

defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through February 29, 2016 (OMB Control No. 3084-0069). The Commission accounted for the burden of testing and labeling televisions when it first issued the labeling requirements (76 FR 1038 (Jan. 6, 2011)). However, the new DOE test procedure triggers EPCA's requirement that manufacturers retest their televisions for any energy representations made 180 days after DOE publishes the test, including those on the FTC label. This creates an additional, one-time burden. Accordingly, the Commission is submitting these amendments to OMB for review.

In issuing the television labels, FTC staff estimated that 2,000 basic models exist in the marketplace, that manufacturers test two units per model, and that testing requires one hour per unit tested. Using these estimates, the Commission expects the new testing will require a one-time burden of 4,000 additional hours of burden. Annualized over a 3-year PRA clearance cycle, this one-time burden amounts to 1,333 hours. Assuming further that this testing will be implemented by electrical engineers, and applying an associated hourly wage rate of \$44.14 per hour, labor costs for testing would annualized total of \$58,839.¹⁵ In addition, the amendments would increase the Rule's reporting requirements. 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 2,000 basic television models, the annual reporting burden for manufacturers is an estimated 67 hours (2 minutes × 2,000 models ÷ 60 minutes per hour). Assuming further that these filing requirements will be implemented by data entry workers at an hourly wage rate of \$15.11 per hour, the associated labor cost for recordkeeping would be approximately \$1,012 per year.¹⁶ Any non-labor costs associated with the amendments are likely to be minimal.

¹⁵ Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment and Wages—May 2012, Table 1 (National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2012), available at: <http://www.bls.gov/iif/oshwc/osh/tables/tables.html>.

¹⁶ <http://www.bls.gov/iif/oshwc/osh/tables/tables.html>.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule and a Final Regulatory Flexibility Analysis (FRFA), if any, with the Final Rule, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.¹⁷

The Commission does not anticipate that the Final Rule will have a significant economic impact on a substantial number of small entities. Consistent with past analysis (76 FR at 1049), the Commission estimates that these new requirements will apply to about 30 product manufacturers. Out of these companies, the Commission expects that no manufacturers qualify as small businesses.¹⁸ Furthermore, the Commission does not expect that the requirements specified in the Final Rule will have a significant economic impact on these entities.

Although the Commission certified under the RFA that the amendments would not, if promulgated, have a significant economic impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an FRFA in order to explain the impact of the amendments on small entities as follows:

The Commission is proposing amendments to conform the Rule to a recently published DOE test procedure for televisions.

The Commission did not receive any comments specifically related to the impact of the final amendments on small businesses. The Commission did not receive any comments from the Small Business Administration in response to the proposed rule.

Under the Small Business Size Standards issued by the Small Business Administration, television manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees)

¹⁷ 5 U.S.C. 603–605.

¹⁸ 78 FR at 63838 (DOE's conclusion that no television manufacturers qualify as small businesses).

or if their sales are less than \$8.0 million annually. The Commission believes that no manufacturers subject to the Final Rule qualify as small businesses.

The Commission recognizes that the Final Rule will involve some increased costs related to reporting these products, and maintaining test records. All of these burdens and the skills required to comply are discussed in the previous section of this document, regarding the Paperwork Reduction Act, and there should be no difference in that burden as applied to small businesses.

The Commission sought comments on alternatives to the Proposed Rule, including a delay in the effective dates for the amendments. However, no commenters suggested any changes to the proposed amendments. Accordingly, the Commission issues the amendments as proposed.

Final Rule

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons set out above, the Commission amends 16 CFR part 305 as follows:

PART 305—ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT (“ENERGY LABELING RULE”)

1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. In § 305.3, revise paragraph (y) to read as follows:

§ 305.3 Description of covered products.

(y) means a product that is designed to produce dynamic video, contains an internal TV tuner encased within the product housing, and is capable of receiving dynamic visual content from wired or wireless sources including but not limited to: broadcast and similar services for terrestrial, cable, satellite, and/or broadband transmission of analog and/or digital signals; and/or display-specific data connections, such as HDMI, Component video, S-video, Composite video; and/or media storage devices such as a USB flash drive, memory card, or a DVD; and/or network

connections, usually using Internet Protocol, typically carried over Ethernet or Wi-Fi. The requirements of this part are limited to those televisions for which the Department of Energy has adopted and published test procedures for measuring energy use.

3. In § 305.5, revise paragraph (d) and remove paragraph (e), as follows:

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, water use rate, and other required disclosure content.

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(d) Representations for ceiling fans under § 305.13 and televisions under § 305.17 must be derived from applicable procedures in 10 CFR parts 429, 430, and 431.

4. In § 305.8, revise paragraphs (a)(1) and (3), add new paragraph (a)(4), and revise paragraph (b)(1) to read as follows:

§ 305.8 Submission of data.

(a)(1) Except as provided in paragraphs (a)(2) through (4) of this section, each manufacturer of a covered product subject to the disclosure requirements of this part and subject to Department of Energy certification requirements in 10 CFR part 429 shall submit annually a report for each model in current production containing the same information that must be submitted to the Department of Energy pursuant to 10 CFR part 429 for that product, and that the Department has identified as public information pursuant to 10 CFR part 429. In lieu of submitting the required information to the Commission as required by this section, manufacturers may submit such information to the Department of Energy via the CCMS at <http://www.energy.gov/energy-efficiency/energy-star/ccms/> as provided by 10 CFR 429.12.

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(3) Manufacturers of televisions shall submit annually a report containing the brand name; model number; screen size

(diagonal in inches); power (in watts) consumed in on mode, standby-passive mode, in standby-active mode, low mode, and off mode; and annual energy consumption (kWh/year) for each basic model in current production. The report should also include a starting serial number, date code, or other means of identifying the date of manufacture with the first submission for each basic model. In lieu of submitting the required information to the Commission as required by this section, manufacturers may submit such information to the Department of Energy via the Compliance and Certification Management System (CCMS) at <http://www.energy.gov/energy-efficiency/energy-star/ccms/> as provided by 10 CFR 429.12.

(4) This section does not require reports for general service light-emitting diode (LED or OLED) lamps.

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates: