

**ASSEMBLY BILL**

**No. 48**

**Introduced by Assembly Member Wright**

May 22, 2001

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An act to amend Section 25550 of, and to add Sections 25137 and 25551 to, the Public Resources Code, relating to electrical energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as introduced, Wright. Powerplant siting.

Existing law requires the State Energy Resources Conservation and Development Commission to establish a process to issue its final certification for any thermal powerplant and related facilities within 6 months after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and will comply with all applicable standards, ordinances, or laws.

This bill would include a repowering project, as defined, within this process. The bill would also provide that for purposes of this process, the commission shall deem an application complete if it substantially complies with applicable data requirements, which would be required to be met in sufficient time to enable the commission to fully evaluate the application.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares the following:

(a) In recent years there has been significant growth in the demand for electricity.

(b) In the past decade, efforts to construct and operate new, environmentally superior and efficient generation facilities have seriously lagged.

(c) California faces potentially serious electricity shortages over the next two years, which necessitates immediate action by the state.

(d) It is further the intent of this act to streamline the permitting process for new and repowered powerplants without in any manner compromising environmental protection.

SEC. 2. Section 25137 is added to the Public Resources Code, to read:

25137. “Repowering project,” as used in this division, means an application for certification filed after the effective date of the act adding this section for a thermal powerplant that complies with all of the following:

(a) It is located at the site of an existing thermal powerplant.

(b) It would comply with all requirements of applicable law.

(c) It would not require new rights of way for electric or natural gas transmission facilities.

(d) It would not expand the powerplant beyond the boundaries of the property currently containing the existing powerplant and related facilities.

(e) It would reduce emissions of *criteria and* toxic air pollutants ~~at the site compared to the emissions from the existing powerplant.~~ *compared to averages for the plant compiled over the immediately preceding five years.*

(f) It would reduce thermal or other discharges into water resources compared to averages for the plant compiled over the five most recent calendar years.

(g) It would replace existing generating capacity with generating capacity that has a lower heat rate.

(h) There is no substantial evidence of any new or increased significant environmental impacts *that are not already associated with the operation of the current facility.*

SEC. 3. Section 25550 of the Public Resources Code is amended to read:

25550. (a) (1) Notwithstanding subdivision (a) of Section 25522, and Section 25540.6, the commission shall establish a process to issue its final certification for any thermal powerplant and related facilities *or repowering project* within six months after the filing of the application for certification that, on the basis of an initial review, shows both of the following:

(A) That there is substantial evidence that the project, ~~other than the repowering project described in paragraph (2)~~, will not cause a significant adverse impact on the environment or electrical system.

(B) That the powerplant will comply with all applicable standards, ordinances, regulations, or statutes.

~~(2) Any repowering project for which an application is filed prior to January 1, 2004, is eligible for expedited licensing under this section.~~

~~(3) —~~

(2) For purposes of this section, “filing” has the same meaning as in Section 25522.

(b) Thermal powerplants and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission, by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed thermal powerplant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed thermal powerplant and related facilities.

(c) After acceptance of an application under this section, the commission shall not be required to issue a six-month final decision on the application if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, regulation, or statute. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

1 (d) For an application that the commission accepts under this  
2 section, all local, regional, and state agencies that would have had  
3 jurisdiction over the proposed thermal powerplant and related  
4 facilities, but for the exclusive jurisdiction of the commission,  
5 shall provide their final comments, determinations, or opinions  
6 within 100 days after the filing of the application. The regional  
7 water quality control boards, as established pursuant to Chapter 4  
8 (commencing with Section 13200) of Division 7 of the Water  
9 Code, shall retain jurisdiction over any applicable water quality  
10 standard that is incorporated into any final certification issued  
11 pursuant to this chapter.

12 (e) Thermal powerplants and related facilities that demonstrate  
13 superior environmental or efficiency performance shall receive  
14 priority in review.

15 (f) With respect to a thermal powerplant and related facilities  
16 reviewed under the process established by this chapter, it shall be  
17 shown that the applicant has a contract with a general contractor  
18 and has contracted for an adequate supply of skilled labor to  
19 construct, operate, and maintain the plant.

20 (g) With respect to a thermal powerplant and related facilities  
21 reviewed under the process established by this chapter, it shall be  
22 shown in the application that emission offsets will be obtained  
23 early enough in the commission's review process to enable the  
24 commission to fully evaluate the application and comply with  
25 paragraph (2) of subdivision (d) of Section 25523.

26 (h) With respect to a thermal powerplant and related facilities  
27 reviewed under the process established by this chapter, it shall be  
28 shown that the thermal powerplant and related facilities complies  
29 with all regulations adopted by the commission that ensure that an  
30 application addresses disproportionate impacts in a manner  
31 consistent with Section 65040.12 of the Government Code.

32 (i) This section shall not apply to an application filed with the  
33 commission on or before August 1, 1999.

34 (j) To implement this section, the commission may adopt  
35 emergency regulations in accordance with Chapter 3.5  
36 (commencing with Section 11340) of Part 1 of Division 3 of Title  
37 2 of the Government Code. For purposes of that chapter, including  
38 without limitation, Section 11349.6 of the Government Code, the  
39 adoption of the regulations shall be considered by the Office of  
40 Administrative Law to be necessary for the immediate

1 preservation of the public peace, health, safety, and general  
2 welfare.

3 (k) This section shall remain in effect until January 1, 2004, and  
4 as of that date is repealed unless a later enacted statute, that is  
5 enacted before January 1, 2004, deletes or extends that date.

6 SEC. 4. Section 25551 is added to the Public Resources Code,  
7 to read:

8 25551. For purposes of this chapter, the commission shall  
9 deem an application complete if it substantially complies with the  
10 data requirements of Section 25550. The applicant shall correct  
11 any deficiencies in the application in sufficient time to enable the  
12 commission to fully evaluate the application.

13 SEC. 5. This act is an urgency statute necessary for the  
14 immediate preservation of the public peace, health, or safety  
15 within the meaning of Article IV of the Constitution and shall go  
16 into immediate effect. The facts constituting the necessity are:

17 In order to expeditiously address the rapid, unforeseen shortage  
18 of electric power and energy available in the state and rapid and  
19 substantial increases in wholesale energy costs and retail energy  
20 rates that endanger the health, welfare, and safety of the people of  
21 this state, it is necessary for this act to take effect immediately.

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