

the “J1” Test Procedure. Compare only with Models displaying this Notice.” Statement at the Middle of Label—“Compare the Energy Use of this Clothes Washer only with other Models tested to the J1 Test Procedure.”

*Alternative 2:* Statement at Top of Label—“This Model has been Tested to the Modified Energy Factor Test Procedure. Compare only with Models displaying this Notice.” Statement at the Middle of Label—“Compare the Energy Use of this Clothes Washer only with other Models tested to the Modified Energy Factor Test Procedure.”

7. Would the implementation of AHAM’s proposal cause consumer confusion for those units with EnergyGuide labels adjoining energy labels required by Mexico or Canada?

8. Are the conditions under which the Commission proposes the exemption appropriate? Are there additional, or different, conditions that also would be appropriate?

9. What would be the economic impact on manufacturers of the proposed exemption, each of the proposed conditions for use of the exemption, and proposed rule?

10. What would be the benefits of the proposed conditional exemption and the proposed rule? Who would receive those benefits?

11. What would be the benefits and economic impact of the proposed exemption, each of the proposed conditions, and the proposed rule change on small businesses?

## V. Preliminary Regulatory Analysis and Regulatory Flexibility Act Requirements

Under section 22 of the FTC Act, 15 U.S.C. 57b, the Commission must issue a preliminary regulatory analysis for a proceeding to amend a rule only when it: (1) Estimates that the amendment will have an annual effect on the national economy of \$100,000,000 or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission has preliminarily determined that the proposed exemption and amendments to the Rule will not have such effects on the national economy, on the cost of covered products, or on covered parties or consumers. The Commission, however, requests comment on the economic effects of the proposed amendments.

The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601–12, requires that

the agency conduct an analysis of the anticipated economic impact of the proposed amendments on small businesses. The purpose of a regulatory flexibility analysis is to ensure that the agency considers impact on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA, 5 U.S.C. 605, provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities.

There are approximately 20 manufacturers of clothes washers sold in the United States. Most of these manufacturers are very large. Because the clothes washer requirements of the Appliance Labeling Rule cover a limited number of manufacturers, most of which are large, the Commission does not believe the proposed amendments or exemption will affect a substantial number of small businesses. In addition, the proposed amendments and exemptions are unlikely to have a significant economic impact upon such entities. Specifically, the proposed rule and exemption involve minor text changes to labels already required by the Rule. The content of these labels must be changed in response to new ranges of comparability published by the Commission from time to time. In the Commission’s view, the proposed amendments and exemption should not have a significant or disproportionate impact on the costs of small manufacturers and retailers.

Based on available information, therefore, the Commission certifies that amending the Appliance Labeling Rule as proposed and granting the requested exemptions will not have a significant economic impact on a substantial number of small businesses. To ensure that no significant economic impact is being overlooked, however, the Commission requests comments on this issue. The Commission also seeks comments on possible alternatives to the proposed amendments (and exemptions) to accomplish the stated objectives. After reviewing any comments received, the Commission will determine whether a final regulatory flexibility analysis is appropriate.

## VI. Paperwork Reduction Act

In a 1988 notice (53 FR 22113), the Commission stated that the Rule contains disclosure and reporting requirements that constitute “information collection requirements” as defined by 5 CFR 1320.7(c), the

regulation that implements the Paperwork Reduction Act.<sup>7</sup> The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget (“OMB”) and assigned OMB Control No. 3084–0068. OMB has again reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The exemptions approved here do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

## VII. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission’s Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner’s advisor during the course of this rulemaking shall be subject to the following treatment. *Written communications*, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. *Oral communications*, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized, at the discretion of the Commissioner or Commissioner’s advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications. *Oral communications from members of Congress* shall be transcribed or summarized, at the discretion of the Commissioner or Commissioner’s advisor to whom such oral communications are made, and promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications.

## List of Subjects in 16 CFR part 305

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

## VIII. Proposed Rule Language

For the reasons set out in the preamble, 16 CFR part 305 is proposed to be amended as follows:

<sup>7</sup> 44 U.S.C. 3501–3520.