

## CLIENT ADVISORY

January 18, 2018

### **DOE Battery Charger Standards Take Effect in Five Months: Are You Ready?**

On June 13, 2018, the U.S. Department of Energy's (DOE) standards for consumer battery chargers will take effect, impacting hundreds of millions of electronic devices manufactured and imported into the United States each year.<sup>1</sup> Battery charger efficiency standards are not new to the electronics industry: the California Energy Commission's (CEC) Battery Charger System Rule took effect in 2013 (followed by Oregon's nearly identical standards in 2014) and has become a *de facto* national standard. While the DOE standards are similar in stringency to the CEC standards for most products, they nonetheless differ in ways that manufacturers, importers, and private labelers should be aware of as they prepare to certify and comply with the new rules.

#### ***Division into Seven DOE Product Classes***

DOE's rules divide battery chargers into seven product classes and set a standard for each. The first product class consists of inductive chargers that operate in wet environments (electric toothbrushes and water jets). The remaining six product classes break down according to the battery's energy capacity and voltage. By far the biggest of these categories is Product Class Two (battery energy < 100 Wh and voltage < 4 V), for which DOE estimated over 400 million shipments in 2018.

#### ***From Two Metrics to One***

The CEC standards require battery charger systems to satisfy two separate metrics: (i) 24-hour energy use and (ii) a combination of maintenance mode and standby mode use. DOE opted instead for a single metric: maximum unit energy consumption as calculated in kWh per year. For each Product Class, DOE set the standard based on estimated use for products of that type in the three energy-consuming modes: 24-hour energy, maintenance mode, and no-battery mode. DOE chose a single metric to allow manufacturers greater flexibility to improve performance in whichever modes work best for the product and the customer.

#### ***Stringency***

The preamble to DOE's Final Rule explained that it was imposing standards more stringent than California's for Product Class One (electric toothbrushes and water jets) and Product Class Seven (golf carts), but that the standards for Product Classes Two through Six are "approximately equivalent to the corresponding CEC standards." Even so, manufacturers and importers of

---

<sup>1</sup> See U.S. Dep't of Energy, Energy Conservation Program: Energy Conservation Standards for Battery Chargers; Final Rule, 81 Fed. Reg. 38266 (June 13, 2016) (DOE Final Rule).

products in classes Two through Six should pay careful attention to the different structure of the DOE standards. By dividing battery chargers in to seven product classes each with a distinct usage profile, DOE's standards place importance on battery voltage cutoffs that the California standards do not. In particular, low energy battery chargers (< 100 Wh) that fall below 10 V must meet a substantially more stringent standard than those above 10 V.

### ***Limitations on Scope and Questions regarding Preemptive Effect***

The DOE rule is narrower than the California rule in a few ways, which may prompt some questions about its preemptive effect in areas where DOE has not regulated:

- *Commercial Battery Chargers.* DOE's rule only regulates consumer products. Although California law does not distinguish between consumer and commercial products, the CEC regulates "large battery charger systems" (defined as systems, other than those for golf carts, that have rated inputs above 2 kW). To the extent they regulate commercial products, the CEC's rules would not be preempted.
- *Uninterruptible Power Supplies (UPS).* DOE excluded UPS systems from its Battery Chargers rule and instead issued a rule for UPS standards in December 2016. The Trump Administration has delayed publishing that rule in the Federal Register. That delay is the subject of a lawsuit in the U.S. District Court for the Northern District of California that is set for hearing today, January 18. DOE appears to take the view that California's rules governing UPS systems will be preempted when its Battery Charger standards take effect in June 2018,<sup>2</sup> but the states may challenge that conclusion so long as DOE holds back the issuance of the UPS standards.
- *Dry Environment Inductive Chargers.* DOE narrowed the scope of its Battery Charger standards to apply only to inductive chargers that operate in wet environments, such as electric toothbrushes. DOE excluded inductive chargers that operate in dry environments out of a concern that it not adversely affect the development of an emergent technology. California and Oregon regulate inductive chargers that operate in dry environments by requiring that they either satisfy the efficiency standards that apply to batteries of their capacity level or stay below 1 watt in maintenance mode, below 1 watt in no battery mode, and below an average of 1 watt over the duration of the charge and maintenance mode test. In an FAQ document, California clarified that these rules apply only to inductive chargers sold with a product to be charged.

DOE would likely take the view that state rules regulating dry-environment inductive chargers are preempted starting June 2018. States may challenge that view. If so, the analysis would turn on how broadly the court's interprets the scope of 42 U.S.C. §

---

<sup>2</sup> DOE Final Rule at 38,277.

6295(ii),<sup>3</sup> a section added to the Energy Policy and Conservation Act in 2005 that has never been litigated and interpreted by a court.

### ***Compliance***

Manufacturers and importers of battery chargers must certify compliance through DOE's CCMS system no later than June 13, 2018. DOE has posted a new Battery Chargers template v5.0 to be used for all certifications to the new standard.

\* \* \* \*

For more information regarding Harris, Wiltshire & Grannis LLP's [energy practice](#), please contact **Scott Blake Harris** at +1 (202) 730-1330 or by e-mail at [sbharris@hwglaw.com](mailto:sbharris@hwglaw.com), **Sam Walsh** at +1 (202) 730-1306, or by email at [swalsh@hwglaw.com](mailto:swalsh@hwglaw.com), **Stephanie Weiner** at +1 (202) 730-1344, or by email at [sweiner@hwglaw.com](mailto:sweiner@hwglaw.com), or **John A. Hodges** at +1 (202) 730-1326 or by e-mail at [jhodges@hwglaw.com](mailto:jhodges@hwglaw.com).

*This advisory is not intended to convey legal advice. It is circulated to our clients and others as a convenience and is not intended to reflect or create an attorney-client relationship as to its subject matter.*

---

<sup>3</sup> That section states: "any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established . . . for the product takes effect."