



**California Energy Commission
June 16 Business Meeting
Backup Materials for Agenda Item No.: 23-0616-08**

**SMALL POWER PLANT EXEMPTION RULEMAKING – READOPT AMENDMENTS
TO TITLE 20 APPENDIX B**

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

1. Proposed Resolution, attached below.
2. Notice of Comment Period, Supplemental Initial Statement of Reasons, and Adopted Appendix B regulatory language with non-substantive edits, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=249885&DocumentContentId=84577>.
3. Joint Conservation Organizations' Comment Letter on Supplemental Initial Statement of Reasons, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=250113&DocumentContentId=84831>.
4. Staff's Preliminary Response to Comment Letter, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=250426&DocumentContentId=85174>.
5. Original Resolution 22-1012-10 adopting amendments to Appendix B, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=246550&DocumentContentId=80766>.
6. CEQA Memo, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=250427&DocumentContentId=85175>.

For the complete rulemaking record, please visit:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-04>.

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

<https://www.energy.ca.gov/proceeding/rulemaking-amend-regulations-small-power-plant-exemptions>. The Topic sends out email notifications and direct links when documents are filed in the proceeding docket.

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

**[PROPOSED] RESOLUTION READOPTING AMENDMENTS TO APPENDIX B AFTER
SUPPLEMENTING THE INITIAL STATEMENT OF REASONS**

WHEREAS, On October 12, 2022, the California Energy Commission (CEC) adopted the proposed regulatory changes to California Code of Regulations, title 20, Appendix B at the CEC's publicly noticed business meeting through a resolution; and

WHEREAS, On October 28, 2022, the CEC submitted the final rulemaking package which contained the adopted Appendix B amendments to the Office of Administrative Law (OAL); and

WHEREAS, On December 14, 2022, the CEC withdrew the amendments to Appendix B from consideration by OAL in order to supplement the initial statement of reasons by providing additional information in the necessity sections of the document; and

WHEREAS, on April 26, 2023, the CEC mailed to the subscription service, including to a representative number of small business enterprises or their representatives that are likely to be affected by the proposed action, and posted on the CEC's website a notice of a 15-day public comment period on the supplemental initial statement of reasons with revised comprehensive necessity sections. The notice indicated that the previously adopted amendments were unchanged except for some non-substantive post adoption edits. All other rulemaking related documents from the original rulemaking were incorporated by reference; and

WHEREAS, on May 11, 2023, the 15-day written comment period established in the notice closed and one comment letter was received from a group of conservation organizations; and

WHEREAS, on June 5, 2023, the CEC provided notice designating June 16, 2023, as the date for the business meeting to consider readoption of the amendments to Appendix B considering the revised necessity section of the supplemental initial statement of reasons, any comments received and any staff responses; and

WHEREAS, on June 16, 2023, the CEC considered readopting the proposed amendments to Appendix B at its business meeting and readopted the proposed amendments to Appendix B as published on April 26, 2023, with the notice of public comment on the supplemental initial statement of reasons.

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 not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the readoption of the regulations will not result in a physical change to the environment or reasonably foreseeable indirect physical change to the environment. In the alternative, readoption is exempt from CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

With regard to the Administrative Procedure Act:

- The CEC's prior findings made during the original adoption of the Appendix B amendments as set forth in Resolution No. 22-1012-10 (TN 246550) are incorporated by reference; and
- The revised necessity sections in the supplemental initial statement of reasons continue to support the basis for amending Appendix B; and
- None of the comments received on the supplemental initial statement of reasons and the necessity section during the comment period or at the business meeting, and nothing else in the record, justify not readopting the Appendix B amendments.

THEREFORE, BE IT RESOLVED that, based on the entire record before it, the CEC finds that the proposed regulations are not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the regulations will not result in a direct physical change to the environment or reasonably foreseeable indirect physical change to the environment. In the alternative, adoption is exempt from the CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

FURTHER BE IT RESOLVED that, after considering all comments received and based on the entire record of this proceeding, the CEC hereby readopts the amendments to Appendix B as published on April 26, 2023. The CEC takes this action under the authority of sections 25213 and 25218(e) of the Public Resources Code, which authorize the CEC to adopt rules or regulations, as reasonable and necessary, to implement Public Resources Code sections 25520 and 25545.2; 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 in [Docket Number 21-OIR-04](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-04), at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-04> and posted on the CEC's website.

FURTHER BE IT RESOLVED that the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the readopted Appendix B 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 Supplemental Final Statement of Reasons; compiling and submitting the rulemaking file to OAL; making any changes to the rulemaking file required by OAL; and filing a notice of exemption with the Office of Planning and Research.

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 June 16, 2023.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Liza Lopez
Secretariat