

INITIAL STATEMENT OF REASONS

AMENDMENTS TO APPLIANCE EFFICIENCY REGULATIONS

CALIFORNIA CODE OF REGULATIONS, TITLE 20,

SECTIONS 1602, 1604, 1606, and 1607

CALIFORNIA ENERGY COMMISSION

Docket Number 07-AAER-1

December 1, 2006

Introduction

The California Energy Commission (“Energy Commission”) proposes to adopt changes to its appliance efficiency regulations contained in the California Code of Regulations (CCR), Title 20, Sections 1602, 1604, 1606, and 1607. The purpose of this rulemaking is to adopt amendments to the Appliance Efficiency Regulations consistent with federal and state law and with: (1) a Court Order,¹ and (2) a Joint Status Conference Statement Order.² (hence-forth both documents referred to as "federal Court Order")

The Energy Commission first adopted appliance regulations in 1976 and has periodically revised them since then. The existing 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.

In this rulemaking that is the subject of this Initial Statement of Reasons (“ISOR”), the Energy Commission is proposing to adopt various amendments that are required under the federal Court Order. The proposed amendments include: (1) new definitions for electric motors consistent with federal appliance regulations, (2) amendments to test methods for Central Air Conditioners consistent with federal appliance regulations, (3) changes to the "Required Information" data submittal of Section 1606 that make some existing mandatory reporting requirements voluntary due to changes in federal testing methods, and (4) changes to the "Required Information" data submittal of Section 1606 to make many existing voluntary reporting requirements mandatory as a result of the final federal Court Order vacating an injunction on the mandatory requirements adopted in 2004.³

Under the federal Court Order, Appendix A of the Joint Status Conference Statement, the Energy Commission was required to consider proposing amendments for the following issues: (1) "highest sales volume" in relation to marking of commercial split system central air conditioners, (2) eliminating or making voluntary the data submittal requirements for horsepower of blower motors for belt-driven central air conditioners and heat pumps greater than or equal to 65,000 Btu/hr, (3) eliminating or making voluntary the

¹ See Court Order Vacating Injunction, Dismissing Complaint and Entering Judgment for Defendants [Energy Resources Conservation and Development Commission] dated September 8, 2006 by the Honorable Judge William B. Shubb of the United States District Court for the Eastern District of California (Case No. 2:02-CV-02437-WBS-PAN).

² See Joint Status Conference Statement Order dated September 11, 2006. (Case No. 2:02-CV-02437-WBS-EFB).

³ Note: concerning item (4) proposed amendments: In 2004, the Energy Commissions adopted mandatory data submittal requirements in Section 1606. Subsequent to the 2004 adoption there was a federal Court Order injunction preventing the Energy Commission from enforcing these mandatory data submittals. To comply with this injunction the Energy Commission adopted emergency regulations to make these data submittal requirements voluntary only. As a result of the final federal Court Order which vacated the injunction on enforcing those mandatory data submittal requirements, the Energy Commission is now adopting amendments to Section 1606 to restore the 2004 adopted mandatory data submittal requirements.

data submittal requirements for fan motor horsepower, design, type, and power factor for air-cooled central air conditioners, (4) how or whether or not data-submittal for "one-off" (one-of-a-kind) or custom models should be submitted as "models" using the "Motor Master" protocols used by the U.S. DOE, and (5) whether the data-submittal requirements for ballasts used with T5 or T8 fluorescent lamps should be modified or eliminated. No amendments for these 5 issues have been proposed in this ISOR, however, proposed changes will be considered by the Energy Commission during this rulemaking process as required by the federal Court Order.

In addition to the proposed amendments required under the federal Court Order, the amendments also include some minor corrections and clarifications to the existing regulations.

PUBLIC HEARING, SUBMITTAL OF COMMENTS, DOCUMENTS RELIED UPON

Information on public hearings, submittal of comments on the proposed amendments, document availability, and other matters concerning the proposal are contained in the companion Notice of Proposed Action, which is available from Linda Franklin at LFrankli@energy.state.ca.us. Also available from Ms. Franklin is the Form 399 (Economic and Fiscal Impact Statement), which includes detailed information on cost-effectiveness.

PURPOSE, RATIONALE, AND NECESSITY OF THE PROPOSED AMENDMENTS IN GENERAL

The California economy, and indeed the well-being of all of California's citizens, depends on an adequate, reasonably-priced, and environmentally-sound supply of energy. Recent growth in electricity demand has strained the reliability of California's electricity system and has in some circumstances contributed to a substantial rise in electricity prices. Similarly, natural gas supplies are becoming tighter. To address these issues the legislature has determined that improvements in energy efficiency are the cheapest and most environmentally-friendly methods to help bring electricity demand and natural gas supply into balance. Under Public Resources Code Section 25402(c)), the legislature directed the Energy Commission to adopt regulations into title 20 that prescribe minimum efficiency levels for appliances that are feasible and cost-effective. Past rulemakings provided analysis for the feasibility and cost-effectiveness of each of the appliance efficiency regulations adopted by the Energy Commission. This rulemaking package proposes amendments to these existing appliance efficiency regulations.

Although the purpose, rationale, and necessity of most of the proposed changes to the existing appliance efficiency regulations are the direct result of the requirements of the federal Court Order, this ISOR in addition, has also provided the technical and policy rationales for the proposed amendments.

Specific Purpose, Rationale, and Necessity of Each Proposed Adoption, Amendment, and Repeal

Section 1602. Definitions

(a) General: A new definition is being added for "Basic Model" for federally-regulated electric motors.

The specific purpose and rationale for this change is that it specifies the correct definition for "Basic Model" in federal regulations 10 CFR Section 431.12 for federally-regulated electric motors and it is necessary for consistency with federal regulations. It is also necessary to comply with the federal Court Order.

(s) Electric Motors: A new definition is being added for "Motor Power Consumption" for federally-regulated electric motors.

The specific purpose and rationale for this change is that it clarifies the correct term used in the required testing of "Electric Motors" under federal regulations and it is necessary for consistency with federal regulations. It is also necessary to comply with the federal Court Order.

Section 1604. Test Methods for Specific Appliances

Appliance: (c) Central Air Conditioners, Table C-1, Central Air Conditioner Test Methods, Appliance: Other electric-powered unitary air-conditioners and electric-powered heat pumps”

Test Method: The current test method for “water-cooled air conditioners, evaporatively-cooled air conditioners, and water-source heat pumps” is ANSI/ARI 320-98 for those appliances less than 135,000 Btu/hr. The proposed amendments separate this appliance category into two separate groups of appliances with water-cooled air conditioners, evaporatively-cooled air conditioners under one group and water-source heat pumps as a separate group. The proposed amendments changes the test method for water-cooled single-package and split system air conditioners that are less than 65,000 Btu/hr from the current ANSI/ARI 320-98 to ANSI/ARI 210/240-2003. The amendments also add a new test method, ISO 13256-1-1998, for water-source single package and split system heat pumps less than 240,000 Btu/hr.

The specific purpose and rationale for these amendments are that the required federal test method for water-cooled single-package and split system air conditioners that are less than 65,000 Btu/hr has changed from ANSI/ARI 320-98 to ANSI/ARI 210/240-2003, and a new federal test method, ISO 13256-1, has been added for water-source single package and split system heat pumps less than 240,000 Btu/hr. These amendments are necessary to changed the required test

methods to be consistent with the federal regulatory test methods. They are also necessary to comply with the federal Court Order.

Appliance: (s) Electric Motors

Test Method: The test method for "Electric Motors" is being amended to add that the data submittal for the testing of "Basic Model" as defined for "Electric Motors" must be pursuant to the protocols of the U.S. Department of Energy's "MotorMaster+" energy-efficiency motor selection and management computer program tool.

The specific purpose and rationale for this change is that it clarifies the correct testing protocols and data submittal requirements for the testing of "Electric Motors" under federal regulations and it is necessary for consistency with federal regulations. It is also necessary to comply with the federal Court Order.

Subsection titled: "The following documents are incorporated by reference in Section 1604."

This subsection is being amended to add that standard ISO 13256-1-1998 is being incorporated by reference to Section 1604. The specific purpose and rationale is to adopt by reference the ISO 13256-1-1998 standard which is necessary because this standard is now a part of the new federal testing method for water-source single-package and split system heat pumps less than 240,000 Btu/hr. It is also necessary to comply with the federal Court Order.

Section 1606. Filing by Manufacturers; Listing of Appliances in Database; Table V

Appliance: A. Non-Commercial Refrigerators, Non-Commercial Refrigerator-Freezers, Non-Commercial Freezers

Required Information: The six (6) voluntary data submittal items in this subsection are being amended to be mandatory data submittal items.

The specific purpose and rationale for these amendments are to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted these as mandatory data submittal requirements, but soon after adopted emergency amendments to change them to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission.

Appliance: B. Room Air Conditioners and Room Air-Conditioning Heat Pumps

Required Information: The one (1) voluntary data submittal item in this subsection is being amended to be a mandatory data submittal item.

The specific purpose and rationale for this amendment is to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted this as a mandatory data submittal requirement, but soon after adopted emergency amendments to change this to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission.

Appliance: B. Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps

Required Information: The four (4) voluntary data submittal items in this subsection are being amended to be mandatory data submittal items.

The specific purpose and rationale for these amendments are to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted these as mandatory data submittal requirements, but soon after adopted emergency amendments to change them to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission.

Appliance: C. All Central Air Conditioners and Central Air-Conditioning Heat Pumps

Required Information: Compressor Motor Horsepower is being changed from being required submitted information to voluntary submittal only.

The specific purpose and rationale for this change is that this required information is not in the applicable federal test method, and it is necessary to change this data submittal requirement to voluntary only. It is also necessary to comply with the federal Court Order.

Required Information: The six (6) voluntary data submittal items in this subsection are being amended to be mandatory data submittal items.

The specific purpose and rationale for these amendments are to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted these as mandatory data submittal requirements, but soon after adopted

emergency amendments to change them to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission.

Required Information: Indoor Fan Motor Nominal Horsepower

The federal Court Order, (see Appendix A of the Joint Status Conference Statement) ordered that the Commission consider the issue of eliminating or making voluntary data submittal for the horsepower of blower motors for belt-driven central air conditioners and heat pumps less than or equal to 65,000 Btu/hr.

No amendment is being proposed at this time, but proposed changes will be considered during the rulemaking process as required by the federal Court Order.

Required Information: Fan motor horsepower, Design, Type, and Power factor.

The federal Court Order, (see Appendix A of the Joint Status Conference Statement) ordered that the Commission consider the issue of eliminating or making voluntary the data submittal for (1) fan motor horsepower, (2) design, (3) type, and (4) power factor for Air-Cooled, Single Package central air conditioners (CAC) less than 65,000 Btu/hour and Air-Cooled, Split System CAC less than 65,000 Btu/hour.

No amendments are being proposed at this time, but proposed changes will be considered during the rulemaking process as required by the federal Court Order.

Appliance: C. Water-Cooled Single-Package and Split System CAC < 240,000 Btu/hour

Required Information: The data required for Low Temperature EER at 75° F is being changed to 70° F for Entering Water Temperature for models less than 65,000 Btu/hour only.

The specific purpose and rationale for this change is that the federal test method for these appliances has changed from 75° F to 70° F for "Entering Water Temperature" and the change is necessary to require the correct data to be submitted. It is also necessary to comply with the federal Court Order.

Required Information: The one (1) voluntary data submittal item in this subsection ("Heating System Type") is being amended to be a mandatory data submittal requirement.

The specific purpose and rationale for this amendment is to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted this as a mandatory data submittal requirement, but soon after adopted

emergency amendments to change this to a voluntary requirement only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission.

Appliance: C. Water-Source Single Package and Split System HP < 240,000 Btu/hour

Required Information: Low Temperature EER at 75° F Entering Water Temperature for models less than 65,000 Btu/hour is being changed from being required data submitted to voluntary data submittal only.

The specific purpose and rationale for this change is that this required information is not in the applicable federal test method, and it is necessary to change this data submittal requirement to voluntary only. It is also necessary to comply with the federal Court Order.

Required Information: The data required for Cooling Capacity at 85° F is being changed to 86° F for Entering Water Temperature

Required Information: The data required for Electrical Input at 85° F is being changed to 86° F for Entering Water Temperature

Required Information: The data required for Energy Efficiency Ratio (EER) at 85° F is being changed to 86° F for Entering Water Temperature

Required Information: The data required for Heating Capacity at 70° F is being changed to 68° F for Entering Water Temperature

Required Information: The data required for Electrical Input at 70° F is being changed to 68° F for Entering Water Temperature

Required Information: The data required for Coefficient of Performance (COP) at 70° F is being changed to 68° F for Entering Water Temperature

The specific purpose and rationale for these changes is that the required federal test method ISO 13256-1 has new temperature points for these appliances and it is necessary to insure that the data submitted corresponds to these new temperature points. It is also necessary to comply with the federal Court Order.

Appliance: E. All Space Heaters

Required Information: Total Nominal Pump Motor Horsepower is required for boilers only. This section is being amended so that those boilers that are not provided with a pump by the manufacturer will not have to report pump motor horsepower.

The specific purpose and rationale for this change is that some boilers are sold without pumps because the purchaser will obtain the pump from a source other than the manufacturer and install that pump at the building site. Since the pump type is unknown by the manufacturer, it is not possible for the manufacturer to report the

pump motor horsepower and it is necessary to exclude requiring this data submittal item by the manufacturer. It is also necessary to comply with the federal Court Order.

Required Information: The four (4) voluntary data submittal items in this subsection are being amended to be mandatory data submittal items.

The specific purpose and rationale for these amendments are to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted these as mandatory data submittal requirements, but soon after adopted emergency amendments to change them to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission.

Appliance: E. Central Furnaces

Required Information: “Fan Blower Capacity, High, at 0.5” W.C.” is being changed from being required information submitted to voluntary data submittal only.

Required Information: “Fan Blower Capacity, Low, at 0.5” W.C” is being changed from being required information submitted to voluntary data submittal only.

Required Information: “Standby Watts [controls, not fan energy] (for models \geq 225,000 Btu/hour input only)” is being changed from being required information submitted to voluntary data submittal only.

Required Information: “Thermal Efficiency at Minimum Capacity Provided and Allowed by the Controls (for models \geq 225,000 Btu/hour input only)” is being changed from being required information submitted to voluntary data submittal only.

The specific purpose and rationale for these changes is that this information required is not in the applicable federal test method, and it is necessary to change these data submittal requirements to voluntary only. It is also necessary to comply with the federal Court Order.

Appliance: E. Room Heaters, Floor Furnaces, and Wall Furnaces

Required Information: The one (1) voluntary data submittal item in this subsection is being amended to be a mandatory data submittal item.

The specific purpose and rationale for this amendment is to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted this as a mandatory data submittal requirement, but soon after adopted emergency amendments to change this to a voluntary requirement only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore this data submittal

requirement to a mandatory requirement as originally adopted by the Energy Commission.

Appliance: E. Boilers

Required Information: “Standby Loss (for packaged boilers \geq 300,000 Btu/hour input only)” is being changed from being required information submitted to voluntary data submittal only.

The specific purpose and rationale for this change is that this information required is not in the applicable federal test method, and it is necessary to change this data submittal requirement to voluntary only. It is also necessary to comply with the federal Court Order.

Required Information: The three (3) voluntary data submittal items in this subsection are being amended to be mandatory data submittal items.

The specific purpose and rationale for these amendments are to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted these as mandatory data submittal requirements, but soon after adopted emergency amendments to change them to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission.

Appliance: F. All Water Heaters

Required Information: The requirement for “Rated Volume” currently excludes requiring data for booster heaters and hot water dispensers. This exclusion is being amended to also exclude large instantaneous water heaters < 10 gallons capacity.

The specific purpose and rationale for this change is that "Rated Volume" information required for large instantaneous water heaters less than 10 gallons capacity is not in the applicable federal test method, and it is necessary to amend the required information to exclude large instantaneous water heaters less than 10 gallons capacity from the required data submittal. It is also necessary to comply with the federal Court Order.

Required Information: The one (1) voluntary data submittal item in this subsection (“Ozone Depleting Substance in Refrigerant [for heat pump water heaters only]”) is being amended to be a mandatory data submittal item.

The specific purpose and rationale for this amendment is to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission

adopted this as a mandatory data submittal requirement, but soon after adopted emergency amendments to change this to a voluntary requirement only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission.

Appliance: F. Large Electric Water Heaters

Required Information: Standby Loss, % per hour and Btu per hour are currently required for these appliances except for those models > 140 gallons for which exemption from standby loss standard is claimed. This data requirement is being amended to make voluntary data submittal requirements for large instantaneous models.

The specific purpose and rationale for this change is that the information required for large instantaneous models is not in the applicable federal test method, and it is necessary to change this data submittal requirement to voluntary only. It is also necessary to comply with the federal Court Order.

Appliance: F. Small Gas Water Heaters and Small Oil Water Heaters

Required Information: The one (1) voluntary data submittal item in this subsection (“Annual Energy Consumption”) is being amended to be a mandatory data submittal item.

The specific purpose and rationale for this amendment is to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted this as a mandatory data submittal requirement, but soon after adopted emergency amendments to change this to a voluntary requirement only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission.

Appliance: F. Large Gas Water Heaters and Large Oil Water Heaters

Required Information: Standby Loss, % per hour is currently required for these appliances except for those models > 140 gallons for which exemption from standby loss standard is claimed. This data requirement is being amended to make it a voluntary data submittal requirement for large instantaneous models.

The specific purpose and rationale for this change is that the information required for large instantaneous models is not in the applicable federal test method, and it is necessary to change these data submittal requirements to voluntary only. It is also necessary to comply with the federal Court Order.

Required Information: Standby Loss, BTU/hr per hour is currently required for these appliances except for those models > 140 gallons for which exemption from standby loss standard is claimed. This data submittal requirement is being amended to make it a voluntary data submittal requirement for large instantaneous models.

The specific purpose and rationale for this change is that the information required for large instantaneous models is not in the applicable federal test method, and it is necessary to change this data submittal requirement to voluntary only. It is also necessary to comply with the federal Court Order.

Appliance: F. Heat Pump Water Heaters

Required Information: The one (1) voluntary data submittal item in this subsection (“Refrigerant Type”) is being amended to be mandatory data submittal item.

The specific purpose and rationale for this amendment is to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted this as a mandatory data submittal requirement, but soon after adopted emergency amendments to change this to a voluntary requirement only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission.

Appliance: J. Florescent Lamp Ballasts

Required Information: All Items listed.

The federal Court Order, (see Appendix A of the Joint Status Conference Statement) ordered that the Commission consider the issue of whether the data-submittal requirements for ballasts used with T5 or T8 fluorescent lamps should be modified or eliminated.

No amendments are being proposed at this time, but proposed changes will be considered during the rulemaking process as required by the federal Court Order.

Appliance: K. Federally-regulated general service fluorescent lamps, federally regulated incandescent reflector lamps, and state regulated incandescent reflector lamps.

Required Information: The required information for “Lumens” is being amended to clarify that “Rated” lumens is the required data for submittal.

Required Information: The required information for “Color Rendering Index (for general service fluorescent lamp models only)” is being amended to clarify that “Rated” Color Rendering Index is the required data for submittal.

The specific purpose and rationale for these changes is that "Rated Lumens" and "Rated Color Rendering Index" is the industry standard for reporting this information and it is necessary to make clear that "Rated" not "Measured" data is the required information to be submitted. It is also necessary to comply with the federal Court Order.

Required Information: The one (1) voluntary data submittal item in this subsection “([Rated] Lumens”) is being amended to be mandatory data submittal item.

The specific purpose and rationale for this amendment is to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted this as a mandatory data submittal requirement, but soon after adopted emergency amendments to change this to a voluntary requirement only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore this data submittal requirement to a mandatory requirement as originally adopted by the Energy Commission.

Appliance: P. Clothes Washers that are federally regulated consumer products

Required Information: The two (2) voluntary data submittal items in this subsection (“Combination Washer/Dryer” and “Power Consumption Per Cycle”) are being amended to be mandatory data submittal items.

The specific purpose and rationale for these amendments are to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted these as mandatory data submittal requirements, but soon after adopted emergency amendments to change them to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court Order that vacated the injunction it is now necessary to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission.

Appliance: Q. Clothes Dryers

Required Information: The two (2) voluntary data submittal items in this subsection (“Combination Washer/Dryer” and “Automatic Termination Control”) are being amended to be mandatory data submittal items.

The specific purpose and rationale for these amendments are to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission in 2004. As discussed above, the Energy Commission adopted these as mandatory data submittal requirements, but soon after adopted emergency amendments to change them to voluntary requirements only, because of a pending federal Court Injunction. However, as a result of the final federal Court

Order that vacated the injunction it is now necessary to restore these data submittal requirements to mandatory requirements as originally adopted by the Energy Commission.

Appliance: S. Electric Motors

Required Information: “Speed” is being changed from being required submitted information to voluntary data submittal only.

The specific purpose and rationale for this change is that this information required is not in the applicable federal test method, and it is necessary to change this to change this data submittal requirement to voluntary only. It is also necessary to comply with the federal Court Order.

Required Information: “Motor” is being added to the phrase "Power Consumption" to match the term used in the federal standards, and it is necessary for consistency with the federal standards. It is also necessary to comply with the federal Court Order.

Permissible Answers: This subsection is being amended to clarify that the permissible answers for "Motor Power Consumption" (discussed above) must be pursuant to the protocols of the U.S. Department of Energy's "MotorMaster+" energy-efficiency motor selection and management computer program tool, and it is necessary for consistency with the federal standards. It is also necessary to comply with the federal Court Order.

Also related to Electric Motor data collection, the federal Court Order, (see Appendix A of the Joint Status Conference Statement) ordered that the Commission consider the issue of how or whether or not data-submittal for "one-off" or custom models should be submitted for "models" using the "Motor Master" protocols used by the U.S. DOE.

No amendment is being proposed at this time, but proposed changes will be considered during the rulemaking process as required by the federal Court Order.

Section 1606 (b)(2) Informing Manufacturer of Determination.

Section 1606 requires each manufacturer to file with the Executive Director a detailed statement for each appliance that is sold or offered for sale in California. The manufacturer can file the required statements by either hard copy or electronically. Subsection 1606(b)(1) requires the Executive Director to review these filed statements and make a determination whether a statement is complete, accurate, and in compliance with all applicable provision in the appliance standards. Subsection 1606(b)(2) currently requires the Executive Director to inform the manufacturer of this determination within 21 calendar days of receipt of a hard copy, or 14 calendar days of receipt of electronically-filed copy. The proposed amendment to subsection 1606(b)(2)(A) clarifies that there is a 30 calendar day time frame required for the Executive Director response when the required statement is submitted by a third party, as described in Section 1606(f), regardless of whether it is filed electronically or on paper.

The specific purpose and rationale for this change is to provide additional time to review third-party submittals (e.g., trade association submittal for manufacturers), and it is necessary to insure that data submission input to the appliance data base is accurate and complete. The proposed change is also necessary to help in the administration of the federal Court Order.

Section 1607. Marking of Appliances.

The federal Court Order, (see Appendix A of the Joint Status Conference Statement) ordered that the Commission consider the issue of "highest sales volume" in relation to marking of commercial split system central air conditioners.

No amendment is being proposed at this time, but proposed changes will be considered during the rulemaking process as required by the federal Court Order.

**REASONS FOR MANDATING
SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES, OR EQUIPMENT;
CONSIDERATION OF PERFORMANCE STANDARDS**

Most of the proposed amendments are required by the federal Court Order and make consistent with federal law various sections of the existing Title 20 Appliance Efficiency Regulation standards. Many of the federal appliance efficiency regulations do mandate particular actions, procedures, technologies, and equipment met, but the Energy Commission is preempted from making changes to these federal standards.

STUDIES, REPORTS, AND DOCUMENTS RELIED UPON

1. The Commission relied on two federal Court Orders to propose changes to its appliance efficiency regulations contained in the California Code of Regulations (CCR), Title 20, Sections 1602, 1604, and 1606
 - (1) Court Order Vacating Injunction, Dismissing Complaint and Entering Judgment for Defendants [Energy Resources Conservation and Development Commission] dated September 8, 2006 by the Honorable Judge William B. Shubb of the United States District Court for the Eastern District of California. (Case No. 2:02-CV-02437-WBS-PAN)
 - (2) Joint Status Conference Statement Order along with Appendix A dated September 11, 2006. (Case No. 2:02-CV-02437-WBS-EFB)
2. New federal test method ISO 13256-1-1998 used in the Table C-1 of Section 1604 and Table V of Section 1606.
3. MotorMaster+ Software Tool available from U.S. DOE, Energy Efficiency and Renewable Energy (EERE) Information Center (1-877-337-3463).

REASONABLE ALTERNATIVES, IF ANY, TO THE PROPOSED AMENDMENTS THAT WERE CONSIDERED, INCLUDING ALTERNATIVES TO LESSEN IMPACTS ON SMALL BUSINESS, AND REASONS FOR REJECTING THEM

The Energy Commission has not considered alternatives in substantial detail. The reason for this is that most of the proposed amendments are required under the federal Court Order. Most alternatives are not possible without violating this federal Court Order. In particular, the Energy Commission did not consider any alternatives for the specific purpose of avoiding impacts on small businesses, because there will be no adverse impacts (see next paragraph).

EVIDENCE RELIED UPON TO SUPPORT THE INITIAL DETERMINATION, IN THE NOTICE OF PROPOSED ACTION, THAT THE PROPOSED REGULATIONS WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC ADVERSE IMPACT ON BUSINESS

Many of the proposed amendments, such as the definitional changes for Electric Motors in section 1602 and reference to federal testing protocols for electric motors and clarifying language for Rated Lumens and Rated Color Rendering Index language in section 1606 have no adverse impact on business as it is only clarifying language for existing federal and state testing methods. Other proposed changes in section 1606 such as changing a mandatory data submittal item to voluntary only, and excluding specified boilers and water heaters from required data submittal will save money for those manufactures that choose not to submit such data to the Energy Commission. The changes in making mandatory the existing voluntary data submittal requirements in Section 1606 will have minor additional costs to the manufacturer. However, these

additional costs to manufacturers were addressed in the 2004 rulemaking adoption when the mandatory data submittal requirements were originally adopted.⁴ Other changes, such as the specified federal test methods for air conditioners and heat pumps, and reporting test data at different temperatures due to these federal test method changes may have minor additional costs to manufacturers.

Any additional cost to manufacturers due to the changed federal test methods is not a result of the Energy Commission proposed regulations but due to the requirements of the federally mandated regulations.

As addressed in the 2004 rulemaking the improved levels of efficiency resulting from providing to California businesses the Energy Commissions data base consisting of the mandatory and voluntary data submittal requirements of Section 1606 may increase the purchase price of the effected appliances. However, the improved efficiency resulting from having access to an objective appliance efficiency data base will result in reduced energy use and thus reduce utility bills for businesses. The results will be a savings to California consumers and businesses and will greatly outweigh any initial cost increase.

EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATIONS

The proposed regulations neither duplicate nor conflict with any federal regulation. There are extensive federal regulations on appliance efficiency. (See 42 U.S.C. section 6291 et seq.; 10 CFR Part 430.) The proposed amendments proposed in this Energy Commission rulemaking are for existing appliances that are covered by the federal regulations. The rulemaking also includes a few proposed minor clarifications and corrections to other parts of the Energy Commission's regulations that concern state-regulated appliances; none duplicate or conflict with any federal regulation.

⁴ See footnote #3 above for more detail on this subject.