

**FEDERAL TRADE COMMISSION****16 CFR Part 305**

RIN 3084-AB15

**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 (FTC or Commission).**ACTION:** Notice of proposed rulemaking and public meeting announcement.

**SUMMARY:** Section 325 of the Energy Independence and Security Act of 2007 provides the Commission with authority to promulgate energy labeling rules for certain consumer electronics, including televisions. On March 16, 2009, the Commission sought comment on whether it should require energy disclosures for these products. After reviewing the comments received, the Commission is proposing to require EnergyGuide labels on televisions to help consumers with their purchasing decisions. As part of this effort, the Commission has scheduled a public meeting on April 16, 2010, from 9:00 a.m. to 1:00 p.m.

**DATES:** Written comments must be received on or before May 14, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form by following the instructions in section IX of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted using the following weblink: (<https://public.commentworks.com/ftc/tvdisclosures>) (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex T), 600 Pennsylvania Avenue, N.W., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M-8102B, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

Section 325 of the Energy Independence and Security Act of 2007 (EISA) (Pub. L. 110-140) authorizes the

Commission to require energy disclosures for certain consumer electronics, including televisions, personal computers, cable or satellite set-top boxes, stand-alone digital video recorder boxes, and personal computer monitors.<sup>1</sup> On March 16, 2009, the Commission sought comment on whether to require energy disclosures for these products.<sup>2</sup> After reviewing the comments, the Commission proposes requiring "EnergyGuide" labels for televisions. The Commission does not propose requirements for other consumer electronics at this time, but seeks further comment on test procedures and other issues related to these products.

This Notice first provides background on the Commission's current energy labeling requirements and its previous consideration of television labeling requirements. Next, it explains the Commission's new labeling authority under EISA and why requiring television energy usage disclosures is proper under that statute. The Notice then details the content, format, and location of those proposed disclosures. Finally, it seeks comment on the proposed disclosures and on possible disclosure requirements for other consumer electronics.

**II. Current Energy Labeling Requirements**

The Commission's Appliance Labeling Rule (16 CFR Part 305) requires energy disclosures for a variety of covered products, including home appliances, lighting, and plumbing products. The Rule requires most covered products to have, at the point of sale, yellow EnergyGuide labels containing estimated annual operating cost information based on Department of Energy (DOE) test procedures. The label information must also appear in catalogs and on Internet sites offering the products for sale.<sup>3</sup> The Rule allows manufacturers to place the U.S. Government ENERGY STAR logo on labels for products that qualify for that program.<sup>4</sup>

<sup>1</sup> EISA amends the Energy Policy and Conservation Act (42 U.S.C. 6291 *et seq.*).

<sup>2</sup> 74 FR 11045 (Mar. 16, 2009).

<sup>3</sup> The Commission's Rule requires manufacturers of most covered products to file reports with the FTC. These reports must contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to DOE test procedures. 16 CFR 305.8(b).

<sup>4</sup> ENERGY STAR is a voluntary government labeling program that identifies high-efficiency products. The Environmental Protection Agency (EPA) and DOE administer the ENERGY STAR program. See (<http://www.energystar.gov>).

**III. Previous Consideration of Televisions**

In 1979, the Commission determined not to require labeling for televisions because annual energy cost varied little between competing models and because such costs amounted to a small fraction of the purchase price. Thus, the Commission concluded that television labels were unlikely to benefit consumers.<sup>5</sup>

In 2007, the Commission revisited the issue as part of a broad review of the EnergyGuide label's effectiveness.<sup>6</sup> In response, several commenters urged the Commission to require television labels because many modern televisions use as much, or more, electricity than products currently labeled under the Rule. In addition, commenters indicated a significant range of energy use between similar products.<sup>7</sup> In short, television energy consumption has changed significantly since the 1970s.

After considering these comments, the Commission concluded that energy labeling for televisions may assist consumers in purchasing decisions, but noted that the outdated DOE test procedures could not adequately test most televisions.<sup>8</sup> Because the law at that time required DOE test procedures for FTC labels, the Commission could not require television energy disclosures.

**IV. FTC's New Authority for Consumer Electronics Labeling**

In late 2007, Congress amended the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6294) to authorize the Commission to prescribe labels for televisions and certain other consumer electronics, subject to specific provisions.<sup>9</sup> If DOE publishes applicable test procedures for those specified consumer electronics, the Commission must issue disclosure requirements

<sup>5</sup> 44 FR 66466, 66468 (Nov. 19, 1979).

<sup>6</sup> 72 FR 6836, 6857 (Feb. 13, 2007).

<sup>7</sup> According to the Natural Resources Defense Council (NRDC) comments during the 2007 proceeding, there are many "large-screen" digital televisions on the market that use 500 or more kilowatt-hours per year, as much energy as many new refrigerators. NRDC (#519870-00025). At an FTC public workshop held during the 2007 proceeding, one participant suggested that the average 42-inch plasma television draws 334 watts, with models ranging from 201 watts to 520 watts. Workshop Tr. at 198 (<http://www.ftc.gov/os/comments/energylabeling-workshop/060503wrkshoptmscript.pdf>).

<sup>8</sup> 72 FR 49948, 49962 (Aug. 29, 2007). See also 72 FR at 6858 (Feb. 13, 2007). Until recently, DOE's regulations contained a test procedure created for analog cathode-ray tube (CRT) products and relied on a black and white static test pattern. Since the publication of the ANPR, DOE has repealed its television test procedure. 74 FR 53640 (Oct. 20, 2009).

<sup>9</sup> 42 U.S.C. 6294(a)(2)(I).

within 18 months of DOE's publication. Absent those procedures, the EPCA amendments give the Commission discretion to require disclosures if it identifies adequate non-DOE testing procedures and finds that disclosures will likely assist consumers in making purchasing decisions. Regardless of whether DOE test procedures exist, the Commission cannot require disclosures if those disclosures are not technically or economically feasible.<sup>10</sup> The amended law empowers the Commission to consider other types of energy disclosures in lieu of traditional product labels for these consumer electronics.<sup>11</sup> Finally, the amendments provide the Commission with authority to require labeling or other disclosures for any other consumer product if the FTC determines such labeling is likely to assist consumers in making purchasing decisions.<sup>12</sup>

#### V. FTC's Advance Notice of Proposed Rulemaking

In response to these amendments, on March 16, 2009, the Commission published an Advance Notice of Proposed Rulemaking seeking comment on the need for energy disclosures for televisions and other consumer electronics.<sup>13</sup> Given the lack of a DOE test procedure applicable to modern televisions, the Notice also sought comment on the adoption of non-DOE test procedures currently used by the ENERGY STAR program. In addition, the Notice requested comment on the appropriate format for any television energy disclosures, specifically asking whether such disclosures should be made using the yellow EnergyGuide label or whether the disclosures should have alternative formats and locations. Finally, the Notice invited comment about the need for energy disclosures for personal computers, cable or satellite set-top boxes, stand-alone digital video recorder boxes, personal computer monitors, and other consumer electronic products.

<sup>10</sup> 42 U.S.C. 6294(a)(2)(I)(iv).

<sup>11</sup> Specifically, the EPCA empowers the Commission to "prescribe labeling or other disclosure requirements for the energy use of" the covered consumer electronic products. 42 U.S.C. 6294(a)(2)(I)(i) (emphasis added).

<sup>12</sup> Under EPCA, a "consumer product" means any article which consumes, or is designed to consume energy and which, to any significant extent, is distributed in commerce for personal use or consumption by individuals. 42 U.S.C. 6291(1). As with the five consumer electronic categories specifically listed in the EISA amendments, the FTC may identify a non-DOE test procedure for labeling such additional consumer products (in the absence of a DOE test procedure) and has discretion to require comparative information on the label.

<sup>13</sup> 74 FR 11045 (Mar. 16, 2009).

The Commission received eight comments in response.<sup>14</sup> In this Notice, the Commission first analyzes the comments regarding television labeling, and then discusses the comments regarding other consumer electronics.

#### VI. Proposed Television Energy Disclosures

The Commission proposes requiring energy disclosures for televisions. Disclosures are appropriate because they likely will help consumers in making purchasing decisions, the disclosures are not technologically or economically infeasible, and there is an adequate energy test procedure. Given these preliminary conclusions, the Proposed Rule would require manufacturers to measure energy use for such disclosures using test procedures recently adopted by the ENERGY STAR program. The television's estimated annual energy cost and use would appear on a newly designed EnergyGuide label affixed to the product itself. Finally, the proposed amendments would require Internet and paper catalog sellers to provide consumers with the same information that appears on the label.

##### A. The Need For Television Disclosures

Under the EISA amendments, the Commission has authority to require television disclosures if it determines such disclosures are likely to assist consumers in making purchasing decisions. As discussed below, the commenters generally supported energy disclosures<sup>15</sup> for televisions and indicated that they would assist consumers because: 1) these products use a significant amount of energy; 2) energy use among models differs substantially; and 3) consumers are likely to use this information prior to purchase. Moreover, no commenters argued that energy disclosures for

televisions are technologically or economically infeasible.

First, the commenters suggest that televisions account for a significant amount of energy use in the home. CEE stated that disclosures are necessary because televisions "are one of the largest energy users within a home . . . their energy use has increased significantly in recent years, and there has been notable technical advancement." Consistent with that view, NRDC estimated in 2004 that televisions account for roughly 1% of the nation's energy use. NRDC further noted that this number has probably increased "due to the growth in screen size, operating hours, and the number of installed TVs." In NRDC's estimation, television "now represents 10 to 20% of a typical home's annual electricity use." Similarly, in a recent study, the California Energy Commission found growth in television energy consumption due to increases in flat panel sales, average screen size, the number of televisions per household as well as lower prices for high definition flat screen digital televisions and enhanced product features (e.g., higher resolution).<sup>16</sup> In addition, according to CEE, ENERGY STAR data indicates that some televisions consume more than 500 kWh per year, as much electricity as many refrigerators.

Second, not only is television energy use large, but it also varies considerably among competing models. Though no comprehensive data is available, some commenters identified significant variations. According to Mitsubishi, for models with 65 inch screen sizes, the power consumption can range from approximately 135 watts to 433 watts. Similarly, for 52 inch LCD models, energy use ranges from 115 watts to 329 watts. In addition, NRDC cited to ENERGY STAR data showing that energy use for 42 inch models ranges from approximately 110 watts to 210 watts.<sup>17</sup> Mitsubishi also indicated that "across display technologies there is even more variance" and that such differences are likely to increase as manufacturers introduce "novel new display technologies." As Motorola noted, in the absence of energy disclosures, even sophisticated consumers cannot determine energy cost variance between models because

<sup>14</sup> The comments can be found at (<http://www.ftc.gov/os/comments/tvenerylabels/index.shtml>). Unless otherwise stated, the citations for the comments in this Notice are: Consortium for Energy Efficiency (CEE) #540779-00006; Consumer Electronics Association (CEA) #540779-00007; Consumer Electronics Retailers Coalition (CERC) #540779-00010; Mitsubishi Digital Electronics America, Inc. (Mistubishi) #540779-00005; Motorola, Inc. #540779-00004; Natural Resources Defense Council (NRDC) #540779-00003; New York State Assemblyman Robert Sweeney (Sweeney) #540779-00002; and Lonny Paul (Paul) #540779-00001.

<sup>15</sup> For example, New York State Assemblyman Robert Sweeney wrote that this information will "allow consumers to more easily weigh energy costs in purchasing," and "encourage the design of products with greater energy efficiency . . ." Similarly, the CERC concluded that "disclosures, properly implemented and executed can help consumers make educated purchasing decisions."

<sup>16</sup> Draft Efficiency Standards for Televisions, Phase 1, Part C, Docket #07-AAER-03-C (<http://www.energy.ca.gov/2008publications/CEC-400-2008-028/CEC-400-2008-028-SD.PDF>).

<sup>17</sup> See NRDC comments; see also, ([http://downloads.energystar.gov/bi/qpllist/tv\\_prod\\_list.pdf](http://downloads.energystar.gov/bi/qpllist/tv_prod_list.pdf)) (ENERGY STAR data).

such information is difficult to calculate.

Third, consumers will likely use energy information in making purchasing decisions because, as explained below, they have an interest in saving energy and, therefore, would likely compare energy efficiency between models. CEA noted data demonstrating widespread consumer concern over rising energy costs and, as a result, greater consumer interest in energy efficient products. According to a CEA study, “89 percent of consumers surveyed ranked energy efficiency as a top consideration for their next television purchase, although price and features remain most influential in actual purchasing decisions.” In addition, several commenters suggested that consumers would have even more interest in energy use if they understood how much these products used. For example, NRDC explained that, at present, most consumers are not aware that one television may use two or three times as much energy as a similar model. Moreover, as NRDC noted, retailers often display a variety of models side-by-side to allow consumers to judge picture quality. Thus, because consumers are likely to compare several models while shopping, they are likely to use energy information when they are making their purchasing decision.

Finally, in addition to the consumer benefits, the commenters stated that television labeling is technologically and economically feasible.<sup>18</sup> For example, Mitsubishi wrote that energy testing is inexpensive, nonintrusive, does not involve destruction of or damage to units, and is performed generally in any case for other reasons (such as ENERGY STAR). Similarly, CEA indicated that it “was not aware of any such evidence that argues against providing energy use disclosures for televisions.”<sup>19</sup> Indeed, no commenters suggested that energy disclosures would raise economic or technological feasibility questions.

### B. Determining Energy Usage

In recent years, the lack of DOE test procedures for modern televisions has

served as a barrier to energy disclosures. However, EPCA now authorizes the Commission to use “adequate non-Department of Energy test procedures,” and such procedures now exist for televisions. Specifically, EPA’s ENERGY STAR program recently adopted criteria for televisions based on specific international procedures (Section 11 of “IEC 62087, Ed. 2.0: Methods of Measurement for the Power Consumption of Audio, Video and Related Equipment” and “IEC 62301, Ed. 1.0: Household Electrical Appliances – Measurement of Standby Power”).<sup>20</sup> The procedures require manufacturers to measure the power consumed by televisions when the products are on, and in standby mode (*i.e.*, when the product is switched off).

In the ANPR, the Commission sought comments on these test procedures. Several commenters recommended that the Commission require the IEC procedures as currently adopted by the ENERGY STAR program.<sup>21</sup> These commenters stated that this would ensure uniformity across the U.S. government.<sup>22</sup> Furthermore, no other commenter raised significant concerns with the IEC test or proposed alternative procedures.

Consistent with commenter suggestions, the Commission proposes to require manufacturers to use the IEC procedures as adopted by the ENERGY STAR program. Indeed, the ENERGY STAR criteria offer advantages over the IEC test alone because ENERGY STAR makes mandatory several procedures which the IEC test leaves optional. For instance, the IEC procedure allows the use of either a dynamic or static video signal for testing (*i.e.*, either moving or static images), while ENERGY STAR specifies the use of dynamic images only.<sup>23</sup> In addition, the ENERGY STAR criteria provide more detail regarding the brightness setting under which televisions must be tested because brightness levels can affect a model’s energy use. Specifically, ENERGY STAR requires testing at the brightness setting in which the model is shipped. If a model requires consumers to select a brightness mode upon installation (*i.e.*, a forced menu), the manufacturer must test that model at the “home” or

“standard” mode. If the model has an automatic brightness control feature which adjusts brightness to ambient light levels, then the ENERGY STAR criteria require testing at a combination of room light levels.<sup>24</sup> Using these various criteria, the ENERGY STAR tests seek to reflect the manner in which consumers are likely to use the product in their homes. Lastly, as noted by the commenters, adopting the ENERGY STAR program requirements will avoid imposing two separate Federal government tests for measuring television energy use.<sup>25</sup>

Finally, the Commission notes two additional issues related to test procedures. First, in a recent notice repealing the existing test procedure, DOE announced that it soon will develop a Federal test procedure and energy efficiency standards for televisions.<sup>26</sup> In doing so, DOE indicated that it “will give serious consideration to the suggestion made by CEA that DOE adopt IEC 62087–2008(E).” Second, CEA stated that it is developing its own version of the test procedure that consolidates ENERGY STAR’s requirements into a more detailed protocol (“CEA-2037, Determination of Television Average Power Consumption”). However, to the Commission’s knowledge, CEA has not published the protocol. The Commission seeks comments on whether it should wait to finalize disclosure rules until CEA, DOE, or both complete their work.

### C. Location, Format, and Content of Energy Disclosures

The Commission proposes specific requirements for television energy labels, including the location, format, and content of the labels. In addition, the Commission proposes requirements for Internet and catalog disclosures.

#### 1. Location

For most products currently covered under the Appliance Labeling Rule, the energy disclosures appear on yellow EnergyGuide labels attached to the products themselves. In its ANPR, the Commission sought comments on the location of television disclosures. Several commenters recommended labeling televisions with an

<sup>18</sup> The Commission cannot require disclosures if it determines they would be technologically or economically infeasible. 42 U.S.C. 6294(a)(2)(I)(iv).

<sup>19</sup> Although the commenters generally supported disclosure requirements, CEA argued that “there should be evidence to show that the buying judgements of a substantial majority of consumers would be affected by the availability of energy use information on products” prior to imposing any disclosure requirements. However, the law does not contain such a “substantial majority” test but, instead, allows disclosure requirements if the Commission finds such disclosures “are likely to assist consumers in making purchasing decisions.” 42 U.S.C. 6294(a)(2)(I).

<sup>20</sup> See International Electrotechnical Commission (<http://www.iec.ch>); and “ENERGY STAR Program Requirements for Televisions Eligibility Criteria (Version 4.0 and 5.0)” ([http://www.energystar.gov/ia/partners/prod\\_development/revisions/downloads/television/Final\\_Version%204\\_5\\_TV\\_Program\\_Requirements.pdf](http://www.energystar.gov/ia/partners/prod_development/revisions/downloads/television/Final_Version%204_5_TV_Program_Requirements.pdf)).

<sup>21</sup> See, *e.g.*, CEA, CERC, Mitsubishi, and NRDC comments.

<sup>22</sup> CEA and CERC comments.

<sup>23</sup> NRDC urged the Commission to require use of dynamic images.

<sup>24</sup> NRDC suggested that the FTC provide guidance on brightness, including whether to test models in a certain mode or at a certain percentage of full brightness. NRDC asked the FTC to provide standardized guidance on measuring the energy use of models with an automatic brightness feature. The ENERGY STAR criteria offer such a standard.

<sup>25</sup> The Proposed Rule also contains a definition of the term “television” that is consistent with the coverage of ENERGY STAR criteria for televisions.

<sup>26</sup> 74 FR 53640 (Oct. 20, 2009).

EnergyGuide label on the product itself at the point of purchase.<sup>27</sup> For example, Mitsubishi indicated that labels “should substantially follow the existing EnergyGuide format, content, and placement requirements.” According to NRDC, consumers continue to make the majority of their individual purchases in stores, despite the fact that some “pre-shop” on the Internet. Similarly, CEE stated that the most effective energy disclosures are displayed while a consumer views televisions for purchase.

Some commenters urged the Commission to avoid imposing undue burdens. For example, CEE emphasized that disclosures should be easy for industry to manage. In addition, CEA urged that the “FTC should carefully consider cost impacts while determining how to best serve consumers and minimize the economic impacts on government, manufacturers, retailers, and distributors.” CERC raised particular concerns about the impact of potential requirements on retailers, cautioning in particular against a disclosure regime that required retailers to match labels to products on showroom floors.<sup>28</sup> CERC argued that the manufacturer, not the retailer, is in the best position to label products and noted that disclosure requirements “should be consistent with America’s modern and incredibly diverse retail marketplace.”

Although most commenters supported in-store product labeling, CEA urged caution and recommended that the Commission conduct research to understand consumer behavior, expectations, and perceptions before proposing any particular disclosure method. Specifically, CEA recommended consumer research on the effectiveness of various disclosure methods, including Internet disclosures, in-store material, product packaging, and product-related printed material.

After considering the comments, the Commission proposes requiring television product labels similar to EnergyGuide labels for appliances. The Commission agrees with commenters that energy labels will help consumers

choose televisions in retail stores. Retailers routinely display operating televisions in showrooms and, as NRDC indicated, models often appear in a line on walls or store shelves, allowing consumers to compare products before purchasing. In addition, research conducted in 2006 concluded that online sales accounted for only 6.4 percent of total television units sold.<sup>29</sup> Although this number has likely increased, the Commission has no information to suggest online purchases dominate this market and expects that most consumers comparison shop and/or purchase televisions from brick-and-mortar stores. Furthermore, product labeling is preferable to other disclosure options. Requiring disclosures only on the Internet would not provide information to consumers in the store, where most consumers likely compare performance. Labels on packages, another possible option, would only provide information to consumers where retailers display boxes on the showroom floor.

Although CEA’s comments urged the Commission to conduct research on various disclosure methods, the Commission does not believe such research is needed. CEA has offered no evidence that contradicts the commenter observations with regard to product labeling. In the absence of any evidence suggesting that product labeling will not assist consumers in their purchasing decisions, consumer research is unnecessary in this circumstance.

The Commission now seeks comment on the proposed labeling requirement, including evidence disputing or supporting these conclusions. Because some stores place television boxes in the showroom, the Commission also seeks comment on whether the label should be required on the television box, in addition to the product itself.

## 2. Format

Label format is a particularly important factor for televisions. Unlike many large appliances, televisions have no interior in which to affix a label and

much of the product’s exterior consists of a viewable screen that consumers want to see while shopping. CERC emphasized that any labeling requirement that obscures the viewable screen diminishes the consumer’s ability to evaluate televisions based on performance. Similarly, CERC argued that the label should not interfere with the product’s performance, display, or safety.

Other commenters offered specific suggestions about label size and placement. CEE urged that the label be displayed consistently in the same location. Mitsubishi offered three alternative types of labels: 1) an adhesive label, 2) a hang tag, and 3) a cling label. It also suggested that the Commission configure the label into a triangle shape so that it could fit into the corner of screens, perhaps through a cling label.

After considering the comments, the Commission proposes two options for television EnergyGuide labels: a small rectangular adhesive label affixed either vertically or horizontally on the product’s bezel (*i.e.*, the border or frame surrounding the television) or a triangular cling label affixed to the bottom right hand corner of the screen.<sup>30</sup> Thus, the proposed requirements give manufacturers flexibility to account for the configurations of their televisions. Both proposed labels are significantly smaller than the appliance EnergyGuide labels. Examples appear in Figure 1. The small size should minimize any affect the labels have on the aesthetic presentation of televisions in the showroom and should not impair the ability of consumers to compare the performance of competing products. In addition, the proposed labels appear to be consistent with some current industry practices. Specifically, some manufacturers already provide descriptive information (*e.g.*, screen resolution, sound features, and high definition capability) about their televisions through similar adhesive labels on the television bezel or screen.

<sup>27</sup> See, *e.g.*, CEE, Mitsubishi, NRDC, and Sweeney comments.

<sup>28</sup> CERC and Paul comments.

<sup>29</sup> “Spending on Consumer Technology Products Increased in 2006 but at a Slower Rate, According to The NPD Group,” Feb. 22, 2007 ([http://www.npd.com/press/releases/press\\_070222.html](http://www.npd.com/press/releases/press_070222.html)).

<sup>30</sup> The Proposed Rule does not contain a hang tag option because such labels on the exterior of products could become easily dislodged.

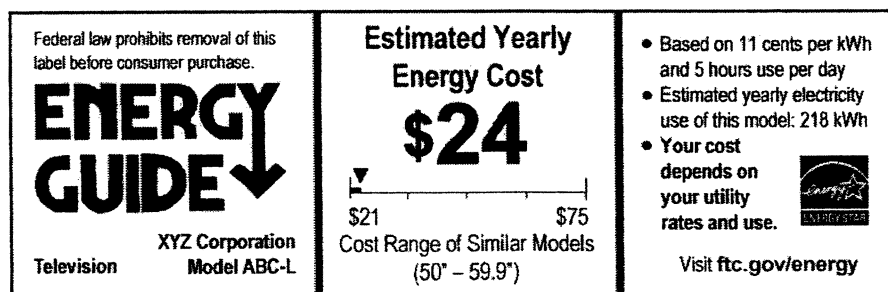
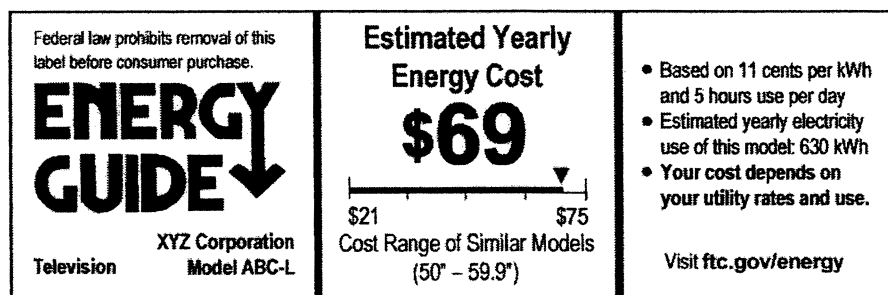


Figure 1

### Proposed Television Label

**Figure 1**  
**Proposed Television Label**  
**(horizontal version)**

The Commission seeks comment on this proposal including whether the proposed labels are appropriate and whether it should consider other point-of-purchase alternatives. In particular, the Commission requests that commenters address whether the rectangular label must appear in a consistent location on the bezel or whether manufacturers should have the flexibility to choose the location. The Commission also seeks comment on whether some television models are too small for the proposed label and, if so, what requirements should apply to such models.

#### 3. Content

In its ANPR, the Commission sought comment on the content of television energy disclosures. The commenters generally provided views on two types of disclosures: product specific disclosures and comparative

information. As discussed in more detail below, the Commission proposes requiring product specific information consistent with EnergyGuide labels for other products, including annual energy costs based on a uniform electricity rate of eleven cents per kWh and a usage rate of five hours per day. The Commission also proposes requiring comparative information in the form of a small scale on the label similar to that required on EnergyGuide labels for appliances.

**Product Specific Information:** Commenters identified annual operating (i.e., energy) cost and energy use as key descriptors in television energy disclosures.<sup>31</sup> In addition, CEA recommended that the disclosure include information about the variability of energy cost in actual use and the electricity rate underlying the cost estimate, similar to information on the EnergyGuide label. Commenters also suggested requiring disclosure of manufacturer name, model number, television type (e.g., plasma, etc.),

screen size (measured diagonally), screen resolution, product features that may affect energy use (e.g., integral DVD players or set-top boxes), and the ENERGY STAR logo.<sup>32</sup>

After considering the comments, the Commission proposes disclosure requirements consistent with EnergyGuide labels for other products. Such labels would disclose a television's annual energy cost and energy use. As the Commission has stated before, a "cost disclosure provides a clear, understandable tool to allow consumers to compare the energy performance of different models."<sup>33</sup> Energy cost information also allows consumers to assess trade-offs between energy efficiency and other expenditures.

One commenter, NRDC, suggested that the FTC also consider disclosing lifetime energy cost on the label to help consumers compare the product's total cost over time. CEE disagreed, stating

<sup>31</sup> See CEE, CEA, NRDC, and Sweeney comments.

<sup>32</sup> See, e.g., NRDC, Sweeney, and CEE comments.

<sup>33</sup> 72 FR at 49959.

that lifetime information may confuse consumers because such costs do not appear on the EnergyGuide label for other products. The Commission considered a multi-year cost disclosure in its recent proceeding on the EnergyGuide label for appliances.<sup>34</sup> The comments at that time raised concerns that such a disclosure may imply a product's lifetime to consumers and, therefore, introduce confusing assumptions. The Commission believes such concerns remain valid and, therefore, does not propose a multi-year operating cost disclosure for televisions.

In addition to energy cost, the proposed television label would, like EnergyGuide labels for other products, include manufacturer name, model number, and the ENERGY STAR logo (where applicable). This information allows consumers to confirm the identity of the labeled product without crowding the label with information irrelevant to the product's energy use. However, the Proposed Rule does not require information such as screen size, television type, multiple functions (e.g., integral DVD player), and screen resolution. Manufacturers and retailers routinely provide this information through marketing and point-of-sale materials, and, therefore, cluttering the label with this information would not substantially benefit consumers. The Commission seeks comment, however, on whether televisions with additional functions, such as integrated DVD players, are common in the market. If so, the Commission requests comment on whether the label should inform consumers that the annual energy cost does not include the operation of such additional functions. Would such a disclosure likely be helpful or confusing to consumers? Given the size of the label, how should the disclosure be presented?

To calculate annual energy use and energy cost information from test results, manufacturers must have a standard usage rate (e.g., a certain number of viewing hours per day) and a standard electricity cost. The Proposed Rule would require annual cost information using 11 cents per kWh, which is based on 2009 DOE data rounded to the nearest cent.<sup>35</sup>

The commenters had different opinions regarding appropriate usage rates. Several suggested that the FTC require a usage rate of 5 hours per day in on-mode and 19 hours per day in standby (i.e., sleep) mode.<sup>36</sup> The ENERGY STAR program uses these

same numbers to provide annual energy use estimates.<sup>37</sup> Other commenters, however, noted recent consumer research suggesting higher actual usage patterns. For example, Mitsubishi stated that recent data suggests the primary television in U.S. households is active 7.1 hours a day. To take into account likely increases in the future, it recommended that the FTC require a usage pattern of eight hours per day. According to NRDC, Nielson data suggested a range between five and eight hours per day. NRDC, however, urged that the FTC and ENERGY STAR use the same assumptions for calculating annual model energy use.

After considering the comments, the Commission proposes five hours a day in on-mode and 19 hours per day in standby mode to calculate annual cost and energy consumption information. This range is consistent with the ENERGY STAR program and within the range of usage data provided by commenters. Furthermore, regardless of the actual average usage rate, the proposed usage pattern of five hours will establish a consistent number that will allow consumers to compare products.

#### *Comparative Information:*

Comparative information, which the Commission requires on EnergyGuide labels for most appliances, allows consumers to gauge the energy use of a particular product against similar models by displaying the range of energy costs or use of all competing models. The EPCA amendments provide the Commission with discretion to require comparative information in labeling or disclosures.<sup>38</sup>

Given this discretion, the Commission sought comment on whether television energy disclosures should provide comparative information and, if so, how such information should be organized. Commenters provided three different views. First, several urged the Commission to include comparative information, although they disagreed about the basis of the comparison. For example, Mitsubishi suggested disclosing comparative information based on screen size only.<sup>39</sup> Sweeney favored comparative disclosures, but suggested sorting information by technology (such as LCD, plasma, rear-

projection) or by the existence of extra accessories bundled with the model (e.g., HDTV with built-in Blu-ray player). Second, CEE proposed gathering information about consumer purchasing behavior before determining whether to require comparative information across all models or categorized by size.

Finally, CEA opposed any comparative data on the label. Specifically, it argued that: (1) the many variables relevant to energy use could add unnecessary complexity to the disclosure, (2) frequent changes in models on the market would make it difficult to establish and maintain reasonable points of comparison, and (3) other sources, including consumer and trade publications and product reviews, will make the required energy disclosures available for consumers.

After reviewing the comments, the Commission proposes to require comparative information on the label grouped by screen size. The endpoints of each range would represent the highest and lowest energy consumption of models on the market. This information should help consumers by illustrating how a particular model compares to similar products on the market. The Commission does not propose to group comparative ranges by technology or screen resolution because this would create separate comparative categories for similar products and thus segregate products that consumers may want to compare (e.g., plasma screens vs. LCD). The Commission proposes ranges of comparability in section 305.17 of the Rule based on current ENERGY STAR data. This data appears to cover most of the products existing on the market and should provide ranges that reasonably reflect models available on the market.<sup>40</sup> The Commission seeks comment on these ranges and whether the Commission should look to other data sources in publishing ranges in the final rule.<sup>41</sup>

<sup>40</sup> See, e.g., "Stricter Energy Star Standards for TVs Coming - Again," Electronic House, May 28, 2009 ([http://www.electronichouse.com/article/stricter\\_energy\\_star\\_standards\\_for\\_tvs\\_coming\\_again/](http://www.electronichouse.com/article/stricter_energy_star_standards_for_tvs_coming_again/)) ("Most TVs on the market can meet the [current ENERGY STAR] spec."). The ENERGY STAR program has recently issued much more stringent criteria which will go into effect May 1, 2010. See ENERGY STAR Program Requirements for Televisions Partner Commitments Versions 4.0 and 5.0 ([http://www.energystar.gov/ia/partners/prod\\_development/revisions/downloads/television/Final\\_Version%204\\_5\\_TV\\_Program\\_Requirements.pdf](http://www.energystar.gov/ia/partners/prod_development/revisions/downloads/television/Final_Version%204_5_TV_Program_Requirements.pdf)).

If a model's energy cost falls outside the high or low end of the comparability range, the Commission proposes to require that manufacturers place the product on the very end of the scale (the high or low end as appropriate). 16 CFR § 305.17(f)(6).

<sup>41</sup> Because the EPCA annual reporting requirements depend on the existence of a DOE test

<sup>34</sup> 72 FR at 49952-3.

<sup>35</sup> 74 FR 26675 (June 3, 2009).

<sup>36</sup> See, e.g., CEE and CEA comments.

<sup>37</sup> 74 FR at 11048.

<sup>38</sup> 42 U.S.C. 6924(c)(9).

<sup>39</sup> Mitsubishi explained that "Consumers don't shop for a LCD television, for example: they shop for a 60" television and evaluate their options." It urged the Commission to limit comparison information to screen size for <20" diagonal televisions, then by 10" (diagonal) increments thereafter (e.g., 20-29, 30-39, 40-49, 50-59, 60-69, 70-79, 80-89, 90-99.).

Finally, the Commission does not find CEA's arguments against including comparative information on the label compelling. First, the proposed comparative information is fairly simple (consisting of two cost numbers on a scale) and there are no variables involved that would make it unnecessarily complex as suggested by CEA. Second, although frequent market changes may affect the ranges, the FTC can amend the ranges if substantial changes occur just as it does for appliance labels. If substantial changes occur so frequently that the benefit of the comparative information becomes questionable, the Commission can consider eliminating such information altogether from the television label. Finally, publications and product reviews cannot replace the benefits of providing uniform comparative information to consumers in the store at the point of purchase.

**Other Information:** As an alternative to the EnergyGuide format, NRDC suggested a five-star efficiency rating system, arguing that a categorical, stars-based approach would yield superior results to information provided in the EnergyGuide label. In 2007, the Commission considered five-star rating systems during the EnergyGuide label proceeding and, more recently, in developing changes to light bulb labels. In both cases, the Commission determined not to propose such a system, in part, because of potential confusion with the ENERGY STAR program.<sup>42</sup> Given the recent examination of this issue, the Commission does not propose such a rating system for televisions.

#### 4. Catalog Disclosures

As directed by EPCA, section 305.20 of the current Appliance Labeling Rule requires any manufacturer, distributor, retailer, or private labeler who advertises in a catalog (*i.e.*, those publications, including websites, from which a consumer can order merchandise), to disclose energy information about the product to consumers.<sup>43</sup> This requirement helps ensure that consumers buying products

online receive the same energy information as those in brick-and-mortar stores. Moreover, in response to the ANPR, several commenters suggested that the FTC require energy disclosures for web-based television sellers.<sup>44</sup> In particular, some commenters suggested requiring the energy disclosure or an electronic version of the label on websites.<sup>45</sup>

In light of the current Rule and the comments, the Commission proposes requiring Internet and paper catalog sellers to post energy cost information. The Commission has identified no reason to treat online and paper catalog televisions sales differently than other covered products. Sellers commonly offer televisions through retail websites. As with product labels in the store, energy information offered online should help consumers compare the energy use of competing products. Consistent with current requirements for appliances, the Proposed Rule provides the option of posting an image of the EnergyGuide label itself or providing separate energy information derived from the product's EnergyGuide label.

#### D. Timing of Proposed Requirements

The EPCA amendments state that any FTC labeling or disclosure requirements for consumer electronics shall be effective "not later than" 18 months after promulgation.<sup>46</sup> The Commission believes that six months will be adequate to allow for testing and labeling of products. Products manufactured thereafter would require a label. The Commission seeks comment on the proposed six month period.<sup>47</sup> Suggestions for longer time periods should be accompanied by specific information justifying the need for additional time.<sup>48</sup>

### VII. Other Consumer Electronics

The Commission also sought comments about labeling requirements for cable or satellite set-top boxes,

stand-alone digital video recorder boxes, personal computers, personal computer monitors, and other consumer electronics. Some commenters urged the Commission to consider developing labels for these products. For example, CEE and NRDC stated that the products use significant amounts of energy, there is a significant range of energy use among models, and consumers would likely benefit from energy disclosures for electronics. CEE and NRDC specifically recommended that the Commission also consider labeling game consoles, multi-function devices, and audio/visual equipment. To measure the energy consumption of electronics, CEE and NRDC recommended that the Commission consider ENERGY STAR program test procedures. Additionally, CEA suggested that, before moving forward, the Commission carefully consider each product separately.<sup>49</sup> The Commission agrees and, therefore, discusses each product below.

**Cable and Satellite Set-top Boxes:** According to a 2007 study from CEA, these devices use approximately 130 kWh per year.<sup>50</sup> Moreover, ENERGY STAR data suggests that there is a range of energy use among qualified models.<sup>51</sup> In addition, there appears to be an appropriate method to determine energy consumption for these products, specifically, the ENERGY STAR program test procedure.<sup>52</sup>

Despite the energy use of these products, the variation in energy use among models, and the existence of a test procedure, Motorola argued that energy disclosures for set-top boxes would provide little benefit to consumers. Specifically, Motorola stated that consumers generally do not purchase set-top boxes at retail.<sup>53</sup> Instead, consumers usually lease these products from their service provider (*e.g.*, cable operator), and do not have the opportunity to comparison shop for different models. CEA additionally stated that service providers often install software in these devices that can change the product's energy consumption, which could complicate

procedure and no such procedure exists for televisions, the Proposed Rule does not contain such reporting requirements. 42 U.S.C. 6296(b)(4). When DOE completes its test procedure for televisions, the Commission will revisit this issue.

<sup>42</sup> 72 FR at 6844-46 (EnergyGuide label); and 74 FR 57950 (Nov. 10, 2009) (light bulb labeling). Both studies suggested that the five-star rating system was more likely to cause confusion with regard to ENERGY STAR than other methods of communicating energy use.

<sup>43</sup> EPCA indicates that catalogs must "contain all information required to be displayed on the label, except as otherwise provided by the rule of the Commission." 42 U.S.C. 6296(a).

<sup>44</sup> See, *e.g.*, NRDC, CEE, Mitsubishi, and Sweeney comments.

<sup>45</sup> See NRDC and Mitsubishi comments.

<sup>46</sup> 42 U.S.C. 6294(a)(2)(I)(iii).

<sup>47</sup> The six month period is consistent with EPCA's mandate that manufacturers test and re-label their products at least 180 days after DOE changes an applicable test procedure. 42 U.S.C. 6293(c).

<sup>48</sup> The Commission notes that on November 18, 2009, the California Energy Commission approved final regulations for televisions that included energy efficiency standards and energy disclosures. Beginning in 2011, the regulations require manufacturers to mark units permanently with the "on" mode power consumption in watts and to disclose a model's watts wherever the product's dimensions appear in any "publication, website, document, or retail display that is used for sale or offering for sale of a television."

<sup>49</sup> As they did with televisions, CEA argued that the Commission should identify evidence that disclosures would impact the purchasing decisions of a substantial majority of consumers. As discussed above, the statute contains no such test.

<sup>50</sup> "Energy Consumption by Consumer Electronics in U.S. Residences," CEA (2007) at 26 (<http://www.cea.org/pdf/Energy%20Consumption%20by%20CE%20in%20U.S.%20Residences%20%28January%202007%29.pdf>) (CEA Study).

<sup>51</sup> See ([http://www.energystar.gov/ia/products/prod\\_lists/set\\_top\\_boxes\\_prod\\_list.pdf](http://www.energystar.gov/ia/products/prod_lists/set_top_boxes_prod_list.pdf)).

<sup>52</sup> See ([http://www.energystar.gov/ia/partners/product\\_specs/program\\_reqs/set\\_top\\_boxes\\_prog\\_req.pdf](http://www.energystar.gov/ia/partners/product_specs/program_reqs/set_top_boxes_prog_req.pdf)).

<sup>53</sup> Motorola comments; see also CEA comments.



efforts to provide consumers with accurate information.

Given the issues raised by Motorola and CEA, the Commission does not propose requiring energy labeling or disclosures for set-top boxes at this time. The Commission, however, seeks further comment on this issue. Although consumers do not purchase set-top boxes at retail, they may comparison shop for different cable or satellite service providers. If these providers were to disclose the energy use of the boxes they lease as part of their service, consumers could theoretically use this information in deciding which service provider to choose. The Commission, therefore, requests comment on whether such disclosures would, in fact, be likely to assist consumers in their purchasing decisions. If so, the Commission also seeks comment on how energy use information should be disclosed to consumers (e.g., on service providers' websites). Disclosures for these products are challenging because consumers are unlikely to see labels on set-top boxes and the record contains no information about how consumers shop for cable or satellite service providers (e.g., online, by telephone, etc.). The Commission also seeks comment on whether the range of energy use among models is significant, whether disclosure of comparability ranges would be useful to consumers, whether there should be one range for all set-top boxes, and whether there is comprehensive industry data on which to base such ranges. Finally, the Commission seeks comment on whether the ENERGY STAR test procedure for set-top boxes is an appropriate method of calculating energy consumption. Would this procedure yield an accurate estimate of annual energy consumption if third parties later install software in the boxes?

*Stand-alone Digital Video Recorder (DVR) Boxes:* According to CEA's 2007 study, these products use approximately 237 kWh per year.<sup>54</sup> CEA states, however, that there currently is no test procedure to measure energy consumption for these products.<sup>55</sup> CEA noted that it was working on test procedures through the industry standards development process.

Given the apparent lack of an appropriate test procedure, the Commission does not propose labeling at this time. The Commission, however, requests further comment on whether an industry test procedure has been completed or whether other procedures, such as the ENERGY STAR set-top box

procedure, are appropriate for measuring the energy use of all stand-alone DVRs. The Commission also seeks comment on whether there are estimates of typical consumer use of these products, which could be used to calculate annual energy consumption. In addition, the Commission seeks comment on whether there are significant differences in energy consumption between competing DVR models. This information could affect whether disclosures are likely to be useful to consumers and whether disclosure of comparability ranges would be appropriate. If the Commission were to require disclosure of comparability ranges, should there be one range for all DVR models? Is there comprehensive industry data on which to base such ranges? Finally, to evaluate how energy disclosures might be presented, the Commission requests comment on how consumers typically shop for these products. For example, if DVRs are displayed in retail stores out of the box, energy information could be provided on either a label or hangtag attached to the product. If DVRs are not displayed in that way, energy information might be provided on a label attached to the box.

*Personal Computers:* According to CEA's 2007 study, desktop computers use approximately 237 kWh per year and notebook computers use approximately 72 kWh per year.<sup>56</sup> Moreover, ENERGY STAR data suggests that there is a range in energy use among qualified models.<sup>57</sup> However, the ENERGY STAR program test procedure only derives estimates of annual energy consumption in off, sleep, and idle modes.<sup>58</sup>

Moreover, CEA raised concerns about requiring energy use disclosures for all computers. CEA explained that consumers often purchase computers by selecting among different components, including processors, memory, and drives. Such choices may affect the energy use of the finished product. Therefore, CEA stated that it would be administratively complex to provide energy disclosures for these various combinations, and the FTC should consider requiring disclosures for only "basic" or "typical" computers.<sup>59</sup>

Given the potential limitations of the ENERGY STAR test procedure as well as the concerns raised by CEA, the Commission does not propose labeling

at this time, but instead seeks further comment. Specifically, the Commission seeks comment on whether energy use information should be derived using the current ENERGY STAR test procedure (and, if so, whether a disclosure based on energy use only in off, sleep, and idle modes would be helpful or confusing to consumers), or whether there are other appropriate test procedures for measuring energy use. Additionally, the Commission requests comment on whether it should require disclosures for multiple computer configurations and, if so, how such disclosures should be made given the potentially large number of configurations. If the Commission should require disclosures only for certain "basic" models, which ones should be covered and why? Would these disclosures provide misleading energy use information if consumers typically modify the "basic" computer configuration? Moreover, the Commission seeks comment on whether the range of energy use among models is significant, whether disclosure of comparability ranges would be useful to consumers, whether there should be one range for all computers or separate ranges for desktops and notebooks, and whether there is comprehensive industry data on which to base such ranges. Finally, the Commission requests comment on how consumers shop for computers and how disclosures should be presented (e.g., a label on a display model, a label on the box, online, etc.).

*Personal Computer Monitors:* According to CEA's 2007 study, computer monitors typically use 85 kWh per year.<sup>60</sup> Additionally, ENERGY STAR data suggests that there is a range of energy use among qualified products.<sup>61</sup> Moreover, the ENERGY STAR program has a procedure to measure energy consumption, but it currently tests monitors using a static (i.e., fixed screen) image.<sup>62</sup>

Because a static image test may not provide energy use figures that reflect typical consumer use of computer monitors and because the ENERGY STAR procedure does not specify a method for calculating annual energy consumption, the Commission does not propose labeling monitors at this time. The Commission, however, requests further comment on this issue. Specifically, the Commission seeks comment on whether it should require disclosures based on the current

<sup>56</sup> *Id.*

<sup>57</sup> See ([http://downloads.energystar.gov/bi/qplst/computers\\_prod\\_list.pdf](http://downloads.energystar.gov/bi/qplst/computers_prod_list.pdf)).

<sup>58</sup> See ([http://www.energystar.gov/ia/partners/product\\_development/revisions/downloads/computer/Vers5.0\\_Computer\\_Spec.pdf](http://www.energystar.gov/ia/partners/product_development/revisions/downloads/computer/Vers5.0_Computer_Spec.pdf)).

<sup>59</sup> See CEA comments.

<sup>60</sup> CEA Study at 26.

<sup>61</sup> See ([http://www.energystar.gov/ia/partners/product\\_specs/qpi/displays\\_prod\\_list.pdf](http://www.energystar.gov/ia/partners/product_specs/qpi/displays_prod_list.pdf)).

<sup>62</sup> See ([http://www.energystar.gov/ia/partners/product\\_specs/program\\_reqs/displays\\_spec.pdf](http://www.energystar.gov/ia/partners/product_specs/program_reqs/displays_spec.pdf)).

<sup>54</sup> CEA Report at 26.

<sup>55</sup> See CEA comments.



ENERGY STAR test procedure that measures consumption based on a fixed screen image, whether the IEC test for televisions is appropriate for measuring energy consumption of computer monitors, or whether other, appropriate industry test procedures exist. The Commission also requests information about what use estimates it should rely upon to calculate the annual energy consumption of computer monitors. Additionally, the Commission seeks comment on whether the range of energy use among models is significant, whether to require disclosure of comparability ranges, whether there should be one range for all models, and whether there is comprehensive industry data on which to base such ranges. Finally, the Commission requests comment on how consumers shop for computer monitors and how energy use disclosures should be presented to consumers (e.g., a label on a display model, a label on the box, online, etc.).

**Game Consoles:** Although the CEA's 2007 study indicates that game consoles use approximately 36 kWh per year, NRDC's more recent analysis indicates that they can use as much as 1000 kWh per year.<sup>63</sup> NRDC's study also found a wide variation of energy use among brands. The NRDC's study recommended collaborative efforts to develop a standard test procedure for these products.<sup>64</sup> Although the ENERGY STAR program currently contains a test procedure for game consoles in off and sleep modes, the program is in the process of considering additional criteria.<sup>65</sup>

Because there does not appear to be an industry test procedure and the ENERGY STAR program currently is reviewing its procedure, the Commission does not propose energy disclosures at this time. The Commission requests comment, however, on whether it should require such disclosures based on the existing ENERGY STAR test procedure (and, if so, whether a disclosure based on off and sleep modes would be helpful or confusing for consumers), whether it should wait for any revised ENERGY STAR test procedures, or whether other, appropriate test procedures exist. The Commission also seeks information about use estimates for calculating the annual energy consumption of game

consoles. Additionally, the Commission requests comment on whether it should require disclosure of comparability ranges, whether there should be one range for all models, and whether there is comprehensive industry data on which to base such ranges. Finally, the Commission requests comment on how consumers shop for game consoles and how energy use disclosures should be presented to consumers (e.g., a label on a display model, a label on the box, online, etc.).

**Multi-function Devices (MFDs):**<sup>66</sup> Although there is no information on the record concerning MFDs' typical energy use, ENERGY STAR data suggests a range of energy consumption among models.<sup>67</sup> The ENERGY STAR program test procedures for MFDs apply to personal, business, and commercial products.<sup>68</sup> These procedures yield weekly energy consumption figures and they appear to reflect certain assumptions of how many hours the product is used in a business setting (e.g., assuming no usage on weekends).

Based on these facts, it appears that some MFDs may not be used by individual consumers. If that is the case, the Commission may not have authority to require energy disclosures for those MFDs. Specifically, the Commission only has the authority to require energy disclosures for "consumer products," which EPCA defines as any article that consumes energy and "to any significant extent, is distributed in commerce for personal use or consumption by individuals."<sup>69</sup> The Commission cannot propose labeling for MFDs until it gathers more information about the extent to which these products are sold for personal use.

The Commission, therefore, seeks comment on whether some MFDs are typically purchased for personal use. The Commission also requests comment on whether the ENERGY STAR test procedure is appropriate to calculate energy consumption for individuals' use of MFDs, whether there are other, appropriate test procedures, and whether there are estimates of individual MFD use for calculating annual energy consumption. Moreover, the Commission requests comment on whether the range of energy use among

models is significant, whether it should require disclosure of comparability ranges, whether there should be one range for all models, and whether there is comprehensive industry data on which to base such ranges. Finally, the Commission requests comment on how consumers shop for MFDs and how energy disclosures should be presented (e.g., a label on a display model, a label on a box, etc.).

**Audio-visual (A/V) Equipment:** The ENERGY STAR program defines consumer A/V products to include "cassette decks, CD players/changers, CD recorders/burners, clock radios, DVD & Blu-ray Disc products, equalizers, laserdisc players, mini- and midi-systems, minidisc players, powered speakers, rack systems, stereo amplifiers/pre-amplifiers, stereo receivers, table radios, and tuners."<sup>70</sup> The program has test procedures for these A/V products, but they do not specify a method of calculating their annual energy consumption. The CEA's 2007 study provides approximate energy use information for some types of these A/V products,<sup>71</sup> but the Commission does not have information about the range of annual energy consumption of each specific product.

Because the Commission lacks information on calculating annual energy use and about the ranges of annual energy use, it does not propose labeling A/V equipment at this time. The Commission, however, requests further comment about each specific type of A/V equipment. Specifically, for each particular type of A/V equipment, are there significant variations in energy use among models and is labeling likely to benefit consumers in their purchasing decisions? The Commission also seeks comment on whether the ENERGY STAR test procedures are appropriate for measuring energy use or whether there are other, appropriate test procedures. Additionally, the Commission seeks information on use estimates for calculating each product's annual energy consumption. Moreover, the Commission requests comment on whether it should require disclosure of comparability ranges, whether there should be a separate range for each type of A/V product or whether ranges should combine certain types, and whether there is comprehensive industry data on which to base such ranges. Finally, the Commission seeks comment on how consumers typically

<sup>63</sup> CEA Study at 26; "Lowering the Cost of Play: Improving the Energy Efficiency of Video Game Consoles," NRDC (Nov. 2008) (<http://www.nrdc.org/energy/consoles/files/consoles.pdf>) (NRDC Study).

<sup>64</sup> NRDC Study at 25.

<sup>65</sup> See ([http://www.energystar.gov/ia/partners/product\\_development/versions/downloads/computer/Version5.0\\_Computer\\_Spec.pdf](http://www.energystar.gov/ia/partners/product_development/versions/downloads/computer/Version5.0_Computer_Spec.pdf)).

<sup>66</sup> The ENERGY STAR program defines an MFD as a product that performs two or more of the core functions of copying, printing, scanning, or faxing. See ([http://www.energystar.gov/ia/partners/product\\_specs/program\\_reqs/Imaging%20Equipment%20Specifications.pdf](http://www.energystar.gov/ia/partners/product_specs/program_reqs/Imaging%20Equipment%20Specifications.pdf)).

<sup>67</sup> See ([http://downloads.energystar.gov/bi/qplst/image equip\\_prod\\_list.pdf](http://downloads.energystar.gov/bi/qplst/image equip_prod_list.pdf)).

<sup>68</sup> See ([http://www.energystar.gov/ia/partners/product\\_specs/program\\_reqs/Imaging%20Equipment%20Specifications.pdf](http://www.energystar.gov/ia/partners/product_specs/program_reqs/Imaging%20Equipment%20Specifications.pdf)).

<sup>69</sup> 42 U.S.C. 6291(1).

<sup>70</sup> See ([http://www.energystar.gov/ia/partners/product\\_specs/program\\_reqs/AV\\_V2\\_Specification.pdf](http://www.energystar.gov/ia/partners/product_specs/program_reqs/AV_V2_Specification.pdf)).

<sup>71</sup> For example, DVD players and DVD/VCR combos use 36 kWh per year, while a home theater in a box uses 89 kWh per year. CEA Study at 26.

shop for each product and how energy disclosures for each product should be presented.

### VIII. Section by Section Description of Proposed Changes

*Definition of Television (section 305.3):* The proposed amendments add a definition of televisions that is consistent with the definition used by the ENERGY STAR program.<sup>72</sup>

*Testing Requirements (section 305.5):* The proposed amendments require manufacturers to follow the test procedures required by the ENERGY STAR program.

*Minor Conforming Changes (305.8 and 305.8):* The Proposed Rule makes minor, conforming changes to sections 305.8 (data submission) and 305.10 (ranges of comparability) to clarify that these sections do not apply to televisions.

*Product Labeling (section 305.17):* The proposed amendments require manufacturers to affix EnergyGuide labels to televisions on either the product's bezel or its screen in the form of a small rectangular or triangular label. The primary disclosure on the label would be the product's estimated annual energy cost.

*Catalog Requirements (section 305.20):* The proposed amendments require catalog sellers (including web-based catalogs) to provide, for each television, the same information required on the EnergyGuide label.

### IX. Request for Comment and Public Meeting Information

The Commission invites interested persons to submit written comments on any issue of fact, law, or policy that may bear upon the FTC's proposed labeling requirements. Please provide explanations for your answers and supporting evidence where appropriate. After examining the comments, the Commission will determine whether to issue final amendments.

All comments should be filed as prescribed in the "ADDRESSES" section above, and must be received on or before May 14, 2010. In addition to the questions and requests for comment found throughout this Notice, the Commission also asks that commenters address the following questions: What costs or burdens, and any other impacts, would the proposed requirements impose, and on whom? What regulatory alternatives to the proposed

requirements are available that would reduce the burdens of the proposed requirements? How would such alternatives affect the benefits provided by the Proposed Rule?

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Consumer Electronics Labeling, Project No. P094201" to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>).

Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include "[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 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).<sup>73</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following weblink: (<https://public.commentworks.com/ftc/tvdisclosures>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (<https://public.commentworks.com/ftc/tvdisclosures>). If this Notice appears at (<http://www.regulations.gov/search/Regs/home.html#home>), you may also

file an electronic comment through that website. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it. You may also visit the FTC Website at (<http://www.ftc.gov>) to read the Notice and the news release describing it.

A comment filed in paper form should include the "Consumer Electronics Labeling, Project No. P094201" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex T), 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

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 public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.html>).

The Commission staff has scheduled a public meeting to give interested parties an opportunity to provide their views on issues related to the Proposed Rule for televisions and potential disclosure requirements for other consumer electronics.<sup>74</sup> The details of this public meeting are as follows:

*Meeting Time and Location:* The public meeting will be held on April 16, 2010, from 9:00 a.m. to 1:00 p.m. at the FTC's Satellite Building Conference Center, located at 601 New Jersey Avenue, NW, Washington, DC.

*Meeting Information:* The public meeting will include participation by selected panelists. Other attendees also will have an opportunity to present

<sup>72</sup> The Proposed Rule excludes a sentence in the ENERGY STAR definition that reads: "The product usually relies upon a cathode-ray tube (CRT), liquid crystal display (LCD), plasma display, or other display device." Such a list of examples is not necessary in a regulatory definition.

<sup>73</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR § 4.9(c).

<sup>74</sup> In comments, both the CERC and CEA urged the Commission to hold a public meeting. See (<http://www.ftc.gov/os/comments/tvenergylabels/index.shtml>).

their views and ask questions. There is no fee for attendance. A stenographer will record the proceedings, and the Commission will place the transcription on the public record. For admittance to the Conference Center, all attendees must show a valid photo identification such as a driver's license. The FTC will accept pre-registration for this meeting. Pre-registration is not necessary to attend, but is encouraged. To pre-register, please email your name and affiliation to ([televisionmeeting@ftc.gov](mailto:televisionmeeting@ftc.gov)). When you pre-register, we will collect your name, affiliation, and your email address. The Commission will use this information to estimate how many people will attend. We may use your email address to contact you with information about the workshop.

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

## X. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute "information collection requirements" as defined by 5 CFR § 1320.7(c), the regulation that implements the Paperwork Reduction Act (PRA).<sup>75</sup> OMB has approved the Rule's existing information collection requirements through May 31, 2011 (OMB Control No. 3084-0069). The proposed amendments would require television manufacturers to test and label their products with energy information and to maintain records for two years after a product model is discontinued. It would also require paper and website catalog sellers of televisions to provide energy information. Accordingly, the Commission is submitting a related clearance request to OMB for review under the PRA.

The following burden estimates for the Proposed Rule amendments (cumulatively, 57,450 hours for recordkeeping, testing, and disclosure at an associated labor cost of \$834,680) are based on data submitted by manufacturers to the FTC under current requirements and FTC staff's general knowledge of manufacturing practices.

**Testing:** Manufacturers need not subject each basic model to testing annually; they must retest only if the product design changes in such a way as to affect energy consumption. Staff believes that the frequency with which models are tested every year ranges roughly between 10% and 50%. It is likely that only a small portion of the tests conducted is attributable to the Rule's requirements. Nonetheless, given the lack of specific data on this point, the Commission conservatively assumes that all of the tests conducted would be attributable to the Rule's requirements and will apply to that assumption the high-end of the range noted above for frequency of testing. Staff estimates that there are approximately 2,000 basic models, two units per model, and that testing per unit would require one hour per unit tested. Given these estimates and the above-noted assumption that 50% of these basic models would be tested annually, testing would require 2,000 hours per year. Assuming further that this testing will be implemented by electrical engineers, and applying an associated hourly wage rate of \$39.79 per hour,<sup>76</sup> labor costs for testing would total \$79,580.

**Recordkeeping:** Pursuant to section 305.21 of the Rule, manufacturers must keep test data on file for a period of two years after the production of a covered product model has been terminated. Assuming one minute per model and 2,000 basic models, the recordkeeping burden would total 33 hours. Assuming further that these filing requirements will be implemented by data entry workers at an hourly wage rate of \$13.53 per hour,<sup>77</sup> the associated labor cost for recordkeeping would be approximately \$450 per year.

**Disclosures (Product Labeling):** The Proposed Rule requires manufacturers to create and affix labels on televisions. The Rule specifies the content, format, and specifications of the required labels. Manufacturers would only add the energy consumption figures derived from testing and other product-specific information. Consistent with past assumptions regarding appliances, FTC staff estimates that it will take

approximately six seconds per unit to affix labels. Staff also estimates that there are 33,000,000 television units distributed in the U.S. per year.<sup>78</sup> Accordingly, the total disclosure burden for televisions would be 55,000 hours (33,000,000 x 6 seconds). Assuming that product labels will be affixed by electronic equipment assemblers at an hourly wage of \$13.61 per hour,<sup>79</sup> cumulative associated labor cost would total \$748,550 per year.

**Catalog Disclosures:** The Proposed Rule would require sellers offering covered products through retail sales catalogs (*i.e.*, those publications from which a consumer can actually order merchandise) to disclose energy use for each television model offered for sale. Because this information is supplied by the product manufacturers, the burden on the retailer consists of incorporating the information into the catalog presentation.

Commission staff estimates that there are 50 online and paper catalogs for televisions that would be subject to the Rule's catalog disclosure requirements. Staff additionally estimates that the average catalog contains approximately 500 televisions and that entry of the required information takes one minute per covered product; thus, 9 hours per catalog seller. The cumulative disclosure burden for catalog sellers is thus 450 hours (50 sellers x 9 hours annually). Assuming that the additional disclosure requirement will be implemented by data entry workers at an hourly wage rate of \$13.53 per hour,<sup>80</sup> associated labor cost would approximate \$6,100 per year.

**Estimated annual non-labor cost burden:** Manufacturers are not likely to require any significant capital costs to comply with the Proposed Rule. Industry members, however, will incur the cost of printing labels for each covered unit. The estimated label cost, based on estimates of 33,000,000 units

<sup>78</sup> See "ENERGY STAR Unit Shipment and Market Penetration Report Calendar Year 2008 Summary," ([http://www.energystar.gov/ia/partners/downloads/2008\\_USD\\_Summary.pdf](http://www.energystar.gov/ia/partners/downloads/2008_USD_Summary.pdf)), at 5 (approximately 26 million television units shipped in 2008, constituting 79% market penetration;  $26,000,000 \div .79 = 33,000,000$ ).

<sup>79</sup> See ([http://www.bls.gov/ncs/ncswage2008.htm#Wage\\_Tables](http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables)) (National Compensation Survey: Occupational Earnings in the United States 2008, U.S. Department of Labor (August 2009), Bulletin 2720, Table 3 ("Full-time civilian workers," mean and median hourly wages), at 3-30).

<sup>80</sup> See ([http://www.bls.gov/ncs/ncswage2008.htm#Wage\\_Tables](http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables)) ("National Compensation Survey: Occupational Earnings in the United States, 2008", U.S. Department of Labor, August 2009, Bulletin 2720, Table 3 ("Full-time civilian workers," mean and median hourly wages), at 3-24).

<sup>75</sup> 44 U.S.C. 3501-3521.

<sup>76</sup> See ([http://www.bls.gov/ncs/ncswage2008.htm#Wage\\_Tables](http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables)) ("National Compensation Survey: Occupational Earnings in the United States, 2008", U.S. Department of Labor, August 2009, Bulletin 2720, Table 3 ("Full-time civilian workers," mean and median hourly wages), at 3-4).

<sup>77</sup> See ([http://www.bls.gov/ncs/ncswage2008.htm#Wage\\_Tables](http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables)) ("National Compensation Survey: Occupational Earnings in the United States, 2008", U.S. Department of Labor, August 2009, Bulletin 2720, Table 3 ("Full-time civilian workers," mean and median hourly wages), at 3-24).

and \$.03 per label, is \$990,000 (33,000,000 x \$.03).

The Commission invites comments that will enable it to: (1) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collections of information on those who must comply, including through the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to OMB review under the PRA should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-5167 because U.S. postal mail at the OMB is subject to lengthy delays due to heightened security precautions.

## **XI. 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.<sup>81</sup>

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 affected entities may qualify as small businesses under the relevant thresholds. The Commission does not expect, however, that the economic impact of implementing the label design will be significant. The Commission plans to provide manufacturers with ample time to implement the requirements. The Commission estimates that these new requirements will apply to about 30 product manufacturers and an additional 50 online and paper catalog sellers of

covered products. Out of these companies, the Commission expects that approximately 40 catalog sellers qualify as small businesses. In addition, the Commission does not expect that the requirements specified in the Proposed Rule will have a significant impact on these entities.

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) authorizes the Commission to conduct a rulemaking to consider the effectiveness of the television labeling and to consider alternative labeling approaches.

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

The objective of the Proposed Rule is to provide television energy use information to consumers. EISA provides the Commission with authority to require energy disclosures for televisions and other consumer electronics.

### *C. Small Entities to Which the Proposed Rule Will Apply*

Under the Small Business Size Standards issued by the Small Business Administration, television manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees) or if their sales are less than \$8.0 million annually. The threshold for television retailers is \$9.0 million. The Commission estimates that fewer than 40 entities (all retailers) subject to the

Proposed Rule qualify as small businesses. 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 Commission recognizes that the proposed labeling rule will involve some increased costs related to testing, drafting labels, affixing labels to products, and maintaining test records. The Proposed Rule does not impose any reporting requirements. All of these burdens and the skills required to comply are discussed in the previous section of this document, regarding the Paperwork Reduction Act, and there should be no difference in that burden as applied to small businesses. As explained earlier, the Commission estimates that there are only about 40 catalog sellers under the Proposed Rule that would qualify as such entities. The Commission invites comment and information on these issues.

### *E. Duplicative, Overlapping, or Conflicting Federal Rules*

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

### *F. Significant Alternatives to the Proposed Rule*

The Commission seeks comment and information on the need, if any, for alternative compliance methods that would reduce the economic impact of the Rule on such small entities. As one alternative to reduce burden, the Commission could delay the Rule's effective date to provide additional time for small business compliance. The Commission could also consider further reductions in the amount of information catalog sellers must provide. Finally, the Commission has considered requiring disclosures through the Internet instead of through product labels. However, as discussed earlier, such an approach would not provide information to consumers in the store, where most consumers compare televisions performance. If the comments filed in response to this Notice identify small entities that would be 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

<sup>81</sup> 5 U.S.C. 603-605.

determine whether they should be incorporated into the final rule.

## XII. 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).

## XIII. Proposed Rule Language

### List of Subjects in 16 CFR Part 305

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

■ For the reasons set out above, the Commission proposes the following amendments to 16 CFR Part 305:

### PART 305—[AMENDED]

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

**Authority:** 42 U.S.C. 6294.

■ 2. In § 305.3., add new paragraph (u) to read as follows:

#### § 305.3 Description of covered products.

(u) *Television (TV)* means a commercially available electronic product designed primarily for the display and reception of audiovisual signals from terrestrial, cable, satellite, Internet Protocol TV (IPTV), or other transmission of analog and/or digital signals, consisting of a tuner/receiver and a display encased in a single housing.

■ 3. In § 305.5, add new paragraph (d) to read as follows:

### Testing

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

\* \* \*

(d) Determinations of estimated annual energy consumption and the estimated annual operating (energy) costs of televisions must be based on the procedures contained in "ENERGY STAR Program Requirements for Televisions Eligibility Criteria Versions 4.0 and 5.0." Annual energy consumption and cost estimates must be derived assuming 5 hours in on mode and 19 hours in sleep (standby) mode per day. These ENERGY STAR requirements are incorporated by reference into this section. These incorporations by reference were

approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the test procedure may be 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); or from the Environmental Protection Agency at (<http://www.energystar.gov>). For information on the availability of this material at NARA, call (202) 741-6030, or go 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)). Copies of materials and standards incorporated by reference also may be obtained from the issuing organizations listed in this section.

■ 4. In 305.8(a)(1), add the term "televisions," after the term "urinals,".

■ 5. In § 305.10(a), remove the phrase "or ceiling fans" and add in its place the phrase "ceiling fans, and televisions".

■ 6. Add § 305.17 to read as follows:

#### § 305.17 Television labeling.

(a) *Layout.* All energy labels for televisions shall use one of three shapes: a triangle, horizontal rectangle, and vertical rectangle as detailed in Prototype Labels 8, 9, and 10 in Appendix L. All label size, positioning, spacing, type sizes, positioning of headline, copy, and line widths must be consistent with the prototype and sample labels in Appendix L. The minimum label size for the adhesive label is 1.5" x 4.7". The minimum size for the cling tag triangle label is 4.2" x 4.2" (right angle sides).

(b) *Type style and setting.* The Arial series typeface or equivalent shall be used exclusively on the label. Specific sizes, leading, and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. See the prototype labels for specific directions.

(c) *Colors.* The basic colors of all labels covered by this section shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow. All type and graphics shall be printed process black.

(d) *Label types.* The labels must be affixed to the product in the form of an adhesive label or cling label as follows:

(1) *Adhesive labels.* All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesion capacity sufficient to prevent

their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25x38) or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard.

(2) *Cling labels.* Labels may be affixed, using the screen's static charge, to the product in the form of a cling label. The cling label shall be affixed in a way that prevents its dislodgment during normal handling throughout the chain of distribution to the retailer or consumer.

#### (e) Placement —

(1) *Adhesive labels.* Manufacturers shall affix adhesive labels on the product's bezel adjacent to the viewable screen in such a position that it is easily read by a consumer examining the product.

(2) *Cling label.* A cling label shall be affixed at the bottom right hand corner of the screen in a position that it can be easily read by a consumer examining the product.

(f) *Label content.* The television label shall contain the following information:

(1) Headlines, texts, and statements as illustrated in the prototype and sample labels in Appendix L to this part.

(2) Name of manufacturer or private labeler. This requirement shall, in the case of a corporation, be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(3) Model number(s) as designated by the manufacturer or private labeler.

(4) Estimated annual energy costs determined in accordance with § 305.5 to this part and based on a usage rate of 5 hours in on mode and 19 hours in standby (sleep) mode per day, and an electricity cost rate of 11 cents per kWh.

(5) The applicable ranges of comparability for estimated annual energy costs based on the labeled product's diagonal screen size, according to the following table:

Screen Size (diagonal)	Annual Energy Cost Ranges for Televisions	
	Low	High
0 to 19.9"	\$4	\$11
20 to 29.9"	\$4	\$19

Screen Size (diagonal)	Annual Energy Cost Ranges for Televisions	
	Low	High
30 to 39.9"	\$11	\$31
40 to 49.9"	\$15	\$ 62
50 to 59.9"	\$21	\$75
60 to 69.9"	\$31	\$83
70" or more	\$39	\$90

(6) Placement of the labeled product on the scale proportionate to the lowest and highest estimated annual energy costs as illustrated in prototype and sample labels in Appendix L. When the estimated annual energy cost of a given model of a covered product falls outside the limits of the current range for that product, which could result from the introduction of a new or changed model, the manufacturer shall place the product at the end of the range closest to the model's energy cost.

(7) The model's estimated annual energy consumption as determined in accordance with § 305.5 and based on a

usage rate of 5 hours in on mode and 19 hours in sleep (standby) per day.

(8) No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(i) A part or publication number identification may be included on 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.

(ii) The manufacturer may include the ENERGY STAR logo on the label as illustrated in Sample Labels 10, 11, and 12 in Appendix L. The logo must be 0.375" wide. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on qualifying covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are covered by the Memorandum of Understanding.

■ 7. In § 305.20, add new paragraph (g) to read as follows:

**§ 305.20 Paper catalogs and websites.**

(g) Any manufacturer, distributor, retailer, or private labeler who advertises televisions in a catalog shall include in such catalog either:

(1) The EnergyGuide labels prepared in accordance with § 305.17 for products they offer; or

(2) the estimated annual energy costs determined in accordance with § 305.5, and the following statement conspicuously placed in the catalog: "Your energy costs will depend on your utility rates and use. The estimated energy cost is based on 5 hours of use per day and an electricity cost of 11 cents per kWh.

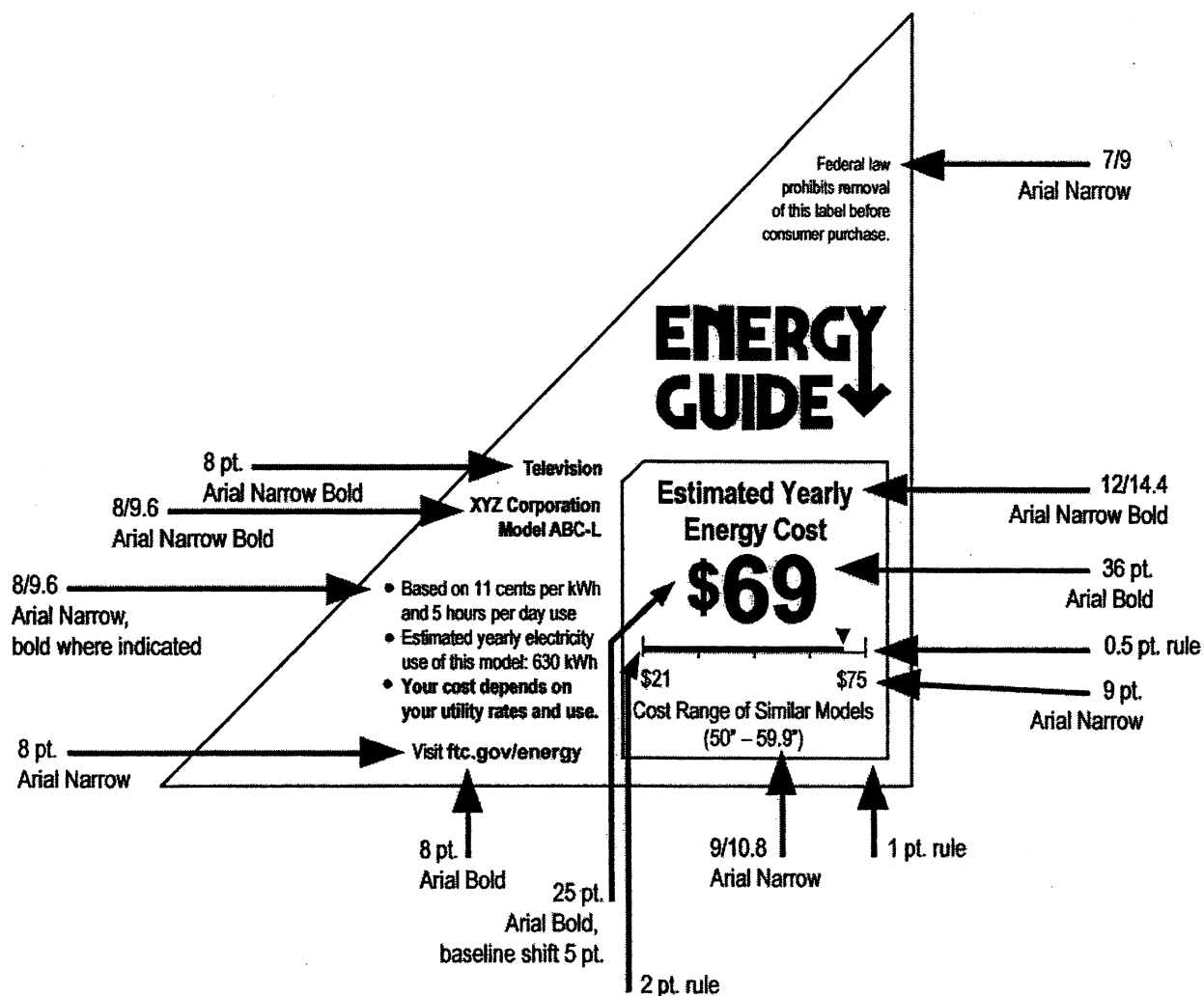
For more information, visit ([www.ftc.gov/appliances](http://www.ftc.gov/appliances))."

\* \* \* \* \*

■ 8. Amend Appendix L by adding Prototype Labels 5, 6, and 7 and Sample Labels 10, 11, and 12:

**Appendix L to Part 305 - Sample Labels**

BILLING CODE 6750-S



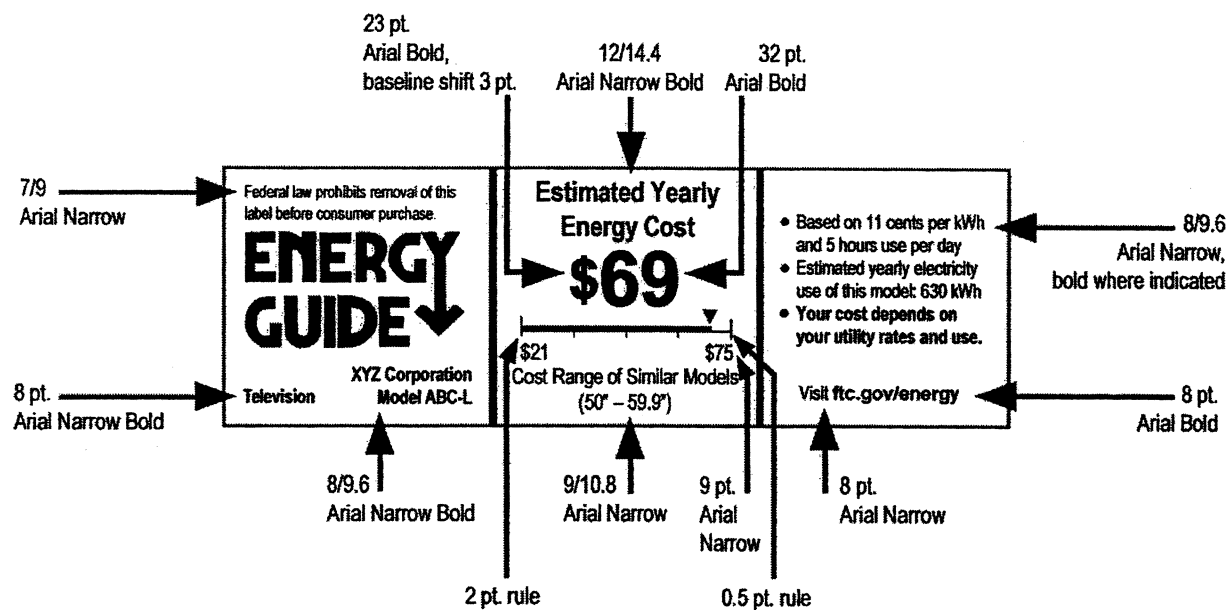
Minimum label size right angle triangle 4.2" x 4.2"

\* Typeface is Arial Narrow and Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black printed on process yellow or equivalent color background. Energy Star logo, if applicable, must be at least 0.375" wide.

Prototype Label 5

Triangular Television Label



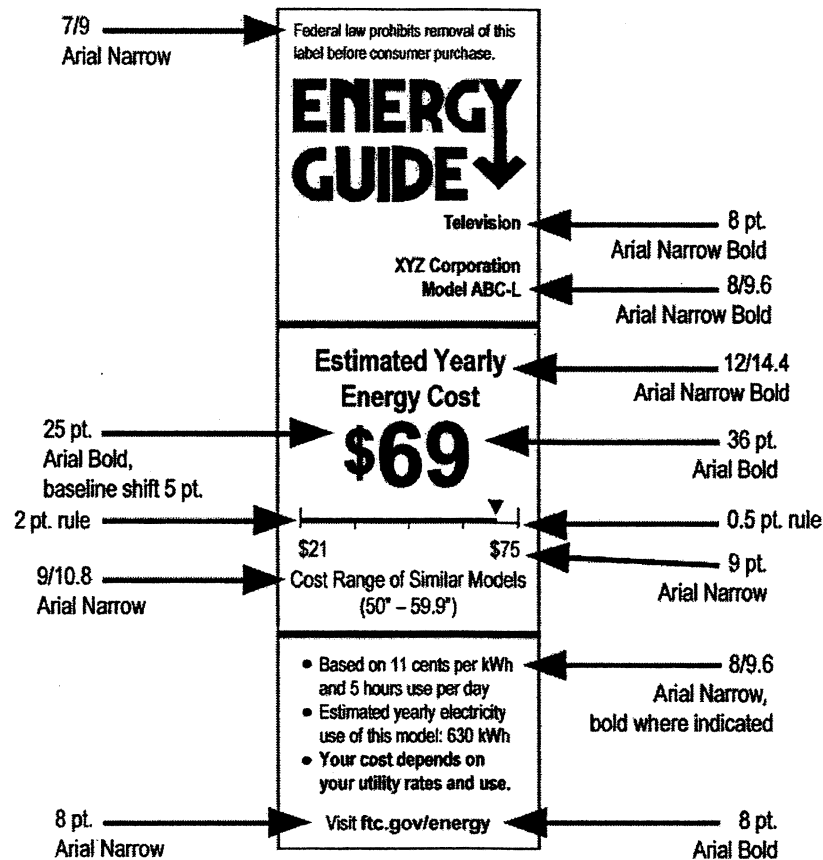


Minimum label size 1.5" x 4.7"

\* Typeface is Arial Narrow and Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black printed on process yellow or equivalent color background. Energy Star logo, if applicable, must be at least 0.375" wide.

Prototype Label 6

Horizontal Rectangular Television Label

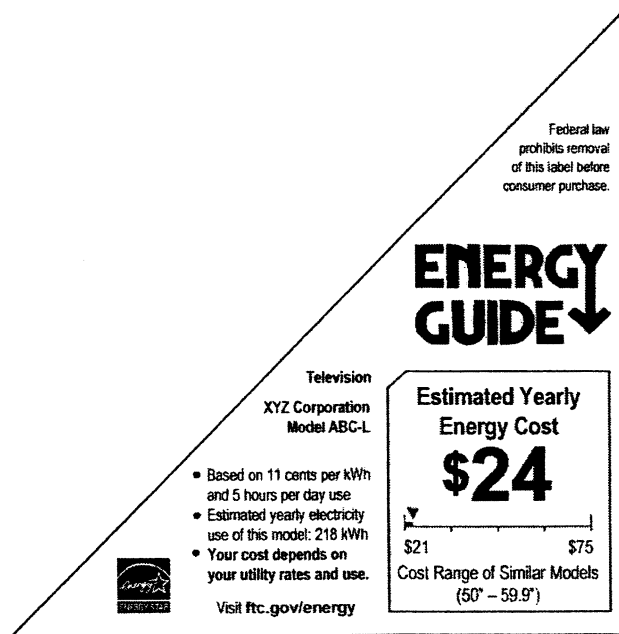
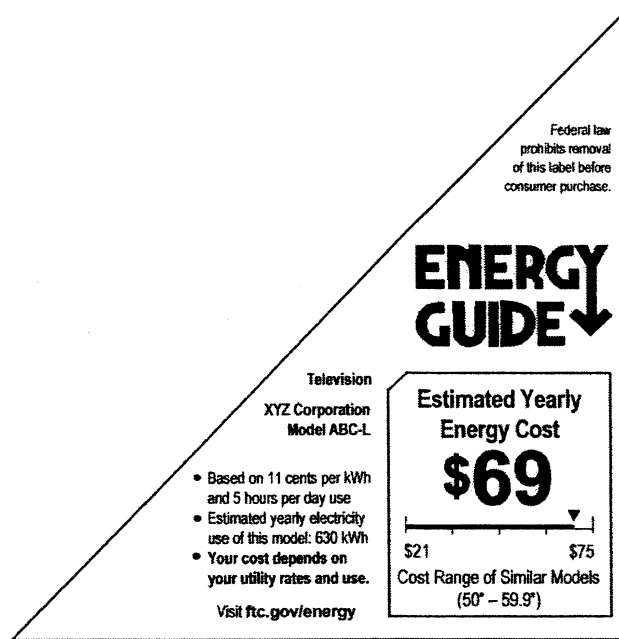


Minimum label size 1.5" x 4.7"

\* Typeface is Arial Narrow and Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black printed on process yellow or equivalent color background. Energy Star logo, if applicable, must be at least 0.375" wide.

Prototype Label 7

Vertical Rectangular Television Label



Sample Label 10

## Triangular Television Label

Sample Label 10

Triangular Television Label

Federal law prohibits removal of this label before consumer purchase.

**ENERGY GUIDE**

Television

XYZ Corporation  
Model ABC-L

**Estimated Yearly  
Energy Cost**

**\$69**

\$21 \$75

Cost Range of Similar Models  
(50" – 59.9" diagonal)

- Based on 11 cents per kWh and 5 hours use per day
- Estimated yearly electricity use of this model: 630 kWh
- Your cost depends on your utility rates and use.

Visit [ftc.gov/energy](http://ftc.gov/energy)

Federal law prohibits removal of this label before consumer purchase.

**ENERGY GUIDE**

Television

XYZ Corporation  
Model ABC-L

**Estimated Yearly  
Energy Cost**


**\$24**

\$21 \$75

Cost Range of Similar Models  
(50" – 59.9" diagonal)

- Based on 11 cents per kWh and 5 hours use per day
- Estimated yearly electricity use of this model: 218 kWh
- Your cost depends on your utility rates and use.

Visit [ftc.gov/energy](http://ftc.gov/energy)

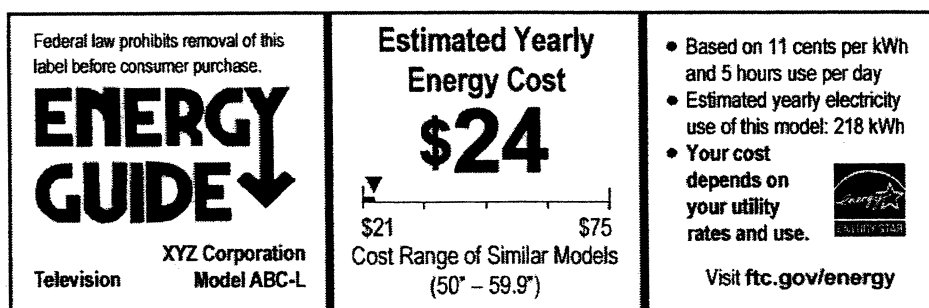
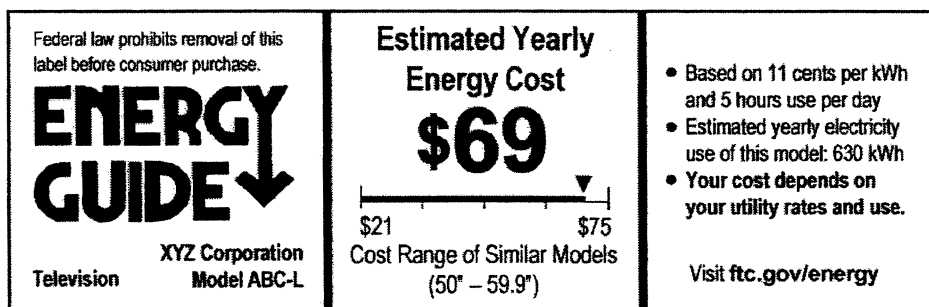


Sample Label 11

## Vertical Television Label

Sample Label 11

Vertical Television Label



## Sample Label 12

### Horizontal Television Label

#### Sample Label 12

#### Horizontal Television Label

By direction of the Commission.

Donald S. Clark,  
Secretary.

[FR Doc. 2010-5152 Filed 3-10-10; 8:45 am]

BILLING CODE 6750-01-C

#### DELAWARE RIVER BASIN COMMISSION

#### 18 CFR Part 410

#### Schedule of Water Charges; Correction

AGENCY: Delaware River Basin  
Commission.

ACTION: Proposed rule; correction.

**SUMMARY:** This document corrects the preamble to a proposed rule published in the **Federal Register** of February 19, 2010, amending the schedule of water charges. This correction clarifies that the amended rates are proposed to take effect in two stages, on January 1, 2011 and January 1, 2012, respectively, and not on January 1, 2010 and January 1, 2011 as stated in the preamble.

**FOR FURTHER INFORMATION, CONTACT:**  
Pamela M. Bush, 609-477-7203.

*Correction:* In proposed rule FR Doc. 2010-3219, beginning on page 7411 in the issue of February 19, 2010, make the following correction in the **SUPPLEMENTARY INFORMATION** section. On page 7412 in the second column, in the second full paragraph, replace the text following the colon on the sixth line of the paragraph with the following:

"The consumptive use rate is proposed to be increased from \$60 to \$90 per million gallons effective on January 1, 2011 and from \$90 to \$120 per million gallons effective on January 1, 2012. The non-consumptive use rate is proposed to be increased from \$.60 to \$.90 per million gallons effective on January 1, 2011 and from \$.90 to \$1.20 per million gallons effective on January 1, 2012."

Dated: March 5, 2010.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 2010-5219 Filed 3-10-10; 8:45 am]

BILLING CODE 6360-01-P