

Supplemental Supporting Statement
Final Regulatory Review Amendments to the Energy Labeling Rule
16 C.F.R. Part 305
(OMB No. 3084-0069)

(1) Necessity for Collecting the Information

The Commission issues final amendments to expand coverage of the Lighting Facts label, require room air conditioner labels on packaging instead of the units themselves, enhance the durability of appliance labels, and improve plumbing disclosure requirements. These final amendments complete the Commission's recent regulatory review of the Energy Labeling Rule.¹

The Energy Labeling Rule requires manufacturers to attach yellow EnergyGuide labels to certain covered products.² It prohibits retailers from removing these labels or rendering them illegible.³ 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.⁴ When first published in 1979,⁵ 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.⁶

¹ A separate information collection request will be submitted to OMB regarding proposed Commission amendments to create requirements related to a new label database on the Department of Energy's website, redesign ceiling fan labels, improve and update the comparability ranges for refrigerator labels, revise central air conditioner labels in response to new DOE enforcement requirements, improve water heater labels, and update current plumbing disclosures.

² 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 brand. For example, common consumer light bulbs manufactured beginning in 2012 must bear a "Lighting Facts" label.

³ See 16 C.F.R. 305.4(a)(2); 42 U.S.C. 6302(a)(2).

⁴ See 16 C.F.R. 305.20; 42 U.S.C. 6296(a).

⁵ 44 Fed. Reg. 66466 (Nov. 19, 1979).

⁶ See 52 Fed. Reg. 46888 (Dec. 10, 1987) (central air conditioners and heat pumps); 54 Fed. Reg. 28031 (Jul. 5, 1989) (fluorescent lamp ballasts); 58 Fed. Reg. 54955 (Oct. 25, 1993) (certain plumbing products); 59 Fed. Reg. 25176 (May 13, 1994) (lighting products); 59 Fed. Reg. 49556 (Sep. 28, 1994) (pool heaters); 71 Fed. Reg. 78057 (Dec. 26, 2006) (ceiling fans); and 76 Fed. Reg. 1038 (Jan. 6, 2011) (televisions).

EnergyGuide labels for appliances contain three key disclosures: (1) estimated annual operating cost (for most products); (2) a “range of comparability” showing the highest and lowest energy consumption or efficiencies for all similar models; and (3) a product’s energy consumption or energy efficiency rating as determined from standard Department of Energy (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.⁷ 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 comparison shop for energy-efficient household products.

(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 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 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.

⁷ See 16 C.F.R. 305.8; 42 U.S.C. 6296(b).

(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 new 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

The Commissions sought comments on these amendments in a June 2014 Supplemental Notice of Proposed Rulemaking (“2014 SNPRM”). *See* 79 Fed. Reg. 34,642 (June 18, 2014). Commenters were generally supportive of the proposal to expand the Lighting Facts label to specialty consumer lamps. The Notice also addresses several other issues for which staff has concluded that there is no incremental PRA burden or no change has been made to the Rule. These include appliance label format changes, room air conditioner label changes, additional label disclosures, range revision schedules, retailer responsibility, marketplace websites, and clothes dryer labels.

Additionally, the Commission has consulted with DOE staff in developing the amended 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: 52,883 hours

Total Associated Labor Cost: \$2,191,368

Package and Product Labeling (expanded lamp coverage): The final 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. Commission staff 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. 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, FTC staff assumes that the label design change will be implemented by graphic designers at an hourly wage rate of \$24.36 per hour based on Bureau of Labor Statistics information.⁸ Thus, staff estimates annual labor cost for this adjustment will total \$243,600 (10,000 hours x \$24.36 per hour).

Testing (expanded lamp coverage): Commission staff assumes that manufacturers will have to test 3,000 basic light bulb models out of an estimated 6,000 covered products. The Commission also assumes that testing will require 14 hours for each model for a total of 42,000 hours. In calculating the associated labor cost estimate, staff assumes that this work will be implemented by electrical engineers at an hourly wage rate of \$46.05 per hour. Thus, Commission staff estimates that the label design change will result in associated labor costs of approximately \$1,934,100 (42,000 hours x \$46.05 per hour).

Recordkeeping (expanded lamp coverage): Pursuant to section 305.21 of the amended Rule, manufacturers of the newly covered specialty bulbs must keep test data on file for a period of two years after the production of a covered product model has been terminated. Assuming one minute per model and 3,000 basic models, the recordkeeping burden would total 50 hours. Assuming further that these filing requirements will be implemented by data entry workers at an hourly wage rate of \$15.48 per hour, the associated labor cost for recordkeeping would be approximately \$774 per year.

Catalog Disclosures (expanded lamp coverage): The amendments would require sellers offering covered products through catalogs (both online and print) to disclose energy use for each light bulb for sale. Because this information is supplied by the product manufacturers, the burden on the retailer consists of incorporating the information into the catalog presentation. FTC staff estimates that there are 200 online and paper catalogs for these products that would be subject to the Rule's catalog disclosure requirements. Staff additionally estimates that the average catalog contains approximately 250 such products and that entry of the required information takes one minute per covered product.⁹ The cumulative disclosure burden for catalog sellers is thus 833 hours (200 retailer catalogs x 250 products per catalog x 1 minute each

⁸ The mean hourly wage cited above and those that follow are drawn from Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment and Wages – May 2014, Table 1 (National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2014), available at: <http://www.bls.gov/news.release/ocwage.t01.htm>.

⁹ This estimate has been increased from the 2014 SNPRM to reflect the likelihood that retail websites offer a larger number of specialty consumer lamp models than first estimated.

per product shown). Assuming that the additional disclosure requirement will be implemented by data entry workers at an hourly wage rate of \$15.48, associated labor cost would be approximately \$12,894 per year.

Total Estimate: Accordingly, the estimated total hour burden of the amendments is 52,883 with associated labor costs of \$2,191,368.

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

Commission staff 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 an approximate three-year period to meet the new requirements¹⁰ and that package label changes for each product will cost \$1,335.¹¹ 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 over 3 years). As for product labeling, the Commission assumes that the one-time labeling change will cost \$200 per model for an annualized estimated total of \$200,000 (3,000 models x \$200 over 3 years). Annualized in the context of a 3-year PRA clearance, the total non-labor costs would thus average \$1,535,000.

(14) Estimated Cost to Federal Government

Staff believes that the incremental cost to the FTC for administering the Rule changes will be *de minimis*. Accordingly, Commission staff retains its prior estimate of \$90,000 per year as the cost to the Government for implementing the overall 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 amendments will result in an estimated additional 52,883 hours burden hours, annualized, and cumulative of all affected manufacturers, \$2,191,368 in associated labor costs and \$1,535,000 in capital/non-labor costs.

¹⁰ This assumes that manufacturers will change packages for one-third of their products in the normal course of business each year. The multi-year compliance period (two and a half years) 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.

¹¹ See 75 Fed. Reg. at 41712 n. 149 and accompanying text.

(16) **Plans for Tabulation and Publication**

Not applicable.

(17) **Failure to Display the OMB Expiration Date**

Not applicable.

(18) **Exceptions to Certification**

Not applicable.