



California Energy Commission



Department of Fish and Game



Bureau of Land Management



U.S. Fish and Wildlife Service

## **RENEWABLE ENERGY ACTION TEAM**

### **Milestones to Permit California Renewable Portfolio Standard Energy Projects by December, 2011**

In 2009, the Renewable Energy Action Team (REAT), comprised of several state and federal agencies, including the California Energy Commission (CEC), California Department of Fish and Game (CDFG), the Bureau of Land Management (BLM) and the U. S. Fish and Wildlife Service (FWS), established milestones to permit renewable energy projects in the State of California by December 31, 2010. This date marked the deadline by when developers must have started construction on eligible renewable energy projects in order to receive a cash grant in lieu of a tax credit through the Federal Government's American Recovery and Reinvestment Act (ARRA).

In late 2010, the ARRA deadline for start of construction was extended through December 31, 2011. Given this new deadline, the REAT revised the milestones for 2011, incorporating information gained from the 2010 interagency permitting efforts, and input from other agencies such as the Environmental Protection Agency and the Department of Defense. The attached revised Schedules and milestone documents pertain to applicants intending to meet this new 2011 ARRA deadline. The Department of Energy is currently offering a loan guarantee program with a start of construction deadline of September 30, 2011. These milestones may also be used to evaluate whether a project is on a schedule that would likely meet this deadline by subtracting 90 days from any applicable date in the tables.

Dates for applicant submissions of the documents listed in the milestone schedules reflect the latest possible dates for submission. The data adequacy and quality of the submitted documents must meet BLM, CEC, FWS, and CDFG standards and regulations in order to meet the scheduled milestones. Any submission or process completion after the stated milestones may result in a processing delay beyond December, 2011.

To ensure successful integration of the multiple federal and state permitting laws and regulations, all applicants should coordinate with the REAT Agencies as early as possible for advice in conducting environmental surveys and assessments, and preparing project applications.

The primary State laws governing permitting for CEC and CDFG are the Warren-Alquist Act, California Environmental Quality Act, California Endangered Species Act, and sections 1600-1616 *et seq.* of the Fish and Game Code pertaining to lake and streambed alterations.

The primary federal laws governing permitting for the BLM and FWS are the Federal Land Management and Policy Act, National Environmental and Policy Act, and Federal Endangered Species Act.

These milestones represent the most common State and Federal agency permitting scenarios for Renewable Portfolio Standard energy projects. In the future, additional milestones may be added for

other permitting scenarios. Checklists and more information can be found on each of the agencies websites listed below.



### Acronyms

ARRA – American Recovery and Reinvestment Act  
BA – Biological Assessment (Endangered Species Act section 7)  
BLM- Bureau of Land Management  
BO – Biological Opinion (Endangered Species Act section 7)  
CDFG - California Department of Fish and Game  
CEC – California Energy Commission  
CEQA – California Environmental Quality Act  
ACOE – Army Corp of Engineers  
CWA – Clean Water Act  
ESA – Endangered Species Act  
EIR – Environmental Impact Report (CEQA)  
EIS – Environmental Impact Statement (NEPA)  
FEIS – Final Environmental Impact Statement (NEPA)  
FWS - U.S. Fish and Wildlife Service  
ITP - Incidental Take Permit  
LSAA - Lake or Streambed Alteration Agreement  
NEPA – National Environmental Policy Act  
NOA – Notice of Availability (NEPA)  
NOC – Notice of Completion (CEQA)  
NOI – Notice of Intent (NEPA)  
NOP – Notice of Preparation (CEQA)  
REAT - Renewable Energy Action Team  
USEPA – U.S. Environmental Protection Agency

Major NEPA Milestones to Permit Renewable Energy Projects on BLM Administered Lands  
by September 2011

Major NEPA dates for renewable energy projects proposed on BLM administered lands, not requiring a CEC permit, for developers seeking 2011 DOE Loan Guarantee.	
Completed (Nov 2010)	Perfected Plan of Development
Completed (Nov 26, 2010)	BLM Notice of Intent to Prepare an EIS published in the Federal Register (30-day scoping period)
Feb 25, 2011	Notice of Availability of Draft EIS published in Federal Register (90-day public comment period)
May 27, 2011	90-day public comment period on DEIS ends
July 11, 2011	Notice of Availability of Final EIS published in Federal Register (open for 30 days)
August 9, 2011	30-day period on Final EIS ends
Sept 16, 2011	BLM Record of Decision, Right-of-Way and Notice to Proceed Issued

Major NEPA Milestones<sup>i</sup> to Permit Renewable Energy Projects on BLM Administered Lands  
by December 2011

Major NEPA dates for renewable energy projects proposed on BLM administered lands, not requiring a CEC permit, for developers seeking 2011 ARRA Investment Tax Credits.	
Completed (Jan 2011)	Perfected Plan of Development
Completed (Jan 19, 2011)	BLM Notice of Intent to Prepare an EIS published in the Federal Register (30-day scoping period)
April 22, 2011	Notice of Availability of Draft EIS published in Federal Register (90 day public comment period)
July 25, 2011	90-day public comment period on DEIS ends
Sept 9, 2011	Notice of Availability of Final EIS published in Federal Register (open for 30 days)
Oct 10, 2011	30-day open period on Final EIS ends
Nov 18, 2011	BLM Record of Decision and Right-of-Way Issued
Dec 2, 2011 (or concurrent with ROD)	BLM Notice to Proceed Issued

<sup>i</sup> For integrated federal and state environmental compliance milestones, refer to companion table.

**Interagency Environmental Compliance Milestones to Permit Renewable Energy Projects  
on BLM Administered Lands  
by December 2011**

Integrated state and federal environmental compliance schedule <sup>1</sup> for renewable energy projects proposed on BLM land <sup>2</sup> that do not require a CEC permit and that may result in take of State or federally listed species, or substantial alteration of a lake or stream, for developers seeking 2011 ARRA Investment Tax Credits [Primary agencies: BLM, FWS, CDFG, ACOE, State or local agencies].	
Completed (1/2011)	Applicant BLM Plan of Development perfected
Completed (1/15/2011)	CEQA Lead Agency <sup>3,4</sup> deems Project Application complete and notifies the applicant, CEQA Responsible agencies and other interested parties
<b>Completed (1/19/2011)</b>	<b>BLM Notice of Intent to prepare an EIS published in the Federal Register (30-day scoping)</b>
Completed (1/27/2011)	Submit ACOE verified Jurisdictional Determination of Waters of the US to BLM for inclusion in the DEIS [if applicable]
2/14/2011	CEQA Lead Agency begins an Initial Study to determine whether the project requires a Negative Declaration or an EIR
3/07/2011	BLM Administrative Draft EIS circulated for internal staff review
3/15/2011	CEQA Lead Agency makes environmental determination, issues a Notice of Preparation, begins 30-day period to allow Responsible Agencies to raise issues in response to the NOP
3/28/2011	Federal ESA section 7 Administrative Draft BA circulated for BLM and FWS review
4/14/2011	CEQA Lead Agency begins preparation of a Draft EIR, may in the interim provide an Administrative Draft EIR to Responsible Agencies for comments
4/22/2011	BLM requests ESA section 7 consultation from FWS and submits BA. Begin 135-day section 7 consultation, if BA determined adequate by FWS.
	<b>BLM and EPA Notice of Availability of DEIS published in Federal Register; opens 90-day public comment period</b>
	If Jurisdictional Waters of the US, submit CWA 404 permit application to ACOE
	If Jurisdictional Waters of the US, submit CWA 404(b)(1) alternatives analysis to ACOE (and USEPA)
7/01/2011	CEQA Lead Agency files a Notice of Completion, public review period begins on Draft EIR (DEIR; 90 days)
7/22/2011	Applicant submits a complete Lake or Streambed Alteration notification or State ITP application to CDFG, if applicable. <sup>5</sup>
7/25/2011	Close BLM DEIS 90-day comment period
8/08/2011	Administrative FEIS circulated for agency staff review;
	If Jurisdictional Waters of the US, include final CWA 404(b)(1) alternatives analysis in FEIS
8/22/2011	LSAA notification or State ITP application deemed complete by CDFG
9/06/2011	FWS issues ESA section 7 Biological Opinion
<b>9/09/2011</b>	<b>BLM and USEPA Notice of Availability of FEIS published in Federal Register; open for 30-days</b>
9/28/2011	Public comment period closes for CEQA, Lead Agency begins responses to comments from public agencies
10/10/2011	FEIS open period closes

10/21/2011	CDFG provides draft LSAA to applicant (if applicable) <sup>6</sup>
10/24/2011	BLM Plan Amendment Protest period ends
<b>11/18/2011</b>	<b>BLM Record of Decision/Right-of-Way issued</b>
11/18/2011	CEQA Lead Agency concludes responses to comments from public agencies, at least 10 days before Final EIR certification
11/20/2011	CDFG finalizes decision on State ITP application
11/28/2011	CEQA Lead Agency certifies Final EIR and files Notice of Determination for the EIR
11/30/2011	CDFG files Notice of Determination for LSAA or State ITP <sup>7</sup>
<b>12/02/2011</b>	<b>BLM Notice to Proceed Issued</b>

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<sup>1</sup> This schedule assumes the NEPA and CEQA processes will be done separately, although coordinated. If the NEPA and CEQA processes are joined with joint documents, then the milestones will align through the close of the public comment period on the EIS/EIR.

<sup>2</sup> This schedule could also apply when federal agencies, other than BLM, are the NEPA Lead Agency.

<sup>3</sup> In most cases for the 2011 projects, the CEQA Lead Agency will be CDFG when the project is entirely on BLM land; CDFG assumes CEQA Lead Agency status upon receipt of a complete State ITP application or a notification of a proposed Lake or Streambed Alteration. CDFG recommends submittal of both applications simultaneously, but an applicant may choose to submit them separately. In such a case, the first submittal will trigger CEQA review and time lines. Timelines for the latest viable dates for potential second application to CDFG are provided for this variation.

<sup>4</sup> There is the potential for other state or local agencies to be the CEQA lead, e.g. California Public Utilities Commission or County. This is likely to be the case if the proposed project has components on both BLM land and on private land. The CEQA schedules may differ somewhat, depending on the CEQA Lead Agency.

<sup>5</sup> An LSAA is required if a project will affect the bed, bank channel or natural flow of a stream or lake, and may substantially adversely affect wildlife resources, as determined by CDFG. CDFG will advise project applicant regarding applicability.

<sup>6</sup> The LSAA process entails agreement by the applicant to accept measures proposed by CDFG to protect wildlife resources. Time line allows for applicant and CDFG to mutually agree upon said measures.

<sup>7</sup> CDFG cannot execute final permit or agreement before a Notice of Determination is issued by the CEQA Lead Agency

**Milestones to Permit Solar Energy Projects on Private or State Land with no CEC  
Jurisdiction by December, 2011**

<b>For solar thermal projects smaller than 50 MW and any other solar project of any size on non-federal land that are likely to result in the take of State and Federal listed species. Federal compliance is through Endangered Species Act section 10, habitat conservation planning [Permitting Agencies: FWS, Local or State Agency, CDFG]. Mandated federal and state time lines are provided but applicants are advised that many of the stages of review (e.g., document preparation and consultant hiring) are largely under applicant control.</b>	
Completed	Habitat Conservation Plan (HCP) submitted to FWS and near completion
Completed	Draft NEPA document in process, administrative draft submitted to FWS and near completion
Completed	Notice of Intent to prepare NEPA document in Federal Register from FWS
Completed	Complete public review Draft HCP and NEPA documents submitted to FWS
	Applicant submits Federal ITP application, pursuant to Section 10 of the ESA to FWS
Completed	CEQA Lead Agency deems Project application complete and notifies the applicant, FWS, other applicable state and local agencies <sup>1</sup>
Completed 2/04/2011	Notice of Availability – Draft NEPA document and HCP out for public comment (90 day comment period)
2/14/2011	CEQA Lead Agency begins an Initial Study to determine whether the project requires a Negative Declaration or an EIR
3/15/2011	CEQA Lead Agency makes environmental determination, issues a Notice of Preparation, begins 30-day period to allow Responsible Agencies to raise issues in response to the NOP
4/14/2011	CEQA Lead Agency begins preparation of a Draft EIR, may in the interim provide an Administrative Draft EIR to Responsible Agencies for comments
5/04/2011	Public comment period on Draft NEPA document and HCP closes
6/15/2011	FWS prepares responses to public comments on NEPA document and HCP
	FWS modifies and finalizes NEPA document
	FWS initiates Intra-Service section 7 consultation, under ESA
7/01/2011	CEQA Lead Agency files a Notice of Completion, public review period begins on Draft EIR (90 day comment period)
7/13/2011	Notice of Availability – Final NEPA document (30 days)
7/22/2011	Applicant submits a complete State ITP application or Lake or Streambed Alteration notification to CDFG, if applicable <sup>2</sup>
8/15/2011	FWS prepares final agency documents related to ESA, Section 10 permits.
8/22/2011	Lake or Streambed Alteration notification or State ITP application deemed complete by CDFG
9/28/2011	Public comment period closes for CEQA, Lead Agency begins responses to comments from public agencies
10/13/2011	Public comment period closes for CEQA
10/21/2011	CDFG provides draft LSAA to applicant <sup>3</sup>

11/03/2011	CEQA Lead Agency provides responses to comments from public agencies NEPA and ESA decision documents finalized by FWS
11/10/2011	NEPA Record of Decision issued on ESA, Section 10 Federal ITP by FWS
11/18/2011	CEQA Lead Agency concludes responses to comments from public agencies, at least 10 days before Final EIR certification
11/20/2011	CDFG finalizes decision on State ITP application
11/28/2011	CEQA Lead Agency certifies Final EIR and files Notice of Determination
11/30/2011	CDFG files Notice of Determination for LSAA or State ITP <sup>4</sup>
12/02/2011	FWS issues ESA, Section 10 Federal ITP, if appropriate

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<sup>1</sup>The lead agency for the CEQA would be a city, county, or State agency on State lands.

<sup>2</sup> California Endangered Species Act compliance may be achieved through the issuance of a State ITP. A LSAA is required if a project will affect the bed, bank channel or natural flow of a stream or lake, and may substantially adversely affect wildlife resources, as determined by CDFG. CDFG will advise project applicant regarding applicability.

<sup>3</sup> The LSAA process entails agreement by the applicant to accept measures proposed by CDFG to protect wildlife resources. Time line allows for applicant and CDFG to mutually agree upon said measures.

<sup>4</sup> CDFG cannot execute the State ITP or LSAA before a Notice of Determination is issued by the CEQA Lead Agency

## A General California Environmental Quality Act (CEQA) Timeline for Renewable Energy Projects

This general environmental review permitting timeline is for renewable energy projects subject to CEQA but without a federal nexus. In addition, it applies to projects for which the California Energy Commission (CEC) is not CEQA Lead Agency (e.g. local government, California Department of Fish and Game (CDFG) other State agencies) that may require California Endangered Species Act incidental take permits (ITPs) and/or lake or streambed alteration (LSA) agreements. Timelines for ITPs and LSA Agreements may coincide with CEQA timelines assuming applications are complete and submitted at or soon after the beginning of the CEQA process.

If applications for ITPs and/or LSA Agreements are submitted after completion of CEQA, assume an additional four months or more.

Lead Agency and CDFG staff availability and workload affect timelines. The timing of many events is also largely under applicant control (e.g., Draft EIR preparation, consultant hiring).

The following assumes the Lead Agency deems the project as having a significant effect on the environment and as such, requires completion of an EIR.

Trigger Event	Action Required	Time Period <sup>i</sup>	Milestone Date
CEQA Lead Agency receives Application	Notify Applicant of any additional information needs for a complete application		Completed (12/20/2010)
Lead Agency deems Application complete for CEQA review purposes	Lead Agency notifies the Applicant, Responsible Agencies, other affected agencies, anyone who has requested notice, and interested persons	Within <b>30 days</b> of receipt of application	Completed (1/19/2011)
Lead Agency conducts an Initial Study	Lead Agency determines through the Initial Study whether the project requires a Negative Declaration or an EIR	Completes within <b>30 to 45 days</b> of finding the application complete	2/18/2011

General CEQA Timeline for Renewable Energy Projects

Trigger Event	Action Required	Time Period	Milestone Date
Lead Agency sends a Notice to Proceed for EIR preparation	Lead Agency consults with Responsible Agencies to discuss issues raised by them within their statutory purview in response to NOP	From time of NOP, Responsible Agencies have <b>30 days</b> to comment	3/22/2011
Lead Agency begins preparation of a Draft EIR	Lead Agency/consultant prepares a Draft EIR, may in the interim send to Responsible Agencies an Administrative Draft EIR for comments	Length of time largely applicant-driven; assume <b>90 to 120 days</b>	4/21/2011
Completion of a Draft EIR	Lead Agency files a Notice of Completion, Draft EIR available for comment	As soon as the Draft EIR is issued	
NOC filed, post public notice of review period	Public review period	Assume <b>45 to 90 days</b>	8/10/2011
Receive comments from a public agency	Conclude review period, respond to comments on Draft EIR in writing	Provide responses to public agencies 10 days before Final EIR certification	11/17/2011
Lead Agency issues Final EIR, project Certification	Lead Agency files Notice of Determination	Within <b>5 working days</b> of certification	11/27/2011 12/02/2011 end
	<b>Project may begin</b>	<b>Total time: Approximately 11 months from Application</b>	

<sup>i</sup> Note: *CEQA Guidelines* Section 15109 provides that these time periods may be suspended when the Applicant causes “unreasonable delay” in providing material necessary for the Lead Agency to complete an EIR.