

## Charging Ahead: California Standards Go Into Effect But DOE Proposes Its Own Rules

---

April 2013

Industry faces a plethora of requirements on battery charger efficiency. Vigilance is warranted; the requirements and their timing affect industry planning. In addition, there is a further opportunity for industry and others to submit comments to the Department of Energy (DOE) in its rulemaking; comments are due by May 28.

California Energy Commission (CEC) efficiency standards for most consumer product battery charger systems went into effect on February 1, 2013. DOE continues work on its proposed rule for battery chargers and external power supplies. DOE has now asked for further comment in light of the CEC battery charger situation. The State of Washington is considering battery charger system standards keyed to CEC's regulations.

**California.** The CEC standards, 20 CCR § 1605.3(w), apply to specified small battery charger systems manufactured on or after February 1, 2013, that are sold or offered for sale in California. CEC has made clear that, because the standards apply to products "manufactured on or after" that date, products manufactured before then can be sold in California without violation of the standards. Other CEC standards apply to (i) large battery charger systems and certain USB-based small consumer charger systems manufactured on or after January 1, 2014; and (ii) non-consumer charger systems manufactured on or after January 1, 2017.

The CEC standards for specified small battery charger systems cover maximum 24-hour charge and maintenance energy, and maintenance mode power and no battery mode power. § 1605.3(w)(2). Inductive charger systems are permitted to meet the foregoing standards or to use less than specified levels of energy. § 1605.3(w)(3). Special standards also apply to battery backup and uninterruptible power supplies. § 1605.3(w)(4).

CEC regulations generally define a "battery charger system" as "a battery charger coupled with its batteries or battery chargers coupled with their batteries, which together are referred to as *battery charger systems*." § 1602. This term is further defined to cover all rechargeable batteries or devices incorporating a rechargeable battery and the chargers used with them. CEC has grappled with application of the definition, issuing positions on products ranging from phones to electric toothbrushes to 3D glasses.

CEC regulations provide that the test procedure to be applied to CEC rules for small battery charger systems is the DOE test procedure for battery chargers, 10 C.F.R. Part 430, Subpart B, App. Y (2011). Keying CEC rules to the DOE test procedure is to be expected, since state test procedures that differ from DOE test procedures are generally preempted by the Energy Policy and Conservation Act, 42 U.S.C. § 6297(a).

**DOE.** DOE continues work on its large rulemaking for battery chargers and external power supplies (EPSs). DOE's Notice of Proposed Rulemaking covers 170 pages in the Federal Register. 77 Fed. Reg. 18478 (March 27, 2012). The high stakes are evidenced by the substantial number of comments and extensive interaction between DOE and interested parties.

Much of the focus has been on what DOE should do in light of the CEC rules. CEC has argued that DOE should increase standard levels from those proposed to those in the CEC rules. Industry has countered that such higher levels are not justified as national standards or even state standards. There has also been substantial comment that, for certain classes of products, DOE should accelerate standards in order to promptly preempt CEC standards before they went into effect on February 1, 2013. See 42 U.S.C. § 6297. With the passing of that date, the situation has become increasingly complicated.

In that regard, DOE has now announced that it is asking for more information for its battery charger rulemaking in light of the CEC battery charger situation. 78 Fed. Reg. 18253 (March 26, 2013). DOE is seeking information on battery chargers that manufacturers have certified as compliant with the February 1, 2013 CEC standards. DOE may propose alternative standards if it is determined that standards more stringent than DOE's proposed levels are technologically feasible and economically justified. DOE is particularly interested in the effect that the CEC standards have on the market for battery chargers within DOE's product classes 2 through 6, as DOE's proposed standards are lower than the equivalent CEC standards for these product classes. DOE wants to know how manufacturers are complying with the CEC standards, particularly with respect to the technologies that are being used. Comments are due at DOE by May 28.

If a revised analysis supports alternative DOE proposed standards for certain product classes, DOE would issue a supplemental notice of proposed rulemaking that would provide an opportunity for public comment.

DOE also says that it welcomes comments, not only on the CEC situation, but also on any other topic within the scope of this rulemaking.

DOE's March 27, 2012, proposal would create first-time standards for battery chargers and "non-Class A" EPSs. It would also revise existing standards for EPSs.

The proposed rules for battery chargers provide generally that battery chargers manufactured on or after July 1, 2013, shall have a unit energy consumption (UEC) less than or equal to a standard calculated by a formula in the standard. There are also proposed marking requirements for battery chargers. The rules for battery chargers would apply on the basis of various classes of products, based on such things as special characteristics or battery voltage. Proposed 10 CFR § 430.32(y).

The proposed rules for EPSs provide for amendments to existing EPSs rules (there are already existing standards for EPSs). The proposal is generally that, except as otherwise provided, EPSs manufactured on or after July 1, 2013, must meet specified amended standards, covering minimum average efficiency in the active mode and maximum power in a no-load mode. These standards are not an energy conservation standard for the separate end-use product to which the EPS is connected. There are also amended marking requirements for EPSs. The rules for EPSs would apply on the basis of various classes of products, based on such things as output power. Proposed 10 CFR § 430.32(w).

In light of the passage of time and the new 60-day period for comments, a July 1, 2013, compliance date seems increasingly unlikely.

**Washington.** The State of Washington is considering a bill (2013 Washington House Bill No. 1017) that would impose battery charger system standards that track the CEC standards. The bill has already passed the House and is now before the Senate.

The bill would generally require that, except as otherwise provided, large battery charger systems and small battery charger systems manufactured on or after January 1, 2014, may not be sold or offered for sale in the state on or after that date unless they meet standards specified in the CEC regulations in effect on the effective date of the Washington provision. Large and small battery charger systems, if manufactured on or after January 1, 2014, may not be installed for compensation in the state on or after January 1, 2015, unless they meet the CEC standards.

Small battery charger systems that are not consumer products, and battery backup and uninterruptible power supplies that are not consumer products, manufactured on or after January 1, 2017, must meet requirements specified in the CEC regulations in effect on the effective date of the Washington provision.