



**California Energy Commission
February 28, 2023, Business Meeting
Backup Materials for Agenda Item No 3b:
Repeal of Portable Luminaire Regulations**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below.
2. Notice of Proposed Action, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=247747&DocumentContentId=82050>.
3. Proposed Express Terms, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=247749&DocumentContentId=82048>.
4. Initial Statement of Reasons, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=247746&DocumentContentId=82051>.
5. Staff Paper, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=247750&DocumentContentId=82047>.
6. CEQA Notice of Exemption Memo, attached below.

For the complete rulemaking record, please visit:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-AAER-02>.

To stay informed about this rulemaking and receive documents as they are filed, please subscribe to the proceeding list serve, which can be accessed here:

<https://www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-13>, The list serve sends out email notifications and direct links when documents are filed in the proceeding docket.

RESOLUTION NO: 23-0228-3b

DOCKET NO. 22-AAER-02

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

RESOLUTION TITLE: REPEAL OF PORTABLE LUMINAIRE REGULATIONS

WHEREAS, on November 10, 2022, the State Energy Resources Conservation and Development Commission ("California Energy Commission" or CEC) mailed and posted on the CEC's website a Notice of Proposed Action (NOPA) formally notifying the public of the CEC's intent to adopt proposed regulations for the Repeal of Portable Luminaires, the Express Terms of the proposed regulations, an Initial Statement of Reasons (ISOR) describing the rationale for the proposal, and the fiscal and economic impact analysis; and

WHEREAS, on November 11, 2022, the NOPA was published in the California Regulatory Notice Register, delivered to the Secretary of the California Natural Resources Agency; and

WHEREAS, each of the above-referenced documents and notices was provided to every person on the CEC's Rulemaking and Appliances subscription lists, and to every person who had requested notice of such matters, and was posted to the CEC's website; and

WHEREAS, on November 28, 2022, updated versions of the NOPA, ISOR, Express Terms, and the fiscal and economic impact analysis were published; and

WHEREAS, on January 17, 2023, the 45-day written comment period established by the updated NOPA closed; and

WHEREAS, on January 18, 2023, the CEC held a public hearing, as noticed in the updated NOPA, to receive comments on the proposed regulation amendments; and

WHEREAS, on January 19, 2023, the CEC issued a Notice of New Adoption Hearing Date, rescheduling the date on which the CEC would consider adoption of the regulation amendments to February 28, 2023.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to the California Environmental Quality Act (CEQA):

- The CEC has considered the application of CEQA to the proposed regulations and concluded that the proposed regulations are exempt from CEQA under the common sense exemption (California Code Regulations (CCR), title 14, section 15061(b)(3)) because it can be seen with certainty that there is no possibility that the proposed amendments will have a significant effect on the environment; and

With regard to the Warren-Alquist Act:

- The proposed amendments will, by ensuring the standards are clear and up-to-date, guarantee that the appliance efficiency regulations continue to reduce the wasteful, uneconomic, inefficient, and unnecessary consumption of energy for appliances that require a significant amount of energy or water on a statewide basis; and
- The proposed regulations are feasible and attainable; and
- The proposed regulations do not result in any added total costs to the consumer over the designed life of the appliances concerned; and

With regard to the Administrative Procedure Act:

- The proposed regulations will not result in the creation of new businesses or elimination of existing businesses, will not result in the expansion of businesses currently doing business in California, and will not result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and
- The proposed regulations will impose no direct costs or savings, or direct or indirect requirements or mandates, 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 Division 4 of the Government Code, when savings accruing over the lifetime of the appliance is considered; and
- The proposed regulations are will not result in the creation or elimination of jobs within California; and
- The proposed regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed regulations will result in no nondiscretionary costs or savings to local agencies or school districts; and
- The proposed regulations will have no impact on housing costs; and

- The proposed regulations will result in no cost impacts to representative private persons or businesses in reasonable compliance with the regulations; and
- The proposed regulations will not adversely impact the health and welfare of California residents, worker safety, or the state's environment; and
- The proposed regulations have no alternatives that would be more effective in carrying out the purposes of the statutes for which it is proposed, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost-effective to affected private persons and equally effective in implementing those purposes; and
- The proposed regulations will not have a significant adverse economic impact on small business and no alternatives were proposed that would lessen any adverse economic impact on small business; and
- The proposed regulations will not require completion of any new report; and
- None of the comments received during the comment period, public hearing, or at the public adoption hearing, and nothing else in the record, justified any changes to the proposed regulations as published on November 28, 2022.

THEREFORE BE IT RESOLVED, that, on the basis of the entire record before it, the CEC finds that the proposed regulations are exempt from CEQA under the common sense exemption ((CCR, title 14, section 15061(b)(3)) because it can be seen with certainty that there is no possibility that the proposed regulations will have a significant effect on the environment; and

FURTHER BE IT RESOLVED, after considering all comments received and the staff's responses, and based on the entire record of this proceeding, the CEC hereby adopts its Repeal of Portable Luminaires regulations, as set forth in the updated express terms that were published on November 28, 2022.

The CEC takes this action under the authority of sections 25213 and 25218(e) of the Public Resources Code, which authorizes the CEC to adopt rules or regulations, as reasonable and necessary, to implement Public Resources Code sections 25218(e) and 25402; and

FURTHER BE IT RESOLVED, that documents and other materials that constitute the rulemaking record can be found at the CEC, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online at [Docket Number 22-AAER-02](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-AAER-02), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-AAER-02>; and

FURTHER BE IT RESOLVED, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed regulations go into effect, including but not limited to making any appropriate non-

substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and preparing and filing the Notice of Exemption with the State Clearinghouse; and

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on February 28, 2023.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Liza Lopez
Secretariat

Memorandum

To: Docket 22-AAER-02

Date: 2/28/2023

Telephone: (916) 805-7465

From: Carlos Baez
Appliances Branch

Subject: Basis for Finding the Repeal of Portable Luminaires Rulemaking is Exempt under the California Environmental Quality Act

I. CEQA

The California Environmental Quality Act (CEQA) (Public Resources Code (PRC) section 21000 et seq.; see also CEQA Guidelines, California Code Regulations (CCR), title 14, section 15000 et seq.) requires that state agencies consider the environmental impact of their discretionary decisions. CEQA allows for certain projects to be exempted from its requirements. Of relevance here, and discussed further below, is the common sense exemption (CCR, title 14, section 15061(b)(3)).

II. The California Energy Commission's Appliance Efficiency Standards Program

The Warren-Alquist Act established the California Energy Commission (CEC) as California's primary energy policy and planning agency. The Legislature recognized that "electrical energy is essential to the health, safety and welfare of the people of this state...and that it is the responsibility of state government to ensure a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of general welfare, and for environmental quality protection." (PRC section 25001) In establishing the CEC and directing it to embark on programs such as that being implemented in this proceeding, the Legislature found "that the present rate of growth in demand for electric energy is in part due to wasteful, uneconomic, inefficient, and unnecessary uses of power and a continuation of this trend will result in serious depletion or irreversible commitment of energy, land and water resources, and potential threats to the state's environmental quality." (PRC section 25002.) As one remedy to these threats, the CEC's Appliance Efficiency Program effectuates the Legislature's stated intent "to employ a range of measures to reduce wasteful, uneconomical, and unnecessary uses of energy, thereby reducing the rate of growth of energy consumption, prudently conserve energy resources, and assure statewide environmental, public safety, and land use goals." (PRC section 25007)

Taken together, sections 25213, 25218(e), and 25402(c) of the PRC mandates that the CEC adopt rules and regulations to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including the energy associated with the use of water, by prescribing efficiency standards and other cost-effective measures for appliances whose use requires a

significant amount of energy or water statewide. One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations (CCR, title 20, sections 1601-1609), which contain definitions, test procedures, efficiency standards, and marking and certification requirements for state- and federally-regulated appliances. Further, pursuant to PRC section 25402(c), a new appliance manufactured on or after the effective date of standards adopted pursuant to this statutory authority shall not be sold or offered for sale in California unless the appliance manufacturer certifies to the CEC that their products meet all applicable state and federal appliance efficiency regulations in the CEC's Modernized Appliance Efficiency Database System (MAEDbS).

Actions taken under these programs are designed to benefit the environment and natural resources by reducing energy or water demand in the state, thereby reducing the need to procure and generate electricity. Additionally, the CEC's regulatory process involves procedures for the protection of the environment. Appliance efficiency standards are only proposed if they can reduce energy or water consumption growth rates. Other regulations supporting these standards, including testing, reporting, and marking requirements, help implement the program by providing accurate data regarding a product's efficiency, confirming to the agency a product's compliance, and informing consumers so that they can ensure they are purchasing compliant products that meets their needs.

III. The Proposed Action

In this action, the CEC is proposing to remove portable luminaires as a regulated appliance type from the Title 20 Appliance Efficiency Regulations because the standards for portable luminaires have become redundant and unnecessary.

On December 3, 2008, the CEC adopted changes to the Title 20 Appliance Efficiency Regulations to develop standards for portable luminaires. Between 2016 and 2020, there were three subsequent rulemakings concerning lamps that now render regulation of portable luminaires obsolete as they are now regulated under these rulemakings. First, the CEC conducted two rulemakings for other relevant lighting products, namely for "state-regulated light-emitting diode (LED) lamps" and "state-regulated small diameter directional lamps" ("state-regulated lamp rulemakings"). Second, the CEC conducted a rulemaking to establish performance standards for "general service lamps" or GSLs which were adopted in 2019 and went into effect on January 1, 2020 ("GSL rulemaking").

When portable luminaire regulations were adopted in 2008, the regulations were intended to prevent incandescent bulbs from being used with the portable luminaire. The more recently enacted requirements from the GSL rulemaking now prevent incandescent bulbs from being sold, thereby eliminating these bulbs from California stores. LED and compact fluorescent lights (CFL) lamps have since filled this market share. The standards from the state-regulated lamp rulemakings contain more strict standards for LED bulbs specifically, and therefore these newer standards are more beneficial than the 2008 portable luminaire regulations.

The original energy saving goals of portable luminaire performance standards are now accomplished through the state-regulated lamp and GSL rulemakings. The lighting market has additionally transformed in such a way that all lighting products installed in portable luminaires being sold or offered for sale in California are energy efficient even without the portable luminaire standards in place. Removing this appliance type will help eliminate any potential confusion from the duplicative regulations. Light bulbs from the state-regulated lamps and general service lamps that use portable luminaires will continue to be regulated. Accordingly,

staff proposes to remove the “portable luminaire” appliance type from the Appliance Efficiency Regulations, which will include removing related definitions, testing requirements, performance standards, marking requirements, and data submittal requirements.

None of the proposed regulatory changes would cause a direct or reasonably foreseeable indirect physical change in the environment.

IV. Common Sense Exemption.

The proposed regulations are exempt from CEQA under the common sense exemption. CEQA only applies to projects that have the potential for causing a significant effect on the environment. (CCR, title 14, section 15061(b)(3)) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself. (PRC section 21068; CCR, title 14, section 15382.) The effect of this repeal is to remove redundant and unnecessary regulations from Title 20. The original energy saving goals of the portable luminaires rulemaking are now accomplished through the state-regulated lamp and GSL regulations. This rulemaking will have no impact on the environment because portable luminaire lighting products are already regulated by other broader and more up-to-date regulations. This repeal will also help to clarify and streamline the CEC’s Appliance Efficiency Regulations, thereby benefitting regulated parties and the general public.

Under the common sense exemption, it can be seen with certainty that there is no possibility that the repeal of portable luminaire regulations will have a significant effect on the environment. (CCR, title 14, section 15061(b)(3).) For these reasons, repeal of portable luminaires from CEC’s regulations would not be subject to CEQA under the common sense exemption of section 15061(b)(3).

V. Conclusion.

As shown above, the proposed update is a regulatory action that would have no significant effect on the environment. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and, therefore, this project is exempt pursuant to the common sense exemption under section 15061(b)(3) of the CEQA Guidelines.