Office of the Secretary, Commerce

§ 16.4 Finding of need to establish a specification for labeling a consumer product.

(a) Any person may request the Secretary to find that there is a need to label a particular consumer product with information concerning one or more specific performance characteristics of that product.

(b) Such a request shall be in writing and will, to the extent practicable, include the following information:

(1) Identification of the consumer product;

(2) Extent that the product identified in paragraph (b)(1) of this section is used by the public and, if known, what the production or sales volume is of such product;

(3) Nature and extent of difficulty experienced by consumers in making informed purchase decisions because of a lack of knowledge regarding the performance characteristics of the identified consumer product;

(4) Potential or actual loss to consumers as a result of an incorrect decision based on an inadequate understanding of the performance characteristics of the identified consumer product;

(5) Extent of incidence of consumer complaints arising from or reasonably traceable to lack of knowledge regarding the performance characteristics of the identified consumer product;

(6) If known, whether there currently exist test methods which could be used to test the performance characteristics of the identified consumer product and an identification of those test methods;

(7) Reasons why it is felt, in cases where existing test methods are identified in responding to paragraph (b)(6) of this section, that such test methods are suitable for making objective measurements of the performance characteristics of the identified consumer product; and

(8) Estimated cost to participants to test and label the product.

(c) The Secretary may ask for more information to support a request made under paragraph (a) of this section if she feels it is necessary to do so, or, if she deems it to be in the public interest, may develop such information herself as by consultation on a one-time basis with consumers, consumer organizations, and others. The Secretary shall act expeditiously on all requests and shall notify the requester of her decision in writing. If the Secretary determines that there is no need to establish a Specification for labeling the requested consumer product performance characteristics, or because of a lack of resources, she will decline to act further on the request. In those instances where the Secretary declines a request, she shall state the reasons for so declining.

(d) If the Secretary finds that a need exists to establish a Specification for labeling a consumer product under this program, she shall publish a notice in the Federal Register setting out such finding and its basis and stating that she is developing a proposed Specification in accordance with §16.5.

§ 16.5 Development of performance information labeling specifications.

(a) If the Secretary makes a finding of need pursuant to §16.4, she will publish a proposed Performance Information Labeling Specification in the Federal Register with a notice giving the complete text of the proposed Specification and any other pertinent information. The notice will invite any interested person to submit written comments on the proposed Specification within 45 days after its publication in the Federal Register, unless another time limit is provided by the Secretary. Interested persons wanting to express their views in an informal hearing may do so, if within 15 days
§ 16.6 Establishment of fees and charges.

(a) The Secretary in conjunction with the use of the Working Capital Fund of the National Institute of Standards & Technology, as authorized under section 12 of the Act of March 3, 1901, as amended (15 U.S.C. 278b), for this program, shall establish fees and charges for use of the Department of Commerce Label and Mark on each product. Such fees and charges shall be related to the number of units of products labeled, where appropriate. The fees and charges established by the Secretary, which may be revised by her when she deems it appropriate to do so, shall be in amounts calculated to make the operation of this program as self-sufficient as reasonable. A separate notice will be published in the Federal Register simultaneously with the notice of each proposed Specification referred to in §16.5(a). Such notice will set out a schedule of estimated fees and charges the Secretary proposes to establish. The notice would be furnished for informational and guidance purposes only in order that the public may evaluate the proposed Specification in light of the expected fees to be charged.

(b) At such time as the Secretary publishes the notice announcing the final Specification referred to in §16.5(c)(1), she shall simultaneously publish a separate notice in the Federal Register setting forth the final schedule of fees that will be charged participants in the program. The effective date of such final schedule of fees shall be the same as the date on which the final Specification takes effect.

(c) Revisions, if any, to the fees and charges established by the Secretary under paragraph (b) of this section shall be published in subsequent Federal Register notices and shall take effect not less than thirty (30) days after the date of publication of such notice.

(d) The establishment of fees and charges under this section may, at any time, be suspended by the Secretary for any length of time.