BOSE

| DOCKET |
| --- |
| 09-AAER-2 |
| DATE May 24 2011 |
| RECD. May 24 2011 |

May 24, 2011

Mr. Michael Leaon
California Energy Commission
Dockets Office, MS-4
Re: Docket No. 09-AAER-2
1516 Ninth Street
Sacramento, CA 95814-5512

Sent via E-Mail: docket@energy.state.ca.us

Re: Docket Number: 09-AAER-2 (2010 Rulemaking Proceeding Phase II on Appliance Efficiency Regulations)

Dear Mr. Leaon:

Bose Corporation is a U.S.-based engineering, manufacturing, and retail distributor of electronics and audio equipment with approximately 3,400 employees in operations in Framingham and Stow, Massachusetts; Columbia, South Carolina; and Yuma, Arizona. Bose Corporation is also a member of the Consumer Electronics Association ("CEA"), which may be submitting comments on this same matter.

Bose Corporation appreciates this opportunity to provide its comments on the Efficiency Committee Workshop, which was held on May 19th to discuss the CEC's Draft Proposed Amendments to Appliance Efficiency Regulations, in particular, the Phase II – Battery Charger and Lighting Controls proposal that was issued in May 2011 ("Draft Proposed Amendments").

**Bose Corporation continues to oppose the CEC Battery Charger Rulemaking because it is unnecessary and economically wasteful in light of the pending DOE Battery Charger Rulemaking**

As a global seller of electronics and audio equipment, Bose Corporation opposes the development of State energy efficiency requirements that differ from federal or international energy efficiency requirements that are currently in place or that are being developed. Unique State-specific requirements typically impose significant compliance burdens and manufacturing and design costs on regulated entities. Unless there are compelling State-specific reasons why State-specific requirements are necessary, such burdens and costs are wasteful and are often disruptive to global trade. Bose Corporation has already stated its opposition to proposed California-specific battery charger energy efficiency standards in its previous comments; however, for the record, we would like to reiterate Bose Corporation's continued opposition to this rulemaking. Instead of repeating those comments, however, Bose will take this opportunity to comment on the Draft Proposed Amendments that were issued in May 2011.



BOSE CORPORATION, THE MOUNTAIN, FRAMINGHAM, MA 01701-9168 U.S.A. TEL: (508) 879-7330 FAX: (508) 766-7543

**Bose Corporation Urges the CEC to Limit the Definition of "Battery Charger System" to only include battery chargers and rechargeable batteries and devices that are used with them that are marketed and sold as single functional and commercial units in order to limit liability for third party devices.**

Bose Corporation objects to the extremely broad product coverage proposed by the definition of "Battery Charger System" that is contained in the Draft Proposed Amendments. The Draft Proposed Amendments define "Battery Charger System" as covering "all rechargeable batteries or devices incorporating a rechargeable battery and the chargers used with them."

This extremely broad definition does not provide any guidance with respect to products that could charge the batteries of devices that are not manufactured by the product manufacturer. For example, Bose Corporation sells products (e.g., clock radios and speaker systems) that can be used to charge devices that are manufactured by third parties (e.g., portable music players). Under the current definition, it is unclear whether Bose Corporation would need to consider the power consumption of such third party devices when determining whether the proposed energy consumption limits are met.

Bose Corporation has no ability to influence or control the power consumption of such third party devices and, therefore, Bose Corporation should not be held responsible for the power consumption of such third party devices when they are used with Bose Corporation's products. As a result, Bose Corporation strongly urges the CEC to limit the definition of "Battery Charger System" to cover only "all rechargeable batteries or devices incorporating a rechargeable battery and the chargers used with them *when marketed and sold as a single functional and commercial unit.*" The addition of this language would establish clear boundaries for covered manufacturers and limit their liability to products over which they have design, engineering, and manufacturing control for purposes of meeting energy consumption limits.

**Bose Corporation urges the CEC to limit the definition of "Battery Charger System" to only include devices that are not covered by any other product-specific efficiency regulation that is currently contained in the 2011 CEC Appliance Regulations.**

Bose Corporation sells products (e.g., clock radios and speaker systems) that can be used to charge internal rechargeable batteries or devices that are manufactured by third parties (e.g., portable music players). These products often utilize external power supplies, which are currently subject to the 2011 CEC Appliance Regulations. Under the current definition of "Battery Charger System," it is unclear whether Bose Corporation needs to meet both the proposed small battery charger standards as well as the current external power supply standards.

Bose Corporation urges the CEC to exclude such products from the proposed battery charger standards. Products that are already regulated under the 2011 Appliance Efficiency Regulations should not need to undergo additional regulation. To double regulate such products would represent a significant burden on product designers, engineers and manufacturers and result in considerable compliance uncertainty.

Bose Corporation strongly urges the CEC to limit the definition of "Battery Charger System" to only cover "all rechargeable batteries or devices incorporating a rechargeable battery and the chargers used with them *when marketed and sold as a single functional and commercial unit, which are not covered by an existing product-specific energy efficiency standard contained in the Appliance Efficiency Regulations.*" The addition of this language would establish clear boundaries for covered manufacturers and help them focus their design, engineering, and compliance resources in the most effective and productive manner.

**Bose Corporation supports the CEC's consideration of an optional methodology in the test method that would isolate battery chargers from other product functions**

The proposed test method specifies that producers should "ensure that user controllable device functionality not associated with battery charging...are turned off" during the charging and maintenance mode test. In cases where additional functionality can easily be turned off, the disabling of such functions is possible as a means of achieving the proposed 0.5 Watt limit. However, more complex products often lack a means of disabling certain functionality, such as displays or network connectivity. Absent some accommodation in the test method or in the actual limits (e.g., functional adders), such complex products will be disadvantaged.

As Motorola Solutions pointed out during the May 19th workshop, failure to accommodate complex products that achieve multiple functions in single product units could result in a move away from product convergence and toward simpler products that have fewer functions. Although such products may meet the proposed energy consumption limits, they may not meet consumers' needs. Therefore, an unintended side effect may be the proliferation of simpler and less functional "add-on" devices that otherwise would be unnecessary. Such a product trend may result in unintended environmental consequences due to increased energy consumption and increased electronic waste caused by the proliferation of these devices. It is critical that this issue be addressed. Otherwise, this regulation could prohibit the future sale of innovative and advanced products that may actually save energy through "smart" connectivity.

Bose Corporation favors the "functional adder" approach to this issue. This is the approach that the U.S. Environmental Protection Agency (EPA) takes in its Energy Star program. In order to avoid Energy Star specifications that would penalize more complex and more functional products, the EPA provides additional wattage allowances for certain functions. The CEC has also taken this approach with its current Appliance Standards, providing additional wattage allowances for products that utilize a display. The

European Union has also recognized that standby limits may not be achievable for products that are designed to operate via networks. The EU is currently working on a Lot 26, Networked Standby Implementing Measure to address the fact that complex, high function products should not be regulated by energy conservation limits that are better suited for simple, less functional products.

**Bose Corporation objects to the proposed marking requirement for covered battery chargers and encourages the CEC to eliminate the proposed marking requirement**

Bose Corporation opposes the development of State energy efficiency requirements that differ from federal or international energy efficiency requirements – especially requirements that impose significant compliance burdens and manufacturing and design costs on regulated entities. Such burdens and costs are wasteful and are often disruptive to global trade.

Imposing such requirements on battery charger producers is wasteful and unnecessary. Compliance can be confirmed through registration and data submission. This is currently the method that California utilizes for other product categories and there is no reason why California needs a different method for battery chargers. Although the CEC may wish to pursue an international marking protocol for battery chargers and battery charger systems, this rulemaking is not the proper arena for such an initiative.

Mandatory energy performance standards are currently being implemented and enforced throughout the world without the need for jurisdiction-specific marking requirements. Where jurisdictions do enact such unique marking requirements, compliance is further complicated due to issues of inventory, language, and space. There is no need for California to diverge from the prevailing compliance assurance model, which is achieved through product registration and data submission. Bose Corporation, therefore, strongly urges CEC not to require a California-only verification mark for battery chargers. Bose Corporation appreciates the CEC's willingness to consider flexibility in product marking, but urges the CEC to eliminate all proposed marking requirements, especially the proposal that such mark be "permanently affixed" to the product nameplate for all applications.

**Bose Corporation urges the CEC to continue to allow the use of in-house laboratories for testing and data submission purposes**

Currently, the California Energy Commission, along with the U.S. Department of Energy, Australia, and the European Union, allows producers to self-certify that their consumer electronics meet mandatory energy performance standards. Bose Corporation urges the CEC to maintain its use of self-certification as the verification requirements for consumer electronics. Self-certification is an appropriate option for electronic manufacturers where time-to-market is a critical factor in product introductions.

The in-house laboratories of certain companies such as Bose Corporation have obtained accreditation to the ISO/IEC 17025 standard, which provides controls and procedures that ensure independence and neutrality as well as technical proficiency and other necessary data quality conditions and attributes. Under existing energy efficiency regulatory programs, manufacturers bear the responsibility of meeting all regulatory requirements. That remains the case – even with self-certification, and the detrimental effect of a potential enforcement action is sufficient incentive for producers to take certification seriously.

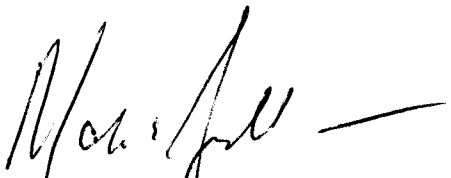
**Bose Corporation urges the CEC to extend the compliance date for consumer battery chargers that have long-life spans**

Bose Corporation designs and engineers products that have a longer life span than many consumer products. Unlike certain consumer products that may have a design life of six months, Bose products are designed to last 2-3 years. Bose Corporation, therefore, urges the CEC to extend the compliance deadline for such products to July 1, 2013 to coincide with the date for non-consumer small battery chargers.

In closing, Bose Corporation continues to urge the CEC to cease its battery charger energy efficiency rulemaking and, instead, work in partnership with the DOE to develop a federal rule that will achieve the CEC's stated goal of saving energy in a cost effective and feasible manner. Should the CEC decide to proceed with its rulemaking, Bose Corporation urges the CEC to: limit the definition of "battery charging system" to products that are sold as commercial and functional units; exclude products that are already covered by existing CEC Appliance Efficiency Regulations; eliminate marking requirements; maintain self-certification by in-house labs; and, extend the compliance deadline for consumer battery chargers that have long design cycles.

Thank you for your consideration of these comments. Please let us know if you have any further questions.

Sincerely,
BOSE CORPORATION



Mark E. Sullivan
General Counsel & Secretary