

2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

#### 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

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

**Bombardier Inc.:** Docket No. FAA-2011-0720; Directorate Identifier 2010-NM-252-AD.

#### Comments Due Date

(a) We must receive comments by September 15, 2011.

#### Affected ADS

(b) None.

#### Applicability

(c) This AD applies to Bombardier Inc. Model DHC-8-400, -401, and -402 airplanes, certificated in any category, having serial numbers 4001 and subsequent.

#### Subject

(d) Air Transport Association (ATA) of America Code 32: Landing Gear.

#### Reason

(e) The mandatory continuing airworthiness information (MCAI) states: There has been one reported incident where the main landing gear (MLG) failed to extend during testing of the MLG alternate release system. Investigation revealed that the door release lever bushing was worn, causing an increase in the lateral movement of the release cable system. An increase in free-play within the release cable system would cause additional wear to the door release lever bushing and may lead to the turnbuckle fouling against the nacelle frame. The bushing wear at the door release lever and turnbuckle fouling could cause a failure in the alternate release system, preventing the landing gear from extending in the case

of a failure of the normal MLG extension/retraction system.

\* \* \* \* \*

The unsafe condition is loss of control during landing.

#### Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Actions

(g) Within 30 days after the effective date of this AD, revise the maintenance program by incorporating Task 323400-203 specified in Bombardier Temporary Revision (TR) MRB-46, dated February 4, 2010, to Section 1-32, Systems/Powerplant Maintenance Program, of the Maintenance Review Board (MRB) Report Part 1, of the Bombardier Q400 Dash 8 Maintenance Requirements Manual, PSM 1-84-7. The initial compliance time for the actions specified in Bombardier TR MRB-46, dated February 4, 2010, is within 6,000 flight hours after the effective date of this AD. Thereafter, operate the airplane according to the procedures and compliance times in Bombardier TR MRB-46, dated February 4, 2010.

#### No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

(h) After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i) of this AD.

#### FAA AD Differences

**Note 1:** This AD differs from the MCAI and/or service information as follows: No differences.

#### Other FAA AD Provisions

(i) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE-170, 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 New York ACO, Send it to ATTN: Program Manager, Continuing Operational Safety, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531. 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. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective

actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

#### Related Information

(j) Refer to MCAI Canadian Airworthiness Directive CF-2010-26, dated August 17, 2010; and Bombardier Temporary Revision MRB-46, dated February 4, 2010, to Section 1-32, Systems/Powerplant Maintenance Program, of the Maintenance Review Board Report Part 1, of the Bombardier Q400 Dash 8 Maintenance Requirements Manual, PSM 1-84-7; for related information.

Issued in Renton, Washington, on July 22, 2011.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011-19330 Filed 7-29-11; 8:45 am]

**BILLING CODE 4910-13-P**

## FEDERAL TRADE COMMISSION

### 16 CFR Part 305

[RIN 3084-AB03]

#### Appliance Labeling Rule

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Proposed rule.

**SUMMARY:** The Commission proposes to expand coverage of the Lighting Facts label to include all screw-based and GU-10 and GU-24 pin-based light bulbs. Under this proposal, manufacturers would have 2½ years to conform their products and packaging to the labeling requirements. The Commission also proposes to require a specific test procedure (LM-79) for measuring light output for all light emitting diode (LED) bulbs covered by the Rule. Finally, the Commission is not proposing amendments for several other issues such as watt-equivalent standards, directional light disclosures, and lead content disclosures.

**DATES:** Written comments must be received on or before September 22, 2011.

**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 “Notice of Proposed Rulemaking on Expanded Bulb Coverage for the Lighting Facts Label (16 CFR part 305) (Project No. P084206)” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/lampcoveragenprm>, by following the

instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex Y), 600 Pennsylvania Avenue, NW., Washington, DC 20580.

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

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 19, 2010 (75 FR 41696), the Commission published new light bulb<sup>1</sup> labeling requirements and sought comments on several unresolved issues related to those requirements.<sup>2</sup> The new requirements, which amend the Appliance Labeling Rule, 16 CFR part 305 ("Rule"), feature a "Lighting Facts" label that discloses information about the bulb's brightness, annual energy cost, life, color appearance, and energy use.<sup>3</sup> The Commission also sought additional comment on the following unresolved issues: the label's product coverage, light-emitting diode (LED) test procedures, watt-equivalence claims, beam spread and directional light disclosures, lead content disclosures, bilingual labels, fossil fuel lamp labels, and power factor disclosures. The Commission sought comment on these issues in response to the Congressional directive to consider reopening the labeling rulemaking in 2011 if the Commission determines that further labeling changes are necessary.<sup>4</sup>

**II. Proposed Amendments**

Consistent with Congress' directive, the Commission is now reopening the light bulb labeling rulemaking to seek comments on proposed amendments to the Rule. Specifically, the Commission proposes to expand label coverage to additional styles of bulbs and to require a specific test procedure requirement for LED bulb labels. The comments received in response to the July 2010 Notice suggest that these changes will help consumers with their purchasing

decisions.<sup>5</sup> As discussed in section III, the Commission is not proposing amendments related to any other issues raised in the July 2010 Notice.

**A. Expanded Light Bulb Label Coverage**

The Commission proposes to expand label coverage beyond medium screw-based products<sup>6</sup> to include all screw-based bulbs and GU-10 and GU-24 pin-based bulbs because expanded coverage will provide consumers uniform information, such as energy cost, brightness, and bulb life, to help them with their lighting decisions.<sup>7</sup> In imposing these requirements, the Commission plans to give manufacturers at least two and a half years to change their packaging to incorporate the new labels. As explained below, the Commission also seeks comment on the Rule's existing exclusions for specialty bulbs (e.g., bug, marine, and mine service lamps) and requiring the Lighting Facts labels for general service fluorescent lamp packages.

In response to the July 2010 Notice, several energy efficiency groups recommended, while industry members opposed, expanding coverage to include all screw-based models, including intermediate and candelabra based

models, and GU-10 and GU-24 pin-based models. The energy efficiency groups argued that such expanded label coverage would help consumers choose among bulbs with varying light output, energy efficiency, and other factors.

Specifically, the Natural Resources Defense Council (NRDC) argued that the new label should appear on packages for all screw-based models to ensure that the same information, in the form of the new label, appears on most light bulbs. In its view, the label's consistent disclosures for energy cost, brightness, life, color temperature, and watts will help consumers choose products with the characteristics they seek. According to the NRDC, consumers need the same basic light bulb information regardless of the product's shape (e.g., pear, globe, flame, or spiral), base (e.g., small, medium, or large diameter), or technology (e.g., incandescent, halogen, LED, CFL, etc.).<sup>8</sup> Although medium screw bases are the most common type of consumer lamp, NRDC identified a wide variety of lamps which use candelabra and intermediate bases. During informal visits to retail stores, NRDC observed that these bulbs can range from 2 watts to 100 watts, fit many different applications including chandeliers, night lights, ceiling fans, and halogen fixtures, and use traditional incandescent, halogen, CFL, or LED technology.<sup>9</sup> NRDC also identified wide differences in the light output among these products, arguing that labeling them would ensure a level playing field for industry. Finally, NRDC noted that packages for these products generally have room for the new FTC label.

The Consortium for Energy Efficiency (CEE) also urged labeling for candelabra-based bulbs but added a recommendation for pin-based (GU-24 and GU-10) lamps. In its view, expanding labeling coverage to additional styles of bulbs will better inform consumers about relative product performance and avoid confusion that could be caused by requiring the Lighting Facts label for some products but not others. CEE explained that, because these products can vary significantly in light output, energy use, and other characteristics, the label will be helpful to consumers. For example, current incandescent

<sup>5</sup> See <http://www.ftc.gov/os/comments/lamplabelingfinal/index.shtm>. Unless otherwise stated, comments discussed in this document refer to the following: Anderson (# 549189-00015); Alliance to Save Energy (including American Council for an Energy-Efficient Economy, Appliance Standards Awareness Project, Consumer Federation of America, Midwest Energy Efficiency Alliance, Northeast Energy Efficiency Partnerships, Northwest Power and Conservation Council, and Southeast Energy Efficiency Alliance) (# 549189-00018); Bell (# 549189-00003); CEE (# 549189-00019); Cree, Inc. (# 549189-00022); Fountain (# 549189-00016); Fritz (# 549189-00008); Grosslight (# 549189-00011); Krause (# 549189-00010); Meiworsky (# 549189-00004) (# 549189-00005); Moratti (# 549189-00009); Naim (# 549189-00014); Natural Resources Defense Council (# 549189-00013) (# 549189-00020); National Electrical Manufacturers Association (# 549189-00021); OSRAM SYLVANIA (# 549189-00017); Puckett (# 549189-00002); and St. Peter (# 549189-00012).

<sup>6</sup> Currently, the new label covers all general service lamps (i.e., medium screw-based incandescent, compact fluorescent [CFL], and LED products).

<sup>7</sup> The Commission proposes this expanded coverage pursuant to 42 U.S.C. 6294(a)(6) of EPCA, which gives the Commission authority to require disclosures for consumer products "not specified" under existing labeling requirements if the Commission "determines that labeling for the product is likely to assist consumers in making purchasing decisions." EPCA defines "consumer product" as any article (other than an automobile) which "in operation consumes, or is designed to consume energy" and "which, to any significant extent is distributed in commerce for personal use or consumption by an individual." 42 U.S.C. 6291(1). The Commission recently relied on this authority in requiring labels for LED bulbs, reflector lamps, and three-way lamps. 75 FR 41696, 41698 (Jul. 19, 2010).

<sup>1</sup> This document uses the terms lamp, light bulb, and bulb interchangeably.

<sup>2</sup> The Energy Independence and Security Act of 2007 (EISA) directed the Commission to examine existing light bulb labeling requirements. Public Law 110-140. EISA amended the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6291 *et seq.*).

<sup>3</sup> The requirements also direct manufacturers to print lumen information and, where appropriate, a mercury disclosure on the products themselves.

<sup>4</sup> 42 U.S.C. 6294(a)(2)(D)(iii)(II)(bb).

<sup>8</sup> The Alliance to Save Energy also argued that no reason exists to exclude some screw-based bulbs from the label and not others. In its view, such inconsistency adds to consumer confusion when purchasing lighting products.

<sup>9</sup> NRDC included several examples of night lights, candelabra bulbs, and chandelier bulbs. In one instance, it observed two nearly-identical 60W flame shaped lamps being sold next to each, one with a conventional medium screw base, the other with a smaller, candelabra base.

candelabra-based bulbs generally draw 25–60 watts per lamp and thus have a broad range of energy costs. These products also occupy a significant market share, according to CEE estimates, with candelabra-based products comprising roughly 9% of bulbs sold. Similarly, pin-based CFLs, which also appear in various wattages, comprise roughly 8% of the CFLs in the U.S. in 2008 (approximately 28.3 million lamps) according to CEE estimates.<sup>10</sup> CEE observed that candelabra and pin-based lamps appear in varied light outputs, lifetimes, and color temperatures, suggesting such label information will help consumer purchasing decisions.<sup>11</sup> Finally, CEE recommended that the FTC minimize the burden of expanded label coverage by providing manufacturers with more time to incorporate changes into their normal production and design schedules.<sup>12</sup>

In contrast, the National Electrical Manufacturers Association (NEMA) opposed expanded label coverage. NEMA explained that because intermediate and candelabra-based bulbs use less energy than medium screw base bulbs on a daily basis and appear only in a few household locations such as bathrooms, dining rooms, and some outdoor lighting decorative fixtures, they do not warrant labeling.<sup>13</sup> NEMA also argued that intermediate and candelabra based bulbs produced using differing technologies (e.g., incandescent, CFL, and LED) do not necessarily have the same functionality, and thus are not always direct substitutes for each other, presumably decreasing the comparative benefits of the FTC label. For example, most CFL replacements do not dim and may not provide the same “sparkle”

sought by consumers. NEMA also asserted that consumers are likely to purchase intermediate and candelabra bulbs based on aesthetic shape, fit, and maximum wattage of their existing sockets, not on the information provided by the new labels. Finally, NEMA argued that packages for intermediate and candelabra bulbs (often cardboard sheets with plastic bulb covers) have little or no room for the new label.

After considering the comments, the Commission finds the energy efficiency group recommendations for expanding coverage more persuasive than NEMA’s arguments opposing them.<sup>14</sup> Contrary to NEMA’s assertions, expanded labeling is likely to help consumers compare the variations in energy use, technology, and performance of these products. Specifically, these products can use significant amounts of energy compared to other lighting products. For example, as detailed by the comments, candelabra and intermediate-based incandescent bulbs are likely to draw significantly more watts than their CFL and LED counterparts. These bulbs also may draw more watts than larger, medium-based CFLs and LEDs. In addition, while competing technologies may not be available for some of these bulbs, that is not always the case,<sup>15</sup> and the development of additional competing technologies is likely in the future. Also, given the relatively high wattage and light output variation among these products, consumers are likely to consider the label’s light output, energy cost, life, and other disclosures even if, as NEMA states, they also are concerned with other factors such as shape, fit, and maximum wattage. In fact, as indicated by other comments, performance characteristics for these bulbs vary significantly, strongly suggesting that the FTC label, which highlights such variations, will be relevant to many consumers. And, although typical usage patterns (e.g., hours per day of operation) may vary for these products, the standard usage assumption on the Lighting Facts label (i.e., three hours per day) will provide consumers a consistent method to compare performance. Finally, though NEMA raised concerns about package size, the Rule already addresses space limitation issues by allowing an alternative text-

only label for packages with less than 24 inches of printable space.<sup>16</sup>

To expand the label’s coverage to additional styles of bulbs, the Commission proposes to amend the definition of “general service lamp” to cover all screw-based incandescent, CFL, and LED lamps, eliminate existing exclusions for specific bulb shapes generally available to consumers, and make other minor, conforming changes consistent with this proposal.<sup>17</sup> Currently, the definition excludes G shape lamps (as defined in ANSI C78.20–2003 and C79.1–2002) with a diameter of 5 inches or more; T shape lamps (as defined in ANSI C78.20–2003 and C79.1–2002) that use not more than 40 watts or have a length of more than 10 inches; and B, BA, CA, F, G16–1/2, G–25, G30, S, or M–14 lamps (as defined in ANSI C79.1–2002 and ANSI C78.20–2003) of 40 watts or less.

The Commission seeks comment on this proposal, particularly whether the Rule should retain existing exclusions for the particular shapes described above.<sup>18</sup> Please also provide detailed reasons for all comments. In preparing responses, commenters should review carefully the proposed revisions to the definition of “general service lamp” at the end of this notice. In addition, the Commission requests that comments address whether the Commission should retain existing exclusions for special-use bulbs including appliance lamps as defined at 42 U.S.C. 6291(30); black light lamps; bug lamps; colored lamps as defined at 42 U.S.C. 6291(30); infrared lamps; left-hand thread lamps; marine lamps; marine signal service lamp; mine service lamp; plant light lamps; rough service lamps as defined at 42 U.S.C. 6291(30); shatter-resistant lamps (including shatter-proof lamps and a shatterprotected lamps); sign service lamps; silver bowl lamps; showcase lamps; traffic signal lamps; and vibration service lamps as defined at 42 U.S.C. 6291(30). In addressing label coverage for these specialty bulbs or for any particular bulb shape, comments should indicate whether such bulbs are distributed, to any significant

<sup>10</sup> The Commission recently declined to require the new label for 75-watt incandescent bulbs, which represent about 1/5 of the incandescent market. 76 FR 20233 (Apr. 12, 2011). However, unlike pin-based CFLs, 75-watt incandescent bulbs will be phased out by 2013 efficiency standards.

<sup>11</sup> For example, according to CEE, ENERGY STAR-qualified GU–24 products demonstrate light output ranges from 547–2703 lumens, power draw from 9–42 watts, lifetime from 8,000–12,000 hours, and color temperature from 2700–6500 Kelvin.

<sup>12</sup> CEE’s suggestion is consistent with concerns recently raised by industry members about the effective date for labels on medium screw base bulbs. See 75 FR 81943 (Dec. 29, 2010) (NEMA petition to extend effective date for implementation of the Lighting Facts label).

<sup>13</sup> NEMA explained that EISA already limits the wattage of these bulbs to 40W for intermediate-based and 60W for candelabra-based bulbs, implying that labeling is not necessary for these products because of their limited wattages and corresponding energy costs. NEMA acknowledges that a few bulb types do consume more energy (e.g., 500w DE bulb) but states that these type bulbs do not have any energy efficient alternatives for consumers to choose from.

<sup>14</sup> Consistent with existing requirements, the expanded bulb coverage would also apply to disclosures for bulbs sold through websites and paper catalogs. See 16 CFR 305.20.

<sup>15</sup> For instance, as suggested by NRDC, chandelier bulbs are commonly sold in CFL and incandescent versions.

<sup>16</sup> In calculating such space, manufacturers should exclude the package area occupied by the bulbs themselves and the plastic necessary to cover them.

<sup>17</sup> The amendment to the definition of “general service lamp” also clarifies that the Lighting Facts label applies to lamps that are “consumer products” as defined by EPCA (42 U.S.C. 6291(1)).

<sup>18</sup> Comments should also address whether these products will have space available for the disclosures required on the products themselves (e.g., lumens and mercury disclosure). In addition, comments should address whether test procedures are available for measuring light output, energy use, life, and color temperature for these products.

extent, for personal use or consumption by consumers.

Finally, commenters should address whether the Lighting Facts label should appear on the package of general service fluorescent lamps.<sup>19</sup> Currently, the Rule requires an encircled “E” on the package of these lamps to denote compliance with federal efficiency standards. When it issued this requirement in 1994, the Commission declined to require more detailed disclosures (*e.g.*, lumens, life, *etc.*) because of similarities in the characteristics of competing general service fluorescent lamps.<sup>20</sup> The Commission asks now whether it should reconsider this decision and, if so, why. In particular, comments should address the extent to which these products are sold to consumers in the residential market, the amount of energy such products use, the variability in energy use between comparable products, the burdens associated with such label changes, and the likelihood the new label information would help consumers in their purchasing decisions for these products.

#### B. LED Test Procedure

Based on unchallenged support in the comments, the Commission proposes to require a specific test procedure, IES–LM–79–2008 (LM–79), for measuring LED light output and color characteristics to help ensure consistent label content. The July 2010 Notice identified this procedure as a “safe harbor,” allowing manufacturers to use LM–79 as a reasonable basis for LED light output claims. Now, the Commission proposes to make the procedure mandatory and provide manufacturers one year to begin using the procedure as the basis for their label information for LED bulbs. The Commission seeks comment on this proposal.

Comments provided convincing support for the adoption of LM–79.<sup>21</sup> CEE argued that an FTC requirement for LM–79 would create more consistency in the market. It explained that the procedure offers the only test available to measure LED products, given their unique properties. CEE also noted that representatives of industry, research institutions, and test laboratories contributed to its development and that the ENERGY STAR program has incorporated LM–79 into its specifications. Cree, Inc., also explained

<sup>19</sup> One commenter, Meirowsky, suggested that the Commission label these products but did not provide details.

<sup>20</sup> 59 FR 25176, 25197 (May 13, 1994).

<sup>21</sup> See NEMA, CEE, and Cree, Inc.

that most manufacturers know the LM–79 procedures, test labs conduct these measurements, and, in the commercial market at least, consumers are looking for this test data when they purchase LED bulbs.

### III. Issues Not Included in Proposed Amendments

After reviewing the comments submitted in response to the July 2010 Notice, the Commission is not proposing any new requirements for watt-equivalence standards, beam spread disclosures, directional light disclosures, lead content disclosures, bilingual labels, fossil fuel lamp labels, and power factor at this time.<sup>22</sup> Unless stated otherwise, the Commission is not seeking additional comments on these issues.

#### A. Watt-Equivalence Claims

The Commission is not proposing standards for watt-equivalence claims because such requirements may inhibit helpful, truthful representations, and thus may not necessarily help consumers in their bulb purchasing decisions. Nevertheless, manufacturers should heed the Commission’s earlier recommendation to use ENERGY STAR equivalence benchmarks for general guidance in developing their watt-equivalence claims.<sup>23</sup>

Watt-equivalence claims often appear on CFL packages and generally contain conspicuous comparisons of the CFL’s light output to equivalent incandescent lamps (*e.g.*, “this bulb is a ‘60-watt equivalent’” or “13W=60W”). In the June 2010 Notice, the Commission sought comment on establishing mandatory, watt-equivalence requirements for these claims.<sup>24</sup>

The comments offered conflicting views. NRDC suggested the Commission set standards to mandate consistency in watt-equivalence claims on light bulb packages. In particular, NRDC, which provided several examples of problematic watt-equivalence claims, urged the Commission to use the ENERGY STAR watt-equivalence benchmarks in that program’s CFL specifications. It also noted that the European Union has already adopted such standards. Additionally, NRDC

<sup>22</sup> The Commission also received comments on issues already addressed by the Final Rule notice (*e.g.*, bulb life disclosures, mercury disclosures, color rendering index, and dimmers) and issues not identified for comment in that notice (*e.g.*, operating temperature disclosures). This Notice does not address those issues because the Commission has already considered them earlier or because they are not relevant to the issues currently under consideration.

<sup>23</sup> 75 FR at 41701.

<sup>24</sup> *Id.*

urged standards for reflector lamps separate from those for conventional incandescent bulbs. NEMA also supported standards but, as an alternative, recommended the Commission impose a blanket prohibition on all watt-equivalence claims. Such a prohibition, in NEMA’s view, would shift consumers away from using older, nearly obsolete technology as the basis for their bulb comparisons.

Conversely, Cree, Inc. argued that strict standards may actually encourage watt-equivalence claims and cause continued consumer reliance on power as a shorthand for light output. Cree, Inc. also argued that watt-equivalence comparisons should take into account factors other than light output such as light quality and distribution. According to Cree, Inc., products with identical light outputs and color temperature may actually appear to be substantially different to consumers because of factors such as color rendition index, light distribution, and color point location.

After considering these comments, the Commission is not proposing watt-equivalence standards at this time. As discussed by the Commission in the July 2010 Notice, the ENERGY STAR benchmarks provide important guidance, but they may not be applicable in every case.<sup>25</sup> Variables such as color appearance and other factors discussed in the comments make it difficult to apply a “one-size-fits-all” approach. Indeed, rigid equivalence standards could inhibit truthful claims. For example, while typical 60-watt incandescent bulbs have an 800-lumen rating, some 60-watt bulbs that have a cooler light appearance, could have lower lumen ratings (*e.g.*, 675 lumens). A strict legal standard requiring at least 800 lumens for all 60-watt comparisons would prohibit such claims for those cooler, dimmer (*e.g.*, 675 lumens) bulbs even though they are truthful.<sup>26</sup> The

<sup>25</sup> *Id.*

<sup>26</sup> EPCA authorizes the Commission to consider “alternative labeling approaches that will help consumers to understand new high-efficiency lamp products and to base the purchase decisions of the consumers on the most appropriate source that meets the requirements of the consumers for lighting level, light quality, lamp lifetime, and total lifecycle cost.” 42 U.S.C. 6294(a)(2)(D)(iii). Although EPCA gives the FTC authority to require affirmative energy disclosures on packages and products, the statute does not indicate that the FTC has authority to prohibit what are otherwise truthful, substantiated claims. Under § 5 of the FTC Act, the Commission has authority to prohibit deceptive and unfair claims. 15 U.S.C. 45(a)(1). There is no evidence that the watt-equivalence claims discussed here are categorically deceptive or unfair. In fact, as the Commission has acknowledged previously (74 FR 57950, 57955 (Nov. 10, 2009)), watt-equivalence claims may be useful to consumers as they transition toward using

comments did not address these concerns in any detail.

However, even in the absence of rigid watt-equivalence standards, manufacturers must ensure they can substantiate their watt-equivalence claims. The comments highlight the need for manufacturers to ensure their watt-equivalence claims are not deceptive. In particular, manufacturers must take into account the brightness of the bulbs they are comparing, as well as other material factors such as light appearance (*i.e.*, color temperature). To help manufacturers with these claims, the ENERGY STAR program has issued watt-equivalence standards that provide general benchmarks for comparing the light output of traditional incandescents to CFLs. In the short run, the Commission recommends that manufacturers adhere to the benchmarks in the ENERGY STAR watt-equivalence guidelines (see Table 1 below) unless they have a reasonable basis for a different equivalence standard. Simply put, if a manufacturer's claim is inconsistent with the ENERGY STAR benchmarks, it must possess another competent and reliable basis to substantiate its claims and should consider clearly qualifying its claims to avoid deception. Deceptive watt-equivalence comparisons are subject to FTC law enforcement actions under § 5 of the FTC Act.

TABLE 1—ENERGY STAR WATT-EQUIVALENCE BENCHMARKS

A-shaped incandescent bulb	Typical luminous flux (lumens)
25 .....	250
40 .....	450
60 .....	800
75 .....	1,100
100 .....	1,600
125 .....	2,000
150 .....	2,600
30–70–100 .....	1,200
50–100–150 .....	2,150

Note: Does not apply to globes, reflectors, or decorative CFLs. Lumens for 3-way lamps correspond to maximum equivalence shown.

In the long run, as more high-efficiency products appear and older incandescent technology leaves the market, watt-equivalence comparisons will have decreasing relevance to consumers. As equivalence claims recede, lumens will continue to provide a clear, consistent measurement for light output. However, consumer transition

lumens as the primary indicator of brightness. The Commission generally does not set environmental or performance standards, particularly if such standards will prohibit truthful, non-deceptive claims. See 75 FR 63552, 63596 (Oct. 15, 2010) (proposed FTC Green Guides revisions).

from watts to lumens will take time. The Commission encourages manufacturers to focus their communication efforts on lumens to help consumers with their lighting decisions. Eventually, consumer education, coupled with the phase-out of old incandescent bulbs, will help consumers look to lumens, not to obsolete watt-equivalence claims to evaluate bulb brightness.

#### B. Beam Spread and Directional Light Disclosure

The Commission is not proposing requirements for beam spread or directional light disclosures because the need for such mandatory disclosures to help consumers is unclear. In particular, no consistent definition exists for beam spread across different bulb types and the need for mandatory directional light disclosures is uncertain.

NEMA's comments opposed a beam spread disclosure because definitions of beam spread vary among different bulb types (*e.g.*, reflector and PAR [parabolic aluminized reflector] products). In addition, NEMA asserted that most residential consumers do not understand beam spread terminology. NEMA also indicated that commercial consumers and lighting designers generally obtain beam spread information from manufacturer catalogs, not from packages, thus suggesting that beam spread information on label packages would not be particularly helpful. No other commenter specifically addressed this issue. The Commission does not plan to pursue it further at this time.

NEMA and Cree, Inc. supported a directional light disclosure, arguing it would be useful to consumers and use little space on the package. In particular, NEMA recommended Center Beam Candlepower (CBCP) (*i.e.*, brightness at the center of the beam) for the directional disclosure on packaging for reflector lamps, including PARs. Cree, Inc. added that the label should disclose beam angle (either a specific angle or a category such as spot, flood, etc.).

Despite support in the comments, the Commission is not proposing to require CBCP disclosures at this time because nothing on the record suggests such information is familiar to typical consumers. Given this, CBCP or directional disclosure information may detract from information already on the label. If manufacturers believe such disclosures are important, nothing in the Rule prohibits them from providing it somewhere on the package (other than on the Lighting Facts label), as long as the information is truthful and substantiated.

#### C. Lead Content Disclosure

The Commission is not proposing a lead disclosure on the Lighting Facts label at this time because there is no clear basis in the comments demonstrating that this additional requirement would assist consumers in their purchasing decisions. According to NEMA, manufacturers have removed most of the lead from regulated products and any remaining lead is not available to human touch.

#### D. Bilingual Label Requirements

The current Rule allows, but does not require, bilingual labels. In light of the substantial marketing directed at non-English speakers, the July 2010 Notice sought comment on whether, when manufacturers make claims in a foreign language on a light bulb package, they should be required to include the Lighting Facts label in both that language and English. NEMA, the only organization to comment on this issue, opposed such a bilingual labeling requirement, citing space limitations on packages and the confusion multiple languages may cause. The Commission heard from no organizations or persons with expertise in issues affecting non-English speaking consumers.

The Commission believes this issue warrants further consideration. For nearly 40 years, Commission rules, guides, and cease-and-desist orders that mandate the clear and conspicuous disclosure of information in advertisements and sales material have required that such information be displayed in the language of the target audience (ordinarily, the language principally used in the advertisement or sales material in question).<sup>27</sup> Before adopting an alternative approach in the context of light bulb packaging, the Commission will continue to consider this issue and seeks additional information from a wider group of stakeholders. As part of that process, the Commission requests further comment on whether non-English claims on light bulb packages should trigger mandatory bilingual labels or other disclosures, and specifically asks commenters to address the following questions:

<sup>27</sup> 16 CFR 14.9 (*see* 38 FR 21494 (Aug. 4, 1973)); *see also* 16 CFR 610.4(a)(3)(ii) (mandatory disclosures about free credit reports must be made in same language as that principally used in the advertisement); 16 CFR 308.3(a)(1) (mandatory disclosures about pay-per-call services must be made in same language as that principally used in advertisement); 16 CFR 455.5 (where used car sale conducted in Spanish, mandatory disclosures must be made in Spanish); 16 CFR 429.1(a) (in door-to-door sales, failure to furnish completed receipt or contract in same language as oral sales presentation is an unfair and deceptive act or practice).

1. How prevalent today are non-English claims on light bulb packages? What are the languages being used? What types of information is typically conveyed through such non-English claims?

2. Do any light bulb packages currently include non-English information without displaying a bilingual version of the required FTC label? If so, please address whether, in such circumstances, the English label sufficiently conveys lighting information to non-English speaking consumers given the label's emphasis on numerical information. If so, why? If not, why not?

3. Would a bilingual label requirement triggered by non-English claims on packages discourage manufacturers from including non-English information on their packages? If so why, and what could be done to ameliorate that effect? If not, why not?

4. Could a bilingual label fit on all light bulb packages? If so, why? If not, why not? If the bilingual label could fit some but not all package sizes, how big would the package have to be to reasonably carry a bilingual label? Should a triggered disclosure depend on the size of the label?

5. Finally, the Commission seeks input on any other measures it should consider to help non-English speaking consumers obtain the information provided on the Lighting Facts Label concerning estimated annual energy cost, brightness, light appearance, life energy use, and the presence of mercury.

#### E. Fossil Fuel Lamps

The Commission is not proposing to require fossil fuel lamp labels (*e.g.*, natural gas lights, propane lights, and kerosene lamps) at this time because there is no clear basis in the record to indicate the Lighting Facts label would be appropriate for these products and thus help consumers in their purchasing decisions. In earlier comments, the Edison Electric Institute urged labeling for fossil fuel lamps noting their high energy costs.<sup>28</sup> However, fossil fuel lamps are significantly different from electric lamps in factors such as fuel type and use. For example, the usage and cost assumptions applicable to electric light bulbs may not apply to fossil fuel lamps. NEMA, which provided the only comments on this issue, noted that consumers use fossil fuel lamps for different applications than other lamps. NEMA also stated that

consumers do not expect fossil fuel lamps to be energy efficient.

#### F. Power Factor

The Commission is not proposing to include power factor on the Lighting Facts label because, according to the comments, power factor does not affect a consumer's energy costs and few consumers are likely to understand the term.<sup>29</sup>

#### IV. Minor, Clarifying Changes

The Commission also proposes to clarify the Rule language for labeling bulbs that operate at multiple, separate light levels (*e.g.*, "3-way" bulbs) to clarify that such language applies to all covered bulb technologies. Currently, the Rule's language addressing such bulbs applies only to incandescent bulbs.

#### V. 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.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 22, 2011. Write "Notice of Proposed Rulemaking on Expanded Bulb Coverage for the Lighting Facts Label (16 CFR part 305) (Project No. P084206)" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone'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, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is obtained from any person and 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). If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>30</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/lampcoveragenprm>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#/home>, you also may file a comment through that website.

If you file your comment on paper, write "Notice of Proposed Rulemaking on Expanded Bulb Coverage for the Lighting Facts Label (16 CFR part 305) (Project No. P084206)" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex Y), 600 Pennsylvania Avenue, NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. 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

<sup>28</sup> See NEMA, Cree, Inc., and CEE. Power factor, which is expressed as a number between 0 and 1, is a measure of the efficiency with which a device uses the power made available to it from the electric grid.

<sup>30</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual 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), 16 CFR 4.9(c).

<sup>28</sup> See 75 FR at 41698, n.16.

public comments that it receives on or before September 22, 2011. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

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 September 22, 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.

## VI. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, and testing requirements that constitute a "collection of information" as defined by 5 CFR 1320.3(c), the definitions provision within OMB regulations that implement the Paperwork Reduction Act (PRA).<sup>31</sup> OMB has approved the Rule's existing information collection requirements through January 31, 2014 (OMB Control No. 3084-0069). The amendments make changes in the Rule's labeling requirements. Accordingly, the Commission has submitted this notice of proposed rulemaking and associated Supporting Statement to OMB for review under the PRA.<sup>32</sup>

**Package and Product Labeling:** The proposed amendments require manufacturers to label several new bulb types. Accordingly, manufacturers will have to amend their package and product labeling to include new disclosures. The new requirements impose a one-time adjustment for manufacturers. The Commission estimates that there are 50 manufacturers making approximately 3,000 of these newly covered products. This adjustment will require an estimated 600 hours per manufacturer

on average.<sup>33</sup> Annualized for a single year reflective of a prospective 3-year PRA clearance, this averages to 200 hours per year. Thus, the label design change will result in cumulative burden of 10,000 hours (50 manufacturers × 200 hours). In estimating the associated labor cost, the Commission assumes that the label design change will be implemented by graphic designers at an hourly wage rate of \$23.44 per hour based on Bureau of Labor Statistics information.<sup>34</sup> Thus, the Commission estimates annual labor cost for this adjustment will total \$234,400 (10,000 hours × \$23.44 per hour).

The Commission estimates that the annualized capital cost of expanding the light bulb label coverage is \$1,535,000. This estimate is based on the assumptions that manufacturers will have to change 3,000 model packages over a three-year period to meet the new requirements<sup>35</sup> and that package label changes for each product will cost \$1,335.<sup>36</sup> Manufacturers place information on products in the normal course of business. Annualized in the context of a 3-year PRA clearance, these non-labor costs would average \$1,335,000 (3,000 model packages × \$1,335 each ÷ 3 years). As for product labeling, the Commission assumes that the one-time labeling change will cost \$200 per model for an annualized estimated total of \$200,000 (3,000 models × \$200 ÷ 3 years). Annualized in the context of a 3-year PRA clearance, these non-labor costs would average \$1,535,000.

**Catalog Sellers:** The proposed amendments will also require catalog sellers (e.g., website and print catalog sellers) to make required disclosures for these products pursuant to 16 CFR 305.20. The Commission estimates that there are approximately 150 entities subject to the amended requirements. The Commission estimates that these sellers each require approximately

17 hours per year to incorporate the data into their catalogs. This estimate is based on the assumption that entry of the required information takes on average one minute per covered product and an assumption that the average online catalog contains approximately 1,000 covered products. Given that there is great variety among sellers in the volume of products that they offer online, it is very difficult to estimate such numbers with precision. In addition, this analysis assumes that information for all 1,000 products is entered into the catalog each year. This is a conservative assumption because the number of incremental additions to the catalog from year to year is likely to be much lower after initial start-up efforts have been completed. Thus, the total annual disclosure burden for all catalog sellers of light bulbs covered by the proposed Rule is 2,550 hours (150 sellers × 17 hours annually). In estimating the associated labor cost, the Commission assumes that the label design change will be implemented by graphic designers at an hourly wage rate of \$23.44 per hour.<sup>37</sup> Thus, estimated labor cost for this adjustment is \$59,772 (2,550 hours × \$23.44 per hour).

**Testing:** The Commission assumes conservatively that manufacturers will have to test 3,000 basic models at 14 hours for each model for a total of 42,000 hours.<sup>38</sup> In calculating the associated labor cost estimate, the Commission assumes that this work will be implemented by electrical engineers at an hourly wage rate of \$39.72 per hour.<sup>39</sup> Thus, the Commission estimates that the new label design change will result in associated labor costs of approximately \$1,668,240 (42,000 hours × \$39.72 per hour). The Commission does not expect that the final amendments will create any capital or other non-labor costs for such testing.

Accordingly, the revised estimated total hour burden of the amendments is 54,550 hours (10,000 hours for packaging and labeling + 2,550 hours for catalog compliance + 42,000 hours for additional testing for correlated color temperature) with associated labor costs of \$1,962,412 and annualized capital or other non-labor costs totaling \$1,535,000.

<sup>31</sup> 44 U.S.C. 3501-3521.

<sup>32</sup> The PRA analysis for this rulemaking focuses strictly on the information collection requirements created by and/or otherwise affected by the amendments. Unaffected information collection provisions, specifically those regarding recordkeeping and reporting requirements, have previously been accounted for in past FTC analyses under the Rule and are covered by the current PRA clearance from OMB.

<sup>33</sup> The Commission has increased its estimate of the hours required to make this change from earlier estimates given recent concerns raised about the burden of implementing label changes. See 75 FR 81943 (Dec. 29, 2010).

<sup>34</sup> See U.S. Department of Labor, National Compensation Survey: Occupational Earnings in the United States 2009 (June 2010), Bulletin 2738, Table 3 ("Full-time civilian workers," mean and median hourly wages), <http://www.bls.gov/ncs/ncswage2009.htm>, at 3-12.

<sup>35</sup> This assumes that manufacturers will change packages for one third of their products in the normal course of business over the compliance period (i.e., 2½). The two and a half year compliance period and the notice provided by this proceeding should minimize the likelihood that manufacturers will have to discard package inventory. In addition, manufacturers may use stickers in lieu of discarding inventory.

<sup>36</sup> See 75 FR at 41712 n. 149 and accompanying text.

<sup>37</sup> See *supra* note 34.

<sup>38</sup> The Commission also assumes conservatively that manufacturers will conduct new testing for 3,000 out of the 6,000 estimated covered products. The Commission does not expect the specific LED testing requirements will increase burden because existing burden estimates account for testing of products already covered by the Rule. See 75 FR 81943 (Dec. 29, 2010).

<sup>39</sup> *Supra* note 34.

Comments on any proposed labeling requirements subject to review under the Paperwork Reduction Act should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5167.

### VII. 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 its July 19, 2010 Notice (75 FR 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 consider reopening light bulb labeling requirements in 2011. The Commission is proposing expanded product coverage and additional testing requirements to help consumers in their purchasing decisions for high efficiency products.

#### 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. Section 321(b) of the Energy Independence and Security Act of 2007 (Pub. L. 110-140) requires the Commission consider reopening light bulb labeling requirements in 2011 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.

#### 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 that qualify as small businesses.<sup>40</sup> 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 or recordkeeping requirements associated with the Commission's labeling rules (75 FR 41696). The amendments will increase compliance burdens by

extending the labeling requirements to new types of light bulbs. The Commission assumes that the label design change will be implemented by graphic designers.

#### 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 bulb coverage, 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. However, if such issues are identified, the Commission could consider alternative approaches such as extending the effective date of these amendments for catalog sellers to allow them additional time to comply beyond the labeling deadline set for manufacturers. 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.

### VIII. 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).

### IX. Proposed 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

<sup>40</sup> See 75 FR at 41712.



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 § 305.3, revise paragraphs (l), (m), (n), (o), (p) and (q) to read as follows:

**§ 305.3 Description of covered products.**

\* \* \* \* \*

(l) *General service lamp* means:

(1) A lamp that is a consumer product and is:

(i) A compact fluorescent lamp;

(ii) A general service incandescent lamp;

(iii) A general service light-emitting diode (LED or OLED) lamp; or

(iv) Any other lamp that the Secretary of Energy determines is used to satisfy lighting applications traditionally served by general service incandescent lamps.

(2) Exclusions. The term general service lamp does not include—

(i) Any lighting application or bulb shape described in paragraphs (n)(2)(ii)(A) through (Q) of this section; and

(ii) Any general service fluorescent lamp.

(m) *Compact fluorescent lamp* means an integrally ballasted fluorescent lamp with a screw, GU-10 pin, or GU-24 pin base, and a rated input voltage range of 115 to 130 volts; however, the term does not include any lamp that is specifically designed to be used for special purpose applications described in paragraphs (n)(2)(ii)(A) through (Q) of this section.

(n) *Incandescent lamp*:

(1) Means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage up to 199 watts, has a screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp;

(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer

bulb to direct the light, an R, PAR, ER, BR, BPAR, or similar bulb shapes with screw bases and a rated voltage or voltage range that lies at least partially within 115 and 130 volts;

(iii) Any general service incandescent lamp (commonly referred to as a high or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp);

(2) General service incandescent lamp means

(i) In general, a standard incandescent, halogen, or reflector type lamp that—

(A) Is intended for general service applications;

(B) Has a screw base;

(C) Has a lumen range of not more than 2,600 lumens; and

(D) Is capable of being operated at a voltage range at least partially within 110 and 130 volts.

(ii) Exclusions. The term “general service incandescent lamp” does not include the following incandescent lamps:

(A) An appliance lamp as defined at 42 U.S.C. 6291(30);

(B) A black light lamp;

(C) A bug lamp;

(D) A colored lamp as defined at 42 U.S.C. 6291(30);

(E) An infrared lamp;

(F) A left-hand thread lamp;

(G) A marine lamp;

(H) A marine signal service lamp;

(I) A mine service lamp;

(J) A plant light lamp;

(K) A rough service lamp as defined at 42 U.S.C. 6291(30);

(L) A shatter-resistant lamp (including a shatter-proof lamp and a shatterprotected lamp);

(M) A sign service lamp;

(N) A silver bowl lamp;

(O) A showcase lamp;

(P) A traffic signal lamp; or

(Q) A vibration service lamp as defined at 42 U.S.C. 6291(30);

(3) Incandescent reflector lamp means a lamp described in paragraph (n)(1)(ii) of this section; and

(4) Tungsten-halogen lamp means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

(o) Light-emitting diode (LED) means a p-n junction solid state device the radiated output of which is a function of the physical construction, material used, and exciting current of the device.

The output of a light-emitting diode may be in—

(1) The infrared region;

(2) The visible region; or

(3) The ultraviolet region.

(p) Organic light-emitting diode (OLED) means a thin-film light-emitting

device that typically consists of a series of organic layers between 2 electrical contacts (electrodes).

(q) General service light-emitting diode (LED or OLED) lamp means any light-emitting diode (LED or OLED) lamp that:

(1) Is intended for general service applications;

(2) Has a screw base;

(3) Has a lumen range of not more than 2,600 lumens; and

(4) Is capable of being operated at a voltage range at least partially within 110 and 130 volts.

\* \* \* \* \*

3. In § 305.5, paragraphs (b), (c), and (d) are redesignated as paragraphs (c), (d), and (e), add a new paragraph (b), and revise the newly designated paragraph (c) to read as follows:

**§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, and of water use rate.**

\* \* \* \* \*

(b) Manufacturers and private labelers of any covered product that is a general service light-emitting diode lamp must determine the product's light output and correlated color temperature using “IES LM-79-08, Electrical and Photometric Measurements of Solid-State Lighting Products.” This procedure is incorporated by reference into this section. The Director of the Federal Register approved these incorporations by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the test procedure may be inspected or obtained at the Federal Trade Commission, Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, DC 20580; at the National Archives and Records Administration (NARA) by calling (202) 741-6030 or going to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html); or from the Illuminating Engineering Society at [www.iesna.org](http://www.iesna.org).

(c) Unless otherwise provided in paragraph (a) or (b) of this section or § 305.8, manufacturers and private labelers of any covered product that is a general service fluorescent lamp, general service lamp, or metal halide lamp fixture, must, for any representation required by this Part including but not limited to of the design voltage, wattage, energy cost, light output, life, correlated color temperature, or color rendering index of such lamp or for any representation made by the encircled “E” that such a lamp is in compliance with an

applicable standard established by section 325 of the Act, possess and rely upon a reasonable basis consisting of competent and reliable scientific tests substantiating the representation. For

representations of the light output and life ratings of any covered product that is a general service lamp, unless otherwise provided by paragraph (a), the Commission will accept as a reasonable

basis scientific tests conducted according to the following applicable IES test protocols that substantiate the representations:

For measuring light output (in lumens):	
General Service Fluorescent .....	IES LM 9.
Compact Fluorescent .....	IES LM 66.
General Service Incandescent (Other than Reflector Lamps) .....	IES LM 45.
General Service Incandescent (Reflector Lamps) .....	IES LM 20.
For measuring laboratory life (in hours):	
General Service Fluorescent .....	IES LM 40.
Compact Fluorescent .....	IES LM 65.
General Service Incandescent (Other than Reflector Lamps) .....	IES LM 49.
General Service Incandescent (Reflector Lamps) .....	IES LM 49.

4. In § 305.15(d)(4) is revised to read as follows:

**§ 305.15 Labeling for lighting products.**

\* \* \* \* \*

(d) \* \* \*

(4) For any covered product that is a general service lamp and operates at discrete, multiple light levels (e.g., 800, 1600, and 2500 lumens), the light output, energy cost, and wattage disclosures required by this section must be provided at each of the lamp's levels of light output and the lamp's life provided on the basis of the shortest lived operating mode. The multiple numbers shall be separated by a "/" (e.g., 800/1600/2500 lumens) if they appear on the same line on the label.

\* \* \* \* \*

By direction of the Commission.

**Donald S. Clark,**

Secretary.

[FR Doc. 2011-19041 Filed 7-29-11; 8:45 am]

BILLING CODE 6750-01-P

**COMMODITY FUTURES TRADING COMMISSION**

**17 CFR Parts 1 and 23**

**RIN 3038-AD51**

**Clearing Member Risk Management**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission (Commission or CFTC) is proposing rules to implement new statutory provisions enacted by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act. These proposed rules address risk management for cleared trades by futures commission merchants, swap dealers, and major swap participants that are clearing members.

**DATES:** Submit comments on or before September 30, 2011.

**ADDRESSES:** You may submit comments, identified by RIN number 3038-AD51, by any of the following methods:

- *Agency Web site, via its Comments Online process:* <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Web site.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Courier:* Same as mail above.

Please submit your comments using only one method. RIN number, 3038-AD51, must be in the subject field of responses submitted via e-mail, and clearly indicated on written submissions. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the CFTC to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the CFTC's regulations.<sup>1</sup>

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of this action will be retained in the public

comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** John C. Lawton, Deputy Director and Chief Counsel, 202-418-5480, [jlawton@cftc.gov](mailto:jlawton@cftc.gov), or Christopher A. Hower, Attorney-Advisor, 202-418-6703, [chower@cftc.gov](mailto:chower@cftc.gov), Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).<sup>2</sup> Title VII of the Dodd-Frank Act amended the Commodity Exchange Act (CEA or Act)<sup>3</sup> to establish a comprehensive new regulatory framework for swaps. The legislation was enacted to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (1) Providing for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposing clearing and trade execution requirements on standardized derivative products; (3) creating rigorous recordkeeping and real-time reporting regimes; and (4) enhancing the Commission's rulemaking and enforcement authorities with respect to, among others, all registered entities and intermediaries subject to the Commission's oversight. Title VII also includes amendments to the federal securities laws to establish a similar

<sup>2</sup> See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).

<sup>3</sup> 7 U.S.C. 1 *et seq.*

<sup>1</sup> 17 CFR 145.9.