The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect 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.

For the reasons discussed above, I certify this proposed regulation:
(1) Is not a “significant regulatory action” under Executive Order 12866,
(2) Would not affect intrastate aviation in Alaska, and
(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

§ 39.13 [Amended]

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 9, 2022.

(b) Affected ADs

None.

(c) Applicability


(d) Subject


(e) Unsafe Condition

This AD was prompted by an uncommanded dual engine shutdown upon landing, resulting in compromised braking capability due to the loss of engine power and hydraulic systems. The FAA is issuing this AD to prevent compromised braking capability due to uncommanded dual engine shutdown upon landing. The unsafe condition, if not addressed, could result in runway excursion.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

For affected engines with installed electronic engine control (EEC) full authority digital engine control (FADEC) software version earlier than V2.11.14.1, within 12 months after the effective date of this AD, remove the EEC FADEC software and replace with EEC FADEC software version eligible for installation.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD and email to: ANE-AD-AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(j) Related Information

For more information about this AD, contact Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; email: Mark.Taylor@faa.gov.

(k) Material Incorporated by Reference

None.

Issued on October 14, 2022.

Christina Underwood,
Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–22761 Filed 10–24–22; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AB15

Energy Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: The Federal Trade Commission (FTC or Commission) seeks public comment on potential amendments to the Energy Labeling Rule (Rule), including energy labels for several new consumer product categories, and other possible amendments to improve the Rule’s effectiveness and reduce unnecessary burdens.

DATES: Comments must be received on or before December 27, 2022.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write “Energy Labeling Rule ANPR, Matter No. R611004” on your comment, and file your comment online at https://www.regulations.gov/, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

I. Overview

The Commission seeks comment on amendments to its existing Energy Labeling Rule at 16 CFR part 305. As discussed below, the Commission specifically seeks comment on whether it should add new consumer product categories to the labeling program, increase the availability of online labels and other energy information, and streamline existing requirements. The Commission also seeks comment on
whether any Rule changes are necessary to ensure the Rule’s labeling provisions are consistent with current consumer shopping behavior. Finally, the ANPR seeks comment on whether the Commission should amend the Rule to: (1) modify its label content and format, (2) require links to online Lighting Facts labels consistent with current EnergyGuide requirements, (3) update the electricity cost figure on the Lighting Facts and ceiling fan labels, (4) update the refrigerator and clothes washer labels to remove dated information about test procedures, and (5) ensure the Rule’s consistency with Department of Energy (DOE) requirements.

II. Background

The Commission issued the Energy Labeling Rule in 1979,\(^1\) pursuant to the Energy Policy and Conservation Act of 1975 (EPCA).\(^2\) The Rule requires energy labeling for major home appliances and other covered products to help consumers compare the energy usage and costs of competing models. It also contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room and portable air conditioners, furnaces, central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels to many covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on websites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three main disclosures: estimated annual energy cost, a product’s energy consumption or energy efficiency rating as determined by DOE test procedures, and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. The Rule requires marketers to use national average costs for applicable energy sources (e.g., electricity, natural gas, or oil), as calculated by DOE in all cost calculations. Under the Rule, the Commission periodically updates comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule’s reporting requirements.\(^3\)

III. Potential Rule Improvements

A. Potential Labels for New Product Categories

The Commission seeks comment on whether to add several new product categories to the energy labeling program. Under EPCA, FTC has broad authority to require energy labels for consumer products. Specifically, in addition to products named in the statute or designated by DOE under that agency’s authority, FTC may require labels pursuant to 42 U.S.C. 6292(a)(6) for any consumer product as long as a label “is likely to assist consumers in making purchasing decisions.”\(^4\) The Commission seeks comment on potential new labels for (1) the product categories listed below, and (2) any other consumer products that may be appropriate for energy labels. The Commission has not made any final determination regarding whether energy labels are warranted for any of the products discussed below at III.A.2.

In considering the product types listed below or other potential products, commenters should address any issues relevant to whether the Commission should require labeling for specific product categories. Typically, energy labels are most likely to help consumers when the underlying products use a substantial amount of energy and exhibit a range of annual energy costs across competing similar models. In addition to requiring energy use figures, the Commission has authority to require disclosures of additional information relating to energy consumption, including instructions for maintenance, use, or repair, 42 U.S.C. 6294(c)(5). If no DOE test procedure exists for a particular product type, commenters should address whether competent and reliable test procedures exist that will yield adequate, consistent estimated energy use disclosures on the labels.

1. Questions About New Labels

The Commission invites commenters to provide information and views on the following issues for the products listed below, as well as any other consumer products that may warrant energy labels. Where appropriate, commenters should provide evidence to support their views:

—Whether labels will assist consumers in their purchasing decisions, and why;
—The typical energy use and energy efficiency of various models on the market;
—Whether, and how, potential market changes will affect label benefits (e.g., expected changes in future models);
—The annual energy costs differences between similarly sized or otherwise competing models for each product category;
—What, if any, potential burdens would apply to these products that are larger or different from currently labeled products;
—Any estimates (e.g., hours per year) for consumers’ typical annual use of the product (i.e., “duty cycle”) that can provide a basis for an annual energy cost estimate;
—Whether and how the energy use varies among similarly sized (or otherwise competing) models;
—Typical methods by which these products are sold (e.g., in retail stores packed in boxes, in stores displayed out of the boxes, online, through professional installers, etc.);
—How consumers typically shop (i.e., make purchasing decisions) for the products, and whether they shop online, in stores, or through some other means (e.g., discussions at home with installers);
—What, if any, particular labeling burdens would apply to these products relevant to their purchase;
—Whether, and why, range information would be useful on the label and, if so, whether such range data is available;
—Whether and why labels for the product should appear on boxes, the products themselves, or through some other location or means;
—Any particular burdens associated with labeling specific product categories; and
—Whether the labels should provide any other available information about those products relevant to their energy consumption and consumer use.

\(^1\) 44 FR 66466 (Nov. 19, 1979).
\(^2\) 42 U.S.C. 6294. EPCA also requires the Department of Energy (DOE) to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy.
\(^3\) 16 CFR 305.12.
\(^4\) 42 U.S.C. 6294(a)(6); see 42 U.S.C. 6294(1) (defining “consumer product”). For additional FTC labeling authority, see 42 U.S.C. 6292(a)(1)–(5). For new product categories that DOE classifies as “covered” pursuant to 42 U.S.C. 6292(b), the FTC may prescribe labeling under 42 U.S.C. 6294(a)(3) if (1) the Commission determines labeling will assist purchasers in making purchasing decisions, (2) DOE has prescribed test procedures for the product class, and (3) the Commission concludes labeling for the class is economically and technologically feasible.
2. List of Potential New Product Categories

Clothes Dryers: EPCA designates clothes dryers as covered products in 42 U.S.C. 6292. In 1979, the Commission declined to require labels for clothes dryers after finding models on the market had a limited range of energy use. In 2014, the Commission reconsidered clothes dryer labels, and again declined to require them, concluding that dryer information continued to suggest that model efficiency varied little across available models. However, the Commission recognized that electric dryers using emerging heat pump technology had lower annual energy costs compared to conventional models. At that time, few, if any, such models were available in the U.S. Now, heat pump models appear to be more prevalent. For example, the U.S. Environmental Protection Agency (EPA) ENERGY STAR website (www.energy.gov) lists about two dozen heat pump models as STAR website (www.energy.gov) lists about two dozen heat pump models as such.5 In 2014, the Commission reconsidered clothes dryer labels, and again declined to require them, concluding that dryer information continued to suggest that model efficiency varied little across available models. However, the Commission recognized that electric dryers using emerging heat pump technology had lower annual energy costs compared to conventional models. At that time, few, if any, such models were available in the U.S. Now, heat pump models appear to be more prevalent. For example, the U.S. Environmental Protection Agency (EPA) ENERGY STAR website (www.energy.gov) lists about two dozen heat pump models as STAR website (www.energy.gov) lists about two dozen heat pump models as

Miscellaneous Refrigerator Products: DOE has designated miscellaneous refrigerators (MREFs) as covered products under EPCA. The category includes coolers (e.g., wine chillers) and combination cooler refrigeration products (i.e., products with warm and cool compartments). Within this category, some similarly sized models appear to exhibit a significant range of energy use. For example, recent DOE data indicates freestanding compact cooler models between 3 and 7 cubic feet in range annual energy use between about 100 to 205 kWh/yr. DOE currently has test procedures and standards for these products.

Additional Lamps (Light Bulbs): The Rule does not currently require labels for all types of lower-brightness lamps (i.e., light bulbs). However, these products can consume a significant amount of energy. Specifically, the current coverage does not include lamps lower than 310 lumens and 30 watts. This leaves certain lamp types, particularly 25-watt incandescent bulbs, uncovered. A single such incandescent bulb can cost consumers more than $3 per year in electricity costs, which can add up if multiple bulbs are used in a home. The LED equivalent for such bulbs, however, has an annual energy cost of about 50 cents. These products are not currently covered by DOE standards. However, the FTC has authority to require labeling for them under 42 U.S.C. 6294(a)(6). In addition to the general questions listed above, commenters should address whether the Commission should amend the Rule’s coverage to include such lower brightness bulbs or any other lighting products (e.g., full color “tunable” lamps with adjustable color and CCT).

Residential Ice Makers: Consumers can purchase residential icemakers in various configurations, including portable, non-portable, uncooled storage, and non-portable, cooled storage units. Residential models generally produce fewer than 50 pounds of ice per hour. The DOE has currently no DOE standards or test procedure requirements specifically for these models. DOE tested these products in 2014 and found tested models used significant energy. The DOE data also suggested a significant range of energy consumption may exist among models offered in the market. Although DOE developed and applied a test procedure for ice makers for research purposes, it ultimately did not publish a test procedure for these products.

In addition to the general questions listed above, the Commission seeks comment on which capacity categories should apply to consumer (residential) models for labeling purposes, and whether DOE’s test procedure for commercial icemakers can be used as a basis for EnergyGuide labels for residential models.

Humidifiers: Consumers use residential humidifiers, including portable and whole-house devices, either to increase or maintain the humidity levels in all or parts of the home or to ease illness symptoms. There are currently no DOE standards or test procedures for these products. A 2012 EPA ENERGY STAR report suggested differences in energy consumption among competing humidifiers, particularly for whole-
house models. The report also stated there is "very little, if any, correlation between humidification capacity (in square feet) and watt rating." The report concluded, by choosing energy-efficient humidifiers, consumers could collectively save an estimated 3.4 terawatts of electricity over the lifetime of these products, equating to nearly $400,000,000. However, the report indicated there was no standard test procedure for measuring the energy consumption of portable models.

Miscellaneous Gas Products ("Hearth Products"): In February 2022, DOE tentatively determined that miscellaneous gas products, which are comprised of decorative hearths and outdoor heaters, qualify as covered products under EPACA. These products include fireplaces, fire pits, and other similar products that have decorative purposes, but can also provide heat. DOE proposed to define "decorative hearth product" as gas-fired appliances that: simulate a solid-fueled fireplace or hearth product" as gas-fired appliances operated with a thermostat; are not designed for outdoor use; are not designed to be used in an indoor space in which they are installed; and are not designed to provide heat proximate to the unit. DOE estimates indicate that these products can consume substantial energy. In addition to the general questions above, the Commission requests comment on whether the Commission should consider labeling for related products outside of DOE's current proposal (e.g., electric models) and whether test procedures are or are likely to be available for such products.

Cooking Tops: EPACA lists "kitchen ranges and ovens" as covered products. In 1979, the Commission decided not to require labels for cooking tops, as well as ranges and ovens, citing the small variability of energy use between models. More recent information from DOE, however, suggests the Commission should revisit this issue. Specifically, DOE research found that energy consumption for gas cooking top models may vary significantly depending on burner and grate design. DOE also noted energy consumption among similar electric cooking top models can vary depending on whether the product employs induction or convection heating, or has smooth or coil elements.

In August 2020, DOE withdrew its test procedure for these products, citing concerns about whether the procedure yielded representative results for average use. In February 2021, DOE listed the cooking products test procedure withdrawal as one of thirteen rulemakings the agency would reconsider pursuant to Executive Order 13990. In July 2022, DOE reestablished a test procedure for conventional electric cooking tops.

In addition to questions regarding whether labeling cooking tops would help consumers in their purchasing decisions, the Commission seeks comment on whether there is an alternative test procedure the agency could use for EnergyGuide labels.

Electric Spas: In February 2022, DOE published a tentative determination that portable electric spas qualify as a covered product under EPACA and followed up with a final coverage determination in September 2022. DOE estimated more than 3 million U.S. households operate portable electric spas regularly, using approximately and an estimated average energy consumption of 1.699 kWh per year per household ($238/yr).

B. Matching Label Format and Location to Consumer Shopping Patterns

The Commission also seeks comment on whether any Rule changes are necessary to ensure current labeling requirements are consistent with current consumer shopping behavior. For several product categories (e.g., refrigerators, clothes washers, dishwashers, and televisions), the Rule currently requires manufacturers to affix labels to units themselves. However, of the millions of units produced each year, only a tiny fraction are actually displayed on a showroom floor. For products typically displayed in packaging (e.g., room air conditioners, lighting, ceiling fans, and lighting products), the Rule requires manufacturers to incorporate the label on the packaging. For products sold online, the Rule requires retail sellers to include label information on product pages. To aid retailers with this function, manufacturers must make their EnergyGuide labels available on a website and report that website to the FTC, which they can do via the DOE Compliance Certification Management System (CCMS).

Under EPACA, the Commission must "require that each covered product in the type or class of covered products to which the rule applies bear a label", disclosing energy use information. 42 U.S.C. 6294(e)(1). However, EPACA provides flexibility for the Commission to determine the placement of labels in a manner likely to assist consumers in making purchasing decisions. In addition, the statute gives FTC authority to require retailers to provide labels and other disclosures for consumers, both on websites and in stores. Pursuant to this authority, the Commission seeks comment on whether it should amend the current approach in light of contemporary retail and consumer practices. Specifically, the

17 87 FR 6786 (Feb. 7, 2022).
18 For example, DOE estimated the calculated per household weighted average ignition energy use of outdoor heaters to be 0.7 MMBtu/yr and the weighted burner energy use to be 2.2 MMBtu/yr, for total outdoor heater household energy use of 2.9 MMBtu/yr (859 kWh/yr), and estimated the weighted average (indoor and outdoor products) per-household energy use of a miscellaneous gas product to be 4.1 MMBtu/yr (1,211 kWh/yr). 87 FR at 6792. DOE also discussed these general issues in 2013. 78 FR 79638, 79640 (Dec. 31, 2013). There is currently no DOE test procedure for these products.
19 The Commission also seeks comment on whether the Rule should contain any affirmative energy disclosures or labels for furnace fans, which are components of products already labeled under the Rule. See 79 FR 38129 (July 3, 2014) (DOE standards for furnace fans).
20 42 U.S.C. 6292(a)(10).
Commission solicits comments on alternatives to the current “showroom-ready” approach. Such changes could include requiring retailers to affix showroom labels (provided by the manufacturer) for the small number of units that are displayed, allowing manufacturers to include labels on or in product packaging (e.g., on product boxes, literature packs, instruction manuals, and through QR codes) in lieu of affixing labels separately to every unit itself, and/or requiring retailers to provide label information in some other method or location. The Commission additionally requests any recent research or data demonstrating when and where consumers typically make purchasing decisions for the types of products covered by the Rule. Examples of relevant information include:

—What percentage of consumers rely solely on showroom visits to obtain information about their purchases, particularly for products that currently bear a label directly on the unit (e.g., refrigerators)?

—What percentage of consumers research and compare models online before their purchases?

—Should the Commission eliminate requirements for manufacturers to place labels directly on products typically displayed in showrooms (e.g., refrigerators, clothes washers, dishwashers, and televisions), and require manufacturers to provide the labels with the product in a different way (e.g., on packaging, instruction manuals, or literature bags)?

—Should the Rule require retailers to display the EnergyGuide label for those individual units they choose to display out of packages in their showrooms?

C. Repair Instructions

The Commission also seeks comment on potential requirements related to repair instructions. Under EPCA (42 U.S.C. 6294(c)(5)), the Commission has authority to require manufacturers to provide consumers with “additional information relating to energy consumption, including instructions for the maintenance, use, or repair of the covered product” if the Commission finds such information would assist with purchase decisions or in the use of the product, and would not be unduly burdensome to manufacturers. The Commission seeks comment on whether, for any product covered, the Rule should require manufacturers to provide consumers with access to repair instructions (with updates). Specifically, comments should address whether lack of access to repair instructions for covered products is an existing problem for consumers; whether providing such information would assist consumers in their purchasing decisions or product use; whether providing such information would be unduly burdensome to manufacturers; and any other relevant issues.

D. General Label Content and Format Requirements

The Commission also seeks comment on whether it should consider changes to the Rule’s label content and format requirements. Specifically, commenters should consider:

—Are there any prescriptive requirements (e.g., type size and style, label size, number of picas, paper weight, and label attachment provisions) in the Rule that are unnecessarily burdensome? If so, would elimination of such requirements create inconsistencies in the label appearance that would reduce consumer confidence in the label, or reduce its utility and use?

—Are there any improvements the Commission could make to the content of the information on labels (or other locations such as product manuals or websites) to help consumers with their purchasing decisions?

—Is there a role that QR codes may play in convey useful information to consumers?

—Are there any improvements to the format, size, or layout of the labels that would help consumers with their purchasing decisions?

E. Requiring Links to Online Lighting Facts Labels

The Commission also seeks comment on whether the Rule should require lamp manufacturers to include information regarding their Lighting Facts labels with their data reports required by the DOE. The Rule already requires manufacturers of other covered consumer products to provide a website address linking to their EnergyGuide labels as part of their required data reports, which manufacturers submit through the DOE reporting system. The Commission did not extend this requirement to Lighting Facts labels in 2016 given appropriation restrictions at the time placed on DOE spending related to light bulbs. Instead, the Commission stated it would revisit the issue at “a later date should circumstances warrant.”

Accordingly, the Commission seeks comment on applying the requirements in section 305.11(a)(5) to Lighting Facts labels.

F. Updating Cost Figures for Lighting Facts and Ceiling Fan Labels

The Commission also seeks comment on whether it should update the electricity cost disclosure on the Lighting Facts and ceiling fan labels to reflect recent DOE national estimates. Currently, the Lighting Facts label uses 11 cents per kWh, while the ceiling fan label uses 12 cents. The current (2022) DOE national estimate for electricity (rounded) is 14 cents per kWh. The Commission seeks comment on whether it should update these numbers and, if so, when the change should become effective to allow manufacturers to incorporate such changes into routine package updates and thus minimize any burden associated with such changes.

G. Phasing Out Transitional Language for Refrigerator and Clothes Washer Labels

The Commission also seeks comment on whether it should phase out language on refrigerator and clothes washer labels that the Commission added in 2013 to help distinguish models tested with the current DOE procedure from those tested with an older version. This language, which advises consumers to “Compare ONLY to other labels with yellow numbers,” is now obsolete and crowds the label with irrelevant information. The Commission seeks comment on when and how to smoothly transition back to the conventional label.

H. Consistency With DOE Requirements

The Commission also seeks comment on whether any changes or updates are necessary to the Rule’s requirements (e.g., definitions, product coverage, capacity descriptions, etc.) to ensure consistency, where necessary, with DOE requirements.

G. Bilingual Label Guidance

The Rule at 16 CFR 305.23(b)(6) and 16 CFR 305.23(c)(4) currently offers guidance to manufacturers who choose to use bilingual labels for Lighting Facts, including guidance on label content and format. Should the Rule offer similar guidance on bilingual labels for the other consumer products covered by the

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31 81 FR 63634 (Sept. 15, 2016); 16 CFR 305.11 (FTC reporting requirements).
32 81 FR 63634, 63636.
33 87 FR 12681 (Mar. 7, 2022).
34 78 FR 43974 (July 23, 2013).
Rule? Are there other improvements that could be made to the Rule that would help non-English speaking or multilingual consumers with their purchasing decisions?

IV. Comment Submissions

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before December 27, 2022. Write “Energy Labeling Rule ANPR, Matter No. R611004” on your comment. Because of the public health emergency in response to the COVID–19 outbreak and the agency’s heightened security screening, postal mail addressed to the Commission will be subject to delay. As a result, we strongly encourage you to submit your comments online through the https://www.regulations.gov website. To ensure that the Commission considers your online comment, please follow the instructions on the web-based form. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the https://www.regulations.gov website. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on that website.

If you file your comment on paper, write “Energy Labeling Rule ANPR, Matter No. R611004” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at www.regulations.gov, you are solely responsible for making sure that your comment does not include any sensitive information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10[a][2], 16 CFR 4.10(a)[2]—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule § 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must contain facts and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record.  See FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 27, 2022. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see https://www.ftc.gov/site-information/privacy-policy.

By direction of the Commission.

April J. Tabor,
Secretary.

Note: The following statements will not appear in the Code of Federal Regulations:

Statement of Chair Lina M. Khan

Today, the Commission voted to issue an advance notice of proposed rulemaking seeking comment on proposed improvements to the Energy Labeling Rule. Among other areas, the Notice asks whether consumers and independent repair shops would benefit from repair information being more widely available on energy labels. As I noted when the Commission issued its Policy Statement on Right to Repair in July 2021, I believe it is vital that the Commission use every tool available to it to vindicate Americans’ right to repair their own products, and I am pleased that we are continuing to follow through on that commitment here.

The Energy Policy and Conservation Act of 1975 gives the Commission clear statutory authority to require manufacturers to provide consumers with “additional information relating to energy consumption, including instructions for the maintenance, use, or repair of the covered product” if the Commission finds such information would assist with purchasing decisions or in the use of the product.\footnote{Remarks of Chair Lina M. Khan Regarding the Proposed Policy Statement on Right to Repair, supra note 1} For the first time, the Commission is deploying this tool to ask whether consumers and independent repair shops would benefit from having repair information more widely available on energy labels. Such a provision could help consumers more easily repair everything from refrigerators and dishwashers to washing machines, air conditioners, water heaters, and televisions—products currently covered under the Rule—as well as new products that the Commission is considering adding to the Rule, including clothes dryers, air purifiers, humidifiers, hearths and outdoor heaters, cooking tops, and electric spas.

As the FTC’s work has documented,\footnote{Remarks of Chair Lina M. Khan Regarding the Proposed Policy Statement on Right to Repair, supra note 1} companies routinely use a wide array of practices to restrict Americans from repairing their own products. These restrictions can raise costs for consumers, stifle innovation, close off business opportunity for independent repair shops, create unnecessary electronic waste, delay timely repairs, and undermine resiliency.\footnote{Remarks of Chair Lina M. Khan Regarding the Proposed Policy Statement on Right to Repair, supra note 1} Today’s action demonstrates the Commission’s commitment to using every tool it has available to advance Americans’ ability to access independent repair. It builds on the Policy Statement on Right to Repair that the Commission issued in July 2021, affirming our intent to root
out illegal repair restrictions. The Commission has since brought numerous right to repair cases, addressing unlawful repair restrictions affecting a variety of products, including motorcycles and outdoor electric power generators.

I thank our staff for their work on this important matter and look forward to hearing from the public during this rulemaking proceeding.

Concurring Statement of Commissioner Christine S. Wilson

Seventh time’s a charm.

Today the Commission issues an advance notice of proposed rulemaking (ANPR) seeking comment on possible revisions to the Energy Labeling Rule. Specifically, the ANPR asks whether the Commission should add consumer products to the labeling program, whether the label location and other requirements should be updated to reflect current shopping patterns, and whether the label content should be revised to reduce unnecessary burdens. The document also addresses issues related to reporting and refrigerator labels.

Since 2018, I have urged the Commission to seek comment on the more prescriptive aspects of this Rule. The Commission has a statutory mandate to issue a labeling Rule. I strongly believe, however, that this mandate does not require the Rule to include the highly detailed and prescriptive requirements in the current Rule. For example, the Rule specifies the trim size dimensions for labels, including the precise width (between $5\frac{1}{4}$") and length (between $7\frac{5}{8}$") the number of picas for the copy set (between 27 and 29); the type style (Arial) and setting; the weight of the paper stock on which the labels are printed (not less than 58 pounds per 500 sheets or equivalent); and a suggested minimum peel adhesive capacity of 12 ounces per square inch.

In 2020, the Commission sought comment on some of these prescriptive provisions and received some helpful and thoughtful comments. Unfortunately, the Commission did not make changes based on those comments but instead chose to make only required conforming changes at that time. I applaud the decision today to seek comment on the Rule more broadly, to ask specifically about these highly prescriptive requirements, and to consider making changes to streamline the Rule. I look forward to reviewing the comments.

[FR Doc. 2022–23063 Filed 10–24–22; 8:45 am]

BILLING CODE 6750–01–P


Supplementary Information:

I. Introduction

The Orrin G. Hatch-Bob Goodlatte Music Modernization Act (the “MMA”) substantially modified the compulsory “mechanical” license for reproducing and distributing phonorecords of nondramatic musical works under 17 U.S.C. 115. It did so by switching from a song-by-song licensing system to a blanket licensing regime that became available on January 1, 2021 (the “license availability date”).