

requirements for Air Force, Navy, and Marine aircraft operating over the Falcon Bombing Range. Specifically, R-

¹ 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

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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)² 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

³ 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).

⁴ 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.

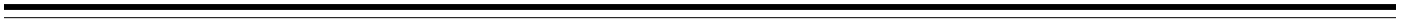
⁵ More information about the Rule can be found at <http://www.ftc.gov/appliances>.

⁶ 44 FR 66466 (Nov. 19, 1979).

⁷ 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).

² 42 U.S.C. 6291 *et seq.*



existing labeling program, we request that commenters consider the following questions:¹⁴

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.¹⁵ 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

¹⁴ 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.

¹⁵ 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

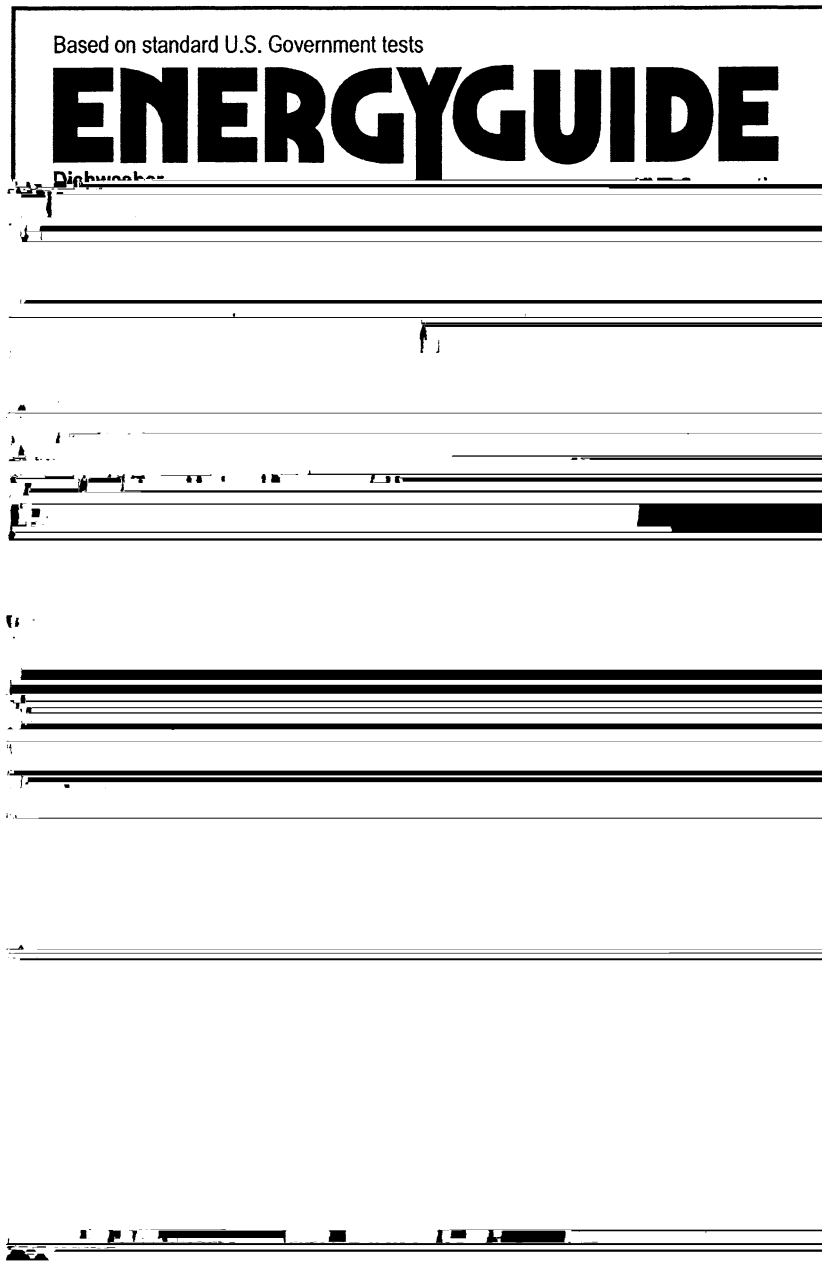
(I) Are there any other costs or benefits associated with the Rule?

List of Subjects in 16 CFR Part 305

Advertising, Consumer protection,
Energy conservation, Household

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

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[REDACTED]

By direction of the Commission.

Donald S. Clark,

Secretary.

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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.