

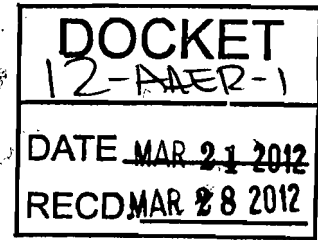


To: The California Energy Commission
Sacramento, California
Dockets Office, MS-4

From: The American Lighting Association
Dallas, Texas

Date: 21 March 2012

Subject: Pre-Ruling Docket Number 12-AAER-1 "Appliance Efficiency Enforcement Rulemaking"



I. The American Lighting Association

The American Lighting Association (ALA) is a trade association with 3,000 members representing the manufacturers of: lighting fixtures, lamps, components, controls and ceiling fans; manufacturers' representatives; retail lighting showrooms and lighting designers in the United States, Canada and the Caribbean. ALA has 145 member companies in California.

II. ALA's Interests and Concerns Regarding the California Energy Commissions (CEC) Proposed "Appliance Efficiency Enforcement Rulemaking"

A. Four Perspectives

1. The ALA supports efforts to help achieve a fair/level business environment in California.

2. The ALA believes that the CEC's initiatives to implement an administrative enforcement process should:

- ^{Manufacturers and} Help California retailers of regulated products by developing and disseminating model policies and procedures they can readily adopt to help them be and stay in compliance
- Recognize that the retailers that are compliant and have established effective procedures, on occasion, will receive a non-compliant product that was shipped to them in error or other mistake. In those instances, manufacturers nor retailers should not be burdened with a fine
- Continue the CEC's current practice of issuing notification letters/warnings before implementing fines
- Not allow any other entities to act on behalf of the CEC to initiate law suits or pursue fines on non-compliant businesses which has occurred on other California compliance requirements

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- Not establish a culture or environment that stigmatizes all businesses covered by the regulations as “bad operators” who must be badgered to ensure they operate properly and don’t damage California or Californians. Such an approach would be intrusive, negative, damage sales and state/local tax collection. Such an atmosphere would cause some companies to forgo doing business in the state thereby reducing consumers selection, create higher prices and job losses

3. Regarding “Reasonable Time” to take corrective action

- ALA recommends the CEC allow a manufacturer 120 days to take corrective action. The 120 day period is a minimal amount of time for a manufacturer, to rewrite specifications, order, retest, manufacturer, ship and distribute a product that may be found to be non-compliant

4. Handling violations

- ALA recommends that the amount of fines or penalties should be fairly matched to the violation

We find language such as “each day of sale” or “offer for sale” or “units sold/offered for sale” most concerning and strongly recommend that “violations per incident” would be a more reasonable approach and would achieve CEC’s objectives

III. Questions/Challenges we Believe Should be Raised and Workable/Fair Answers/Solutions Achieved Prior to an Enforcement Process Being Implemented

- A. Which business should be reviewed or checked to see if they are selling non-compliant products – manufacturers, retailers or both? Who should be notified if products are found to be non-compliant? Who should be held accountable?
- B. What plan-of-action would be used to learn/determine when a manufacturer or retailer is in violation of CEC’s regulation?

1. What action/steps should the CEC implement when it finds non-compliance?
 2. What method of communication should be used to ensure companies are properly notified for non-compliance?
- C. How will pre-existing inventory be treated?
- D. How will the CEC track and pursue non-compliant internet or catalog sales to Californians?
1. Given the significant and growing level of internet sales, the ALA believes an answer to this issue is essential to ensure fairness for compliant manufacturers and California "brick/mortar/retailers."
- E. When do you plan to initiate your enforcement plan?

IV. Close

Thank you for allowing us to express our views and concerns. We plan to have representation at your 23 March Workshop and look forward to partnering with you to gain a fair, positive and effective plan-of-action in an appropriate time-frame that will meet the CEC's needs and be fair and workable for all aspects of the lighting industry.