

a fishing vessel may transit or fish with other than handgear in the area known as the Sea Scallop Experimental Area, as defined by straight lines connecting the following points in the order stated, except as described in paragraphs (a)(2) and (a)(3) of this section:

Point	Latitude	Longitude
1	41°11.8' N.	70°50' W.
2	41°11.8' N.	70°46' W.
3	41°08.8' N.	70°46' W.
4	41°08.8' N.	70°50' W.

(2) *Exemptions.* A fishing vessel and persons on a fishing vessel may transit or fish in the Sea Scallop Experimental Area under the following conditions only:

(i) The vessel has been issued an allowed gear permit (AGP) under paragraph (a)(4)(i) of this section and is fishing with pot gear, traps, longline gear, or any other gear determined by the Regional Administrator as unlikely to interfere with the sea scallop aquaculture research project in the Sea Scallop Experimental Area; or

(ii) The vessel has been issued an experimental fishing permit (EFP) under paragraph (a)(4)(i) of this section to participate in the sea scallop aquaculture research project in the Sea Scallop Experimental Area.

(3) *Transiting.* Vessels that are not exempted from the prohibition against transiting and fishing in the Sea Scallop Experimental Area under paragraph (a)(2) of this section may transit such area provided that their gear is stowed in accordance with the provisions of § 648.81(e).

(4) *Allowed gear and experimental fishing permits*—(i) *Allowed gear permits.* The Regional Administrator may issue an AGP to any vessel to fish within the Sea Scallop Experimental Area with the gear specified in paragraph (a)(2)(i) of this section. Vessels receiving AGPs may be required to move their gear within, or remove their gear from, the area upon notification by the Regional Administrator and must comply with any additional restrictions specified in the permit.

(ii) *Experimental fishing permits.* The Regional Administrator may issue an EFP under the provisions of § 648.12, and consistent with paragraph (a)(4)(iv) of this section, to any vessel participating in the sea scallop aquaculture research project to engage in any of the following activities; fish in the Sea Scallop Experimental Area; use fishing gear that does not conform to the regulations; possess scallops when not fishing under a DAS allocation; use up

to an additional 2 DAS per year when collecting and transporting undersized scallops to the Sea Scallop Experimental Area; and do any other activity necessary to project operations for which an exemption from regulatory provision is required. Vessels issued an EFP must comply with all conditions and restrictions specified in the permit.

(iii) A vessel with an AGP or EFP must carry the permit on board the vessel while fishing in the Sea Scallop Experimental Area or participating in the scallop aquaculture project.

(iv) The Regional Administrator may not issue an AGP or EFP unless he determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

(A) Have a detrimental effect on the sea scallop resource and fishery;

(B) Create significant enforcement problems; or

(C) Have a detrimental effect on the scallop project.

(5) *Application.* An application for an AGP or EFP must be in writing to the Regional Administrator and be submitted at least 30 days before the desired effective date of the permit. The application must include, but is not limited to, the following information:

(i) The date of application.

(ii) The applicant's name, current address, telephone number and fax number, if applicable.

(iii) The current vessel name, owner address, and telephone number.

(iv) The vessel's Federal permit number.

(v) The USCG documentation number.

(vi) The species (target and incidental) expected to be harvested.

(vii) The gear type, size, buoy colors, trap identification markings and amount of gear that will be used; and exact time(s) fishing will take place in the Sea Scallop Experimental Area.

(viii) The signature of the applicant.

(b) [Reserved]

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FEDERAL TRADE COMMISSION

16 CFR Part 305

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.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") amends its Appliance Labeling Rule by publishing new ranges of comparability to be used on required labels for instantaneous water heaters. The Commission also announces that the current ranges of comparability for room air conditioners, storage-type water heaters, heat pump water heaters, pool heaters, furnaces, boilers, and dishwashers will remain in effect until further notice.

EFFECTIVE DATE: November 27, 1998.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-3035).

SUPPLEMENTARY INFORMATION: The Appliance Labeling Rule ("Rule") was issued by the Commission in 1979 (44 FR 66466 (Nov. 19, 1979)) in response to a directive in the Energy Policy and Conservation Act of 1975.¹ The Rule covers eight categories of major household appliances: refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters (this category includes storage-type water heaters, instantaneous water heaters, and heat pump water heaters), room air conditioners, furnaces (this category includes boilers), and central air conditioners (this category includes heat pumps). The Rule also covers pool heaters (59 FR 49556 (Sept. 28, 1994)), and contains requirements that pertain to fluorescent lamp ballasts (54 FR 28031 (July 5, 1989)), certain plumbing products (58 FR 54955 (Oct. 25, 1993)), and certain lighting products (59 FR 25176 (May 13, 1994)).

The Rule requires manufacturers of all covered appliances and pool heaters to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. It also requires manufacturers of furnaces, central air conditioners, and heat pumps either to provide fact sheets showing additional cost information, or to be listed in an industry directory showing the cost information for their products. The Rule requires that manufacturers include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so

¹ 42 U.S.C. 6294. The statute also requires DOE to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule requires that manufacturers also include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report annually (by specified dates for each product type)² the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. Under Section 305.10 of the Rule, to keep the required information on labels consistent with these changes, the Commission publishes new ranges (but not more often than annually) 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 that the prior ranges remain in effect for the next year.

The annual submissions of data for room air conditioners, water heaters (including storage-type, instantaneous, and heat pump water heaters), furnaces, boilers, pool heaters, and dishwashers have been made and have been analyzed by the Commission.

The ranges of comparability for room air conditioners, storage-type water heaters, heat pump water heaters, furnaces, boilers, dishwashers, and pool heaters have not changed by more than 15% from the current ranges for these products. Therefore, the current ranges for these products will remain in effect until further notice.³ This means that

manufacturers of storage-type water heaters, furnaces, and boilers must continue to use the ranges that were published on September 23, 1994, and that manufacturers of storage-type water heaters must continue to base the disclosures of estimated annual operating cost required at the bottom of Energy Guides for these products on the 1994 Representative Average Unit Costs of Energy for electricity (8.41 cents per kilo Watt-hour), natural gas (60.4 cents per therm), propane (98 cents per gallon), and/or No. 2 heating oil (\$1.05 per gallon) that were published by DOE on December 29, 1993 (58 FR 68901), and by the Commission on February 8, 1994 (59 FR 5699). Manufacturers of heat pump water heaters and pool heaters must continue to use the ranges that were published on August 21, 1995. Manufacturers of room air conditioners must continue to use the corrected ranges for room air conditioners that were published on November 13, 1995. Manufacturers of heat pump water heaters, pool heaters, and room air conditioners must continue to base the disclosures of estimated annual operating cost required at the bottom of Energy Guides for these products on the 1995 Representative average Unit Costs of Energy for electricity (8.67 cents per kilo Watt-hour), natural gas (63 cents per therm), propane (98.5 cents per gallon), and/or No. 2 heating oil (\$1.008 per gallon) that were published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9295). Manufacturers of dishwashers must continue to use the ranges that were published on August 25, 1997, and must continue to base the disclosures of estimated annual operating cost required at the bottom of Energy Guides for these product on the 1997 Representative Average Unit Costs of Energy for electricity (8.31 cents per kilo Watt-hour), natural gas (61.2 cents per therm), propane (98 cents per gallon), and/or No. 2 heating oil (99

cents per gallon) that were published by DOE on November 18, 1996 (61 FR 58679), and the Commission on February 5, 1997 (62 FR 5316).

The data submission for instantaneous water heaters has resulted in new ranges of comparability figures for these products, which will supersede the current ranges.⁴

In consideration of the foregoing, the Commission revises Appendix D4 of Part 305 by publishing the following ranges of comparability for use in required disclosures (including labeling) for instantaneous water heaters manufactured on or after November 27, 1998. In addition, as of this effective date, manufacturers of instantaneous water heaters must base the disclosures of estimated annual operating cost required at the bottom of Energy Guides for instantaneous water heaters on the 1998 Representative average Unit Costs of Energy for electricity (8.42 cents per kilo Watt-hour), natural gas (61.9 cents per therm), propane (95 cents per gallon), and/or No. 2 heating oil (95 cents per gallon) that were published by DOE on December 8, 1997 (62 FR 64574), and by the Commission on December 29, 1997 (62 FR 67560).

List of Subjects in 16 CFR part 305

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

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:
Authority: 42 U.S.C. 6294.
2. Appendix D4 to Part 305 is revised to read as follows:

Appendix D4 to Part 305—Water Heaters—Instantaneous—Gas

Range Information:

Capacity First hour rating	Range of estimated annual energy consumption (therms/yr. and gallons/yr.)			
	Natural gas therms/yr.		Propane gallons/yr.	
	Low	High	Low	High
Less than 21	(*)	(*)	(*)	(*)
21 to 24	(*)	(*)	(*)	(*)
25 to 29	(*)	(*)	(*)	(*)

² Reports for room air conditioners, water heaters (storage-type, instantaneous, and heat pump-type), furnaces, boilers, and pool heaters are due May 1. Reports for dishwashers are due June 1.

³ The current ranges for storage-type water heaters, furnaces, and boilers were published on September 23, 1994 (59 FR 48796). The current ranges for heat pump water heaters, pool heaters,

and room air conditioners (originally) were published on August 21, 1995 (60 FR 43367). A corrected version of the ranges for room air conditioners was published on November 13, 1995 (60 FR 56945, at 56949). The current ranges for dishwashers were published on August 25, 1997 (62 FR 44890).

⁴ The current ranges for instantaneous water heaters were published on September 16, 1996 (61 FR 48620). Because the Commission has never received any submissions of data for oil-fired instantaneous water heaters, the ranges for these products show "no data submitted" for all size categories. The Commission will not, therefore, amend the ranges for oil-fired instantaneous water heaters because they have not changed.

Capacity First hour rating	Range of estimated annual energy consumption (therms/yr. and gallons/yr.)			
	Natural gas therms/yr.		Propane gallons/yr.	
	Low	High	Low	High
30 to 34	(*)	(*)	(*)	(*)
35 to 40	(*)	(*)	(*)	(*)
41 to 47	(*)	(*)	(*)	(*)
48 to 55	(*)	(*)	(*)	(*)
56 to 64	(*)	(*)	(*)	(*)
65 to 74	(*)	(*)	(*)	(*)
75 to 86	(*)	(*)	(*)	(*)
87 to 99	(*)	(*)	(*)	(*)
100 to 114	230	234	252	256
115 to 131	(*)	(*)	(*)	(*)
Over 131	161	238	184	260

*No data submitted.

By direction of the Commission.

Donald S. Clark,
Secretary.

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BILLING CODE 6750-01-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 401

Rules of Practice and Procedure

AGENCY: Delaware River Basin Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** on Thursday, December 4, 1997 (62 FR 64154).

DATES: Effective August 28, 1998.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary. Telephone (609) 883-9500 ext. 203.

SUPPLEMENTARY INFORMATION:

List of Subjects in 18 CFR Part 401

Administrative practice and procedure, Environmental impact statements, Freedom of information, Water pollution control, Water resources.

Accordingly, 18 CFR part 401 is corrected by making the following correcting amendments:

PART 401—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 401 continues to read as follows:

Authority: Delaware River Basin Compact, 75 Stat. 688.

2. Subpart E heading is revised to read as follows:

Subpart E—Appeals or Objections to Decisions of the Executive Director in Water Quality Cases

3. In § 401.72, the first sentence is revised to read as follows:

§ 401.72 Notice and request for hearing.

The Executive Director shall serve notice of an action or decision by him under the regulations in this chapter by personal service or certified mail, return receipt requested. * * *

4. § 401.74(b)(6) is revised to read as follows:

§ 401.74 Form and contents of report.

* * * * *

(b) * * *

(6) An analysis of all the parameters that may have an effect on the strength of the waste or impinge upon the water quality criteria set forth in the regulations in this chapter, including a determination of the rate of biochemical oxygen demand and the projection of a first-stage carbonaceous oxygen demand;

5. In § 401.106, the address is revised to read as follows:

§ 401.106 FOIA Officer.

* * * * *

FOIA Officer, Delaware River Basin Commission, P.O. Box 7360, West Trenton, NJ 08628-0360.

6. § 401.112(e) is revised to read as follows:

§ 401.112 Exempt information.

* * * * *

(e) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

* * * * *

Dated: August 20, 1998.

Susan M. Weisman,
Secretary.

[FR Doc. 98-23048 Filed 8-21-98; 8:45 am]
BILLING CODE 6360-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 95C-0399]

Listing of Color Additives for Coloring Sutures; D&C Violet No. 2; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of May 27, 1998, for the final rule that amended the color additive regulations to provide for the safe use of D&C Violet No. 2 as a color additive in glycolide/dioxanone/trimethylene carbonate tripolymer absorbable sutures for general surgery.

DATES: Effective date confirmed: May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3089.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 23, 1998 (63 FR 20096), FDA amended the color additive regulations in § 74.3602 *D&C Violet No. 2* (21 CFR 74.3602) to provide for the safe use of D&C Violet No. 2 as a color additive in glycolide/dioxanone/