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CALIFORNIA ENERGY COMMISSION
The American Lighting Association's (ALA) Comments/Responses to
The California Energy Commission's (CEC) Proposed Appliance
Efficiency Standards Enforcement Regulations

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I. The American Lighting Association
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The American Lighting Association (ALA) is an international 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 136 member companies in California.

II. ALA's Interests and Concerns Regarding CEC's Proposed Appliance Efficiency Standards Enforcement Regulations

A. The ALA supports efforts to help provide a fair/level business environment in California to ensure reasonable action, we believe the CEC's enforcement regulation should:

- When launching the program, strive to present it in a positive manner; one that emphasizes that the CEC has initiated the new enforcement proceedings to:
1) Provide those manufacturers/retailers who have continued to meet California energy efficiency requirements with a fair business environment that helps protect them from those that don't play-by-the-rules, 2) protect California's business and employment base and 3) protect Californians and their environment.

Such a launch will be more positive and preferable to one that might carry a negative tone that establishes 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 incorrect, negative, damage sales and state/local tax collection. Such an atmosphere could cause some companies to forgo doing business in the state thereby reducing consumers' choice.

III. Violations Subject to Administrative Civil Penalties

A. Manufacturers and Retailers

Continue the CEC's current practice of issuing notification letters/warnings before implementing fines. Enforcement actions should be based upon a pattern of non-compliance.

B. Manufacturers and Manufacturers' Representatives

ALA strongly objects to the proposed language of "or offer for sale" and recommends the following substitute wording - - "violation per incident" which will meet the CEC's objective, add clarity and fairness to the process.

C. Existing Inventory

The CEC must determine how it will address pre-existing inventory. Retailers and manufacturers must be given the opportunity to sell product that they have in inventory. Some lighting fixtures can sit on store shelves for months or years.

D. How Will the CEC Track and Pursue Non-Compliant Internet or Catalog Sales to California

The ALA believes an answer to this question/issue is essential to ensure fairness for and also the confidence and support of compliant manufacturers and in particular, California "brick/mortar" retailers who pay sales and property taxes and hire Californians.

E. Violators Assets, Liabilities, Network

ALA supports the view that no violation should be an undue burden on any business, large or small.

IV. Assessment of Administrative Civil Penalties

First, the ALA urges the CEC to provide letters of warning before levying a civil penalty.

Regarding a "Reasonable Time" to take corrective action:

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.

We also point out that the CEC may encounter a product that, to be compliant, needs to be redesigned. In those instances ALA recommends the CEC allow a manufacturer up to 180 days to take corrective action. The 180 days is a minimal amount of time for a manufacturer to rewrite specifications, order, retest, manufacturer, ship and redistribute the product.

V. Notice of Violation

ALA recommends the notice of violation be sent by "registered" or "certified" mail to ensure its receipt and to provide the CEC with knowledge/proof the notice was received.

VI. Action Only By the CEC

The ALA believes the California legislature, in providing the CEC with the power to enforce its regulations, meant for the CEC to act on its own behalf and not allow any other entities to act on behalf of the CEC to determine and pursue noncompliant businesses.