

Administrative Procedures – Incorporation by Reference Statement

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and why the full text was not reproduced within the rule.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Copies of incorporated materials will be held by the Office of the Secretary of State until adoption or formal withdrawal of the rule is complete. Materials will be returned to the agency upon completion of the rule.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I certify that the text of the matter incorporated has been reviewed by an official of the agency. I further certify that the agency has the capacity and intent to enforce the rule entitled:

Rule Title: Vermont Appliance Efficiency and Water Conservation Standards

 _____, on 12/12/17 _____
(signature) (date)

Printed Name and Title:

June E. Tierney

Commissioner

Vermont Department of Public Service

1. TITLE OF RULE FILING:

Vermont Appliance Efficiency and Water Conservation Standards

2. ADOPTING AGENCY:

Vermont Department of Public Service

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

This rule will implement in Vermont, as a matter of state law, the federal appliance efficiency and water conservation standards currently in effect pursuant to 10 C.F.R. Parts 430 and 431, but only if those federal regulations are repealed or declared void. These standards have been in place for over twenty-five years. The federal regulations incorporate by reference certain technical standards and test procedures for measuring energy and water consumption of each of the products described within the rule. These standards and test procedures are maintained by a variety of national and international standards organizations. The Vermont rule, therefore, must incorporate by reference the identical technical standards and testing protocols as they currently exist in the federal regulations.

4. OBTAINING COPIES: (*EXPLAIN HOW THE MATERIAL(S) CAN BE OBTAINED BY THE PUBLIC, AND AT WHAT COST*):

The technical standards and test procedures incorporated by reference in the federal regulation are copyright protected work product of national standards and international standards organization. They are not available free of charge. To obtain copies of these materials, an entity or individual must purchase the technical standard or test protocol from the specific organization. Attachment A to this document, provides a list of each of the standards along with the federal statutes and regulations to be incorporated by reference into the Vermont rule. The attachment includes the URL addresses where any member of the public may buy copies of these standards and test procedures, along with the cost of doing so, and we also provide a pdf image of the website where each of these standards may be purchased. Entities involved in the design, manufacture and sale of the products are

presumed to have already obtained copies of any such standards or testing protocols in order to discharge their obligations under the current federal regulations. The cost of obtaining such copies varies widely depending on the number of standards and test procedures an entity or individual wishes to purchase. There are approximately twenty-five different standards organizations where these standards may be obtained. Average consumers would not typically have any need to obtain copies of these materials. The total cost to buy all materials incorporated by reference into this rule would be \$20,024.50.

5. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

The materials to be incorporated by reference are all listed individually in the rule text and in Attachment A to this document and there have been no modifications to those materials.

6. REASONS FOR INCORPORATION BY REFERENCE (*EXPLAIN WHY THE AGENCY DECIDED TO INCORPORATE THE MATERIALS RATHER THAN REPRODUCE THE MATERIAL IN FULL WITHIN THE TEXT OF THE RULE*):

As these materials are currently incorporated by reference in the federal regulations, the only means of satisfying the legislative directive of Act 42 is to incorporate them by reference into the Vermont rule. Given that these materials carry a copyright, they can not be reproduced in full within the text of the rule. The Department of Public Service would not have the right to access these materials without paying the organizations who maintain them. To obtain a single copy of each of the standards incorporated by reference in the federal regulation is estimated by Department staff to be prohibitively expensive as it would likely cost thousands of dollars to do so. As noted above, the entities most likely to need access to these standards and testing protocols are designers and manufacturers of the products governed by the current federal regulation, and those entities have presumably been complying with those standards for over twenty-five years.

7. THE INCORPORATED MATERIALS HAVE BEEN REVIEWED BY THE FOLLOWING OFFICIAL OF THE AGENCY:
Barry Murphy, Energy Program Specialist
Keith Levenson, Energy Program Specialist

8. THE ADOPTING AGENCY REQUESTS THAT ALL COPIES OF INCORPORATED MATERIALS BE RETURNED TO THE AGENCY .

Run Spell Check