

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

EMERGENCY PROCLAMATION

**ORDER RE: PROCESS FOR
LICENSING NEW EMERGENCY AND
TEMPORARY POWER GENERATORS**

I. Introduction

California faces extreme climate impacts, including extreme drought, wildfire, and record-breaking heat events, even as it races to achieve a 100 percent clean electricity system that supports long-term energy reliability. This unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand. At the same time, immediate action is needed to accelerate the state's transition to clean electricity to help end the cycle of energy contributing to the very climate impacts that threaten energy supply.

The California Energy Commission (CEC) is responsible for licensing new thermal power plants of 50 megawatts (MW) or more, establishing energy efficiency standards to reduce energy demand, assessing energy supply and demand, implementing renewable portfolio standards, and investing in clean transportation and clean energy research. These core functions anchor the state's effort to meet Senate Bill (SB) 100 target of requiring renewable energy and zero-carbon resources for 100 percent of electric retail sales to end-use customers by 2045.

On July 30, 2021, Governor Newsom issued a Proclamation of State of Emergency (Emergency Proclamation) proclaiming an emergency to exist in California as a result of sudden and severe energy shortages resulting from extreme drought, wildfires and record-breaking heat events throughout the Western United States, which put significant demand and strain on California's energy grid. The Emergency Proclamation declares that, due to these extreme weather events, the state currently faces an energy supply shortfall of up to 3,500 megawatts in 2021, and a shortfall of up to 5,000 megawatts is now projected for the summer of 2022. To take immediate action to reduce the strain on energy infrastructure, increase energy capacity, and make energy supply more resilient this year to protect the health and safety of Californians, the Governor ordered the CEC, among other things, to license new emergency and temporary power generators. Specifically, the Emergency Proclamation authorized the CEC to issue licenses as follows:

With respect to new emergency and temporary power generators of 10 megawatts or more that the California Energy Commission determines will deliver net peak energy before October 31, 2021, the provisions of Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent that the California Energy Commission determines that such generators should be licensed and that:

- a. generation will be located in a previously disturbed site;
- b. generation will use natural gas as soon after construction as practicable;
- c. there is a secure water supply for the project; and
- d. there is an available grid interconnection.

Under the Emergency Proclamation, the California Environmental Quality Act and related regulations are suspended for new emergency and temporary power generators that the CEC has determined meet the criteria set forth above. The Emergency Proclamation further authorizes the CEC to delegate its authority to issue licenses in accordance with the described criteria to its Executive Director and exempts such actions from the rulemaking requirements in Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340).

II. Authority

On July 30, 2021, the Governor issued an Emergency Proclamation pursuant to the authority under the California Emergency Services Act, Government Code sections 8567, 8571, 8625, and 8627, to take immediate action to address the energy supply shortfalls and achieve energy stability in the state.

This Emergency Proclamation provides the CEC authority to establish an expedited process for the approval of licenses for new emergency and temporary power generators of 10 megawatts or more that the CEC determines will deliver net peak energy before October 31, 2021, and that meet certain criteria set forth in the Emergency Proclamation and specified in Section III below.

The CEC's approval and certification of a project is in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, and supersedes any otherwise applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law. (Pub. Resources Code, § 25500; Emergency Proclamation, paragraph 10.)

III. CRITERIA AND PROCEDURES FOR LICENSING OF NEW EMERGENCY AND TEMPORARY POWER GENERATORS

For licensing of new emergency and temporary power generators of 10 megawatts or more, the following expedited process shall be implemented:

(a) The Executive Director or designee shall develop a self-certification template for license applicants within 3 days of the adoption of this Order. The self-certification template shall be developed to maximize efficient completion and staff review and shall require the following information be confirmed through appropriate documentation by the entity seeking the license:

(1) the power generator(s) will deliver 10 MW or more on a single grid intertie.

(2) the power generator(s) will deliver net peak energy no later than October 31, 2021.

(3) the owner or operator has control over the site and

i. generation will be located in a previously disturbed site;

ii. generation will use natural gas as soon after construction as practicable;

iii. there is a secure water supply for the project; and

iv. there is an available grid interconnection.

(4) the power generator(s) can accommodate best available control technology (BACT) and the owner or operator will install BACT as soon as practicable. Operators of sites on which generators and equipment procured by DWR have been located shall collaborate with DWR on the installation of BACT.

(5) the owner or operator will implement best management practices and a worker environmental awareness program, as appropriate, during installation and removal of the power generators to protect any environmental resources.

(6) the installation of the power generator(s) will be consistent with manufacturer specifications and safety codes and standards.

(7) the owner or operator has received authorization to interconnect the power generator(s) to the distribution or transmission grid by the relevant grid authority.

(8) the owner or operator will provide access to CEC for inspection of the power generating equipment and site, and provide all available documentation regarding the equipment and site as requested by the CEC.

(b) Within 10 days after an owner or operator files a self-certification, the Executive Director shall verify that the self-certification is complete and meets the requirements of section (a) and that, based on the information available at the time of review, the project will deliver net peak energy by October 31, 2021. The Executive Director shall file a decision on the self-certification granting or denying the license and may impose conditions or reporting requirements on the license as appropriate. The decision of the Executive Director is final and not subject to further consideration or appeal.

(c) The owner or operator is authorized to operate the power generators up to 5 years from the date that the Executive Director grants the license.

(d) To support the Emergency Proclamation's directive to the California Air Resources Board to develop and promptly implement a State-funded plan to mitigate the effects of additional emissions authorized by the Emergency Proclamation beyond permitted levels, all owners or operators of new and temporary power generators shall report emissions in excess of federal air permits to the CEC for transmittal to the California Air Resources Board.

IV. CALIFORNIA ENERGY COMMISSION FINDINGS

Based on the Governor's July 30, 2021 Emergency Proclamation, the CEC finds that:

- The unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand.
- Due to these extreme weather events, the state currently faces energy supply shortfall of up to 3,500 megawatts in 2021, and a shortfall of up to 5,000 megawatts is now projected for the summer of 2022.
- Emergency and temporary power generators are a technology that can be rapidly deployed to help alleviate energy supply shortfalls and other grid impacts.
- Expedited action by the CEC is necessary to install and utilize emergency and temporary power generators.
- In order to implement the directives of the Emergency Proclamation and rapidly deploy emergency and temporary power generators, a self-certification process as described in this Order is necessary.
- The Executive Director is authorized to approve self-certifications and grant licenses consistent with the process set forth in this Order.
- A self-certification filed under the process set forth in this order is not subject to an adjudicatory proceeding as defined in California Code of Regulations, Title 20, section 1201(b), therefore the ex parte restrictions set forth in Article 7 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code (sections 11430.10 et seq.) do not apply.

V. CONCLUSION AND ORDER

Consistent with the Governor's Emergency Proclamation and to ensure the rapid deployment of emergency and temporary generators the CEC hereby adopts this Order establishing a self-certification process and delegates approval of self-certifications and the granting of licenses to the Executive Director. This Order is effective through October 31, 2021, unless otherwise extended in a subsequent Emergency Proclamation or Executive Order, or by an act of the Legislature.

CERTIFICATION

The undersigned Secretariat to the CEC 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 CEC held on August 17, 2021.

AYE: Hochschild, Douglas, McAllister, Monahan, Gunda

NAY: NONE

ABSENT: NONE

ABSTAIN: NONE


Liza Lopez
Secretariat