

DOCKETED

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CEC-057 (Revised 1/21)

**NOTICE OF SECOND 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. The CEC made changes based on comments received and posted notice for an initial 15-day language revision (June 2023) for a 15-day comment period from June 23, 2023, through July 10, 2023.

Based on comments received during that written comment period, the CEC is proposing additional changes to the proposed regulations shared on June 23, 2023. **Any interested persons are invited to review and provide written comments to the CEC for consideration during this second 15-day comment period from September 1, 2023, through September 18, 2023.** The CEC appreciates receiving written comments at the earliest possible date. Comments submitted after **September 18, 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](https://www.energy.ca.gov/proceedings/energy-commission-proceedings/flexible-demand-appliances/pool-controls) 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
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The proposed second 15-day language and related documents are available for review on the [CEC website](https://www.energy.ca.gov/proceedings/energy-commission-proceedings/flexible-demand-appliances/pool-controls) at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/flexible-demand-appliances/pool-controls>

The text of the proposed second 15-day language (September 2023) is provided with this notice. The second 15-day language (September 2023) shows changes to the first 15-day language (June 2023). Amendments included in the first 15-day notice (June 2023) are shown in double strikethrough (~~example~~) for deletions and double underline (example) for additions. Additional amendments being proposed for a second 15-day public comment period are shown in italics single strike (*example*) for deletions and italics single underline (*example*) for additions.

In the Final Statement of Reasons, to be prepared following adoption of this rulemaking by the CEC, staff will respond to all comments received on the record during the open public 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 second 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.

The CEC's Public Advisor provides the public with 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 proposed regulation sections are listed below.

1. Changes to Section 1691. Definitions.

- **(a) General Definitions.** Modified definitions with input from stakeholders to add clarity.
 - i. Modified “Consent” definition by removing unnecessary content in order to improve clarity and conciseness.
 - ii. Added “Consumer” definition to improve clarity and language consistency.
 - iii. Added “Customer” definition to improve clarity and language consistency.
 - iv. Modified “Flexible Demand” definition with a non-substantive edit to improve clarity.
 - v. Modified “Load-Serving Entity” definition to ensure consistency with the statutory definitions in Public Resources Code section 25402(f)(7) and Public Utilities Code 331.1.
 - vi. Added “Local publicly owned electric utility” definition to improve clarity and language consistency.
 - vii. Modified “Personal Information” definition to align to existing California Civil Code section 1798.140(v) and ensure consistency with relevant law.
 - viii. Removed “Radio broadcast data system receiver” definition because it is no longer needed in this version of the regulatory language.
 - ix. Modified “Security feature” definition to improve clarity and language consistency.

(b) Pool Controls. Modified definitions with input from stakeholders to add clarity.

- i. Modified “Direct load control switch” definition to help clarify pool control definitions by removing “clock-operated”.
- ii. Modified “Heater switch” definition to help clarify pool control definitions by removing “clock-operated”.
- iii. Removed “Integral” definition to help clarify the proposed regulatory language because the word “integral” could be unintentionally interpreted as having regulatory effect.
- iv. Modified “Pool equipment” definition to remove “including, but not limited to,..” and the list of equipment “pool pumps, electric pool heaters, electrolytic chlorinators, lights, cleaners, and water features” to improve the clarity of the definition.

- v. Modified “Pool control” definition to remove “independently” to add clarity to the definition.
- vi. Modified “Pool control” definition to add the word “filter” to clarify for the type of pool pump.
- vii. Modified “Pool control” definition to restructure exclusions to the definition into a list. Items (A) and (B) contain the same content as presented in the first 15-day language. Item (C) adds an exclusion needed to maintain the original scope of the proposed regulatory language.
- viii. Modified “Pool pump switch” definition to remove “clock operated” to allow for cloud-based controls.
- ix. Modified “Pool timer” definition to remove “clock operated” to allow for cloud-based controls.
- x. Modified table of documents that are incorporated by reference in section 1691 to remove the document related to radio broadcast data systems because it is no longer needed in this version of the regulatory language.

2. Changes to Section 1692. General Requirements.

(c) Cybersecurity. Clarified “**(3) Data Protection**”, “**(4) Authentication**”, “**(5) Software Update**”, and “**(8) Override Function**” by adding and removing text.

- i. Modified **(3) Data Protection** to add “customer or” to the scope for consistency and to ensure uniform application of data protection requirements.
- ii. Modified **(4) Authentication** to remove “NERC” to avoid confusion and avoid duplication because “NERC” is already referenced in the upper level for this section.
- iii. Modified **(5) Software Update** to add clarity that this section applies to the customer and the consumer. Four locations have been updated within this sub-section.
- iv. Modified **(8) Override Function** to add clarity that this section applies to the customer and the consumer.

3. Changes to Section 1693. Appliance Specific Standards and Requirements.

(b) Pool Controls. Clarified effective date, communication requirements, connectivity requirements, and clock requirements by adding and removing text.

- i. Modified **(1) Effective date** to recognize and align to pending changes to federal law and provide an outer limit on effective date if said changes are subject to delay.
- ii. Removed **(2) Flexible demand appliance standards (A) (1)** based on concerns relating to cost and cost effectiveness of the requirement and the need for additional analysis.
- iii. Modified **(2) Flexible demand appliance standards (A) (2)** to remove radio broadcast data system receiver requirement and,

separately, to remove specification of effective date. Subsection numbering updated from “2” to “1” because subsection “1” is now removed.

- iv. Modified **(2) Flexible demand appliance standards (B)** to add clarity for the minimum local controls required.
- v. Modified **(2) Flexible demand appliance standards (B) (1)(b)** to remove radio broadcast data system receiver requirement based on concerns relating to cost and cost effectiveness of the requirement and the need for additional analysis.
- vi. Modified **(2) Flexible demand appliance standards (B)(2)** to specify minimum local manual control requirements as applicable only to basic start and stop operation of the pool filter pump and any dependent heaters and booster pumps.
- vii. Removed **(2) Flexible demand appliance standards (B)(2)(a)** to improve clarity and language consistency requiring pool controls to at least have a local start/stop functionality while allowing other controls to be accessed via an app or other methods.
- viii. Modified **(2) Flexible demand appliance standards (B)(3)** to improve clarity and language consistency.
- ix. Modified **(2) Flexible demand appliance standards (B)(3)(a)** to improve clarity and language consistency to allow for app-base or other interfaces as long as there is a local start/stop on the device.
- x. Modified **(6) Communication (A)** to remove “sold or offered for sale in California and” because it is duplicative and unnecessary, and remove specific section 1694 reference to improve clarity and language consistency.
- v. Modified **(6) Communication (B)** to clarify that this provision applies to connected pool controls and not all connected “devices”.
- vi. Modified **(6) Communication (B)** to add clarity and consistency for the use of “customer and consumer”.
- vii. Modified **(6) Communication (B)** to remove specific section 1694 reference to improve clarity.
- viii. Removed **(6) Communication (C)** because radio broadcast data receiver content requirements are no longer required in this version of the regulatory language.
- ix. Added new subsection **(6) Communication (C)** to add clarity and to move the requirement from a general section to a pool control specific section, because at this time this provision is intended to only apply to pool controls.
- x. Added **(6) Communication (D)** to add clarity and consistency for connected pool controls that are capable of communicating additional information from a general section to a pool control specific section, because at this time these requirements are only relevant to pool controls.

4. **Changes to Section 1694. Customer Consent.** Adding clarity.
 - i. Modified subsection **(b)** to remove ambiguity and provide clarity for connected and connected capable appliance communication link functionality minimum requirements consistent with statutory direction.
 - ii. Removed subsection **(c), (d), and (e)** to remove real time power draw requirement, radio broadcast data system requirements, to improve clarity, and to move content that at this time is only relevant to pool controls from a general section to a pool control specific section.

5. **Changes to Section 1695. Certification Requirements.** Adding Authority and Reference Section for clarity.
 - i. Modified **(a) Filing of Statements (2) (H) 3.** to ensure the attestation of compliance covered all elements prescribed by the Article.
 - ii. Added a note at the end of Section 1695 to provide clarity for cited text.

6. **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. Modified **Table A-1** to remove “Permissible” and replace it with “Possible” to provide clarity that the table entries show the answers that will be made possible by the filing materials provided for the submission of model data, and is not intending to imply that filers need or lack permission to provide information about their products.
 - ii. Modified line item in **Table A-1** to remove “both” as a possible answer because by the proposed regulatory definitions it is not possible to be both a connected device and a connected ready device.
 - iii. Modified line item in **Table A-1** to remove “false” as a possible answer and add “Neither” as a possible answer.
 - iv. Removed line item in **Table A-1** for radio broadcast data systems because it is no longer needed in this version of the regulatory language.
 - v. Relocated **Table A-2** line items relating to use of open standards for communication to Table B-1, as it is a requirement specific to pool controls, and reduced to a single entry to eliminate redundancy.
 - vi. Removed **Table A-2** line item for updating on initial setup as it is no longer required in regulation.
 - vii. Modified **Table A-2** to remove “Permissible” and replace it with “Possible” to provide clarity that the table entries show the answers that will be made possible by the filing materials provided for the

- submission of model data, and is not intending to imply that filers need or lack permission to provide information about their products.
- viii. Modified **Table A-2** line item in two locations to remove “users” and replace with “entities” for clarity and language consistency.
 - ix. Modified **Table A-2** line item relating to the unique logical identifier to include specifying that the identifier was accessible to authorized entities.
 - x. Added **Table A-2** line items relating to plain text passwords consistent with cybersecurity requirements.
 - xi. Modified **Table A-2** line item relating to software updates to use clearer language that is more consistent with associated regulatory text.
 - xii. Modified **Table A-2** line items to merge two items relating to device security into a single item.
 - xiii. Modified **Table A-2** line item to remove “at any time”, consistent with removal of similar language from regulation.
 - xiv. Modified **Table A-2** line item to remove “the factory” to avoid introducing an unneeded term that could require a regulatory definition.
 - xv. Modified **Table B-1** to make formatting changes to the headings for consistency and to remove “Permissible” and replace it with “Possible” to provide clarity that the table entries show the answers that will be made possible by the filing materials provided for the submission of model data, and is not intending to imply that filers need or lack permission to provide information about their products.
 - xvi. Added **Table B-1** line item for communicating using open standards, relocating the item from Table A-2.
 - xvii. Modified **Table B-1** line items relating to control interfaces for consistency with changes to regulatory requirements.
 - xviii. Added **Table B-1** line item to cover marking requirements applicable to regulated pool controls.