

Memorandum

To: CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento CA 95814-5512

Date: April 29, 2015

From: **Galen Lemei**
Office of the Chief Counsel

Subject: **Exemption of Regulations to Enforce Appliance Efficiency Regulations
From the California Environmental Quality Act**

Docket: **12-AAER-1**

The California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; see also CEQA Guidelines, Cal. Code Regs., tit. 14, § 15000 et seq.) requires that state agencies consider the environmental impact of their discretionary decisions. However, an activity is not subject to CEQA if: (1) The activity does not involve the exercise of discretionary powers by a public agency, (2) The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, or (3) the activity is not a “project” as defined in section 15378 of the regulations. (Cal. Code Regs., tit. 14, §§ 15060(c) & 15378(a).) Furthermore, the requirements of CEQA only apply to projects that have the potential for causing a significant effect on the environment. (Cal. Codes Regs., tit. 14, § 15061(b)(3).) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.) In addition, actions by a regulatory agency to enforce a law, general rule, standard, or objective administered or adopted by the regulatory agency are categorically exempt from CEQA, as are actions by a regulatory agency for the protection of the environment. (Cal. Code Regs., tit. 14, §§ 15321 & 15308.)

The proposed Section 1609, as modified and published on April 23, 2015, creates a process for the administrative enforcement of the Energy Commission’s *Appliance Efficiency Regulations*, and for assessing administrative civil penalties for violations thereof. It does not impose any new requirements, or entail any change to a physical environment. Consequently, there is no possibility that the adoption of Section 1609 would have a significant effect on the environment. The adoption of Section 1609 also supports the enforcement of regulations adopted and enforced by the Energy Commission to provide for the protection of the environment through the conservation of energy and water.

Accordingly, staff concludes that the adoption of the proposed Section 1609 is not a project as defined by section 15378 of title 14 of the California Code of Regulations, and is not subject to the California Environmental Quality Act because of the “common sense” exemption set forth in section 15061(b)(3) of this title, as well as the categorical exemptions set forth in sections 15308 and 15321 of this title.