

DOCKETED

Docket Number:	19-BSTD-03
Project Title:	2022 Energy Code Pre-Rulemaking
TN #:	235842
Document Title:	Karen N. Mills Comments - Draft Case Report for Controlled Environment Horticulture Comments by CFBF
Description:	N/A
Filer:	System
Organization:	Karen N. Mills
Submitter Role:	Intervenor Representative
Submission Date:	12/3/2020 10:50:14 AM
Docketed Date:	12/3/2020

*Comment Received From: Karen N. Mills
Submitted On: 12/3/2020
Docket Number: 19-BSTD-03*

**Draft Case Report for Controlled Environment Horticulture
Comments by CFBF**

Additional submitted attachment is included below.



CALIFORNIA FARM BUREAU FEDERATION

LEGAL SERVICES DIVISION

2600 River Plaza Drive, Sacramento, CA 95833

July 24, 2020

California Energy Commission
1516 Ninth Street
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RE: Draft Case Report for Controlled Environment Horticulture

To: Energy Solutions and Cultivate Energy and Optimization

The California Farm Bureau Federation (“Farm Bureau”) presents its significant concerns with the proposal to include agricultural facilities within Title 24 Regulations for the first time as proposed for consideration for adoption by the California Energy Commission (“Energy Commission”) of the Draft Case Report (“Draft Report”). Farm Bureau is California’s largest farm organization, working to protect family farms and ranches on behalf of its nearly 34,000 members statewide and as part of a nationwide network of more than 5.5 million members. Organized 100 years ago as a voluntary, nongovernmental and nonpartisan organization, it advances its mission throughout the state together with its 53 county Farm Bureaus.

Farm Bureau recommends that agricultural greenhouses not be included in the changes proposed for Title 24 due to the lack of outreach conducted by the Energy Commission, specifically to the agricultural sector which utilizes greenhouses, the lack of acknowledgement of the relationship between energy efficiency programs to a change in the Title 24 regulations and the need to acknowledge the recent significant impacts of the COVID-19 global pandemic on the agricultural sector. Farm Bureau recommends that additional outreach be conducted for all sectors affected by the proposed changes to the regulations.

I. THE LACK OF OUTREACH REGARDING THE CHANGES PROPOSED TO TITLE 24 UNDERMINES THE VIABILITY OF THE DRAFT CASE REPORT

Appendix F: Summary of Stakeholder Engagement included in the Draft Report demonstrates the seriously inadequate effort made to reach affected end-users. First, the outreach to the Title 24 Stakeholders listserv was a futile exercise to reach controlled environment horticulture. Historically, they have not been impacted and therefore, had no reason to follow changes to the Title 24 regulations. As acknowledged in the Draft Report on page 19: “Historically, CEH facilities have not been directly addressed as a building

type in Title 24, Part 6.” The effort to bootstrap the inclusion of mainstream agricultural operations into the regulations runs afoul of fairness to end-users. Therefore, any reliance on outreach related to the Title 24 contact list should be acknowledged as woefully incomplete.

In addition, Table 66 lists those contacts who were made aware of the changes in addition to the Title 24 listserv. No organizations or entities within the traditional rubric of agricultural organizations were included. In the short time since Farm Bureau was made aware of the proposed changes, we have contacted entities who would be directly impacted by the changes, but they have had insufficient time to digest the implications from the mandates.

From what Farm Bureau could discern, there were only two meetings to collect public input. One was held in San Diego at a conference, which was focused on applications to cannabis operations. Despite the utilities’ relationship to agricultural greenhouse operations through their energy efficiency activities, no consideration of these known constituencies were given to ensure appropriate outreach was conducted. This lack of outreach to that community is enough to significantly delay consideration of the changes to Title 24. Nevertheless, additional flaws in the proposed changes reveal that they should not be made applicable to agricultural greenhouses.

II. THE AGRICULTURAL SECTOR WHICH RELIES ON GREENHOUSES WOULD BE REQUIRED TO MAKE UNPRODUCTIVE CHANGES

The Draft Report recognizes in multiple instances the limited profit margin faced by agricultural greenhouse owners and operators for vegetables and ornamentals. (Draft Report, pages 20 and 41) That recognition is consistent with the general understanding of the economics faced by this sector. According to a recent study by ERA Economics, March to May sales for nurseries and floriculture that rely heavily on greenhouses was down 60% across the industry; the estimated total financial impact from the COVID-19 pandemic on the floriculture and nursery sector alone is \$604 million this year.¹ Despite that recognition, the proponents would impose new lighting and construction requirements on these sectors without a clear understanding of the implications for the requirements and whether the changes would achieve the goals.

Our floriculture members have indicated that they utilize both outdoor and hoophouse lighting to control flowering in order to maximize yields and to time products for consumer holidays. Each crop has its own needs, but emphasis is placed on low cost, simple systems or the crops will be unprofitable to grow. Although wavelength is critical, it is also crop dependent. Much of the lighting needs are met with compact fluorescent lights. Although there is some experimentation, these innovative products are terribly expensive

¹ ERA Economics. (June 4, 2020). “Economic Impacts of the COVID-19 Pandemic on California Agriculture.” https://www.cbf.com/wp-content/uploads/2020/06/FinalReport_COVID19_AgImpacts_062520Updated.pdf

and will continue to be inaccessible unless pricing comes down. Lighting changes have been met with reliance on energy efficiency funding and should continue to do so.

The Draft Report references as justification for the new requirements the adoption of changes to the International Energy Conservation Code (IECC) (Draft Report, pages 11, 21, 25, 30, 35, and 48). However, there were recommendations by industry groups against adoption of the changes, and therefore those changes are not appropriate to use as precedent for the draft regulations addressed here. California provides a very different climate and setting for use of greenhouses and should be distinguished from other jurisdictions.

III. GREENHOUSE GROWERS CURRENTLY UTILIZE ENERGY EFFICIENCY FUNDING TO IMPROVE THEIR OPERATIONS

Farm Bureau recommends that for the greenhouse sector reliance for improvements be placed on incentives through the utility energy efficiency program, rather than mandated code changes. There is typically a disconnect between changes to code and actual replacement of below-code equipment in the market. In the interim, it is challenging to use efficiency programs to incentivize the replacement of old equipment, since evaluators presume growers must install or upgrade equipment; as a result, awards for new equipment will be negatively impacted. The unintended consequences on the ability of efficiency programs to promote these solutions is a concern.

Agricultural customers pay millions of dollars into energy efficiency programs as part of their electrical rates and should be able to utilize that funding in a way that makes their operations more effective. Examination of the electrical rates is also an important aspect of the analysis of the viability of the changes proposed. The Draft Report provides cost effective analysis based on current electrical rates generalized across the utilities. In fact, the three large Investor Owned Utilities have very distinct tariffs and rate structures and it is a disservice not to assess the cost analysis based on a utility by utility examination. That analysis is a key part of the justification required for energy efficiency awards and the same rigor should be applied in this case.

IV. THE PROPOSED CHANGES MAY BE DUPLICATIVE FOR CANNABIS OPERATIONS

The Commission should be aware of other statutory and regulatory requirements for cannabis operations. For example, Business and Professions Code Section 26066 provides that: "Indoor and outdoor cannabis cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, current building and fire standards, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of

Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of cannabis cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.”

Controlling regulations also dictate the type of lighting to be used; § 8000. Definitions:

(n) “Indoor cultivation” means the cultivation of cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.

(t) “Mixed-light cultivation” means the cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using a combination of:

(1) Natural light and light deprivation and one of the artificial lighting models listed below:

(A) “Mixed-light Tier 1” without the use of artificial light or the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot; or

(2) Natural light and one of the artificial lighting models listed below:

(A) “Mixed-light Tier 1” the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.

(ae) “Watts per square foot” means the sum of the maximum wattage of all lights identified in the designated canopy area(s) in the cultivation plan divided by the sum of the dimensions in square feet of designated canopy area(s) identified in the cultivation plan.

V. AGRICULTURAL OPERATIONS ARE CURRENTLY FACING SIGNIFICANT IMPACTS FROM COVID-19 MANDATES AND DO NOT HAVE RESOURCES TO ASSESS IMPACTS FROM THE PROPOSED TITLE 24 CHANGES

The Commission should closely examine the timing for consideration of the Draft Report in light of the current pressures faced by business owners from COVID-19. It is yet another reason to support a significant delay for all aspects of the adoption of the Draft Report. It was released in June 2020 with comments due amidst the height of new compliance requirements for businesses to ensure worker safety. In addition, the agricultural sector in California has faced significant supply and distribution disruption to deliver products, which requires daily attention and leaves little time to examine a report is complex and detailed as the one before us. As one of our members noted, “trying to keep our business open and safe is taking up every minute I have available and am unable to review any of the proposed changes.”

VI. CONCLUSION

The Farm Bureau has had the opportunity to work cooperatively with the Energy Commission for many years on a wide variety of issues, including reports about the economic status of agriculture in California. The changes reflected in the Draft Report would undermine the economic viability of an important sector of California agriculture, greenhouse nurseries, at a time when they cannot withstand additional costs. We encourage the Commission to strongly consider eliminating greenhouses from any changes to Title 24. At the very minimum this effort should be delayed with improved outreach and analysis conducted.

Dated: July 24, 2020

Respectfully submitted,



By

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