

**DOCKETED**

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<b>Project Title:</b>	Portable Air Conditioners
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<b>Document Title:</b>	Notice of Proposed Action - Portable Air Conditioners Appliance Efficiency Rulemaking
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**Title 20. Public Utilities and Energy**  
**Division 2. State Energy Resources Conservation and Development Commission**  
**Chapter 4. Energy Conservation**  
**Article 4. Appliance Efficiency Regulations**  
**Sections 1601-1609**

**NOTICE OF PROPOSED ACTION**  
Notice Published on October 12, 2018

California Energy Commission  
Portable Air Conditioners  
Docket No. 18-AAER-04

**INTRODUCTION**

The Energy Commission proposes to adopt regulations for single-duct and dual-duct portable air conditioners (portable air conditioners) after considering all comments, objections, and recommendations regarding the proposed action.

**A PUBLIC HEARING IS SCHEDULED:**

The California Energy Commission will hold a public hearing for the proposed regulations on the following date and time. Interested persons, or his or her authorized representative, may present oral and written statements relevant to the proposed regulations at the hearing. The Energy Commission requests that any person making oral comments also submit a written copy of their testimony at the hearing.

Tuesday, November 27, 2018  
10:00 a.m. – 12:00 p.m. (Pacific Time)  
California Energy Commission  
1516 9th Street  
First Floor, Rosenfeld Hearing Room  
Sacramento, CA 95814  
(Wheelchair accessible)

Audio for the hearing will be broadcast over the internet. Details regarding the Energy Commission's webcast can be found at [www.energy.ca.gov/webcast](http://www.energy.ca.gov/webcast).

If you have a disability and require assistance to participate in the hearing, please contact Erica Rodriguez at [Erica.Rodriguez@energy.ca.gov](mailto:Erica.Rodriguez@energy.ca.gov) or (916) 654-4314, at least 5 days in advance.

**Public Adviser:**

The California Energy Commission's Public Adviser, Alana Mathews, is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Adviser's Office, please call (916) 654-4489 or toll-free in California at (800) 822-6228 or contact [publicadviser@energy.ca.gov](mailto:publicadviser@energy.ca.gov).

**News Media Inquiries:**

News media inquiries should be directed to the Media and Public Communications Office at (916) 654-4989, or by e-mail at [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

**WRITTEN COMMENT PERIOD**

You may submit written comments to the Energy Commission for consideration on or prior to 5:00 p.m. on Monday, November 26, 2018. The Energy Commission appreciates receiving written comments at the earliest possible date.

Please submit comments to the California Energy Commission using the Commission's e-commenting feature by going to the Commission's *Portable Air Conditioners* webpage at [http://www.energy.ca.gov/appliances/2018-AAER-04-06\\_08/18-AAER-04.html](http://www.energy.ca.gov/appliances/2018-AAER-04-06_08/18-AAER-04.html) Docket Number 18-AAER-04, then select the "Submit e-comment" link. A full name, e-mail address, comment title, and either a comment or an attached document (.doc, .docx, or .pdf format) is mandatory. After a challenge-response test used by the system to ensure that responses are generated by a human user and not a computer, click on the "Agree & Submit Your Comment" button to submit the comment to the California Energy Commission's Docket Unit.

Please note that written comments, attachments, and associated contact information included within the written comments and attachments (e.g., your address, phone number, email address, etc.) become part of the viewable public record.

You are encouraged to use the electronic filing system, described above, to submit comments. All written comments submitted prior to the hearing must be submitted to the docket unit. If you are unable to submit electronically, a paper copy of your comments may be sent to:

Docket Unit  
California Energy Commission  
Docket No. 18-AAER-04  
1516 9th Street, MS-4  
Sacramento, CA 95814  
Telephone: (916) 654-5076

Or by e-mail to [DOCKET@energy.ca.gov](mailto:DOCKET@energy.ca.gov)  
Or fax them to Dockets at (916) 654-4354

## **STATUTORY AUTHORITY AND REFERENCE**

Public Resources Code Sections 25213, 25218(e), and 25402(c) authorize the Energy Commission to adopt any rule or regulation, as necessary, to implement, interpret and make specific Public Resources Code sections 25402(c) and 25216.5(d).

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Warren-Alquist Act establishes the Energy Commission as California's primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(c) of the Public Resources Code mandates that the California Energy Commission adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances whose use requires a significant amount of energy or water statewide.

One of the ways the Energy Commission satisfies this requirement is through the Appliance Efficiency Regulations (California Code of Regulations, title 20, sections 1601-1609), which contain definitions, test procedures, efficiency standards, and marking and certification requirements for state- and federally regulated appliances. Further, the regulations require that appliance manufacturers certify to the Energy Commission that their products meet all applicable state and federal appliance efficiency regulations before their products can be included in the Energy Commission's database of appliances approved to be sold or offered for sale in California.

Appliance energy efficiency is identified as a key to achieving the greenhouse gas (GHG) emission reduction goals of Assembly Bill 32 (Nunez, Chapter 488, Statutes of 2006). Senate Bill 350 (de León, Chapter 547, Statutes of 2015), established the Clean Energy and Pollution Reduction Act of 2015, requiring the Energy Commission to establish annual targets for statewide energy efficiency savings and demand reduction that will achieve a doubling of energy savings from buildings and retail end uses by 2030.

Therefore, in compliance with statute, the Energy Commission has prepared the proposed regulations to provide definitions, data reporting requirements and efficiency standards for portable air conditioners, sold or offered for sale in California, effective February 1, 2020. The proposed regulatory language includes changes recently made to the Appliance Efficiency Regulations, approved September 26, 2018, and which became effective October 1, 2018. These changes are available online at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=224840>.

## **Difference from existing comparable federal regulation or statute**

No federal efficiency standards currently exist for portable air conditioners. The United States Department of Energy (DOE) considered energy conservation standards for portable air conditioners in a rulemaking in 2016, but to date has not published a final rule in the Federal Register. However, the DOE did publish a final test procedure for portable

air conditioners in the Federal Register on June 1, 2016, making it the applicable test procedure for all single-duct and dual-duct portable air conditioners manufactured in or imported into the United States.

The Energy Commission used information from the DOE rulemaking to support the proposed regulation.

### **Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments**

The broad objective of these regulations is to increase energy efficiency savings in the state by establishing statewide energy efficiency standards for single-duct and dual-duct portable air conditioners. Portable air conditioners were added under the scope of the Appliance Efficiency Regulations in a previous rulemaking along with definitions and the federal test method. These regulations are proposing to provide additional definitions, data reporting requirements, and efficiency standards.

The specific benefits of the proposed regulations would be cost savings to the consumer, lower statewide energy use, and lower statewide greenhouse gas emissions and criteria air pollutants associated with electricity production. It's anticipated that consumers would save approximately \$5 million in first-year savings and \$50 million annually after stock turnover in ten years. The proposed standard is expected to annually yield 369 gigawatt hours (GWh) in energy savings after stock turnover.

### **Determination of inconsistency or incompatibility with existing state regulations**

The Commission has conducted an evaluation for any other regulations in this area and has concluded that these are the only regulations concerning portable air conditioners. The Energy Commission currently has definitions, test procedures, and reporting requirements for spot air conditioners. Spot air conditioners are a type of "portable air conditioner" in the general sense (meaning an air conditioner that can be moved from room to room), but is distinct from single-duct and dual-duct air conditioners because they intake air from the room and output both the cool air and the rejected heat into the same room. The Energy Commission is not proposing any changes to the regulations for spot air conditioners.

Therefore, the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations. These regulations are proposing to provide definitions, data reporting requirements, and efficiency standards for single-duct and dual-duct portable air conditioners.

### **DOCUMENTS INCORPORATED BY REFERENCE**

The Energy Commission will not be incorporating any documents by reference.

### **MANDATED BY FEDERAL LAW OR REGULATIONS**

None

## **OTHER STATUTORY REQUIREMENTS**

None

## **FISCAL IMPACTS**

The Energy Commission has made the following initial determinations:

- A mandate on local agencies and school districts: None
- The cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.: None
- Cost or savings to any state agency: None
- Non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the state: None
- Significant effect on housing costs: None
- Cost Impact on small business: The Energy Commission is not aware of any significant cost impacts that a small business would incur in reasonable compliance with the proposed action. There are no small businesses in California engaged in the manufacturing of portable air conditioners. The small businesses involved in distribution and sales of portable air conditioners may experience increased wholesale purchase prices of portable air conditioners due to the proposed standard; however, the Energy Commission assumes these costs are entirely passed along to the end consumer, so that there are no direct economic impacts of the proposed standard to these businesses.

## **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES**

The Energy Commission estimates that approximately 500 California businesses may be impacted by the regulations. However, these regulations are not likely to result in a significant adverse economic impact on any business.

The proposed regulation sets new efficiency standards that will require manufacturers to produce more efficient portable air conditioners. However, there no manufacturers of

portable air conditioners in the United States. The Energy Commission assumes that portable air conditioner manufacturers will pass the incremental cost to improve the efficiency of an appliance onto the distributors and retailers, which will then pass on the cost to consumers.

Under the appliance efficiency regulations (sections 1608 and 1609), retailers are responsible for ensuring that the products they sell appear in the Modernized Appliance Efficiency Database System (MAEDbS) before they are sold or offered for sale in California. Because portable air conditioners are a newly covered product, the Energy Commission assumes that retailers will experience some additional costs associated with checking MAEDbS to ensure that the portable air conditioners they sell appear in the MAEDbS and are therefore compliant and lawful to sell in the state. The Energy Commission estimates that this will cost each company about \$25 per model. Energy Commission staff estimates that large-scale national home improvement stores carry approximately 160 in-scope portable air conditioner models that will require MAEDbS verification. Independently operated stores may carry fewer than ten in-scope portable air conditioner models. These are one-time costs and unlikely to be passed through to consumers and also unlikely to cause a significant adverse impact on businesses in California.

Some retailers may choose to incur additional costs if they rebrand an appliance that is not certified to MAEDbS and wish to sell it in California. These retailers are required to certify the appliances to California, and therefore will incur costs associated with reporting to the MAEDbS.

Sellers of electricity, both retail and wholesale, may experience slightly reduced sales of electricity due to the proposed standard. However, any reduction in sales is small compared to the total electricity sales of these entities and therefore negligible.

### **COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

The Energy Commission is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Efficiency standards for portable air conditioners have an initial increased incremental cost to individuals for the improved efficiency, but the increased efficiency will result in lower utility bills to those individuals through reduced electricity consumption. The savings from the lower utility bills over the lifetime of the more efficient portable air conditioners exceed the incremental costs of improvement, resulting in overall economic savings. The Energy Commission assumes that an individual would purchase only one portable air conditioner per household.

The businesses involved in distribution and sales of portable air conditioners may

experience increased wholesale purchase prices of portable air conditioners due to the proposed standard; however, the Energy Commission assumes these costs are entirely passed along to the end consumer, so that there are no direct economic impacts of the proposed standard to these businesses. There are no manufacturers in the United States of portable air conditioners and portable air conditioner shipments and sales are not expected to change significantly as a result of the proposed regulations. However, some retailers may choose to incur additional costs if they rebrand an appliance that is not certified to MAEDbS and wish to sell it in California. These retailers are required to certify the appliances to California, and therefore will incur costs associated with reporting to the MAEDbS.

Sellers of electricity, both retail and wholesale, may experience slightly reduced sales of electricity due to the proposed standard. However, any reduction in sales is small compared to the total electricity sales of these entities and therefore negligible.

The Energy Commission estimates that the regulations may potentially create a maximum of 25 jobs in California and will not eliminate any jobs. This is based on the DOE's Technical Support Document's indirect employment impact analysis. There is no direct impact on jobs because there is no production in the United States of portable air conditioners subject to the proposed standard.

## **BUSINESS REPORT**

The regulations impose a new reporting requirement for manufacturers, including private brand packagers and reassemblers, of single-duct and dual-duct portable air conditioners. However, there are no manufacturers of portable air conditioners located in the United States and as such, there will be no reporting costs for a California business due to the proposed regulations. However, some retailers may choose to stand in as manufacturers when they rebrand a product and take on the manufacturer's certification burden for that portable air conditioner model.

It is necessary for the health, safety, or welfare of the people of the state the regulation which requires a report apply to businesses.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ ASSESSMENT**

The Energy Commission concludes that (1) the proposal may indirectly create jobs within California, (2) it's unlikely the proposal will eliminate jobs within California, (3) it's unlikely the proposal will create new businesses in California, (4) it's unlikely the proposal will eliminate existing businesses within California, (5) it's unlikely the proposal will result in the expansion of businesses currently doing business within the state.

Benefit of the Proposed Action: The proposed regulation will benefit California residents and worker safety through mandatory statewide standards including definitions, reporting requirements and efficiency standards for portable air conditioners. It's anticipated that consumers would save approximately \$5 million in first-year savings and \$50 million



annually after stock turnover in ten years. The proposed standard is expected to annually yield 369 gigawatt-hours (GWh) in energy savings after stock turnover.

The proposed regulations will have a significant positive impact on the environment through energy efficiency gains and avoiding greenhouse gas (GHG) emissions and criteria pollutant emissions. Therefore, the Energy Commission could not identify any adverse environmental impacts associated with the proposed efficiency standards.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Energy Commission invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### **CONTACT PERSON**

Please direct inquiries concerning all aspects of the rulemaking process, including requests for copies of the proposed text (the “express terms”), the initial statement of reason, any modified version of the regulations, the substance of the proposed regulations or any other information upon which the rulemaking is based, to:

Corrine Fishman  
Regulations Manager, Efficiency Division  
1516 Ninth Street  
Sacramento, CA 95814-5512  
(916) 654-4976  
[corrine.fishman@energy.ca.gov](mailto:corrine.fishman@energy.ca.gov)

If Corrine Fishman is unavailable, please contact Patrick Saxton at [Patrick.Saxton@energy.ca.gov](mailto:Patrick.Saxton@energy.ca.gov) or (916) 654-4274.

### **COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE**

The Energy Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the initial statement of reasons, and any documents relied

upon. Copies may be obtained by contacting Corrine Fishman at the address or phone number listed above or accessed through the Energy Commission's webpage at [http://www.energy.ca.gov/appliances/2018-AAER-04-06\\_08/18-AAER-04.html](http://www.energy.ca.gov/appliances/2018-AAER-04-06_08/18-AAER-04.html).

### **AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS**

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from Commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the Energy Commission considers changes to the proposed regulations pursuant to Government Code section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the Energy Commission adopts or amends the resulting regulations.

### **COPY OF THE FINAL STATEMENT OF REASONS**

At the conclusion of the rulemaking, persons may obtain a copy of the final statement of reasons once it has been prepared by visiting the Energy Commission's website at [http://www.energy.ca.gov/appliances/2018-AAER-04-06\\_08/18-AAER-04.html](http://www.energy.ca.gov/appliances/2018-AAER-04-06_08/18-AAER-04.html) or contacting the contact person listed above.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The Energy Commission maintains a website in order to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the Energy Commission for this rulemaking, including this Notice of Proposed Action, the Express Terms, and the Initial Statement of Reasons, have been posted on our website at [http://www.energy.ca.gov/appliances/2018-AAER-04-06\\_08/18-AAER-04.html](http://www.energy.ca.gov/appliances/2018-AAER-04-06_08/18-AAER-04.html)