STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION

ENERGY EFFICIENCY COMMITTEE

HEARING ON PROPOSED AMENDMENTS TO THE APPLIANCE EFFICIENCY REGULATIONS

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

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COMMITTEE MEMBERS

Ms. Jackalyne Pfannenstiel, Committee Chairperson, also represented by Advisor Tim Tutt

Mr. Art Rosenfeld, Committee Member, also represented by Advisor John Wilson

STAFF

Mr. William Staack, Senior Staff Counsel

Mr. Jim Holland, Appliance Program

Ms. Betty Chrisman, Appliance Efficiency Program Manager

ALSO PRESENT

Mr. Karim Amrane, Air-Conditioning and Refrigeration Institute

Mr. Joseph Mattingly, GAMA

INDEX

PROCEEDINGS

CHAIRPERSON PFANNENSTIEL: This is the committee hearing -- an Energy Effiency Committee hearing to receive comments on proposed amendments to appliance efficiency regulations. I'm Commissioner Jackie Pfannenstiel and the presiding member of the Energy Effiency Committee of the Commission.

To my left is Commissioner Rosenfeld, who's an associate member of this committee. To his left is his advisor, John Wilson. To my right is my advisor, Tim Tutt.

Since we don't have name tags up here, just about everybody here knows us. I guess we can deal with that.

I think to begin, I will turn it over to Bill Staack, who has some opening comments to put in perspective how we will be spending the next couple hours.

Bill?

SENIOR STAFF COUNSEL STAACK: Good morning, Commissioners. My name is Bill Staack. I am a senior staff counsel for the California Energy Commission.

We are here today to hear comments on the Energy Commission's proposed amendments to the Appliance Efficiency regulations.

The Notice of Proposed Action for the proposed amendments was published on December 1st, 2006, which

started the beginning of the 45-day comment period. At the same time, the express terms, or 45-day language, of the proposed amendments were made available.

The full Commission will consider adopting the proposed amendments on January 17, 2007. If the commission at that time decides that modifications are needed, revised proposed amendments will be published and will be subject to an additional 15-day public comment period.

Before we get into the substance, I think it might be helpful if I summarize how we got here. And I do apologize in advance for how much legal mumbo-jumbo there is, but I will do my best to speak it in English.

The proposed amendments that are being considered today result from litigation filed in November of 2002, by four appliance manufacturer trade associations, against the Emergency Commission in Federal Court, asserting that various aspects of the appliance regulations were preempted by federal law.

In 2003, the U.S. District Court in Sacramento issued an injunction enjoining the Commission from enforcing certain portions of the regulations, mainly relating to the data that the appliance manufacturers submit to the Commission and information that manufacturers mark on their products.

The Commission appealed, and in 2005 the Ninth Circuit reversed, the lower court decision and determined that the challenge regulations are not preempted.

Earlier this year, the U.S. Supreme Court declined to review the Ninth Circuit's decision. All of this legal maneuvering put the case back in the local district's court for final resolution and lifting of that injunction.

Because the challenge regulations did not go into effect as scheduled in 2002, and because in the interim some loose ends had appeared, and because the parties had spent so much time working on the litigation, both the trade associations and the Energy Commission recognized that immediate enforcement of the regulations would not have been feasible.

We worked diligently and cooperatively to make the transition from litigation to compliance with the regulations as smooth as possible.

In this effort of cooperation, all parties agreed to a Joint Status Conference Statement for the court, which listed about 20 items on which everyone agreed, and which we told the court we would implement in this rulemaking.

There were also a few items -- five, to be precise -- on which we agreed to disagree, and to seek resolution in this rulemaking. This Joint Statement was

incorporated into the federal court's final order in the case.

The Joint Statement stated that all parties agreed that the Energy Commission will begin enforcing the data-submittal regulations as to those units manufactured on or after March 12th, 2007, and to enforce the marking regulations as to those units manufactured on or after September 17th, 2007.

In order to allow this to happen, the Joint Statement also indicated that all parties agreed that the Energy Commission must adopt, and that the Office of Administrative Law needs to approve and file, the amendments by March 12, 2007. That's why we're trying to move quickly in this proceeding, and why we hope today to move towards resolution on the five still-disputed items.

Staff's proposal on these five items will be presented shortly.

Finally, I want to re-emphasize that the purpose of the proposed amendments is to implement the Federal Court's Order, including getting the regulations in place by March 12th, 2007, so the Commission can begin enforcing the data-submittal regulations that we and the trade associations have agreed on.

And that would be my statement.

CHAIRPERSON PFANNENSTIEL: Thank you, Mr. Staack.

I would like now -- I think we should turn to the staff and hear comments on the five items.

Mr. Holland.

MR. HOLLAND: Thanks, Bill.

CHAIRPERSON PFANNENSTIEL: Make sure that green light is shining brightly.

MR. HOLLAND: Thank you, Bill, and thank you, Commissioners. Good morning. And good morning, guests.

I'm Jim Holland of the Appliance Program, here with my colleague Betty Chrisman. And we will be addressing the next segment of this hearing, which is covering the five items that Bill spoke of.

The Joint Statement identified five additional issues that the Commission would consider along with the agreed upon changes to the regulations. On these issues, staff offers the following comments:

Regarding Section 1607, High Sales Volume Combinations; the Commission agreed to consider changing the provisions related to the marking of commercial split system central air conditioners based on the highest sales volume combination of compressor-containing unit and outdoor coil.

The regulations, in Section 1604(c)(3), currently state that "split system central air conditioners and compressor-containing units shall be tested with a

non-compressor-containing unit most likely to represent the highest national sales volume for the combined equipment."

In section 1607(d)(2), Table W, there are requirements for the marking of printed materials accompanying commercial split system air conditioners and heat pumps.

Section 1606, Table V, also requires the reporting of data for split system air conditioners and heat pumps.

The change suggested by ARI would eliminate the reporting and marking requirements based on the most popular sales combination or any other combination. The Commission staff has considered this issue and recommends that no change be made to this provision. It has not been demonstrated that manufacturers are unable to identify the most popular sales combination for commercial split-system air conditioners and heat pumps.

Item No. 2 is regarding Section 1606, Table V, Motor Blowers for Commercial Appliances.

The regulations in Table V currently require the reporting of data for the horsepower of blower motors.

The Commission agreed to consider the elimination of the requirement for such reporting for blower motors for belt-driven air conditioners and heat pumps, with cooling capacity of equal to or greater than 65,000 BTU

per hour.

The Commission staff has considered this issue and recommends that no change be made to this provision since the data to be reported is needed to show compliance with some provisions of the building energy efficiency standards.

Item No. 3, regarding Section 1606, Table V, Blower Motors for Residential Appliances.

The regulations in Table V currently require that the reporting of data for fan motor horsepower, design, type, and power factor for air-cooled central air conditioners with cooling capacity less than 65,000 BTU per hour. The Commission agreed to consider the elimination of the requirement for such reporting for air-cooled central air conditioners with a cooling capacity under 65,000 BTU per hour.

The Commission staff has considered this issue and recommends that no change be made to this provision since the data to be reported is needed to show compliance with some provisions of the building energy efficiency standards.

The next segment is 4(a), Section 1606, Table V, Motor Model Numbers.

Section 1606, Table V, currently requires model numbers to be submitted for all appliances and is part of

what is referred to as the unique identifier. The Commission agreed to consider whether data submittals should be based on the U.S. Department of Energy Motor Master Protocols. This would require the Commission to change the requirements of Table V, to reflect the data based from motor -- to reflect that the database for motors does not use the model number as part of the unique identifier.

I will now refer to Betty Chrisman to elaborate on the motor reporting issue.

MS. CHRISMAN: Thank you. My name is Betty Chrisman. I am program manager of the Energy Commission's Appliance Efficiency Program.

I have read the comments filed by NEMA and want to express staff's concern in view of the complexity and constraints of the Energy Commission's Appliance database.

The NEMA proposal, related to reporting the model numbers, if adopted, will have significant adverse costly and time-consuming impacts on the Energy Commission's appliance database.

Staff is recommending rejection of this portion of NEMA's proposal, and would be happy to discuss with NEMA alternative reporting provisions for motor model numbers including, but not limited to, those I will mention below:

NEMA's docketed comments regarding specific data

collection items for electric motors proposed to eliminate reporting of the model number, in a previous e-mail exchange with staff, earlier this month, docketed yesterday, NEMA's General Counsel Clark Silcox and I came to a different understanding.

Mr. Silcox and I discussed the difference between the non-reporting, leaving blank, of the model number field versus reporting something in this field, but excluding it from being considered an identifier, as defined in Section 1602(a) in our regulations. I explained to Mr. Silcox that, from a database programming perspective, the latter is much easier than the former.

Additionally, I told him that completely removing the model number for the motor table in the database would cause significant and adverse database programming issues.

After further explaining that allowing motor model numbers to still be reported, but be excluded from the unique identifier would be much easier. Mr. Silcox responded by saying, "I guess I misunderstood what you were saying. I think my point is that we were indifferent and would go with whatever caused you the least difficulty."

Until NEMA's recent docket filing, I believe that we had reached a different understanding, although we had not yet determined exactly what to do.

When the compliance database was recently re-engineered, ease of maintenance and ease of adding new appliances were paramount in this redesign. Incorporating the unique rule that only applies to 1 of the 55 different data tables in the database is very difficult, costly, and time consuming.

The appliance database is a complete entity unto itself. Making the change proposed in NEMA's comments would require changes to be made throughout the entire database, not just to the motors table. And any future programming, particularly adding of any new appliances, would need to factor this unique characteristic into account.

Staff, instead, is proposing an alternative to NEMA's proposed removal of the model number. It includes the use of asterisks.

Section 1606(a)(1)(C) of our regulations addresses the use of asterisks in model numbers, allowing them to be used as wildcards to replace a single character in the model number. This section also prohibits the use of asterisks in a model number's first four characters due to the difficulty of searching for model numbers beginning with asterisks.

Staff would propose to amend this subsection, to allow for the reporting of motors, where the entire model

number, as entered into our database, is simply a series of asterisks including the first four characters. This would be strictly for purposes of manufacturers reporting data to us, and would also entail a change to the identifier definition in Section 1602(a).

Alternatively -- alternately, NEMA states that each manufacturer would report data for 113 base models. I presume this number reflects the 113 fields, in Table S, Standards for Electric Motors, in Section 1605.1, of our regulations.

We could provide a model number designation for each of these 113 basic models.

I have not further discussed these alternatives with NEMA and am including them here as an example of a way to address NEMA's concerns and our database programming restraints.

If NEMA and the motor manufacturers wish, we would discuss with them the option to eliminate this field and the data that is posted for motors, on the Energy Commission's Web site, and viewed by the public. This would lessen confusion of those who use our data, which was one of NEMA's main concerns.

I will now return this to Jim Holland.

MR. HOLLAND: Thanks, Betty. And I will continue on with Item No. 4(b), which regards Section 1606 Table V,

Custom Models of Motors.

The Commission agreed to consider how, if at all, data for "one-off" or custom models of motors should be submitted to the Energy Commission.

The Appliance Efficiency Regulations currently make no special provision for "one-off" or custom models. The Commission staff has considered this issue and recommends no changes.

Custom models are often manufactured in large quantities and should be the -- and it should be subject to the data collection requirements.

As a side note, by definition, "one-off" is a singular -- is singular and is not a model in the regulations, so that any item that only one unit is made of would not need to be certified to the Energy Commission as a "one-off" model.

And the last item on our list, No. 5, regards Section 1606, Table V, for ballasts.

The regulations currently require the reporting of performance for ballasts to use with one to four, T5, T8, and T12 linear fluorescent lamps. The changes suggested by NEMA include limiting these reporting provisions to only ballasts used with one or two T12 lamps.

One issue brought up by NEMA is that Section 1604(j) states that the test method for fluorescent lamps

is 10 CFR Section 430.23(q)2005, which references ANSI C82.2, which may apply only to one and two T12 lamps per magnetic ballasts. Three and four lamps per ballasts will operate only with electronic ballasts.

Other issues brought up by NEMA include that some of our reporting methods allow for only one entry for some features, while some ballasts have a range of answers which, according to NEMA, might require as many as 22 variations on some ballasts. NEMA recommends allowing either the highest or lowest entry in some fields as respectively appropriate.

The Commission staff recommends talking with NEMA and coming up with some kind of common ground to address the change required for ballast reporting.

As of this point, written comments have been received and docketed from ARI, GAMA, and NEMA on the 45-day language that has been submitted on December 1st.

And with that, I hand it back to the Committee.

CHAIRPERSON PFANNENSTIEL: Thank you, Mr. Holland.

And who is here who would like to address the Commission, on the other side?

Yes, please come forward and identify yourself.

MR. MATTINGLY: Good morning. My name is --

CHAIRPERSON PFANNENSTIEL: Check and see if the green light is on, in the front.

MR. MATTINGLY: I'm a lawyer, not an engineer.

Good morning. My name is Joe Mattingly with GAMA. We represent -- we don't want to consider ourselves the other side; we're actually the trade association that represents the people that heat your home and give you hot water each morning. We represent furnaces, boilers, water heaters, and room heaters and a few other products.

I would like to also state that since the litigation ended, we've had a very cordial and constructive working relationship with -- with Betty and the rest of the staff here, in definitely going from a litigation mode into a compliance mode. And we're doing all we can to facility reporting by many, many manufacturers of many product types, to get things going by March the 12th.

And we have a certification services function at GAMA. And we've encouraged them. And I think they have been in regular contact, now, with Betty and staff, to probably do a couple of trial runs before March 12th, to make sure we're all ready to go by March the 12th.

Leading up to the end of the litigation, to the September court order, we had discussions with CEC staff on getting loose ends tied up. And that, again, was very constructive, very productive, and I'm happy to see that the proposal, here, is to make certain items that

were mandatory, voluntary, in accordance with that agreement. So we're fully in support of that.

But Mr. Staack referred to a 2003 Commission decision to make certain items, back then that were mandatory, voluntary. And so when we had our discussions with staff earlier this year, leading up to the end of the litigation, we had assumed that those items that the Commission made voluntary, back there in 2003, would remain voluntary.

So when we were asked by CEC staff, now, is there anything else we need to discuss before we finalize this, we assumed, well, that's going to be voluntary. So it would remain voluntary, those items. So we didn't bring it up. And frankly, we were really taken by surprise, now, by a proposal to make those things that we thought we thought were forever to remain voluntary, to make them mandatory. And so there are a few items that we've put in our comments, along those lines.

One of the principles in that Commission listed or stated during the litigation was that they believe that these items were not preempted because they would not require manufacturers to do additional testing that they wouldn't do, anyway, in complying with federal requirements, whether or not that information was the final energy description for the product. Nevertheless,

in the testing, you would come up with this data. And we understand that.

But some of the items here that would be -- now made mandatory would not be consistent with that principle.

I've enumerated them here: In the case of furnaces, fan motor power factor is an item that -- that isn't part of the deal for test procedures for furnaces. And it's not readily available to furnace manufacturers. It's not on the name plate, and there's not even any standard test procedure that we know of, for calculating this information.

And that would require a lot of additional testing by manufacturers, where they don't have to do it to comply with the federal requirements.

On boilers, there's a couple items: The one here, there's pump motor power factor, which is sort of similar to what I was saying for fan motor power factor for furnaces. And then there's output and input at minimum capacity for boilers. First of all, we're not sure whether or not that's meant to apply to both commercial and residential, but I'm sure you will tell us. But in any event, that would require additional testing. Again, that's not done. They only test for output at maximum capacity to get to the efficiency number.

So without going into a lot -- it's all in the writing. But it's, again, additional testing that they wouldn't normally perform.

In the case of very large boilers, above inputs greater than two and a half million BTUs per hour, the Commission, in the proposal, here, calls for thermal efficiency. But the efficiency descriptor for that product is not thermal efficiency; it's combustion efficiency. And even in the proposed ASHRAE 9.1 amendments, combustion efficiency will continue to be the energy descriptor for that product. Thus, producing information on thermal efficiency would again be additional testing that the manufacturers would not normally perform.

Finally, for fan-type room heaters, the proposal is to make mandatory reporting of average annual auxilliary electrical energy consumption of these products. There is a calculation in the federal test procedure for that product, that allows you to do that, but because it's not a requirement by federal law to do that testing, they don't do it; manufacturers don't do that test. Again, that would require additional testing.

In any event, based on those comments, we would hope that the Commission would decide to continue to keep the reporting of these items voluntary.

If, for some reason, on any of these -- some of these items we didn't object to. But if you've got additional items that were not discussed and incorporated in the court order, I think it's -- we probably all believe that March 12th isn't going to be the date, necessarily the reporting deadline for reporting these additional items. But in any event, for the items we discussed, we would ask the Commission to continue to make this voluntary.

Thank you very much.

CHAIRPERSON PFANNENSTIEL: Thank you. Other comments?

MR. AMRANE: Good morning. My name is Karim Amrane, and I represent Air-Conditioning and Refrigeration Institute, ARI.

I'd like to recall some of the concerns that were raised by Mr. Mattingly, regarding the voluntary fields. We understand this is a voluntary field, but we need the information, to start with. So now we don't understand why the Commission is trying to re-instate those fields that are a part of the litigation.

Having said that, we are working very hard to meet the March 12th deadline. And I think we are doing a great service to the Commission as well, because we will be collecting the information from the entire industry and

submitting it to you, so you don't have to redo what we are doing. It's costing us a lot of money and a lot of time to do it. And now, we understand that additional fields will have to be -- to be added. It's going to increase the cost to us and, of course, we probably need more time to do it as well. So I would echo what Joe has just said.

Having said that, I have -- I would provide some comments, and I hope that you have those comments with you. We've raised some issues with the test procedures. And I'm not going to go over that. I hope that's clear enough. And we understand there's some mistakes being made here, and hopefully you guys caught those mistakes and will correct that.

Regarding those large -- those large air conditioners or equipment above 65,000 BTUs and the issue with the fan blower, which we felt, back in July, when we met with the Commission, we felt that we explained the situation and we were hoping the Commission, by now, would come back with an answer as to, no, we disagree with you, or, yes, there's a concern, here. Let's address it.

But just to say that we need the information because we need the information, we explain to you that those -- those units are shipped sometime with different motors. And we don't know; the manufacturers don't know

which motor will be shipped with until the job is specified.

So now we are asking the manufacturers to reporting something that they don't know, beforehand, what that information should be.

So we've asked that the Commission consider, please, voluntary for that reason.

Regarding the fan -- the fan motor for residential air conditioners, again, we are asking manufacturers to provide power factor. But that's not the job of every manufacturer to test motors. It's not part of their job; it's part of the motor manufacturer.

Now, we are asking manufacturers to report that the information that's not even available to them. So we are asking that this will be put voluntary for that reason, because it's not available.

Again, we are asking horsepower. There's not even a test procedure today that exists to test those fractional horsepower motors. So how come -- how come we ask manufacturers to provide this information when there's no test procedures for it. It's not even called in the federal test procedures for HVAC equipment.

So again, we've raised those issues back in July, and we were hoping that by now, the Commission has studied the issue and come back with something. But I guess six

months later, we're finding out that nothing was done here, and we've raised those issues back in July, as I said.

Final comment on water source heat pump; and this is the requirement of temperature of 75 degrees Fahrenheit. Again, that's not part of the federal test procedures. The federal test procedure is not 75 degrees Fahrenheit. So we ask that this will be left voluntary, if someone wants to provide it. But again, it's not part of the federal test procedures.

That's -- that concludes my comments.

CHAIRPERSON PFANNENSTIEL: Thank you, sir.

Any other comments to be received here?

If not, Mr. Staack, do you have any final observations?

SENIOR STAFF COUNSEL STAACK: No, I do not.

CHAIRPERSON PFANNENSTIEL: Commissioner Rosenfeld and I will, then, will take the comments that we've heard from the staff and other parties, here, today, and the comments received in our docket office, under consideration. And the -- I understand that there will be some staff discussions between now and the time that we would need to issue any revisions, if there would be any.

So with that, I see no other business before us.

Mr. Staack, is that true?

SENIOR STAFF COUNSEL STAACK: Yes, that's true.

CHAIRPERSON PFANNENSTIEL: All right. We'll be adjourned. Thank you.

(The California Energy Commission public hearing adjourned at 10:34 a.m.)

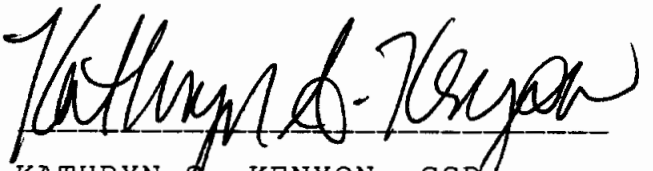
CERTIFICATE OF REPORTER

I, KATHRYN S. KENYON, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing California Energy Commission's Efficiency Committee Public Hearing was reported in shorthand by me, Kathryn S. Kenyon, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of December, 2006.



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