

DOCKETED

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CALIFORNIA ENERGY COMMISSION

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**INITIAL STATEMENT OF REASONS**

Title 20. Public Utilities and Energy
Division 2. State Energy Resources Conservation and Development Commission
Chapter 4. Energy Conservation
Article 4. Appliance Efficiency Regulations

Docket No. 20-AAER-04
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INTRODUCTION

The California Energy Commission (CEC) proposes to amend the regulations for portable electric spas in the Appliance Efficiency Regulations after considering all comments, objections, and recommendations regarding the proposed action.

PROBLEM STATEMENT

The Warren-Alquist Act establishes the CEC as California's primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(c) of the Public Resources Code mandate and/or authorize that the CEC adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances whose use requires a significant amount of energy or water statewide.

One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations, which contain definitions, test procedures, efficiency standards, and marking and certification requirements for state and Federally-regulated appliances. Further, the regulations require that appliance manufacturers certify to the CEC that their products meet all applicable state and Federal Appliance Efficiency Regulations before their products can be included in the CEC's Modernized Appliance Efficiency Database System (MAEDbS) of appliances approved to be sold or offered for sale within California.

On April 11, 2018, the CEC adopted changes to the Appliance Efficiency Regulations amending the existing regulations for portable electric spas. The test procedure and label design requirements were derived from ANSI/APSP/ICC-14 (APSP-14), American National Standard for Portable Electric Spa Energy Efficiency, Version 2014.

On November 19, 2019, the American National Standard Institute (ANSI) approved and published the revised standard APSP-14, Version 2019. The revised test procedure

derives from the ANSI/APSP/ICC-14, American National Standard for Portable Electric Spa Energy Efficiency, Version year 2014 (APSP-14, Version 2019).

Therefore, the CEC is proposing to update the Appliance Efficiency Regulations to incorporate the test procedure reference and update the labeling design requirements for portable electric spas. The scope of coverage will remain the same and continue to cover all types of portable electric spas, such as standard spas, exercise/swim spas, combination spas, and inflatable/collapsible spas. The existing performance standards will not be affected. The proposal also includes editorial changes to simplify the structure of existing regulations for portable electric spas. The proposal CEC is recommending makes the regulations consistent with the recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019.

To minimize the inconsistency between the regulations and the current industry standard, the regulations are proposed to be effective upon filing with the Secretary of State.

Public Resources Code section 25402(c)(1)(A) establishes a 1-year delay in the effectiveness of new or modified minimum levels of operating efficiency (i.e. appliance efficiency standards) adopted by the CEC. The 1-year delay was adopted for the purpose of providing appliance manufacturers sufficient lead time to produce new appliances that comply with newly adopted efficiency standards. This delay, however, does not encompass an entire appliance efficiency rulemaking proceeding and only applies to specific provisions within a rulemaking that purport to establish a new efficiency standard or modify an existing one. The CEC's appliance efficiency regulations do much more than establish standards; they specify how appliances are tested, what information must be reported to the CEC, how products are labeled, and how program requirements will be enforced, among other things. The delay established in section 25402(c)(1)(A) does not apply where these other aspects of efficiency regulations are being added, modified, or repealed.

This rulemaking proceeding does not involve a new or modified efficiency standard. The only changes being proposed involve updating the test procedure reference and making the labeling design requirements consistent with the latest industry standards, neither of which require appliance manufacturers to produce new energy efficient appliances. The proposed changes are not the kinds of changes contemplated by the 1-year delay provision. Therefore, the 1-year delay provision in 25402(c)(1)(A) does not apply to the proposed changes in this rulemaking.

PURPOSE

The purpose of the proposed regulation is to update the test procedure and labeling requirements for portable electric spas to be consistent with the latest industry standard.

BENEFITS

The broad objective of this proposed action are improved clarity and reduced confusion by updating the Appliance Efficiency Regulations related to portable electric spas to be consistent with the current industry standard.

The specific benefit of the proposed action will be an update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. This includes updates to the labeling requirements and test lab qualification requirements. However, existing efficiency standards and the scope of coverage for portable electric spas will not be affected. Therefore, statewide energy use and savings, and related environmental impacts and benefits, will not be affected.

STATEMENT OF SPECIFIC PURPOSE AND NECESSITY

SECTION 1602. DEFINITIONS SPECIFIC PURPOSE

The specific purpose is to remove a reference that is no longer applicable.

NECESSITY

Subsection (g)(2):

The changes to this Section are necessary to strike a cross reference that is no longer applicable.

SECTION 1604. TEST METHODS SPECIFIC PURPOSE

The specific purpose is to update the referenced test procedure and consolidate existing test lab report requirements that are incorporated in APSP-14, Version 2019.

NECESSITY

Subsections (g)(2)(A) and (B):

The changes to this Section are necessary to remove test procedure requirements that are no longer applicable, to reflect that all portable electric spas be tested in accordance with APSP-14, Version 2019 with no modifications, and to update the test lab report requirements.

Changes include removing the expired test procedure requirements that applied to portable electric spas manufactured prior to June 1, 2019, that are no longer applicable.

Also, in April 2018 the CEC adopted the test procedure APSP-14, Version 2014 with modifications for portable electric spas to reflect the energy use of combination spas and exercise spas. These modifications have now been included in the recently revised, APSP-14, Version 2019. Therefore, the testing conditions and testing method for determining the standby power consumption remain the same. Differences between California's existing regulations for portable electric spas and APSP-14, Version 2019 are updates to the test lab qualification requirements. Existing test lab certification

requirements in APSP-14, Version 2014, specify test labs must be qualified by a third-party certifier to verify competency, whether the test lab is accredited to ISO/IEC 17025 or not. APSP-14, Version 2019 only requires an unaccredited test lab to be qualified by a third-party certifier.

The CEC is continuing to recommend test lab report requirements for portable electric spas. This includes reporting data required per California Code of Regulations (CCR), Title 20, Section 1606, Table X and Appendix D of APSP-14, Version 2019, and other requirements such as listing temperature control accessories for inflatables spas, and data plot figures of the water temperature, ambient air temperature, voltage, and current. Many of the test lab report requirements remain the same except for the name of the test technician, test location, picture of tested spa in chamber, and picture of data plate of tested spa, all of which are included in Appendix D of APSP-14, Version 2019. Changes proposed in CCR, Title 20, Section 1604 update the referenced test procedure and consolidates existing test lab report requirements that are incorporated in APSP-14, Version 2019.

Documents Incorporated by Reference:

The changes to this Section are necessary to update the document incorporated by reference to ANSI/APSP/ICC-14 (APSP-14), Version 2019. The proposed changes are based on updating all references of APSP-14, version 2014 to the 2019 version.

In addition, it is necessary to update the reference because the name of the organization that publishes the standard has changed names from the Association of Pool and Spa Professionals to the Pool and Hot Tub Alliance.

SECTION 1605.3 STATE STANDARDS FOR NON-FEDERALLY REGULATED APPLIANCES

SPECIFIC PURPOSE

The specific purpose is to clarify the regulatory language and to remove language for efficiency standards of portable electric spas that are no longer applicable.

NECESSITY

The CEC's Appliance Efficiency Regulations contain mandatory requirements for both Federally-regulated and state-regulated appliances to provide manufacturers, distributors, retailers, and consumers of appliances with a clear and comprehensive set of requirements in a single location.

The changes to this Section are necessary to clarify the regulatory language and to remove language for efficiency standards no longer applicable to portable electric spas.

Other proposed changes are necessary to eliminate references to APSP-14, Version 2014, for calculating the normalized standby power. Replacing the references of Section 6.1 through 6.3 of APSP-14, Version 2014, are the equations used by the Appliance

Efficiency Regulations to calculate the normalized standby power. These equations are the same as those referenced in APSP-14, Version 2014 and Version 2019.

The changes removing the document incorporated by reference are necessary because the document is no longer referenced in this Section and is incorporated by reference in Section 1604.

SECTION 1606. FILING BY MANUFACTURERS: LISTING OF APPLIANCES IN DATABASE.

SPECIFIC PURPOSE

The specific purpose is to simplify the regulatory language and remove any outdated references.

NECESSITY.

State law (Public Resources Code Section 25402(c)(1)) requires manufacturers to certify to the CEC that their appliances comply with the applicable efficiency standards before they are sold or offered for sale in the state. The Appliance Efficiency Regulations require manufacturers to report specified information for this purpose to the CEC's MAEDbS. MAEDbS is used by manufacturers and maintained by the CEC to list the appliances authorized to be sold or offered for sale in California. This allows the CEC and consumers to verify compliance with the applicable state and Federal efficiency standards.

Table X in Section 1606 provides the reporting requirements for manufacturers for each regulated appliance. The reporting requirements specify product details and performance data that are required to be reported when submitting models of appliances to MAEDbS for certification. It is necessary that manufacturers know the reporting requirements to certify each model to MAEDbS to comply with the regulations and be able to sell their products in California. The reporting requirements ensure that all necessary information to validate the submitted data is provided to the CEC and are necessary to determine if all test results meet the applicable standards.

The only proposed changes to the reporting requirements set forth in the CCR, Title 20, Section 1606 Table X, involve removing the outdated qualifier "(applies to models manufactured on or after June 1, 2019 only)" to simplify the regulatory language, since that date has passed and the requirements apply to models currently being manufactured and tested.

SECTION 1607. MARKING APPLIANCES

SPECIFIC PURPOSE

The specific purpose is to update the labeling design requirements.

NECESSITY

Subsections (d)(13)(B)(1), (2), and (3):

All regulated appliances are required to be marked with the manufacturer name, brand name, or trademark; the model number; and the date of manufacture, permanently, legibly, and conspicuously on an accessible place on each unit. The CEC is continuing to include labeling requirements for portable electric spas in the Appliance Efficiency Regulations.

The changes to this Section are necessary to make California's labeling requirements consistent with the current industry standard, APSP-14, Version 2019. The current label design requirement in the Appliance Efficiency Regulations derives from APSP-14, Version 2014, and is modified to reflect the additional requirements in the Appliance Efficiency Regulations. In 2018, the CEC amended the language on the label from APSP-14, Version 2014, to be representative of the modifications made to the APSP-14, Version 2014 test procedure, for the standardization of the label to verify compliance, and several other modifications for consumers to easily compare between spas. APSP incorporated these updates in APSP-14, Version 2019, which is consistent with the additional requirements in the Appliance Efficiency Regulations. However, the existing labeling requirements in the Appliance Efficiency Regulations are inconsistent with the labeling requirements in APSP-14, Version 2019.

The California-specific label requires manufacturers to display performance data of the least efficient spa cover-unit combination influencing the customer to purchase a more efficient choice, influencing retailers to present efficient options, and influencing manufacturers to use more efficient spa covers. Whereas, the APSP-14, Version 2014 label requirement allows the manufacturer to display the performance data of any spa cover-unit combination preventing label standardization. Hence the inclusion of "California" in the title and several references to CCR, Title 20.

Therefore, it is necessary to update labeling requirements to be consistent with the design specifications of APSP-14, Version 2019, with no modifications. The requirements of the data displayed in the proposed Appliance Efficiency Regulations label and the label in the revised APSP-14, Version 2019, are the same. Proposed changes included removing all references to CCR, Title 20. The APSP-14, Version 2019, label language references "ANSI/APSP/ICC-14" without indicating the version year. Therefore, to assist in compliance verification staff is proposing an optional reference to state "2019" following "ANSI/APSP/ICC-14." Although there are discernable differences between the California version, the 2014 version, and the 2019 version label designs, these differences are not apparent to those without knowledge of APSP-14. Other changes include clarifications for labeling combination spas and changing the label height from 6.25 inches to 6.75 inches.

Documents Incorporated by Reference:

It is necessary to add the updated test procedure as a document incorporated by reference for clarity purposes as the proposed changes are based on updating all references of APSP-14, version 2014, to the 2019 version.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR SIMILAR DOCUMENTS.

The CEC relied upon input from various stakeholders, subject matter experts, and interested parties that provided information, feedback, and subject matter expertise from operational, technical, and manufacturing perspectives.

The groups and organizations that participated include:
The Pool & Hot Tub Alliance (PHTA).

The CEC relied upon the following documents:

Lopez, Jessica. 2020. *Proposed Test Procedure and Labeling Requirements for Portable Electric Spas*. California Energy Commission. Publication Number: CEC-400-2021-005

CONSIDERATION OF REASONABLE ALTERNATIVES, INCLUDING THOSE THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

No reasonable alternatives to the proposed regulations have been proposed that would lessen any adverse impact on small businesses or that would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that achieves the purposes of the statute being implemented.

The CEC is proposing to update the test procedure reference and update the labeling design requirements for portable electric spas. The proposal CEC is recommending is derived from a recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. The scope of coverage will remain the same and continue to cover all types of portable electric spas, such as standard spas, exercise/swim spas, combination spas, and inflatable/collapsible spas. The existing performance standards will not be affected. Statewide energy use and savings and related environmental impacts and benefits are not expected to be affected.

Staff estimates that 1,000 retailers, installers, manufacturers, and wholesalers that manufacture, install, or sell portable electric spas may be impacted by the proposed regulations. There are approximately 50 manufacturers and private brand packagers of portable electric spas selling within California, and the remaining share of businesses are retailers or wholesalers of portable electric spas. This estimate is based on the CEC's MAEDbS, which yields the number of manufacturers, and its estimate of the number of businesses in California that sell portable electric spas to consumers. The CEC estimates that of the businesses impacted, approximately 10 percent are small businesses. Small businesses in the portable electric spa industry include retailers, some small manufacturers, or private brand packagers.

The CEC assumed there were no or negligible costs associated with updating the test procedure reference and the labeling design requirements; for these reasons staff does

not expect any businesses, including small businesses, to be impacted by the proposed regulations for portable electric spas.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

None

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Creation or Elimination of Jobs within the State of California

The CEC is proposing to update the test procedure reference and update the labeling design requirements for portable electric spas. The proposal CEC is recommending is derived from a recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. Changes to the label are unlikely to lead to significant manufacturer cost. The scope of coverage will remain the same and continue to cover all types of portable electric spas, such as standard spas, exercise/swim spas, combination spas, and inflatable/collapsible spas. The existing performance standards will not be affected. Statewide energy use and savings, and related environmental impacts and benefits, will not be affected. Therefore, the CEC has determined the proposed regulations are unlikely to create or eliminate jobs in California.

The Creation of New Businesses or the Elimination of Existing Businesses within the State of California

The CEC is proposing to update the test procedure reference and update the labeling design requirements for portable electric spas. The proposal CEC is recommending is derived from a recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. Changes to the label are unlikely to lead to significant manufacturer cost. The scope of coverage will remain the same and continue to cover all types of portable electric spas, such as standard spas, exercise/swim spas, combination spas, and inflatable/collapsible spas. The existing performance standards will not be affected. Statewide energy use and savings, and related environmental impacts and benefits, will not be affected.

Therefore, the CEC has determined the proposed regulations are unlikely to create or eliminate any new or existing businesses in California.

The Expansion of Businesses Currently Doing Business within the State of California

The CEC is proposing to update the test procedure reference and update the labeling design requirements for portable electric spas. The proposal CEC is recommending is derived from a recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. Changes to the label are unlikely to lead to significant manufacturer cost. The scope of coverage will remain the same and continue to cover all types of portable electric spas, such as standard spas, exercise/swim spas, combination spas, and inflatable/collapsible spas. The existing

performance standards will not be affected. Statewide energy use and savings, and related environmental impacts and benefits, will not be affected.

Therefore, the CEC has determined it is unlikely that businesses doing business in California will be expanded.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The benefits of this proposed action are improved clarity and reduced confusion by updating the Appliance Efficiency Regulations related to portable electric spas to be consistent with the current industry standard. Existing efficiency standards and the scope of coverage for portable electric spas will not be affected. Therefore, statewide energy use and savings, and related environmental impacts and benefits, are not expected to be affected.

The proposed regulation will not affect the health and welfare of California residents, worker safety, or the state's environment.

Results of the Economic Impact Assessment/Analysis

The CEC concludes that: (1) it is unlikely the proposal will create jobs within California, (2) it is unlikely that the proposal will eliminate jobs within California, (3) It is unlikely the proposal will create new businesses in California, (4) it is unlikely the proposal will eliminate existing businesses within California, and (5) it is unlikely the proposal will result in the expansion of businesses currently doing business within the state.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

These proposed regulations do not duplicate or conflict with any Federal regulations contained in the Code of Federal Regulations.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT AFFECTING BUSINESS

The CEC has made an initial determination that the proposed regulations are unlikely to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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The CEC estimates that 1,000 retailers, installers, manufacturers, and wholesalers that manufacture, install, or sell portable electric spas may be impacted by the proposed regulations. There are approximately 50 manufacturers and private brand packagers of

portable electric spas selling within California, and the remaining share of businesses are retailers or wholesalers of portable electric spas. This estimate is based on the CEC's MAEDbS, which yields the number of manufacturers, and its estimate of the number of businesses in California that sell portable electric spas to consumers. The CEC estimates that of the businesses impacted, approximately 10 percent are small businesses. Small businesses in the portable electric spa industry include retailers, some small manufacturers or private brand packagers.

The CEC assumed there were no or negligible costs associated with updating the test procedure reference and the labeling design requirements; for these reasons staff does not expect any businesses, including small businesses, to be impacted by the proposed regulations for portable electric spas.

FOR FURTHER INFORMATION

Inquiries concerning all aspects of the rulemaking process, including the substance of the proposed regulations or any other information upon which the rulemaking is based, should be directed to Corrine Fishman at corrine.fishman@energy.ca.gov