

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

(1) Necessity for Collecting the Information

The Commission proposes amendments to the Energy Labeling Rule to create requirements related to a new label database on the Department of Energy's (DOE'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.

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

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

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 brand. 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. 66466 (Nov. 19, 1979).

⁵ 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).

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.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 comparison shop for energy-efficient household products.

(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

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

(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.

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

(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 consulted with DOE staff.

(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: 2,242 hours

Total Associated Labor Cost: \$53,177

Labeling (portable air conditioners): The proposed amendments require manufacturers to create and affix labels on these portable products. The amendments specify the content, format, and specifications of the required labels. Manufacturers would add only the energy consumption figures derived from testing and other product-specific information. Consistent with past assumptions regarding appliances, FTC staff estimates that it will take approximately six seconds per unit to affix labels. Staff also estimates that there are 1,000,000 portable air conditioner units distributed in the U.S. per year. Accordingly, the total disclosure burden per year for refrigeration products would be 1,667 hours (1,000,000 x 6 seconds). Assuming that product labels will be affixed by electronic equipment installers at an hourly wage of \$23.81⁷ per hour, cumulative associated labor costs would total \$39,691 per year.

Testing (portable air conditioners): Manufacturers need not test each basic model annually; they must retest only if the product design changes in such a way as to affect energy

⁷ 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>.

consumption. Staff believes that the frequency with which models will be tested every year ranges roughly between 10% and 50%. It is likely that only a small portion of the tests conducted will be attributable to the proposed Rule's requirements. Nonetheless, given the lack of specific data on this point, FTC staff conservatively assumes that all of the tests conducted would be attributable to the Rule's requirements and will apply to that assumption the high-end of the range noted above for frequency of testing. Based on an informal review of products offered on websites as well as consultation with DOE staff, staff estimates that there are approximately 150 basic models, that manufacturers will test two units per model, and that testing would require one hour per unit tested. Given these estimates and the above-noted assumption that 50% of these basic models would be tested annually, testing would require 150 hours per year. Assuming further that this testing will be implemented by electrical engineers, and applying an associated hourly wage rate of \$46.05 per hour, labor costs for testing would total \$6,908.

Recordkeeping (portable air conditioners): Pursuant to Section 305.21 of the proposed amended Rule, manufacturers 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 150 basic models, the recordkeeping burden would total 3 hours, rounded upward. 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 \$46 per year.

Reporting Requirements (online database and portable air conditioners): The proposed amendments would require manufacturers to furnish links to images of their EnergyGuide and Lighting Facts labels. Given approximately 15,000 total models at an estimated 1 minute per model, this requirement will entail a burden of 250 hours. In addition, the proposed labeling for these products would increase the Rule's reporting requirements by adding portable air conditioners. Staff estimates that the average reporting burden for these manufacturers is approximately two minutes per basic model to enter information into DOE's online database. Based on this estimate, multiplied by an estimated total of 150 basic portable air conditioner models, the annual reporting burden for manufacturers is an estimated 5 hours (2 minutes x 150 models ÷ 60 minutes per hour). 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 reporting would be approximately \$3,947 per year.

Catalog Disclosures (portable air conditioners): The proposed amendments would require sellers offering covered products through catalogs (both online and print) to disclose energy use for each portable air conditioner model offered 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 50

such products and that entry of the required information takes one minute per covered product. The cumulative disclosure burden for catalog sellers is thus 167 hours (200 retailer catalogs x 50 products per catalog x 1 minute each 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 costs would approximate \$2,585 per year.

Estimated annual non-labor cost burden (portable air conditioners): Manufacturers are not likely to require any significant capital costs to comply with the proposed portable air conditioner amendments. Industry members, however, will incur the cost of printing labels for each covered unit. The estimated label cost, based on estimates of 1,000,000 units and \$.03 per label, is \$30,000 (1,000,000 x \$.03).

Total Estimate: Accordingly, the estimated total hour burden of the proposed amendments is 2,242 with associated labor costs of \$53,177 and annualized capital or other non-labor costs totaling \$30,000.

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

Any capital costs or other non-labor costs associated with the amendments are likely to be minimal. However, regarding portable air conditioners, manufacturers will incur the cost of printing labels for each covered unit. The estimated label cost, based on estimates of 1,000,000 units and \$.03 per label, is \$30,000 (1,000,000 x \$.03).

(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 amendments will result in an estimated additional 2,242 hours burden hours, annualized, and cumulative of all affected manufacturers, \$53,177 in associated labor costs, and \$30,000 in capital/non-labor costs.

(16) Plans for Tabulation and Publication

Not applicable.

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

Not applicable.

(18) **Exceptions to Certification**

Not applicable.