

CLIENT ALERT

Manufacturers Beware: Your Battery Chargers May Be Regulated By DOE

Jul.15.2019

Manufacturers of battery chargers or external power supplies (EPSs), or sellers of consumer products that include battery chargers or EPSs, are likely subject to strict energy conservation standards. By virtue of Department of Energy (DOE) regulations that took effect in February 2016 and June 2018 for EPSs and battery chargers, respectively, manufacturers and importers of these charging devices must now meet stringent conservation standards under the Energy Policy and Conservation Act (EPCA) or risk the assessment of civil penalties.

Under EPCA, DOE enforces mandatory appliance efficiency or conservation standards for over 60 covered products, such as refrigerators, dehumidifiers, washing machines, and recently, EPSs and battery chargers. The EPS and battery charger regulations are expansive, and affect products that charge thousands of standard consumer electronic products, including laptop computers, mobile phones, game consoles, electric razors, and electric toothbrushes. With so many products powered by batteries or external power supplies, the universe of EPCA-regulated chargers seems infinite.

Under the standards, EPSs are defined as devices that convert household electricity to direct current in order to operate a consumer product. The battery charger rule applies to any charger that charges batteries for a consumer product, including chargers embedded in those consumer products. Notably, the rules cover all manufacturers of these charging devices and often the companies that import them from foreign manufacturers. EPCA also requires companies to certify and demonstrate compliance with the standards to DOE, and DOE has authority to independently confirm that these representations are accurate.

The scope of these regulations creates significant potential liability for manufacturers and sellers. The cost of non-compliance may be steep: EPCA penalties are assessed on **each** noncompliant unit distributed into commerce (either sold or made available for sale), at a maximum penalty rate of \$460 per unit, with a “look-back” period of five years. As a result, manufacturers and sellers of consumer products are potentially liable for tens of millions of dollars for chargers that are in most cases adjuncts to their core product lines. Moreover, DOE generally seeks the maximum penalty against manufacturers and sellers who knowingly distribute products that violate EPCA standards, although DOE’s practice is to reduce these maximum penalties based on mitigating factors such as self-reporting, cooperation and prompt cessation of sales of non-compliant products.

To avoid these substantial civil penalties, a manufacturer or seller of EPSs or battery chargers should develop procedures to determine whether the rules apply to its devices, and to establish, demonstrate, and maintain its current and future compliance with these rules.

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