

CALIFORNIA ENERGY COMMISSION 1516 Ninth Street Sacramento,
California 95814

Main website: www.energy.ca.gov



NOTICE OF PROPOSED ACTION (NOPA)

PROPOSED AMENDMENTS TO APPLIANCE EFFICIENCY REGULATIONS California Code of Regulations, Title 20, Sections 1601, 1602, 1605.3, and 1606

**CALIFORNIA ENERGY COMMISSION
DOCKET NUMBER 07-AAER-2
AUGUST 24, 2007**

INTRODUCTION

The California Energy Commission (“Energy Commission”) proposes to amend its appliance efficiency regulations. These amendments will repeal the appliance efficiency standards for Digital Television Adapters (DTAs) in title 20 of the California Code of Regulations.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) regarding the need for the proposed amendments. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed amendment language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at: <http://www.energy.ca.gov/appliances/index.html>.

PUBLIC HEARINGS

The Energy Commission's Energy Efficiency Committee will hold a public hearing on the following date to receive public comment on the Express Terms:

SEPTEMBER 24, 2007

10:00 a.m.

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street

First Floor, Hearing Room A

Sacramento, California

(Wheelchair Accessible)

Audio for the September 24, 2007 Energy Efficiency Committee meeting will be

broadcast over the Internet. For details, please go to:

www.energy.ca.gov/webcast.

At this hearing any person may present statements or arguments relevant to the proposed action. Interested persons may also submit written comments; if possible, please provide written comments to be considered at the Committee hearing by September 21, 2007. The Energy Commission appreciates receiving written comments at the earliest possible date.

The hearing before the full Energy Commission for adoption of the 45-Day Language Express Terms will be held on the following date unless the Energy Commission decides to modify the Express Terms through the issuance of 15-day language.

PROPOSED ADOPTION DATE

The full Energy Commission will consider adopting the proposed amendments at a public hearing:

OCTOBER 10, 2007
10 a.m.
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair accessible)

Audio for the October 10, 2007 Adoption Hearing will be broadcast over the internet. For details, please go to:

www.energy.ca.gov/webcast/.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916)654-5146 at least 5 days in advance.

At the hearings any person may present written or oral comments on the proposed amendments.

PUBLIC COMMENT PERIOD/WRITTEN COMMENTS

The public comment period for this NOPA will be from August 24, 2007 through October 10, 2007. Any interested person may submit written comments on the proposed amendments. Regarding the Energy Efficiency Committee, and

Adoption Hearings, the Energy Commission appreciates receiving written comments at the earliest possible date: for the September 24, 2007 hearing, please provide written comments by September 21, 2007; for the October 10, 2007 Adoption Hearing, please provide written comments by October 9, 2007. However, written comments will still be accepted at the hearings. In addition, written comments will be considered if they are received by 10:00 a.m. on October 10, 2007. Written comments shall be emailed to Docket@energy.state.ca.us or mailed or delivered to the following address (emailing is preferred):

California Energy Commission
Docket No. 07-AAER-2
Docket Unit
1516 Ninth Street, Mail Station 4
Sacramento, California 95814-5504

All written comments must indicate "Docket No. 07-AAER-2." When comments are emailed on behalf of an organization, the comments should be a scanned copy of the original on the organization's letterhead and include a signature of an authorized representative.

AUTHORITY AND REFERENCE

The Energy Commission proposes to adopt the amendments under the authority of Public Resources Code sections 25213, 25218(e), and 25402(a)-(c). The proposed amendments implement, interpret, and make specific Public Resources Code sections 25402(a)-(c).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law [Public Resources Code § 25402(c)] requires the California Energy Commission ("Energy Commission") to adopt regulations that prescribe minimum efficiency levels for appliances. The Energy Commission first adopted appliance efficiency regulations in 1976 and has periodically revised them since then. The current regulations include provisions on testing of appliances to determine their efficiency, reporting of data by manufacturers to the Energy Commission, standards establishing mandatory efficiency levels, and compliance and enforcement procedures, as well as general provisions on the scope of the regulations and definitions.

The existing appliance efficiency regulations include efficiency standards for digital television adapters or DTAs, which are commercially-available electronic products for the sole purpose of converting digital video terrestrial broadcast signals to analog (NTSC) (standard adopted by the National Television System

Committee of the Federal Communications Commission) video signals for use by a TV or VCR. The efficiency regulations for DTAs, which were adopted on December 15, 2004 (less than five years ago), are scheduled to take effect on January 1, 2008.

In the rulemaking proceeding that is the subject of this Notice of Proposed Action ("NOPA"), the Energy Commission is proposing to repeal the energy efficiency standards for DTAs.

Pursuant to Public Resources Code section 25402 (c)(3), during the period of five years after the Energy Commission has adopted an appliance efficiency standard for a particular appliance, **no increase or decrease in the minimum level of operating efficiency required by the specific appliance efficiency standard can become effective, unless the Energy Commission adopts other cost-effective measures for that appliance.** Because the appliance efficiency standards for DTAs were adopted within the five year period prescribed by section 25402(c)(3), the Energy Commission must comply with this section to repeal the DTA standards.

Pursuant to Public Resources Code section 25402 (c)(3), the Energy Commission has determined that the proposed repeal of the appliance energy efficiency regulations for DTAs will not result in a decrease in the minimal level of operating efficiency required by the existing DTA standards. Furthermore, the Energy Commission has determined that the repeal of the DTA standards may actually result in a small increase in operating efficiency and in potential cost savings to the consumer; thus, no other cost-effective measures for DTAs will be required.

The basis for this determination is supported by an Energy Commission prepared document titled "Comparison of Savings from the CEC and NTIA DTA Standards" which is listed in the Initial Statement of Reasons (ISOR) as a document relied upon. In summary, subsequent to the adoption of the energy efficiency regulations by the Energy Commission for DTAs, Congress enacted legislation relating to DTAs which resulted in the adoption of federal standards by the National Telecommunications Infrastructure Administration (NTIA) for DTAs sold in the United States. The NTIA standards, while allowing greater power use in both active and standby modes, will result in slightly more energy savings than the Energy Commission's DTA standards because the NTIA standard require an automatic power-down feature which will increase the hours of operation in the lower power standby mode resulting in a potential 5 kWh/year lower energy use and energy cost for the consumer.

NOTE: Without formally adopting the NTIA standard for DTAs as a requirement for sale of DTAs in California, the Energy Commission recognizes that the NTIA standard will apply to DTAs sold throughout the United States and will result in a small improvement in operational efficiency for DTAs sold in California.

LIST OF DOCUMENTS INCORPORATED BY REFERENCE

None.

FEDERAL LAW

The proposed amendments do not conflict with federal law.

The proposed amendments are not mandated by federal law.

There are extensive federal regulations on appliance efficiency regulations adopted by the Department of Energy that preempt similar regulations adopted by the Energy Commission . (See 42 U.S.C. Section 6291 et seq.; 10 CFR Parts 430, 441.) The proposed amendments regulate appliances that are not covered by these federal regulations.

There are regulations that have been adopted by the National Telecommunications Infrastructure Administration (NTIA) for DTAs being sold in the United States, but these regulations do not preempt the Energy Commission's appliance efficiency regulations.

OTHER STATUTORY REQUIREMENTS

California law requires that the Energy Commission's appliance efficiency standards (1) apply to appliances that use a significant amount of energy on a statewide basis, (2) be based on feasible and attainable efficiencies or feasible improved efficiencies, and (3) be cost-effective based on a reasonable use pattern (i.e., not result in added total costs to the consumer, considering both any increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance). [Public Resources Code § 25402(c)(1).]

Public Resources Code Section 25402(c) (3) requires that if during a period of five years after the Energy Commission has adopted a standard for a particular appliance, no increase or decrease in the minimum level of operating efficiency required by the specific appliance efficiency standard (e.g., for DTAs) shall become effective, unless the Energy Commission adopts other cost-effective measures for that appliance.

LOCAL MANDATE

The proposed amendments will not impose a mandate on state or local agencies or districts.

ECONOMIC AND FISCAL IMPACTS

The Energy Commission has made the following initial determinations.

FISCAL IMPACT

Costs Requiring Reimbursement. The proposed amendments will not impose on local agencies or school districts any costs for which Government Code sections 17500 - 17630 require reimbursement.

Other Non-Discretionary Costs or Savings for Local Agencies. Local agencies that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always recovered by reductions in natural gas and electricity bills. In this rulemaking, however, none of the proposed amendments will result in increased purchase costs.

Costs or Savings for State Agencies. State agencies that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always recovered by reductions in natural gas and electricity bills. In this rulemaking, however, none of the proposed amendments will result in increased purchase costs.

Cost or Savings in Federal Funding to the State. The proposed amendments will not result in any costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

There will be no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The Energy Commission has made an initial determination that there will be no significant (or insignificant) statewide adverse economic, fiscal, or environmental impact directly affecting businesses, including small businesses, as a result of

the proposed amendments, including the ability of California businesses to compete with businesses in other states.

Nevertheless, the Energy Commission invites interested persons to submit alternative proposals to lessen any adverse economic impact on business that might exist, which may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements, or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

IMPACTS ON THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE, THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES, OR THE EXPANSION OF BUSINESSES IN CALIFORNIA

The proposed amendments will have no impact on the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

Businesses and individuals that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always more than made up by reductions in natural gas and electricity bills. In this rulemaking, however, none of the proposed amendments will result in increased purchase costs. Therefore, the Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORTS

The proposed amendments to repeal the DTA energy efficiency standards would eliminate the existing mandatory requirement for manufacturers to submit energy

efficiency data (i.e., Business Reports) to the Energy Commission concerning the DTAs they manufacture.

SMALL BUSINESS

Like all businesses, small businesses benefit from appliance regulations. Small businesses that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always more than made up by reductions in natural gas and electricity bills. In this rulemaking, however, the proposed amendments do not affect small businesses with an increase purchase cost (see Energy Commission prepared document titled "Comparison of Savings from the CEC and NTIA DTA Standards.").

ALTERNATIVES

Before it adopts the proposed amendments, the Energy Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective as and less burdensome to affected private persons than the proposed amendments. To date, the Energy Commission has found no alternatives to the proposed action that would be more effective, or as effective and less burdensome.

DESIGNATED CONTACT PERSONS

Please contact the following person, preferably by e-mail, for general information about the proceeding or to obtain any document relevant to the proceeding, including the Express Terms, the Initial Statement of Reasons, the Form 399, and any other document in the rulemaking file:

Linda Franklin
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4064 Fax: 916-654-4304
E-mail: LFrankli@energy.state.ca.us

Please contact the following person, preferably by e-mail, for substantive questions:

Bill Staack, Senior Staff Counsel
California Energy Commission
1516 Ninth Street, Mail Station 14
Sacramento, California 95814-5512
Telephone: 916-654-3873
Fax: 916-654-3843
E-mail: Wstaack@energy.state.ca.us

The backup contact person for substantive questions is:

Betty Chrisman
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4080
Fax: 916- 654-4304
E-mail: BChrisma@energy.state.ca.us

Bill Staack, Betty Chrisman and Julie Mumme [916-654-3851 or jmumme@energy.state.ca.us] also can assist in obtaining documents and in answering general questions.

PUBLIC ADVISER

The Energy Commission's Public Advisor provides public assistance in participating in Energy Commission activities. If you would like information on how to participate in this proceeding, please contact the Public Advisor's Office by phone at (916) 654-4489 or toll free at (800) 822-6228, by FAX at (916) 654-4493, or by email at pao@energy.state.ca.us.

NEWS MEDIA INQUIRIES

News media inquiries should be directed to Claudia Chandler, Assistant Executive Director, at (916) 654-4989.

AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS (EXPRESS TERMS), THE INITIAL STATEMENT OF REASONS (ISOR), AND THE INFORMATION UPON WHICH THE PROPOSAL IS BASED (RULEMAKING FILE)

The first action to take to obtain documents in this rulemaking proceeding is to visit the Energy Commission's appliance website:

www.energy.ca.gov/appliances.

The website will have all of the documents prepared by the Energy Commission, including the Express Terms of the proposed amendments (written in plain English and set forth in a format that indicates both the existing text and the proposed text), the Initial Statement of Reasons, and all documents relied upon by the Commission, as well as most of the other documents in the rulemaking file.

The Express Terms and the Initial Statement of Reasons are also available at no cost from the contact person, Linda Franklin (see above).

The Energy Commission's Docket Office has available all of the documents in the rulemaking file; for copies, please contact:

Docket Office
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, California 95814-5504
916-654-5076

AVAILABILITY OF MODIFIED AMENDMENTS (15-DAY LANGUAGE)

At the October 10, 2007 adoption hearing, the Energy Commission may adopt the proposed amendments substantially as described in this NOPA. If modifications are made, and they are sufficiently related to the originally-proposed amendments, the full modified text with changes clearly indicated will be made available to the public at least 15 days before the Energy Commission adopts the amendments. A notice of the availability of any such text will be placed on the Energy Commission's website and will be mailed to all persons to whom this notice is being mailed, who submitted written or oral comments at any hearing, who submitted written comments during the public comment period, or who requested to receive such modifications. In addition, copies may be requested from the contact person named above and from the Docket Office. The Energy Commission will accept written comments on any such modified text for at least 15 days after the text is made available to the public. Adoption of the

15-Day language will be considered at a public hearing scheduled in the notice of availability.

FINAL STATEMENT OF REASONS

The Energy Commission will prepare a Final Statement of Reasons on the amendments, responding to all relevant comments made during the proceeding. The Final Statement of Reasons will be available from the contact person named above and from the Docket Office, and will be posted on the Energy Commission's website.

INTERNET ACCESS

Documents prepared by the Energy Commission for this rulemaking, including this NOPA, the Express Terms, the ISOR, and most other documents in the rulemaking file, will be posted on the Energy Commission's website, <http://www.energy.ca.gov/appliances>.

Note: The California Energy Commission's formal name is the State Energy Resources Conservation and Development Commission.