

DOCKETED

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CEC-057 (Revised 1/21)

**NOTICE OF 15-DAY PUBLIC COMMENT PERIOD****PROPOSED REVISIONS TO THE FLEXIBLE DEMAND APPLIANCE STANDARDS
FOR POOL CONTROLS****California Energy Commission
Docket No. 23-FDAS-01**

On February 23, 2023, the California Energy Commission (CEC) published a Notice of Proposed Action (NOPA) with proposed regulations for Flexible Demand Appliance Standards for Pool Controls. The CEC made documents available for a 45-day comment period ending April 10, 2023, and held a public hearing on April 11, 2023.

Based on comments received during the written comment period and the public hearing, the CEC is proposing changes to the proposed regulations shared on February 23, 2023. **Any interested persons are invited to review and provide written comments to the CEC for consideration during the 15-day comment period from June 21, 2023, through July 6, 2023.** The CEC appreciates receiving written comments at the earliest possible date. Comments submitted after **July 6, 2023**, are considered untimely and the CEC may, but is not required to, respond to untimely comments, including those raising significant issues.

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/flexible-demand-appliances/pool-controls> which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the "Comment Text" box or attached as a downloadable, searchable document consistent with 20 California Code of Regulations, section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 23-FDAS-01 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit
Docket No. 23-FDAS-01
715 P Street, MS-4
Sacramento, CA 95814

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The proposed 15-day language and related documents are available for review on the CEC website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/flexible-demand-appliances/pool-controls>.

In proposing the 15-day language, the CEC relied on the following additional documents:

- Supplemental Staff Analysis for Pool Controls Flexible Demand Standards ([TN250694](#); available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=250694&DocumentContentId=85495>)

This document, and all documents relied upon in this rulemaking, are part of the rulemaking file for the proposed regulations and are publicly available from the CEC's docket log for this proceeding at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-FDAS-01>.

In accordance with Government Code section 11347.1, these documents are made available for public comment at least 15 days before the CEC's consideration and possible adoption of the proposed regulations. Copies of these documents are available for public inspection at the CEC located at the address above, subject to COVID-19 limitations. The CEC has considered all public comments received in developing the 15-day proposed language.

In addition, CEC is proposing to incorporate by reference the following two documents into Section 1691: Definitions, specifically for the definition of "radio broadcast data system receiver" and the definition of "dedicated-purpose pool pump." These documents incorporated by reference are:

- International Electrotechnical Commission, IEC 62106-9:2021 ("radio broadcast data system receiver")
- Code of Federal Regulations Title 10, Part 431, Subpart Z (2021) ("dedicated-purpose pool pump motors")

These documents incorporated by reference are available upon request or are otherwise reasonably available from public sources.

The text of the proposed 15-day language will be provided with this notice. Amendments proposed with this 15-day notice are shown in ~~double strikethrough~~ for deletions and double underline for additions.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in the proposed 15-day language at the above-referenced website.

To stay informed about this proceeding and receive documents and notices of upcoming workshops and hearings as they are filed, please subscribe to the proceeding email subscription <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/flexible-demand-appliances/pool-controls>. The email subscription sends out email notifications and direct links when documents and notices are filed in the proceeding docket. If you are unable to access the website and would like a copy of the rulemaking documents mailed or emailed to you, or if you have any questions, please contact Corrine Fishman at corrine.fishman@energy.ca.gov or Nicholaus Struven at nicholaus.struven@energy.ca.gov.

The CEC's Public Advisor provides the public assistance in participating in CEC proceedings. If you want information on how to participate in this forum, please contact the Public Advisor at publicadvisor@energy.ca.gov, or by phone at (916) 957-7910. Requests for language services and reasonable accommodation should be made as soon as possible or at least five days in advance. The CEC will work diligently to accommodate late requests.

Direct media inquiries to the Media and Public Communications Office at (916) 654-4989, or by email at mediaoffice@energy.ca.gov.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all the non-substantive revisions made to improve clarity. Modifications to the sections listed below.

- 1) **Changes to Section 1690. Scope.** Adding clarity as requested by stakeholders.
 - a) **(a)** Clarified section to indicate the focus is on consumer pool controls by removing "as consumer products" to top level scope section and added to (1) Pool controls "Pool controls that are consumer products designed to use single-phase AC power as input power."

- 2) **Added Section 1690.1. Rules of Construction**
 - a) Rules of construction added to make clear use of singular vs. plural, "and" vs. "or", and "shall" vs. "may" throughout proposed regulations.

3) Changes to Section 1691. Definitions

- a) **(a) General Definitions.** Clarified multiple definitions with input from stakeholders by adding definitions, modifying definitions, and removing no longer needed definitions.
 - i) Modified “Authentication” definition to focus on connected devices.
 - ii) Removed “Authentication credential” definition because it was no longer needed.
 - iii) Added “Communication layers” definition to help clarify communication definitions and better align with Energy Star.
 - iv) Added “Communication link” definition to help clarify communication definitions and better align with Energy Star.
 - v) Modified “Connected device” definition to help clarify the connected device definitions and better align with Energy Star.
 - vi) Added “Connected ready device” definition to help clarify connectivity definitions.
 - vii) Removed “TCP/IP signal” definition because it was no longer needed.
 - viii) Modified “Consent” definition for clarity by adding consumer.
 - ix) Modified “Load-serving entity” definition for clarity including reference to the Public Utilities Code.
 - x) Added “Open standards” definition to help clarify open standards and to better align with Energy Star.
 - xi) Added “Personal information” definition to help clarify data protection scope and to better align with other California state laws.
 - xii) Added “Radio broadcast data system receiver” definition to help clarify the compliant connected options.
 - xiii) Modified “Special character” definition to improve clarity, taking two sentences and forming a single sentence.
 - xiv) Removed one instance of the “Security feature” definition because it was duplicative.
- b) **(b) Pool Control Definitions.** Clarified multiple definitions with input from stakeholders by adding definitions, modifying definitions, and removing no longer needed definitions.
 - i) Modified “Dedicated-purpose pool pump” definition to add clarity and align with the definition at the U.S. Department of Energy.
 - ii) Added “Direct load control switch” definition to help clarify pool control definitions and better align with existing industry terminology.
 - iii) Added “Heater switch” definition to help clarify pool control definitions and better align with existing industry terminology.
 - iv) Added “Integral” definition to help clarify pool control definitions and better align with existing industry terminology.

- v) Modified “Pool equipment” definition to help clarify pool equipment definitions and better align with existing industry terminology.
- vi) Modified “Pool control” definition to help clarify pool control definitions utilizing definitions provided by stakeholders for “pool timer”, “pool pump switch”, “heater switch”, “direct load control switch”, and better alignment with existing industry terminology.
- vii) Modified “Pool control” definition to only use the singular reference to improve clarity and added clarity exclusion for safety interlock or shutoff controls.
- viii) Modified “Pool filter pump” definition to improve clarity for stakeholders.
- ix) Removed “Pump Priming” definition because it is no longer needed.
- x) Added “Pool pump switch” definition to help clarify pool control definitions and better align with existing industry terminology.
- xi) Added “Pool timer” definition to help clarify pool control definitions and better align with existing industry terminology.
- xii) Added “documents incorporated by reference” section to the end of section 1691 to identify the documents for existing standards utilized in various definitions to provide the public with complete information on the basis for those definitions.

4) Changes to Section 1692. General Requirements

- a) **(c) Cybersecurity.** Clarified “**(3) Data Protection**”, “**(4) Passwords**”, “**(5) Software Update**”, and “**(8) Override Function** with input from stakeholders’ comments by adding or removing text.
 - i) Modified **(3) Data Protection** to avoid being overly prescriptive and at the same time clarify the scope is targeted to consumer data protection for personal information. The language utilizes a definition for personal information found in the General Definitions Section 1691 and aligns with other California laws that protect consumer data.
 - ii) Modified **(4) Passwords** to avoid being overly prescriptive and at the same time clarify the scope is targeted at requiring a connected device to contain an authentication process. The subsection was renamed to “**Authentication**” because there are many methods of authentication for a device and a password is an example of one of those methods. If a plain text-based password is used there is a minimum requirement.
 - iii) Modified **(5) Software Update** with input from stakeholders to avoid being overly prescriptive, staff removed the requirement to attempt to receive an update on the initial connection to the internet replacing it with the requirement to provide the consumer with the ability to check for updates.
 - iv) Modified **(8) Override Function** to clarify the scope is targeted to “event response” settings, not all of the possible settings in the connected device.

5) Changes to Section 1693. Appliance Specific Standards and Requirements

- a) **(b) Pool Controls.** Clarified communication requirements, connectivity requirements, and clock requirements with input from stakeholder comments by adding and removing text.
 - i) Modified **(1)** to add clarity that the standards for pool controls will become effective one year after adoption by the Energy Commission.
 - ii) Modified **(2) Flexible demand appliance standards (A)** to add clarity that stakeholders have requested to the minimum communication requirements and amended the compliance dates for specific communication pathways.
 - iii) Modified **(2) Flexible demand appliance standards (B) (1) (b)** to add clarity that stakeholders have requested to the clock requirements to synchronize with the local time.
 - iv) Added **(2) Flexible demand appliance standards (B) (2) (a)** to add clarity that stakeholders have requested to include options for local and remote setup.
 - v) Added **(2) Flexible demand appliance standards (B) (3) (a)** to add clarity that stakeholders have requested to include options for connected device local and remote setup.
 - vi) Modified **(2) Flexible demand appliance standards (C) (1) (a) (iii)** by removing “water” to use consistent language within the document.
 - vii) Removed **(2) Flexible demand appliance standards (C) (1) (c)** because it is a duplicative requirement and is no longer necessary.
 - viii) Removed **(2) Flexible demand appliance standards (C) (2)** because the default schedule requirement is now clearly stated in section **(C) (1)**.
 - ix) Modified **(4) Marking** by changing “must” to “shall” adding clarity to the requirement.
 - x) Modified **(5) Cybersecurity** by changing “must” to “shall” adding clarity to the requirement.
 - xi) Added **(6) Communication** to add clarity that stakeholders have requested for communication, removing ambiguity and providing a clear requirement for communication aligning with Energy Star communications requirements.

6) Changes to Section 1694. Customer and Consumer Consent Adding clarity as requested by stakeholders.

- i) Modified subsection **(a)** to clarify the requirements.
- ii) Added subsection **(b)** to remove ambiguity and provide clarity for connected appliance communication link functionality minimum requirements.
- iii) Added subsection **(c)** to remove ambiguity and provide clarity for connected appliance communication link functionality minimum requirements.
- iv) Added subsection **(d)** to remove ambiguity and provide clarity for connected appliance communication link functionality minimum requirements.
- v) Added subsection **(e)** to remove ambiguity and provide clarity for radio broadcast data system appliance minimal requirements.

- 7) Changes to Section 1696. Data Submittal Requirements Updated Table A-1, Table A-2 and Table B-1** to reflect the changes made in the previous section.
- i) Added line item in Table A-1 to clarify certification for connected devices, connected ready devices and radio broadcast data system capable devices.
 - ii) Added line item in Table A-2 to clarify connectivity compliance.
 - iii) Modified line item in Table A-2 to clarify communication compliance.
 - iv) Modified line item in Table A-2 to clarify data protection for personal information compliance.
 - v) Modified line item in Table A-2 to clarify compliance certification for authentication.
 - vi) Removed line item in Table A-2 referring to not displaying personal data in plaintext on the user interface because it is no longer needed.
 - vii) Modified Table B-1 to clarify compliance certification for local control.
 - viii) Added line item in Table B-1 to clarify compliance certification for remote control.
 - ix) Modified Table B-1 to clarify the greater than or equal to 50% symbols.
 - x) Modified Table B-1 to remove the word “water” from “electric pool heater”.
 - xi) Modified Table B-1 to clarify the default operation of the pressure cleaner booster pump.
 - xii) Modified Table B-1 to clarify the default operation by removing “at” and replacing with “no earlier than”.

8) Changes to Section 1697. Compliance, Enforcement, and Administrative Civil Penalties

- i) **(b) Administrative Civil Penalties (2) Notices of Violation** removed “or their designee” to provide consistent document language.
- ii) **(b) Administrative Civil Penalties (5) Other Enforcement Procedures** removed “their designee” to provide consistent document language.