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APPEARANCES

Commissioners

Robert Weisenmiller, Chair
David Hochschild
Janea Scott
Andrew McAllister

Staff Present: (* Via WebEx)

Drew Bohan, Executive Director
Kourtney Vaccaro, Chief Counsel
Rosemary Avalos, Public Adviser's Office
Cody Goldthrite, Secretariat

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| Carlos Baez | 4 |
| Linda Barrera | 4 |
| Ingrid Neumann | 5, 6 |
| Katharina Snyder | 7 |
| David Erne | 8 |

Others Present (* Via WebEx)

Interested Parties

| | |
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| Nancy Jenkins Ander, DGS | 2 |

Public Comment (* Via WebEx)

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| Laura Petrillo-Groh, Air-Conditioning, Heating, and Refrigeration Institute, AHRI | 4 |
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| | ii. <i>Communities for a Better Environment and Center for Biological Diversity v. Energy Resources Conservation and Development Commission, and California State Controller, (Alameda County Superior Court, Case No. RG13681262)</i> | |
| | iii. <i>Energy Commission v. Electricore, Inc. and ZeroTruck (Sacramento County Superior Court #34-2016-00204586)</i> | |
| | iv. <i>Energy Commission v. United States Department of Energy (Federal District Court, Northern District of California, #17-cv-03404)</i> | |
| | v. <i>City of Los Angeles, acting by and through, its Department of Water and Power v. Energy Commission (Los Angeles Superior Court, Case No. BS171477).</i> | |
| | vi. <i>Energy Commission v. City of San Jose, JUM Global, L.L.C. (Sacramento Superior Court, Case No. 34-2018-00230652).</i> | |

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| b. Pursuant to Government Code section 11126(e), the Energy Commission may also discuss any judicial or administrative proceeding that was formally initiated after this agenda was published; or determine whether facts and circumstances exist that warrant the initiation of litigation, or that constitute a significant exposure to litigation against the Commission, which might include: | |
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1 (...Skipping to Item 4)

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8 CHAIRMAN WEISENMILLER: Then let's go to Item 4.

9

MR. BAEZ: Hi, good morning Chair and
10 Commissioners. My name is Carlos Baez. I'm from the
11 Appliances Office within the Efficiency Division. Today,
12 I'll be giving a short presentation regarding our
13 amendments to the Title 20 Appliance Efficiency Regulations
14 Rulemaking. This is essentially a cleanup of the
15 regulations. The proposed amendments are significant in
16 that this is the first rulemaking of this type since 2014
17 and cover a broad range of changes from format updates to
18 incorporating federal rules. Next slide, please.

19 On January 13th, 2016 the Energy Commission
20 ordered a rulemaking proceeding to make clarifying
21 amendments to Title 20 that do not change underlying
22 Efficiency Standards.

23 On March 30th, 2018, the Energy Commission
24 published the Notice of Public Action, the Initial
25 Statement of Reasons and the proposed regulatory language,

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1 which started the 45-day comment period.

2 And on April 24th, 2018, CEC staff hosted a
3 public workshop for this rulemaking.

4 This rulemaking covers the entire Title 20
5 Appliance Efficiency Regulations from Sections 1601 through
6 1609. The purpose is to provide clarification, improve
7 readability and reflect current laws and effects. This
8 rulemaking proposes no changes to the underlying Energy and
9 Water Efficiency Standards. Next slide, please.

10 Now changes to reflect federal law, regarding
11 these changes, we are adding and amending definitions, test
12 procedures and energy performance standards in accordance
13 with federal law current in effect. Compliance with
14 federal requirements is mandatory regardless if they are or
15 are not shown in Title 20. These amendments are necessary
16 for clarification purposes.

17 Title 20 is intended to be a complete source of
18 information for stakeholders regarding appliance efficiency
19 regulations at the state level and nationally as well.

20 Next slide.

21 Now some state-specific changes, for these when
22 preempted by federal law we are removing state standards
23 and test procedures for appliances that are now federally
24 regulated. In some cases, we are aligning state test
25 procedures with federal test procedures for appliances that

1 are not preempted. And a couple of examples are lamps and
2 state-regulated battery charger systems. Next slide,
3 please.

4 The Modernized Appliance Efficiency Database
5 System, also called MAEDBS, is the current version of the
6 database used to certify models of regulated appliances.
7 After having their products tested, manufacturers are
8 required to submit appliance model data to MAEDBS to
9 determine compliance with the performance standards.
10 Certification to MAEDBS is required before a regulated
11 product can be sold or offered for sale in California. The
12 current version of MAEDBS was introduced in 2015. 2014 was
13 the last year that a similar cleanup rulemaking of this
14 scale was completed.

15 So much of the certification language is
16 outdated. Because of this we are updating terminology and
17 certification procedures in the regulations.

18 In cases where performance standards or test
19 procedures have been updated, the data parameters required
20 for certification have been updated as a result for that
21 particular appliance type. Next slide, please.

22 Within the regulations we are now specifying that
23 the manufacturer's designated contact person will be
24 notified via email when data submittals to MAEDBS are
25 approved or rejected. Contact information is already

1 submitted during the account creation process in MAEDBS, so
2 no additional action will be needed on their part.

3 Next, notifications regarding archiving models
4 will be conducted via email instead of registered or
5 certified physical mail. Models are archived when a new
6 standard or test procedure goes into effect for that
7 appliance type. We send notifications to manufacturers to
8 inform them that their models will be archived. It can
9 involve hundreds or sometimes thousands of individual
10 manufacturers, depending on the appliance type.

11 This is a change we have really been looking
12 forward to. This will lead to a monetary savings on paper
13 and postage. Sending certified mail can be very expensive
14 and we have found communication through email to be more
15 effective than physical mail, in terms of response rate.
16 Next slide, please.

17 In conclusion, this rulemaking will improve
18 accuracy, update standards and procedures, improve
19 compliance and make implementation nimble.

20 We received comments on our 15-day language
21 express terms, which stated concerns over our addition over
22 the federal test method for air compressors. The proposed
23 amendments to the Appliance Efficiency Regulations include
24 definitions and test procedures for compressors that are
25 currently reflected in the Code of Federal Regulations and

1 that are currently in effect.

2 Staff would like to emphasize the following
3 points. First, the proposed scope in Section 1601 covers
4 federally regulated commercial and industrial air
5 compressors. Under the definitions in Section 1602 of the
6 Appliance Efficiency Regulations, to be considered
7 federally-regulated commercial and industrial equipment,
8 both a federal test method and a federal standard must
9 exist for that appliance type. A federal test method
10 exists for compressors. However, there are no federal
11 standards for these products. Because of this compressors
12 do not meet the criteria to be considered federally
13 regulated under the Appliance Efficiency Regulations.
14 Therefore, there are no requirements that need to be met
15 for this appliance type, because they are not in the scope
16 of our regulations.

17 Second, staff has proposed language in Section
18 1606(a) and 1608(a) that make it explicit that air
19 compressors would be exempt from the certification
20 requirements.

21 Third, if DOE were to adopt federal standards for
22 compressors then they would be federally regulated and
23 within our scope. However, because proposed language in
24 Section 1606(a) states that compressors are exempt from
25 certification there would be no obligation for compressor

1 certification unless this language is modified in a future
2 rulemaking.

3 Last, we have another docket open where Energy
4 Commission may consider whether to adopt state standards
5 for compressors. Docket No. 18-AAER-05 is an appropriate
6 place to raise issues related to definitions,
7 certifications and efficiency standards for compressors.

8 Staff recommends the adoption of this rulemaking.
9 The proposed amendments will provide manufacturers and
10 other stakeholders with an accurate and complete version of
11 Title 20, which will assist in compliance with the various
12 appliance efficiency standards that affect them. Next
13 slide.

14 All right, thank you for your time. We would be
15 happy to answer any questions.

16 CHAIRMAN WEISENMILLER: Thank you.

17 Let's start with public comment. I believe our
18 first speaker is from AHAM.

19 MR. MESSNER: Good morning, Commissioners. Kevin
20 Messner with AHAM. I wanted to first say just thank you.
21 These technical updates are really helpful. I've noticed
22 our comments are fewer than they were last time, maybe
23 someday we won't even submit comments on these technical
24 corrections. That would be nice.

25 The first issue -- I just wanted to raise two

1 issues. One is on the battery chargers. This is not a
2 substantive issue and staff has explained it well. There
3 is another rulemaking that deals with the BC marking.
4 This doesn't have that in it. I understand it, it makes
5 sense. The only thing I would ask is maybe in the final
6 Statement of Reasons you put the clarification that a BC
7 mark is not required on the federal battery chargers. I'm
8 nervous that retailers and other might not be quite as --
9 in following all the multiple rulemakings that could
10 happen, so when they see this one that shows the BC mark is
11 on there and then the other rulemaking is lagging behind
12 it, just a final Statement of Reason clarifying that might
13 be helpful to avoid any confusion.

14 The second issue is lights and LEDs. We need to
15 figure out a way to deal with lights, LED lights. That
16 they don't work well on high temperature situations, so we
17 have range hoods. So people want lighting when they're
18 cooking. And right now the path we're on is LEDs are going
19 to have to be used and in a range hood that's not going to
20 work. So there are just technical issues that we have to
21 address that it's an issue right now. So we need to find a
22 way through that.

23 We wanted that to be done through these technical
24 corrections. I realize the lighting standards, it's a big
25 deal. But we have to figure out a way to exempt the high

1 temperature situations or I'm not sure how this all flushes
2 out. So really ask for an expedited help on that either
3 through enforcement discretion, regulatory guidance, I
4 don't know what can be done, because it's a problem right
5 now today.

6 So I appreciate any help on that. Thank you.

7 CHAIRMAN WEISENMILLER: Thank you.

8 We have another speaker with AHRI. AHRI, please
9 come up.

10 MS. PETRILLO-GROH: Good morning. I'm Laura
11 Petrillo-Groh in the Air-Conditioning, Heating and
12 Refrigeration Institute.

13 First of all, we would like to commend staff on
14 the way that this cleanup was handled. This is an
15 incredibly complex set of regulations to go through and to
16 update and to make applicable for California regulations.
17 And we have been engaged in the entire process and very
18 much appreciate all the outreach and communication that
19 we've had with your staff. This was an excellent example
20 of an including the public in the rulemaking process.

21 I apologize for missing the first part of the
22 presentation, but AHRI did have several last-minute
23 comments to the 15-day language issue on June 25th. Most
24 were editorial, having to do with our change in office and
25 changing year for applicable test methods, such as for heat

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1 pump water heaters.

2 And we hope that CEC will consider further
3 clarifications to definitions, particularly for water
4 heaters. We've pointed out several times that repetitive
5 definitions could be unclear in interpreting the document.
6 And we would request that additional language be added to
7 make clear what the differences are between consumer and
8 commercial products, so that it aligns more closely with
9 federal regs.

10 And lastly, there is another water heater
11 question that came up regarding smaller products, storage
12 models less than 20 gallons. And at present, there's no
13 federal regulation on this. And we made a recommendation
14 to update Table F-3 to make more clear that there's no
15 minimum for that product and that there cannot be
16 translation between the UEF and EF Standards. So I hope
17 maybe those got taken into account.

18 I was across the hall at another meeting. But
19 again, thank you very much for the careful consideration of
20 all of our comments and working with us so well.

21 CHAIRMAN WEISENMILLER: Okay. Thank you.

22 Anyone else in the room with comments?

23 (No audible response.)

24 CHAIRMAN WEISENMILLER: Then let's go to the
25 phone line.

1 MS. HWANG: Commissioner, this is Marian Hwang
2 with Miles & Stockbridge on behalf of Atlas Copco.

3 CHAIRMAN WEISENMILLER: Please, go ahead.

4 MS. HWANG: The company would like to comment.
5 Thank you. If I may have about three-and-a-half to four
6 minutes of your time, Atlas Copco also thanks --

7 CHAIRMAN WEISENMILLER: You've got three minutes.
8 Go.

9 MS. HWANG: Thank you. Then I'll read quickly.
10 Atlas Copco also thanks the Commission for this opportunity
11 to present three major concerns.

12 First, we respectfully urge the Commission to
13 delete any requirements applicable to compressors from the
14 proposed rules and to take a holistic approach for
15 issuing any future compressor rules, but only after the
16 status of all federal standards are clarified and
17 finalized.

18 Second, the prior view that this proposed rule
19 contains a temporary exception for compressors and does not
20 require immediate testing, is not legally supported by the
21 proposed rule.

22 And third, under this rule given the lack of any
23 efficiency standard at both the federal or state level, a
24 compressor manufacture's failure to comply with the federal
25 test method within 12 months, still leaves the compressor

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1 manufacturers vulnerable to third-party consumer actions,
2 unfair trade practice claims and possible other citizen
3 claims.

4 Now in support of this view that compressors are
5 currently accepted, the Commission relies on 1602 and its
6 definition of what a federally regulated commercial and
7 industrial equipment is, which is defined as equipment for
8 which there is a state test and an energy conservation
9 standard prescribed by four expressly cited federal energy
10 laws.

11 The major flaw with this conclusion and the
12 definition, is that the compressor testing and efficiency
13 standards are not covered under any of these cited federal
14 laws, but are rather covered under the Energy Policy and
15 Conservation Act of 1975, which is not cited in this
16 definition. And thus the Commission's reliance on this
17 definition will not support, will not legally support the
18 exceptions from the testing of compressors, under your
19 rules.

20 And most importantly, Section 1603(a) expressly
21 provides that compressors within the scope of the rule must
22 be tested within 12 months of the effective date, using the
23 prescribed federal test. For Atlas Copco, such testing
24 would involve hundreds of models. And given the number of
25 compressor models that are individualized to meet specific

1 customer needs, compressor manufacturers will be unable to
2 meet the 12 month deadline if all models must be tested.

3 Third, the failure of the proposed rules to
4 include the use of alternative efficiency demonstration
5 methods, in lieu of testing, as otherwise allowed under the
6 Federal Regulation of 10 CFR Section 429.63(a)(2) will also
7 have a substantial adverse effect on the industry. If AEDM
8 is not included the compressor manufacturers will not be
9 able to meet the 12-month deadline.

10 Thus in summary, the amendments in our view did
11 not provide accurate federal requirements, did not provide
12 clarity or certainty for the manufacturers of compressors,
13 does not reduce manufacturer burdens and costs, but rather
14 will result in significant burden and costs to
15 manufacturers for compressors, as well as result in
16 potential adverse effects to California consumers who's
17 access to compressors could be limited.

18 Thank you Commissioners, for your consideration
19 of our comments.

20

21 CHAIRMAN WEISENMILLER: Okay. Thank you.

22 Anyone else on the phone?

23 (No audible response.)

24 CHAIRMAN WEISENMILLER: Then let's start with
25 staff. Do you have responses to any of the comments? We

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1 need you to go to the podium. Thank you.

2 MR. BAEZ: Hi, thank you. Regarding the BC
3 marking requirement that Kevin brought up, yeah as we have
4 communicated earlier we're not including any of the BC
5 marking requirement changes in this rulemaking. But yes,
6 BC marking requirements are still being modified in another
7 separate rulemaking, 18-AAER-02.

8 We cannot reflect any of the BC marking
9 modifications in this rulemaking, since the other
10 rulemaking is currently being reviewed by the Office
11 Administrative Law. It is not yet effective. But once the
12 other rulemaking 18-AAER becomes effective, we are
13 expecting this to be around October 1st, 2018 then the BC
14 marking modifications will be shown in our regulations,
15 which is why we're not including it in this current
16 rulemaking.

17 Regarding some of the compressor comments, we
18 believe that the existing text does satisfy their concerns
19 and does not cause any additional burden. We state in
20 several places that certification won't be required for
21 compressors and this will be until federal standards are
22 adopted for compressors. And in this case we're preempted,
23 regardless. Or the other case would be if we were to adopt
24 state standards, but that would be done in a current
25 rulemaking with the correct timelines and comment periods

1 associated with it.

2 And regarding the comment regarding AEDMs for
3 certification, that's not relevant at this point since no
4 certification is required and since compressors are not
5 currently included in the scope. Thank you.

6 CHAIRMAN WEISENMILLER: Any comment on LEDs in
7 range hoods?

8 MR. BAEZ: Yeah, we understand their concerns
9 regarding the lighting. Making these edits would change
10 the underlying efficiency standards in the regulations,
11 which are outside of the scope of this current rulemaking.
12 We can address these concerns as part of an upcoming
13 rulemaking for lighting. That's Docket No. 17-AAER-07.
14 But again, making changes to standards would be outside of
15 the scope of this current rulemaking, since they would be
16 changing the underlying Efficiency Standards.

17 CHAIRMAN WEISENMILLER: Excuse me. Another
18 question is obviously there were some issues raised by
19 AHRI; any response there?

20 MR. BAEZ: Yeah, regarding the definition, maybe
21 confusion, we believe that the definitions as they are
22 listed are distinguishable. We do state that they are
23 consumer or commercial or industrial. We don't believe any
24 additional changes would be necessary. But we may consider
25 in the future to maybe update organization or terminology

1 if we do believe that this leads to increased confusion.
2 But as they're currently written we believe that the
3 definitions are distinguishable.

4 CHAIRMAN WEISENMILLER: Okay. So let's
5 transition to the Commissioners. Commissioner McAllister?

6 COMMISSIONER MCALLISTER: Yeah, so actually I
7 want to thank you Carlos and Linda, also. Did you want to
8 add something, Linda? Yeah, go ahead.

9 MS. BARRERA: Just for the record I just want to
10 note that staff did perform a CEQA analysis and the
11 resolution in the backup materials reflect that analysis.
12 And staff's CEQA finding is that the amendments to Title 20
13 Appliance Efficiency Regulations will not have any direct
14 or indirect significant effect on the environment. And
15 staff will file a Notice of Exemption with the Office of
16 Planning and Research to reflect this finding.

17 COMMISSIONER MCALLISTER: Great, thanks for that.

18 So I appreciate the presentation and all the hard
19 work. I've gotten multiple briefings on this during the
20 course of it and I agree with whoever said it's definitely
21 very detail-oriented. And I doubly appreciate Legal's
22 input and Linda's input and her help with all this.

23 But I think it is fair to say it is a cleanup, as
24 Carlos said at the beginning. And I also appreciate the
25 presence of stakeholders, certainly the compressor

1 manufacturers and AHRI and AHAM and I don't want to
2 minimize those issues. I really believe that the solution
3 is in kind of the outreach and the messaging that we help
4 with going forward. You know, if there's confusion about
5 definitions we can help you get those messages out to your
6 members. And certainly, where there's an impression that
7 compliance is required or where there's not. You know, we
8 certainly need to make that clear with say the compressor
9 manufacturers or others who have that incorrect impression.

10 So I think the package as it is now is good. And
11 in turn given its complexities and given the details of the
12 cleanup, changing and developing the messaging to help get
13 the information correctly out into the marketplace and
14 permeate all of our stakeholder groups, I think is the next
15 step, assuming we vote the affirmative here. But I would
16 obviously recommend to adopt.

17 Okay. I'll move Item 4.

18 COMMISSIONER SCOTT: Second.

19 CHAIRMAN WEISENMILLER: All those in favor?

20 (Ayes.)

21 CHAIRMAN WEISENMILLER: This item also passes 4-
22 0. Let's go on to Item 5.

23

24

25 (...Skipping remaining items)