

to the address mentioned above. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

AVAILABILITY OF THE RULEMAKING FILE

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, and an economic impact assessment/analysis contained in the Initial Statement of Reasons. Copies may be obtained by contacting Joshua Speaks at the address or telephone number provided above.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Joshua Speaks via email at jspeaks@ctc.ca.gov.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Commission's website at <https://www.ctc.ca.gov/commission/notices/rulemaking>.

TITLE 20. ENERGY COMMISSION

DIVISION 2. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION CHAPTER 4. ENERGY CONSERVATION ARTICLE 4. APPLIANCE EFFICIENCY REGULATIONS DOCKET NUMBER 20-AAER-04

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.

PUBLIC HEARING

The CEC staff will hold a public hearing for the proposed regulations at the date and time listed below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulations at the public hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

Tuesday June 29, 2021
10:00 a.m. (Pacific Time)

The public hearing will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

REMOTE ATTENDANCE

The public hearing may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password for the workshop listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Public Advisor's Office at publicadvisor@energy.ca.gov or (800) 822-6228.

Zoom Link: <https://energy.zoom.us/j/94926685532?pwd=SkpNRTBXV2JEd1ZDTkM4RHprZmtRQT09>

Webinar ID: 949 2668 5532
Password: 787757

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the

Webinar ID and password listed above. To comment or ask a question over the telephone, dial *9 to “raise your hand” and *6 to mute/unmute your phone line.

PUBLIC ADVISOR

The CEC’s Public Advisor’s Office provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at publicadvisor@energy.ca.gov, by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Public Advisor’s office via email or phone.

NEWS MEDIA INQUIRIES

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

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written statements, arguments, or contentions to the CEC for consideration on or prior to June 28, 2021. The CEC appreciates receiving written comments as soon as possible.

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 CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>, 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 Title 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 20-AAER-04 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit, MS-4
RE: Docket Number 20-AAER-04
1516 9th Street, MS-4
Sacramento, CA 95814

STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25213, 25218(e), and 25402(c) authorize the CEC to adopt rules or regulations, as necessary, to implement Public Resources Code Section 25402(c).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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, Title 20, Sections 1601-1609, 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, 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 test procedure is an update to the APSP-14, Version 2014. The revised APSP-14, Version 2019, aligns with all of California’s efficiency standards, label requirements, and test procedure requirements for portable electric spas adopted in 2018. Other changes adopted in APSP-14, Version 2019, include modifications to simplify test lab qualification and label application clarifications.

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 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.

Difference from existing comparable Federal regulation or statute

The CEC has determined that there are no existing comparable Federal regulations or statutes.

Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments

The broad objectives 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. The 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.

Determination of inconsistency or incompatibility with existing state regulations

The CEC has conducted an evaluation for any other regulations in this area and has concluded that these are the only regulations concerning test procedures and labeling requirements for portable electric spas. Therefore, the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The CEC proposes to incorporate the following document by reference:

- ANSI/APSP/ICC-14 2019
American National Standard for Portable Electric Spa Energy Efficiency

All the documents are available for review at the CEC located at 1516 Ninth Street, Sacramento, California 95814 or, on the CEC’s website found at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>.

MANDATED BY FEDERAL LAW OR REGULATIONS

None.

OTHER STATUTORY REQUIREMENTS

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.: None.
- Cost or savings to any state agency: None.
- Non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in Federal funding to the state: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

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

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. The existing performance standards will not be affected, and the statewide energy use and savings, and related environmental impacts and benefits, are not expected to be affected.

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 CECs MAEDbS, which yields the number of manufacturers, and its estimate of the number of businesses in California that sell portable electric spas to consumers. Staff 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.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The CEC concludes that: (1) it is unlikely the proposal will create jobs within California, (2) it is unlikely 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.

The benefits of this proposed action are to provide updates to the Appliance Efficiency Regulations related to portable electric spas. 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.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The CEC is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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. The existing performance standards will not be affected, and the statewide energy use and savings, and related environmental impacts and benefits, are not expected to be affected.

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. Staff 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.

BUSINESS REPORT

There are no proposed additions to the current reporting requirements.

SMALL BUSINESS

The proposed regulations may affect small business. However, the CEC has determined any cost impacts to be negligible.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the CEC 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.

The CEC invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

General questions regarding procedural and administrative issues should be addressed to:

Corrine Fishman
Regulations Manager, Efficiency Division
California Energy Commission 1516 9th Street
Sacramento, CA 95814
(916) 654-4287
corrine.fishman@energy.ca.gov

If Corrine Fishman is unavailable, you may contact Jessica Lopez at (916) 903-4165. Jessica.lopez@energy.ca.gov.

COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Economic and Fiscal Impacts (STD. 399) and the ISOR. Copies may be obtained by contacting Corrine Fishman at the email or phone number above or accessed through the CEC's website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>.

AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

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 CEC 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 CEC adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting the CEC's website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas> or contacting the contact person above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents

prepared by the CEC for this rulemaking have been posted at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
Dos Osos Reservoir Replacement Project
2080-2021-004-03
Contra Costa County**

The California Department of Fish and Wildlife (CDFW) received a notice on April 27, 2021 that the East Bay Municipal Utility District (EBMUD) proposes to rely on a federal permit to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves demolishing the existing reservoir and replacing it with two new 120,000-gallon steel-bolted reservoirs on nearby EBMUD-owned watershed property, approximately 70 feet higher in elevation and 300 feet southwest of the existing reservoir site. Proposed activities will include, but are not limited to, construction of new reservoirs, an access road pipelines, and earthen berms; pruning or removal of vegetation; installation of security fencing; demolition of the existing reservoir; revegetation and restoration of the site; and potential slope stabilization. The proposed project will occur at the Dos Osos Reservoir, located at 8 Los Norrabos in the City of Orinda, Contra Costa County, California.

EBMUD prepared a Habitat Conservation Plan (HCP) which considered the effects of the proposed project on state and federally endangered Alameda whipsnake (*Masticophis lateralis euryxanthus*). The U.S. Fish and Wildlife Service (Service) issued a federal incidental take permit (ITP) (Permit Number ESPER0004040) to EBMUD on March 19, 2021.

Pursuant to California Fish and Game Code section 2080.1, EBMUD is requesting a determination that the ITP and its associated HCP are consistent with CESA for purposes of the proposed project. If CDFW determines the ITP and its associated HCP are consistent with CESA for the proposed project, EBMUD will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

FISH AND GAME COMMISSION

**NOTICE OF FINAL CONSIDERATION
OF PETITIONS**

NOTICE IS HEREBY GIVEN pursuant to the provisions of Fish and Game Code Section 2078, that the California Fish and Game Commission (Commission), has scheduled final consideration of petitions to list Clara Hunt’s milkvetch (*Astragalus claranus*), Northern California summer steelhead (*Oncorhynchus mykiss*) and Upper Klamath–Trinity River spring Chinook salmon (*Oncorhynchus tshawytscha*) as threatened or endangered species for its June 16–17, 2021 meeting. Consideration of the petitions will be heard June 16, 2021 via webinar/teleconference.

The agenda of the June 16–17, 2021 meeting, and the agendas and video archive of previous meetings where actions were taken on Clara Hunt’s milkvetch, northern California summer steelhead, and Upper Klamath–Trinity River spring Chinook salmon are available online at <http://www.fgc.ca.gov/meetings/>.

Pursuant to the provisions of Fish and Game Code, sections 2075 and 2075.5, the Commission will consider the petitions and all other information in the records before the Commission to determine whether listing Clara Hunt’s milkvetch, northern California summer steelhead, and Upper Klamath–Trinity River spring Chinook salmon as threatened or endangered species is warranted.

The petitions, the California Department of Fish and Wildlife’s evaluation reports, and other information in the records before the Commission are posted on the Commission website at <https://fgc.ca.gov/CESA>.

**ENVIRONMENTAL PROTECTION
AGENCY**

**30-DAY PUBLIC NOTICE AND
COMMENT PERIOD
UNIFIED PROGRAM STATE
SURCHARGE INCREASE**

Notice is hereby given that the Secretary for the California Environmental Protection Agency (CalEPA) proposes to adjust the Unified Program state surcharge according to the California Health and Safety Code, Division 20, Chapter 6.11, section 25404.5(b), and the California Code of Regulations, Title 27, Division 1, Subdivision 4, Chapter 1, Section 15240.

The Unified Program state surcharge is an assessment on each entity regulated under the Unified