

STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

Rulemaking to Implement)	Docket No. 12-OIR-XX
Senate Bill 454 and to Establish)	Order No. 12-0111-XX
an Administrative Enforcement)	
Process for the Appliance)	
Efficiency Regulations)	
_____)	

ORDER INSTITUTING RULEMAKING PROCEEDING

I. PURPOSE AND AUTHORITY OF THE PROCEEDING

The California Energy Commission (“Commission”) hereby institutes a rulemaking proceeding to implement the provisions of California Senate Bill (SB) 454 (Stats. 2011, ch. 591) and to establish an administrative enforcement process to enforce the Commission’s Appliance Efficiency Regulations, which are contained in Article 4 (commencing with Section 1601) of Chapter 4 of Division 2 of Title 20 of the California Code of Regulations (CCR).

We take this action under the authority of Public Resources Code (PRC) sections 25210, 25213, 25218(e), and 25402.11, and CCR, Title 20, sections 1220-1225.

The Commission will not at this time appoint a committee, pursuant to PRC section 25211, to preside over this rulemaking proceeding. Rather, the Commission reserves the right to appoint such a committee, and to delegate appropriate authority to it, at a later date. Commission staff shall be responsible for taking all actions necessary and appropriate to comply with all applicable legal requirements, such as the requirements of the PRC, the Administrative Procedure Act (APA), and the California Environmental Quality Act (CEQA), including but not limited to submittal of all necessary documents to the Office of Administrative Law (OAL).

II. SCOPE OF THE PROCEEDING

This rulemaking shall focus on implementing the Commission-specific provisions of SB 454, specifically newly-created PRC section 25402.11. That section authorizes the Commission to establish an administrative process for a violation of a regulation adopted pursuant to PRC section 25402(c), which is the statute that mandates that the Commission reduce wasteful, uneconomic, inefficient, or unnecessary energy use by prescribing, by regulation, standards for minimum levels of operating efficiency for

appliances. Once prescribed, such standards are included in the Commission's Appliance Efficiency Regulations.

Section 25402.11 authorizes the assessment of an administrative civil penalty not to exceed \$2,500 for each violation. The process for assessing such penalties must comply with the administrative adjudication provisions of the APA. Section 25402.11 also sets forth certain conditions that must be met before an administrative penalty may be imposed; the factors to be considered in formulating the total amount of the administrative penalty; what is to be done with the funds collected from the imposition of such penalties; and that judicial review is available for an order imposing an administrative penalty.

The rulemaking proceeding may result in new language to be added to, and modifications to existing language in, Title 20 of the CCR. Such new or modified regulatory language may, among other things, further define and make specific the provisions of PRC section 25402.11; set forth the precise mechanism(s) by which administrative penalties will be imposed; lay out the process and timelines under which an entity may administratively appeal the imposition of a penalty; and other language deemed necessary to ensure a fair, clear, and comprehensive administrative enforcement structure.

III. PUBLIC PARTICIPATION

The Commission encourages full and free public participation. Any person present at any hearing or workshop shall be afforded a reasonable opportunity to make oral comments on the subject matter of the proceeding. All written comments shall be addressed to:

California Energy Commission – Docket Unit

Attn: Docket No. 12-OIR-XX

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

Written materials may be submitted in hard copy or by electronic means.

To assist the Commission in its efforts, the Commission encourages those entities anticipated to be directly and indirectly impacted by these regulations to provide input in this proceeding. Such input may include observations derived from experiences with similar enforcement processes, and issues and information that are of particular concern or are within the specific expertise of an entity that the entity believes the Commission should be aware of and consider as it moves forward with this rulemaking. In particular, the Commission is interested in hearing from the regulated community (e.g. manufacturers, trade associations, distributors, and retailers), energy efficiency advocates, and state and federal regulators and enforcement agencies. The Commission anticipates that one or more workshops will be conducted in the proceeding, giving stakeholders the opportunity to make presentations and to submit

oral and written comments before any proposed regulations are submitted to OAL in order to begin the formal APA rulemaking phase of the proceeding.

The Executive Director, in conjunction with the Public Adviser, shall ensure that this order and notice of the time and place for all hearings and workshops are distributed to all interested persons. The Executive Director shall also ensure that drafts of regulations proposed for amendment are made available to interested persons and the Public Adviser sufficiently in advance of consideration or adoption by the Commission to allow timely public participation.

The Commission's Public Adviser's Office is available to provide the public with an understanding of this proceeding and to make recommendations for meaningful participation. For assistance, contact Jennifer Jennings, the Public Adviser, at (916) 654-4489 or 800-822-6228 or e-mail at: [publicadviser@energy.state.ca.us].

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz no less than five days prior to the hearing at (916) 654-5146 or e-mail: [lquiroz@energy.state.ca.us].

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the California Energy Commission held on January 12, 2012.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated: January 12, 2012, at Sacramento, California.

Harriet Kallemeyn
Secretariat
California Energy Commission