

Implementation Report:
Energy Conservation Standards Activities

Submitted Pursuant to:
Section 141 of the Energy Policy Act of 2005
&
Section 305 of the Energy Independence and
Security Act of 2007

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List of Acronyms

ANOPR – Advance Notice of Proposed Rulemaking

ASHRAE – American Society of Heating, Refrigerating and Air-Conditioning Engineers

DOE – U.S. Department of Energy

EISA 2007 – Energy Independence and Security Act of 2007

EPACT 2005 – Energy Policy Act of 2005

EPCA – Energy Policy and Conservation Act

HID – High-Intensity Discharge (lamps)

NOPR – Notice of Proposed Rulemaking

SNOPR – Supplemental Notice of Proposed Rulemaking

Introduction

This report was prepared in response to section 141 of the Energy Policy Act of 2005 (EPACT 2005), Pub. L. 109-58, which pertains to the Department of Energy's (DOE's) past noncompliance with statutory deadlines for the issuance of new or amended energy conservation standards and in response to section 305 of the Energy Independence and Security Act of 2007 (EISA 2007), Pub. L. 110-140.

Section 141 of EPACT 2005 requires both an initial report and semi-annual implementation reports, until such time as the Department has promulgated all of the overdue standards. This document represents the fourth such semi-annual implementation report.

Section 305 of EISA 2007 expands DOE's existing reporting requirements to include progress reports on all rulemaking activities required by EISA 2007. Because the topics and reporting intervals in section 141 of EPACT 2005 and section 305 of EISA 2007 are substantially similar, DOE is consolidating the reports. Thus, Section 2 of this report constitutes the first EISA 2007 implementation report. DOE has conducted an initial review of requirements arising from EISA 2007, and this report includes a list which sets forth the Department's understanding of new requirements under the statute, based upon its initial assessment, as well as a preliminary schedule for these regulatory actions. However, as DOE gains greater familiarity with the new statute and its implementation, modifications to both the list of required agency actions and associated schedules may be necessary.

Section 1: Backlog and EPACT 2005

DOE submitted its initial report to Congress on January 31, 2006. In the initial report, DOE documented the history of the Appliance Standards Program which is the program responsible for the development of test procedures and minimum efficiency standards for residential appliances and commercial equipment subject to regulation. The initial report provided a description of the rulemaking process and detailed the statutory requirements applicable to the Appliance Standards Program. The initial report explained the historical reasons for DOE's failure to meet identified statutory deadlines and described current and planned productivity enhancements that DOE began to implement in order to expedite the standards rulemaking process. Finally, the initial report set an aggressive rulemaking schedule, designed to permit DOE to both address the backlog of rulemakings and to meet deadlines associated with the new requirements of EPACT 2005.

In the first semi-annual implementation report (submitted in August 2006), DOE described the execution of the productivity enhancements (“bundling” and “valley-filling”¹) that were discussed in the initial report. DOE also provided an update on its improved document review and clearance process, identifying the newly established intra-agency Crosscutting Review Team as the cornerstone of this process. As a result of the productivity enhancements and improved document review and clearance process, DOE was able to report in its first semi-annual implementation reports that it was meeting all obligations as scheduled in the initial report to Congress, and the Department reached a similar conclusion in its second and third semi-annual implementation reports (submitted in February 2007 and August 2007) that it has met all commitments in its previous reports.

DOE remains committed to complying with future deadlines and, once again, is currently on schedule. In this report, DOE provides an update of its progress toward meeting the schedule set forth in the January 2006 report to Congress, as well as the schedule agreed to in the consent decree in the case of *State of New York, et al. v. Bodman* (discussed subsequently). DOE is expediting its activities to the extent practical in order to complete rulemakings as soon as possible.

State of New York, et al. v. Bodman; and NRDC, Inc. et al. v. Bodman

DOE notes that the separate court proceedings (*State of New York, et al. v. Bodman* and *NRDC, Inc. et al. v. Bodman*) mentioned in the August 2006 report resulted in a consent decree between the plaintiffs and DOE (filed November 6, 2006). The consent decree largely adopts the schedule DOE published in its January 31, 2006, initial report to

¹ “Bundling” refers to the combination of two or more products within a single rulemaking. “Valley-filling” is a management technique where an analytical team can divert its resources from one rulemaking to another while documents are being reviewed.

Congress under section 141 of EPACT 2005. However, the consent decree's rulemaking schedule adds the following two additional items:

1. The consent decree requires DOE to publish a small electric motors test procedure by June 30, 2009, and an energy conservation standard final rule (for the same product) by February 28, 2010. These two actions were not included in the initial report to Congress because DOE was conducting the determination analysis for small electric motors at the time the initial report was written (*i.e.*, DOE had not yet determined whether a rulemaking and test procedure were necessary).
2. The consent decree puts into place a binding schedule for DOE action in response to future amendments of Standard 90.1 by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). Specifically, within six months of an ASHRAE amendment, DOE must publish an analysis of the energy savings potential of amended energy efficiency standards. DOE must either adopt ASHRAE's amendment within 18 months of ASHRAE's adoption or establish a more stringent standard within 30 months. Under the consent decree, DOE will publish a final rule for packaged terminal air conditioners and heat pumps by September 30, 2008.

Multi-Year Schedule and Implementation Update

This section provides a copy of the rulemaking schedule provided in the initial report to Congress, along with a detailed description of activities and progress to date.

Multi-Year Schedule

Table 1 presents the multi-year schedule to which DOE committed in its initial report to Congress, modified to now also include a standards rulemaking and a test procedure rulemaking for small electric motors. These latter modifications to the schedule were added pursuant to the November 2006 consent decree discussed above. This schedule will result in the issuance of one standard for each of 18 products with one or more backlogged standards (plus small electric motors). Furthermore, the schedule addresses the first cycle² of standards that DOE must develop to comply with EPACT 2005. In addition, the multi-year schedule also addresses the following:

- Determination analyses for: (1) small electric motors (completed); (2) high-intensity discharge (HID) lamps; and (3) battery chargers and external power supplies.³
- Test procedures for: (1) distribution transformers (completed); (2) residential central air-conditioners and heat pumps (completed); (3) ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote-condensing commercial refrigerators, freezers, and refrigerator-freezers (required by EPACT 2005) (completed); and (4) battery chargers and external power supplies (required by EPACT 2005) (completed).
- Test procedure rulemaking conducted *en masse* in response to EPACT 2005 (completed). A complete list of products is reported in the February 2007 implementation report.

² For some products, EPACT 2005 requires DOE to develop multiple standards over time.

³ The determination analysis for battery chargers and external power supplies required by EPACT 2005 was subsequently modified by EISA 2007. This is discussed in detail in the Battery Chargers and External Power Supplies section.

Table 1. Multi-Year Schedule to Issue One Standard for Each Product in Backlog, and to Develop One Standard for Each Product per EPACT 2005⁴

| Rulemaking Team | Rule Type | Product(s) | EPACT 2005, Backlog, Other | Approx. Rule Initiation Date | Final Action Date |
|------------------------------|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------------|--------------------------|
| Heating Team | Standards | <ul style="list-style-type: none"> Furnaces and Boilers (Residential) [Backlog Cycle 1 including Mobile Home Furnaces, Backlog Cycle 2 for Small Furnaces] | Backlog | NA | September 2007 |
| | | <ul style="list-style-type: none"> Water Heaters (Residential) [Backlog Cycle 2] Direct Heating Equipment [Backlog Cycle 1] Pool Heaters [Backlog Cycle 1] | Backlog Backlog Backlog | FY2006, Q4 | March 2010 |
| Transformers and Motors Team | Determination Analysis | <ul style="list-style-type: none"> Small Electric Motors | Backlog | NA | June 2006 |
| | Standards | <ul style="list-style-type: none"> Small Electric Motors | Backlog | FY2007, Q3 | February 2010 |
| | | <ul style="list-style-type: none"> Distribution Transformers, MV Dry-Type and Liquid-Immersed | Backlog | NA | September 2007 |
| | | <ul style="list-style-type: none"> Electric Motors, 1-200 HP [Backlog Cycle 1] | Backlog | FY2008, Q1 | June 2011 |
| | Test Procedures | <ul style="list-style-type: none"> Small Electric Motors | Backlog | FY2007, Q3 | June 2009 |
| | | <ul style="list-style-type: none"> Distribution Transformers | Backlog | NA | April 2006 |
| Lighting Team | Determination Analysis | <ul style="list-style-type: none"> High-Intensity Discharge Lamps | Backlog | NA | June 2010 |
| | Standards | <ul style="list-style-type: none"> Ceiling Fan Light Kits (other than those with prescribed standards) | EPACT 2005 | NA | January 2007 |
| | | <ul style="list-style-type: none"> Incandescent Reflector Lamps [Backlog Cycle 1] Fluorescent Lamps [Backlog Cycle 1] Incandescent General Service Lamps [Backlog Cycle 1] | Backlog Backlog Backlog | FY2006, Q3 | June 2009 |
| | | <ul style="list-style-type: none"> Fluorescent Lamp Ballasts [Backlog Cycle 2] | Backlog | FY2008, Q1 | June 2011 |

⁴ This table represents DOE's schedule prior to the passage of EISA 2007. By establishing energy efficiency standards for some products that were already on the schedule, EISA 2007 modified the long-term schedule represented by this table. DOE is reviewing EISA 2007 to understand the scheduling and resource implications this presents, and provides a team-by-team breakdown in following sections of this report.

| Rulemaking Team | Rule Type | Product(s) | EPACT 2005, Backlog, Other | Approx. Rule Initiation Date | Final Action Date |
|---------------------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|-------------------------------------|--------------------------|
| Home Appliance Team | Standards | <ul style="list-style-type: none"> Dishwashers (Residential) [Backlog Cycle 2] Ranges and Ovens (Electric and Gas) and Microwave Ovens [Backlog Cycle 1 for Gas, Backlog Cycle 2 for Electric] Dehumidifiers (Residential) [Revision] Clothes Washers (Commercial) [Revision 1] | Backlog Backlog EPACT 2005 EPACT 2005 | FY2006, Q2 | March 2009 |
| | | <ul style="list-style-type: none"> Clothes Dryers (Residential) [Backlog Cycle 2] Room Air Conditioners [Backlog Cycle 2] | Backlog Backlog | FY2008, Q1 | June 2011 |
| Space Cooling Team | Standards | <ul style="list-style-type: none"> Packaged Terminal Air Conditioners and Heat Pumps | Backlog | FY2006, Q4 | September 2008 |
| | | <ul style="list-style-type: none"> Central Air Conditioners and Heat Pumps (Residential) [Backlog Cycle 2] | Backlog | FY2008, Q2 | June 2011 |
| | Test Procedure | <ul style="list-style-type: none"> Central Air Conditioners and Heat Pumps (Residential) | Other | NA | September 2007 |
| Commercial Refrigeration Team | Standards | <ul style="list-style-type: none"> Refrigerated Bottle or Canned Beverage Vending Machines | EPACT 2005 | FY2006, Q3 | August 2009 |
| | | <ul style="list-style-type: none"> Ice-Cream Freezers, Self-Contained Commercial Refrigerators, Freezers, and Refrigerator-Freezers without Doors, and Remote-Condensing Commercial Refrigerators, Freezers and Refrigerator-Freezers (initial) | EPACT 2005 | FY2006, Q2 | January 2009 |
| | | <ul style="list-style-type: none"> Automatic Ice Makers (Commercial) [Revision 1] | EPACT 2005 | FY2011, Q3 | January 2015 |
| | Test Procedure | <ul style="list-style-type: none"> Ice-Cream Freezers, Self-Contained Commercial Refrigerators, Freezers, and Refrigerator-Freezers without Doors, and Remote-Condensing Commercial Refrigerators, Freezers and Refrigerator-Freezers | EPACT 2005 | NA | January 2008 |
| Battery Chargers and External Power Supplies Team | Determination Analysis | <ul style="list-style-type: none"> Battery Chargers and External Power Supplies | EPACT 2005 | NA | August 2008 |
| | Standards | <ul style="list-style-type: none"> Battery Chargers and External Power Supplies (Contingent on Determination) | EPACT 2005 | FY2008, Q4 | August 2011 |
| | Test Procedure | <ul style="list-style-type: none"> Battery Chargers and External Power Supplies | EPACT 2005 | NA | February 2007 |
| Other EPACT 2005 | Test Procedure | <ul style="list-style-type: none"> 11 Test Procedures Prescribed by EPACT 2005 | EPACT 2005 | NA | November 2006 |

Implementation Update

Published Rulemaking Documents Since the Last Implementation Report

During the six months since the August 2007 semi-annual implementation report, DOE has continued to meet its commitments in terms of the schedule presented to Congress. Since publication of the August 2007 report, DOE has:

- Published a notice of availability of the Framework Document for the small electric motors rulemaking. This notice was issued August 3, 2007 and was published in the *Federal Register* on August 10, 2007 (72 Fed. Reg. 44990).
- Published a notice of availability of the Framework Document for the home appliances, group 2 rulemaking. Home appliances, group 2 includes residential clothes dryers and room air-conditioners. The notice was issued October 3, 2007 and was published in the *Federal Register* on October 9, 2007 (72 Fed. Reg. 57254).
- Published the final rule for the distribution transformers energy conservation standard. The final rule was issued on September 28, 2007, and was published in the *Federal Register* on October 12, 2007 (72 Fed. Reg. 58190).
- Published the final rule for the central air-conditioning and heat pumps test procedure. The final rule was issued September 27, 2007, and was published in the *Federal Register* on October 22, 2007 (72 Fed. Reg. 59906).
- Published the advance notice of proposed rulemaking (ANOPR) for the home appliances, group 1 energy efficiency standard. The group 1 rulemaking included dishwashers, ranges and ovens and microwave ovens, dehumidifiers, and commercial clothes washers. The ANOPR was published in the *Federal Register* on November 15, 2007 (72 Fed. Reg. 64431).
- Published the final rule for the furnaces and boilers rulemaking. This rulemaking addressed energy efficiency standards for residential furnaces and boilers, small furnaces less than 45,000 BTU/hr, and mobile home furnaces. The rule was issued November 8, 2007 and was published in the *Federal Register* on November 19, 2007 (72 Fed. Reg. 65136).
- Published a notice of availability of the Framework Document for the fluorescent lamp ballasts rulemaking. The notice was issued January 14, 2008 and was published in the *Federal Register* on January 22, 2008 (73 Fed. Reg. 3653).

Progress Reports of Appliance Product Teams (By Product)

HEATING TEAM

Residential Furnaces and Boilers. DOE issued the notice of proposed rulemaking (NOPR) standard for furnaces and boilers on September 25, 2006 which was published in the *Federal Register* on October 6, 2006 (71 Fed. Reg. 59204). On February 2, 2007, DOE issued a Notice of Data Availability to request comment on a more detailed discussion of data, which appeared in the *Federal Register* on February 9, 2007 (72 Fed. Reg. 6184).

In response to the NOPR commenters presented additional points with regard to an issue previously considered by DOE. DOE sought to consider more fully those comments and their potential impact before issuing a final rule. DOE preliminarily believed that, if confirmed, the points raised by commenters would have merited consideration in evaluating higher efficiency standards -- including a 90 percent AFUE standard for non-weatherized gas furnaces. However, the necessary analysis of these points was not part of the rulemaking record, and DOE, in order to comply with applicable legal standards, determined it necessary to provide an opportunity for public comment on such analysis.

On August 3, 2007, DOE filed a motion pursuant to Section V of the Consent Decree to modify the schedule applicable to the final rule for furnaces and boilers. Prior to moving the Court, DOE approached all parties to the Consent Decree in an effort to obtain consensus on the extension. The Gas Appliance Manufacturers Association, the Air-Conditioning and Refrigeration Institute, and the Association of Home Appliance Manufacturers, parties to the Consent Decree, did not support the extension and objected to DOE's subsequent motion. Further, the fourteen States that are parties to the Consent Decree and NRDC declined to acquiesce to DOE's request. Moreover, the States and NRDC submitted to the Court that DOE did not establish the requisite "good cause" to afford DOE more time to consider further the potential impact raised by commenters.

On September 25, 2007, the Court entered an Order of Temporary Administrative Stay, which inter alia: (1) stayed the September 30, 2007, deadline until seven calendar days after the date on which the Court entered an order resolving DOE's motion; and (2) required DOE to issue a final rule within seven days of November 1, 2007, or seek relief from the Court, in the event that the motion was not resolved by that date. On October 30, 2007, the Court entered a Revised Order of Temporary Administrative Stay, which extended the November 1, 2007, deadline until November 15, 2007. In light of the opposition from the manufacturer organizations and the lack of support from the States and NRDC, the Court entered an order denying DOE's motion for modification of the Consent Decree and requiring DOE to issue the final furnace and boiler rule within seven days.

Because it was not permitted to issue a supplemental notice of proposed rulemaking, DOE was unable to determine if there would be record support for an analysis that if confirmed, would have merited consideration in evaluating higher efficiency standards.

Therefore, DOE took the required final action with regard to the furnace and boiler final rule. The rule was issued November 8, 2007, and was published in the Federal Register on November 19, 2007 (72 Fed. Reg. 65136).

Heating Products. The final rule establishing energy conservation standards for heating products (water heaters, direct heating equipment, and pool heaters) is on schedule for issuance in March 2010. DOE published the notice of availability of the Framework Document in the *Federal Register* on November 24, 2006 (71 Fed. Reg. 67825). A public meeting to discuss the Framework Document was held on January 16, 2007 at DOE headquarters in Washington, DC. DOE is performing the analytical work necessary to prepare for the ANOPR, including preparation of the market and technology assessment and engineering analysis.

TRANSFORMERS AND MOTORS TEAM

Small Electric Motors. The final rule for small electric motors is on schedule for issuance not later than February 2010. DOE published an announcement of the availability of the energy conservation standard Framework Document in the *Federal Register* on August 10, 2007 (72 Fed. Reg. 44990). A public meeting to discuss the Framework Document was held on September 13, 2007 at DOE headquarters in Washington, DC. DOE has been doing the analytical work necessary to prepare for the ANOPR, including preparation of the market and technology assessment and engineering analysis.

DOE is also currently preparing a NOPR for a test procedure for small electric motors (with a corresponding final rule scheduled for issuance not later than June 2009).

Distribution Transformers. DOE completed the final rule setting energy conservation standards for distribution transformers, which was scheduled for issuance not later than September 2007. The final rule was issued on September 28, 2007 and published in the *Federal Register* on October 12, 2007 (72 Fed. Reg. 58190).

Electric Motors (1-200 hp). DOE planned to initiate the standards rulemaking for electric motors (1-200 hp) during the first quarter of fiscal year 2008. This rulemaking was scheduled for issuance of the final rule not later than June 30, 2011. As the Framework Document was in preparation, new energy legislation – EISA 2007 – was signed into law on December 19, 2007. Because this new legislation contains prescriptive standards for the same group of motors covered in DOE’s rulemaking, DOE is no longer publishing the Framework Document. DOE is currently considering its next steps on this product, which may include an update to the test procedure.

LIGHTING TEAM

High-Intensity Discharge Lamps. DOE has begun work on the determination analysis for high-intensity discharge lamps. DOE is currently assessing the market and gathering recent, publicly available technology and pricing data in preparation for the engineering analysis. The determination notice is scheduled for June 2010 (although DOE anticipates earlier issuance).

Lamps. The final rule regarding energy conservation standards for three categories of lamps (general service fluorescent lamps (GSFL), incandescent reflector lamps (IRL) and general service incandescent lamps (GSIL) is scheduled for June 2009. As reported in the August 2006 implementation report, DOE initiated this rulemaking on May 31, 2006 (71 Fed. Reg. 30834). DOE is doing the analytical work necessary to prepare for the ANOPR, including preparation of draft analyses and draft documentation for all requisite portions of the ANOPR. In parallel to the energy conservation standard, DOE is also in the process of drafting a test procedure NOPR for those products covered by the standard.

However, EISA 2007 prescribed standards for general service incandescent lamps and eliminated DOE's authority to consider standards for such lamps, thereby significantly altering the scope of coverage for this rulemaking. Accordingly, substantial revisions were required to the analysis and to both the standards ANOPR and test procedure NOPR *Federal Register* notices, which were in the concurrence process when the legislation was enacted. DOE is currently reviewing the draft standards ANOPR and test procedure NOPR, both of which have been revised in a manner consistent with EISA 2007.

Fluorescent Lamp Ballasts. DOE completed the Framework Document for the fluorescent lamp ballasts rulemaking. A notice of availability was published in the *Federal Register* on January 22, 2008 (73 Fed. Reg. 3653). This notice also announced that DOE will hold the framework public meeting at its Washington D.C. headquarters on February 6, 2008. The final rule for fluorescent lamp ballasts is on schedule for issuance not later than June 2011.

HOME APPLIANCE TEAM

Home Appliances, Group 1. The final rule regarding energy conservation standards for four home appliances (dishwashers, ranges and ovens, dehumidifiers, and commercial clothes washers) is scheduled to be published no later than March 2009. DOE completed the ANOPR for these products which was published in the *Federal Register* on November 15, 2007 (72 Fed. Reg. 64431). A public meeting to discuss the issues raised in the ANOPR was held on December 13, 2007 in Washington, DC.

This rulemaking was subsequently affected by EISA 2007. The new legislation prescribes standards for both dehumidifiers and dishwashers. Because standards are now in place for these products, the current rulemaking will continue into the NOPR phase without further consideration of dishwashers or dehumidifiers. Prospectively,

rulemaking documents will be updated to remove these products, and the analysis will be redone to show impacts without these products.

Home Appliances, Group 2. The rulemaking for clothes dryers and room air conditioners is underway and scheduled to be completed in June 2011. DOE published a notice of availability for the Framework Document in the *Federal Register* on October 9, 2007 (72 Fed. Reg. 57254). DOE held the Framework Document Public Meeting in Washington, DC on October 24, 2007. DOE is now doing the analytical work necessary to prepare the ANOPR for these products.

SPACE COOLING TEAM

Packaged Terminal Air-Conditioners and Heat Pumps. The final rule regarding energy conservation standards for packaged terminal air conditioners and heat pumps is scheduled for issuance by September 2008. DOE has been doing the analytical work and documentation necessary to prepare for the NOPR. There is no ANOPR for a commercial product such as this, so the NOPR is the next regulatory step. DOE is currently reviewing the draft NOPR.

Residential Central Air Conditioners and Heat Pumps. Since the last implementation report, DOE completed the final rule establishing test procedures for residential central air conditioners and heat pumps, which was issued on September 27, 2007 and was published in the *Federal Register* on October 22, 2007 (72 Fed. Reg. 59906).

DOE plans to issue an efficiency standard for this product no later than June 2011. DOE is currently working on the Framework Document in preparation for a public meeting.

COMMERCIAL REFRIGERATION TEAM

Beverage Vending Machines. The final rule regarding energy conservation standards for beverage vending machines is scheduled to be issued by August 2009. As reported in the August 2006 implementation report, DOE already initiated this rulemaking by publishing a notice of availability of the Framework Document for these products in the *Federal Register* on June 28, 2006 (71 Fed. Reg. 36715). A public meeting on the Framework Document was held at DOE headquarters in Washington, DC on July 11, 2006. DOE is in the process of reviewing the draft ANOPR for these products.

Commercial Refrigeration Products. The final rule regarding energy conservation standards for commercial refrigeration products is scheduled to be issued no later than January 2009. DOE published the standards ANOPR for commercial refrigeration products in the *Federal Register* on July 26, 2007 (72 Fed. Reg. 41162). DOE held the ANOPR public meeting on August 23, 2007 at DOE headquarters in Washington, DC. DOE completed its review of written and oral comments from stakeholders and has

conducted the analytical work necessary to prepare for the NOPR. DOE is in the process of reviewing the draft ANOPR.

BATTERY CHARGERS AND EXTERNAL POWER SUPPLIES TEAM

Battery Chargers and External Power Supplies. EPACT 2005 required DOE to issue a final rule to determine whether to issue efficiency standards for battery chargers and external power supplies. DOE initiated this determination analysis rulemaking in 2006, which included a scoping workshop on January 24, 2007 at DOE headquarters in Washington, DC. The determination was underway and on schedule for issuance by August 8, 2008.

However, EISA 2007 subsequently set efficiency standards for certain types of external power supplies (Class A) and modified the statutory provision which directed DOE to perform the determination analysis (42 U.S.C. 6295(u)(1)(E)(i)(I), as amended). Specifically, EISA 2007 removed battery chargers from the determination (leaving only external power supplies) and reduced the schedule for completing the determination to two years after the date of enactment (*i.e.*, by December 19, 2009).

In addition to the existing general definition of “external power supply,” EISA 2007 defines a “Class A external power supply” (42 U.S.C. 6291(36)(C)) and sets efficiency standards for those products (42 U.S.C. 6295(u)(3)). EISA 2007 directs DOE to publish a final rule by July 1, 2011 to determine whether the standards set for Class A external power supplies should be amended, and if such determination is positive, include any amended standards as part of that final rule. The statute further directs DOE to publish a second final rule by July 1, 2015 to again determine whether the standards in effect should be amended (once again including any amended standards as part of that final rule).

Because DOE is already required to separately perform two rounds of rulemakings to consider amended efficiency standards on Class A external power supplies, the determination analysis under 42 U.S.C. 6295(u)(1)(E)(i)(I) should not include these products. Therefore, DOE is interpreting 42 U.S.C. 6295 (u)(1)(E)(i)(I) as a requirement for a determination analysis that will consider in its scope only external power supplies other than Class A. This determination is scheduled for issuance by December 19, 2009.

EISA 2007 also requires DOE to issue a final rule prescribing energy conservation standards for battery chargers, if technologically feasible and economically justified, by July 1, 2011 (42 U.S.C. 6295(u)(1)(E)(i)(II)). This rulemaking will be bundled with the rulemaking for Class A external power supplies, given the related nature of such products and the fact that these provisions share the same statutory deadline.

In summary, DOE will modify the determination analysis already underway to only consider non-Class A external power supplies, under a new deadline of December 19, 2009. A rulemaking to establish standards for battery chargers and potentially amend

standards for Class A external power supplies will be initiated with a Framework public meeting. A final rule is scheduled for issuance not later than July 1, 2011.

Section 2: Energy Independence and Security Act of 2007

On December 19, 2007, the President signed into law the Energy Independence and Security Act of 2007 (EISA 2007), Pub. L. 110-140. This statute amends the Energy Policy Conservation Act of 1975, Pub. L. 94-163 (42 U.S.C. 6291 *et seq.*), and has the effect of increasing the number of rulemakings DOE must issue beyond the obligations set forth in EPACT 2005 and the backlogged products mentioned in previous implementation reports and in Section 1 of this report. DOE is currently reviewing the statute to determine the full scope of the requirements and corresponding actions to be undertaken by the agency. Preliminary analysis indicates that the statute requires DOE to develop several new test procedures and energy efficiency standards, as discussed below. In addition, EISA 2007 prescribes new efficiency standards and test procedures for certain products, which DOE must also implement.

Although DOE has striven to carefully assess the new statutory requirements, the analysis presented below should be viewed as preliminary because EISA 2007 was signed into law only recently. Based upon further examination, it is possible that DOE will have revised its understanding of EISA 2007 (and the required agency actions and associated schedules arising therefrom) by the time the next implementation report is due (August 2008). DOE is currently studying the statute and existing obligations. As such, modifications to both the list of required agency actions and associated schedules may be necessary.

Changes to Existing Rules

EISA 2007 prescribes energy efficiency standards for a number of products which are already the subject of an active rulemaking. By prescribing standards for these products, EISA 2007 eliminates or modifies DOE's obligation to develop these standards. As a result, some rulemakings underway were significantly impacted. For example, the Electric Motors (1-200 hp) rulemaking was scheduled to be initiated in the first quarter of fiscal year 2008. This rule was superseded by standards set in section 313 of EISA 2007, and, therefore, work underway was terminated.

For some rulemakings in which products were bundled, EISA 2007 altered the rulemaking scope by setting standards for some products. Examples of this include the Lamps rulemaking and the Home Appliances, Group 1 rulemaking. DOE will continue to work on these rules, but will need to modify the work (including certain revised analyses) and recalculate work flow to reflect the change in scope.

By modifying the scope of coverage for certain lamp categories, EISA 2007 mandated additional, resource-intensive analysis for the Lamps rulemaking. Particularly because of these modifications, DOE will be challenged to maintain the original schedule set forth in the initial report to Congress for this rulemaking but will strive to do so.

New Obligations

The passage of EISA 2007 brings the level of activity within the Appliance Standards Program to unprecedented levels. These new statutory requirements and their impacts on the program are discussed below. A preliminary table of these requirements is presented in Table 2.

The new legislation requires all test procedures for covered products to be amended to include test procedures for standby and off-mode energy consumption (section 310 of EISA 2007). However, EISA 2007 specifies deadlines for the incorporation of standby power consumption into the test procedures of certain enumerated products including clothes dryers, room air conditioners, fluorescent lamp ballasts, residential clothes washers, residential furnaces and boilers, residential water heaters, direct heating equipment, pool heaters, dishwashers, ranges and ovens and microwave ovens, and residential dehumidifiers. The amendments are required to be implemented as early as December 31, 2008 (for battery chargers and external power supplies). In addition, all energy conservation standards adopted after July 1, 2010 must incorporate standby power consumption.

Furthermore, some of the new standards required by EISA 2007 have deadlines that necessitate swift action. For instance, a final rule determining whether to amend standards for residential refrigerators is due December 31, 2010 (section 311 of EISA 2007). This leaves DOE less than the three years to publish the rule. DOE's compressed rulemaking schedule, first published in the January 31, 2006 report to Congress, calls for a 36-month schedule starting at the Framework public meeting. Because of the short amount of time remaining and the highly detailed analyses required, DOE will need to add this complex rulemaking to other high-priority activities.

DOE is also studying how to initiate three standards rulemakings (residential clothes washers, walk-in freezers and coolers, and metal halide lamp fixtures) that are all due to be completed by the end of 2011. Moreover, the statute directs DOE to undertake other standards rulemakings for battery chargers, external power supplies, furnace fans, dishwashers, and general service incandescent lamps. In addition, all test procedures and efficiency standards established by DOE will now be subject to regular periodic review. DOE is analyzing the requirements in EISA 2007 for regular reviews of new or amended standards (on a six-year cycle) and all test procedures (on a seven-year cycle) and will provide an implementation schedule in the next semi-annual implementation report.

Table 2. Additions to Multi-Year Schedule per EISA 2007⁵

| Rulemaking Team | Rule Type | Product(s) | Final Action Date |
|------------------------|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Heating Team | Standards | <ul style="list-style-type: none"> • Furnace Fans | December 2013 |
| | Test Procedures | <ul style="list-style-type: none"> • Furnaces and Boilers, Standby Power | September 2009 |
| | | <ul style="list-style-type: none"> • Water Heaters (Residential), Standby Power • Direct Heating Equipment, Standby Power • Pool Heaters, Standby Power | March 2010 |
| Lighting Team | Standards | <ul style="list-style-type: none"> • Incandescent General Service Lamps | January 2017 |
| | | <ul style="list-style-type: none"> • Metal Halide Lamp Fixtures | January 2012 |
| | Test Procedure | <ul style="list-style-type: none"> • Fluorescent Lamp Ballasts, Standby Power | March 2009 |
| Home Appliance Team | Standards | <ul style="list-style-type: none"> • Dishwashers | January 2015 |
| | | <ul style="list-style-type: none"> • Refrigerators (Residential) | December 2010 |
| | | <ul style="list-style-type: none"> • Clothes Washers (Residential) | December 2011 |
| | Test Procedures | <ul style="list-style-type: none"> • Clothes Dryers, Standby Power | March 2009 |
| | | <ul style="list-style-type: none"> • Room Air Conditioners, Standby Power | March 2009 |
| | | <ul style="list-style-type: none"> • Clothes Washers (Residential), Standby Power | June 2009 |

⁵ This table displays the initial schedule to develop one standard for each product in EISA 2007. Periodic reviews of test procedures (every 7 years) and standards (every 6 years) are not shown.

| Rulemaking Team | Rule Type | Product(s) | Final Action Date |
|---------------------------------------------------|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| | | <ul style="list-style-type: none"> • Dishwashers (Residential), Standby Power • Ranges and Ovens (Electric and Gas) and Microwave Ovens, Standby Power • Dehumidifiers (Residential), Standby Power | March 2011 |
| Commercial Refrigeration Team | Standard | <ul style="list-style-type: none"> • Walk-In Freezers and Coolers | January 2012 |
| | Test Procedure | <ul style="list-style-type: none"> • Walk-In Freezers and Coolers | January 2010 |
| Battery Chargers and External Power Supplies Team | Standards | <ul style="list-style-type: none"> • Battery Chargers and External Power Supplies (Class A) | July 2011 |
| | | <ul style="list-style-type: none"> • External Power Supplies (Class A) | July 2015 |
| | Test Procedure | <ul style="list-style-type: none"> • Battery Chargers, External Power Supplies, Standby Power | December 2008 |
| | Determination | <ul style="list-style-type: none"> • External Power Supplies (non-Class A) | December 2009 |

Process Changes

In the February 2007 implementation report, DOE asked Congress for fast track rulemaking authority to allow the Department to accelerate the rulemaking process where consensus among stakeholders and industry already exists. Section 308 of EISA 2007 now permits DOE to issue direct final rules in cases where a fairly representative group of stakeholders (including manufacturers, States, and efficiency advocates) jointly submit a recommended standard. This could eliminate approximately ten months from the timeline for each consensus rule, usually a three-year process. DOE has also implemented process improvements, such as “bundling” and “valley-filling,” to take advantage of economies of scale for related rulemakings and to maximize rulemaking capacity.