

## NYSERDA Appliance Standards NOPR Public Comment Summary and Response

11/18/2022

During the public comment period for Rule # ERD372200009, NYSERDA received three public comments. These comments are summarized below as well as NYSERDA's response.

*NYSERDA received comments from the Association of Home Appliance Manufacturers (AHAM) covered in issues #1-#4*

**Issue #1 Summary:** AHAM indicated that the US Department of Energy (DOE) has determined air cleaners qualify as a covered product under Part A of Title III of the Energy Policy and Conservation Act (EPCA), effective September 13, 2022, and noted that a negotiated agreement had been submitted to DOE recommending specific standard levels and timetable for a federal standard. AHAM also stated that there is potential for Congress to take actions on this product category. Given these national efforts, AHAM requested NYSERDA exercise enforcement discretion for room air cleaners and proposed language to include in the regulation to that effect.

**Issue #1 Comment response:** NYSERDA thanks AHAM for this comment. NYSERDA is aware of the ongoing DOE Air Cleaner energy efficiency rulemakings and has been a party to the [joint stakeholder recommendations](#). We maintain our commitment to the agreed upon test procedure and energy efficiency standards contained in that DOE comment letter. However, at this time the federal regulations and legislation are not yet resolved, and therefore NYSERDA will maintain the proposed test procedure and standard requirements that align with the 2021 ASAP Model bill as detailed in the NOPR and the associated effective date timeline of 180 days from adoption of this rule. We will continue to monitor the federal air cleaner landscape over those 180 days and beyond, and continue to encourage an ambitious federal standard for this product class to provide consistency and predictability for all market actors. If the energy efficiency standards levels and compliance timelines contained in the DOE joint stakeholder recommendation are not implemented in a timely matter, NYSERDA may consider a future rulemaking to revise the energy efficiency standards contained in this rulemaking.

**Issue #2 Summary:** AHAM expressed concerns with the proposed air purifier levels noting challenges with compliance and enforcement.

**Issue #2 Comment Response:** NYSERDA appreciates AHAM flagging these challenges. NYSERDA will be launching an Appliance Standards Compliance Program upon adoption of this regulation to assist the markets for all products covered by these standards, including air purifiers, and looks forward to working with AHAM and their members to improve the compliance process as these standards take effect.

**Issue #3 Summary:** AHAM made specific suggestions regarding updating the edition of the test methods for air cleaners to improve consistency in the market.

**Issue #3 Comment Response:** NYSERDA is appreciative of this comment and is revising the test procedure citations in section 509.3(c) to reflect these recommendations. NYSERDA also thanks AHAM for providing a copy of the AC-1-2020 test method for our needs in completing this regulatory filing.

**Issue #4 Summary:** AHAM noted that the demand for air cleaners is high and there are severe supply chain disruptions. AHAM expressed concerned that New York businesses may have non-compliant products on their shelves that they are unable to sell when the standards take effect.

**Issue #4 Comment Response:** As detailed in the [Regulatory Flexibility Analysis](#) for this proposed regulation, since the enabling legislation for these standards A10439/S9405 allows for sell-through of products manufactured before the effective date of this rule, NYSERDA does not expect retailers or other market actors to be left with stranded stock of air purifiers. Furthermore, through the Compliance Program, NYSERDA will be conducting outreach to New York businesses to ensure they are aware of the new regulations and provide education and technical support as needed to avoid market disruption

*NYSERDA received comments from the Pool and Hot Tub Alliance (PHTA) and the International Hot Tub Association (IHTA) covered in issues #5-#6*

**Issue #5 Summary:** PHTA/IHTA encouraged NYSERDA to delay the implementation of a replacement dedicated pool pump motors (RDPPPM) efficiency standard as the US DOE is currently undergoing a related DPPPMs rulemaking. If NYSERDA does pursue RDPPPMs standards, PHTA/IHTA suggested NYSERDA amend the standard for several reasons, including noting that there are no variable speed pumps or pump motors in the market below 0.75 Horsepower (HP), that variable speed fractional HP Pumps cannot provide minimum flow at required lower speeds, that the rule is not cost effective, and has a greater economic impact on lower median income and underserved communities. PHTA/IHTA also expressed concerns about the market impacts in New York with this new standard and encouraged NYSERDA to review the joint PHTA/NEMA comments submitted to DOE in August 2022 for more information.

**Issue #5 Comment Response:** NYSERDA thanks PHTA/IHTA for sharing concerns about the RDPPPM standard. As is the case with air purifiers discussed in Issue #1, NYSERDA is aware of the federal rulemaking process for DPPPMs and has submitted comments to DOE to encourage a robust federal standard. However, at this time the federal rulemaking process is still ongoing, and therefore NYSERDA will maintain the proposed test procedure and standard requirements that align with the California Title 20 appliance standards for RDPPPMs as detailed in the NOPR and the timetable initially established of taking effect 180 days from adoption of this rule. NYSERDA has closely reviewed the concerns raised by PHTA/IHTA and the resources shared in the comment letter. We have also reviewed data from the CEC Modernized Appliance Efficiency Database System (MAEDbS) for dedicated-purpose pool pumps and replacement dedicated purpose pool pump motors. Upon additional consideration, NYSERDA has

determined that the proposed standards for RDPPPMs are consistent with the statutory obligation from the Energy Law Section 16 and serve the best interest of New Yorkers, and that a New York standard directly aligning with the current California standard for RDPPPMs will be in the best interest of the market. NYSERDA will continue to monitor the federal rulemaking process and may reconsider the standard details in a future rulemaking, but at this time will make no changes to the proposed standards for RDPPPMs.

**Issue #6 Summary:** PHTA/IHTA encouraged NYSERDA to amend section 509.17 to directly indicate that Portable Electric Spas should meet or exceed the requirements of the ANSI/APSP/ICC – 14 Standard. PHTA/IHTA also encouraged NYSERDA to update the reference to the ANSI/APSP/ICC – 14 Standard to the most recent version of that standard.

**Issue #6 Comment Response:** NYSERDA appreciates these comments and will be adjusting the language for the final rule to incorporate these changes as feasible.

*NYSERDA received comments from the Appliance Standards Awareness Project (ASAP), the Natural Resources Defense Council (NRDC), and the Urban Green Council, referred to as the “Joint Commenters,” covered in issues #7-#11.*

**Issue #7 Summary:** The Joint Commenters expressed support for NYSERDA promulgating these appliance standards in a timely manner in keeping with statewide decarbonization goals. They expressed strong support of the enactment of these standards.

**Issue #7 Comment Response:** NYSERDA thanks the Joint Commenters for their support. NYSERDA will seek to adopt these standards in a timely manner.

**Issue #8 Summary:** The Joint Commenters encouraged NYSERDA to consider adopting higher efficiency levels for air purifiers, consistent with the levels jointly proposed to DOE or equivalent to ENERGY STAR Version 2.0, which has been adopted in Washington state. The Joint Commenters noted that if the more stringent levels were not adopted in this rulemaking, they encouraged NYSERDA to revisit this product in 2023.

**Issue #8 Comment Response:** NYSERDA thanks the Joint Commenters for their comments. As noted in response to issue #1 raise by AHAM, NYSERDA is aware of the ongoing DOE Air Cleaner energy efficiency rulemakings and has been a party to the [joint stakeholder recommendations](#); we are committed to the agreed upon test procedure and energy efficiency standards contained in the joint recommendations to DOE. NYSERDA will be monitoring the federal air cleaner landscape as the New York standards are adopted and go into effect, and if the energy efficiency standards levels and compliance timelines contained in the DOE joint stakeholder recommendation are not implemented in a timely matter, NYSERDA may reconsider revising the energy efficiency standards contained in this proposed rule in a future rulemaking.

**Issue #9 Summary:** The Joint Commenters commented in support of the proposed water fixture standard levels for showerheads, laboratory faucets, and urinals which are more stringent and therefore save more water, energy, and money on utility bills than the ASAP Model Bill levels. The Joint Commenters also provided specific recommendations to clarify the language regarding kitchen faucets and aerators in section 509.13.

**Issue #9 Comment Response:** NYSERDA thanks the Joint Commenters for their support of the proposed water fixture efficiency levels. NYSERDA also appreciates the recommendation to add clarity to the kitchen faucet language and intends to address this in the final rule.

**Issue #10 Summary:** The Joint Commenters recommended that NYSERDA modify the standard found in section 5019.15(b)(1)(I) to match the ASAP recommended standard, which states that “Gas fireplaces shall be capable of automatically extinguishing any pilot flame when the main gas burner flame is extinguished.” Additionally, the Joint Commenters recommended that NYSERDA add an efficiency standard for heating gas fireplaces.

**Issue #10 Comment Response:** NYSERDA appreciates the Joint Commenters suggestions regarding revisions to the gas fireplace pilot flame regulatory language and will incorporate this revision to improve clarity and consistency with existing state standards. NYSERDA has also considered the recommendation around the efficiency standard for gas fireplaces, but at this time has decided to retain the current scope of the standard. NYSERDA is confident that the proposed standards which effectively address pilot light energy usage will have significant energy and greenhouse gas emissions benefits. NYSERDA will also continue to evaluate the effectiveness of this standard and assess the gas fireplace market as state and federal actions may justify updates to the standard in a future rulemaking.

**Issue #11 Summary:** The Joint Commenters noted phrasing in the proposed rule that could cause confusion, particularly regarding the use of “eligible for New York compliance” in the “included products” sections.

**Issue #11 Comment Response:** NYSERDA appreciates the Joint Commenters bringing this potential confusion to our attention and will seek to adjust the language as needed to ensure clarity in the final rule.