

FTC Enforcement Policy: Labels for Electric Vehicles

Until further notice, the Commission will forbear from enforcing current FTC labeling requirements for electric vehicles (including plug-in hybrid electric vehicles (PHEV)) that are labeled in accordance with Environmental Protection Agency (“EPA”) requirements. As detailed below, this policy, pending completion of the FTC’s ongoing regulatory review of its labeling requirements, will help eliminate consumer confusion and industry burden caused by inconsistent FTC and EPA requirements for cruising range disclosures.

Currently, FTC and EPA labels for electric vehicles disclose inconsistent cruising range information. Specifically, the FTC’s Alternative Fuels Rule requires electric vehicle labels to disclose the lower and upper cruising range values (*e.g.*, 60-70 miles on one charge) of those vehicles determined by test methods in SAE J1634 “Electric Vehicle Energy Consumption and Range Test Procedure.”¹ When the FTC first issued these requirements in 1995, the EPA did not have label requirements or any mandated test to determine cruising range for electric vehicles. However, EPA now requires labels for electric vehicles disclosing a single cruising range number (*e.g.*, 65 miles on one charge).² Although EPA also uses the SAE J1634 test procedure for driving range estimates, it adjusts the test results to reflect real world driving conditions such as cold temperature operation, aggressive driving, and air conditioning use. These EPA adjustments appear to yield more realistic cruising range values than those produced by the SAE J1634 test procedure alone.

Given the proliferation of electric vehicles, the Commission has accelerated review of its Alternative Fuels Rule to explore harmonization between the two agencies’ regulations.³ Until recently, the inconsistent range information has caused minimal, if any, problems because few electric models have been available to typical consumers. Soon, however, several new electric models will reach showrooms before the Commission’s regulatory review is complete.

To promote consistency while the Commission explores these issues in more detail, the FTC will forbear from enforcing the FTC label requirements for electric vehicles (including PHEVs) as long as manufacturers use the required EPA label. For electric vehicle manufacturers

¹ See “Labeling Requirements For Alternative Fuels and Alternative Fueled Vehicles” (“Alternative Fuels Rule” or “Rule”) (16 C.F.R. Part 309). The Commission issued the Rule pursuant to the Energy Policy Act of 1992, which directed the establishment of uniform labeling requirements for alternative fuels and AFVs. See Pub. L. 102-486, 106 Stat. 2776 (1992) and 42 U.S.C. 13232(a). 16 C.F.R. § 309.22.

² EPA’s current fuel economy rules require labels for electric vehicles (40 C.F.R. § 600.301-08) and require fuel economy adjustment factors to reflect real world conditions (40 C.F.R. § 600.210-08(a)&(b)). Though the current rules do not contain a cruising range test procedure, they allow EPA to prescribe special methods for determining information on labels for advanced technology vehicles (40 C.F.R. § 600.210-08(e)). Pursuant to that provision, EPA staff is requiring manufacturers to use SAE J1634 for electric vehicle cruising range disclosures.

³ 75 FR 12715 (March 17, 2010). The review was previously scheduled for 2014.

currently exempt from EPA's labeling requirements, the FTC will forbear from bringing enforcement actions if manufacturers use the FTC label with a cruising range derived using EPA's methodology.⁴ The Commission encourages manufacturers to use only the EPA range on electric vehicles during this interim period because EPA's approach appears to yield more realistic cruising range values. This policy will remain in effect until the Commission completes its Alternative Fuels Rule review.

For questions regarding this Policy, please contact Hampton Newsome, Bureau of Consumer Protection, 202-326-2889.

⁴ EPA labeling rules exempt manufacturers that produce only electric vehicles. This exemption ends in 2012. 40 C.F.R. §§ 600.301-08 & 600.301-12.