

DOCKETED

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Project Title:	Appliance Efficiency Standards Rulemaking for Portable Electric Spas and Battery Charger Systems
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CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814



Early Release of Notice of Proposed Action for Portable Electric Spas and Battery Chargers

January 29, 2018

In order to give stakeholders and the public an advance view of the direction the California Energy Commission is proposing to take, the Energy Commission is releasing the Notice of Proposed Action (NOPA) for portable electric spas and battery chargers on Monday, January 29, 2018, prior to the notice being published in the California Regulatory Notice Register by the Office of Administrative Law. The notice will be published in the California Regulatory Notice Register on Friday, February 2, 2018, at which point the official 45-day comment period will start. Comments may be submitted prior to the California Regulatory Notice Register publishing date.

Publication of the NOPA begins the formal rulemaking process and serves as a public announcement by the Energy Commission that it is proposing to adopt, amend, or repeal regulations in the California Code of Regulations. Questions may be addressed to Jessica Lopez at Jessica.Lopez@energy.ca.gov or (916) 654-5125.

NOTICE OF PROPOSED ACTION

Portable Electric Spas and Battery Charger Systems Appliance Efficiency Rulemaking

California Energy Commission
Docket No. 18-AAER-02

The California Energy Commission proposes to modify existing appliance efficiency regulations for portable electric spas to clarify the scope, update the performance standard, update the test procedure, and add a labeling requirement. The Commission proposes to modify existing marking requirements in the appliance efficiency regulations for battery chargers.

NOTICE THAT A PUBLIC HEARING IS SCHEDULED:

The date set for the adoption of regulations at a public hearing is as follows:

Commission Business Meeting
April 11, 2018
Beginning 10:00 a.m. (Pacific Time)
California Energy Commission
1516 9th Street
Sacramento, CA 95814
Rosenfeld Hearing Room
(Wheelchair accessible)

Audio for the adoption hearing will be broadcast over the internet. Details regarding the Commission's webcast can be found at www.energy.ca.gov/webcast.

If you have a disability and require assistance to participate in these hearings, please contact Ponah Jones at (916) 654-4425 at least 5 days in advance.

ORAL AND WRITTEN STATEMENTS

Interested persons may present oral and written statements, arguments, or contentions regarding the proposed regulations at the hearing, or, prior to the hearing, may submit written comments to the Commission for consideration no later than 5:00 pm on March 19, 2018. The Commission appreciates receiving written comments at the earliest possible date.

Please submit comments to the Commission using the Commission's e-commenting feature by going to the Commission's appliance efficiency rulemaking webpage at <http://energy.ca.gov/appliances/2018-AAER-02/> and click on 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 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, email, 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-02
1516 9th Street, MS-4
Sacramento, CA 95814
Telephone: (916) 654-5076
Or e-mail them to: Docket@energy.ca.gov

PUBLIC ADVISER

The Commission's Public Adviser's Office 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.

STATUTORY AUTHORITY AND REFERENCE – Government Code Section 11346.5(a)(2) and 1 California Code of Regulations 14

Authority: Sections 25213, 25218(e), and 25402(c), Public Resources Code.

Reference: Sections 25216.5(d) and 25402(c), Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW – Government Code Section 11346.5(a)(3)

Existing laws and regulations related directly to the proposed action and effect of the proposed rulemaking – Government Code section 11346.5(a)(3)(A).

Existing law requires the Energy Commission to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances that require a significant amount of energy and water to operate on a statewide basis. Such standards must be technologically feasible and attainable and must not result in any added total cost to the consumer over the designed life of the appliance.

Existing law also requires the Energy Commission, in determining cost-effectiveness, to consider the value of the water or energy saved, the effect on product efficacy for the consumer, and the life-cycle cost to the consumer of complying with the standard. The Commission also must consider other relevant factors including, but not limited to, the effect on housing costs, the total statewide costs and benefits of the standard over the lifetime of the standard, the

economic effect on California businesses, and alternative approaches and the associated costs.

The Appliance Efficiency Regulations (Title 20, Sections 1601-1609 of the California Code of Regulations) contain definitions, test procedures, labeling requirements, and efficiency standards for state- and federally-regulated appliances. Appliance manufacturers are required to certify to the California Energy Commission that their products meet all applicable state and federal regulations pertaining to efficiency before their products can be included in the Commission's database of approved appliances to be sold or offered for sale within California. Appliance energy efficiency is identified as a key to achieving the greenhouse gas (GHG) emission reduction goals of Assembly Bill 32 (Stats. 2006, ch. 488), as well as the recommendations contained in the California Air Resources Board's Climate Change Scoping Plan and Updates.

Energy efficiency regulations are also identified as key components in reducing electrical energy consumption in the Energy Commission's 2013 Integrated Energy Policy Report (IEPR) and the California Public Utilities Commission's 2011 update to its Energy Efficiency Strategic Plan. Finally, Governor Brown identified reduced energy consumption through efficiency standards as a key strategy for achieving his 2030 GHG reduction goals, which was codified in SB 350 (Stats. 2015, ch.547), which requires the state's utilities to achieve a cumulative doubling of energy efficiency savings by 2030.

PORTABLE ELECTRIC SPAS

Existing regulations establish appliance efficiency standards for portable electric spas manufactured on or after January 1, 2006, which require portable electric spas be tested, meet a performance-based standard, and be certified to the Energy Commission's appliance efficiency database. The existing efficiency standard measures the performance of all portable electric spas in standby mode. The existing test procedure sets uniform testing conditions and measuring procedures for all portable electric spas. Existing law also requires all portable electric spas be marked with the manufacturer name, brand name, or trademark; the model number; and the date of manufacture.

The proposed regulations would maintain the existing scope, covering standard spas, exercise spas, combination spas, and inflatable spas. The proposed regulations would improve the efficiency standards for standard spas, exercise spas, and combination spas manufactured on or after June 1, 2019 and add a new efficiency standard for inflatable spas manufactured on or after June 1, 2019. The proposed regulations would also amend the test procedure to ANSI/APSP/ICC-14 2014, American National Standard for Portable Electric Spa Energy Efficiency beginning June 1, 2019. The proposed regulations would add definitions for the subgroups of portable electric spas to enable implementation of the updated test methods and standby power standard. The proposed regulations would institute a label requirement for all portable electric spas manufactured on or after June 1, 2019. Lastly, the proposed regulations would also modify the data submittal requirements to collect information that is needed to confirm compliance with these requirements.

BATTERY CHARGERS

Existing law requires manufacturers to mark all battery charger systems with a “BC” inside a circle on the product nameplate that houses the battery charging terminals or on the retail packaging and, if included, the cover page of the instructions.

Existing law requires battery chargers that are federally regulated consumer products to meet federal efficiency standards if manufactured on or after June 13, 2018. At that time, the federal efficiency standards will preempt any inconsistent state efficiency standards for these products as a matter of law. Existing federal law does not require federally regulated battery charger systems to be marked with a “BC” inside a circle.

The proposed regulations would modify the existing law by making the “BC” marking requirement applicable only to state-regulated battery chargers, eliminating the need to provide the “BC” mark for battery chargers that are federally regulated consumer products.

Difference from existing comparable federal regulation or statute - Government Code section 11346.5(a)(3)(B).

The Energy Commission has determined that there are no existing, comparable federal regulations or statutes that address the energy efficiency standards, testing, certification, or marking requirements in California Code of Regulations, title 20, sections 1602 -1607, for portable electric spas.

The Energy Commission has determined that there are no existing, comparable federal regulations or statutes that address the marking requirements in California Code of Regulations, title 20, section 1607, for battery chargers. There are, however, existing federal regulations for battery chargers concerning matters other than marking that will take effect on June 13, 2018. The regulations proposed here would eliminate the specific marking requirement for federally regulated battery chargers, making the two laws consistent.

Policy statement overview regarding broad objectives of the regulations and the specific benefits anticipated by the proposed amendments - Government Code section 11346.5(a)(3)(C).

PORTABLE ELECTRIC SPAS

The broad objectives of this rulemaking are to increase energy efficiency savings in the state by establishing energy efficiency standards for portable electric spas, appliances that are prevalent in the state and for which cost-effective standards can be established. It is estimated that over one million spas are installed in California and tens of thousands are sold each year. There are many portable electric spa components that offer opportunities for increased energy efficiency, including heating elements, pump and motor combinations, insulation, and the cover.

The specific benefits anticipated by the proposed portable electric spas regulations include achieving energy efficiency gains. Overall, these regulations help protect public health and

safety and the environment by saving approximately 118 gigawatt hours per year from the standby power standard, after full stock turnover , reducing greenhouse gas and criteria pollutant emissions, primarily from lower generation in hydrocarbon-burning power plants, such as natural gas power plants. In addition, the proposed standard would save consumers about \$22 million in electricity bills after stock turnover. Labeling portable electric spa units will lead to energy savings by educating consumers to choose a more efficient unit. The education component on the label has the ability to potentially save an additional 124 gigawatt hours per year, saving consumers \$23 million in electricity bills after full stock turnover. These regulations combined will benefit businesses and consumers by reducing electricity bills by \$45 million per year.

BATTERY CHARGERS

The broad objective of this rulemaking is to modify the “BC” marking requirements for battery charger systems so that they only apply to state-regulated battery chargers instead of applying to both state- and federally-regulated battery chargers, to improve the implementation and reduce the costs of the existing regulations.

The specific benefits of the proposed battery charger regulations are to reduce the burden on manufacturers having to otherwise mark with a “BC” battery charger systems that are sold or offered for sale in California, but not having to mark such systems if sold elsewhere in the United States. Aligning the state and federal requirements for marking battery chargers will improve clarity for manufacturers.

Inconsistency or incompatibility with existing state regulations - Government Code section 11346.5(a)(3)(D).

The proposed regulations are not inconsistent or incompatible with existing state regulations. There are no other state regulations that address the efficiency standards, testing, marking, or certification requirements in California Code of Regulations, title 20, sections 1602 -1607, for portable electric spas or battery chargers. After conducting a review for any regulations that would relate to or affect this area, the Energy Commission has concluded that these are the only regulations that concern this rulemaking in California.

DOCUMENTS INCORPORATED BY REFERENCE – 1 California Code of Regulations Section 20(c)(3)

The Energy Commission proposes to incorporate one document listed below by reference. Pursuant to California Code of Regulations, title 1, section 20, this document is available for review at the Commission at 1516 Ninth Street, Sacramento, California 95814 starting February 2, 2018, weekdays from 9:00 am to 5:00 pm. ANSI/APSP/ICC-14 2014 is also available directly from the publishing entity for a nominal fee. All available contact information, including internet addresses, physical addresses, and phone numbers for this entity has been provided. This document is copyrighted, however, and copies cannot be provided directly by the Energy Commission without violating the documents’ terms of use.

In this rulemaking, the affected public consists of manufacturers of portable electric spas and test laboratories that are hired by these entities to conduct the required testing. Many of these companies likely already have the required document, and if not, this document would only need to be procured once no matter how many models the manufacturers would be testing and certifying to the Energy Commission's database. Therefore, the Commission has determined that the cost to obtain this document is nominal for the entities that are subject to these regulations. Because the document will be available for viewing at the Energy Commission and because the fee for obtaining copies of the document is a nominal one-time expense that can be easily absorbed by the entities being regulated, the Commission concludes that this document is reasonably available to the affected public in conformance with California Code of Regulations, title 1, section 20(c).

The Association of Pool and Spa Professionals

ANSI/APSP/ICC-14 2014, American National Standard for Portable Electric Spa Energy Efficiency.

Copies available from:

The Association of Pool and Spa Professionals
2111 Eisenhower Avenue
Alexandria, VA 22314-4695
Phone: (703)838-0083
www.asps.org

LOCAL MANDATE DETERMINATION – Government Code Section 11346.5(a)(5)

The proposed regulations will not impose a mandate on local agencies or school districts.

FISCAL IMPACTS – Government Code Section 11346.5(a)(6)

Cost or Savings to Any State Agencies. No public agency would necessarily incur costs or savings in reasonable compliance with these regulations. Portable electric spas are not appliances typically purchased by governmental agencies, so any potential change to the price of these appliances as a result of these regulations would be unlikely to have any impact on state agencies. The change to the battery charger regulations would not result in any costs or savings to state agencies purchasing battery chargers as they do not change the underlying efficiency standards.

Cost to Local Agencies or School Districts Requiring Reimbursement. As generally applicable requirements, the proposed regulations will not impose on local agencies or school districts any costs for which Government Code sections 17500-17630 require reimbursement.

Other Nondiscretionary Cost or Savings Imposed Upon Local Agencies. The proposed regulations will not result in any other nondiscretionary cost or savings to local agencies.

Cost or Savings in Federal Funding to the State. The proposed regulations will not result in any cost or savings in federal funding to the state.

HOUSING COSTS – Government Code Section 11346.5(a)(12)

The proposed regulations would not have a significant effect on housing costs.

INITIAL DETERMINATION RE SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE – Government Code Sections 11346.3(a), 11346.5(a)(7), and 11346.5(a)(8)

PORTABLE ELECTRIC SPAS

The Energy Commission has determined that the proposed regulations for portable electric spas will not have a significant, statewide adverse economic impact directly affecting business. This determination includes the ability of California businesses to compete with businesses in other states, because the monetary savings resulting from the energy consumption savings outweigh the cost to improve the efficiency of portable electric spas.

For portable electric spas, the proposed regulations can be met by implementing common and relatively inexpensive design changes. These design changes may require manufacturers to include better insulation in the spa and in the spa cover, such as increasing the R-value of the foam, applying uniform insulation within the body of the spa, adding radiant barriers, and by improving the control settings of the spa. The costs to incorporate these changes are added to the retail price of the unit but do not exceed the benefits of an efficient portable electric spa. Furthermore, based on the data available in the Modernized Appliance Efficiency Database (MAEDBS), approximately 77 percent of the portable electric spas (excluding inflatable spas) that are currently being sold meet the proposed standard. Thus, the proposed efficiency standard can be met by incorporating existing efficiency technologies in portable electric spas. Finally, consumers of portable electric spas are not generally price-sensitive, so the increase in the initial cost of a spa is not likely to have any discernable impact on the number of spas sold in the state, and therefore no adverse impact to California businesses that manufacture and sell portable electric spas.

BATTERY CHARGERS

The Energy Commission has determined that the proposed regulations for battery chargers will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations merely remove the requirement to mark battery chargers that are federally regulated consumer products, thus reducing manufacturers' cost to comply with the existing regulations without reducing the efficiency requirements or savings of the regulations.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT –
Government Code Section 11346.5(a)(10)

Creation or elimination of jobs within the state:

No new jobs will be created and no existing jobs will be eliminated by the proposed regulations.

Creation of new businesses or the elimination of existing businesses within the state:

No new businesses will be created and no existing businesses will be eliminated by the proposed regulations.

Expansion of businesses currently doing business within the state:

The proposed regulations may result in a slight expansion of businesses currently doing business in the state.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment:

The proposed regulations will benefit California residents by ensuring that portable electric spas purchased are energy efficient. In addition, the Energy Commission does not anticipate any benefits to worker safety as a result of the proposed regulations because this regulatory action will not impact working conditions or worker safety. The implementation of the proposed regulations for portable electric spas will benefit the state's environment by reducing energy consumption, and therefore lowering emissions of air pollutants, including greenhouse gases.

There are no benefits of the regulation associated with health, welfare, worker safety, or the state's environment associated with the proposed regulations for battery charger marking.

Accordingly, the Energy Commission has determined that the proposed regulatory action will not have a significant impact on business.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS – Government Code Section 11346.5(a)(9)

For portable electric spas, a representative business would not incur any additional costs from the proposed regulations. Implementation of the proposed test procedure will not result in added manufacturer costs because other than the water temperature and ambient air temperature testing conditions, the proposed test procedure is relatively the same compared to the existing test procedure. The Energy Commission concluded and is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

For battery chargers, a representative business would not incur any additional costs from the proposed regulations. The proposed regulations eliminate the need to mark some types of battery chargers, potentially reducing manufacturers' cost of compliance compared to the

existing regulations by allowing products sold nationwide to also be sold in California without unique marking. The Energy Commission concluded and is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT – Government Code Sections 11346.5(a)(11) and 11346.3(d)

The proposed regulations impose a new label requirement on manufacturers of portable electric spas and therefore require additional reporting costs for businesses. Over a 10 year period, the Energy Commission anticipates the cost to design, develop, and adhere the label to the product will cost manufacturers of standard spas or exercise spas, approximately \$681 per year. For manufacturers of combination spas, the cost over 10 years would be approximately \$265 per year over 10 years. And for inflatable spa manufacturers the cost over three years will be approximately \$845 per year.

The proposed regulations do not impose any new data reporting requirements related to battery chargers.

It is necessary for the health, safety, or welfare of the people of the state that these regulations apply to businesses. As discussed above, improving energy efficiency of appliances sold in California is an important state goal with public health and safety and environmental benefits.

SMALL BUSINESS IMPACTS – 1 California Code of Regulations Section 4(a) and (b)

For purposes of this analysis, the Energy Commission used the consolidated definition of small business contained in Government Code section 11346.3(b)(4)(B). The Commission has determined that the proposed regulations will affect small business. These regulations would affect businesses, including those independently owned and operated and not dominant in their field of operation, involved in manufacturing portable electric spas and battery chargers, as well as businesses involved in the retail and wholesale trade of portable electric spas and battery chargers. These small businesses are legally required to comply with the regulations. The regulations do not uniquely affect small businesses and will not yield any unique costs or savings to small businesses.

ALTERNATIVES STATEMENT – Government Code Section 11346.5(a)(13)

The Energy 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.

CONTACT PERSON – Government Code Section 11346.5(a)(14)

Inquiries concerning all aspects of the rulemaking process, including the substance of the proposed regulations, should be directed to Angelica Romo-Ramos at Angelica.Romo@energy.ca.gov or (916) 654-4147. The designated backup contact person is Jessica Lopez at (916) 654-5125 or by e-mail at Jessica.Lopez@energy.ca.gov.

COPIES OF THE INITIAL STATEMENT OF REASONS AND THE TEXT – Government Code Section 11346.5(a)(16)

The Energy Commission has prepared an initial statement of reasons for the proposed regulations, has available all the information upon which this proposal is based, and has available the express terms of the proposed action. To obtain a copy of any of this information, please visit the Commission's website at: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?doctetnumber=18-AAER-02> or contact Angelica Romo-Ramos at Angelica.Romo@energy.ca.gov or (916) 654-4147.

AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS – Government Code Section 11346.5(a)(18)

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 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 Commission adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS – Government Code Section 11346.5(a)(19)

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 Commission's website at: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?doctetnumber=18-AAER-02> or contacting Angelica Romo-Ramos at Angelica.Romo@energy.ca.gov or (916) 654-4147.

INTERNET ACCESS – Government Code Sections 11346.4(a)(6) and 11346.5(a)(20)

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 Commission for this rulemaking, including this Notice of Proposed Action, the Express Terms, and the Initial Statement of Reasons have been posted at: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?doctetnumber=18-AAER-02>.

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.