



DESERT RENEWABLE ENERGY CONSERVATION PLAN

Summary of 2011 California Legislation Regarding Renewable Energy Development and the NCCP Act

The following bills, signed in 2011, relate to renewable energy, Natural Community Conservation Plans (NCCP), or the Desert Renewable Energy Conservation Plan (DRECP).

SB X1 2 (Simitian): Statutory renewable portfolio standard

- Establishes renewable generation procurement requirements for publicly owned utilities and retail sellers of electricity: 20 percent by Dec. 31, 2013, 25 percent by Dec. 31, 2016, and 33 percent by Dec. 31, 2020.
- Provides that by 2013, at least half of all renewable power must come from facilities that are either directly connected to California balancing authorities or primarily scheduled to serve California load; the percentage increases to 75 percent in 2017 and beyond.
- Allows the Public Utilities Commission (PUC) to approve delayed compliance for retail sellers for certain problems beyond the retail sellers' control.
- Requires the PUC to set cost limits for renewable energy purchases by each investor-owned utility.
- Requires the Department of Fish & Game (DFG) to establish an internal planning and environmental compliance division emphasizing the review of eligible renewable energy projects, and ensuring timely completion of Natural Community Conservation Plans (NCCPs).
- Adds a provision to the California Energy Commission's (CEC) power plant siting statutes to require that an applicant notify the military of any project proposed within 1,000 feet of a military facility, within special use airspace, or beneath a low-level flight path, and file with CEC information about any resulting consultation with the Department of Defense.

AB X1 13 (Perez): Extension of SB X8 34 (2010) program, DFG permitting fees & costs

- Extends interim mitigation strategy to include all solar, wind and geothermal projects within the DRECP planning area with completed applications by Dec. 31, 2011.
- Expands acreage-based in-lieu mitigation fee program to include future projects that meet the definition of "covered activities" under a final approved DRECP.
- Establishes DFG application fees of \$25,000-\$75,000, but up to \$200,000 in some cases, for renewable energy projects that require an incidental take permit or consistency determination from DFG. CEC must share a portion of its application fees with DFG to cover all or a portion of DFG's costs of reviewing projects under CEC's permitting jurisdiction, with details to be worked out in an agreement between CEC and DFG.
- Extends an existing provision that gave American Recovery and Reinvestment Act-eligible solar thermal projects in the DRECP planning area the option of paying additional amounts to CEC to have a contractor assist CEC staff with review of an application. The revised provision allows CEC to offer that option to any applicant of a Renewable Portfolio Standards-eligible renewable energy resource, regardless of location.
- Instructs CEC to provide up to \$7 million in grants, subject to appropriation by the Legislature, to as many as 14 counties in the desert region and San Joaquin Valley to develop or revise rules and policies to facilitate development of renewable energy resources and processing of permits for the facilities. General plan and zoning revisions supported by grants must be completed within two years and be consistent with any NCCP that has been approved or is being developed, but CEC may not award grants to counties that lie within the DRECP planning area and are not plan participants.
- SB 16 (Rubio), a companion bill, establishes expedited processing guidelines for DFG to issue California Endangered Species Act (CESA) incidental take permits and consistency determinations on renewable energy projects not subject to CEC jurisdiction.

SB 16 (Rubio): Renewable Energy: CA Department of Fish & Game updated permitting

- Requires DFG to expedite applications for certain eligible renewable energy projects, and approve or reject an incidental take permit application within specified timeframes. DFG must provide the Legislature with an accounting on incidental take permit applications for eligible renewable energy projects, and the extent to which it arranges for entities other than DFG to provide environmental review of eligible renewable energy projects.
- Companion bill to AB 13.
- Takes effect immediately as an urgency statute.

SB 226 (Simitian): CEC review of approved projects converting to photovoltaic

- Gives CEC authority to review and approve the conversion of certain CEC-certified thermal solar projects to photovoltaic (PV) technology, when a petition for amendment is received by June 30, 2012.
- Makes changes to the California Environmental Quality Act (CEQA), including adding an exemption for roof-top solar and parking lot solar installations.

SB 436 (Kehoe): Endowments for long-term management of mitigation lands

- Requires that endowments for long-term management of mitigation lands be maintained by the agency that required the endowment or by the non-profit or special district that takes ownership interest in the mitigation lands. Mitigation land held by a for-profit entity or an entity that cannot hold endowments are exempt.
- Requires that endowments be managed, invested and dispersed solely for the specific property for which the endowment was collected.
- Sanctions the practice of showing endowments as assets of the nonprofit instead of as funds held in trust.
- Overturns recent DFG policy directing all endowments from CESA permitting to the National Fish and Wildlife Foundation (NFWF).

SB 618 (Wolk): NCCPs & fully protected species; solar-use easements for PV projects

- Allows DFG to authorize take of fully protected species for the first time as part of an approved NCCP.
- Will allow CEC and any other DRECP plan participants to authorize the incidental take of fully protected species if a final approved DRECP provides for the conservation and management of those species.
- Establishes “solar-use easements” that cities and counties can hold to help ensure that agricultural lands removed from Williamson Act contracts for PV solar projects are used only for PV and may be returned to agricultural use once no longer used for PV facilities.

AB 982 (Skinner): Land exchange for renewable energy projects

- Requires the State Lands Commission (SLC) to enter into an agreement with the U.S. Secretary of the Interior by April 1, 2012, if the Secretary is willing, to facilitate state-federal land exchanges that would consolidate School Land Bank Act properties into parcels suitable for development of renewable energy projects, or for mitigation of impacts from renewable projects.
- Gives SLC the authority to approve any land exchanges that result from the effort.
- Requires SLC to consult with DFG to identify lands suitable for large-scale solar development or for mitigation, and to ensure consistency with the DRECP.

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