

## DOCKETED

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*Comment Received From: Susan L Callahan*

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**LEDVANCE Comments on General Service Lamps - Expanded Scope**

*Additional submitted attachment is included below.*



June 16, 2017

California Energy Commission  
Docket Unit, MS-4  
RE: Docket No.17-AAER-07  
1516 Ninth Street  
Sacramento, CA 95814-5512

RE: General Service Lamps, Docket No. 17-AAER-07

Dear Commissioner McAllister:

LEDVANCE LLC thanks the Commission for the opportunity to provide public comment in this docket relating to general service lamps. LEDVANCE GmbH, owned by a consortium led by the strategic investor IDG Capital, the leading Chinese lighting company MLS, and the financial investor Yiwu, is one of the world's leading general lighting providers for professional users and retail customers. In North America, LEDVANCE offers SYLVANIA advanced LED lamps, standardized luminaires, and smart lighting solutions, as well as a wide range of traditional light sources. The SYLVANIA brand leadership in the industry is a result of a proud legacy of over 100 years of lighting experience

We understand the purpose of this pre-rulemaking activity is to consider amending and expanding the scope of the definition of the term “federally regulated general service lamp” in Title 20 to conform and align with the U.S. Department of Energy’s (DOE) amended definition of “general service lamp” (as published in the Federal Register on January 19, 2017). The Commission would then apply this revised definition to a 45 lumen per watt energy conservation standard in section 1605.3(k) of Title 20. We note that DOE adopted a number of other product definitions ancillary to the definition of general service lamp, and alignment with those ancillary definitions would be required as well.

LEDVANCE would like to bring to the Commission’s attention National Electrical Manufacturers Association’s (NEMA) March 3, 2017 letter to the U.S. Secretary of Energy Perry. In it, NEMA requests DOE “to complete the [general service lamp rulemaking] assignment that Congress established in the [Energy Independence and Security Act of 2007 (EISA-2007)] and continue the rulemaking”. This simply would be making the required determinations as to whether or not to amend standards for general service incandescent lamps, maintaining or continuing exemptions for certain other incandescent lamps, as well as making similar determinations for types of compact fluorescent and LED lamps (EERE-2013-BT-STD-0051-0103). We also would like to bring to the Commission’s attention that the Department of Energy’s Final Rules are the subject of a pending petition

LEDVANCE LLC  
200 Ballardvale Street  
Wilmington, MA 01887

[www.ledvance.com](http://www.ledvance.com)

for judicial review filed by NEMA in the Fourth Circuit Court of Appeals (*National Electrical Manufacturers Association v. U.S. Department of Energy*, No. 17-1341). We mention these to caution the Commission that the federal General Service Lamp rulemaking may be subject to continuing proceedings to which the Commission may have to adjust the definitions they are considering for early adoption.

LEDVANCE is aware of the misconception that DOE was required to determine energy conservation standards for General Service Lamps before January 1, 2017 and if it did not that the backstop requirement, a minimum 45 lumen per watt standard effective January 1, 2020, would be in place. The January 1, 2017 date appears in EISA 2007 only with respect to determining if general service incandescent lamps standards should be amended: “If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.” 42 U.S.C. §6295(i)(6)(A)(iii). Failure to complete the rulemaking in accordance with this clause would be one way to trigger the backstop. However, DOE states, “This final rule does not determine whether DOE should . . . amend standards for any category of lamps, such as GSILs . . .” 82 FR 7277. It is readily apparent that since DOE has stated “Lamps that are GSLs will become subject to either a standard developed by DOE or to a 45 lm/W backstop standard, but this rule does not determine what standard will be applicable to lamps that are being newly included as GSLs.” 82 FR 7318, the backstop has not been triggered.

Congress provided for a very limited exception to preemption in EISA 2007. DOE discussed this in the Final Rule:

Federal energy conservation requirements generally supersede state laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) Generally, preemption applies both before an energy conservation standard becomes effective, and after an energy conservation standard becomes effective. (42 U.S.C. 6297(b) and (c)) For energy conservation standards applicable to GSLs, EISA 2007 established additional preemption provisions specific to California and Nevada. Namely, beginning January 1, 2018, no provision of law can preclude these states from adopting: (1) Standards established in a final DOE rule adopted in accordance with 42 U.S.C. 6295(i)(6)(A)(i)–(iv); (2) the minimum efficacy standard of the backstop standard (45 lm/W) if no final rule was adopted in accordance with 42 U.S.C. 6295(i)(6)(A)(i)–(iv); or (3) for the State of California, any California regulations related to the covered products adopted pursuant to state statute in effect as of the date of enactment of EISA 2007 (*i.e.*, December 19, 2007). (42 U.S.C. 6295(i)(6)(A)(vi)) Other than these narrow exceptions, EPCA’s statutory preemption provision prohibits any state from adopting energy conservation

standards for any type of GSL regardless of whether DOE sets standards for that type of GSL. 82 FR 7316

And, because the LED Lamp standards and the Small Diameter Directional Lamp (SDDL) standards do not fit into the exemption to preemption provided, they are superseded and not effective.

The Commission has adopted three sets of energy conservation standards applicable to general service lamps that are purportedly effective on January 1, 2018. Should the Commission expand the scope of the definition of the term “federally regulated general service lamp” the standards applicable to general service lamps at Table K-12, Title 20 section 1605.3(k), the standards applicable to LED Lamps in Title 20 section 1605.3(k)(2)(C), and the standards applicable to SDDLs in Title 20 section 1605.3(k)(3) would purport to regulate covered products in apparent conflict with statute.

LEDVANCE respectfully requests that the Commission consider all of our comments, including those on the limits on a State’s authority to establish energy conservation standards for covered products, and those questioning if in fact the backstop has been triggered, in deciding whether to amend the definition of the term “federally regulated general service lamp” in Title 20.

Thank you again for the opportunity to submit these comments for your consideration. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Susan L. Callahan".

Susan L. Callahan  
Regulatory Affairs Manager

LEDVANCE LLC  
200 Ballardvale Street  
Wilmington, MA 01887  
978-753-5126  
[susan.callahan@ledvance.com](mailto:susan.callahan@ledvance.com)