

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."<sup>1</sup> 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.*

[FR Doc. 03–29232 Filed 11–21–03; 8:45 am]

**BILLING CODE 3410–34–P**

### 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"),<sup>1</sup> 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.<sup>2</sup> 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

<sup>1</sup> 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.

<sup>2</sup> Reports for clothes washers are due October 1.

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

clothes washers. The data submissions show a significant change in the range of comparability scale for compact clothes washers.<sup>3</sup> Accordingly, the Commission is publishing new ranges of comparability for compact clothes washers in appendix F of the rule. To effect this amendment, the Commission has divided appendix F into two parts, appendix F1 for standard clothes washers and appendix F2 for compact clothes washers. Because the range of comparability for standard clothes washers has not changed significantly, the Commission is not amending the range in the rule for those products.<sup>4</sup>

Manufacturers of compact clothes washers must base the disclosures of estimated annual operating cost required at the bottom of EnergyGuide labels for standard-sized dishwashers on the 2003 Representative Average Unit Costs of Energy for electricity (8.41 cents per kilowatt-hour) and natural gas (81.6 cents per therm) that were published by DOE on April 9, 2003 (68 FR 17361) and by the Commission on May 5, 2003 (68 FR 23584). The new range for compact models will become effective February 23, 2004. Manufacturers may begin using the new range before that date.<sup>5</sup>

<sup>3</sup> The Commission's classification of "Standard" and "Compact" dishwashers is based on internal load capacity. Appendix C of the Commission's Rule defines "Compact" as including countertop dishwasher models with a capacity of fewer than eight (8) place settings and "Standard" as including portable or built-in dishwasher models with a capacity of eight (8) or more place settings. The Rule requires that place settings be determined in accordance with appendix C to 10 CFR part 430, subpart B, of DOE's energy conservation standards program.

<sup>4</sup> In a February 21, 2003 notice (68 FR 8448), the Commission discussed the possibility of publishing clothes washer ranges this year based on data derived from a new DOE test procedure that will become effective on January 1, 2004 (10 CFR part 430, subpart B, appendix J1). On October 1, 2003, the Commission received data for some models that had been tested under the new procedure as well as data submissions reflecting results based on the current (existing) test procedure for all models (10 CFR part 430, subpart B, appendix J). The submitted data indicates that the number of models tested under the new procedure as of October 1 was relatively small compared to the total number of models reported. In addition, the submitted information did not contain any data for compact models tested under the new procedure. Given this limited data and the possibility that many more models have yet to be tested under the new procedure, it is not appropriate to amend the ranges based on this limited new test data at this time. Accordingly, this notice reflects the review of data for models tested under the current (existing) DOE test procedure.

<sup>5</sup> The Commission notes that recent amendments to the clothes washer label require advisory language related to the new test procedure on labels for all models produced beginning January 1, 2004 (see 68 FR 36458 (June 18, 2003)).

**III. Administrative Procedure Act**

The amendments published in this notice involve routine, technical and minor, or conforming changes to the labeling requirements in the Rule. These technical amendments merely provide a routine change to the range and cost information required on EnergyGuide labels. Accordingly, the Commission finds for good cause that public comment for these technical, procedural amendments is impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

**IV. Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. These technical amendments merely provide a routine change to the range information required on EnergyGuide labels. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

**V. Paperwork Reduction Act**

In a June 13, 1998 notice (53 FR 22106), 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>6</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 reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

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

Advertising, Energy conservation, Household appliances, Labeling,

<sup>6</sup> 44 U.S.C. 3501–3520.

Reporting and recordkeeping requirements.

■ Accordingly, 16 CFR part 305 is amended as follows:

**PART 305—[AMENDED]**

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

Authority: 42 U.S.C. 6294.

**Appendix F—[Removed]**

■ 2. Appendix F to part 305 is removed.  
 ■ 3. Appendices F1 and F2 to part 305 are added to read as follows:

**Appendix F1 to Part 305—Standard Clothes Washers**

**Range Information**

"Standard" includes all household clothes washers with a tub capacity of 1.6 cu. ft or 13 gallons of water or more.

Capacity	Range of estimated annual energy consumption (kWh/yr.)	
	Low	High
Standard .....	177	1298

**Cost Information**

When the above range of comparability is used on EnergyGuide labels for standard clothes washers, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 2000 Representative Average Unit Costs for electricity (8.03¢ per kilowatt-hour) and natural gas (68.8.6¢ per therm), and the text below the box must identify the costs as such.

**Appendix F2 to Part 305—Compact Clothes Washers**

**Range Information**

"Compact" includes all household clothes washers with a tub capacity of less than 1.6 cu. ft. or 13 gallons of water.

Capacity	Range of estimated annual energy consumption (kWh/yr.)	
	Low	High
Compact .....	350	653

**Cost Information**

When the above range of comparability is used on EnergyGuide labels for compact clothes washers, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 2003 Representative Average Unit Costs for electricity (8.41¢ per kilowatt-hour) and natural gas (81.6¢ per therm), and the text below the box must identify the costs as such.

By Direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 03–29102 Filed 11–21–03; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 917

[KY–239–FOR]

#### Kentucky Abandoned Mine Land (AML) Plan

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving a proposed amendment to the Kentucky abandoned mine land reclamation plan (the “Kentucky plan”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act).

**EFFECTIVE DATE:** November 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Telephone: (859) 260–8400, Internet address: [bkovacic@osmre.gov](mailto:bkovacic@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Kentucky Program
- II. Submission of the Proposed Amendment
- III. OSM’s Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. Procedural Determinations

#### I. Background on the Kentucky Program

The Abandoned Mine Land (AML) Reclamation Program was established by Title IV of SMCRA (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior (Secretary) for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary approved the

Kentucky plan on May 18, 1982. You can find background information on the Kentucky plan, including the Secretary’s findings, the disposition of comments, and the approval of the plan in the May 18, 1982, **Federal Register** (47 FR 21435). You can find later actions concerning the Kentucky plan and amendments to the plan at 30 CFR 917.20 and 917.21.

#### II. Submission of the Proposed Amendment

By letter dated April 29, 2002 (Administrative Record No. KY–70), Kentucky sent us a proposed amendment to its plan under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky submitted the amendment to propose comprehensive changes to the plan. The formal amendment was preceded by two informal submissions in September 1997, and March 16, 2000 (Administrative Record No. KY–67). OSM reviewed the informal submissions and reported findings to Kentucky on March 30, 2001 (Administrative Record No. KY–69).

It should be noted that Kentucky’s formal submission on April 29, 2002, did not identify the specific changes being proposed. We subsequently reviewed the 635-page amendment to determine what revisions were made from the original plan. We completed our review on December 19, 2002. The proposed rule was published in the February 11, 2003, **Federal Register** (68 FR 6838). Due to the voluminous nature of the submission, only major changes or those that may otherwise be of interest to the public were identified in the proposed rule notice. Any revisions not identified in the proposed rule concern nonsubstantive wording, organizational changes, or editorial changes. A complete description of the changes addressed in this rule notice can be found in the corresponding proposed rule, published in the February 11, 2003, **Federal Register** (68 FR 6838). However, we note that in some instances, the proposed rule described certain changes as “added sections” when, in fact, they consisted of language that had been moved from the OSM-approved Errata Sheet of the original 1981 Plan into the main text of the Plan.

#### III. OSM’s Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment. Any revisions that we do not specifically discuss below concern nonsubstantive

wording or editorial changes. Except where otherwise indicated below, we find that these amendments do not change the objectives, scope or major policies followed by Kentucky in the conduct of its reclamation program.

#### *Acquisition, Management, and Disposal of Lands (p. 6–9)*

The subtitle “Management of Acquired Lands” has been added. This subtitle provides that land acquired “may be used for any lawful purpose that is not inconsistent with the reclamation activities and post-reclamation uses for which it was acquired.” It also establishes that users of acquired lands will be charged a use fee and that all fees collected “which are not used for the specific purpose of operating and maintaining improvement of the land will be deposited in the Abandoned Mine Reclamation Fund.”

These proposed changes meet the criteria of the counterpart Federal regulations found at 30 CFR 879.14, which provide that “[l]and acquired under this part may be used for any lawful purpose that is consistent with the necessary reclamation activities.” The State’s proposed changes has this same requirement as well as the additional caveat that acquired land may be used for any lawful purpose not inconsistent with the post-reclamation uses for which it was acquired. Additionally, Kentucky’s proposed change meets the Federal requirement, also at 30 CFR 879.14, that procedures for the collection of user fees provide that all user fees collected be deposited in the appropriate Abandoned Mine Reclamation Fund. Therefore, we are approving the proposed changes.

#### *Organization (p. 10–17)*

The subtitle “Environmental Scientist Principal” has been added. Chapter 10 of Kentucky’s AML plan describes the title, class, duties, and minimum requirements of various employment positions within the organization. These provisions were previously approved by OSM because they meet the requirements of the counterpart Federal regulation found at 30 CFR 884.13(d). The addition of the description of the Environmental Scientist Principal position further clarifies the organization of the Plan and the responsibilities of individual employees. Therefore, we find that the proposed addition also meets the requirements of the counterpart Federal regulations, and we are approving it.