

Item 9

Title 20. Public Utilities and Energy **Division 2. State Energy Resources Conservation and Development Commission** **Chapter 4. Energy Conservation** **~~Article 6. Energy Conservation Assistance Act Regulations~~**

~~§ 1650. Purpose.~~

~~These regulations specify the eligibility criteria and allocation procedures to be followed by the Energy Commission in implementing the Energy Conservation Assistance Act (ECAA), Public Resources Code Sections 25410-25421.~~

~~Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25419, Public Resources Code.~~

~~§ 1651. Definitions.~~

~~As used in this article:~~

~~(a) "Certified energy auditor" is a person who has successfully completed an energy auditor training course cosponsored by the Commission and the California Community Colleges, or who is otherwise certified by the Commission. The Commission shall maintain a current list of such auditors. All energy audits for this program shall be conducted by certified energy auditors.~~

~~(b) "Construction completion" is the date of issuance of an occupancy permit.~~

~~(c) "ECAA" is the Energy Conservation Assistance Act, Public Resources Code Sections 25410-25421.~~

~~(d) "Energy cost savings" is the difference between the amount of a loan recipient's utility bill after an energy conservation project is implemented and the amount of the utility bill had the project not been implemented.~~

~~(e) "Energy Use Index" is the value obtained by dividing a building's total annual energy use in Btus by the gross square feet of the building.~~

~~(f) "Committee" is the committee of the Commission, designated pursuant to Section 25211 of the Public Resources Code, which shall review all loan applications submitted under the ECAA.~~

~~(g) "Gross square feet" is the sum of all heated and cooled floor areas enclosed in a building, calculated from the outside dimensions, or from the centerline of common walls.~~

~~(h) "Institutional Conservation Program" is the Energy Conservation Measures and Energy Audits Grant Program for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions, administered by the Department of Energy pursuant to 42 U.S.C. Sections 6371-6372i.~~

~~(i) "Long-term care institution" is a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who require skilled nursing or intermediate care and related medical services:~~

~~(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital; or~~

~~(2) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the state.~~

~~(j) "Rehabilitation institution" is a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of:~~

~~(1) medical evaluation and services; and~~

~~(2) psychological, social, or vocational evaluation and services, under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the state.~~

~~(k) "Residential child care center" is an institution (other than a foster home) operated by a public or nonprofit institution, which is primarily intended to provide full-time residential care with an average length of stay of at least 30 days for at least 10 minor persons who are in the care of such institution as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.~~

~~(l) "Simple payback" is the time it takes to recover the cost of an energy conservation project by the resulting energy cost savings. This payback is calculated by dividing the amount of the loan including the interest and other costs associated with the loan, by the estimated annual energy cost savings based upon utility rates in effect at the time of application.~~

~~(m) "Streetlight conversion project" is the whole of a proposal to convert a streetlighting system or portion thereof, as provided for by Section 25412.5 of the Public Resources Code.~~

~~(n) "Technical audit" is a "technical assistance program," as used in the EGAA.~~

~~(o) "Technical auditor" is a person eligible to perform technical audits for this program. The technical auditor must:~~

~~(1) Be an engineer registered in the State of California;~~

~~(2) Be free from any financial interest which may conflict with the proper performance of the auditor's duties. This qualification includes, but is not limited to, the requirement that the auditor not have a financial interest in or be employed by a vendor or manufacturer of products which a technical audit could recommend.~~

~~Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25211, 25411(b), (m)(1), (m)(2), (m)(4), (r), 25413 and 25419, Public Resources Code.~~

~~§ 1652. Loan Cycles.~~

~~(a) Scheduling. A loan cycle shall take place when the Commission determines that there are sufficient funds in the Energy Conservation Assistance Account. The Commission shall provide potential applicants with a minimum of 90 days notice to submit applications, unless the purpose of the cycle is to make matching loan monies available to eligible institutions which have received Institutional Conservation Program energy conservation measure grants. In such case, the Commission shall give the maximum notice possible under the Institutional Conservation Program schedule.~~

~~(b) Loan Monies Available. When the Commission gives notice of a loan cycle it shall also announce the types of loans for which it will be accepting applications, loan minimums and maximums, cents per square foot limits for energy audit and energy audit/technical audit loans, and the total loan monies expected to be available for the cycle.~~

~~(c) Loan Approval. The committee shall review all loan applications and shall recommend to the Commission applications for approval.~~

~~(d) Loan Disapproval. If the committee proposes to recommend disapproval of any loan application, the committee shall advise the applicant in writing of the specific reasons why the application was disapproved.~~

~~(e) Appeals. An applicant may appeal a proposed disapproval by filing a petition for appeal with the Commission Docket Unit within 15 days of receiving notification of the proposed disapproval. All appeals shall explain the grounds therefor. All appellants shall be notified of the Commission business meeting at which the Commission shall consider the committee's recommendations for loan approvals and shall have an opportunity to make oral comments at that meeting.~~

~~Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25214 and 25419, Public Resources Code.~~

~~§ 1653. Energy Audit and Energy Audit/Technical Audit Loans.~~

~~(a) Application Requirements. Energy audit and energy audit/technical audit loan applications shall contain:~~

~~(1) A description of the building(s) to be audited, including the gross square feet and date of construction completion for each;~~

~~(2) A budget summary for the project(s), including funds budgeted for materials and contracts (including engineering consultant fees);~~

~~(3) A proposed project schedule, including dates for project commencement and completion;~~

~~(4) Copies of utility bills for the previous twelve consecutive months, or data supplied by the utility(ies) summarizing this information.~~

~~(b) Scoring of Applications. Loan applications with the highest Energy Use Index shall be given the highest ranking. Such ranking shall not include any project deemed to be unreasonable because of its cost, economic viability, or technical feasibility.~~

~~(c) Audit Report. Within 90 days of the conclusion of an energy audit or energy audit/technical audit financed in whole or in part by ECAA funds, the loan recipient shall submit to the Commission an energy or technical audit report for each building audited with ECAA funds. Such report(s) shall contain the information required by federal law for the Institutional Conservation Program, and an estimate of the energy and cost savings the recommended changes in maintenance and operating procedures will achieve.~~

~~(d) Implementation. Before receiving a loan for an energy audit or energy audit/technical audit, applicants shall promise in good faith to implement all feasible changes to existing maintenance and operating procedures as set forth in the energy audit, so that the loan will be repaid out of energy cost savings.~~

~~(e) Repayment. Energy audit and energy audit/technical audit loans shall be repaid within two years, unless the recipient can demonstrate to the Commission that it will not have recovered the amount of the loan through energy cost savings within that time. In such case, the repayment period shall be extended as necessary so that the recipient can repay the loan out of energy cost savings.~~

~~Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25412, 25413, 25417(a) and 25419, Public Resources Code.~~

§ 1654. Energy Conservation Measure Loans.

~~(a) Application Requirements. An application for an energy conservation measure loan shall contain:~~

~~(1) An energy audit and technical audit report for each building in the application, except that an energy audit report shall not be required for a loan not involving a building. If either report has been previously submitted, the applicant need only update relevant information;~~

~~(2) A budget for the project, including funds budgeted for~~

- ~~(A) labor;~~
- ~~(B) engineering;~~
- ~~(C) construction;~~
- ~~(D) material;~~
- ~~(E) equipment;~~
- ~~(F) inspection;~~
- ~~(G) demolition (if applicable); and~~
- ~~(H) removal (if applicable); less equipment salvage value (if applicable).~~

~~(3) A proposed project schedule, including dates for project commencement and completion.~~

~~(4) A statement that all energy conserving changes to maintenance and operating procedures which are identified in the energy audit or technical audit reports have been or will be implemented by a specified date, or a written justification for not implementing any procedures so identified;~~

~~(5) A statement that the applicant has no intention to close or otherwise dispose of the building within the simple payback of any energy conservation measure for which an ECAA loan is sought.~~

~~(b) Scoring of Applications. Energy conservation measure loan applications with the lowest simple paybacks shall be given the highest ranking. Such ranking shall not include any project deemed to be unreasonable because of its cost, economic viability, or technical feasibility.~~

~~(c) Central Plants. If an energy conservation measure loan is sought only for a building which is a central plant, separate energy audits must be done on the central plant and each building it serves, but the technical audit need only be conducted for the central plant building.~~

~~(d) Preferred Energy Conservation Measures. At the commencement of a loan cycle, the Commission may designate specific energy conservation measures for which, because of their proven energy savings, applicants need only submit an energy audit report for the building(s) involved and a breakdown of the estimated costs and savings for the proposed measures.~~

~~(e) Loans to Supplement Project Funding. The Commission may make energy conservation measure loan monies available to eligible institutions for the purpose of supplementing funds secured from other public and private sources.~~

~~Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25412, 25413 and 25419, Public Resources Code.~~

~~§ 1655. Streetlight Conversion Project Loans.~~

~~(a) Application Requirements. An application for a streetlight conversion loan shall contain the information necessary to demonstrate compliance with the criteria set forth in Public Resources Code Section 25412.5, including:~~

~~(1) Whether the applicant purchases its electricity from a utility or operates its own electrical system;~~

~~(2) The number, type, wattage, and ballast wattage, if applicable, of all luminaires proposed for conversion;~~

~~(3) Estimated conversion costs for each luminaire;~~

~~(4) Existing annual operating hours, kilowatt hours, and operating costs for each;~~

~~(5) Estimated annual operating hours, kilowatt hours, and operating costs for each, after conversion;~~

~~(6) The simple payback of the project;~~

~~(7) A budget for the project, including funds budgeted for~~

~~(A) labor;~~

~~(B) engineering;~~

~~(C) construction;~~

~~(D) material;~~

~~(E) equipment;~~

~~(F) inspection; and~~

~~(G) removal (if applicable); less equipment salvage value (if applicable).~~

~~(8) A proposed schedule including dates of project commencement and completion.~~

~~(b) Scoring of Applications. Loan applications with the lowest simple paybacks shall be given the highest ranking. Such ranking shall not include any project deemed to be unreasonable because of its cost, economic viability, or technical feasibility.~~

~~Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Sections 25412, 25412.5, 25413 and 25419, Public Resources Code.~~

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**ENERGY CONSERVATION
ASSISTANCE ACT (ECAA)
RULEMAKING**

Docket No. 18-OIR-02

**[PROPOSED] RESOLUTION
REPEALING ECAA REGULATIONS**

WHEREAS, on July 12, 2019, the State Energy Resources Conservation and Development Commission (CEC) mailed and posted on the CEC's website a Notice of Proposed Action (NOPA) formally notifying the public of the CEC's intent to repeal the Energy Conservation Assistance Act (ECAA) Regulations, the Express Terms of the proposed repeal, an Initial Statement of Reasons (ISOR) describing the rationale for the repeal; and

WHEREAS, on July 12, 2019, the NOPA was published in the California Regulatory Notice Register; and

WHEREAS, on July 18, 2019, the CEC posted on its website an updated NOPA to correct the Webex link for the public hearing; and

WHEREAS, on August 26, 2019, the CEC mailed and posted on its website a Revised NOPA to all the recipients specified in Government Code section 11346.4(a)(1)-(4) to correct links, correct the publication date, change the public hearing date, and extend the public comment period; and

WHEREAS, on October 10, 2019, the 45-day comment period established by the Revised NOPA closed; and

WHEREAS, on October 11, 2019, the CEC held a public hearing to hear comments on the proposed repeal; and

WHEREAS, on November 1, 2019, the CEC provided notice designating November 13, 2019 as the date for the hearing to consider adoption of the proposed repeal and its adoption and did so adopt the repeal.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to the California Environmental Quality Act:

- The CEC has considered the application of the California Environmental Quality Act (CEQA) to the proposed repeal and concluded that the proposed repeal is exempt from CEQA under the common sense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3).) because the proposed repeal will not affect how the ECAA Program is implemented and therefore it can be seen with certainty that there is no possibility that the proposed repeal may have a significant effect on the environment; and

With regard to the Administrative Procedure Act:

- The proposed repeal will not create new businesses, eliminate existing businesses, or result in the expansion of businesses currently doing business in California and will not result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and
- The proposed repeal will not create or eliminate jobs within California; and
- The proposed repeal will impose no direct costs, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts; and
- The proposed repeal will result in no costs or savings in federal funding to the State of California; and
- The proposed repeal will result in no costs or savings to any state agency; and
- The proposed repeal will result in no nondiscretionary costs or savings to local agencies or school districts; and
- The proposed repeal will have no impact on housing costs; and
- The proposed repeal will have no significant, statewide adverse economic impact on businesses in general or small businesses in particular; and
- The proposed repeal will result in no cost impacts to representative private persons or businesses in reasonable compliance with the repeal; and
- The proposed repeal will not impact the health and welfare of California residents, worker safety, or the state's environment; and
- The proposed repeal has no alternatives that would be more effective in carrying out the purposes of the Warren-Alquist Act, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes; and

- The proposed repeal will not have a significant adverse economic impact on small business and no alternatives were proposed that would lessen any adverse economic impact on small business; and
- The proposed repeal will not require completion of any report; and
- No written comments were received during the 45-day comment period and one comment was received at the public hearing and the comment and nothing else in the record justified any changes to the proposed repeal as published on July 12, 2019.

THEREFORE BE IT RESOLVED, on the basis of the entire record before it, the CEC finds that the proposed repeal is exempt from CEQA under the common sense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3).) because the proposed repeal will not affect how the ECAA Program is implemented and therefore it can be seen with certainty that there is no possibility that the proposed repeal may have a significant effect on the environment; and

FURTHER BE IT RESOLVED, after considering the entire record before it, the CEC hereby repeals the ECAA Regulations, as set forth in the express terms that were published on July 12, 2019 (Cal. Code of Regs., tit. 20, §§ 1650-1655.). The CEC takes this action under the authority of section 25218(e) of the Public Resources Code, which authorizes the CEC to adopt rules or regulations, as necessary, to implement, inter alia, Public Resources Code sections 25412, 25413, 25415(a), and 25419; and

FURTHER BE IT RESOLVED, that documents and other materials that constitute the rulemaking record can be found at the California Energy Commission, 1516 9th Street, Sacramento, California, 95814 in the custody of the Docket Unit; and

FURTHER BE IT RESOLVED, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed repeal go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and preparing and filing the Notice of Exemption with the State Clearinghouse.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the CEC held on November 13, 2019.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat