



REGULATORY AGENCY ACTION

FUTURE MEETINGS:

September 13 in San Diego.
October 11 (location undecided).

CALIFORNIA ENERGY COMMISSION

Executive Director: Stephen Rhoads
Chairperson: Charles R. Imbrecht
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In 1974, the legislature enacted the Warren-Alquist State Energy Resources Conservation and Development Act, Public Resources Code section 25000 *et seq.*, and established the State Energy Resources Conservation and Development Commission—better known as the California Energy Commission (CEC)—to implement it. The Commission's major regulatory function is the siting of power plants. It is also generally charged with assessing trends in energy consumption and energy resources available to the state; reducing wasteful, unnecessary uses of energy; conducting research and development of alternative energy sources; and developing contingency plans to deal with possible fuel or electrical energy shortages. CEC is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Title 20 of the California Code of Regulations (CCR).

The Governor appoints the five members of the Commission to five-year terms, and every two years selects a chairperson from among the members. Commissioners represent the fields of engineering or physical science, administrative law, environmental protection, economics, and the public at large. The Governor also appoints a Public Adviser, whose job is to ensure that the general public and interested groups are adequately represented at all Commission proceedings.

There are five divisions within the Energy Commission: (1) Administrative Services; (2) Energy Forecasting and Planning; (3) Energy Efficiency and Local Assistance; (4) Energy Facilities Siting and Environmental Protection; and (5) Energy Technology Development.

CEC publishes *Energy Watch*, a summary of energy production and use trends in California. The publication provides the latest available information about the state's energy picture. *Energy Watch*, published every two months, is available from the CEC, MS-22, 1516 Ninth Street, Sacramento, CA 95814.

In February, Governor Deukmejian appointed Ardavast (Art) Kevorkian of

Fresno to the Commission. Kevorkian replaces Warren Noteware of Stockton, whose term expired.

MAJOR PROJECTS:

Data Collection Regulations. On October 6, CEC published a notice of proposed action to amend sections 1301-11, Title 20 of the CCR. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 146 for background information.) These regulations address the collection and analysis of data for the *Quarterly Fuels and Energy Report*. CEC asserted that the proposed amendments would improve the data collection process and accuracy of forecasts. On November 29, CEC adopted the proposed action, and submitted the rulemaking action to OAL for approval on January 2. On February 1, OAL disapproved the proposed regulations on numerous grounds. OAL held that CEC failed to follow required rulemaking procedures, and failed to meet the necessity, authority, clarity, and reference standards in Government Code section 11349.1. CEC revised the regulations to meet OAL's objections; OAL subsequently approved the amendments.

Appliance Efficiency Regulations Approved by OAL. On January 19, CEC submitted to OAL proposed regulatory amendments to sections 1601-08, Title 20 of the CCR, relating to appliance efficiency standards. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 145-46 for background information.) On February 20, OAL disapproved these proposed regulatory changes because the clarity and necessity standards were not met. CEC revised the regulations to meet OAL's objections; OAL subsequently approved the amendments.

Proposed Solar Energy Tax Credit Regulations. On March 30, CEC published notice of its intent to both repeal and adopt regulations regarding solar energy tax credits. SB 227 (Chapter 1291, Statutes of 1989) created a new solar energy tax credit, and the proposed regulations will reinstitute a process for obtaining the solar tax credit in California for tax years 1990 through 1993, inclusive, with different criteria than the past credit. The amendments would also repeal the current solar tax credit regulations (sections 2601-07, Title 20 of the CCR), as the enabling legislation for those regulations was repealed when the new credit was created. Following a May 23 public hearing, CEC is in the process of revising the proposed amendments, and expects to re-release the regulations for public comment in September.

Residential Building Energy Efficiency Standards. On January 12,

CEC published notice of its intent to amend its residential building energy efficiency standards, relating to water heater insulation and furnace pilot lights. Regarding water heater insulation, the amendments eliminate the mandatory requirement for the R-12 external wrap for all storage type water heaters except those used in solar water heating systems. The R-16 insulation option would be eliminated as well. Regarding furnace pilot lights, the amendments would eliminate the ban on continuously burning pilot lights for two types of gas appliances, fan-type central furnaces, and fan-type wall furnaces.

At a February 28 public hearing, CEC adopted the proposed changes, which were subsequently approved by OAL.

SDG&E Power Plant Proposal. On December 18, San Diego Gas & Electric Company (SDG&E) filed an application with CEC for construction of a 460-megawatt combined cycle project. (See CRLR Vol. 10, No. 1 (Winter 1990) at page 147 for background information.) The project will consist of two combustion turbine generators, two heat recovery steam generators, and one steam turbine generator. SDG&E proposes to locate this project at one of five alternative sites. (See *supra* agency report on COASTAL COMMISSION for related information.)

On February 14, CEC unanimously rejected SDGE's application on the grounds that the utility failed to explain the project's effect on air quality and community land use plans. Prior to the meeting, the Commission received objections to the new project from the communities in San Diego County nearest to three of the proposed sites and from San Diego's Air Pollution Control District. These objections concerned the endangerment of rare animal species near the proposed sites, the destruction of archaeological resources, the violation of local land use plans, and degradation of air quality. Those opposed also noted that the new plant would require the shipment and storage of an additional seven million gallons of fuel and that the electromagnetic fields generated by the new transmission lines could pose a health hazard for nearby residents.

On March 14 and March 28, SDG&E filed supplements to its Notice of Intention (NOI) in attempts to satisfy the technical areas determined data deficient by CEC. On March 28, CEC accepted SDG&E's NOI, and the twelve-month NOI review process commenced.

On April 13, CEC announced its intention to hold a series of public informational presentations and site visits



regarding SDG&E's NOI. These presentations were conducted between May 3 and May 11 at the various proposed sites. Members of the public were encouraged to attend the presentations and question SDG&E staff about the project proposal and CEC staff about the administrative process. Following the conclusion of the presentations, CEC staff was to prepare an independent assessment of SDG&E's proposal and issue its Issues and Alternatives Report for public comment.

Additionally, on April 28, CEC staff presented SDG&E with a list of 188 questions regarding the proposed project. CEC staff cited significant adverse environmental impacts of the proposed plan, echoing the concerns of local officials. Staff's questions ranged from aesthetic and political concerns with the various sites to the dangers of unexploded naval ordnance at one site, the effect of electromagnetic fields on humans, and the effects of heated waters on kelp beds off Carlsbad and eel grass in San Diego Bay.

At this writing, SDG&E has not formally responded to these questions.

1990 Conservation Report. On April 6, the CEC's *Conservation Report* Committee was assigned the task of preparing the 1990 Conservation Report. The report will address the issue of the significant contribution to air pollution caused by energy used in transportation. The report's mandate is to establish long-term energy policy which includes impacts on transportation, air quality, and the economy. Interested parties were encouraged to present their views on the subject.

Availability Of CEC Reports And Publications. The following reports are available to the public through the CEC:

-*Policy Proceedings & Information Status Report*—a publication informing the public of the types of meetings and workshops held by the CEC, and how one may participate.

-*Quarterly Oil Report: Second Quarter 1989*—a report covering the petroleum fuels market during April to June 1989. The report summarizes market activities, price trends, refinery activity, and production of petroleum fuels in California.

-*Participating in the Siting Process: Practice and Procedure Guide*—an aid to parties participating in either a Notice of Intention, an Application for Certification, or Small Power Plant Exception proceeding before the CEC.

LEGISLATION:

SB 2045 (Rosenthal), as amended May 15, directs CEC to adopt, no later

than June 30, 1992, home energy rating and labeling guidelines which may be used by homeowners to make cost-effective decisions regarding the energy efficiency of their homes. This bill was signed by the Governor (Chapter 349, Statutes of 1990).

SB 2318 (Rosenthal). Under section 25375 of the Public Resources Code, if CEC finds that a county has exceeded its motor vehicle fuel consumption goal for three consecutive months, the Governor may, after proclamation of a state of emergency in that county, implement by executive order specified motor vehicle fuel conservation measures in that county. This bill repeals that provision. SB 2318 also declares that it is the policy and goal of the state to limit the future use of motor vehicle fuel in each county whenever it is determined by CEC that continued high consumption of motor vehicle fuels will have a detrimental effect on the state's citizens during a proclaimed state of emergency. This bill was signed by the Governor (Chapter 351, Statutes of 1990).

AB 3221 (Peace), as amended May 30, would require CEC to assist the Department of Transportation in conducting a three-year pilot project on using energy from an alternative source to illuminate electrical transmission towers and lines in the vicinity of the boundary between Imperial and San Diego counties. This bill is pending in the Senate Transportation Committee.

AB 3587 (Farr). Under existing law, CEC is authorized to assist California energy technology and energy conservation firms to export technologies, products, and services to the international markets. This bill would require every firm awarded direct financial assistance to reimburse CEC for that assistance if specified conditions are met. This bill is pending in the Senate Committee on Energy and Public Utilities.

AB 3995 (Sher). Under existing law, CEC has specified powers and duties relating to the conservation of energy resources, and the Public Utilities Commission is responsible for the regulation of public utilities within the state. As amended May 29, this bill would generally require both commissions, in calculating the cost effectiveness of energy resources, to include a value for any costs and benefits to the environment, including air quality; and to ensure that any values they develop are consistent with values developed by the other commission. This bill is pending in the Senate Committee on Energy and Public Utilities.

ACR 153 (Hansen) would recommend that the Governor establish a coor-

dinating council under CEC, with representatives from specified groups, to oversee efforts to bring the Secretariat of the International Geothermal Association to California. This measure is pending in the Senate Committee on Energy and Public Utilities.

SB 494 (Rosenthal), as amended March 22, would appropriate \$1,000,000 in funds received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account and other sources to CEC for allocation to the University of California for support of the California Institute of Energy Efficiency. The bill would authorize CEC to make this funding available only if the utilities in this state provide specified funding for the Institute. The bill would require at least 30% of the funds made available to the Institute to be used for research, development, and application of energy efficiency measures which contribute to environmental protection goals, including significant air pollution reductions. This bill is pending in the Assembly Ways and Means Committee's suspense file.

SB 1842 (Rosenthal). Under existing law, any person proposing to construct a thermal powerplant or electric transmission line is required to submit a notice of intention to CEC, except for specified exempt project proposals. As amended April 4, this bill would add "repowering projects" to those project proposals exempt from the requirement of submitting a notice of intention, and would define repowering projects as any replacement of the equipment that provides thermal energy for an existing facility with equipment providing thermal energy by a different method. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 1926 (Rosenthal). Under existing law, CEC is required to prepare and submit to the Governor and the legislature a biennial report on emerging energy conservation trends and other matters. As amended June 12, this bill would require CEC, as part of that report, to develop and update in consultation with specified parties an inventory of current and potential cost-effective opportunities in each utility's service area to improve efficiencies and to help utilities manage loads in all sectors of natural gas and electricity use, including specified information.

This bill would also require CEC to convene a technical advisory group to help with the preparation of the inventory. The bill would require privately-owned electric and gas utilities to provide financial support, gather data, and



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provide analysis for activities that the technical advisory group recommends. This bill is pending in the Assembly Natural Resources Committee.

SB 2057 (Rosenthal), as amended May 1, would appropriate \$100,000 from the Energy Resources Programs Account in the General Fund to CEC, for research and development of technology for dismantling and decommissioning nuclear power reactors. This bill is pending in the Assembly Ways and Means Committee.

SB 2200 (Nielsen), as amended May 8, would authorize CEC to make loans to private entities in the exploration and development of geothermal energy, subject to specified conditions, and would extend the maximum repayment period on loans from six to twenty years. Under existing law, CEC is required to submit to the legislature by April 1 of each year a list of projects relating to geothermal resources selected and prioritized by CEC. This bill would require CEC to provide notification for any unforeseen or urgent projects which CEC wishes to approve but which are not included in the April 1 budget list, and would prohibit CEC from executing any funding agreement for any project until at least 30 days after that notification has been made. This bill is pending in the Assembly Natural Resources Committee.

SB 2210 (Rosenthal) would require CEC to include in its biennial energy development report an updated report on the benefits of research, development, and demonstration projects for which financing was provided under the Rosenthal-Naylor Act of 1984. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 2348 (Rosenthal) would require CEC, in cooperation with the Public Utilities Commission and the state's electric and gas utilities, to undertake a research, development, and demonstration program to identify and utilize improved technologies and hardware that can mitigate damages to energy utility facilities during periods of natural disasters such as earthquakes, and would appropriate \$500,000 from the Energy Resources Programs Account in the General Account to CEC for primary research contracts for this program. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 2541 (Rosenthal) would create the California Nuclear Power Plant Safety, Health, and Environment Advisory Committee. This bill would require CEC to collect a fee from every publicly-owned utility owning or oper-

ating a nuclear power plant, and to deposit the fees in the Committee Fund created by this bill. This bill is pending in the Senate Committee on Energy and Public Utilities.

The following is a status update on bills described in CRLR Vol. 10, No. 1 (Winter 1990) at pages 146-47:

SB 539 (Rosenthal), as amended June 4, would require CEC, on or before June 30, 1991, to adopt and implement, to the extent feasible, a program of incentives to encourage utilities to maintain and expand their energy conservation and demand side management programs, and would specify related requirements for CEC's incentives program. The bill would require CEC to require one or more utilities to implement specified pilot projects, and on or before June 30, 1993, to adopt, to the extent feasible, a competitive bidding system that allows demand side management programs to compete with energy supply sources to fulfill future utility resource needs. This bill is pending in the Assembly Ways and Means Committee.

AB 2395 (Sher), which would enact the Global Warming Response Act of 1989, is pending in the Senate Appropriations Committee's suspense file.

RECENT MEETINGS:

At its January 17 meeting, CEC approved a staff request for an investigation into the Los Angeles Department of Water and Power's (LADWP) Harbor Generating Station Repowering Project. CEC ordered evidentiary hearings to determine the validity of LADWP's claim that CEC lacks jurisdiction over this matter and other such projects. The issue of repowering projects, involving the renovation of existing generating facilities, is of increasing importance given the fact that these projects are expected to constitute a majority of utility construction projects in the coming decade.

FUTURE MEETINGS:

General CEC meetings are held every other Wednesday in Sacramento.

HORSE RACING BOARD

Acting Executive Secretary:
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The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. The Board is established pursuant to the Horse Racing Law, Business and Professions Code section 19400 *et seq.* Its regulations appear in Chapter 4, Title

4 of the California Code of Regulations (CCR).

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care. The purpose of the Board is to allow parimutuel wagering on horse races while assuring protection of the public, encouraging agriculture and the breeding of horses in this state, generating public revenue, providing for maximum expansion of horse racing opportunities in the public interest, and providing for uniformity of regulation for each type of horse racing. (In parimutuel betting, all the bets for a race are pooled and paid out on that race based on the horses' finishing positions, absent the state's percentage and the track's percentage.)

Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing track, he/she cannot qualify for Board membership. An individual is also excluded if he/she has an interest in a business which conducts parimutuel horse racing or a management or concession contract with any business entity which conducts parimutuel horse racing. Horse owners and breeders are not barred from Board membership. In fact, the legislature has declared that Board representation by these groups is in the public interest.

MAJOR PROJECTS:

Trifecta Wagering. On January 26, CHRB held a public hearing on the proposed addition of section 1979, Title 4 of the CCR, regarding Trifecta parimutuel wagering (selecting horses finishing first, second, and third in that exact order). (See CRLR Vol. 10, No. 1 (Winter 1990) p. 148 for background information.)

CHRB received a significant amount of public comment on this matter, ranging from enthusiastic support to steadfast opposition. Those in support of the Trifecta noted that it is a marketing tool that would enhance the appeal of racing, provide more jobs, and may help increase the handle. Those opposed to the Trifecta expressed concern that no other exotic wager had been surrounded by more innuendo, investigations, or scandals as has the Trifecta. Those opposed also noted that the present regulatory language is unfair to the quarter horse industry, and argued that the tim-