

requirements for Air Force, Navy, and Marine aircraft operating over the Falcon Bombing Range. Specifically, R-5601F would provide additional maneuvering area needed for aircraft conducting training in adjacent restricted areas R-5601B and R-5601C which are located over the West Range Target Area and the Falcon Bombing Range, respectively. This action would also enhance Fort Sill's ability to host joint training.

### The Proposal

At the request of the U.S. Army, the FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 73 to establish R-5601F adjacent to and north of R-5601B and R-5601C. Establishment of the new restricted area would provide additional airspace needed to support new high angle air-to-ground training requirements for Air Force, Navy, and Marine aircraft operating over the Falcon Bombing Range and would enhance Fort Sill's ability to host joint training.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

## PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 73.56 [Amended]

2. Section 73.56 is amended as follows:

\* \* \* \* \*

#### R-5601F Fort Sill, OK (New)

Boundaries. Beginning at lat. 34°46'24" N., long. 98°52'00" W.; thence clockwise via the 49 NM arc of SPS VORTAC to lat. 34°47'00" N., long. 98°51'00" W.; to lat. 34°43'46" N., long. 98°49'55" W.; thence clockwise via the 46 NM arc of SPS VORTAC to lat. 34°45'03" N., long. 98°29'46" W.; to lat. 34°46'15" N., long. 98°25'01" W.; to lat. 34°47'00" N., long. 98°17'46" W.; to lat. 34°46'45" N., long. 98°17'01" W.; to lat. 34°46'06" N., long. 98°17'01" W.; to lat. 34°46'06" N., long. 98°21'01" W.; to lat. 34°43'45" N., long. 98°21'01" W.; to lat. 34°43'30" N., long. 98°21'21" W.; to lat. 34°43'30" N., long. 98°35'40" W.; to lat. 34°45'00" N., long. 98°40'31" W.; to lat. 34°42'15" N., long. 98°50'01" W.; to the point of beginning. Excluding that airspace: (1) Below 5500 feet MSL beginning at lat. 34°44'28" N., long. 98°46'16" W.; thence clockwise via the 46 NM arc of SPS VORTAC to lat. 34°45'09" N., long. 98°30'57" W.; to lat. 34°43'30" N., long. 98°30'00" W.; to lat. 34°43'30" N., long. 98°35'40" W.; to lat. 34°45'00" N., long. 98°40'31" W.; to lat. 34°43'09" N., long. 98°46'56" W.; to the point of beginning; and, (2) Below 3500 feet MSL within a 1 NM radius of lat. 34°46'46" N., long. 98°17'46" W.

Designated altitudes. 500 feet AGL to FL 400. Times of Designation. Sunrise to 2200 local time, Monday–Friday; other times by NOTAM.

Controlling Agency. FAA, Fort Worth ARTCC.

Using Agency. Commanding General, United States Army Field Artillery Center (USAFACFS), Fort Sill, OK.

\* \* \* \* \*

Issued in Washington, DC, October 27, 2005.

**Edith V. Parish,**

*Manager, Airspace and Rules.*

[FR Doc. 05–21878 Filed 11–1–05; 8:45 am]

**BILLING CODE 4910–13–P**

## FEDERAL TRADE COMMISSION

### 16 CFR Part 305

RIN 3084–AB03

### Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Advance notice of proposed rulemaking; request for comment.

**SUMMARY:** Section 137 of the Energy Policy Act of 2005 requires the Commission to conduct a rulemaking to examine the effectiveness of current energy efficiency labeling requirements for consumer products issued pursuant to the Energy Policy and Conservation Act. In response to that directive, the Commission is seeking comments on the effectiveness of the Appliance Labeling Rule and suggestions for improvements to the energy labeling program. The Commission is also requesting comments about the overall costs and benefits of the Rule and its overall regulatory and economic impact as a part of the Commission's systematic review of all its regulations and guides.

**DATES:** Comments must be received by January 13, 2006.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to "Energy Labeling, Project No. R511994" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex O), 600 Pennsylvania Avenue, NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments containing confidential material must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission Rule 4.9(c).<sup>1</sup>

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with

Comments filed in electronic form should be submitted by clicking on the following Web link: <https://secure.commentworks.com/ftc-energylabeling> and following the instructions on the Web-based form. To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the <https://secure.commentworks.com/ftc-energylabeling> Web link. You may also visit <http://www.regulations.gov> to read this advance notice of proposed rulemaking, and may file an electronic comment through that Web site. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments received by the Commission, whether filed in paper or in electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, (202) 326-2889, Division of Enforcement, Federal Trade Commission, 601 New Jersey Avenue, NW., Washington, DC 20580.

#### SUPPLEMENTARY INFORMATION:

##### I. Energy Policy Act of 2005

Section 137 of the Energy Policy Act of 2005 amends the Energy Policy and Conservation Act of 1975 (EPCA)<sup>2</sup> to require the Commission to initiate a rulemaking to consider "the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency." As part of this effort, the Act directs the Commission to consider "changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels." The Act gives the Commission 90 days to initiate the rulemaking and two years to complete it. To implement this directive, the Commission is seeking comments on the effectiveness

of the FTC's energy labeling regulations for consumer products, generally referred to as the Appliance Labeling Rule (16 CFR part 305).

##### II. Energy Policy and Conservation Act Labeling Requirements

Section 324 of EPCA requires the FTC to prescribe labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for a variety of products covered by the statute, including home appliances (e.g., refrigerators, dishwashers, air conditioners, and furnaces), lighting, and plumbing products.<sup>3</sup> EPCA requires that labels for covered appliances disclose the estimated annual operating cost of such products, as determined by the Department of Energy (DOE) test procedures (42 U.S.C. 6294(c)).<sup>4</sup> The Commission, however, may require a different measure of energy consumption if DOE determines that the cost disclosure is not technologically feasible, or the Commission determines such a disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. Section 324(c) also requires that the label contain information about the range of estimated annual operating costs (or energy consumption) for covered products. The Commission may also require the disclosure of energy information found on the label in any printed material displayed or distributed at the point of sale. In addition, the Commission may direct manufacturers to provide additional energy-related disclosures on the label (or information shipped with the product) including instructions for the maintenance, use, or repair of the covered product.

<sup>3</sup> 42 U.S.C. 6294. For most appliance products, the Commission must prescribe labeling rules unless it determines that labeling is not technologically or economically feasible (42 U.S.C. 6294(a)(1)). For central air conditioners, heat pumps, furnaces, and clothes washers, the statute requires labeling unless the Commission finds that labeling is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions (42 U.S.C. 6294(a)(2)(A)). Pursuant to § 6294(a)(1), the Commission determined not to require labeling for television sets, kitchen ranges, ovens, clothes dryers, humidifiers, dehumidifiers, and certain home heating equipment other than furnaces. See 44 FR 66466, 66468-66469 (Nov. 19, 1979).

<sup>4</sup> Section 323 of EPCA (42 U.S.C. 6293) directs DOE to develop test procedures for major household appliances. Manufacturers must follow these test procedures to determine their products' compliance with DOE's energy conservation standards (required by § 325 of EPCA), and to derive the energy consumption or efficiency values to put on required labels.

##### III. FTC's Appliance Labeling Rule

The Commission's Appliance Labeling Rule implements the requirements of EPCA by directing manufacturers to disclose energy information about major household appliances. This information enables consumers to compare the energy use or efficiency of competing models.<sup>5</sup> When initially published in 1979,<sup>6</sup> the Rule applied to eight appliance categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Since then, the Commission has expanded the Rule's coverage to include central air conditioners, heat pumps, fluorescent lamp ballasts, plumbing products, lighting products, and pool heaters and some other types of water heaters.<sup>7</sup>

Under the Rule, manufacturers must disclose specific energy consumption or efficiency information about their products at the point of sale in the form of an "EnergyGuide" label affixed to each unit. The information on the EnergyGuide label also must appear in catalogs and on internet sites from which covered products can be ordered. The Rule directs manufacturers to derive the information from standardized tests issued by DOE.

Required labels for appliances must also include a "range of comparability" (published by the Commission) that shows the highest and lowest energy consumption or efficiencies for all similar appliance models. These ranges of comparability are intended to help consumers determine how a specific model compares to others available in the market. Labels for most appliances must provide the product's estimated annual operating cost. Manufacturers must calculate these costs using national average cost figures for energy (e.g., electricity, natural gas, etc.) published by DOE. In addition to the required EnergyGuide labels, manufacturers of furnaces, central air conditioners, and heat pumps must provide cost information for their products in either fact sheets or an industry directory.

The Rule contains very specific requirements for the content and format of the EnergyGuide labels. Manufacturers cannot place any information on the label other than that

<sup>5</sup> More information about the Rule can be found at <http://www.ftc.gov/appliances>.

<sup>6</sup> 44 FR 66466 (Nov. 19, 1979).

<sup>7</sup> See 52 FR 46888 (Dec. 10, 1987) (central air conditioners); 59 FR 49556 (Sept. 28, 1994) (pool heaters); 54 FR 28031 (July 5, 1989) (fluorescent lamp ballasts); 58 FR 54955 (Oct. 25, 1993) (certain plumbing products); and 59 FR 25176 (May 13, 1994) (lighting products).

applicable law and the public interest. See 16 CFR 4.9(c).

<sup>2</sup> 42 U.S.C. 6291 *et seq.*

specifically allowed by the Rule. In 2000, the Commission issued an exemption allowing manufacturers to include the "Energy Star" logo on the EnergyGuide label for covered appliances (65 FR 17554 (Apr. 30, 2000)). Energy Star is a voluntary labeling program that identifies high efficiency products. The Environmental Protection Agency (EPA) and DOE administer the Energy Star program.<sup>8</sup>

The Commission's Rule contains certain reporting requirements which direct manufacturers for most covered products to file reports with the FTC annually and when they begin manufacturing new models. These reports must contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures (16 CFR 305.8(b)). Pursuant to section 305.10, the Commission publishes new ranges of comparability if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission publishes a statement each year that the prior ranges remain in effect for the next year.

The Rule has different labeling requirements for consumer products other than appliances (see 16 CFR 305.11(d), (e), & (f)). For example, manufacturers of fluorescent lamp ballasts and certain tube-type fluorescent bulbs must disclose an encircled "E" on ballasts and on luminaires containing ballasts, as well as on packaging. The "E" signifies compliance with DOE minimum efficiency standards. Manufacturers of showerheads, faucets, toilets, and urinals must disclose water usage information on the products, packaging and labeling. Manufacturers of certain incandescent bulbs, spot and flood bulbs, and screw-base compact fluorescent bulbs must disclose, on packaging, the light output in lumens, energy used in watts, voltage, average life, and number of bulbs. They also must explain how purchasers can select the most energy efficient bulb for their needs.

#### IV. Issues and Questions for Comment

As directed by the Energy Policy Act of 2005, the Commission is publishing this notice to seek comment on the effectiveness of the current appliance labeling requirements. The Commission has outlined below some specific issues and questions related to the current labeling program. These issues include the overall effectiveness of existing

labeling requirements, the need for a new label design, and the benefits and costs of alternative label formats. The Commission is also seeking comments on other issues such as the energy descriptors used on current labels and energy disclosures for products not generally sold in showrooms. The Commission invites interested persons to submit written comments on any issue of fact, law or policy that may bear upon the FTC's current labeling requirements. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before January 13, 2006. After examining the comments received, the Commission will determine whether to propose for comment any specific amendments to the current requirements.

##### *A. Effectiveness of Labeling Program*

The original EnergyGuide label created by the Commission in 1979 contained three energy-related disclosures for most covered products: (1) The estimated annual operating cost of the model, (2) the range of operating costs for similar models displayed in the form of a bar graph, and (3) a grid which provided the operating cost of the model at different energy costs. In 1994, the Commission revised the label so that energy use or efficiency (as opposed to operating cost) appears as the primary descriptor on the label.<sup>9</sup> The revised labels continued to display cost information (for most products), but the cost figures were moved to the bottom half of the label. As part of the 1994 review of the Rule, the Commission conducted consumer research and made certain format changes to the EnergyGuide label as a result. These changes enhanced the appearance of the range and bar graph on the label in an effort to reduce consumer confusion (see Figure 1). The Commission has not conducted any consumer research about the effectiveness of the label or alternative formats since adopting those changes in 1994, and the same EnergyGuide label has been in use since that time.

In August 2002, the American Council for an Energy Efficient Environment (ACEEE) released a report that summarized research it had conducted

on the EnergyGuide label's efficacy.<sup>10</sup> The research included manufacturer and consumer interviews, consumer focus groups, a mall intercept survey, and a simulated shopping experiment. According to ACEEE's report, the interviews and focus groups suggested that consumers are familiar with the EnergyGuide but their use of the label appears to be low. According to these interviews and focus groups, consumers found the label to be overly "wordy, cluttered, and complex." ACEEE concluded that the EnergyGuide "can be redesigned to improve consumer comprehension, encourage wider use of the label, and motivate consumers to consider energy use when purchasing a labeled appliance."<sup>11</sup>

ACEEE's 2002 report also examined several different formats and graphical elements for the EnergyGuide label. The ACEEE report considered various categorical labels (i.e., those using a step ranking system such as stars or letters to indicate relative energy use) and continuous labels (i.e., those containing a bar graph or similar item which displays information on a continuous scale without discrete ranks or categories). Among other things, the report recommended the adoption of a "categorical" label based on a star system (e.g., one to five stars). Various types of categorical labels are used in Europe, Australia, Brazil, Thailand, and other countries (see sample European Label at Figure 2).<sup>12</sup> According to ACEEE, the research suggested that categorical labels "are easy to use and quick to decipher." Of the continuous label designs considered, ACEEE found that the bar graph with visible marks denoting the graph's scale "appears most promising."<sup>13</sup> ACEEE's report found that most consumers preferred categorical labels over bar graphs and other "continuous" label designs.

To facilitate the Commission's efforts to consider the effectiveness of the

<sup>10</sup> Thorne, Jennifer and Egan, Christine, "An Evaluation of the Federal Trade Commission's EnergyGuide Label: Final Report and Recommendations," ACEEE, August 2002 [hereinafter "ACEEE 2002 Report"]. The Report was funded in part by DOE, EPA, and other organizations. It is available online at <http://aceee.org/pubs/ao21full.pdf>. The Commission has not determined what, if any, reliance it will place on the ACEEE's report (or any other labeling study) during this proceeding.

<sup>11</sup> *Id.* at v-vi.

<sup>12</sup> See Wiel, Stephen, and McMahon, James E., "Energy-Efficiency Labels and Standards: A Guidebook for Appliances, Equipment, and Lighting, 2nd Edition," Collaborative Labeling and Appliance Standards Program (CLASP), 2005.

<sup>13</sup> The ACEEE report contains a sample label with such a bar graph (pp. vi and 27-28) in addition to many other sample labels featuring various bar graph and categorical designs. See <http://aceee.org/pubs/ao21full.pdf>.

<sup>8</sup> See <http://www.energystar.gov>.

<sup>9</sup> The Commission concluded that the use of operating cost as the primary descriptor was not likely to assist consumers. It found, among other things, that changes in national average energy costs necessitated frequent changes to ranges of comparability which, in turn, could yield inconsistent cost information in showrooms. See 53 FR 22106, 22110 (Jun. 13, 1988) and 58 FR 12818, 12827 (Mar. 5, 1993).

existing labeling program, we request that commenters consider the following questions:<sup>14</sup>

1. Do any recent reports, studies, or research provide data with which to estimate the benefits and costs of current consumer appliance energy labeling programs in the United States? In particular, have any such studies examined the effectiveness of the EnergyGuide label and alternative formats and approaches? Are there any recent studies from other countries that would be helpful for the Commission to consider?

2. How should the Commission measure the “effectiveness” of the appliance labeling program “in assisting consumers in making purchasing decisions”? For example, should effectiveness be measured by consumer comprehension of specific label elements, consumer preference for different labels, the impact of labels on product choice, or other means?

3. How effective is the EnergyGuide label in providing consumers with useful, accurate information about the energy consumption or energy efficiency of covered products? What is the net benefit of the current EnergyGuide labels? Can appliance energy labels be modified to increase the net benefits of consumer energy labeling programs in the United States?

4. What is the effectiveness of the current EnergyGuide label in improving energy efficiency?

5. What has been the impact of the Energy Star program on the effectiveness of the EnergyGuide label and its usefulness for consumers?

6. Would changes to the current label design and format significantly improve or have a significant impact upon the effectiveness of the labels? How is the effectiveness of the EnergyGuide label affected by factors unrelated to label design (e.g., consumer priorities)?

7. What changes, if any, should be made to the current appearance of the EnergyGuide label (content, size, format, color, graphical presentation, etc.)?

8. Should the FTC change the EnergyGuide label to require a categorical design such as a star based label? Would a categorical design yield benefits for consumers? What would be the costs of implementing a categorical label system? How would the benefits of such a system compare to the costs?

9. Do commenters have views about the design, methodology, conclusions,

or other aspects of the ACEEE 2002 report?

10. Would a categorical label design significantly improve energy efficiency? Would consumers interpret a categorical label as an indicia of product quality instead of energy performance or efficiency?

11. What criteria would the FTC need to use to assign a star rating to various models in specific product categories (i.e., criteria for a product to receive five stars, one star, etc.)? Would the stars be based on the DOE minimum efficiency standards, the range of energy consumption for models in a particular class, or some other measure? How would a star-based categorical label depict the required ranges? For example, would the lowest rating (i.e., one star) apply to the least efficient products in a product class category regardless of the number of products in the class and the efficiency of those products relative to DOE standards?

12. Would a categorical label require the FTC to make judgments about the relative energy efficiency of products in the market? If so, what information would the Commission need to make such judgments? How would it obtain the necessary information? What would be the costs of making such determinations?

13. Would a star based EnergyGuide label be duplicative of the Energy Star program? Would the star based label cause consumer confusion given the existence of the Energy Star program?

14. Section 305.19 of the Rule contains an exemption which allows manufacturers to place the Energy Star logo on the EnergyGuide label for qualified products. Under the exemption, the Energy Star logo must be placed “above the comparability bar in the box that contains the applicable range of comparability.”

Should the Commission consider changes to that exemption (e.g., changes to the placement of the logo on the label)?

15. In addition to considering the categorical label as required by the Energy Policy Act of 2005, should the Commission consider other formats or graphical representations for the EnergyGuide label? Are there improvements that can be made to the current bar graph design in the EnergyGuide label?

#### *B. Energy Descriptors For Various Products*

Currently, EnergyGuide labels for most products provide information on the energy use (or efficiency) of the model, the range of energy use (or efficiency) in the market, and an

estimated annual operating cost. The product labels display different energy information depending on the product. For example, refrigerator labels contain energy use information in the form of kilowatt-hours per year while room air conditioners display energy efficiency information through an Energy Efficiency Ratio (EER). In addition, labels for central air conditioning units, heat pumps, furnaces, and pool heaters do not contain cost information.

To aid the Commission in considering possible Rule changes for this issue, we request that commenters consider the following questions:

1. Are the current energy descriptors understandable to consumers? What changes, if any, should be made to the energy descriptors used on the EnergyGuide label?

2. Should the FTC consider requiring estimated annual operating costs as the primary descriptor on EnergyGuide labels in lieu of energy consumption or energy efficiency information? What are the costs and benefits of requiring operating costs as the primary descriptor?

3. Should the Commission consider different energy descriptors for existing products? For instance, should the clothes washer label disclose the model's efficiency rating using the measure currently required by DOE (the “Modified Energy Factor”) instead of the product's annual energy consumption?

#### *C. Disclosures for Central Air Conditioning, Heat Pumps, and Furnaces*

The Commission is also interested in current labeling requirements for products that generally do not appear in showrooms where consumers can compare labels on competing models. Such products include central air conditioning units, heat pumps, and furnaces.<sup>15</sup> The Commission seeks comment on whether there are alternatives to labeling that would more effectively communicate energy efficiency information to consumers for such products. Although the Rule requires manufacturers to disclose energy information for these products through means other than labels, such as fact sheets and directories (see 16 CFR 305.11(b)), it is unclear whether such methods provide helpful information for consumers. Fact sheets contain detailed information that may

<sup>14</sup> Where appropriate, the Commission requests enough detail about data, study design, statistical analysis, and findings to enable the FTC to understand the methodology that was used to conduct the analysis.

<sup>15</sup> See, e.g., 44 FR at 66470 (Nov. 19, 1979) (“The majority of furnace purchases are made either in the consumer's home or as part of the consumer's purchase of a home. As a result, few consumers have an opportunity to see a display model before the furnace is installed.”).

not be easy to understand such as cost charts, regional heating and cooling maps, and equations related to the energy performance. In addition, most industry members provide cost information in industry directories instead of preparing fact sheets. It is unclear whether consumers normally consult these industry directories in making their purchasing decisions. To aid the Commission in evaluating these existing requirements, the Commission seeks information on the following questions:

1. How do consumers generally receive information about the energy efficiency of central air conditioners, heat pumps, and furnaces?
2. Are EnergyGuide labels on central air conditioners, heat pumps, and furnaces assisting consumers in their purchasing decisions? If not, should the Commission consider an alternative method of ensuring that consumers have access to useful efficiency information for these products?
3. Should the Commission consider changes to the current fact sheet requirements for central air conditioners, heat pumps, and furnaces?
4. Are there any alternative or additional forms of information (such as brochures, catalogs, or information sheets) that the FTC could require at the point of sale that would help consumers in making their purchasing decisions for these products?

#### *D. Reporting Requirements*

Section 326(b) of EPCA requires manufacturers to notify the Commission of new models they produce and also directs them to file an annual report with energy consumption information about their products. The annual report information is available on the FTC Web site at <http://www.ftc.gov/appliancedata>. To aid the Commission in considering possible changes to the Rule's reporting requirements, we request that commenters consider the following questions:

1. What changes, if any, should be made to the specific information covered by existing reporting requirements in the Rule? Would such changes improve the effectiveness of the labeling program for consumers?
2. Is there additional product information that the FTC should require, consistent with its statutory authority, in reports from manufacturers? What are the costs and benefits of requiring such additional information? Are there reporting requirements that the FTC should eliminate from the Rule (consistent with current statutory requirements)?

#### *E. Annual Revisions to the Ranges of Comparability*

As discussed above, the EnergyGuide label must contain a range of comparability that shows the highest and lowest energy consumption or efficiencies for all similar appliance models. EPCA does not specify when the Commission must change the ranges, but states it cannot do so "more often than annually." 42 U.S.C. 426(c). The Commission's regulations indicate that the FTC will revise ranges annually, if appropriate (16 CFR 305.10). For some products, such as dishwashers, the Commission has changed the applicable ranges several times over the last few years. When the Commission changes the ranges, manufacturers must amend their labels to reflect the new ranges and update the operating costs on the labels using a new national average cost of electricity. Frequent range changes can cause the labels on different models in the same showroom to display inconsistent range and cost information because the models on display may have been manufactured at different times. This may be confusing to consumers. Frequent range revisions also impose a burden on manufacturers because they must change their product labels. To aid the Commission in considering possible Rule changes for this issue, we request that commenters consider the following questions:

1. Are changes in the energy use of products in the market significant enough to warrant an examination of the ranges of comparability every year?
2. Should the Commission consider amending the Rule so that the FTC examines the comparability ranges less often than annually? If so, how often should the Commission examine the ranges? Would such a change affect the effectiveness of the labeling program?
3. Are there ways to alleviate potential consumer confusion caused when certain product labels display new range and cost information and other models in the same showroom have labels displaying old range and cost information?

#### *F. Lighting and Plumbing Products*

What changes, if any, should be made to existing labeling requirements for lighting and plumbing products in 16 CFR part 305? What are the costs and benefits of any proposed labeling changes for lighting and plumbing products?

#### **V. Regulatory Review**

The Commission conducts scheduled reviews of its rules and guides in an effort to seek information about their

costs and benefits and regulatory and economic impact. The regulatory review of the Appliance Labeling Rule had been scheduled for 2008. The Commission is combining that scheduled regulatory review with the present rulemaking required by the Energy Policy Act of 2005. Accordingly, in addition to the specific questions listed above, the Commission is also soliciting general comments on, among other things, the economic impact of and the continuing need for the Rule; possible conflicts between the Rule and State, local, or other Federal laws; and the effect on the Rule of any technological, economic or other industry changes.

The Commission is interested in receiving data, surveys and other empirical evidence to support comments submitted in response to this notice. As part of the regulatory review, the Commission is particularly interested in receiving comments and supporting data in response to the following questions:

- (A) What benefits, if any, has the Rule provided to consumers of products covered by the Rule?
- (B) What changes, if any, should be made to the Rule to increase the benefits of the Rule to consumers? How would these changes affect the costs the Rule imposes on industry members?
- (C) What significant burdens or costs, if any, including costs of compliance, has the Rule imposed on industry members subject to its requirements? Has the Rule provided benefits to such industry members?
- (D) What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on industry members subject to its requirements? How would these changes affect the benefits provided by the Rule?
- (E) Does the Rule overlap or conflict with other Federal, State, or local laws or regulations?
- (F) Since the Rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rule?
- (G) What significant burdens or costs, if any, including costs of compliance, has the Rule imposed on small businesses subject to its requirements? How do these burdens or costs differ from those imposed on larger businesses subject to the Rule's requirements?
- (H) What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on small businesses? How would these changes affect the benefits of the Rule? Would such changes adversely affect the competitive position of larger businesses?

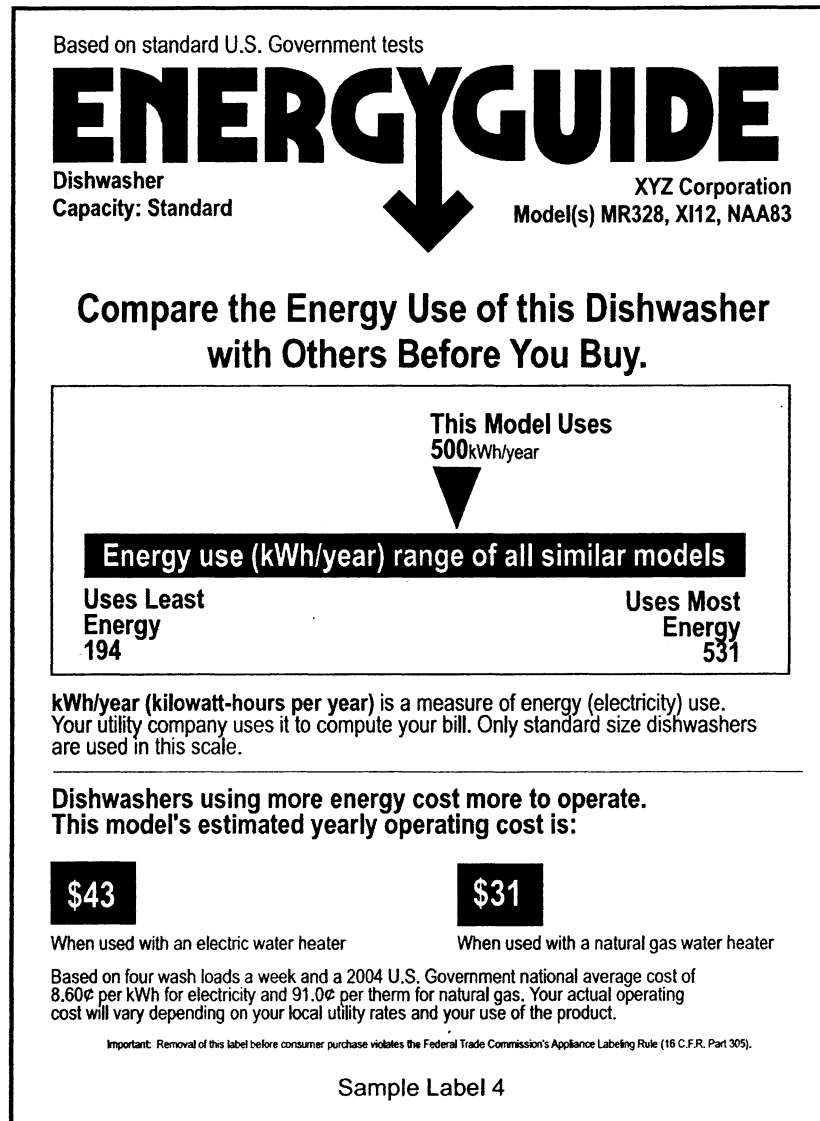
(I) Are there any other costs or benefits associated with the Rule?

### List of Subjects in 16 CFR Part 305

Advertising, Consumer protection,  
Energy conservation, Household

appliances, Labeling, Lamp products,  
Penalties, Reporting and recordkeeping  
requirements.

BILLING CODE 6750-01-P



**FIGURE 1 - (Current EnergyGuide Label - Sample)**

<h1>Energy</h1> <p>Manufacturer Model</p>		<p>Logo ABC 123</p>
<p>More efficient</p> <p>Less efficient</p>		 
<p>Energy consumption kWh/year <i>(Based on standard test results for 24h)</i></p> <p>Actual consumption will depend on how the appliance is used and where it is located</p>		<p><b>350</b></p>
<p>Fresh food volume l Frozen food volume l</p>		<p>200 80</p>
<p><b>Noise</b> (dB(A)re 1 pW)</p> <p>Further information is contained in product brochures</p> <p>Norm EN 153 May1990 Refrigerator Label Directive 94/2/EC</p>		<p>40</p>

**FIGURE 2 (European Categorical Label - Sample)**

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 05-21817 Filed 11-1-05; 8:45 am]

BILLING CODE 6750-01-C

## DEPARTMENT OF DEFENSE

### Defense Contract Audit Agency

#### 32 CFR Part 317

#### Privacy Act; Implementation

**AGENCY:** Defense Contract Audit Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Defense Contract Audit Agency (DCAA) is proposing to update the DCAA Privacy Act Program Rules, 32 CFR, Part 317, by deleting references to a cancelled publication and by adding guidance concerning the blanket exemption for classified material.

**DATES:** Comments must be received on or before January 3, 2006 to be considered by this agency.

**ADDRESSES:** Send comments to Senior Advisor, Defense Contract Audit Agency, Information and Privacy, CM, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060-6201.

**FOR FURTHER INFORMATION CONTACT:** Ms. Debbie Teer at (703) 767-1002.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities

because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

#### Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

#### Executive Order 13132, "Federalism"

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 317

Privacy.

Accordingly, 32 CFR part 317 is proposed to be amended as follows:

#### PART 317—DCAA PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR part 317 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a)

##### § 317.4 [Amended]

2. Amend § 317.4 as follows:

- a. Remove paragraph (c)(5).
- b. Redesignate paragraphs (c)(6), (c)(7), and (c)(8) as (c)(5), (c)(6), and (c)(7).
3. Amend part 317 by adding § 317.7 as follows:

##### § 317.7 Exemptions.

All systems of records maintained by DCAA will be exempt from the requirements of 5 U.S.C. 552a(d) and (e)(4)(H) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958, that is

required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary since certain record systems, not otherwise specifically designated for exemptions herein, may contain isolated items of information which have been properly classified.

Dated: October 27, 2005.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## POSTAL SERVICE

### 39 CFR Part 111

#### Bundling Flat-Size and Irregular Parcel Mail—Bundle Integrity

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes that mailers use two bands to secure all bundles of presorted rate flat-size mail and irregular parcels that are not shrinkwrapped. This proposal would remove the option to secure bundles up to 1 inch thick with only one band.

**DATES:** We must receive your comments on or before December 2, 2005.

**ADDRESSES:** Mail or deliver comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza SW., Rm. 3436, Washington, DC 20260-3436. You may inspect and photocopy all written comments between 9 a.m. and 4 p.m., Monday through Friday, at USPS Headquarters Library, 11th Floor North, 475 L'Enfant Plaza SW., Washington, DC 20260.

**FOR FURTHER INFORMATION CONTACT:** Bill Chatfield at 202-268-7278.

**SUPPLEMENTARY INFORMATION:** We are proposing a revision to *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)* that would require mailers to use at least two bands—one around the length and one around the girth—when only banding is used to secure bundles of flat-size and irregular parcel mailpieces. "Bundle integrity"—the ability of bundles to remain intact—is crucial for our new, high-speed Automated Package Processing System (APPS). Bundles with only one band tend to curl up and allow mailpieces to escape the bundle. When these or other bundles break open, we lose the value of mailers' presort, and we have to handle individual pieces manually. Manual