

Memorandum

To: Docket 20-AAER-01

Date: December 9, 2020

Telephone: CALNET (916) 654-4719

From: Carlos Baez
Energy Commission Specialist 1
Appliances Office

Subject: Basis for Finding an Exemption under the California Environmental Quality Act

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 establishes 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. Additionally, the CEC is responsible for updating the state’s building standards, title 24, California Code of Regulations, parts 6 and 11, every three years.

In January 2012, the requirements for self-contained lighting controls were moved from the California Building Energy Efficiency Standards (Title 24) to the California Appliance Efficiency Regulations (Title 20). However, since then the manufacture and operation of 2 lighting controls began to shift towards a group of devices working as a system, rather than a group of

independent, discrete devices, making it more appropriate to regulate these appliances through building energy efficiency standards rather than appliance efficiency standards. During development of the 2019 Building Energy Efficiency Standards the CEC included requirements for lighting control devices, whether they work as a system or independently. These requirements became effective January 1, 2020 and supersede those in the Title 20 Appliance Efficiency Regulations.

Therefore, with the 2019 Building Energy Efficiency Standards effective on January 1, 2020, the CEC is proposing to repeal self-contained lighting controls in the Title 20 Appliance Efficiency Regulations to avoid duplicative regulation. In addition, the CEC is providing updates to reflect current mandatory federal laws, removing the outdated minimum lumen output requirement for portable luminaires, modifying data submittal requirements for certain appliances, and making non-substantive changes to effectively communicate the regulations in a precise and clear manner.

III DISCUSSION

None of the proposed changes to the efficiency regulations would cause a direct or reasonably foreseeable indirect physical change in the environment. The proposal would repeal the self-contained lighting requirements as these requirements have been moved to the 2019 Building Energy Efficiency Standards (Title 24) effective January 1, 2020. As such, the requirements in the Appliance Efficiency Regulations for this appliance type are duplicative and unnecessary. The CEC is also providing updates to reflect current federal laws. The Appliance Efficiency Regulations are designed to provide manufacturers, retailers, and consumers of appliances with a clear and comprehensive set of both federal and state regulations in a single location. These updates will ensure the Appliance Efficiency Regulations will reflect current federal law, providing clarity and regulatory certainty to regulated parties. Third, the modifications to data submittal requirements for certain appliances will ensure that manufacturers can properly certify to the CEC Modernized Appliance Efficiency Database System (MAEDbS) that their regulated products are compliant with the most current energy performance standards and testing requirements. Finally, the removal of the outdated minimum lumen output requirement for portable luminaires will allow manufacturers to design portable luminaries that provide less than 200 lumens, if desired, leading to better product availability for consumers. The CEC is also proposing to make non-substantive numbering, ordering, cross-reference, and grammatical changes to Title 20 to effectively communicate the regulation in a precise and clear manner.

The development and adoption of these amendments to the CEC's appliance efficiency standards are exempt from CEQA under the *commonsense* 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.) The changes proposed mainly consist of updates and cleaning-up of the regulations to ensure existing requirements are clear and non-duplicative. The only truly substantive change is the removal of the requirement that portable luminaires be 200 lumens or above; this prohibition of lower-output products unnecessarily restricted manufacturers from making lighting products with a lower light output. The change proposed would not create a new or different efficiency standard than is already in place. For these reasons, adoption of the

amendments to the CEC's regulations would not be subject to CEQA under the *commonsense* 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-01

**[Proposed] Resolution Updating and
Amending Appliance Efficiency
Regulations Concerning Self-
Contained Lighting Controls and Other
Matters**

WHEREAS, on October 9, 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 repeal the self-contained lighting control requirements, provide updates to reflect current federal law, remove the outdated minimum lumen output requirement for portable luminaires, and modify data submittal requirements for certain appliances; the Express Terms of the proposed amendments; and an Initial Statement of Reasons (ISOR) describing the rationale for the amendments; and

WHEREAS, on October 9, 2020, the NOPA was published in the California Regulatory Notice Register; and

WHEREAS, on November 23, 2020, the 45-day comment period established by the NOPA closed; and

WHEREAS, on December 3, 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 commonsense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3)) because 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, by ensuring the standards are clear and up to date, will guarantee the appliance efficiency regulations continue to 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 not result in any costs that a representative business would necessarily incur in reasonable compliance with the regulations; and
- The proposed regulations will result in non-economic benefits, on a statewide level, such as ensuring the requirements are clear and non-duplicative and allowing California residents will have access to lower-lumen products; 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 update the information that must be contained in 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
- None of the comments received during the comment period or at the adoption hearing, and nothing else in the record, justified any changes to the proposed regulations as published on October 9, 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 commonsense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3)) because 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 9, 2020 (Cal. Code of Regs., tit. 20, § 1601, 1602, 1604, 1605, 1605.1, 1605.2, 1605.3, 1606, 1607). 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/amendments-title-20-appliance>; 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