

Supplemental Supporting Statement
Final Amendments to the Alternative Fuels Rule
16 C.F.R. Part 309
(OMB No. #3084-0094)

(1) Necessity for Collecting the Information

The Federal Trade Commission (“FTC” or “Commission”) has issued final amendments to its “Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles” (“Alternative Fuels Rule” or “Rule”). Specifically, the amendments consolidate the FTC’s alternative fueled vehicle (“AFV”) labels with new fuel economy labels required by the Environmental Protection Agency (“EPA”) and the National Highway Traffic Safety Administration (“NHTSA”) and eliminate FTC requirements for used AFV labels. The amendments follow an Advance Notice of Proposed Rulemaking (“ANPR”)¹ and an ensuing Notice of Proposed Rulemaking (“NPR”)² that sought comment on the consolidation of FTC and EPA vehicle labels for all new AFVs and the elimination of FTC labels for used AFVs.

The Energy Policy Act of 1992 (“EPAAct 92” or “Act”)³ established federal programs that encourage the development of alternative fuels and alternative fueled vehicles (“AFVs”). Section 406(a) of the Act directed the Commission to establish uniform labeling requirements for alternative fuels and AFVs. Under the Act, such labels must provide “appropriate information with respect to costs and benefits [of alternative fuels and AFVs], so as to reasonably enable the consumer to make choices and comparisons.” In addition, the required labels must be “simple and, where appropriate, consolidated with other labels providing information to the consumer.”⁴

In response to EPAAct 92, the Commission published the Alternative Fuels Rule.⁵ The Rule requires labels on fuel dispensers for *non-liquid* alternative fuels, such as electricity, compressed natural gas, and hydrogen.⁶ The labels for electricity provide the dispensing system’s kilowatt capacity, voltage, and other related information. The labels for other non-liquid fuels disclose the fuel’s commonly used name and principal component (expressed as a percentage).⁷

The Rule also requires labels on new and used AFVs that run on liquid and non-liquid fuels, such as ethanol and other alcohols including E85 ethanol-gasoline mixtures, natural gas, liquefied petroleum gas, hydrogen, coal-derived liquid fuels, fuels derived from biological materials (*e.g.*, 100% biodiesel), and electricity. The labels for new AFVs disclose the vehicle’s estimated cruising range (*i.e.*, the travel distance on a single charge or tank of fuel), general

¹76 Fed. Reg. 31,513 (June 1, 2011). The ANPR initiated the Commission’s regulatory review of the Rule to ensure that FTC-required vehicle labels and EPA fuel economy labeling requirements are consistent.

²77 Fed. Reg. 36,423 (June 19, 2012); ROCIS ICR Ref. No. 201205-3084-002.

³Pub. L. 102-486, 106 Stat. 2776 (1992).

⁴42 U.S.C. 13232(a).

⁵60 Fed. Reg. 26,926 (May 19, 1995).

⁶The Commission’s Fuel Rating Rule, 16 C.F.R. Part 306, addresses labeling for *liquid* alternative fuels, such as ethanol and liquefied natural gas.

⁷The Rule requires fuel importers, producers, and distributors to have a reasonable basis for the information disclosed on the label, maintain records, and provide certifications when transferring fuel. 16 C.F.R. § 309.11-14.

factors consumers should consider before buying an AFV, and toll free telephone numbers and websites for additional information from the Department of Energy (DOE) and NHTSA.⁸ Labels for used AFVs contain only the general buying factors and DOE/NHTSA contact information.⁹

(2) Use of the Information

The primary purpose of the Rule is to help consumers use the proper fuel for their vehicles and to encourage them to comparison shop for alternative fuel vehicles.

(3) Consideration of Using Improved Technology to Reduce Burden

The 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 identified EPA fuel labeling requirements that duplicate existing requirements. In response, the Commission has consolidated its requirements with those of EPA.

⁸The Rule requires manufacturers to have a reasonable basis for the vehicle cruising range, and, for certain AFVs, specifies the test method for calculating that range. 16 C.F.R. § 309.22.

⁹The general factors listed on the current label include fuel type, operating costs, fuel availability, performance, convenience, energy security, energy renewability, and emissions. See 16 C.F.R. Part 309, Appendix A.

(5) Efforts to Minimize Burden on Small Organizations

The amendments should reduce the burdens for all affected entities.

(6) Consequences of Conducting the Collection Less Frequently

Not applicable; there is no flexibility to “collect” less frequently. The rules involve labeling requirements. The consolidation to a single label, however, will reduce the burden associated with the Rule’s labeling requirements.

(7) Circumstances Requiring Collection Inconsistent With Guidelines

The 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 amended requirements, FTC staff consulted with staff at the EPA, Department of Transportation, and the Department of Energy, in addition to having sought public comment previously through the ANPR and NPRM mentioned above. Public comments received did not address the FTC’s analysis under the Paperwork Reduction Act (“PRA”); and no comments¹⁰ opposed the consolidation of the FTC, EPA, and NHTSA label requirements and elimination of the FTC labels for used AFVs.

(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.

¹⁰The Commission received the following comments: Alliance of Automobile Manufacturers (# 560902-00006); American Public Gas Association (# 560902-00008); Baker, Michael (# 560902-00005); Clean Energy Fuels Corp. (# 560902-00011); General Motors Company (GM) (# 560902-00004); Johnston, Jenna (# 560902-00002); National Automobile Dealers Association (NADA) (# 560902-00010); NGVAmerica (# 560902-00009); and the Association of Global Automakers, Inc. (# 560902-00007). The comments are available at: <http://www.ftc.gov/os/comments/alterfuelsnprm/index.shtm>.

(12) Estimated Annual Hours Burden and Associated Labor Cost

In the most recent prior PRA analysis (ROCIS ICR Ref. No. 201302-3084-003), FTC staff estimated that the (pre-amended) Rule applies to 1,500,000 AFVs,¹¹ which mostly include flex-fuel vehicles. The staff estimated a two-minute average time to comply with the posting requirements for each of the approximately 1,500,000 new and used AFVs manufactured each year, for a total of 50,000 hours. Additionally, staff projected that an estimated 13 manufacturers would require 30 minutes each for recordkeeping (cumulatively, 7 hours) and that ten new AFV models introduced industry-wide each year would require approximately 2.5 hours per manufacturer to produce associated labels (cumulatively, 25 hours) for a combined total of 50,032 burden hours. With the final amendments that consolidate the FTC's AFV labels with the new fuel economy labels required by the EPA and that eliminate labeling requirements for used AFV labels, however, these disclosure estimates are reduced to zero.

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

With the above-noted consolidating and eliminating of disclosures, the associated prior labeling cost estimates of \$570,000 for AFVs¹² is also reduced to zero. Moreover, the final amendments impose no additional capital or other non-labor costs.

(14) Estimated Cost to Federal Government

Staff believes that the cost to the FTC for administering the Rule changes will be minimal.

(15) Program Changes/Adjustments

The consolidation and elimination of labeling disclosures will reduce the estimated burden hours by 50,032 hours and \$570,000 in estimated label costs.

(16) Plans for Tabulation and Publication

Not applicable.

(17) Failure to Display the OMB Expiration Date

Not applicable.

¹¹78 Fed. Reg. 14, 302 (Mar. 5, 2013).

¹²*Id.*

(18) Exceptions to Certification

Not applicable.