



Report of the Commissioner of the Vermont Department
of Public Service on progress toward the promulgation of
a Rule governing Appliance Efficiency Standards
pursuant to Act 42

December 15, 2017

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As the rule filing is too large (21MB) to be easily sent electronically, the Department makes the filing available on its website at:
<http://publicservice.vermont.gov/content/vt-appliance-efficiency>

Introduction

Pursuant to Act 42 Section 6(b), the Department of Public Service (“Department”) presents this progress report of its activities in 2017 toward promulgating the Vermont Appliance Efficiency Standards rule as required by Act 42. The report further includes an account of the steps that will be taken in 2018 to ensure final adoption of this rule.

Specific Requirements of Act 42

Act 42 requires the Department to promulgate an administrative rule at the state level that replicates the appliance efficiency standards that are currently in effect pursuant to federal law.

Specifically, pursuant to Act 42 of 2017, the Commissioner is required to adopt “minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R §§ 430 and 431 as those provisions existed on January 19, 2017.”

Further, the law requires that the Commissioner adopt “a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23 (gg) as that provision existed on January 19, 2017.”

In addition, Act 42 defined ‘General service lamp’ to have “the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22, (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).”

Act 42 required that the proposed rule be filed by August 1, 2017, and that it be finally adopted by April 1, 2018 unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Finally, Act 42 requires that the Commissioner file a rulemaking progress report on or before December 15, 2017, along with a copy of the proposed rule as filed with the Secretary of State, and file a further progress report on the rulemaking required by the Act on or before December 15, 2018, along with a copy of the rule as finally adopted by the Commissioner.

2017 Rulemaking Process

During 2017 the Department of Public Service completed the following steps toward adopting the rule contemplated by Act 42:

June – July 2017 - PSD drafting of the Proposed Rule

July 28, 2017 - Presentation of the Proposed Rule to the Interagency Committee and Administrative Rules

July 28, 2017 - Proposed Rule Filed with the Vermont Secretary of State

September 20, 2017 - Public Hearing – 10am - Vermont Statehouse Montpelier, VT

August 9, 2017 – September 29, 2017 - Public Comment Period

October – November 2017 – PSD drafting of final Proposed Rule

December 14, 2017 - Final Proposed Rule filed with Secretary of State and Legislative Committee on Administrative Rules

2017 Rulemaking Narrative

Shortly after Act 42 was signed into law by Governor Scott on May 22, 2017, the Department of Public Service began drafting the Appliance Efficiency Standards Rule. Act 42 requires that the full text of 10 C.F.R §§ 430 and 431 be incorporated into the rule. As the federal standards contain a significant number of testing protocols, considerable effort was required to identify and index the materials to be incorporated by reference into the rule. The rule was presented to the Interagency Committee on Administrative Rules on July 28, 2017 and was unanimously approved by ICAR. The Proposed Rule was filed with the Vermont Secretary of State on July 28, 2017. The Secretary of State designated the Proposed Rule as # 17P-028 and the official posting date for the rule was August 9, 2017. The Department held a public hearing on the rule at 10am on September 20, 2017 in Room 10 of the Vermont Statehouse in Montpelier, Vermont. Two individuals attended the public hearing. One attendee had general questions as to the operation of the rule, and the other attendee had no questions. Neither attendee made a comment on the rule. A nine-day comment period followed the public hearing during which no comments were received.

During the months of October and November 2017, the Department added to the proposed rule, the definitions of “general service lamps” that will come into effect under the federal law beginning on January 1, 2020 from the Federal Register, so that they will be in effect in Vermont as of that same date, should the rule become operational.

On December 14, 2017 the Department filed the Final Proposed Rule with the Vermont Secretary of State and the Legislative Committee on Administrative Rules.

Projected 2018 Rulemaking Activities

The Department anticipates that early in 2018 the Proposed Rule will be presented to the Legislative Committee on Administrative Rules. Upon approval by LCAR, the rule as adopted will be filed with the Secretary of State and will become effective fifteen days thereafter. However, due to federal preemption, the rule, by its terms, will not become operational unless or until the federal standards are repealed or voided.