

DOCKETED

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CALIFORNIA ENERGY COMMISSION

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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1 Many of you are familiar with the
2 timeline. It's been very quick, compared to a
3 usual Energy Commission process. We posted the
4 rulemaking documents at the beginning of October,
5 and that included the Notice of Proposed Action,
6 the Initial Statement of Reasons, and the
7 proposed regulatory language. We posted the
8 California Environment Quality Act, or CEQA,
9 Initial Study and Proposed Negative Declaration
10 at the end of October.

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

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

20 So for CEQA, we have prepared an initial
21 study. Staff prepared that. The project is
22 Statewide Minimum Efficiency Levels for Portable
23 Air Conditioners. And the staff findings were
24 that, related to energy impacts, the proposed
25 standards will reduce future electricity

1 consumption. And that with respect to
2 environmental impacts, there is no significant
3 change to materials or manufacturing processes
4 for portable air conditioners, nor was there any
5 change to the expected lifetime of portable air
6 conditioners.

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

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

16 With respect to hazards and hazardous
17 materials, the regulations will have no impact on
18 those items. Although the proposed regulations
19 may lead to an increased usage of metals or
20 insulation, those are items already used in the
21 manufacturing for portable air conditioners. To
22 the extent that there was any use of alternative
23 refrigerants, it would decrease the usage of
24 refrigerants that are more harmful to the
25 environment. And then finally, the proposed

1 regulations do not alter the way in which these
2 materials are disposed.

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

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

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

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

25 So at the time, 2016 and, in fact, most

1 of that work was done earlier, 13 percent of
2 portable air conditioner models had met the DOE
3 proposed efficiency level.

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

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

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

1 visual examples there.

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

12 So section 1602 of the proposed
13 regulations includes definitions which are
14 consistent with DOE's definitions in both the
15 Test Procedure and the Prepublication Final Rule.
16 There's been some minor modification. An example
17 would be referring to California's jurisdiction
18 by talking about products sold or offered for
19 sale in California, rather than those distributed
20 in commerce. There's also been a few minor
21 conditions -- excuse me, minor modifications
22 where we refer to dry-bulb outdoor conditions in
23 several definitions and that was based on
24 comments from the Appliance Standards Awareness
25 Project. That is consistent with DOE's

1 definitions.

2 The Test Procedure as found in section
3 1604 was actually incorporated in the
4 Commission's recent cleanup rulemaking and it is
5 the DOE Test Procedure, which is found in Title
6 10 of the Code of Federal Regulations section
7 430.23(dd). And then the actual Test Procedures
8 in Appendix CC to subpart B of Part 30.
9 California is not recommending any modifications
10 to that Test Procedure.

11 If you're looking at the proposed
12 regulatory language, you won't actually see any
13 changes for section 1604 and that's because of
14 the first bullet here. So that item was
15 incorporated in our recent cleanup rulemaking.
16 If you look at the official regulations right now
17 it will be there. Because we're not proposing
18 changes to it, you don't see anything in our
19 language packet today. But again, we intend to
20 be completely and entirely consistent with the
21 DOE Test Procedure.

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

25 So in section 1605, which is called, I

1 believe, the General Requirements for Standards,
2 we are noting that portable air conditioners
3 which are sold or offered for sale in California
4 that have both single-duct and dual-duct
5 configurations must meet the proposed standard
6 for both of those configurations, which is found
7 in section 1605.3, but additionally, they both
8 have to be tested and certified to the Energy
9 Commission. And that is consistent with DOE's
10 approach in their Prepublication Final Rule, as
11 well.

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

23 The required data submittal for
24 certification to California is found in section
25 1606. One change is that we're removing the

1 existing exception that did not require portable
2 air conditioners to submit any data. And that
3 was because, previously, the Test Procedure had
4 been incorporated into the standards but we
5 wanted to make clear that at that time there was
6 no testing or certification requirements. Now
7 that we're moving forward, we will remove that
8 exception.

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

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

21 The proposed product marking requirements
22 are found in section 1607. The Energy Commission
23 is not recommending any product specific marking
24 for portable air conditioners. However, the
25 general requirements for all appliances would be

1 applicable, and that includes manufacturer or
2 brand name, model number and data of
3 manufacturer. And those do have to go on the
4 product itself.

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

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

20 An example of improving motor efficiency
21 would be replacing a permanent split capacity
22 motor with a more efficient permanent magnet of
23 electronically commutated motor. Another
24 approach would be to lower the standby power
25 consumption of the portable air conditioner.

1 That is part of the equation for the overall
2 energy usage.

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

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

14 Related to cost effectiveness, the
15 estimated incremental retail price, so this is
16 not the cost but the actual price at the shelf,
17 so that assumes pretty significant retail markup,
18 is \$76.00. The estimated first-year savings
19 based on the national average price of
20 electricity is \$30.00. In California, that would
21 be higher due to our higher electricity rates.
22 And the estimated electricity savings per unit
23 are 223 kilowatt hours. And this would result in
24 a lifecycle net monetary savings of appropriate
25 \$224. So the benefit to cost ratio is slightly

1 less than three-to-one here. And again, to meet
2 the cost effectiveness requirements in the
3 Warren-Alquist Act, it would only need to be one-
4 to-one.

5 On a statewide basis, assuming those
6 165,600 units for annual shipment, the first year
7 electricity savings would be approximately 37
8 gigawatt hours. And based on the estimated ten-
9 year lifetime, full stock turnover would occur at
10 the ten-year mark, and then you would have 369
11 gigawatt hours of estimated electricity savings.
12 This would result in monetary savings, again
13 based on the national average price of
14 electricity, of just under \$5 million in the
15 first year, and then \$50 million annually after
16 full stock turnover.

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

24 So in conclusion, Staff finds that the
25 proposed standards are technically feasible and

1 cost effective to the consumer over the lifetime
2 of the appliance. Staff will be recommending to
3 the Energy Commission that the proposed
4 regulations be adopted at the December 10th
5 business meeting.

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

15 I summarized those comments here.

16 NEEP supports the proposed regulations.

17 CASE supports the proposed regulations,
18 although suggested revisions to five definitions.
19 They requested that products with
20 dehumidification functions be required to
21 separately meet the Federal Dehumidifier
22 Standards. They proposed a more stringent
23 efficiency level, EL3 for portable air
24 conditioners. They requested an additional field
25 for data submittal, and also proposed product-

1 specific marking requirements.

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

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

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

20 Multiple differences were noted between
21 the case initiative and the DOE Technical Support
22 Document. AHAM did note that if the Commission
23 continues to pursue an efficiency standard for
24 PACs, that they believe the correct level is, of
25 the standard, is Efficiency Level 2, and that

1 incorporation of the DOE Test Procedure is
2 acceptable.

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

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

15 I guess I'll start with the effective
16 date. It's hard to know where to start. I mean,
17 the effective date is -- it's -- I don't know
18 what the -- if -- what the purpose of this rule
19 is. If it's to remove the lion's share of
20 portable air conditioners from California for a
21 few years, then I guess you've achieved your
22 goal. Having an effective date, essentially a
23 year after the rule is finalized, it's just not
24 going to happen. And your own slide said only 13
25 percent are on the market to do this.

1 So I've never -- I don't think I've ever
2 seen an effective date so soon for one of our
3 products. A year? It's just, for air
4 conditioners, they're manufactured, generally, a
5 lot of them in China or overseas. Retooling,
6 redesigning, which is significant for EL2, it's
7 not an easy standard to meet, and the assumption
8 that manufacturers -- DOE published this rule and
9 manufacturers have been changing, that just is a
10 flawed assumption that doesn't understand how
11 this -- the for-profit companies work and how the
12 standards work.

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

21 Now the whole idea that you mentioned
22 refrigerants and said that there wasn't -- that
23 wasn't a basis of how this proposal was, which
24 makes sense. But just to clarify, a refrigerant
25 change for portable air conditioners in 2020, R-

1 32 is a flammable refrigerant and there are
2 safety standards that are necessary. And even
3 CARB, who's the agent, the California agency that
4 deals with refrigerants, their proposal came out
5 as 2023, and that's not -- we're not even sure
6 yet whether that's even a possibility for the
7 larger size or any other size to even have the
8 capability to do that and meet a UL Safety
9 Standard.

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

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

22 We did that in Vermont and came up with
23 something that -- it was a compromise. And now
24 this goes through to essentially just undercut
25 that. And it's disappointing to see and it kind

1 of puts a chill factor, as least from our
2 perspective, to why should be negotiate next year
3 efficiency standards when whatever we negotiate
4 will then just be undercut and more stringent in
5 California. And so there's no real incentive to
6 negotiate, but we might as well just oppose the
7 legislation when it goes too far in other states,
8 as well. So it's leading to.

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

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

22 I appreciate the no product-specific
23 markings. FTC has been talking about doing an
24 energy guide, as soon as the federal government -
25 - DOE publishes the rule. Hopefully that lawsuit

1 will end soon. Interestingly, California is a
2 party to that and says, is arguing from the
3 courts, that this is issued. But now it's issued
4 at the federal level but now CEC is doing that.
5 So it seems like the story for the State of
6 California is changing depending on what venue
7 we're discussing this issue, which again, that's
8 just the landscape we're in politically these
9 days.

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

18 So I think I'll just end with that.
19 Sorry, they were very -- not a very good -- I
20 mean, I think this is due. There were a lot of
21 good things in here in the sense of keeping
22 consistent with the DOE Test Procedure, to try to
23 end on a positive note, and choosing the EL2
24 standard which everyone had agreed with. It's
25 not what everybody wanted but -- so there are

1 signs in here of, I think, finding the right
2 path. But then the effective date really just --
3 which is a huge deal, it really kind of blows it
4 up.

5 So thank you.

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

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

20 So, okay, thanks.

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

24 First of all, we want to thank the CEC
25 for their leadership in these standards. The

1 California IOUs strongly support the Energy
2 Commission staff's effort to develop a Title 20
3 standard for portable air conditioners. The
4 California IOUs were supportive of standards for
5 portable ACs during USDOE's previous rulemaking
6 on the product.

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

17 Thank you.

18 MR. SAXTON: Thank you, Mary.

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

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

24 So as Mary said, we strongly support this
25 proposal. And we provided a lot of information

1 in the case report that was submitted to the
2 docket.

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

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

16 And finally, we also support the data
17 reporting requirements proposed in the Energy
18 Commission proposal. And we do believe that
19 they'll provide helpful information for the
20 California market.

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

24 MR. SAXTON: Thank you.

25 One last check for any comments in the

1 room. Okay.

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

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

17 So again, someone from Staff will be
18 present until noon today. You could -- the WebEx
19 will run until noon, as well. That's probably
20 the easiest way to make a comment when we're done
21 here. But comments will be taken until noon.

22 So I've mentioned several times today
23 that Staff will propose adoption of the
24 regulation and the Negative Declaration at the
25 Energy Commission Business Meeting. That will

1 occur December 10th beginning at 10:00 a.m. right
2 here in this room. And for WebEx attendance at
3 the business meeting, the link is there at the
4 bottom.

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

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

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

14 Thank you.

15 (The hearing adjourned at 10:34 a.m.)

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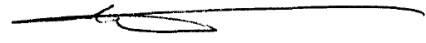
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REPORTER' S CERTIFICATE

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, CERT**367

December 3, 2018