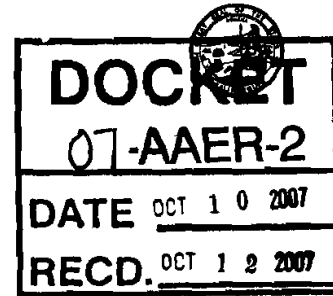


1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



Appliance Efficiency Regulations:) Docket No. 07-AAER-2
)
 Digital Television Adapters) **Order Number 07-1010-23**
)

Today, we hereby adopt the amendments published in the August 24, 2007 Express Terms and thereby repeal the appliance efficiency standards for digital television adapters.

II. FINDINGS

Based on the entire record of this proceeding, we find as follows:

- A. The Warren-Alquist Act. Public Resources Code Section 25402 (c)(3) requires the Energy Commission to adopt “other cost-effective measures” for an appliance if a standard for that appliance is amended, and the amendment:
- (a) is adopted within five years after the Energy Commission adopted an appliance efficiency standard for the same appliance; and
 - (b) will result in an increase or decrease in the minimum level of operating efficiency required by the previously adopted appliance efficiency standard.

We find that the repeal of the existing DTA standards:

- (1) will become effective within the five year period described in Public Resources Code Section 25402(c)(3);
- (2) will not result in an “increase . . . in the minimum level of operating efficiency required by the standard[s],” because the standards are being repealed;
- (3) will not result in a “decrease in the minimal level of operating efficiency required by the standard[s],” because the criteria for DTAs adopted by the National Telecommunications Infrastructure Administrative (“NTIA”) will result in an equivalent, and possibly slightly greater, level of operating efficiency; and
- (4) therefore, the repeal will not result in an “increase or decrease in the minimum level of operating efficiency required by the [existing DTA] standard[s]” that requires the adoption of other cost-effective measures.

- B. The Administrative Procedure Act. The adopted regulations:

- (1) 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;
- (2) will not create or eliminate a significant number of jobs in California;
- (3) will not create new businesses, eliminate existing businesses, or have an effect on the expansion of businesses in California;
- (4) will not impose costs on private persons;
- (5) will impose no direct costs or direct or indirect requirements 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 the Government Code;

- (6) will result in no costs or savings in federal funding to the State;
- (7) will not affect housing costs;
- (8) will have no significant adverse effect on businesses in general or small businesses in particular;
- (9) will have no significant costs that a representative person or business would incur in compliance; and
- (10) have no alternatives that would be more effective in carrying out the purposes of the Warren-Alquist Act without increasing burdens, or that would be as effective and less burdensome in carrying out the purposes.

C. The California Environmental Quality Act. On December 15, 2004 the Energy Commission approved by Resolution (No. 04-1215-07) an Initial Study and Negative Declaration (SCH# 2004102088) ("2004 NegDec") that assessed, among other things, the standards for Digital Television Adapters. Resolution No. 04-1215-07 and SCH # 2004102088 are hereby incorporated by reference into this Order and into the Docket for the current rulemaking.

The Energy Commission has determined that the regulations adopted today will not result in a direct, or reasonably foreseeable indirect, significant adverse effect on the environment. (See Appendix A to this Order: "Addendum to Negative Declaration in Docket No. 04-AAER-01" ("Addendum").) In making this finding we rely on the Addendum as well as on the "Comparison of Savings from the CEC and NTIA DTA Standards" ("Comparison Study") to determine the environmental effects of repealing the DTA standards. The Comparison Study shows that, because of the NTIA criteria discussed above, repeal of the DTA standards will not result in a decrease in the minimal level of operating efficiency required by the existing DTA standards. Therefore, there will be no increase in air emissions (or other environmental impacts) from increased electrical generation resulting from the repeal. (Indeed, the Comparison Study also shows that there is a potential for a small 5 kWh/year increase in operating efficiency, with an accompanying decrease in adverse environmental impacts.) As a result, we also determine that analysis of the repeal does not constitute a substantial change to the 2004 NegDec.

III. CONTINUATION OF DELEGATION OF AUTHORITY TO THE EFFICIENCY COMMITTEE; DIRECTIVES TO THE COMMITTEE

The Commission continues in effect its delegation to the Efficiency Committee of the authority to take, on behalf of the Commission, all actions reasonably necessary to have the adopted regulations go into effect, including but not limited to incorporating any changes approved at the October 10, 2007 hearing into the final Express Terms submitted to the Office of

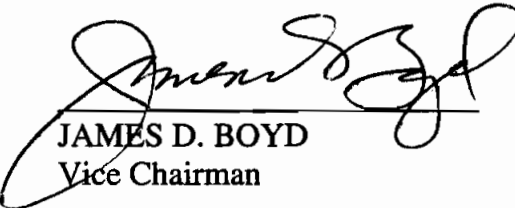
Administrative Law ("OAL"); making any appropriate nonsubstantive, editorial-type changes; and preparing and filing all appropriate documents, such as the Final Statement of Reasons for OAL.

October 10, 2007


ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION



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(Absent)
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Commissioner

Appendix A
Addendum to Negative Declaration in Docket No. 04-AAER-01

On December 15, 2004 the Energy Commission, as lead agency, approved an Initial Study and adopted a Negative Declaration ("2004 NegDec") for appliance efficiency standards proposed (and in part adopted) in Docket No. 04-AAER-01. Among the standards assessed as "Proposed Projects" in the 2004 NegDec were efficiency standards for Digital Television Adapters (DTA). (See 2004 NegDec, Initial Study, item 25 under Proposed Project, p. 2.) The 2004 NegDec made a determination that the proposed standards, which included the adoption of appliance efficiency standards for DTAs, would have "No Impact" on the environment.

The California Environmental Quality Act requires the Energy Commission to make certain findings if there are changes to a "project" after the adoption of a negative declaration. Because the DTA standards were assessed as one of the Proposed Projects in the 2004 NegDec, the proposed repeal of the DTA standard is being considered a change to the project.

In addressing changes to the project of an adopted negative declaration, Title 14, California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act, section 15162(b), the Energy Commission, as lead agency, must make findings concerning the proposed change to the project adopted in the 2004 NegDec and determine if it is necessary to prepare an addendum to the 2004 NegDec, prepare a subsequent EIR or subsequent negative declaration, or that no further documentation is needed.

To make the necessary findings required by section 15162, the Energy Commission relied on a document titled "Comparison of Savings from the CEC and NTIA DTA Standards" ("Comparison Study") to determine the environmental effects of repealing the DTA standards. (See Rulemaking File, Docket No. 07-AAER-2, p. 3)

The Initial Study for the 2004 NegDec made a finding that "No negative environmental effect will occur" with the adoption of the DTA appliance efficiency standards and showed a potential positive environmental benefit in air emission reductions for NO_x, CO, and PM₁₀ due to an increase in energy efficiency and reduce electrical generation. (See NegDec, App. A, p. 23.)

The Comparison Study determined that the repeal of the DTA standards will not result in a "decrease in the minimal level of operating efficiency required by the standard[s,]" because the efficiency requirement levels for DTAs adopted by the National Telecommunications Infrastructure Administrative ("NTIA") will result in an equivalent, and possibly slightly greater, level of operating efficiency. Because of these findings the Energy Commission has determined that there would be no increase in air emissions from increased electrical generation. The Comparison Study also showed that there is a potential for a small 5 kW/year increase in operating efficiency that may result in potential decrease in air emissions due to decreased electrical generation. (See "Comparison of Savings from the CEC and NTIA DTA Standards," Table 2, Energy and Cost Savings: CEC v. NTIA, Results.)

As a result of these environmental findings the Energy Commission has determined that there is substantial evidence in the record to support that the repeal the DTA appliance efficiency standard is not a substantial change to the 2004 NegDec that would cause a direct, or reasonably indirect significant environmental effect. Therefore, the Energy Commission has determined that no subsequent EIR or negative Declaration will be required under title 14 section 15162.

The Energy Commission has further determined to prepare this addendum to the 2004 NegDec by removing the DTA environmental analysis.