advantage of an existing protocol, which involves budget estimates and the Commission serving as a conduit, and also provide an alternative that is less cumbersome and allows applicants and local governments to work directly with each other in arranging for reimbursement.

§ 2408. Requests for Information.

Subsection (a) governs requests for information among the parties and applies the same rules that govern the Commission's power plant licensing cases. The reasons for using the same rules are because they have a history of working well in the licensing cases and applicants are likely to be familiar with them.

Subsection (b) directs the Commission staff to confer with interested governments, including Native American tribal governments, to take into account their informational needs when drafting requests for information from the applicant or other entities. This directive implements and makes specific Public Resources Code section 25334, which directs the Commission to confer with interested governments during the review of a proposed transmission corridor.

§ 2409. Informational Hearing and Scoping Meeting.

This section implements and makes specific Public Resources Code section 25335, which calls for public informational hearings in the county or counties where the proposed transmission corridor would be located. The statute calls for informational hearings within 45 days of receipt of an application. This regulation interprets “receipt” to mean when an application is determined to be complete. Based on the Commission’s experience in power plant licensing cases, public meetings are more productive after an application is found to be complete, that is, found to meet all informational requirements, and staff and the public have sufficient information about the proposed project (proposed transmission corridor) to begin their review.

This section also specifies the noticing procedures, the purpose of the informational hearings, and the responsibility of the assigned Commission committee to issue an order within 15 days following the hearings. A minimum of 10 days notice for each hearing is a reasonable minimum requirement in that it is consistent with the minimum-notice requirement for meetings in power plant licensing cases, as well as with the minimum requirement in the Open Meetings Act, which applies to the Commission’s business meetings. This section, in specifying the purpose of the informational hearings, further implements and makes specific Public Resources Code section 25335, complies with CEQA requirements to hold scoping meetings (Pub. Resources Code §§ 21080.3, 21080.4), and helps focus the hearings to be productive and informative for all involved. Finally, the directive for a committee order within 15 days of the hearings helps manage the progress of the case, provides guidance on the scope of environmental review, and helps define the remainder of a case. All of this guidance from the committee overseeing the case serves to provide clarity of process to the public and all interested parties, which, in turn, facilitates public and agency participation.

§ 2410. Preparation of Environmental Report, Need Assessment, and Staff’s Role.

This section describes the Commission staff’s independent role in a proceeding to designate a transmission corridor. Staff serves as an independent party, responsible for an independent and objective assessment of the potential environmental impacts associated with a proposed corridor, feasible mitigation as needed, and whether a proposed corridor conforms with the Commission’s strategic plan, as required by statute. The section does not specify the type of environmental report for a proceeding, leaving it to each case to determine the appropriate level of review, consistent with the requirements of CEQA. Although an environmental impact report is likely to be the appropriate document in most cases, the section allows for flexibility depending on the specific facts and circumstances of what is being proposed.

In any event, this section directs staff to hold one or more workshops to resolve issues and obtain information and input from government agencies, property owners, and members of the public. It also subjects the staff’s environmental report and the assessment of need and conformance with the strategic plan to public hearings under a subsequent section. These requirements for workshops and hearings further define the public process and the opportunities for public participation, as well as the role of staff’s assessment as the

environmental document that shall be the subject of public review and comment. This section implements and makes specific Public Resources Code section 25332 regarding the application of CEQA to the process.

§ 2411. Publication of the Environmental Report, Need Assessment, and Public Review.

Subsection (a) establishes a timeline of 120 days from the final informational hearing in which the Commission staff must produce a draft environmental report on the proposed transmission corridor. The production of a draft report, its posting on the Commission's website, dissemination through the State Clearinghouse as appropriate, and public notification of its availability all serve to implement the Commission's responsibilities under CEQA to produce a draft report for public review and comment.

Subsection (b) establishes a public comment period of at least 45 days. This complies with CEQA and, thus, helps meet the Commission's responsibilities under CEQA to produce a draft report for public review and comment.

Subsection (c) establishes a timeline of 30 days after the public comment period in which the Commission staff must produce a final report, including responses to written comments received on the draft report. The purpose of this timeline is to help manage the progress of the proceeding and make the Commission staff responsible for preparing a timely report for the hearings.

§ 2412. Prehearing Conference and Hearing Order.

Subsection (a) of this section establishes a timeline for a prehearing conference after the Commission staff issues its final environmental report. This sequence of events allows parties to be better prepared for a prehearing conference for the purpose of identifying issues for hearings. With the final environmental report, the prehearing conference and participants have the benefit of the staff's final assessment and a basis for knowing where there is agreement or disagreement for purposes of identifying issues and preparing for hearings.

Subsection (b) of this section requires public notice for at least 14 days prior to a prehearing conference and a request in the notice for statements from parties identifying issues for hearing. The committee is given discretion to request other reasonable matters be addressed in the prehearing conference statements. This subsection serves to ensure not only that the public is given sufficient notice of a prehearing conference, but also sufficient time to prepare prehearing conference statements for filing before the prehearing conference.

Subsection (c) further assigns responsibility to the committee to issue a hearing order within 15 days of the prehearing conference, notifying parties of the issues to be heard, the due date for testimony and comments, and any other matter within the committee's purview under section 1203 of the Commission's regulations. This subsection serves to

prepare parties and the committee for evidentiary hearings, as required by Public Resources Code section 25336(b).

Subsection (d) clarifies the issue of need for the proposed corridor as being part of the issue of conformity with the Commission's strategic plan. This subsection serves to notify interested parties that the Commission will need substantial evidence on which to make findings about the need for a corridor and its conformity with the strategic plan. It also clarifies that responsibility for identifying any need for corridors is first with the strategic plan that is adopted every two years for the integrated energy policy report under Public Resources Code section 25324.

§ 2413. Hearings and Record.

This section describes how hearings shall be conducted and testimony taken to establish an evidentiary record on which to base the Commission's decision. The purpose of this section, by referring to specific sections of existing regulations, is to use the same procedures that apply in power plant licensing cases. This approach ensures a robust record, based on sworn testimony and subject to cross examination, that, in turn, gives more support to the final decision than a less formal hearing or no interim hearing at all, only the receipt of public comments. Moreover, many applicants, government agencies, and members of the public are familiar with the Commission's process for power plant applications and, thus, would understand the same features in a corridor-designation proceeding governed by these regulations.

§ 2414. Proposed Decision.

This section establishes a timeline of 60 days from the conclusion of hearings for the assigned committee to issue a proposed decision based on the evidentiary record of the hearings. It also provides a minimum public-comment period and the option for a committee hearing to receive comments on the proposed decision. The purpose of the timelines is to provide a reasonable period for formulation of a proposed decision and public comment, but to manage the progress of a case toward a final decision as expeditiously as is reasonable.

§ 2415. Findings and Conclusions.

This section specifies the matters that the proposed decision's findings and conclusions must address. It implements and makes specific Public Resources Code section 25337, which directs the Commission to issue a proposed decision that contains findings and conclusions in four areas: conformity with the strategic plan, impacts, mitigation measures and alternatives, and other factors that the Commission considers relevant. The proposed regulation provides more specificity to the categories that must be covered, consistent with environmental assessment and findings under CEQA.

§ 2416. Final Decision and Hearing.

Subsection (a) obligates the Commission before adopting a final decision to make certain findings about the environmental report. These findings are in accordance with the requirements of CEQA for a negative declaration or an environmental impact report.

Subsection (b) implements and makes more specific Public Resources Code section 25337, which directs the Commission to issue a proposed decision, but is silent on the adoption of a final decision. This subsection describes the adoption hearing and directs that it be held to receive final comments on the proposed decision. The adoption hearing serves as an opportunity for the public to provide final comments before the Commission adopts a final written decision.

Subsection (c) restricts the Commission from designating a corridor if there are significant adverse impacts associated with it, unless the Commission makes certain findings about sufficient mitigation or mitigation being under the jurisdiction of another agency. This restriction and the related findings are patterned after provisions in CEQA that apply to lead agencies considering whether to approve a project. In addition, this restriction and related findings are the same as what applies to the Commission's decisions in power plant licensing cases.

Subsection (d) addresses the situation where the Commission cannot make the findings under subsection (c) about a proposed corridor, that is, about sufficient mitigation or mitigation being under the jurisdiction of another agency. Subsection (d) allows the Commission to approve the designation of such a corridor if the Commission makes findings that mitigation or alternatives are infeasible and that there are benefits that outweigh the unavoidable impacts. This subsection, allowing for approval of a corridor with one or more unavoidable impacts, but with overriding benefits, is based squarely on similar CEQA provisions, as well as on provisions governing the Commission's decisions in power plant licensing cases. Both subsections (c) and (d) serve to make clear the provisions of CEQA that apply to a lead agency's decisions on whether to approve a project or, in this case, designate a proposed transmission corridor.

§ 2417. Notification of a Designated Corridor.

This section implements and makes specific Public Resources Code section 25338, which directs the Commission to post a copy of its decision on its Internet Web site and send copies to affected government entities and property owners. This section specifies which official at the local level shall be sent a copy of the decision and a description of the transmission corridor zone that has been designated.

§ 2418. Use of a Designated Corridor.

This section directs applicants seeking to build a high-voltage transmission line within a designated corridor to submit the Commission's environmental assessment and final decision as part of the application package for a permit. The purpose of this directive is to

afford the permitting agency the use of the Commission's environmental assessment and other decision factors, such as the need for the proposed transmission line, to help focus environmental review in the permitting process on project-specific details and impacts and rely on the Commission's broader assessment of issues such as feasible alternatives, regional impacts, and broad-scale mitigation of impacts that were foreseeable at the designation stage. Helping to focus the permitting process on project-specific matters will serve to streamline that process and make best use of the environmental review done for the designation of a corridor.

§ 2419. Catalogue of Environmental Reports for Designated Corridors.

This section directs the Commission's staff to maintain in electronic format the Commission's environmental reports and decisions on designated corridors. The purpose is to have copies readily available for applicants to submit as part of their application when they seek a permit to build a transmission project within a designated corridor.

§ 2420. Review of Designated Corridors.

This section implements and makes specific Public Resources section 25339, which directs the Commission to review and update designated corridors at least every 10 years. This section specifies that the review may be upon the request of a third party or upon the Commission's initiative. It also directs the Commission to identify designated corridors in its strategic plan, which is simply carrying out what is required by statute in Public Resources Code section 25339.

§ 2421. Application of CEQA

This section makes it clear that the Commission may use an exemption under CEQA or prepare a negative declaration or mitigated negative declaration, depending on the proposal, if allowable under CEQA. An exemption or use of a negative declaration or mitigated negative declaration can be defeated by a fair argument that the proposed project has one or more potentially significant environmental impacts based on substantial evidence. The expectation is that the Commission will prepare a program environmental impact report for many, if not all, corridors proposed for designation. Nevertheless, this section preserves flexibility for the Commission to decide otherwise depending on the particular facts and circumstances of what is being proposed for designation and for what specific purpose.

Appendix A

Appendix A describes the information that an application for corridor designation must contain to be found complete. A complete application starts the procedural clock for a final decision. Several factors underlie the need for information described in Appendix A.

First, the Energy Commission's review of corridors proposed for designation is subject to CEQA, with the Energy Commission serving as the lead agency. (Pub. Resources Code §

25332.) As lead agency, the Commission must determine whether the proposed corridor and its reasonably foreseeable development may have one or more significant impacts on the environment. (Pub. Resources Code § 21082.2.) The information requested in Appendix A provides a complete description of the proposed corridor and what is reasonably foreseeable or planned with respect to construction of transmission infrastructure within the corridor. Without a complete description of the proposed corridor and what is planned, the Energy Commission would lack essential information to do an environmental assessment for public review, and the public, also, would lack information to understand the proposal.

To assist in the environmental review, Appendix A also requests information describing the potential for environmental impacts should the corridor be developed as planned by the applicant. The applicant's description of potential impacts will be independently reviewed by the Commission's staff, which produces its own independent assessment. With the filing of a complete application, however, the information on potential environmental impacts serves to inform the public about the nature of the proposed corridor and the applicant's plans for development. Thus, with respect to CEQA, the information requested in Appendix A helps the Energy Commission obtain information about the proposed corridor that is essential for an environmental assessment and also serves to inform the public so that public comment is better focused.

Second, Public Resources Code section 25337(a) directs the Energy Commission to make findings regarding the conformity of a proposed transmission corridor with the strategic plan adopted under Public Resources Code section 25324. Several items in Appendix A, described in more detail below, serve to provide a basis on which the Commission may make findings as directed by statute.

Third, Public Resources Code section 25337(b) further directs the Energy Commission to make findings regarding the suitability of the proposed corridor with respect not only to environmental impacts, but also to public health and safety, land use, economic, and transmission-system impacts. Several items in Appendix A, described in more detail below, serve to provide a basis on which the Commission may make these additional findings as directed by statute.

Finally, Public Resources Code section 25337(c) directs the Energy Commission to make findings regarding mitigation measures and alternatives as may be needed to protect the environment, public health and safety, the state's electric transmission grid, and any other relevant factor. Several items in Appendix A, described in more detail below, serve to provide a basis on which the Commission may make findings and conclusions on these matters as directed by statute.

The level of requested information is intended to allow the Energy Commission's staff to do an environmental analysis sufficient for a program EIR as needed and allow the Energy Commission to make the findings and conclusions on matters that must be addressed in its final decisions on corridor designations. The proposed regulations are adapted in part from

the information requirements under the Energy Commission's regulatory program for power plant licensing cases. (See, Cal. Code Regs., tit. 20, § 1704(c) and Appendix B.)

(a) Executive Summary

The executive summary provides an outline of the major informational components requested of applicants, which are described in more detail below. The information requested provides a helpful overview for both the Energy Commission and the public to get a basic understanding of the proposed corridor.

(b) Project Description

An environmental report under CEQA requires clear definition of a proposed project and its setting. (Cal. Code Regs., tit. 14, §§ 15071, 15124, and 15125.) The reason for the information on project description information in Section (b) of Appendix A is as follows:

(b)(1)(2): A description of the location, dimensions and geographic setting of a proposed corridor is necessary for staff to prepare a project description in accordance with CEQA and evaluate the appropriateness of a proposed corridor zone. It is also necessary for the public to be sufficiently informed about the proposed corridor and its location.

(b)(3)(4): Vicinity maps, and photographic reproductions of the character surrounding land uses, developed areas and infrastructure, recreational areas and low income and minority populations are needed to assess potential environmental impacts, and environmental justice concerns, of a proposed corridor and its future development in accordance with CEQA. The requested information is also necessary for the public to be sufficiently informed about the proposed corridor and its potential for impacts.

(b)(5): Survey points of the centerline are necessary to establish the boundaries of a proposed corridor and to provide a legal description of real property contained within a corridor. The information also informs the public of the exact location of the proposed corridor and the potential for impacts.

(b)(6): Identification of affected property owners within and adjacent to a proposed corridor is necessary to meet public notification requirements under CEQA. (Cal. Code of Regs., tit. 14, §§ 15072 and 15087.)

(c) Conformity with Strategic Plan and Need

Public Resources Code section 25324 requires the Energy Commission to adopt a strategic plan for the state's electric transmission grid that identifies and recommends actions required to implement investments needed to ensure reliability, relieve congestion, and meet future growth in load and generation, including, but not limited to, renewable resources, energy efficiency, and other demand reduction measures.

Senate Bill 1059 authorizes the Energy Commission to designate a transmission corridor zone where a future transmission line can be built, provided the zone is consistent with the objectives of the Commission's most recent strategic plan. The requested information is necessary to determine whether a proposed transmission corridor zone is consistent with the state's needs and objectives as set forth in the most recently adopted strategic plan.

A description of the transmission facilities anticipated to be developed in the proposed corridor zone is necessary to evaluate potential environmental impacts from the development of transmission infrastructure within the zone and determine what kind of environmental document to prepare in accordance with CEQA. (Pub. Resources Code, § 21080.1.)

(d) Corridor Alternatives

Environmental review of a project with potential environmental impacts under CEQA includes a review of a reasonable range of alternatives. (Pub. Resources Code § 21003.1; Cal. Code Regs., tit. 14, § 15126.6.) This section requires information on a reasonable range of alternative corridors or, alternatively, justification why there are no feasible alternatives to the proposed corridor. If alternatives were considered by the applicant, this section also requires a discussion of the reasons, criteria, and method used for their selection and elimination in favor of the proposed corridor. The information required is necessary for the Energy Commission's review of project alternatives and whether they avoid potentially significant impacts associated with the proposed corridor. In addition, the information informs the public of how the proposed corridor may compare with the alternatives considered.

(e) General Environmental Information Requirements

Under CEQA, the lead agency may require the applicant to supply data and information to determine whether a proposed project may have a significant environmental impact and also to help in the preparation of the environmental assessment. (Cal. Code Regs., tit. 14, § 15084.) This section is a general requirement for information regarding potential impacts, mitigation, and monitoring in each of the subject areas identified in Appendix A. These subject areas are considered to be the most likely to be affected by the designation of a corridor and the foreseeable or planned development within the corridor. There are seven subject areas in total. This section serves as an introduction to help clarify and set the stage for the more specific informational requirements that follow. These specific areas and the reasons for the environmental information requested for each area are outlined below in Sections (f) through (l):

(f) Water and Soil Resources

The reason for the specific Water and Soil Resources information requested in Section (f) of Appendix A is as follows:

(f)(1): This subsection is added to establish the existing water-related environmental setting for the proposed transmission corridor zone, including discussion of any water-related special status areas within or contiguous to the zone. It is necessary as part of the required project description.

(f)(2): This subsection is added to provide a visual depiction of the water-related environmental setting for the proposed transmission corridor zone. The map is necessary to show the relative size and location of major water features and water-related special status areas within and next to the proposed transmission corridor zone. This pictorial information assists the public in better understanding the proposed corridor and its potential impacts.

(f)(3): This subsection is added to help identify any potential environmental impacts to existing water features and resources from future construction, operation, or maintenance of electric transmission line structures within the proposed transmission corridor zone. Because water is a precious resource in the state, potential impacts from proposed projects are important to identify and assess in deciding whether to approve the project.

(f)(4): This subsection is added to identify possible mitigation measures necessary to avoid significant adverse environmental impacts to water-related features and resources from the construction, operation, or maintenance of electric transmission line structures within the proposed transmission corridor zone. Identification of possible mitigation measures is necessary to determine if potential environmental impacts can be sufficiently mitigated to render the impact insignificant.

(f)(5): This subsection is added to specifically address any water-related special status areas identified within or contiguous to the proposed transmission corridor zone. This information is necessary to determine if locating a transmission line in the proposed zone would be inconsistent with or adversely affect the identified water-related special status areas, and to identify what measures could be taken to avoid or mitigate any inconsistent uses or adverse impacts.

(f)(6): This subsection is added to establish the existing soil-related environmental setting for the proposed transmission corridor zone, including discussion of any soil-related special status areas within or contiguous to the zone. This information contributes to a complete understanding of the environmental setting of the project as required in an environmental impact report. (Cal. Code Regs., tit. 14, § 15125.)

(f)(7): This subsection is added to provide a visual depiction of the soil-related environmental setting for the proposed transmission corridor zone. The map is necessary to show the relative size and location of soil zones and special or unique soil areas within and next to the proposed transmission corridor zone. This information is necessary for environmental review and for the public to fully understand the proposed corridor.

(f)(8): This subsection is added to help identify any potential environmental impacts to existing soil resources from future construction, operation, or maintenance of electric transmission line structures within the proposed transmission corridor zone.

(f)(9): This subsection is added to identify possible mitigation measures necessary to avoid significant adverse environmental impacts to soil resources from the construction, operation, or maintenance of electric transmission line structures within the proposed transmission corridor zone. Identification of possible mitigation measures is necessary to determine if potential environmental impacts can be sufficiently mitigated to render the impact insignificant.

(f)(10): This subsection is added to specifically address any special or unique soil areas identified within or contiguous to the proposed transmission corridor zone. This information is necessary to determine if locating a transmission line in the proposed zone would be inconsistent with or adversely affect the identified special or unique soil areas, and to identify what measures could be taken to avoid or mitigate any inconsistent uses or adverse impacts.

(f)(11): This subsection is added to identify the assumptions, methods, and references used in preparing the application. Requiring such information serves to validate and support the data and information provided in this section of the application.

(g) Waste Management

The reason for the specific Waste Management information requested in Section (g) of Appendix A is as follows:

The information is needed to determine the presence of existing contaminated water and/or contaminated soil or hazardous substances within, or contiguous to, the transmission corridor zone that could adversely affect the environment or public health and safety due to future construction, operation or maintenance of electric transmission line structures within the proposed transmission corridor zone.

(h) Biological Resources

The reason for the specific Biological Resources information requested in Section (h) of Appendix A is as follows:

(h)(1): This information is needed to identify sensitive biological and riparian resource areas that may be affected by a transmission corridor, including regional or local habitat protection programs and areas designated as wildlife refuges or other special designations.

(h)(2): The geographic information in this section is needed to adequately identify sensitive species and their habitat areas that may lie within or be affected by a proposed transmission corridor zone.

(h)(3): This information is needed to adequately assess impacts to significant biological resources from the construction, operation, or maintenance of electric transmission line structures within a corridor zone and identify appropriate mitigation measures for potentially significant impacts.

(h)(4): This information is needed to identify biological resource-related state and federal permits and potential mitigation measures that may be required by the agencies to accommodate development of transmission infrastructure within a proposed corridor.

(h)(5): This information is needed to establish and assess the qualifications of individuals who prepared the biological resource assessment. The requested information is helpful in assessing the thoroughness and credibility of the assessment prepared by the applicant.

(i) Cultural Resources

The reason for the specific Cultural Resources information requested in Section (I) of Appendix A is as follows:

The Energy Commission's staff needs a broad synthesis of past human activities in the project region as background for the evaluation of cultural resources that may be directly affected by a proposed project. The staff also needs to focus specifically on the area close to the project's location to predict the kinds of cultural resources that could be present and affected by a project. The California Historical Resources Information System (CHRIS) is the preferred resource for cultural resource professionals to obtain information regarding previously recorded cultural resources. Additionally it is necessary that cultural resources professionals check city and county lists of historical resources because CEQA Guidelines specify that cultural resources listed as significant by local ordinance be treated as significant by lead agencies. (Cal. Code Regs., tit. 14, § 15064.5.)

Communication with the Native American Heritage Commission and Native American groups is essential to identify locations of religious significance or cultural resources that have not been previously recorded at the CHRIS. (Cal. Code Regs., tit. 14, § 15064.5.)

Information, obtained from any source, that reveals the location of archaeological sites or areas of religious significance must be submitted under a request for confidentiality pursuant to Title 20, California Code of Regulations, section 2505, to protect the cultural resources from theft or vandals. Moreover, the Secretary of the Interior's Professional Qualifications Standards are the nationally accepted standards for cultural resources professionals.

(j) Land Use

The reason for the specific Land Use information requested in Section (j) of Appendix A is as follows:

Determining the compatibility of a proposed electric transmission corridor with existing and planned land use activities and all special status areas within and adjacent to a corridor will be a critical component of the Energy Commission's staff's analysis. Identification of potential land use and development constraints and resolution of land use conflicts and needed mitigation measures will be essential to facilitating future development of transmission infrastructure within the corridor. Staff also needs to understand and assess the local, state and federal regulatory environment that may affect the designation and future development of a proposed corridor. The requested information is necessary for staff to adequately assess the land use, development, and regulatory environment within and adjacent to proposed corridors.

(k) Traffic and Transportation

The reason for the specific Traffic and Transportation information requested in Section (k) of Appendix A is as follows:

Knowledge of the general traffic and transportation systems and conditions within or adjacent to a proposed corridor zone is essential for assessing how future development of the corridor may affect existing and planned transportation conditions and infrastructure. As the lead agency in designating a corridor zone, the Energy Commission is also responsible for ensuring proposed corridors do not adversely effect the operation and safety of traffic and transportation systems, including nearby air traffic areas and facilities. The requested information is needed to ensure that potential impacts to the transportation systems within the corridor vicinity are identified, assessed, and appropriately mitigated.

(l) Visual Resources

The reason for the specific Visual Resources information requested in Section (l) of Appendix A is as follows:

The requested information is necessary to assess the visual quality and character of the corridor's existing visual setting, including special status areas, and evaluate the potential impacts of a proposed transmission corridor and its future development on surrounding visual resources. The Energy Commission staff's visual resource analysis of a corridor will need to consider both degradation of visual quality and visual character and options for mitigating significant visual impacts. A description of the method used by applicants to assess visual resources is necessary so staff may adequately assess its appropriateness.

II. LACK OF STUDIES, REPORTS, OR SIMILAR DOCUMENTS

There are no technical, theoretical, or empirical studies, reports, or similar documents on which the Energy Commission relied in proposing these regulations. Instead, the Commission used its existing regulations for processing power plant licensing applications as an effective and familiar model upon which to pattern the proposed regulations. The existing regulations are found in Title 20, California Code of Regulations, sections 1200—1219, 1701—1720.6, and 1741—1770. In addition, the Commission’s staff met with utilities, representatives of local governments, representatives of property owners, and the Office of Planning and Research to discuss the purpose of the regulations, various procedural aspects, requirements under CEQA, and other matters of concern to these groups regarding a corridor-designation process. Energy Commission staff prepared a series of draft proposals, and sought stakeholder input, both in writing, and at public workshops, before publishing the Notice of Proposed Action. The Energy Commission relied on these documents in developing this proposal. They are listed below:

[Meeting summaries
Written comments
Transcripts of hearings]

III. CONSIDERATION OF REASONABLE ALTERNATIVES, INCLUDING THOSE THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

Before adopting the proposed regulations, the Commission must determine that no alternative considered by it would be as effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome than the proposed action. The purpose of the proposed regulations is to make more specific the process that would be available to anyone seeking designation of an electric transmission corridor. The process must be consistent with the directives of the Public Resources Code (section 25330 et seq.) that govern the designation of transmission corridors, as well as with the requirements of CEQA regarding environmental analysis and public review of a project. The Commission is not aware of any reasonable alternatives to the proposed regulations that would be more effective and/or less burdensome in achieving the same purpose in a manner consistent with applicable statutory directives. The Commission has prepared an Economic and Fiscal Impact Statement (STD 399) for the Department of Finance that shows no impact on small businesses from the adoption of the proposed regulations.

IV. TECHNOLOGY AND ALTERNATIVES

The proposed regulations would not impose any specific technology or equipment requirements.

V. IMPACT ON BUSINESS

Adoption of the proposed regulations would not have a significant adverse economic impact on business. This initial determination is based upon the following facts: (1) the proposed regulations specify a process that would apply only if a person chooses to propose a transmission corridor for state designation; (2) the proposed regulations have no provisions that would automatically require, mandate, or impose anything directly affecting business in the state; and (3) the ultimate goal of the regulations is to institute a process that will facilitate transmission planning and permitting such that the state's economic future benefits from a well planned electric transmission system. Utilities that may be considering the option of proposing corridors for designation by the Energy Commission have expressed support for a seamless planning and permitting process in which designating corridors promotes agreement on the need for transmission lines proposed within designated corridors and the designation process helps focus and, thus, streamline the environmental review for permitting.

VI. NO DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The proposed regulations do not duplicate or conflict with any federal regulations. Federal law has a provision that directs the Secretaries of Agriculture, Commerce, Defense, Energy, and Interior to designate, under their respective authorities, "energy corridors" on federal lands across 11 Western states. (Energy Policy Act of 2005, Pub.L. No. 109-58, § 368 (Aug. 8, 2005), 119 Stat. 594.) Whereas state law authorizes the Energy Commission to designate suitable corridors for high-voltage electric transmission lines, federal law directs several federal agencies to designate corridors to accommodate electric transmission and distribution lines, as well as oil, gas, and hydrogen pipelines. Under the Energy Policy Act of 2005, the federal agencies are preparing a programmatic environmental impact report in accordance with the National Environmental Policy Act, to assess the potential environmental impacts from the designation of several proposed energy corridors in the 11 contiguous Western states. One of the objectives of the state's designation process is to coordinate the designation of transmission corridor zones with federally designated energy corridors so that the state and federal designations result in continuous corridors to the extent practicable.