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July 31, 2008

Ms. Brenda Edwards
U.S. Department of Energy
Building Technologies Program
Mailstop EE-2J
1000 Independence Avenue, SW.
Washington, DC 20585-0121

Re: Framework Document for Central Air Conditioners and Heat Pumps
73 Fed. Reg. 32243 (June 6, 2008)

Docket Number: EERE-2008-BT-STD-0006
RIN: 1904-AB47

Dear Ms. Edwards:

The Attorney General of the State of California, Edmund G. Brown Jr., submits these comments in response to the Department of Energy's Framework Document for residential central air conditioners and heat pumps. They support the California Energy Commission's (CEC) comments on the Framework Document, and they encourage the Department to pass more stringent standards and to value the benefit of the resulting reduction of greenhouse gas (GHG) emissions.

California's Interest in Stringent Efficiency Standards

California has a substantial interest in the adoption of efficiency standards that are no less stringent than the "maximum improvement in energy efficiency that is technologically feasible and economically justified." 42 U.S.C. § 6295(o)(2)(B)(i)(VI). Such standards would benefit the State and its citizens in important ways. To take one example, stringent standards would help to address the problem of "peak demand." Energy demand that is concentrated in "peaks" can result in many adverse effects, *e.g.*, brownouts, price spikes, and grid instability – disruptive events that can threaten the health and safety of California's citizens and impact its economy. The problem is not hypothetical; in recent years, California has experienced outages and supply

problems due to peak demand.

Air conditioning contributes to high demand peaks. The two largest sources of electricity demand in California are commercial and residential air conditioning, which together account for 29% of peak electricity demand. In California, residential air conditioning accounts for approximately 40% of residential peak electricity demand during summer months. A more stringent standard would provide a significant reduction in peak loads.

A more stringent standard will also have significant environmental benefits, such as reducing, GHG emissions. Global warming is one of the most serious environmental issues facing the United States and the world. The impacts to California from global warming are significant. As one critical example, in California, the winter average temperature in the Sierra Nevada region has risen by almost four degrees Fahrenheit during the second half of the twentieth century, and the Sierra snow pack has, in turn, shrunk by about ten percent. The Sierra snow pack serves as a vital water storage and delivery system for California, supplying approximately 35% of the State's water. The State is spending substantial money to address the shrinking Sierra snow pack and anticipated further impacts to this natural reservoir system. Other important impacts include rising sea levels and increasing erosion along California's approximately 1,075 miles of coastline; salt infiltration into the fresh water of the San Francisco Bay-Delta; increased risk and intensity of wildfires; changes in the ocean ecology and fisheries; and increased ozone and smog formation.

In 2006 California enacted landmark legislation – AB32, the Global Warming Solutions Act of 2006. The law requires California to reduce its total GHG emissions to 1990 levels by 2020, which represents an almost 30% percent reduction from “business as usual.” Governor Schwarzenegger's 2005 Executive Order S-3-05 requires further reductions to 80% below 1990 levels by 2050. Substantial energy conservation at every opportunity is a critical component to California's success in achieving these reductions.

Legal Requirements

The CEC, an expert agency with valuable knowledge about the implications of energy standards, has made a strong case that the Department should adopt a standard that will substantially increase the efficiency of residential central air conditioners and heat pumps. As the CEC states: “Significant energy savings can be achieved for the people of California, and other States, by implementing economically-justified regional standards for residential central air conditioners[.]”

In previous rulemakings, the Department has illegally failed to quantify the substantial value of avoided pollution, including GHG emissions. In determining whether proposed efficiency standards are economically justified, DOE is required to consider “the need for national energy . . . conservation[.]” 42 U.S.C. § 6295(o)(2)(B)(i)(VI). GHG emissions are relevant to this economic calculus. As the Ninth Circuit Court of Appeal has held, in determining the economic justification of an efficiency standard, “the value of carbon emissions reduction is certainly not zero” and therefore must be accounted for. *Ctr. for Biological*

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Diversity v. National Highway Traffic Administration, 508 F.3d 508, 533 (9th Cir. 2007). Accounting for reduced greenhouse gas emissions requires the Department to translate these emissions into a per-ton economic figure or to monetize the effects of more or less stringent standards so that it may balance of the full range of benefits and burdens associated with more stringent standards. Where an agency is required to account for the value of greenhouse gas pollution, its failure to do so renders the resulting rule invalid. *Ctr. for Biological Diversity v. National Highway Traffic Administration*, 508 F.3d 508, 512 (9th Cir. 2007).

The Department's pending rulemaking for another efficiency standard demonstrates that it is possible to include the value of reduced greenhouse gas emissions in the required economic justification evaluation. *See* Energy Conservation Program for Commercial and Industrial Equipment: Packaged Terminal Air Conditioner and Packaged Terminal Heat Pump Energy Conservation Standards; Proposed Rule, 73 Fed. Reg. 18858, 18901 (April 7, 2008) ("Packaged AC NOPR"). In the Packaged AC NOPR, as part of the "Need of the Nation to Conserve Energy" factor, DOE proposed an approach for monetizing reduced greenhouse gas emissions. 73 Fed. Reg. at 18900-18901. We applaud the Department's efforts to include this value in its recent rulemaking for the Packaged AC NOPR and encourage the Department to take similar steps in its current rulemaking for residential central air conditioners and heat pumps.

Properly accounting for the value of GHG emissions will favor more stringent standards; such standards will, in turn, help us as a nation to make progress in the fight against global warming.

Sincerely,

/S/

MEGAN H. ACEVEDO
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General