

# Memorandum

To: Docket 18-AAER-10

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Subject: Exemption from the California Environmental Quality Act – Amendments to Title 20 Appliance Efficiency Regulations Rulemaking (Cal. Code Regs., tit. 20, §§ 1601-1609.)

## I INTRODUCTION

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. 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, (3) and the activity is not a “project” as defined in section 15378 of the regulations. (Cal. Code Regs., tit. 14, § 15060(c)). Furthermore, the requirements of CEQA only apply to projects that have the potential for causing a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061(b)(3).) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse physical change in the environment, and does not include an economic change by itself. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.)

## II DISCUSSION

The adoption of the proposed amendments to the Title 20 Appliance Efficiency Regulations is not subject to CEQA because the Energy Commission’s adoption of these regulations would not result in a direct or reasonably foreseeable indirect physical change in the environment. The proposed amendments make three categories of changes to the Title 20 Appliance Efficiency Regulations. First, the proposed amendments include changes to reflect current federal energy efficiency regulations. The purpose of these changes is to remove outdated federal language and provide the most current and accurate federal energy efficiency regulations. These types of changes will not have any direct or indirect significant effect on the environment because these federal regulations preempt state regulations and are therefore already effective regardless of California’s regulations.

Second, the proposed amendments include changes to state-specific requirements in the Title 20 Appliance Efficiency Regulations. These changes include:

- deleting state standards and state test procedures that are preempted by federal law, aligning the state test procedures for battery chargers with the federal test procedures for battery chargers, deleting the requirement to report portable luminaire sales data, and changing the marking requirement for distribution transformers; the purpose of these changes is to clarify and simplify the regulations and reduce manufacturers' burdens and costs; and
- adding new data reporting requirements for federally regulated low-profile ceiling fans, pumps, walk-in coolers and freezers to verify compliance with the new federal efficiency standards for these products and ensure that only complaint products are sold or offered for sale in California; and
- updating the regulations to reflect the use of the new Modernized Appliance Efficiency Database System and updating to the certification process, including:
  - changing the names to refer to the nomenclature used in the MAEDbS,
  - allowing the Commission to send electronic notifications of database changes instead of mail notifications by registered or certified mail,
  - providing for automatic removal of models from the "Approved" database to the "Archived" database when an appliance no longer complies with the regulations, and
  - updating data reporting requirements to align with current federal or state test procedures.

The purpose of the changes described above is to simplify and remove burdensome procedures in the certification process and to ensure compliance with the regulations. These changes will not have any direct or indirect significant effect on the environment because the amendments do not change the energy or water efficiency standards for any appliance or result in any changes in the estimated energy or water savings from the standards set by the regulations.

Last, the proposed amendments include changes to correct typographical errors, clarify ambiguous language, and maintain consistent terms and format throughout the regulations. These are non-substantial changes meant to improve the clarity and readability of the regulations. Therefore, these changes will not have any direct or indirect significant effect on the environment.

Because it can be seen with certainty that there is no possibility that any of the proposed amendments to the Title 20 Appliance Efficiency Regulations may have a significant effect on the environment, and nothing in the record suggests otherwise, the Energy Commission's adoption of the proposed regulations is not subject to CEQA under the *common sense* exemption of California Code of Regulations, title 14, section 15061(b)(3).

### III CONCLUSION

Based on the above discussion, the adoption of the proposed amendments to the Title 20 Appliance Efficiency Regulations is not subject to CEQA and a Notice of Exemption may be filed with the Office of Planning and Research.