

organisms. In evaluating these limits, it should be noted that the proposed dose limit for protection of members of the general public (100 mrem or 1 mSv per year) is equivalent to 0.00027 rad per day and, where exposure of humans can occur, would be far more restrictive than the proposed dose limits for terrestrial or aquatic organisms. The Department urges interested members of the public to comment on the important issues discussed above. Comments submitted previously in response to the Department's August 31, 1995 and September 13, 1995 Notices need not be resubmitted.

Issued in Washington, D.C. on February 15, 1996.

Tara O'Toole,

*Assistant Secretary, Environment, Safety and Health.*

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 305

#### Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed rule and request for comments.

**SUMMARY:** The Federal Trade Commission ("Commission") proposes to amend its Appliance Labeling Rule ("the Rule"), 16 CFR Part 305 (1995), to permit the placement of energy use labels required by the Canadian and Mexican governments in a local "directly adjoining" the Rule's required "EnergyGuide" label. Currently, the Rule prohibits the affixation of non-required information "on or directly adjoining" the EnergyGuide. The relaxation of this prohibition would further the goal of the North American Free Trade Agreement ("NAFTA") to make compatible the standards-related measures of the signatories to facilitate trade in a good or service among the parties. Moreover, the amendment would result in considerable savings for the appliance manufacturing industry. The Commission seeks written data, views, and arguments concerning this proposal.

**DATES:** Written comments must be submitted on or before April 8, 1996.

**ADDRESSES:** Written comments should be submitted to the Office of the

Secretary, Federal Trade Commission, Room 159, Washington, D.C. 20580, 202-326-2506, and should be submitted, when feasible and not burdensome, in five copies. Envelops and comments should be marked: "Appliance Labeling Rule comment."

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

**SUPPLEMENTARY INFORMATION:** In a letter to the Commission's staff, the Whirlpool Corporation ("Whirlpool") requested permission to use hang tag EnergyGuide labels that have the corresponding "EnerGuide" appliance energy use label required by Canada printed on the reverse side. Whirlpool also asked to use a "same side" approach, which a Whirlpool representative clarified as meaning a single stick-on or hang tag label consisting of the Commission's EnergyGuide immediately next to (or above) the appropriately corresponding Canadian EnerGuide, or the appliance energy use label required by Mexico, or both labels.

In support of its request, Whirlpool stated that the continued existence of separate appliance labeling requirements among U.S., Canada, and Mexico represents an obstacle to free trade among the signatories to NAFTA. Whirlpool contended that the consolidation of the labels required by the different countries onto a single piece of label stock would eliminate that obstacle. Whirlpool also stated that using such labels would save Whirlpool significant resources by reducing the number of separate U.S. and Canadian models of appliances that Whirlpool produces and by reducing labeling expenses.

Section 305.11(a)(5)(i)(K) of the Rule, 16 CFR 305.11(a)(5)(i)(K), states that: No marks or information other than that specified in this Part shall appear on or directly adjoining [the EnergyGuide] label except for a part or publication number identification, as desired by the manufacturer. \* \* \* [emphasis added]

The language in this section pertains to labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. Identical language appears in two other sections relating to labels for furnaces and pool heaters (16 CFR 305.11(a)(5)(ii)(I) and central air conditioners (16 CFR 305.11(a)(5)(iii)(H)(1)). The purpose of this prohibition was to avoid having other information detract from the EnergyGuide label. The prohibition was

not specifically directed at labels required by other countries.<sup>1</sup>

The Commission is considering whether permitting side-by-side or back-to-back labeling would be confusing to consumers, and thereby reduce the effectiveness of the EnergyGuide. For example, three labels side by side might create information overload, resulting in consumers ignoring the information. But, the Commission believes that consumers may realize that only one label is pertinent to U.S. consumers (because the Canadian label is in English and French, and the Mexican label is in Spanish<sup>2</sup>). The Commission's label also says in two places that the information on the label is derived from U.S. government standard tests and utility costs. Further, unlike in the past, the U.S. and Canada, and, to a slightly lesser extent, Mexico, now use compatible test procedures for identifying energy use, and require information to be reported in terms of kilowatt-hour use per year. Thus, the information being disclosed on each country's label is similar and this may make the possibility of confusion less likely.<sup>3</sup> Moreover, U.S. consumers are already seeing Canadian labels on some appliances (especially in the northern states), and possibly Mexican labels, although not directly adjoining the EnergyGuide. And, on many packages, instruction manuals, and labels, it is common to see information presented in more than one language because the products are shipped to multiple countries. The Commission believes that, in this increasingly global marketplace, consumers may not be confused or misled by the presence of multiple appliance energy use labels, as long as they can clearly distinguish

<sup>1</sup> Although this language prohibits the types of labeling practices that Whirlpool has asked permission to use, manufacturers, of course, can place the appliance energy labels of other countries, or any other labels, in locations on their products that are not "on or directly adjoining" the EnergyGuide.

<sup>2</sup> To extent that U.S. residents speak and read only Spanish, the Mexican labels may convey useful information about energy consumption comparable to what is provided on the U.S. label.

<sup>3</sup> As amended, the Commission's Rule now requires labels that show a primary energy use disclosure of kilowatt-hour use per year for all the products for which it formerly required the disclosure of estimated annual operating cost (refrigerators, freezers, clothes washers, dishwashers, and water heaters). And, the regulations of the three countries require disclosure of an energy efficiency number for room air conditioners. Thus, the appliance labeling regulations of all three NAFTA signatories now require the same primary descriptors of energy use. This reduces the possibility for consumers confusion resulting from labels on the same product that show energy use in different terms.

which one is intended for the U.S. audience.

Accordingly, the Commission believes that it may be beneficial to permit appliance manufacturers to combine the appliance energy labels required by the U.S., Canada, and Mexico. First, allowing the use of a single label consisting of two (or three) labels printed on the same label stock, would be consistent with the NAFTA goal of removing unnecessary impediments to trade.<sup>4</sup> Second, multi-national labels could enable the appliance manufacturing industry to comply with the Commission's Rule and the appliance labeling rules of Canada and Mexico at considerably less expense. Therefore, the Commission proposes amending the Rule to permit energy use labels required by the other NAFTA signatories to adjoin the EnergyGuide directly. Manufacturers would still be prohibited from placing other information on or directly adjoining the EnergyGuide.

#### Section A—Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this document because the Commission presently believes that the amendments, if promulgated, “will not have a significant economic impact on a substantial number of small entities” (5 U.S.C. 605).

Because the amendments are not likely to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act and the rules implementing it, the Commission concludes, based on the information presently available, that a regulatory analysis is not now necessary. The Commission requests, however, information on whether the proposed amendments would have a significant impact on a substantial number of small entities. After reviewing any comments received on this subject, the Commission will decide whether the

preparation of a final regulatory flexibility analysis is appropriate.

In light of the above, the Commission certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments proposed today would not, if promulgated, have a significant impact on a substantial number of small entities.

#### Section B—Paperwork Reduction Act

The proposed amendments would not expand the Appliance Labeling Rule's existing recordkeeping and reporting requirements. Because there would be no increase in burden hours, the Commission is not requesting that the Office of Management and Budget adjust the existing clearance for the Appliance Labeling Rule (OMB No. 3084–0069) under the Paper Reduction Act (44 U.S.C. 3501 *et seq.*). To substantiate the accuracy of its reporting burden estimate, however, the Commission requests comment on the extent of the reporting burden associated with these amendments.

#### Section C—Invitation To Comment

Interested persons are hereby notified that they may comment on any issue of fact, law or policy that may bear upon the proposed amendments. Although the Commission welcomes comments on any aspect of the proposed amendments, the Commission is particularly interested in comments on the questions in Section D, below. All comments should be referenced specifically to either the Commission's questions or the section of the proposed rules being discussed.

The Commission requests the commenters provide representative factual data. Individual firms' experiences are relevant to the extent they typify industry experience, in general, or that of similar-sized forms. Comments opposing the proposed amendments should, if possible, suggest a specific alternative. Proposals for alternative regulations should include reasons and data that indicate why the alternatives would better serve the purposes of the proposed amendments. Comments should be supported by a full discussion of all the relevant facts and/or be based directly on firsthand knowledge, personal experience or general understanding of the particular issues addressed by the proposed rules.

Before adopting these proposed amendments as final, the Commission will give consideration to any written comments timely submitted to the Secretary. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and

Commission regulations, on normal business days between the hours of 8:30 a.m. and 5 p.m. at the Public Reference Room (Room 130), Federal Trade Commission, 5th Street and Pennsylvania Ave., NW., Washington, DC 20580.

#### Section D—Questions and Issues

Interested persons are invited to address any questions of fact, law or policy that they believe may bear upon the proposed amendments. The questions concerning issues upon which the Commission particularly desires comment, however, are listed below.

1. Would allowing energy use labels required by the Canadian or Mexican governments to be placed next to the U.S. EnergyGuide be likely to detract from the effectiveness of the EnergyGuide or cause consumer confusion?

2. Should the Commission limit the information that the amendments would permit to be placed “directly adjoining” the EnergyGuide only to *energy use disclosures* required by the governments of Canada and Mexico? For example, should the amendments permit additional information required by the governments of Canada and Mexico, such as environmental or safety-related information, also to be placed “directly adjoining” the EnergyGuide?

3. Should the Commission limit the amendments to apply to energy use (or other) information required only by the governments of Canada and Mexico, or should the amendments permit energy use (or other) information required by the governments of all other nations?

#### Section E—Proposed Amendments

For the reasons discussed above, the Commission proposes the amendments below to sections 305.11(a)(5)(i)(K) (16 CFR 305.11(a)(5)(i)(K)), 305.11(a)(5)(ii)(I) (16 CFR 305.11(a)(5)(ii)(I)), and 305.11(a)(5)(iii)(H)(1) (16 CFR 305.11(a)(5)(iii)(H)(1)) of the Rule to permit (but not require) appliance manufacturers to place the energy use disclosure labels required by the governments of Canada and Mexico in a location directly adjoining the Commission's Energy Guide.

#### List of Subjects in 16 CFR Part 305

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

#### PART 305—[AMENDED]

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

<sup>4</sup> The Commission has worked closely with representatives of the Canadian EnerGuide program over the past two years to explore regulatory harmonization under NAFTA. Canada, like the Commission, has been reviewing its appliance labeling rule, and each country has considered the research and changes being considered by the other. More recently, representatives of the Mexican government have joined in this dialogue. Although the Commission intends to continue this cooperative pursuit of tri-lateral harmonization to determine whether a single label can be designed that effectively fulfills the requirements of all three countries, amending the Rule now to provide manufacturers greater flexibility in labeling practices is an interim step for facilitating trade.

Authority: 42 U.S.C. 6294.

2. It is proposed that section 305.11(a)(5)(i)(K) be revised to read as follows:

**§ 305.11 Labeling for covered products.**

- (a) \* \* \*
- (5) \* \* \*
- (i) \* \* \*

(K) No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

\* \* \* \* \*

3. It is proposed that section 305.11(a)(5)(ii)(I) be revised to read as follows:

**§ 305.11 Labeling for covered products.**

- (a) \* \* \*
- (5) \* \* \*
- (ii) \* \* \*

(I) No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

\* \* \* \* \*

4. It is proposed that section 305.11(a)(5)(iii)(H)(1) be revised to read as follows:

**§ 305.11 Labeling for covered products.**

- (a) \* \* \*
- (5) \* \* \*
- (iii) \* \* \*
- (H) \* \* \*

(1) No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer. If a

manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

\* \* \* \* \*

By direction of the Commission.

Donald S. Clark,

*Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD07-95-57]

#### Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulations governing the operation of the NASA railroad bridge, mile 876.6, at Kennedy Space Center, by removing the authorization for automatic operation and returning the draw to manual operation. A change in ownership of the rail line prompted the bridgeowner to implement on site manual operation of this drawbridge approximately 8 years ago.

**DATES:** Comments must be received on or before April 22, 1996.

**ADDRESSES:** Comments may be mailed to Commander (oan), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131-3050, or may be delivered to room 406 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (305) 536-4103.

The Commander, Seventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

**FOR FURTHER INFORMATION CONTACT:** Walter Paskowsky, Project Manager, Bridge Section, at (305) 536-4103.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking

[CGD07-95-57] and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments received.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Walt Paskowsky at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

#### Drafting Information

The principal persons involved in drafting this document are Walter Paskowsky, Project Manager, and LCDR Robert Wilkins, Project Counsel.

#### Background and Purpose

The draw of the NASA railroad bridge, mile 876.6, at Kennedy Space Center was placed on automatic remote controlled operation by the Florida East Coast Railroad when it was put into service in February 1964. Under remote operation the span is normally in the open position displaying flashing green signals to allow the movement of water traffic. When a train approaches the bridge the lights go to flashing red, a horn sounds 4 blasts, paused, then repeats 4 blasts. After an 8 minute delay the draw lowers and locks, providing scanning equipment reveals nothing under the draw. The draw remains down for a period of 8 minutes or while the approach track circuit is occupied. After the train clears, the draw opens and the lights return to flashing green.

The automatic remote control method was discontinued in 1984 when the ownership of the bridge was transferred from the Florida East Coast Railroad to the Kennedy Space Center (NASA). The purpose of the change is to describe in the regulations how the bridge is actually being operated.

#### Discussion of Proposed Amendment

Under the proposal, the draw would normally be in the fully open position displaying flashing green lights to