

DOCKETED

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FINAL STATEMENT OF REASONS

Residential Air Filters, Residential Pool Pump and Motor Combinations, and Replacement Residential Pool Pump Motors

California Energy Commission
Docket No. 2017-AAER-14
August 25, 2017

I. Introduction

This document is the Final Statement of Reasons (FSOR) required by Government Code sections 11346.5(a)(19), 11346.9, and 11347.3(b)(2).

In this rulemaking, the California Energy Commission proposes to adopt amendments to California Code of Regulations, title 20, section 1606, Table X, subsection C, and section 1607(d)(12), to delay the date by which residential air filters for use in forced-air heating or forced-air cooling equipment must comply with testing, certification, and marking requirements, and California Code of Regulations, title 20, section 1602(g) and section 1606, Table X, subsection G, to allow the certification of permanent magnet synchronous motors for use in residential pool pump and motor combinations or used as replacement residential pool pump motors.

The Energy Commission previously adopted these amendments through emergency regulations pursuant to Government Code section 11346.1 on March 8, 2017, which the Office of Administrative Law approved on March 27, 2017, and made effective on that date. The emergency regulations expire on September 26, 2017. The purpose of this rulemaking is to certify and adopt the emergency regulations on a permanent basis, pursuant to Government Code section 11346.1(e).

II. Procedural History of this Rulemaking

On June 16, 2017, the Office of Administrative Law published a Notice of Proposed Action (NOPA) concerning adoption of the proposed amendments to the regulations in the California Notice Register. The Energy Commission posted the NOPA, the Express Terms of the regulations, and the Initial Statement of Reasons (ISOR) that explained the rationale for the proposed amendments, on its website on June 16, 2017.

The NOPA specified a comment period of 45 days that ended on July 31, 2017. No comments were submitted during the noticed comment period. The public hearing listed in the NOPA was held on August 9, 2017.

On August 9, 2017, after the end of staff testimony and opportunity for public comments, the Commission considered approval of a resolution adopting the proposed Express Terms.

After considering the entire record, including the statement of exemption from the California Environmental Quality Act, the Energy Commission unanimously approved the resolution adopting the Express Terms.

III. Updated Informative Digest (Gov. Code § 11346.9(b))

In accordance with Government Code section 11346.9(d), the Informative Digest contained in the NOPA is incorporated by reference. There have been no changes in applicable laws or to the effect of the proposed regulations relating to residential air filters, residential pool pump and motor combinations, and replacement residential pool pump motors from the laws and effects described in the NOPA.

IV. Update to the Initial Statement of Reasons (Gov. Code § 11346.9(a)(1))

Government Code section 11346.9(a)(1) requires the FSOR to contain an update of the information contained in the ISOR. In accordance with Government Code section 11346.9(d), the ISOR is incorporated by reference. No changes or updates to the ISOR are necessary.

No new materials were relied upon that were not already identified in the ISOR or related notices and all materials relied upon were available for public review.

The Express Terms included two non-substantive clerical errors in the text made available for the 45-day comment period (“originally proposed text”), which inadvertently added an incorrect comma to section 1606 that does not appear in the CCR, and incorrectly omitted a comma in section 1607 that does appear in the CCR. As these changes were neither intentional nor indicated in underline or strikeout in the originally proposed text, they have been corrected to reflect the official text of the CCR.

V. Local Mandate Determination (Gov. Code § 11346.9(a)(2))

The proposed regulations do not impose a mandate on local agencies or school districts.

VI. Summary of Comments Received (Gov. Code § 11346.9(a)(3))

The Energy Commission did not receive any comments during the 45-day comment period. No objection or recommendation was made regarding the proposed amendments, and the Energy Commission has not made any changes to the proposed amendments initially noticed and made available to the public.

VII. Consideration of Alternative Proposals (Gov. Code § 11346.9(a)(4) and (5))

Residential Air Filters

The proposed amendments to California Code of Regulations, title 20, section 1606, Table X, subsection C, and section 1607(d)(12), would make permanent emergency regulations that delayed the date by which residential air filters, sold or offered for sale in California, must comply with testing, marking, and certification requirements, from July 1, 2016, to April 1, 2019.

The proposed amendments provide the Energy Commission adequate time to assess issues relating to the existing industry testing protocols and requirements for evaluating the performance of air filters. The proposed amendments allow manufacturers to sell and offer for sale residential air filters in California and benefit California residents by preventing a shortage of residential air filters which are necessary to reduce energy use and expense, protect HVAC equipment, and remove particulate pollutants to help maintain acceptable indoor air quality.

The Energy Commission considered a later compliance date, but rejected this because it would result in loss of potential energy savings with no resulting benefit to manufacturers or small businesses. A later compliance date would exceed the time necessary to assess industry testing protocols for the evaluation of air filter performance. A compliance date beyond that which provides the necessary time for the Energy Commission to complete this evaluation would result in a loss of potential energy savings.

If no regulatory action occurs, the existing emergency regulations in California Code of Regulations, title 20, section 1606, Table X, subsection C, and section 1607(d)(12), will expire on September 26, 2017. The Energy Commission considered not delaying the compliance date or not making the emergency regulations permanent. This alternative was rejected because it would have negatively affected the public's access to residential air filters and manufacturers' ability to supply the California market with compliant products. Because manufacturers have indicated barriers to compliance with the existing regulations, reverting to the existing regulations would not address manufacturers' concern with their ability to supply compliant products. Manufacturers, including small businesses if applicable, would still need to comply with the regulations so reverting to existing regulations that have potential compliance barriers would not result in a benefit.

No alternative was suggested by any stakeholder and no alternative considered by the Energy Commission would be more effective in carrying out the purpose for which the regulations are proposed, would lessen any adverse impact on small businesses, would

be as effective and less burdensome to affected private persons than the adopted regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Residential Pool Pump and Motor Combinations and Replacement Residential Pool Pump Motors

The proposed amendments to California Code of Regulations, title 20, section 1602(g) and section 1606, Table X, subsection G, would make permanent emergency regulations that define permanent magnet synchronous (PMS) motors and add PMS as a permissible motor construction type for residential pool pump and motor combinations and replacement residential pool pump motors.

The proposed amendments allow manufacturers to select the PMS motor construction type when certifying products that meet the definition. This benefits manufacturers, distributors, and retailers by allowing them to sell and offer for sale in California, PMS motors used in residential pool pump and motor combinations or used as replacement residential pool pump motors. The proposed amendments also benefit California's residents because they will have access to more affordable and equally efficient PMS motors, which are often used for storable pools.

The Energy Commission considered two alternatives to the proposed regulations. The first alternative would amend California Code of Regulations, title 20, section 1606, Table X, subsection G, to remove the request for construction type for residential pool pump and motor combinations and replacement residential pool pump motors. A new request would be added to declare that the pool pump motors are not split-phase or capacitor start-induction run motor types to verify manufacturers are complying with the prohibition on these motor types described in California Code of Regulations, title 20, section 1605.3(g)(5)(A). This alternative was rejected because it would provide less information about which motor types were being sold in California and their relative efficiency, which could be important data points for understanding if the Energy Commission can move from prescriptive standards to performance standards in future rulemakings.

The second alternative was to make no change to the existing regulations. If no regulatory action occurs, the existing emergency regulations in California Code of Regulations, title 20, section 1602(g) and section 1606, Table X, subsection G, will expire on September 26, 2017. The Energy Commission rejected this alternative because it would have negatively affected the public's access to affordable and equally efficient PMS motors, which are often used for storable pools. Further, manufacturers

estimated the value at retail of the affected PMS motors used in residential pool pump and motor combinations or as replacement residential pool pump motors at 40 million dollars. If manufacturers are unable to sell residential pool pumps powered by PMS motors to the California market due to barriers to compliance, then either 40 million dollars in annual sales of pool products will not occur in California or manufacturers would have to redesign the products to use a different motor construction type that was in the permissible answers in the existing regulations. Substitute products using different motor construction types would be more expensive for manufacturers, including small businesses if applicable, to produce, more expensive for consumers to purchase, and would be unlikely to provide meaningful decreases in energy consumption.

No alternative was suggested by any stakeholder and no alternative considered by the Energy Commission would be more effective in carrying out the purpose for which the regulations are proposed, would lessen any adverse impact on small businesses, would be as effective and less burdensome to affected private persons than the adopted regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

VIII. Mandated by Federal Law or Regulations (Gov. Code § 11346.9(c))

None.

IX. Incorporation By Reference (Cal. Code of Regs., title 1, § CCR 20(c)(1) and (c)(2))

None.