

Supplemental Supporting Statement
Final Amendments to the Energy Labeling Rule (formerly, “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”) is issuing several amendments to improve the Rule through harmonization of Department of Energy (“DOE”) and FTC reporting and testing rules, enhance retailer website and paper catalog disclosures, update product definitions for refrigerators and freezers, clarify the Rule’s enforcement and penalty provisions, change the Rule’s title (to more accurately reflect the Rule’s scope), and correct a few technical errors.

The Energy Labeling Rule requires manufacturers to attach yellow EnergyGuide labels to certain covered products.¹ It prohibits retailers from removing these labels or rendering them illegible.² In addition, the Rule directs sellers, including retailers, to post label information on websites and in paper catalogs from which consumers can order covered products.³ When first published in 1979,⁴ the Rule applied to eight appliance categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Subsequently, the Commission expanded the Rule’s coverage to include categories such as central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions.⁵

¹ See 42 U.S.C. 6302(a)(1); 16 C.F.R. 305.4(a)(1). The Rule requires an energy disclosure or label on all covered products or on their packages. The EnergyGuide label must appear on refrigerators, refrigerator-freezers, freezers, room air conditioners, clothes washers, dishwashers, pool heaters, central air conditioners, heat pumps, furnaces, and televisions. See 16 C.F.R. 305.11, 305.12, 305.14, and 305.17. The EnergyGuide label constitutes a visually uniform “brand” for all these products, but it has different dimensions and disclosures based on the nature and energy use of the product. See 16 C.F.R. 305 Appx. L (label prototypes). Ceiling fans must bear labels somewhat similar to EnergyGuide labels, but visually distinct. 16 C.F.R. 305.13. The remainder of the Rule’s covered products bear other types of labels or disclosures related to energy or water use (for plumbing products), rather than the EnergyGuide label. For example, common consumer light bulbs manufactured beginning in 2012 must bear a “Lighting Facts” label.

² See 16 C.F.R. 305.4(a)(2); 42 U.S.C. 6302(a)(2).

³ See 16 C.F.R. 305.20; 42 U.S.C. 6296(a).

⁴ 44 Fed. Reg. 66,466 (Nov. 19, 1979).

⁵ See 52 Fed. Reg. 46,888 (Dec. 10, 1987) (central air conditioners and heat pumps); 54 Fed.

EnergyGuide labels for appliances and televisions contain three key disclosures: estimated annual operating cost (for most products), a “range of comparability” showing the highest and lowest energy consumption or efficiencies for all similar models, and a product's energy consumption or energy efficiency rating as determined from standard DOE tests. The Rule specifies this content as well as the label's format. Manufacturers cannot place any information on the label other than that specifically allowed by the Rule. Finally, the Rule contains reporting requirements for most products. Under these requirements, manufacturers must submit data to the FTC both when they begin manufacturing new models and annually.⁶ These reports must contain, among other things, estimated annual energy consumption or energy efficiency ratings.

(2) Use of the Information

The primary purpose of the Rule is to encourage consumers to knowledgeably comparison shop for energy-efficient household products.

(3) Consideration of Using Improved Technology to Reduce Burden

The final 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

The Commission staff has not identified any other federal statutes, rules, or policies that would duplicate the final Rule.

(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

Reg. 28,031 (Jul. 5, 1989) (fluorescent lamp ballasts); 58 Fed. Reg. 54,955 (Oct. 25, 1993) (certain plumbing products); 59 Fed. Reg. 25,176 (May 13, 1994) (lighting products); 59 Fed. Reg. 49,556 (Sep. 28, 1994) (pool heaters); 71 Fed. Reg. 78,057 (Dec. 26, 2006) (ceiling fans); and 76 Fed. Reg. 1038 (Jan. 6, 2011) (televisions).

⁶ See 16 C.F.R. 305.8; 42 U.S.C. 6296(b).

burden. The Commission has provided delayed effective dates for some of the new requirements in order to 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 final labeling requirements.

(7) Circumstances Requiring Collection Inconsistent With Guidelines

The final 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 final requirements, the FTC staff considered extensive comments from various stakeholders, including industry members and energy efficiency organizations. The FTC staff also consulted with Department of Energy staff on the coordination of reporting and testing requirements.

(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 Rulemaking: 1,250 hours

Total Associated Labor Cost: \$29,300

Manufacturer EnergyGuide Images Online: The amendments require manufacturers to post images of their EnergyGuide and Lighting Facts labels online. Given approximately 15,000 total models at an estimated five minutes per model, this requirement will entail a burden of 1,250 hours. Assuming graphic designers at a mean hourly wage of \$23.41 per hour⁷ will

⁷ This estimate is based on mean hourly wages found at

implement the additional disclosure requirement, the associated labor cost would approximate \$29,300 per year.

Catalog Disclosures: The Commission’s past estimate of the Rule’s burden on catalog sellers (including Internet sellers) has assumed conservatively that catalog sellers must enter their data for each product into the catalog each year (*see, e.g.*, 71 Fed. Reg. 78,057, 78,062 (Dec. 28, 2006)). The one-time adjustment under the amendments has effectively been accounted for by this prior assumption and the associated burden estimates for catalog sellers. Thus, the Commission believes no modification to existing burden estimates for catalog sellers is necessary. Accordingly, the revised estimated total hour burden of the amendments is 1,250 hours with associated labor costs of \$29,300.

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

Any capital costs associated with the amendments are likely to be minimal.

(14) Estimated Cost to Federal Government

Commission staff believes that the cost to the FTC for administering the final Rule changes will be *de minimis*. Accordingly, 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 final amendments will result in an estimated additional 1,250 burden hours, annualized, and cumulative of all affected manufacturers, at an estimated labor cost of \$29,300 with no anticipated additional capital or other non-labor costs.

(16) Plans for Tabulation and Publication

Not applicable.

(17) Failure to Display the OMB Expiration Date

Not applicable.

http://www.bls.gov/news.release/archives/ocwage_03272012.pdf (“Occupational Employment and Wages–May 2011,” U.S. Department of Labor, released March 2012, Table 1 (“National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2011”) for graphic designers.

(18) Exceptions to Certification

Not applicable.