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[6450-01-P]

DEPARTMENT OF ENERGY

[Case Number 2018-012; EERE-2016-BT-WAV-0034]

Energy Conservation Program: Extension of Waiver to Dyson, Inc. from the Department of Energy Battery Chargers Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of extension of waiver.

SUMMARY: The U.S. Department of Energy (“DOE”) is granting a waiver extension (Case No. 2018-012) to Dyson, Inc. (“Dyson”) to waive certain requirements of the DOE battery charger test procedure for determining the energy consumption of the specified Dyson battery charger basic model. Dyson is required to test and rate this basic model in accordance with the alternate test procedure specified.

DATES: The Extension of Waiver is effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The Extension of Waiver will terminate upon the compliance date of any future amendment to the test procedure for battery chargers located in 10 CFR part 430, subpart B, appendix Y that addresses the issues presented in this waiver. At such time, Dyson must use the relevant test procedure for the specified basic model of battery chargers for any testing to demonstrate compliance with standards, and any other representations of energy use.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. E-mail: *AS_Waiver_Requests@ee.doe.gov*.

Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-9496. E-mail: *Peter.Cochran@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(g)), DOE gives notice of the issuance of an Extension of Waiver as set forth below. The Extension of Waiver extends the scope of the Decision and Order granted to Dyson on April 5, 2017 (82 FR 16580, “April 2017 Decision and Order”) to include Dyson basic model RB02, as requested by Dyson on December 21, 2018.¹ Dyson must test and rate the basic model in accordance with the alternate test procedure specified in the April 2017 Decision and Order. Dyson’s representations concerning the energy consumption of the basic model must be based on testing in accordance with the alternate test procedure set forth in the April 2017 Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same requirements when making representations regarding the energy consumption of these products. (42 U.S.C. 6293(c))

¹ Dyson’s request is available at <https://www.regulations.gov/document?D=EERE-2016-BT-WAV-0034-0005>.

DOE makes decisions on waiver extensions for only those basic models specifically set out in the request, not future models that may be manufactured by the petitioner. Dyson may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of battery chargers. Alternatively, if appropriate, Dyson may request that DOE extend the scope of a waiver to include additional basic models employing the same technology as the basic model set forth in the original petition consistent with 10 CFR 430.27(g).

Signed in Washington, DC, on March 25, 2019.

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Steven Chalk
Acting Deputy Assistant Secretary
for Energy Efficiency
Energy Efficiency and Renewable Energy

Case Number 2018-012
Extension of Waiver

I. Background and Authority

Title III, Part B¹ of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes battery chargers.² Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for battery chargers is contained in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix Y, *Uniform Test Method for Measuring the Energy Consumption of Battery Chargers* (“*Appendix Y*”).

The regulations set forth in 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when the petitioner's basic model for which the petition for waiver was submitted

¹ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

² All references to EPCA in this document refer to the statute as amended through America’s Water Infrastructure Act of 2018, Public Law 115-270 (October 23, 2018).

contains one or more design characteristics that: (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). Additionally, a petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model set forth in the original petition. 10 CFR 430.27(g). DOE will publish any such extension in the *Federal Register*. *Id.*

II. Request for an Extension of Waiver: Assertions and Determinations

On April 5, 2017, DOE issued a Decision and Order (“April 2017 Decision and Order”) in Case Number BC-001 granting Dyson a waiver to test its Dyson basic model RB01 (marketed as the Dyson 360-Eye, or “Robot”) using an alternate test procedure. 82 FR 16580. As described by Dyson, the Robot is a robotic vacuum cleaner that includes a battery charger with a number of settings and management features associated with the vacuum cleaner. 82 FR 16581.

The DOE test procedure for battery chargers requires that any function controlled by the user and not associated with the battery charging process must be switched off or, for functions not possible to switch off, be set to the lowest power-consuming mode. Section 3.2.4.b of Appendix Y. Dyson stated that in order to provide the user with the setting and management

features of the Robot, the relevant functionalities and circuitry have to be powered at all times. 82 FR 16581. Accordingly, Dyson stated that it is not appropriate to make these functions, which are not associated with the battery charging process, user controllable because they are an integral part of the Robot itself. *Id.* Dyson asserted that using the prescribed test procedure would cause the machine to be evaluated in a manner not representative of the true energy consumption characteristics of the battery charger. *Id.*

Based on its review of the information provided by Dyson, DOE determined that the current test procedure at Appendix Y would evaluate the battery charger basic model specified in the April 2017 Decision and Order in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. *Id.* The April 2017 Decision and Order specifies that Dyson test and rate the subject basic model such that power to functions not associated with the battery charging process is disabled by isolating a terminal of the battery pack using isolating tape. *Id.*

On December 21, 2018, Dyson submitted a request to extend the scope of the waiver, Case Number 2018-012, to the Dyson basic model RB02. Dyson stated that this basic model has the same characteristics and employs the same technology for the battery charger as the model covered by the existing waiver.

Based on the information provided by Dyson in its waiver extension request, DOE has determined that the battery charger basic model identified in Dyson’s request incorporates the same design characteristics as the basic model covered under the waiver in Case Number BC-001. DOE also determined that the alternate procedure specified in Case Number BC-001 will provide results that are representative of the actual energy use of the battery charger basic model identified by Dyson in its waiver extension request.

III. Order

After careful consideration of Dyson’s request that DOE extend the scope of the waiver granted under Case Number BC-001 to include an additional basic model, it is **ORDERED** that:

(1) Dyson must, as of the date of publication of this Extension of Waiver in the *Federal Register*, test and rate the following basic model as set forth in paragraph (2):

Brand Name	Basic Model Number
Dyson	RB02

(2) The alternate test procedure for the Dyson basic model referenced in paragraph (1) of this Order is the test procedure for battery chargers prescribed by DOE at 10 CFR part 430, subpart B, appendix Y, with the following modifications:

Notwithstanding the instructions in sections 3.2.4 and 3.3.6 of 10 CFR part 430, subpart B, appendix Y, Dyson will disable power to functions not associated with the battery charging process by isolating a terminal of the battery pack using isolating tape, as shown in the Appendices to the petition for waiver in Case Number BC-001.³

(3) *Representations.* Dyson may not make representations about the energy use of the basic model referenced in paragraph (1) of this Order for compliance, marketing, or other purposes unless that basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This Extension of Waiver shall remain in effect according to the provisions of 10 CFR 430.27.

(5) This Extension of Waiver is issued on the condition that the statements, representations, and documents provided by Dyson are valid. If Dyson makes any modifications to the controls or configurations of these basic models, the waiver will no longer be valid and Dyson will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this Extension of Waiver at any time if it determines the factual basis underlying the petition for extension of waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic model's true energy

³ Dyson's petition for waiver in Case Number BC-001 is available at <https://www.regulations.gov/docket?D=EERE-2016-BT-WAV-0034>.

consumption characteristics. 10 CFR 430.27(k)(1). Likewise, Dyson may request that DOE rescind or modify the Extension of Waiver if Dyson discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) Granting of this Extension of Waiver does not release Dyson from the certification requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on March 25, 2019.

A handwritten signature in dark ink, appearing to read "S. Chalk", is written over a horizontal line.

Steven Chalk
Acting Deputy Assistant Secretary
for Energy Efficiency
Energy Efficiency and Renewable Energy