

Consistent with the conditional exemption, the final rule does not require an 8 inch label as proposed but instead retains the 7 $\frac{3}{8}$  inch (18.73 cm.) length currently required by the Rule. In addition, the final rule incorporates the minor wording and format changes to the explanatory statements described in the comment analysis and in the description of the conditional exemption. The final rule changes are printed at the end of this document. All manufacturers must follow these requirements beginning January 1, 2004.<sup>26</sup>

## VI. Regulatory Analysis and Regulatory Flexibility Act Requirements

Under section 22 of the FTC Act, 15 U.S.C. 57b, the Commission must issue a 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 determined that the 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 Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–612, requires that agencies conduct analyses of the anticipated economic impact of 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 relatively large.<sup>27</sup>

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 any event, the proposed amendments and exemptions are unlikely to have a significant economic impact upon such entities, if any. 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. Moreover, for the reasons explained earlier, the final rule amendments and exemption are expected to lessen the compliance burdens that would be imposed on regulated entities if they were not permitted to label their products in accordance with the 2004 test procedures before those procedures officially take effect. In the Commission's view, the 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 these amendments to the Appliance Labeling rule and the issuance of the requested exemption will not have a significant economic impact on a substantial number of small businesses.

## VII. 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>28</sup> The Commission noted that the rule had been reviewed and approved by the Office of Management and Budget ("OMB") and has been assigned OMB Control No. 3084–0068 with respect to the rule's recordkeeping and reporting requirements until September 30, 2004, subject to further renewal. The exemption and amendments issued in this document do not change the substance, frequency of the recordkeeping, disclosure, or reporting

requirements and, therefore, do not require further OMB clearance.<sup>29</sup>

## List of Subjects in 16 CFR Part 305

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

## VIII. Final Rule Amendments

■ For the reasons set out in the preamble, the Federal Trade Commission amends 16 CFR part 305 as follows:

### PART 305—[AMENDED]

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

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

■ 2. Amend § 305.11 by revising paragraph (a)(5)(i)(A) and adding new paragraph (a)(5)(i)(L) to read as follows:

#### § 305.11 Labeling for covered products.

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

(A) Headlines and texts, as illustrated in the Prototype Labels in Appendix L to this Part, are standard for all labels except clothes washer labels, which must have the text and features described in 305.11(a)(5)(i)(L) of this part.

(L) Clothes washer labels must have the headlines and texts as illustrated in Prototype Label 2 of Appendix L of this Part. In particular, clothes washer labels must have the following headline as illustrated in Prototype Label 2: "Compare the energy use of this clothes washer only with other models tested using the 2004 test procedure." In addition to the requirements for other labels, clothes washer labels must have a 10/16 inch (1.59 cm.) in height, process black bar across the top that contains the following text in process yellow as illustrated in Prototype Label 2: "This model has been tested using the 2004 test procedure. Compare only with models displaying this statement."

\* \* \* \* \*

■ 3. Appendix L to part 305 is amended by revising Prototype Label 2 and Sample Label 3 to read as follows:

#### Appendix L to Part 305—Sample Labels

\* \* \* \* \*

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<sup>26</sup> Prototype Label 2 in the final rule does not contain a specific reference to the 10/16 inch height for the black bar across the top of the label. Because the final graphic may not be to scale as it appears in the **Federal Register** or the Code, specific references to dimensions on the prototype label may be confusing. The text of the rule clearly states the 10/16 (1.59 cm.) inch requirement.

<sup>27</sup> Although no comments were received regarding the size of manufacturers subject to the Rule, the Commission believes that few would

qualify as a small business under the relevant threshold (*i.e.*, 1000 employees). See <http://www.sba.gov/size/sizetable2002.html> (Small Business Standards Matched To North American Industry Classification System, Code 335224, Household Laundry Equipment Manufacturing).

<sup>28</sup> 44 U.S.C. 3501–20.

<sup>29</sup> The exemption and final rule amendments may modify the existing burden slightly by requiring additional information on the labels. However, because the labels are already required and their content changes from time to time when ranges of comparability are amended, we believe that the overall impact of this final rule and exemption is negligible and does not significantly alter the rule's overall burden.