STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

Appliance Efficiency Regulations	)	**Docket No. 04-AAER-01**
	)	**Order Number 04-1215-08**

ORDER ADOPTING REGULATIONS AND DIRECTING ADDITIONAL RULEMAKING ACTIVITIES

I. ADOPTION OF REGULATIONS

The California Energy Commission ("Commission") adopts the amended regulations set forth in the Express Terms that were published on November 30, 2004 ("15-Day Language"), with the exceptions noted below. The Express Terms contain amendments to the Commission's appliance regulations (California Code of Regulations, title 20, Sections 1601 – 1608). We take this action under the authority of, and to implement, interpret, and make specific, sections 25213, 25216.5(d), 25218(e), and 25402(c) of the Public Resources Code.

On September 10, 2004, the Commission published a Notice of Proposed Action ("NOPA") concerning the potential adoption of new and amended regulations on appliance efficiency, along with the Express Terms of the proposed regulations ("45-Day Language") and an Initial Statement of Reasons ("ISOR") describing the rationale for the proposal. The NOPA designated November 3, 2004, as the date for a hearing to consider adoption of the proposed regulations. On November 3, we decided not to adopt the proposed regulations, but rather to issue a revised proposal ("15-Day Language"), for consideration at a hearing on December 15, 2004.

The 15-Day Language was published on November 30, 2004. It contained two alternative proposals ("Alternative 1" and "Alternative 2") for various provisions on lighting. We adopt the 15-Day Language as follows:

1. Alternative 2 is adopted. This covers the following sections:

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1605.3(k)(2), Table K-3 (Energy Efficiency Standards for State-Regulated General Service Incandescent Lamps)

1605.3(k)(3) & Table K-4 (Energy Efficiency Standards for State-Regulated Incandescent Reflector Lamps)

1605.3(n)(3), Table N-1 (Energy Efficiency Standards for Metal Halide Luminaires)

1605.3(n)(4) & Table N-2 (Exception to Energy Efficiency Standards for Under-Cabinet Luminaires)

2. The proposed standard in Section 1605.3(a)(5), Table A-6, for "Cabinets without doors specifically designed for display and sale of bottled or canned beverages," is not adopted.

II. FINDINGS

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

A. The Warren-Alquist Act. The adopted regulations:

(1) are based on reasonable use patterns;

(2) apply to appliances whose use requires a significant amount of energy on a statewide basis;

(3) require efficiencies that are feasible and attainable; and

(4) do not result in any added total costs to the consumer over the designed life of the appliances concerned.

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 impose costs on private persons, but those costs will be more than made up in the energy savings resulting from the regulations;

(5) 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, but impose indirect costs that will be more than made up by savings in energy costs;

(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) have costs, which will be more than made up by energy savings, 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. The adopted regulations will not result in a direct, or reasonably foreseeable indirect, significant adverse effect on the environment.

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 (Commissioner Pfannenstiel, Presiding Member, and Commissioner Rosenfeld, Associate Member) 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 Business Meeting 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 at OAL and any petition for waiver of preemption at the U.S. Department of Energy that might be necessary.

We also direct the Committee to continue this rulemaking to consider at least the following issues, and take appropriate action thereon, as soon as possible:

1. Whether Section 1605.3(a)(4), requiring walk-in refrigerators and walk-in freezers, manufactured on or after January 1, 2006, to have automatic door closers, should be limited to (a) refrigerators and freezers no greater than a certain size, (b) with doors no greater than a certain size (e.g., 4 feet by 7 feet), or (c) other circumstances.

2. Whether there should be an efficiency standard (or standards) for refrigerator cabinets specifically designed to display bottled or canned beverages, regardless of the presence or absence of doors and regardless of door type (see Section 1605.3(a)(5), Table A-6).

3. Whether there is evidence that sufficient equipment will not be available to meet the "electronically commutated evaporator fan motor" requirement of Section 1605.3(a)(4), and if so whether the standard should be modified, postponed, or eliminated.

4. Lighting equipment.

   a. Whether there should be efficiency standards for full-spectrum or enhanced spectrum general service incandescent lamps, incandescent reflector lamps, and non-vertical metal halide luminaires (see 15-Day Language, Sections 1605.3(k)(2) & Table K-3, (k)(3) & Table K-4, and (n)(3) & Table N-1).

b. Whether there should be efficiency standards for general service incandescent lamps more stringent than those we adopting today (see 15-Day Language, Section 1605.3(k)(2) & Table K-3).

"Alternative 1" of the 15-Day Language, which we are not adopting today, contained proposed standards for these types of equipment. Today, we are adopting Alternative 2, which eliminates some of those standards, after discussions with the National Electrical Manufacturers Association "NEMA") and several of its constituent manufacturers. One of the issues raised concerns the likely responses of consumers to (and thus the likely levels of energy savings from) standards for general service incandescent bulbs. We invite NEMA and its members, to discuss actively that issue and other matters associated with the proposed lighting equipment standards listed above, including but not limited to creation, funding, and implementation of a consumer education and marketing program for energy-efficient general service incandescent lamps.

5. Whether there should be marking and data-reporting requirements for power supplies, and consumer audio and video equipment.

We anticipate that the Committee will complete its work on these items, and bring a proposal to the Commission for adoption, in approximately nine months.

December 15, 2004

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

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Document Management Form (Revised 4/29/04)

DOCKET
04-AAER-1
Date: DEC 15 2004
Recd. DEC 17

Originals: 4 Dist. By/Date: AH
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