

DOCKETED	
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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION: ADOPTION OF FLEXIBLE DEMAND APPLIANCE STANDARDS FOR POOL CONTROLS (Docket 23-FDAS-01)

WHEREAS, on February 23, 2023, 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 adopt proposed Flexible Demand Appliance Standards for Pool Controls, the proposed regulations, the Initial Statement of Reasons (ISOR) describing the rationale for the proposal, and the Economic Impact Statement (Form 399); and

WHEREAS, on February 24, 2023, the NOPA was published in the California Regulatory Notice Register, delivered to the secretary of the California Natural Resources Agency, and distributed to the CEC's Appliance Efficiency Standards, the CEC Initial Rulemaking Interest, the Flexible Demand Appliances, and the Load Management and Demand Response email subscription lists, and to every person that requested notice of such matters. The NOPA stated that a public hearing to hear comments on the proposed regulations would be held on April 11, 2023; and

WHEREAS, on April 10, 2023, the 45-day written comment period established by the NOPA closed; and

WHEREAS, on April 11, 2023, the CEC staff for the rulemaking held a public hearing for the proposed regulations, as noticed in the NOPA, to receive oral comments on the proposed regulations; and

WHEREAS, on June 21, 2023, the CEC published a notice of 15-day comment period proposing changes to the proposed language based on comments received during the 45-day comment period and the April 11, 2023, public hearing; and

WHEREAS, on June 23, 2023, the CEC published a notice of 15-day comment period replacing the notice issued on June 21, 2023, and restarting the 15-day comment period due to errors identifying some of the changes in the proposed regulatory language, and

WHEREAS, on July 10, 2023, the 15-day comment period closed; and

WHEREAS, on September 1, 2023, the CEC published a second notice of 15-day comment period proposing further changes to the proposed language based on comments received during the prior 15-day comment period; and

WHEREAS, on September 18, 2023, the second 15-day comment period closed; and

WHEREAS, on October 5, 2023, the CEC published a Final Proposed Regulatory Text that included two non-substantive changes from the regulatory text published on September 1, 2023;

WHEREAS, each of the above-referenced documents and notices was posted on the CEC's website and provided to every person on the CEC's Appliance Efficiency Standards, the CEC Initial Rulemaking Interest, the Flexible Demand Appliances, and the Load Management and Demand Response email subscription lists, and to every person who had requested notice of such matters; and

WHEREAS, on October 18, 2023, the CEC considered adoption of the proposed regulations at its business meeting; and

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 regulations and concluded that the proposed regulations are exempt from CEQA requirements under the categorical exemptions set forth in California Code of Regulations, Title 14, sections 15306, 15307, and 15308, and under the common sense exemption pursuant to section 15061(b)(3); and

With regard to the Warren-Alquist Act:

- The proposed regulations will reduce emissions of greenhouse gases associated with electricity generation by enabling appliance operations to be scheduled, shifted, or curtailed. Specifically, the regulations will enable flexible operations for pool controls and, generally, set the foundation for a program that will continue to pursue opportunities to achieve GHG reductions and other benefits through flexible demand technologies.
- The regulations are based on feasible improvements and attainable efficiencies; and
- The CEC considered cybersecurity protocols that are equally or more protective than the National Institute of Standards and Technology's reliability and cybersecurity protocols and the North American Electric Reliability Corporation's Critical Infrastructure Protection standards; and
- The regulations are cost-effective; and

With regard to the Administrative Procedure Act:

- The proposed regulations will not result in the creation of new businesses or elimination of existing businesses, will not 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 regulation will impose no direct cost or savings, 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 the elimination of some jobs in California but in the net creation of jobs in California; and
- The proposed regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed regulations will result in no discretionary costs or savings to local agencies or school districts; and
- The proposed regulations will have no impact on housing costs; and
- The proposed regulations will result in no significant cost impacts to representative private persons or business in reasonable compliance with the regulations; and
- The proposed regulations will not adversely impact the health and welfare of California residents, or worker safety, or the state's environment; and
- The proposed regulations have no alternatives that would be more effective in carrying out the purpose of the statutes for which it is proposed, 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 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 regulations will not require completion of any new report; and
- None of the comments received during the three separate comment periods, public hearing, or at the public adoption hearing, and nothing else in the record, justified any substantive changes to the proposed regulations as published on September 1, 2023; and

THEREFORE, BE IT RESOLVED, that, based on the entire record before it, the CEC finds that the proposed regulations are exempt from CEQA under the categorical exemption under California Code of Regulations title 14, sections 15307 and 15308 and the common sense exemption under section 15061(b)(3) for the reasons stated in the Notice of Exemption prepared for the project; and

FURTHER BE IT RESOLVED, after considering all comments received and the staff's responses, and based on the entire record of this proceeding, the CEC hereby adopts a

new Chapter 4.1, Article 1, sections 1690, 1691, 1692, 1693, 1694, 1695, 1696, and 1697 into Title 20, Flexible Demand Appliance Standards, as set forth in the proposed language that was published to the rulemaking docket on October 5, 2023; and

The CEC takes this action under the authority of Senate Bill 49 (Skinner, Chapter 697, Statutes of 2019), specifically sections 25402(f) and 25402.11 of the Public Resources Code, authorizing the CEC to develop standards for flexible demand technologies to reduce greenhouse gas (GHG) emissions from electricity generation; and

FURTHER BE IT RESOLVED that documents and other materials that constitute the rulemaking record can be found at the CEC, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online in [Docket Number 23-FDAS-01](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-FDAS-01), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-FDAS-01>; and

FURTHER BE IT RESOLVED, the CEC delegates the authority and directs staff and the executive director or their designee to take, on behalf of the CEC, all actions reasonably necessary to have the proposed regulations 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 October 18, 2023.

AYE: Gunda, McAllister, Monahan, Gallardo

NAY: NONE

ABSENT: Hochschild

ABSTAIN: NONE

Dated: October 19, 2023

SIGNED BY:

Kristine Banaag
Secretariat