

[Billing Code: 6750-01S]

FEDERAL TRADE COMMISSION

16 CFR Part 305

[RIN 3084-AB03]

APPLIANCE LABELING RULE

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Proposed rule; request for comment.

SUMMARY: The Commission proposes extending the effective date for its new light bulb labeling requirements (75 FR 41696) to January 1, 2012, to provide manufacturers with additional time to incorporate the new label on their packaging. The Commission also proposes not requiring the new label for incandescent bulbs (*e.g.*, 75 watt bulbs) that, as of 2013, will not meet federal energy efficiency standards.

DATES: Written comments must be received on or before January 28, 2011.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in section III of the **SUPPLEMENTARY**

INFORMATION section below. Comments in electronic form should be submitted using the following weblink: <https://ftcpublic.commentworks.com/ftc/lightbulblabel> (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue, N.W., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-2889.

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Independence and Security Act of 2007 (Pub. L. 110-140) (EISA) directed the Commission to consider the effectiveness of its current labeling requirements for “lamps,” commonly referred to as light bulbs, and alternative labeling approaches.¹ Pursuant to this mandate, on July 19, 2010 (75 FR 41696), the Commission published amendments to the Appliance Labeling Rule (Rule) creating new labeling requirements for general service lamps (*i.e.*, medium screw base incandescent, compact fluorescent (CFL), and light-emitting diode (LED) products). These requirements become effective on July 19, 2011. The new requirements feature a “Lighting Facts” label that will provide consumers with information on a bulb’s brightness, annual energy cost, life, color appearance, and energy use.

II. NEMA Petition and the Commission’s Proposed Amendments

On October 27, 2010, the National Electrical Manufacturers Association (NEMA) submitted a Petition asking for changes to the new requirements.² NEMA is a trade association for the electrical manufacturing industry. NEMA’s lamp manufacturers make and sell a substantial majority of the general service lamps affected by the revised Rule. Specifically, citing burdens that it failed to raise prior to the issuance of the revised Rule, NEMA asks the

¹ This document uses the terms lamp, light bulb, and bulb interchangeably.

² NEMA’s Petition is available on the Commission’s website at <http://www.ftc.gov/os/2010/10/101027nemapetition.pdf>.

Commission to make four changes to the labeling requirements: 1) extend the effective date for new labeling for all covered bulbs, except CFLs, to January 1, 2012; 2) extend the effective date for CFLs until January 1, 2013; 3) exempt all incandescent bulbs that will be phased out by 2014 due to revised federal energy efficiency standards; and 4) make certain changes to the label formatting requirements, particularly for smaller packages.³

In response, the Commission proposes to extend the Rule's effective date for all covered bulbs to January 1, 2012, but does not propose extending the effective date further for CFLs. The Commission also proposes exempting incandescent bulbs subject to federal efficiency standards in place by 2013, but not bulbs that will continue to be manufactured until 2014. In addition, the Commission does not propose any changes to the Rule's format requirements. The Commission seeks comment on these proposals.

A. Effective Date Extension For All Covered Bulbs

NEMA's Request: In its Petition, NEMA states that the current effective date of July 19, 2011, which provides manufacturers one year to comply with the revised Rule, is inadequate for several reasons not detailed in its earlier comments.⁴ First, NEMA asserts that manufacturers now produce many more models than when the Commission last made comprehensive changes

³ As discussed in detail below, the Commission received letters in response to NEMA's Petition from Earthjustice and the Natural Resources Defense Council (NRDC). Earthjustice's November 15, 2010 letter, submitted on behalf of Public Citizen and the Sierra Club, is available at <http://www.ftc.gov/os/2010/11/101115earthjusticelightlabeling.pdf>. NRDC's letter, which is also signed by representatives of the American Council for Energy Efficient Economy, Appliance Standards Awareness Project, and the Alliance to Save Energy, is available at <http://www.ftc.gov/os/2010/11/101110advocatenema.pdf>.

⁴ In its earlier comments, NEMA requested a one to two year period to comply with the new labeling requirements.

to its labeling requirements in 1994, which provided manufacturers with one year to comply.⁵ This substantial increase – from as many as 1,500 packaging styles per full-line bulb manufacturer in 1994 to as many as 3,500 packaging styles today – greatly increases the burden on manufacturers, and, thus, requires more time to implement. Second, the supply chain to U.S. retail shelves is much longer and more complex than in 1994 because a large number of packages impacted by the Rule, including almost all CFLs, are now manufactured and packaged in Asia. NEMA asserts that these extended supply chains make implementation of labeling changes much more logistically challenging. NEMA also states that, as a practical matter, the fact that most bulbs are now imported makes timely compliance with the Rule more difficult because manufacturers must not only package their bulbs with the new label, but do so prior to shipping and importing them into the United States.⁶ Third, NEMA contends that the new content requirements are much more extensive than those issued in 1994, and, thus, will require many more packages to be completely redesigned.⁷ Fourth, NEMA explains that manufacturers need additional time to work with retail stores to ensure that their revised packages are compatible with existing retail displays.

Responses to NEMA's Request: The Natural Resources Defense Council (NRDC) opposes an extension for all covered products. It asserts that the new label is required “as soon

⁵ 59 FR 25176 (May 13, 1994).

⁶ Pursuant to the revised rule, after the effective date, bulbs cannot be manufactured or imported without the new label. Thus, in order to import bulbs made outside the United States by the effective date, they must be manufactured with the new label some time earlier.

⁷ The 1994 label requires only lumens, watts, and life disclosures on the package front, while the new label requires information on the front and back package panels, and includes brightness, energy cost, life, light appearance, energy use, and mercury disclosures.

as possible” to help consumers make decisions in an increasingly complex marketplace. NRDC also states that the new “mandatory rules for calculating operating costs and savings claims” will help combat misleading claims that may harm consumer confidence in these new products. However, as discussed further in subsection B, NRDC supports an extension of the effective date for CFLs.

Earthjustice argues against any extension because, in its view, NEMA’s Petition provides no new evidence justifying a delay and because the new label is needed to help consumers make informed decisions when purchasing bulbs. Also, Earthjustice notes that manufacturers can meet the current effective date for at least some products, as evidenced by NEMA’s Petition, which states that manufacturers are ready to label LED and halogen products with no exceptions or delays.

Commission Response: The Commission proposes to extend the effective date for all covered bulbs to January 1, 2012. The Commission set the present one year compliance period because it was consistent with the compliance period for its 1994 label changes and within the one to two year compliance period requested by NEMA. Indeed, as NEMA concedes, it failed to raise the implementation concerns highlighted in its Petition prior to issuance of the revised Rule. The Petition does, however, detail significant new concerns about the effective date. Specifically, the much larger number of packaging styles involved than in 1994, the difficulties posed by overseas manufacturing and packaging, and the extensive nature of the label changes required for each package weigh in favor of providing manufacturers with additional time to comply.

In consideration of these issues, as well as Earthjustice’s opposition to any extension and NRDC’s opposition to an extension for non-CFLs, an extension of approximately six months to

January 1, 2012, is appropriate. Importantly, this date coincides with the effective date for heightened federal efficiency standards that will begin to phase out traditional incandescent bulbs in favor of more efficient alternatives. Thus, even with the extension, consumers will have the new label to help them with this transition. Moreover, NEMA's Petition states that bulb manufacturers are prepared to fully comply with the new labeling rules for all LED and new halogen bulbs without exceptions or delays. Therefore, the Commission expects that consumers will have the benefit of the new label on many such bulbs introduced to the market prior to the proposed effective date.

B. Effective Date for CFLs

NEMA's Request: NEMA also seeks a further extension of the effective date for labeling CFLs to January 1, 2013. First, it explains that putting the new label on CFL packages presents unique challenges because these packages often have multiple shapes and unusual configurations, such as extended side panels and blister packs, and because their small size makes it particularly difficult to incorporate the new label. Second, NEMA asserts that the sheer number of CFL packaging styles affected by the new label – as many as 1,800 to 2,000 per manufacturer – creates an undue burden absent an extension. Third, NEMA argues that because no company has the internal resources necessary to change so many packages, manufacturers will have to outsource a substantial portion of the work, presumably at greater cost. Fourth, as discussed above, the long supply chain for CFLs poses logistical challenges for label changes. Finally, NEMA notes manufacturers plan to replace many current CFLs within 12 to 18 months with new models that contain less mercury and have enhanced features (*e.g.*, dimming). Thus, some CFL models would bear the new label for only a short time period.

Responses to NEMA's Request: NRDC supports NEMA's proposal to extend the effective date for CFLs to January 1, 2013. In its view, this extension will allow manufacturers to focus on labeling new energy saving bulbs, as well as their remaining incandescent bulbs. Earthjustice, however, opposes any extension. It argues that the large number of CFLs in the market underscores the need for the new label, particularly given the Commission's conclusion that the current label, with its focus on wattage, is not effective for communicating the brightness of high efficiency bulbs.

Commission Response: The Commission does not propose further extending the effective date for CFLs to January 1, 2013. As NEMA explains, CFLs are the predominant high efficiency bulb on the market and will remain so for some time. The proposed delay would deprive consumers of the benefits of the new label for these bulbs, including preventing them from using the new label to readily compare CFLs to halogens and LEDs as those technologies become more available. Moreover, further delaying the new label for the most prevalent high efficiency bulbs on the market would hamper the Commission and the Department of Energy's (DOE's) efforts to educate consumers about the new label and high efficiency bulbs. In addition, the proposed extension of the effective date for all covered bulbs to January 1, 2012, along with the exemption of certain incandescent bulbs as discussed below in Section C, should help alleviate the burdens associated with labeling CFLs. Finally, the proposal would not require the new label for CFLs that will be discontinued before January 1, 2012, because manufacturers will cease production of those CFLs before the new label becomes effective.

C. Incandescent Bulbs Subject to New Federal Efficiency Standards

NEMA's Request: NEMA also urges the Commission to exempt from the new label incandescent bulbs that will not meet heightened federal efficiency standards. Specifically,

NEMA seeks to exempt 75-watt incandescent bulbs that will be eliminated by new EISA efficiency standards effective January 1, 2013, as well as 60 and 40-watt incandescent bulbs that will not meet EISA standards effective January 1, 2014.⁸ In addition, NEMA seeks to exempt certain inefficient incandescent reflector products that DOE efficiency regulations will eliminate on July 14, 2012.⁹ According to NEMA, together, these incandescent bulbs comprise 25% of the bulbs covered by the new labeling rule.

NEMA explains that manufacturers are no longer investing in these bulbs given their impending obsolescence.¹⁰ As a result, NEMA opposes requiring manufacturers to reinvest in them by creating new packaging when they will be manufactured for no more than 17 months (for 75-watt incandescents) and 29 months (for 60 and 40-watt incandescents), thereby wasting industry resources better directed to more efficient lighting technologies. In addition, NEMA asserts that EISA's labeling provisions focus on new, high efficiency products and were not intended to require label changes for soon-to-be-obsolete bulbs. NEMA further states that bulb manufacturers simply do not have the resources to change these product packages before the deadline given the many challenges they face to label CFL and other high efficiency bulbs. Finally, NEMA argues that any harm caused by not labeling these incandescent bulbs is minimal because their packages would continue to display the FTC's current label, which provides lumens, watts, and life disclosures. The current FTC label will enable consumers to compare products for the short period these bulbs remain on store shelves.

⁸ See 42 U.S.C. 6295(I).

⁹ 74 FR 34080 (July 14, 2009).

¹⁰ NEMA notes that efficiency requirements in the European Union, Canada, and Mexico also have hastened disinvestment in these bulbs.

Responses to NEMA's Request: NRDC disagrees. In its view, the new label – particularly its energy cost disclosure – is essential for incandescent bulbs to show consumers that they have much higher operating costs than more efficient alternatives. Because approximately 50% of these incandescents will continue to be manufactured until January 1, 2014, NRDC argues labeling them will help consumers achieve substantial energy savings. However, as a compromise, NRDC recommends that the Commission only require manufacturers to include the front label (lumens and energy cost) on incandescent packages, exempting these bulbs from the Lighting Facts label. In NRDC's view, this approach would give consumers energy cost information, while only requiring manufacturers to make “minor” package modifications.

Earthjustice also disagrees with NEMA's proposal, noting that the FTC has already concluded that the new label is important for incandescents because these bulbs will remain on the market more than a year after the current Rule's effective date and because they are particularly inefficient. Moreover, Earthjustice opposes NRDC's suggestion to require the front label only for these bulbs because it would deprive consumers of important information on the Lighting Facts label that will help them compare incandescents to higher efficiency bulbs.

Commission Response: Based on this record, the Commission proposes to exempt both incandescent bulbs that do not meet the 2013 EISA efficiency standards (*i.e.*, 75 watt bulbs) and reflector bulbs that do not meet DOE's July 14, 2012, standards from the new labeling requirements.¹¹ The Commission would continue to require the existing label (lumens, watts,

¹¹ 10 CFR 430.32(n)(5).

and life) for these products. However, the Commission does not propose to exempt products that do not meet the 2014 standards (*i.e.*, 60 and 40 watt bulbs) from the new label.

When it revised the Rule, the Commission determined the new label was appropriate for traditional incandescent bulbs that would remain in production for more than a year after the Rule's effective date. The Commission included these bulbs because Congress had identified them as inefficient and the new labeling requirements would provide benefits to consumers that outweighed additional costs to industry. At the same time, the Commission exempted 100-watt incandescent bulbs because new efficiency standards will halt production of those bulbs by January 1, 2012, less than six months after the effective date. The Commission reasoned that the benefits of labeling these bulbs for such a short period did not justify the costs to manufacturers. Having considered NEMA's newly raised concerns, the Commission now proposes to exempt 75 watt incandescent bulbs and incandescent reflector bulbs. The proposed January 1, 2012 effective date would shorten to a year the time 75 watt incandescents can be manufactured after the new labeling requirements become effective. This shorter period shifts the cost benefit analysis in favor of exempting these bulbs. Moreover, exempting 75 watt incandescent bulbs should free resources to label other bulbs, such as CFLs, in a timely manner.

The case for requiring the new label on 60 and 40 watt bulbs is more compelling. These bulbs, which according to NRDC account for more than 50% of the incandescent market, will continue to be manufactured for two years after the proposed effective date. Because consumers will see 60 and 40 watt bulbs on store shelves for a much longer time and in greater numbers

than 75 watt bulbs, a increased need exists for the new label to help consumers compare alternatives.¹²

Finally, the Commission declines to propose that only the front label (lumens and energy cost) be required for incandescent bulbs as suggested by NRDC. First, the front label no longer provides wattage information. This information helps consumers ensure that they do not exceed the wattage limitation for their fixtures. Second, the front label does not provide consumers the utility rate and daily usage assumptions (*i.e.*, 11 cents per kWh and three hours per day) underlying the energy cost disclosure, rendering the energy cost disclosure less useful. Third, it is unclear whether this approach actually decreases manufacturer's labeling costs because they still would have to change each incandescent package. Finally, as noted by Earthjustice, the Lighting Facts label contains other information such as light appearance that will help consumers compare incandescent bulbs to higher efficiency alternatives.

D. Formatting Requirements for Smaller Packages

NEMA's Request: NEMA's Petition seeks certain changes and clarifications concerning the Rule's formatting requirements for small packages. In particular, NEMA suggests the Commission allow the linear (small, text-only) format on packages up to 48 square inches

¹² Although NEMA argues that Congress did not intend to change the labeling of traditional incandescent bulbs, nothing in EISA exempts these bulbs from the FTC's mandate to consider alternative labeling approaches to assist consumers.

instead of the 24 square inches specified in the Rule.¹³ NEMA also asks the Commission to allow smaller label dimensions, smaller font sizes, and the placement of language on more than one line (*e.g.*, presumably the placement of “brightness” and “lumens” on separate lines).¹⁴ Finally, NEMA seeks clarification on whether manufacturers should include the bulb area on blister packs, space devoted to warnings, and space occupied by graphics in calculating whether a package is less than 24 square inches.

Commission Response: The Commission does not propose to change the Rule’s formatting requirements as requested by NEMA. Specifically, the standard label should fit on packages larger than 24 inches because the criteria used to set this threshold are consistent with those used by the Food and Drug Administration in its well-established food labeling program.¹⁵ A larger threshold would encourage use of the smaller, less helpful, linear label. Additionally, while the Rule does not dictate the label’s dimensions, it does specify minimum font, leading, and line thicknesses.¹⁶ The Commission is not proposing any changes to the required font sizes because smaller sizes likely would decrease the label’s effectiveness. Manufacturers should note that they may contact FTC staff for guidance if they have specific problems fitting the required

¹³ The amendments announced in the July 19, 2010 Notice allow manufacturers to use a smaller, linear, text-only Lightings Facts label, if: 1) the package’s total surface area available for labeling is less than 24 square inches; and 2) the package shape or size cannot accommodate any of three standard formats (in English) on the rear or side panel. *See* 16 CFR 305.15(b)(5). This linear label criteria is similar to the FDA requirements for its Nutrition Facts programs. 75 FR at 41700.

¹⁴ Earthjustice and NRDC’s letters do not address NEMA’s recommendations on this issue.

¹⁵ *See* 75 FR at 41700, n. 31.

¹⁶ *See Id.*, n. 29.

label on particular packages. Finally, in calculating the surface area available for labeling on their packages, manufacturers should not include blister pack surfaces covering the bulb. However, they should include space used for any non-FTC mandated warnings, graphics, or other printed information.

III. Request for Comment

The Commission invites interested persons to submit written comments on any issue of fact, law, or policy that may bear upon the proposals under consideration. Please include explanations for any answers provided, as well as supporting evidence where appropriate. After examining the comments, the Commission will determine whether to issue specific amendments.

Interested parties are invited to submit written comments electronically or in paper form. All comments should be filed as prescribed below, and must be received on or before January 28, 2011. Comments should state “Lamp Labeling – Effective Date Extension, P-114200” in the text and, if applicable, on the envelope. The FTC will place your comment – including your name and your state – on the public record of this proceeding, and to the extent practicable, will make it available to the public on the FTC website at

<http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission endeavors to remove individuals’ home contact information from the comments before placing them on its website. Because comments will be made public, they should not include: (1) any sensitive personal information, such as any individual’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; (2) any sensitive health information, such as medical records or other individually identifiable health information; or (3) any trade secret or any commercial or financial information which is privileged or

confidential, as provided in 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). 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).¹⁷

Because postal mail addressed to the FTC is subject to delay due to heightened security screening, if possible, please submit your comments in electronic form or send them by courier or overnight service. To ensure that the Commission considers an electronic comment, you must file it at <https://ftcpublic.commentworks.com/ftc/lightbulblabel> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/search/Regs/home.html#home>, you may also file a comment through that website. The Commission will consider all comments that *regulations.gov* forwards to it. You may also visit the FTC website at <http://www.ftc.gov> to read the Notice and the news release describing it.

A comment filed in paper form should include the reference “Lamp Labeling – Effective Date Extension, P-114200” in the text of the comment and, if applicable, on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

¹⁷ 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 FTC’s General Counsel will grant or deny the request consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

The FTC Act and other laws 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 comments it receives. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.shtm>.

Under the Freedom of Information Act (FOIA) or other laws, we may be required to disclose to outside organizations the information you provide. For additional information, including routine uses permitted by the Privacy Act, see the Commission's Privacy Policy at www.ftc.gov/ftc/privacy.shtm. The FTC Act and other laws the Commission administers permit the collection of this contact information to consider and use for the above purposes.

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an oral hearing regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the Federal Register stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a hearing request, on or before January 18, 2011, in the form of a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

IV. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute “information collection requirements” as defined by 5 CFR § 1320.7(c), the regulation that implements the Paperwork Reduction Act (PRA).¹⁸ OMB has approved the Rule’s existing information collection requirements through May 31, 2011 (OMB Control No. 3084-0069). The proposed amendments in this document will not increase and, in fact, will likely somewhat reduce previously estimated burden for the lamp labeling amendments.

V. 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. See 5 U.S.C. 603-605.

The Commission does not anticipate that the proposed rule will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds. However, the Commission does not expect that the economic impact of the proposed amendments will be significant. In fact, the changes under consideration are likely to decrease the Rule’s burden on affected entities.

¹⁸ 44 U.S.C. 3501-3521.

In its July 19, 2010 Notice (75 FR at 41711), the Commission estimated that the new labeling requirements will apply to about 50 product manufacturers and an additional 150 online and paper catalog sellers of covered products. The Commission expects that approximately 150 qualify as small businesses.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the proposed rule, the number of these companies that are "small entities," and the average annual burden for each entity. Although the Commission certifies under the RFA that the rule proposed in this notice would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed rule on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

Section 321(b) of the Energy Independence and Security Act of 2007 (Pub. L. 110-140) requires the Commission to conduct a rulemaking to consider the effectiveness of the lamp labeling and to consider alternative labeling approaches. The Commission is considering an extension to the rule's effective date to provide industry members with additional compliance time.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the rule is to improve the effectiveness of the current lamp labeling program. EISA directs the Commission to consider whether alternative labeling approaches would help consumers better understand new high-efficiency lamp products and help them choose lamps that meet their needs. The particular changes currently under consideration would extend the rule's effective date to provide additional time for compliance.

C. Small Entities to Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, lamp manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees). Lamp catalog sellers qualify as small businesses if their sales are less than \$8.0 million annually. The Commission estimates that there are approximately 150 entities subject to the proposed rule's requirements qualify as small businesses.¹⁹ The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the proposed rule would have a significant economic impact.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The changes under consideration would not increase any reporting, recordkeeping, or other compliance requirements associated with the Commission's labeling rules (75 FR 41696). The proposed amendments will only extend the effective date for complying with the new light bulb labeling requirements previously issued at 75 FR 41696. The proposed rule amendments

¹⁹ See 75 FR at 41712.

would also exempt incandescent bulbs that fail to meet federal energy efficiency standards by 2013 (*e.g.*, 75 watt bulbs) from those requirements. The Commission invites comment and information on these issues.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed rule. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Rule

The Commission seeks comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the rule on small entities. For example, in proposing to extend the effective date for the new labeling requirements and to exempt certain bulbs from those requirements, the Commission is currently unaware of the need to adopt any special provision for small entities to be able to take advantage of the proposed extension or exemption, where applicable. The Commission, as previously explained, expects that the proposed amendments will postpone or reduce, rather than increase, the economic impact of the rule's requirements for all entities, including small entities. Nonetheless, if the comments filed in response to this notice identify small entities that are affected by the rule, as well as alternative methods of compliance that would reduce the economic impact of the rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final rule.

VI. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

VII. Final Rule

List of Subjects in 16 CFR part 305

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

For the reasons discussed above, the Commission proposes to amend part 305 of title 16, Code of Federal Regulations, as follows:

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”)

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

AUTHORITY: 42 U.S.C. 6294.

2. In § 305.15, paragraph (c)(1) is revised to read as follows:

§ 305.15 Labeling for lighting products.

* * * * *

(c)(1) Any covered incandescent lamp that is subject to and does not comply with the January 1, 2012 or January 1, 2013 efficiency standards specified in 42 U.S.C. 6295 or the DOE standards at 10 CFR 430.32(n)(5) effective July 14, 2012 shall be labeled clearly and conspicuously on the

principal display panel of product package with the following information in lieu of the labeling requirements specified in paragraph (b):

* * * * *

By direction of the Commission.

Donald S. Clark
Secretary.