

DOCKETED

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Filer:	Patrick Saxton
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CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov
CEC-57 (Revised 1/19)

**REVISED NOTICE OF PROPOSED ACTION**

Title 20. Public Utilities and Energy
Division 2. State Energy Resources Conservation and Development Commission
Chapter 1. General Provisions
Article 1. Construction of Regulations
Section 1004
and
Chapter 4. Energy Conservation
Article 4. Appliance Efficiency Regulations
Sections 1601-1609
California Energy Commission
General Service Lamps
Docket No. 19-AAER-04
Revised Notice Published on August 23, 2019

INTRODUCTION

The California Energy Commission proposes to amend the regulations for general service lamps to align with federal law and to reinstate a severability clause after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

Energy Commission staff will hold a public hearing for the proposed regulations on the following date and time. Interested persons, or his or her authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulations at the hearing. The record for this hearing will be kept open until 12:00 p.m. (Pacific Time) or until every person present, in person or via webinar, who indicates a desire to speak has had an opportunity to do so.

Tuesday, October 8, 2019
10:00 a.m. – 12:00 p.m. (Pacific Time)
California Energy Commission
1516 9th Street
Sacramento, CA 95814
First Floor, Imbrecht Hearing Room
(Wheelchair accessible)

Audio for the hearing will be broadcast over the internet. Details regarding the Energy Commission's webcast can be found at <https://energy.webex.com/ec>.

If you have a disability and require assistance to participate in the hearing, please contact Yolanda Rushin at Yolanda.Rushin@energy.ca.gov, or (916) 654-4310, at least five days in advance.

WRITTEN COMMENT PERIOD

You may submit written comments to the Commission for consideration on or prior to October 7, 2019. The Energy Commission appreciates receiving written comments at the earliest possible date.

Please submit comments using the Energy Commission's e-commenting feature by going to the Energy Commission's general service lamps rulemaking webpage at <https://www.energy.ca.gov/appliances/2019-AAER-04/> Docket Number 19-AAER-04 then select the "Submit e-comment" link. A full name, e-mail address, comment title, and either a comment or an attached document (.doc, .docx, or .pdf format) is mandatory. After a challenge-response test used by the system to ensure that responses are generated by a human user, click on the "Agree & Submit Your Comment" button to submit the comment to the California Energy Commission's Docket Unit.

Please note that written comments, attachments, and associated contact information included within the written comments and attachments (e.g., your address, phone, email, etc.) become part of the viewable public record.

You are encouraged to use the electronic filing system, described above, to submit comments. All written comments submitted prior to the hearing must be submitted to the docket. If you are unable to submit electronically, a paper copy of your comments may be sent to:

Docket Unit
California Energy Commission
Docket No. 19-AAER-04
1516 9th Street, MS-4
Sacramento, CA 95814
Telephone: (916) 654-5076
Or by email to DOCKET@energy.ca.gov.
Or fax them to Dockets at (916) 654-4354.

PUBLIC ADVISER

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this forum, please contact the Acting Public Adviser, Jennifer Martin-Gallardo, at PublicAdviser@energy.ca.gov or (916) 654-4489 (toll free at (800) 822-6228).

NEWS MEDIA INQUIRIES

News media inquiries should be directed to the Media and Public Communications Office at (916) 654-4989, or by e-mail at mediaoffice@energy.ca.gov.

STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25213, 25218(e), and 25402(a)-(c) authorize the Energy Commission to adopt rules or regulations, as necessary, to implement, interpret, and make specific Public Resources Code Sections 25402(a)-(c) and 25216.5(d).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Warren-Alquist Act establishes the Energy Commission as California's primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(a)-(c) of the Public Resources Code mandate and/or authorize the Energy Commission to 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 Energy Commission satisfies this requirement is through the Appliance Efficiency Regulations (California Code of Regulations, 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 Energy Commission that their products meet all applicable state and federal appliance efficiency regulations before their products can be included in the Energy Commission's database of appliances approved to be sold or offered for sale within California.

On December 3, 2008, the Energy Commission adopted efficiency regulations for general purpose lighting. These regulations mirrored federal statutory standards for these products and provided for early implementation of the standards in California compared to the rest of the nation (U.S. Code, Title 42, Sections 6295(i)(6)(A)(vi) and 6297(b)(1)(B)(ii)). These regulations included a requirement that all general service lamps be at least 45 lumens per watt if manufactured on or after January 1, 2018, and offered for sale in California.

On January 27, 2016, the Energy Commission adopted efficiency regulations for small-diameter directional lamps and general service light-emitting diode (LED) lamps. These regulations are effective for small-diameter directional lamps and general service LED lamps manufactured on or after January 1, 2018, and offered for sale in California.

On January 19, 2017, the U.S. Department of Energy (DOE) published federal definitions for general service lamps and their subcategories, which would take effect on January 1, 2020. These definitional rules expand the number of light

bulbs subject to the 45 lumen-per-watt efficacy standard in federal law that applies nationwide to general service lamps sold on or after January 1, 2020.

On August 3, 2018, Energy Commission staff published the *Analysis of General Service Lamps (Expanded Scope)*. In its analysis, staff determined that a 45 lumen-per-watt efficacy standard for general service lamps is technically feasible, cost-effective to the consumer, and would yield significant statewide energy savings as required by Public Resources Code Section 25402(c)(1).

The Energy Commission proposes to incorporate the federal definitions published on January 19, 2017, and the 45 lumen-per-watt efficacy standard into both state and federal efficiency standards for general service lamps. The Energy Commission also proposes to align the existing test procedures with the new and updated test procedures that have been adopted by the DOE and are mandatory for manufacturers making representations about the energy use or efficiency of the applicable lamp types (Code of Federal Regulations, Title 10, Section 430.23).

The proposed regulations would be effective for general service lamps sold on or after January 1, 2020.

In addition, the Energy Commission proposes to reinstate a severability clause into the regulations. Such a clause used to be present, but was previously removed under the mistaken notion that it was codified in statute. It is the intent of the Energy Commission, should any regulation be struck down by the courts that all other regulations not so struck down remain. These regulations would reinstate this severability provision to codify this intent.

Difference from existing comparable federal regulation or statute

On January 19, 2017, DOE published two Federal Register notices of final rules adopting a revised definition for general service lamps. The effective date for the final rules is January 1, 2020. The Energy Commission is proposing regulations in Sections 1602, definitions, and 1604, test methods for specific appliances, to reflect existing federal regulations. The Energy Commission is proposing regulations in Section 1605.1, federal and state standards for federally regulated appliances, to reflect existing federal law imposing a minimum efficacy requirement on general service lamps (U.S. Code, Title 42, Section 6295(i)(6)(A)(v)). The Energy Commission is simultaneously proposing identical regulations in Section 1605.3, state standards for non-federally-regulated appliances, pursuant to California's exemption from state preemption in U.S. Code, Title 42, Section 6295(i)(6)(A)(vi).

Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments

The broad objective of these regulations is to ensure energy efficiency savings from federal requirements related to general service lamps occur in California by revising the appliance efficiency regulations to align with federal

requirements and by exercising California's exemption from state preemption to set identical state requirements. The Energy Commission proposes to align the appliance efficiency regulations definitions for general service lamps with the two DOE definitional final rules published in the Federal Register on January 19, 2017, and effective January 1, 2020, and to align the existing test procedures with the new and updated test procedures that have been adopted by the DOE and are mandatory for manufacturers making representations about the energy use or efficiency of the applicable lamp types. The Energy Commission proposes to incorporate the federal efficiency standard for general service lamps that exists in federal law and to adopt a state regulation that is identical to the federal law to ensure implementation of the regulations if repealed at the federal level. California has an exemption from state preemption in U.S. Code, Title 42, Section 6295(i)(6)(A)(vi).

California has existing regulations that apply to a subset of the lamps defined as "general service lamps." However, most of the lamps described in the definitional rules are only covered under federal standards. The proposed regulations would give the Energy Commission authority to enforce the 45-lumen-per-watt standard on the broader scope of products described in the definitional rules. The proposed regulations would not change the efficiency levels, types of products, or effective dates applicable already under federal law and regulation.

The specific benefits from the federal requirements, which the proposed regulations are meant to ensure take place regardless of potential changes at the federal level, would be utility bill cost savings to the consumer and lower statewide energy use. No additional energy savings benefits or incremental costs will result directly from the proposed regulations, beyond those that would result from federal law and regulations effective January 1, 2020. The estimated savings below are those expected to occur in California due to federal law and regulations effective January 1, 2020, for lamps not already covered by California efficiency standards. The estimated savings are highly dependent on the current population of efficient lamps in California. Because this cannot be known with certainty, a range of savings is estimated between a low population (0 to 20 percent) of efficient lamps and a higher population (30 to 50 percent) of efficient lamps. The federal requirements would save between 2,290 and 4,600 gigawatt-hours of electricity in California the first year the standard is in effect. After existing stock fully turns over, the federal requirements would have an annual electricity savings in California between 4,000 and 13,600 gigawatt-hours. The annual electricity savings equate to a value between \$736 million and \$2.4 billion in annual savings, after stock fully turns over, to California businesses and individuals.

Determination of inconsistency or incompatibility with existing state regulations

The Energy Commission has conducted an evaluation for any other regulations in this topic area, and found the California Energy Code, Title 24, Part 6, requires that all lighting in new residential construction be high efficacy, and meet the requirements in

Joint Appendix 8 (JA8). Lamps covered by the appliance efficiency regulations must also meet the JA8 requirements if installed in new residential construction in California. The JA8 requirements are more stringent than the proposed regulations – therefore, it is possible for lamps to comply with both the proposed regulations and with JA8.

The proposed regulations would not prevent compliance with existing state regulations. The proposed Title 20 amendments are separate and distinct from the provisions in Title 24, Part 6, and have different points of enforcement (point of sale versus point of installation in new construction). Therefore, the Energy Commission has determined that the proposed regulations are neither inconsistent nor incompatible with these regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The Energy Commission is proposing to incorporate the following document by reference:

Code of Federal Regulations, Title 10, Appendix DD of subpart B of part 430.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed changes to the regulations reflect current federal law and regulations related to general service lamps.

OTHER STATUTORY REQUIREMENTS

None

FISCAL IMPACTS

The Energy Commission has made the following initial determinations:

- The mandate on local agencies and school districts: None
- The cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.: None
- Cost or savings to any state agency: None
- Non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the state: None

SIGNIFICANT EFFECT ON HOUSING COSTS

None

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The Energy Commission estimates that businesses may be impacted by the federal requirements, which the proposed regulations are intended to codify in California law. However, these regulations are not likely to result in a significant adverse economic impact on any business.

The proposed regulations maintain the baseline conditions that exist due to federal law and regulation – the prohibition of sale of low efficacy general service lamps beginning January 1, 2020. This results in no economic impact due to the proposed regulations. Manufacturers are obligated to comply with federal appliance efficiency standards and the proposed changes to the requirements do not increase the expected requirements but align with the DOE requirements. The federal requirements will be effective nationwide and all regulated parties will have to comply with them regardless of California's regulations. Manufacturers will have needed to prepare to comply with the federal regulations well ahead of the January 1, 2020, effective date, as only compliant products may be sold on or after that date. Therefore, even in the event of a federal repeal of the definitions, there will not be an economic impact on businesses or consumers from having to comply with the state standards, which ensure the continuation of the federal standards in case of repeal.

The proposed regulations would not change the efficiency levels, types of products, or effective dates applicable already under federal law and regulation. The proposed regulations do not add any reporting requirements for these lamp types.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ ASSESSMENT

The Energy Commission concludes that: (1) it is unlikely the proposal will create jobs within California, (2) it is unlikely the proposal will eliminate jobs within California, (3) it is unlikely the proposal will create new businesses in California, (4) it is unlikely the proposal will eliminate existing businesses within California, (5) it is unlikely the proposal will result in the expansion of businesses currently doing business within the state.

Benefit of the Proposed Action: The specific benefits from the federal requirements, which the proposed regulations are meant to ensure take place regardless of potential changes at the federal level, would be utility bill cost savings to the consumer and lower statewide energy use. No additional energy savings benefits or incremental costs will result directly from the proposed regulations, beyond those that would result from federal law and regulations effective January 1, 2020. The estimated savings below are those expected to occur in California due to federal law and regulations effective January 1, 2020, for lamps not already covered by California efficiency standards. The estimated savings are highly dependent on the current population of efficient lamps in California. Because this cannot be known with certainty, a range of savings is estimated between a low population (0 to 20 percent) of efficient lamps and a higher population (30 to 50 percent) of efficient lamps. The federal requirements would save between 2,290 and 4,600 gigawatt-hours of electricity in California the first

year the standard is in effect. After existing stock fully turns over, the federal requirements would have an annual electricity savings in California between 4,000 and 13,600 gigawatt-hours. The annual electricity savings equate to a value between \$736 million and \$2.4 billion in annual savings, after stock fully turns over, to California businesses and individuals.

The federal requirements, which the proposed regulations are meant to codify in California law, will have a significant positive impact on the environment through energy efficiency gains and avoiding greenhouse gas emissions and criteria pollutant emissions associated with the generation of electricity from fossil fuels. No additional environmental benefits are expected as a result of the proposed regulations.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Energy Commission is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

On January 19, 2017, DOE published two Federal Register notices of final rules adopting a revised definition for general service lamps. The effective date for the final rules is January 1, 2020. The Energy Commission used information from the DOE final rules to support the proposed regulation. The Energy Commission has prepared the proposed regulations to reflect federal law and regulations effective January 1, 2020.

The proposed regulations maintain the baseline conditions that exist due to federal law and regulation – the prohibition of sale of low efficacy general service lamps beginning January 1, 2020. This results in no economic impact due to the proposed regulations. Manufacturers are obligated to comply with federal appliance efficiency standards and the proposed changes to the requirements do not increase the expected requirements but align with the DOE requirements. The federal requirements will be effective nationwide and all regulated parties will have to comply with them regardless of California's regulations. Manufacturers will have needed to prepare to comply with the federal regulations well ahead of the January 1, 2020, effective date, as only compliant products may be sold on or after that date. Therefore, even in the event of a federal repeal of the definitions, there will not be an economic impact on businesses or consumers from having to comply with the state standards, which ensure the continuation of the federal standards in case of repeal.

The proposed regulations would not change the efficiency levels, types of products, or effective dates applicable already under federal law and regulation. The proposed regulations do not add any reporting requirements for these lamp types.

BUSINESS REPORT

The proposed regulations do not add any reporting requirements for these products.

SMALL BUSINESS

The Energy Commission is not aware of any significant cost impacts that a small business would incur in reasonable compliance with the proposed action. For purposes of this analysis, the Energy Commission used the consolidated definition of small business contained in Government Code section 11346.3(b)(4)(B). The proposed regulations maintain the baseline conditions that exist due to federal law and regulation – the prohibition of sale of low efficacy general service lamps beginning January 1, 2020. This results in no economic impact due to the proposed regulations. Manufacturers are obligated to comply with federal appliance efficiency standards and the proposed changes to the requirements do not increase the expected requirements but align with the DOE requirements. The federal requirements will be effective nationwide and all regulated parties will have to comply with them regardless of California’s regulations. Manufacturers will have needed to prepare to comply with the federal regulations well ahead of the January 1, 2020, effective date, as only compliant products may be sold on or after that date. Therefore, even in the event of a federal repeal of the definitions, there will not be an economic impact on businesses or consumers from having to comply with the state standards, which ensure the continuation of the federal standards in case of repeal.

The proposed regulations would not change the efficiency levels, types of products, or effective dates applicable already under federal law and regulation. The proposed regulations do not add any reporting requirements for these lamp types.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Energy Commission invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

Please direct inquiries concerning all aspects of the rulemaking process including requests for copies of the proposed text (the “express terms”), the initial statement of reasons (ISOR), any modified version of the regulations, the substance of the proposed regulations, or any other information upon which the rulemaking is based to:

Corrine Fishman
Regulations Manager, Efficiency Division
1516 Ninth Street
Sacramento, CA 95814-5512
(916) 654-4976
Corrine.Fishman@energy.ca.gov

If Corrine Fishman is unavailable, you may contact Patrick Saxton at Patrick.Saxton@energy.ca.gov or (916) 654-4274.

COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The Energy Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Initial Statement of Reasons (ISOR), documents incorporated by reference, and documents relied upon. Copies may be obtained by contacting Corrine Fishman at the address or phone number listed above or accessed through the Energy Commission's website at <https://www.energy.ca.gov/appliances/2019-AAER-04/>

AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the Energy Commission considers changes to the proposed regulations pursuant to Government Code Section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the Energy Commission adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting the Commission's website at <https://www.energy.ca.gov/appliances/2019-AAER-04/> or contacting the contact person listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Energy Commission maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the Energy Commission for this rulemaking, including this Notice of Proposed Action, the express terms, and the Initial Statement of Reasons have been posted on our website at <https://www.energy.ca.gov/appliances/2019-AAER-04/>.