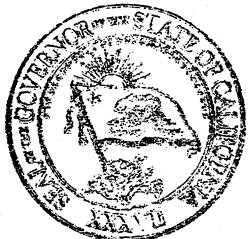


In the Office of the Secretary of State  
at the State of California

EXECUTIVE DEPARTMENT JUN 11 2001

STATE OF CALIFORNIA

By *R. Corneil*  
Deputy Secretary of State



**EXECUTIVE ORDER D-40-01**  
by the  
**Governor of the State of California**

**WHEREAS**, on January 17, 2001, I proclaimed a State of Emergency to exist due to the energy shortage in the State of California; and

**WHEREAS**, there is a high probability that the electricity supply shortage will continue through at least October 31, 2001, causing rolling blackouts throughout California which endanger public health and safety, threaten property, the environment and economic disruption, and affect millions of Californians; and

**WHEREAS**, during this period, all reasonable conservation, allocation, and service restriction measures will not alleviate this energy supply emergency; and

**WHEREAS**, to alleviate this energy supply emergency, power generators must be encouraged to utilize their maximize generation capacity;

**NOW, THEREFORE, I, Gray Davis, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, including the Emergency Services Act, do hereby issue this order to become effective immediately:**

**IT IS ORDERED** that, in order to avoid blackouts and minimize operation of backup diesel-fired generators, local air districts are directed to allow natural gas-fired power plants to operate in excess of their hourly, daily, quarterly and/or annual emission limitations if operated: (a) to sell power to the California Department of Water Resources or to a utility located in California; (b) to serve an operating utility's own load; or (c) as dispatched by the California Independent System Operator (ISO). The term "utility" includes investor owned utilities, municipally owned utilities and municipal utility districts.

**IT IS FURTHER ORDERED** that the hours operated under such conditions shall not be counted toward the hourly, daily, quarterly and/or annual operating limits or hourly, daily, quarterly and/or annual emission limits of the plant's permit for this or any other year if the plant's operator pays mitigation fees to the local air pollution control district or air quality management district of \$7.50 per pound of oxides of nitrogen (NOx) and \$1.10 per pound of carbon monoxide emitted.

**IT IS FURTHER ORDERED** that during the time a power plant is operating under any of the above conditions, the facility shall not be subject to any provision limiting its hours of operation or generation capability, or imposing conditions or penalties related to its additional hours of operation or power generation, whether imposed by the California Health and Safety Code, the California Code of Regulations, a local air pollution control or air quality management district rule or regulation, or any permit.

**IT IS FURTHER ORDERED** that emissions resulting from the operation of a power plant in accordance with this order shall not be considered in determining whether the facility has exceeded its daily, quarterly or annual emissions allocation in this or any other year, to the extent any such limit applies.

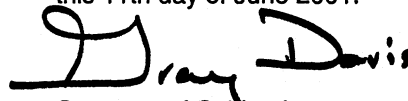
**IT IS FURTHER ORDERED** that the California Air Resources Board is directed to work with USEPA to ensure that power plants desirous of operating under this order obtain the necessary approvals from the U.S. Environmental Protection Agency.

**IT IS FURTHER ORDERED** that this order shall expire on October 31, 2001, unless revoked, modified or extended by further executive order responding to the continued need for emergency action to deal with the electricity emergency or unless terminated by proclamation of the Governor or concurrent resolution of the Legislature that the state of emergency has ended.


The activities herein are authorized to be carried out pursuant to the Emergency Services Act, Government Code section 8550 et seq., as necessary to mitigate the effects of the emergency

**I FURTHER DIRECT** that as soon as hereafter possible, this order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this order.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of California to be affixed this 11th day of June 2001.

  
Governor of California

**ATTEST:**

  
Secretary of State

