

Memorandum

To: Docket 20-AAER-03

Date: 12/9/2020

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Subject: Exemption under the California Environmental Quality Act for Proposed Language Regarding Advances in Computer Technology

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 is not a “project” as defined in section 15378 of the regulations, (Cal. Code Regs., tit. 14, § 15060(c)), or (2) the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Code Regs., tit. 14, § 15061(b)(3).)

II BACKGROUND

The Warren-Alquist Act established the California Energy Commission (CEC) as California’s primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(c) of the Public Resources Code mandates and/or authorizes that the CEC adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances whose use requires a significant amount of energy or water statewide. One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations (California Code of Regulations (CCR), Title 20, Sections 1601-1609), which contain definitions, test procedures, efficiency standards, and marking and certification requirements for state and federally regulated appliances. Further, the regulations require that appliance manufacturers certify to the CEC that their products meet all applicable state and federal appliance efficiency regulations before their products can be included in the CEC’s Modernized Appliance Efficiency Database System (MAEDbS) of appliances approved to be sold or offered for sale within California.

In 2017, the CEC amended the regulations for computers and computer monitors in response to new technologies. Recently, the CEC has been presented with a list of advances in technologies for computers and computer monitors that were not available at the time of the previously completed computers rulemaking. Therefore, the CEC proposes to amend the Title 20 Appliance Efficiency Regulations to modify definitions, existing standards, and test

procedures for computers and computer monitors to incorporate new technologies and innovations.

III DISCUSSION

Two of the proposed changes would affect definitions and test procedures to clarify that certain types of notebook computers and computers with cyclical behavior are included in the existing standards and to ensure that the collected data is reliable, representative, and reproducible.

A third change would create a new energy allowance or “adder” for a wired Ethernet with a data transmit rate of greater than 1 Gb/s and less than 10 Gb/s, which is a new and innovative feature or functionality that was not considered at the time of the previously completed rulemaking and requires additional consideration in the efficiency levels for computers. Existing law regulates the idle-mode energy consumption of most types of computers, including desktops, notebooks, workstations, and small-scale servers. The base level of energy consumption for most computers, including desktops and notebooks, is set at a flat rate. The regulations then provide for energy “adders” that allow manufacturers to consume energy above the base level if they contain certain additional features and functionalities in their products. Workstations and small-scale servers do not have base energy levels and adders but are instead required to include certain energy efficient features to ensure that energy consumption remains low. The new energy allowance provides computer manufacturers adequate flexibility for compliant design of the computer. These changes will not affect energy consumption.

The fourth change would result in a minute increase in energy consumption by providing a new “add”, for a type of new, innovative computer gaming monitors. Existing regulations for computer monitors provide a base energy allowance for on-mode energy consumption plus additional energy “adders” for certain features and functionalities. The new monitor technology addressed in this rulemaking allows users to view image contents with a much faster refresh rate. Computer monitor’s on-mode energy consumption rises as its refresh rate increases. The second tier of the energy allowances for computer monitors in the existing regulations, which will become effective on January 1, 2021, can accommodate energy consumption of monitors with refresh rates up to 300 Hz. The proposed energy adder applies to the second-tier standards and pertains only to computer monitors with refresh rates of 300 Hz or higher.

The development and adoption of these amendments to the CEC’s appliance efficiency standards are exempt from CEQA under the *common sense* exemption. CEQA only applies 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 change in the environment, and does not include an economic change by itself. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.) These monitors are designed for an extremely small market segment – competitive gamers. Very few of them are likely to be sold in California. Moreover, staff has evaluated the increased energy consumption and determined that it will be less than .20 GWh/yr for the first two years of the new standard. This is an approximately .01% increase in energy consumption compared to the overall estimated energy savings identified in the 2016 rulemaking. This negligible effect supports the conclusion that there is no possibility this project will have a significant effect on the environment. Therefore, adoption of the amendments to the CEC’s regulations would not be subject to CEQA under the *common sense* exemption of section 15061(b)(3).

III CONCLUSION

Based on the above discussion, the development of the regulations and adoption of the proposed language would not be subject to CEQA, and a Notice of Exemption may be filed with the Office of Planning and Research.

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

**Appliance Efficiency Regulations
California Code of Regulations
Title 20, Section 1601, et seq.**

Docket No. 20-AAER-03

**[Proposed] Resolution Amending
Appliance Efficiency Regulations to
account for advances in Computer and
Computer Monitor technologies**

WHEREAS, on October 2, 2020, the State Energy Resources Conservation and Development Commission (CEC) published a Notice of Proposed Action (NOPA) formally notifying the public of the CEC's intent to amend the Appliance Efficiency Regulations to account for advances in Computer and Computer Monitor technologies, the Express Terms of the proposed amendments, and an Initial Statement of Reasons (ISOR) describing the rationale for the amendments; and

WHEREAS, on October 2, 2020, the NOPA was published in the California Regulatory Notice Register; and

WHEREAS, on November 16, 2020, the 45-day comment period established by the NOPA closed; and

WHEREAS, on November 18, 2020, the CEC held a public hearing to hear comments on the proposed amendments; and

WHEREAS, each of these documents and notices was provided to every person on the CEC's Appliances list serve, the CEC's Rulemaking list serve, and to every person who had requested notice of such matters, and was posted to the Commission's website; and

WHEREAS, on November 24, 2020, the CEC provided notice designating December 9, 2020 as the date for the hearing to consider adoption of the proposed amendments and did so adopt the proposed amendments.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to the California Environmental Quality Act (CEQA):

- The CEC has considered the application of CEQA to the proposed amendments and concluded that the proposed amendments are exempt from CEQA under the common sense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3)) because the proposed amendments will have a negligible effect on energy consumption, and therefore it can be seen with certainty that there is no possibility that the proposed amendments will have a significant effect on the environment; and

With regard to the Warren-Alquist Act:

- The proposed regulations will establish minimum levels of operating efficiency, based on a reasonable use pattern, and reduce the wasteful, uneconomic, inefficient, and unnecessary consumption of energy for appliances that require a significant amount of energy on a statewide basis; and
- The proposed regulations are technologically feasible and attainable; and
- The proposed regulations do not result in any added total costs to the consumer over the designed life of the appliances concerned; and

With regard to the Administrative Procedure Act (APA):

- The proposed regulations will not create new businesses, eliminate existing businesses, or have an effect on the expansion of businesses in California and will not result in a significant statewide adverse impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and
- The proposed regulations will not create or eliminate a significant number of jobs within California; and
- The proposed regulations will impose no direct costs, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, when savings accruing over the lifetime of the appliance is considered; and
- The proposed regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed regulations will not result in cost or savings to any state agency in reasonable compliance with these regulations; and

- The proposed regulations will result in no nondiscretionary costs or savings to local agencies or school districts when savings accruing over the lifetime of the appliance is considered; and
- The proposed regulations will have no impact on housing costs; and
- The proposed regulations will have no significant, statewide adverse effect on businesses in general or small businesses in particular; and
- The proposed regulations will impose no significant net costs on private persons as the regulations are not expected to impact the cost of products currently on the market; and
- The proposed regulations will result in some costs that a representative business would necessarily incur in reasonable compliance with the regulations, but any costs will be passed on to consumers and outweighed by savings resulting from reduced energy use; and
- The proposed regulations will result in non-economic benefits, on a statewide level, such as ensuring California residents have access to new and innovative technologies and ensuring that such technologies are properly regulated; and
- The proposed regulations have 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 regulations require completion of certain reports regarding the efficiency and performance of the regulated appliances; this information is necessary for consumers and the Energy Commission to confirm that the standards are met and that the appliances consume no more energy than allowed, so that the anticipated energy savings, and energy, environmental, and cost benefits will actually be achieved. Accordingly, it is necessary that these reporting requirements apply to businesses in order to protect the health, safety and welfare of the people of California, as required by Government Code section 11346.3, subdivision (d); and
- While one comment led to a minor addition of language for clarification, none of the comments received during the comment period or at the adoption hearing, and nothing else in the record, justified any substantive changes to the proposed regulations as published on October 2, 2020.

THEREFORE, BE IT RESOLVED, that, on the basis of the entire record before it, the CEC finds that the proposed amendments are exempt from CEQA under the common

sense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3)) because the proposed amendments will have a negligible effect on energy consumption, and therefore it can be seen with certainty that there is no possibility that the proposed amendments will have a significant effect on the environment; and

BE IT FURTHER RESOLVED, that after considering the entire record before it, the CEC hereby amends the Appliance Efficiency Regulations as set forth in the express terms that were published on October 2, 2020 (Cal. Code of Regs., tit. 20, § 1602, 1604, 1605.3, 1606.). 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 25218(e), 25402, and 25402.1; and

BE IT FURTHER RESOLVED, that the 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 or online at <https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-4>; and

BE IT FURTHER RESOLVED, that the CEC authorizes and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed amendments 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 CEC 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 December 9, 2020.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat