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In the Matter of:
Portable Air Conditioners  )
Appliance Efficiency        )
Rulemaking                  )

PUBLIC HEARING

CALIFORNIA ENERGY COMMISSION
FIRST FLOOR – ROSENFELD HEARING ROOM
1516 9TH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 27, 2018
10:00 A.M.

Reported by:

Peter Petty
APPEARANCES

STAFF

Patrick Saxton, Appliances Office

PUBLIC COMMENT

Kevin Messner, Association of Home Applicant Manufacturers

Mary Anderson, PG&E, for California IOUs

Daniela Urigwe, Energy Solutions
AGENDA

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MR. SAXTON:

So my name is Pat Saxton. I’m an Electrical Engineer in the Appliances Office here at the Energy Commission. Today, we are having our public hearing on Portable Air Conditioners. It is Docket Number 18-AAER-04, when you’re looking for information on the Commission’s website.

We will be available for comment until noon today, even though I think we will finish the presentation and the other -- most of the people who are present will finish their comments well before that. But we will be available until noon today.

So this public hearing is being held pursuant to the California Administrative Procedure Act and Government Code section 11346.8. The purpose of the hearing is to accept public comment on the proposed regulatory language and proposed negative declaration. No Commissioners will be present today and no decisions will be made.
Many of you are familiar with the timeline. It’s been very quick, compared to a usual Energy Commission process. We posted the rulemaking documents at the beginning of October, and that included the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed regulatory language. We posted the California Environment Quality Act, or CEQA, Initial Study and Proposed Negative Declaration at the end of October.

There was a 45-day public comment period on the rulemaking documents and a 30-day public comment period on the CEQA documents. That ended yesterday, and written comments were due at 5:00 p.m.

We’re at the public hearing today. On December 10th will be the proposed adoption at an Energy Commission Business Meeting. And the proposed effective date is February 1, 2020.

So for CEQA, we have prepared an initial study. Staff prepared that. The project is Statewide Minimum Efficiency Levels for Portable Air Conditioners. And the staff findings were that, related to energy impacts, the proposed standards will reduce future electricity
consumption. And that with respect to environmental impacts, there is no significant change to materials or manufacturing processes for portable air conditioners, nor was there any change to the expected lifetime of portable air conditioners.

And because of that reduced electricity consumption in the future there would be reduced criteria pollutants, greenhouse gases and other particulates to the extent that electricity is generated by fossil fuels.

Specific to air quality, the reduced power plant operation will reduce -- result in reduced emissions in California, compared to no standards. The same for greenhouse gases.

With respect to hazards and hazardous materials, the regulations will have no impact on those items. Although the proposed regulations may lead to an increased usage of metals or insulation, those are items already used in the manufacturing for portable air conditioners. To the extent that there was any use of alternative refrigerants, it would decrease the usage of refrigerants that are more harmful to the environment. And then finally, the proposed
regulations do not alter the way in which these materials are disposed.

So therefore, Staff made a finding of no significance, meaning that the proposed efficiency standards will not have a significantly adverse effect on the environment.

So the written comment deadline for the CEQA documents ended yesterday at 5:00 p.m. and no comments were received.

So Staff will recommend that the Commission adopt the Proposed Negative Declaration at the December 10th business meeting.

So I’m going to move on to the efficiency standard now. As many people know, this is work that was initially begun by the U.S. Department of Energy. That work resulted in the Prepublication of a Final Rule that was noticed on December 28th, 2016. However, that Final Rule was never published in the Federal Register, so it did not become a federal standard. There is ongoing litigation related to that issue. Both the State of California and the Energy Commission are plaintiffs in that action.

So at the time, 2016 and, in fact, most
of that work was done earlier, 13 percent of portable air conditioner models had met the DOE proposed efficiency level.

Some background on the products. The purchase price range can run approximately $200 to $500. There are certainly models that are available that cost more than that. The assumption for the analysis has been a product lifetime of ten years. And the California shipments are appropriate 165,600 per year, units per year.

The Commission staff relied on the following documents for this rulemaking: the DOE Technical Support Document, which was part of their Prepublication package; and also the Prepublication Final Rule for Energy Conservation Standards for Portable Air Conditioners. The Commission also relied on the California Investor Owned Utilities Codes and Standards Enhancement Initiative Analysis. All of these documents are in the Docket Number 18-AAER-04.

So specific to the proposed regulations, products that are in scope are single and dual-duct portable air conditioners that are attached to an adjustable window bracket. A couple of
visual examples there.

Products that are out of scope with relation to the proposed standard are spot air conditioners that have no ducts or ducts which are not attached to adjustable window brackets. However, these products do have existing test and list requirements in California, meaning that they need to both follow a specified Test Procedure and certify data to the Energy Commission. There’s been no change to those spot air conditioner requirements.

So section 1602 of the proposed regulations includes definitions which are consistent with DOE’s definitions in both the Test Procedure and the Prepublication Final Rule. There’s been some minor modification. An example would be referring to California’s jurisdiction by talking about products sold or offered for sale in California, rather than those distributed in commerce. There’s also been a few minor conditions -- excuse me, minor modifications where we refer to dry-bulb outdoor conditions in several definitions and that was based on comments from the Appliance Standards Awareness Project. That is consistent with DOE’s
The Test Procedure as found in section 1604 was actually incorporated in the Commission’s recent cleanup rulemaking and it is the DOE Test Procedure, which is found in Title 10 of the Code of Federal Regulations section 430.23(dd). And then the actual Test Procedures in Appendix CC to subpart B of Part 30.

California is not recommending any modifications to that Test Procedure.

If you’re looking at the proposed regulatory language, you won’t actually see any changes for section 1604 and that’s because of the first bullet here. So that item was incorporated in our recent cleanup rulemaking.

If you look at the official regulations right now it will be there. Because we’re not proposing changes to it, you don’t see anything in our language packet today. But again, we intend to be completely and entirely consistent with the DOE Test Procedure.

Related to spot air conditioners, we’re not recommending any changes to the existing Test Procedures which is ANSI/ASHRAE 128-2001.

So in section 1605, which is called, I
believe, the General Requirements for Standards, we are noting that portable air conditioners which are sold or offered for sale in California that have both single-duct and dual-duct configurations must meet the proposed standard for both of those configurations, which is found in section 1605.3, but additionally, they both have to be tested and certified to the Energy Commission. And that is consistent with DOE’s approach in their Prepublication Final Rule, as well.

The actual standard, proposed standard, will be found in section 1605.3. And this would be a new State Efficiency Standard for Portable Air Conditioners. It is an equation, rather than a specific efficiency level, and that equation is identical to the proposed standard in the DOE Prepublication Final Rule. It’s set at Efficiency Level 2. California is proposing an earlier effective date than would have occurred if the federal rule had been published, and that is February 1, 2020.

The required data submittal for certification to California is found in section 1606. One change is that we’re removing the
existing exception that did not require portable air conditioners to submit any data. And that was because, previously, the Test Procedure had been incorporated into the standards but we wanted to make clear that at that time there was no testing or certification requirements. Now that we’re moving forward, we will remove that exception.

So we are also proposing some additional data fields, compared to what DOE would have collected. And the reason we’re doing that is because they’re used for validation of the submitted data.

We’re also adding a field, a true/false field, it might be a yes/no, I can’t remember, but to determine the prevalence of dehumidification function with portable air conditioners. And again, related to spot air conditioners, we’re not making any changes to the existing requirements.

The proposed product marking requirements are found in section 1607. The Energy Commission is not recommending any product specific marking for portable air conditioners. However, the general requirements for all appliances would be
applicable, and that includes manufacturer or
brand name, model number and data of
manufacturer. And those do have to go on the
product itself.

Section 1608 includes the compliance and
enforcement provisions of the regulations. And
again here, all we are proposing to do is remove
the exception that portable air conditioners were
not previously subject to enforcement.

So all standards that are adopted by the
Energy Commission must be both technically
feasible and cost effective. So for portable air
conditioners the possible approaches to meet the
performance standard, some of the possible
approaches are to increase the heat transfer
surface area of the coils, either or both
evaporator and condenser. They could also
improve compressor efficiency or blower motor
efficiency.

An example of improving motor efficiency
would be replacing a permanent split capacity
motor with a more efficient permanent magnet of
electronically commutated motor. Another
approach would be to lower the standby power
consumption of the portable air conditioner.
That is part of the equation for the overall energy usage.

Some items that were screened out of the DOE Technical Analysis but do appear to be possible from a technical standpoint are variable speed compressors and alternative refrigerants. At the time of DOE’s analysis there were no portable air conditioners that incorporated these features, which is why they were screened out, but they do appear to be possible to incorporate into the units.

So we’re just noting these items. They were not relied on for the rulemaking.

Related to cost effectiveness, the estimated incremental retail price, so this is not the cost but the actual price at the shelf, so that assumes pretty significant retail markup, is $76.00. The estimated first-year savings based on the national average price of electricity is $30.00. In California, that would be higher due to our higher electricity rates.

And the estimated electricity savings per unit are 223 kilowatt hours. And this would result in a lifecycle net monetary savings of appropriate $224. So the benefit to cost ratio is slightly
less than three-to-one here. And again, to meet
the cost effectiveness requirements in the
Warren-Alquist Act, it would only need to be one-to-one.

On a statewide basis, assuming those
165,600 units for annual shipment, the first year
electricity savings would be approximately 37
gigawatt hours. And based on the estimated ten-year lifetime, full stock turnover would occur at
the ten-year mark, and then you would have 369
gigawatt hours of estimated electricity savings.
This would result in monetary savings, again
based on the national average price of
electricity, of just under $5 million in the
first year, and then $50 million annually after
full stock turnover.

Comparing those estimated savings to some
recent Energy Commission rulemakings, it’s more
than portable electric spas and less than
computer monitors. And all of these values here
would be after a full turnover, so there’s
different lifetimes for those products. It’s
just for illustrative purposes.

So in conclusion, Staff finds that the
proposed standards are technically feasible and
cost effective to the consumer over the lifetime of the appliance. Staff will be recommending to the Energy Commission that the proposed regulations be adopted at the December 10th business meeting.

The written comment period for the proposed standards also closed last night at 5:00 p.m. Three comments were received, one from the Northeast Energy Efficiency Partnerships, or NEEP, one from the California Investor Owned Utilities Statewide Codes and Standards Enhancement Initiative, or CASE, and then one from the Association of Home Appliance Manufacturers, or AHAM.

I summarized those comments here.

NEEP supports the proposed regulations. CASE supports the proposed regulations, although suggested revisions to five definitions. They requested that products with dehumidification functions be required to separately meet the Federal Dehumidifier Standards. They proposed a more stringent efficiency level, EL3 for portable air conditioners. They requested an additional field for data submittal, and also proposed product-
specific marking requirements.

AHAM noted that they have previously and continue to support publication of the DOE Final Rule that would result in a national standard at Efficiency Level 2. They proposed the removal of definitions that only show up in the Test Procedure but not in the actual standard.

AHAM noted that they don’t oppose defining seasonally adjusted cooling capacity, or SACC. They proposed to reduce the number of data fields that are required for data submittal and certification, again noting that they do not impose inclusion of seasonally adjusted cooling capacity in that data submittal.

As they have indicated previously, AHAM does strongly oppose the effective date of February 1, 2020 and continues to support a five-year period between adoption of the standard and the effective date.

Multiple differences were noted between the case initiative and the DOE Technical Support Document. AHAM did note that if the Commission continues to pursue an efficiency standard for PACs, that they believe the correct level is, of the standard, is Efficiency Level 2, and that
incorporation of the DOE Test Procedure is acceptable.

At this point, we’re ready to move into the public comment portion of the hearing. We’ll start with people who are in the room and in person. If you just want to come to the microphone and please state your name and affiliation for the court reporter? If you could give him a business card, that’s even better. And a copy of your comments is appreciated but not reqd.

MR. MESSNER: Good morning. I guess I’ll get first. Nobody’s getting up. I’m Kevin Messner. I’m with AHAM. So a few comments.

I guess I’ll start with the effective date. It’s hard to know where to start. I mean, the effective date is -- it’s -- I don’t know what the -- if -- what the purpose of this rule is. If it’s to remove the lion’s share of portable air conditioners from California for a few years, then I guess you’ve achieved your goal. Having an effective date, essentially a year after the rule is finalized, it’s just not going to happen. And your own slide said only 13 percent are on the market to do this.
So I’ve never -- I don’t think I’ve ever seen an effective date so soon for one of our products. A year? It’s just, for air conditioners, they’re manufactured, generally, a lot of them in China or overseas. Retooling, redesigning, which is significant for EL2, it’s not an easy standard to meet, and the assumption that manufacturers -- DOE published this rule and manufacturers have been changing, that just is a flawed assumption that doesn’t understand how this -- the for-profit companies work and how the standards work.

So a year, it’s -- I know I say this a lot and maybe the CEC doesn’t believe me and we’ll see, but there are -- there’s, I can’t say with categorical, but it is having products change over in a year is just -- I’m just baffled. So if you continue with this, we will have to then -- that’s where we’re headed, is there’s very limited opportunity to do this.

Now the whole idea that you mentioned refrigerants and said that there wasn’t -- that wasn’t a basis of how this proposal was, which makes sense. But just to clarify, a refrigerant change for portable air conditioners in 2020, R-
32 is a flammable refrigerant and there are safety standards that are necessary. And even CARB, who’s the agent, the California agency that deals with refrigerants, their proposal came out as 2023, and that’s not -- we’re not even sure yet whether that’s even a possibility for the larger size or any other size to even have the capability to do that and meet a UL Safety Standard.

So this throwing out 2020 with these assumptions is just, it’s really surprising.

Let’s see. What else did I want to touch on? I do want to touch on one other thing, I guess, on the date, just publicly state, it’s more than a little disappointing that we, as AHAM, try to in, almost every case, negotiate standard changes at the federal level and try to negotiate. And we think that’s where we can lead with a stronger -- we can end up with a stronger regulation that makes sense for the consumer, for us and for the advocates.

We did that in Vermont and came up with something that -- it was a compromise. And now this goes through to essentially just undercut that. And it’s disappointing to see and it kind
of puts a chill factor, as least from our perspective, to why should be negotiate next year efficiency standards when whatever we negotiate will then just be undercut and more stringent in California. And so there’s no real incentive to negotiate, but we might as well just oppose the legislation when it goes too far in other states, as well. So it’s leading to.

We’re just in an atmosphere now nationally where it’s very hard to have a rational discussion on these things, to be quite frank. And we don’t need to go so far and potentially cause unforeseen problems. We have the LED issue with the lights, is one example here. We have the refrigerant issue at the federal level which went too far and went to the courts, and then EPA lost authority.

If you go too far there is a breaking point. And this PAC proposal may be, I’m hoping it isn’t, but it may be one of those with this effective date.

I appreciate the no product-specific markings. FTC has been talking about doing an energy guide, as soon as the federal government - DOE publishes the rule. Hopefully that lawsuit
will end soon. Interestingly, California is a party to that and says, is arguing from the courts, that this is issued. But now it’s issued at the federal level but now CEC is doing that. So it seems like the story for the State of California is changing depending on what venue we’re discussing this issue, which again, that’s just the landscape we’re in politically these days.

I won’t go into all the problems with the case study. It’s just unfortunate that there’s -- well, we have in our written comments all the problems with the case study. And I wouldn’t rely on that, that is appliance manufacturers aren’t experts on how to run the electric grid. And I’m not really seeing that the utilities are having much expertise on appliance standards.

So I think I’ll just end with that. Sorry, they were very -- not a very good -- I mean, I think this is due. There were a lot of good things in here in the sense of keeping consistent with the DOE Test Procedure, to try to end on a positive note, and choosing the EL2 standard which everyone had agreed with. It’s not what everybody wanted but -- so there are
signs in here of, I think, finding the right path. But then the effective date really just -- which is a huge deal, it really kind of blows it up.

So thank you.

MR. SAXTON: Okay. Thanks for the comments, Kevin. And I think we should just note what is going on in Vermont, in case there’s anyone that isn’t aware.

So Vermont has adopted a standard for portable air conditioners, also at Efficiency Level 2. And I believe the effective date for that is contingent upon possible publication of the rule, of the federal rule. So if that doesn’t happen before the end of the year, then Vermont’s effective date would be January 1, 2022 -- February 1, 2022. And if the federal rule is published, I believe would be the five-year period until that becomes effective.

So, okay, thanks.

MS. ANDERSON: Hello. This is Mary Anderson from PG&E on behalf of the California IOUS.

First of all, we want to thank the CEC for their leadership in these standards. The
California IOUs strongly support the Energy Commission staff’s effort to develop a Title 20 standard for portable air conditioners. The California IOUs were supportive of standards for portable ACs during USDOE’s previous rulemaking on the product.

And we note that the energy costs and consumer impacts were thoroughly investigated during that process. At that time the California IOUs advocated for regulation at efficiency level -- or EL3 as defined by the USDOE rulemaking to maximize cost-effective savings to the consumer. We continue to advocate for regulations at that higher efficiency level, but we applaud the CEC for its progress on this topic and support its current proposal.

Thank you.

MR. SAXTON: Thank you, Mary.

Did we have any other comments in the room? Yes.

MS. URIGWE: Hi. This is Daniela Urigwe with Energy Solutions on behalf of the Codes and Standards Enhancement Initiative Team.

So as Mary said, we strongly support this proposal. And we provided a lot of information
in the case report that was submitted to the docket.

A few things to note are that we also requested that if products have a dehumidification function, that those functions would also be subject to dehumidification standards per section 1605(f) of Title 20 which states that if an appliance serves multiple functions and is not federally regulated, then both functions shall meet applicable standards.

Additionally, we recommended reporting the SACC and the SEER values on the product directly or in product literature, but it has been mentioned here today that might be coming along in a label in the future.

And finally, we also support the data reporting requirements proposed in the Energy Commission proposal. And we do believe that they’ll provide helpful information for the California market.

So in summary, we thank the Energy Commission for the opportunity to comment and we do support this proposal in its current form.

MR. SAXTON: Thank you.

One last check for any comments in the
room. Okay.

For people on the WebEx, we would take your comments now. You could either use your raise-hand feature and you’ll be un-muted, or you could type your name into the chat box and your question or comment will be read into the record. In either case, please do state your name and affiliation. All right. We’ll wait a couple more seconds and see if anyone has a comment online. Okay. We’re not seeing anything.

We will now un-mute all the phone lines in case there’s any participants who are audio only. Again, please state your name and affiliation before making a comment. Okay. We’re going to mute those lines again. We’re getting a lot of feedback.

So again, someone from Staff will be present until noon today. You could -- the WebEx will run until noon, as well. That’s probably the easiest way to make a comment when we’re done here. But comments will be taken until noon. So I’ve mentioned several times today that Staff will propose adoption of the regulation and the Negative Declaration at the Energy Commission Business Meeting. That will
occur December 10th beginning at 10:00 a.m. right here in this room. And for WebEx attendance at the business meeting, the link is there at the bottom.

This presentation was docketed with the Energy Commission this morning, so it should both go out on the Appliances LISTSERV and be available in Docket 18-AAER-04.

And we can check for comments one more time. Okay.

Then that is the conclusion of the presentation and comment portion of the hearing. We’ll, again, we’ll be online until noon.

Thank you.

(The hearing adjourned at 10:34 a.m.)
REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of December, 2018.

__________________________
PETER PETTY
CER**D-493
Notary Public
CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

Martha L. Nelson

MARTHA L. NELSON, CERT**367

December 3, 2018