

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov

**NOTICE OF PROPOSED ACTION****PROPOSED 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 (henceforth both documents referred to as "federal Court Order")

**PUBLIC COMMENT PERIOD/AVAILABILITY OF DOCUMENTS/CONTACT
PERSONS/PUBLIC HEARING**

The Energy Commission has prepared an Initial Statement of Reasons 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>.

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).

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

DECEMBER 20, 2006
10:00 a.m.
CALIFORNIA ENERGY COMMISSION
Hearing Room A
1516 Ninth Street
Sacramento, California
(Wheelchair Accessible)

Audio from this 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 December 18, 2006. 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 the following hearing:

JANUARY 17, 2007
10:00 a.m.
CALIFORNIA ENERGY COMMISSION
Hearing Room A
1516 Ninth Street
Sacramento, California
(Wheelchair accessible)

Audio for the January 17, 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.

WRITTEN COMMENTS

Any interested person may submit written comments on the proposed amendments. Regarding the hearings, the Energy Commission appreciates receiving written comments at the earliest possible date: for the December 20, 2006 Committee Hearing, please provide written comments by December 18, 2006; for the January 17, 2007 full Energy Commission hearing, please provide written comments by January 12, 2007. However, written comments will still be accepted at the hearing itself. In addition, written comments will be considered if they are received by 10:00 a.m. on January 17, 2007 at the Energy Commission's Docket Unit. Written comments shall be e-mailed to Docket@energy.state.ca.us or mailed or delivered to the following address (e-mailing is preferred):

CALIFORNIA ENERGY COMMISSION
Docket No. 07-AAER-1
Docket Unit
1516 Ninth Street, Mail Station 4
Sacramento, California 95814-5504

All written comments must indicate "Docket No. 07-AAER-1". When comments are e-mailed 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 Section, 25402(c)] requires the Energy Commission to adopt regulations that prescribe minimum efficiency levels for appliances. The Energy Commission first adopted appliance regulations in 1976 and has periodically revised them since then.

The purpose of this rulemaking is to adopt amendments to the existing Appliance Efficiency Regulations contained in the California Code of Regulations (CCR), Title 20, Sections 1602, 1604, 1606, and 1607. The proposed amendments must be consistent

with federal law and with: (1) a Court Order,³ and (2) a Joint Status Conference Statement Order.⁴ (hence-forth both documents referred to as "federal Court Order") In addition to the proposed amendments required under the federal Court Order, the amendments also include some minor corrections and clarifications in the existing regulations.

In the rulemaking proceeding that is the subject of this Notice of Proposed Action ("NOPA"), the Energy Commission is proposing the following amendments to comply with the federal Court Order: (1) add definitions for "Basic Model" as defined for federally-regulated electric motors, and add a definition for "Motor Power Consumption", both have the purpose of avoiding confusion for testers of federally-regulated electric motors, (2) add amendment to update the federal Test Method required for specified air conditioners and heat pumps, which were changed by the federal Energy Policy Act of 2005, (3) add amendments to clarify that the testing of Basic Models of electric motors must include reported data consistent with the computer program (i.e., the MotorMaster+ program) required by the U.S. Department of Energy for electric motors, (4) make changes to various sections in the data submittal requirements of the Title 20 Appliance Efficiency Regulations, which currently have mandatory data submittal requirements, by making the data submittal voluntary, as they are not part of the federal Testing Requirements for the specified appliance, (5) add amendments that exclude specified appliances from the required data submittal because they are excluded from the federally regulated appliances, and (6) change the temperature requirements for required data submittal for some specified water-cooled central air conditioners and heat pumps, because of changes in the federal testing temperature levels for those appliances.

This rulemaking is also proposing to adopt amendments that are a direct result of the final federal Court Order vacating the injunction on enforcing many of the mandatory data submittal requirements of the Appliance Efficiency Regulations that were adopted by the Energy Commission in 2004.⁵ Those proposed changes are to the "Required Information" data submittal requirements of Section 1606 and change many existing voluntary reporting requirements to mandatory requirements as originally adopted in 2004.

Under the federal Court Order, Appendix A of the Joint Status Conference Statement, the Energy Commission was ordered to consider the issues of (1) "highest sales volume"

³ 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).

⁴ See Joint Status Conference Statement Order dated September 11, 2006. (Case No. 2:02-CV-02437-WBS-EFB.)

⁵ In 2004, the Energy Commission adopted mandatory data submittal requirements in Section 1606. Subsequent to the 2004 adoption there was a federal Court 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 these mandatory data submittal requirements, the Energy Commission is now adopting amendments to Section 1606 to restore the mandatory data submittal requirements as adopted in 2004.

in relation to marking of commercial split system central air conditioners, (2) eliminating or making voluntary horsepower of blower motors for belt-driven central air conditioners and heat pumps \geq 65,000 Btu/hr, (3) eliminating or making voluntary 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" or custom models should be submitted for "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 the ISOR, however, proposed changes will be considered by the Energy Commission during the rulemaking process.

Finally, there are minor corrections to insure data accuracy input to the appliance data base and clarifying changes necessary to avoid confusion in the appliance program that are required by the data submittal regulations that are not part of the federal Court Order.

LIST OF DOCUMENTS INCORPORATED BY REFERENCE

1. MotorMaster+ Software Tool. This is a software program required by the U.S. Department of Energy, Energy Efficiency and Renewable Energy Information Center.
2. ISO 13256-1-1998. This is a testing procedure for Water-source heat pumps-Testing and rating for performance-Part 1: Water-to-air and brine-to-air heat pumps from the International Organization for Standards (ISO).

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. (See 42 U.S.C. Section 6291 et seq.; 10 CFR Parts 430, 441.) The proposed amendments are consistent with the requirements of the federal Court Orders and are proposed to make consistent with federal law certain provisions of the title 20 Appliance Efficiency regulations.

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 Section 25402(c)(1).]

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 because they either make clear for manufacturers the federally mandated requirements or make voluntary or exclude some appliances from existing data submittal requirements in section 1606.

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 because they either make clear for manufacturers the federally mandated requirements or make voluntary or exclude some appliances from existing data submittal requirements in section 1606.

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 because they either make clear for manufacturers the federally mandated requirements or make voluntary or exclude some appliances from existing data submittal requirements in section 1606.

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) adverse economic, fiscal, or environmental impact on businesses, including small businesses, as a result of the proposed amendments.

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 because they only: (1) make clear for manufacturers federally mandated requirements, (2) make voluntary or exclude some appliances from existing data submittal requirements in section 1606 of title 20 which will reduce the reporting costs, and (3) reinstate as mandatory the data submittal requirements as originally adopted by the Energy Commission in 2004.⁶

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 because they either make clear for manufacturers federally mandated requirements or make voluntary or exclude some appliances from existing data submittal requirements in section 1606 of title 20 which will reduce the reporting 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, except the costs of Business Reports discussed in the next paragraph.

⁶ See footnote #5 for more detail concerning the federal Court action on these existing regulations.

Business Reports

The proposed amendments would require manufacturers of appliances to submit data about the appliances they manufacture. The amendments that make mandatory the existing voluntary data submittal requirements in Section 1606 will have minor additional costs to the manufacturer. These additional costs to manufacturers for the proposed mandatory data submittal requirements do not need to be addressed by this rulemaking because those costs were addressed during the rulemaking process when they were originally adopted by the Energy Commission in 2004. As discussed above, the 2004 mandatory data submittal regulations were amended to be voluntary requirements only as a result of a federal Court injunction, but are now being reinstated as mandatory requirements through this rulemaking because the federal Court injunction has been vacated.⁷

Other proposed changes in section 1606 such as changing the mandatory data submittal 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.

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, none of the proposed amendments will result in increased purchase costs because they only: 1) make clear for manufacturers federally mandated requirements, (2) make voluntary or exclude some appliances from existing data submittal requirements in section 1606 of title 20 which will reduce the reporting costs, and (3) reinstate as mandatory the data submittal requirements as originally adopted by the Energy Commission in 2004. Therefore, there will be no adverse effects on small business.

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. Furthermore, the Energy Commission does not have flexibility to propose alternatives because the regulations are a direct result of the requirements in the federal Court Order.

⁷ See footnote #5 for more detail concerning the federal Court action on these existing regulations.

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, the federal Court Order, 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:

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

The backup contact person for substantive questions is:

Jim Holland
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4091
Fax: 916-654-4304
E-mail: JHolland@energy.state.ca.us

Ms. Chrisman or Mr. Holland also can assist in obtaining documents and in answering general questions.

PUBLIC ADVISER

The Energy Commission's Public Adviser, Margret J. Kim, 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 Adviser's Office by phone at (916) 654-4489 or toll free at (800) 822-6228, by FAX at (916) 654-4493, or by e-mail at pao@energy.state.ca.us.

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, 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, <http://www.energy.ca.gov/appliances/index.html>. 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 Energy 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 January 17, 2007 full Energy Commission hearing, the Energy Commission may adopt the proposed amendments substantially as described in this notice. 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 modified 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, and 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/index.html>.

Mailing Lists: 411, 414, 417, 422, 425, 430, 431, 441, 442, 443, 444, 445, 446, 447, 449, 453, 461, 462, 467 and Appliance List Server