

and the only costs incurred by producers are the labor costs of the veterinarian associated with applying the eartag. As official identification is customarily applied at the same time tuberculin tests are performed and read, it is safe to assume that the estimated cost between \$7.50 and \$10 would include the labor costs related to the application of official identification.

On January 1, 2002, the average value per animal in California was estimated to be \$930, which translates to an average value per 101-head herd of about \$94,000. Using high-end cost estimates of \$10 per animal for tuberculosis testing and the cost of official identification, the cost of the additional tuberculin testing necessitated by the interim rule represents 1.1 percent of the per-head value of cattle. In general practice, we assume a regulation that has compliance costs equal to or greater than a small business' profit margin, or 5 to 10 percent of annual sales, to pose an impact that can be considered "significant."¹ For the purposes of illustration and analysis of the small entity impact, if we assume a cattle producer owns only 1 average sized-herd of about 101 animals, with annual sales of approximately \$94,000, compliance costs totaling between \$4,700 and \$9,400 would qualify as posing a "significant" economic impact on this entity. In this example, the cost of compliance for this producer, using high-end estimates and assuming all 101 animals are engaged in interstate movement, would total only \$1,010, which would not be considered a "significant" economic impact. Of course, in reality, the majority of cattle and bison producers in California own more than one-average sized herd. However, by presenting an extreme case of a small cattle or bison operation, we may address and illustrate that compliance costs will not cause a significant economic impact on small entities.

Thus, we believe that the added cost of the required tuberculin testing and identification is small relative to the average value of cattle and bison, representing less than 1 percent of the per-head value. In addition, the costs of compliance associated with the interim rule will only affect those operations engaged in the interstate movement of cattle or bison. Further, since APHIS has delayed the date of compliance with the identification requirements in § 77.10(b) and (d), the identification costs for

sexually intact heifers, steers, and spayed heifers moving interstate from the State of California will be deferred until at least March 30, 2004.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 77 and that was published at 68 FR 20333–20336 on April 25, 2003.

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 18th day of November, 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 305

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

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") amends its Appliance Labeling Rule ("Rule") by publishing new ranges of comparability to be used on required labels for compact clothes washers. The Commission also announces that the current ranges of comparability for standard-sized clothes washers will remain in effect until further notice.

EFFECTIVE DATE: The amendments announced in this document will become effective February 23, 2004.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202) 326–2889.

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979,

44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 ("EPCA").¹ The Rule covers several categories of major household appliances including dishwashers.

I. Background

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.² These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior ranges remain in effect for the next year.

II. 2003 Clothes Washer Ranges

The Commission has analyzed the 2003 annual data submissions for

¹ 42 U.S.C. 6294. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

² Reports for clothes washers are due October 1.

¹ Verkuil, Paul R. "A Critical Guide to the Regulatory Flexibility Act," *Duke Law Journal*, Apr. 1982: 928.