

2024 Energy Law Conference

April 19, 2024

MCLE: 1.0 Hour

Panel 2: The CEC Goes Green: Best Practices for “Opt-In Projects” Before the California Energy Commission

Moderator: Dana Palmer

Speakers: Jared Babula and Dian Vorters

Conference Reference Materials

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ENVIRONMENTAL LAW

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The CEC Goes Green: Best Practices for “Opt-In Projects” Before the California Energy Commission

April 19, 2024

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Dian Vorters, Deputy Director, Siting Transmission & Environmental Protection Division
Moderator: Dana Palmer, Partner, Allen Matkins



California Energy Commission

California Lawyers Association, Energy Law Conference, April 19, 2024

Jared Babula, Senior Attorney, Chief Counsel's Office

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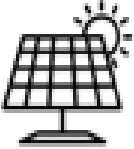

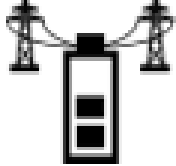


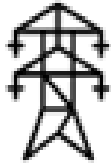


OPT-IN LEGISLATION

- June 30, 2022 – Governor Newsom signed AB 205 – Certification of Non-fossil Fuel Powerplants
- September 6, 2022 – AB 209 - Cleanup legislation enacted
- Public Resources Code sections 25545 – 25545.13; 20 CCR 1875-1882



Eligible Facilities

<p>Solar photovoltaic power plant of at least 50 MW</p> 	<p>Terrestrial wind power plant of at least 50 MW</p> 	<p>Energy storage system of at least 200 MWh</p> 
<p>Non-fossil-fueled thermal power plant of at least 50 MW (i.e., jurisdictional facility)</p> 	<p>Manufacturing/assembly facility for renewable energy/energy storage systems or components with at least \$250 million investment</p> 	<p>Transmission from an eligible power plant or energy storage system to the first point of interconnection</p> 



Opt-In Coordination Plans



Source: CDFW



Source: DTSC

Public Resources Code section 25545.5



Regulatory Agencies that Retain Permitting Authority:



- The State Water Resources Control Board and regional water quality control boards
- CA Coastal Commission
- State Lands Commission (for land use leases)
- The Dpt. of Toxic Substances Control and local air quality management districts (for manufacturing projects)

Public Resources Code section 25545.1



Opt-In Process Outline

Pre-Filing Meeting

- 30 Days Prior to Filing
- Docket Established
- Application and Fees Submitted

Data Completeness Review

- 30 Days to Conduct Application Completeness Review
- Additional Information can be Requested
- Application Shared with Local Government, Other Public Agencies, and Native American Tribes

CEQA ++ Environmental Review

270 Day target (once application deemed complete) to Conduct Environmental Review and reach a decision on whether to certify the project



Applicant Best Practices:

- Provide detailed application components from Appendix B (Chapter 5, Title 20.)
- Retain qualified consultants to develop the application
- Be aware of seasonal surveys (e.g., biological resources)
- Address Opt-In Specific Requirements:
 - Labor Agreements
 - Community Benefits Agreements
 - Net Positive Economic Benefits
 - Environmental Leadership Development Components
- Community Outreach to local agencies and Native American Tribes (Pub. Resources Code, § 25545.7.4.)



CEC Findings Required to Approve Opt-In Projects

Project Provides an Overall Net Positive Economic Benefit to the Local Government

Applicant Signed a Community Benefits Agreement

Applicant Paying Prevailing Wage to Skilled and Trained Workforce

Project Complies with Applicable Laws, Ordinances, Regulations, and Standards. If a LORS conflict exists, override analysis will be required.

Significant effects of the project will be avoided or mitigated, or statement of overriding considerations for significant effects found infeasible to avoid or mitigate



CEC Website

- Alphabetical List of Power Plants
 - Dockets
 - Subscriptions
- Opt-in Fact Sheet (coming soon)
- Opt-in FAQ
- Opt-in Process Timeline
- [Licensing and Compliance \(ca.gov\)](#)
- [Power Plant Licensing \(ca.gov\)](#)



Thank You

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