

Supporting Statement
Proposed Amendments to the Appliance Labeling Rule
16 C.F.R. Part 305
(OMB No. 3084-0069)

(1) Necessity for Collecting the Information

The Federal Trade Commission (“FTC” or “Commission”) proposes to expand coverage of the Lighting Facts label to include all screw-based and GU-10 and GU-24 pin-based light bulbs. Under this proposal, manufacturers would have two-and-a half years to conform their products and packaging to the labeling requirements. The Commission also proposes to require a specific test procedure for measuring light output for all light emitting diode (LED) bulbs covered by the Rule. Finally, the Commission is not proposing amendments for several other issues such as watt-equivalent standards, directional light disclosures, and lead content disclosures.

On July 19, 2010 (75 Fed. Reg. 41,696), the Commission published new light bulb¹ labeling requirements and sought comments on several unresolved issues related to those requirements² (those requirements were submitted on July 20, 2010 to OMB for review and received clearance on August 3, 2010). The new requirements amend the Appliance Labeling Rule (“Rule”) and feature a “Lighting Facts” label that discloses information about the bulb’s brightness, annual energy cost, life, color appearance, and energy use.³ The Commission also sought additional comment on the following unresolved issues: the label’s product coverage, LED test procedures, watt-equivalence claims, beam spread and directional light disclosures, lead content disclosures, bilingual labels, fossil fuel lamp labels, and power factor disclosures. The Commission sought comment on these issues in response to the Congressional directive to consider reopening the labeling rulemaking in 2011 if the Commission determines that further labeling changes are necessary.⁴

Consistent with Congress’ directive, the Commission is now reopening the light bulb labeling rulemaking to seek comments on proposed amendments to the Rule. Specifically, the Commission proposes to expand label coverage to additional styles of bulbs and to require a specific test procedure requirement for LED bulb labels. The comments received in response to

¹ This document uses the terms “lamp,” “light bulb,” and “bulb” interchangeably.

² The Energy Independence and Security Act (EISA) of 2007 directed the Commission to examine existing light bulb labeling requirements. Pub. L. 110-140. EISA amended the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6291 *et seq.*).

³ The requirements also direct manufacturers to print lumen information and, where appropriate, a mercury disclosure on the products themselves.

⁴ 42 U.S.C. 6294(a)(2)(D)(iii)(II)(bb).

the July 2010 Notice suggest that these changes will help consumers with their purchasing decisions.⁵

(2) Use of the Information

The primary purpose of the Rule is to encourage consumers to comparison shop for energy-efficient household products. Consumers will use the required labeling to help them purchase light bulbs.

(3) Consideration of Using Improved Technology to Reduce Burden

The proposed amendments permit the use of any technologies that covered firms may wish to employ and that may reduce the burden of information collection. Disclosing energy usage information to consumers, however, entails labeling on products or their packaging; as such, electronic disclosure pursuant to the Government Paperwork Elimination Act, 44 U.S.C. § 3504 note, is impracticable.

(4) Efforts to Identify Duplication

For most issues covered by the proposed Rule, the Commission staff has not identified any other federal statutes, rules, or policies that would duplicate the proposed Rule. The Commission understands, however, that some states have mercury disclosure rules that apply to light bulb packages. The Commission has sought to ensure that its mercury disclosure requirements are consistent with existing state requirements.⁶

(5) Efforts to Minimize Burden on Small Organizations

Although the EPCA requires the Rule to apply to all manufacturers of covered products, the Commission is seeking comment about minimizing impact on small businesses. While some manufacturers subject to the Rule's requirements may be small businesses, staff believes that everything consistent with the requirements of EPCA has been done to minimize compliance burden. The Commission has proposed an effective date for the new requirements that will ensure affected companies have adequate time to comply with the Rule.

(6) Consequences of Conducting the Collection Less Frequently

Not applicable; there is no flexibility within the framework of EPCA to "collect" less frequently the information contained in the proposed new labeling requirements.

⁵ See <http://www.ftc.gov/os/comments/lamplabelingfinal/index.shtm>.

⁶ 75 Fed. Reg. at 41,706-41,707.

(7) **Circumstances Requiring Collection Inconsistent With Guidelines**

The proposed amendments' information collection requirements are consistent with all applicable guidelines contained in 5 C.F.R. § 1320.5(d)(2).

(8) **Consultation Outside the Agency**

In developing the proposed requirements, the Commission has conducted extensive consultation outside the agency. It has sought comments from the public and other agencies through its July 2010 Federal Register notice. Additionally, in conjunction with the instant clearance request, the Commission is seeking public comment on its proposal to modify the label design for light bulbs and to make miscellaneous other amendments to the Rule.

(9) **Payments and Gifts to Respondents**

Not applicable.

(10) & (11) **Assurances of Confidentiality/Matters of a Sensitive Nature**

The information to be disclosed is of a routine business nature. It is collected and disseminated by the industry among its membership and made available to the public. No personal or sensitive information is involved nor is any commercially confidential information included.

(12) **Estimated Annual Hours Burden and Associated Labor Cost**

Total Incremental Burden of the Proposed Rulemaking: 54,550 hours
Total Associated Labor Cost: \$1,962,412

Package and Product Labeling: The proposed amendments require manufacturers to label several new bulb types. Accordingly, manufacturers will have to amend their package and product labeling to include new disclosures. The new requirements impose a one-time adjustment for manufacturers. The Commission estimates that there are 50 manufacturers making approximately 3,000 of these newly covered products. This adjustment will require an estimated 600 hours per manufacturer on average.⁷ Annualized for a single year reflective of a prospective 3-year PRA clearance, this averages to 200 hours per year. Thus, the label design change will result in cumulative annualized burden of 10,000 hours (50 manufacturers x 200 hours). In estimating the associated labor cost, the Commission assumes that the label design change will be implemented by graphic designers at an hourly wage rate of \$23.44 per hour

⁷ The Commission has increased its estimate of the hours required to make this change from earlier estimates given recent concerns raised about the burden of implementing label changes. See 75 Fed. Reg. 81,943 (Dec. 29, 2010) (proposed rule to change the effective date of the 2010 light bulb amendments from July 19, 2010 to January 1, 2012).

based on Bureau of Labor Statistics information.⁸ Thus, the Commission estimates annual labor cost for this adjustment will total \$234,400 (10,000 hours x \$23.44 per hour).

Catalog Sellers: The proposed amendments will also require catalog sellers (*e.g.*, website and print catalog sellers) to make required disclosures for these products pursuant to 16 C.F.R. § 305.20. The Commission estimates that these sellers each require approximately 17 hours per year to incorporate the data into their catalogs. This estimate is based on the assumption that entry of the required information takes on average one minute per covered product and an assumption that the average online catalog contains approximately 1,000 covered products. Given that there is great variety among sellers in the volume of products that they offer online, it is very difficult to estimate such numbers with precision. In addition, this analysis assumes that information for all 1,000 products is entered into the catalog each year. This is a conservative assumption because the number of incremental additions to the catalog from year to year is likely to be much lower after initial start-up efforts have been completed. Applying this assumption, the total annual disclosure burden for all catalog sellers of light bulbs covered by the Rule is 2,550 hours (150 sellers × 17 hours annually). In estimating the associated labor cost, the Commission assumes that the label design change will be implemented by graphic designers at an hourly wage rate of \$23.44 per hour.⁹ Thus, estimated labor cost for this adjustment is \$59,772 (2,550 hours x \$23.44 per hour).

Testing: The Commission assumes conservatively that manufacturers will have to test 3,000 basic models at 14 hours for each model for a total of 42,000 hours.¹⁰ In calculating the associated labor cost estimate, the Commission assumes that this work will be implemented by electrical engineers at an hourly wage rate of \$39.72 per hour.¹¹ Thus, the Commission estimates that the new label design change will result in associated labor costs of approximately \$1,668,240 (42,000 hours x \$39.72 per hour). The Commission does not expect that the final amendments will create any capital or other non-labor costs for such testing.

Accordingly, the revised estimated total hour burden of the amendments is 54,550 hours (10,000 hours for packaging and labeling + 2,550 hours for catalog compliance + 42,000 hours for additional testing for correlated color temperature) with associated labor costs of \$1,962,412.

⁸ See <http://www.bls.gov/ncs/ncswage2009.htm> (National Compensation Survey: Occupational Earnings in the United States 2009, U.S. Department of Labor (June 2010), Bulletin 2738, Table 3 (“Full-time civilian workers,” mean and median hourly wages), at 3-12).

⁹ *Id.*

¹⁰ The Commission also assumes conservatively that manufacturers will conduct new testing for 3,000 out of the 6,000 estimated covered products. The Commission does not expect the specific LED testing requirements will increase burden because existing burden estimates account for testing of products already covered by the Rule. See 75 Fed. Reg. 81,943.

¹¹ *Supra* note 8.

(13) Estimated Annual Capital or Other Non-labor Costs

The Commission estimates that the annualized capital cost of expanding the light bulb label coverage is \$1,535,000. This estimate is based on the assumptions that manufacturers will have to change 3,000 model packages over a three-year period to meet the new requirements¹² and that package label changes for each product will cost \$1,335.¹³ Manufacturers place information on products in the normal course of business. Annualized in the context of a 3-year PRA clearance, these non-labor costs would average \$1,335,000 (3,000 model packages x \$1,335 each ÷ 3 years). As for product labeling, the Commission assumes that the one-time labeling change will cost \$200 per model¹⁴ for an annualized estimated total of \$200,000 (3,000 models x \$200 ÷ 3 years). Annualized in the context of a 3-year PRA clearance, these non-labor costs would average \$1,535,000.

(14) Estimated Cost to Federal Government

Staff believes that the cost to the FTC for administering the proposed Rule changes will be *de minimis*. Accordingly, Commission staff retains the previous estimate of \$90,000 per year as the cost to the Government for implementing the Rule. This estimate is based on the assumption that one-half attorney work year and half of a legal technician work year will be expended.

(15) Program Changes/Adjustments

The proposed additional labeling disclosures will result in an estimated additional 54,550 burden hours, annualized, and cumulative of all affected manufacturers, at an estimated labor cost of \$1,962,412, with anticipated additional capital or other non-labor costs of \$1,535,000.

(16) Plans for Tabulation and Publication

Not applicable.

¹² This assumes that manufacturers will change packages for one third of their products in the normal course of business over the compliance period (*i.e.*, 2½ years). The two-and-a half year compliance period and the notice provided by this proceeding should minimize the likelihood that manufacturers will have to discard package inventory. In addition, manufacturers may use stickers in lieu of discarding inventory.

¹³ See 75 Fed. Reg. at 41,711, n. 149 and accompanying text.

¹⁴ Subject to relevant forthcoming public comments, the Commission will continue to apply this estimate, as it had with its July 19, 2010 final issuance of the preceding light bulb amendments. See 75 Fed. Reg. at 41,712.

(17) Failure to Display the OMB Expiration Date

Not applicable.

(18) Exceptions to Certification

Not applicable.