

prohibited airspace surrounding the private residence of the President of the United States.

**DATES:** Effective April 22, 2003.

**FOR FURTHER INFORMATION CONTACT:** Sheri Dgett-Baron, 202-267-8783.

#### Correction

■ In interim final rule FR Doc. 03-9886, published on April 22, 2003 (68 FR 19730), make the following corrections:

■ 1. On page 19730, in the first column, correct "Docket No. FAA-2003-14973" to read "Docket No. FAA-2003-14972;"

■ 2. On page 19730, in the second column, in line 6 of the **ADDRESSES** paragraph, correct "docket number FAA-2003-14973" to read "docket number FAA-2003-14972"

■ 3. On page 19730, in the third column, in line seven of the last paragraph of the "Comments Invited" paragraph, correct "Docket No. FAA-2003-14973" to read "Docket No. FAA-2003-14972."

■ 4. On page 19732, in the third column, in line six of Section 2. of SFAR No. 98, correct "31°43'45N" to read "31°34'45N".

■ 5. On page 19733, in the first column, in line three of Section 3. of SFAR No. 98, correct "31°43'45N" to read "31°34'45N".

Issued in Washington, DC on April 29, 2003.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

[FR Doc. 03-11037 Filed 5-2-03; 8:45 am]

BILLING CODE 4910-13-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") revises Table 1 in § 305.9 of the Commission's Appliance Labeling Rule ("Rule") to incorporate the latest figures for average unit energy costs as published by the Department of Energy ("DOE") in the **Federal Register** on April 9, 2003. Table 1 sets forth the representative average unit energy costs for five residential energy sources, which the Commission revises periodically on the basis of updated information provided by DOE.

**DATES:** The amendments published in this notice are effective May 5, 2003. The mandatory dates for using these revised DOE cost figures in connection with the Appliance Labeling Rule are detailed in the Supplementary Information Section, below.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, (202) 326-2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580; E-mail: [hnewsome@ftc.gov](mailto:hnewsome@ftc.gov).

**SUPPLEMENTARY INFORMATION:** On November 19, 1979, the Commission issued a final rule in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201.<sup>1</sup> The Rule requires the disclosure of energy efficiency, consumption, or cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that the energy costs, consumption, or efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in § 305.9(a) of the Rule sets forth the representative average unit energy costs to be used for all cost-related requirements of the Rule. As stated in section 305.9(b), the Table is to be revised periodically on the basis of updated information provided by DOE.

#### I. Representative Average Unit Energy Costs

On April 9, 2003, DOE published the most recent figures for representative average unit energy costs (68 FR 17361). These energy cost figures are for manufacturers to use, in accordance with the guidelines that appear below, to calculate the required secondary annual operating cost figures at the bottom of required EnergyGuides for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. The energy cost figures also are for manufacturers of central air conditioners and heat pumps to use, also in accordance with the below guidelines, to calculate annual operating

<sup>1</sup> 44 FR 66466. Since its promulgation, the Rule has been amended five times to include new product categories—central air conditioners (52 FR 46888, Dec. 10, 1987), fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989), certain plumbing products (58 FR 54955, Oct. 25, 1993), certain lamp products (59 FR 25176, May 13, 1994), and pool heaters and certain residential water heater types (59 FR 49556, Sept. 28, 1994). Obligations under the Rule concerning fluorescent lamp ballasts, lighting products, plumbing products and pool heaters are not affected by the cost figures in this notice.

costs for required fact sheets and in approved industry directories listing these products.<sup>2</sup> The Commission is revising Table 1 to reflect these latest cost figures, as set forth below. The current and future obligations of manufacturers with respect to the use of DOE's cost figures are as follows:

#### A. Labeling of Refrigerators, Refrigerator-Freezers, Freezers, Clothes Washers, Dishwashers, Water Heaters, and Room Air Conditioners<sup>3</sup>

Manufacturers must continue to use the DOE cost figures that were published and in effect the year the ranges of comparability last changed for the applicable covered product. The cost figures currently applicable to each product category are detailed below. Manufacturers must continue to use these figures until new ranges of comparability for an applicable product are published by the Commission in the future. For example, if the ranges of comparability for a given product last changed in the year 2001, manufacturers should continue to use the 2001 DOE energy cost figures until the Commission announces otherwise.

##### 1. Refrigerators, Refrigerator-Freezers, and Freezers

Manufacturers of refrigerators, refrigerator-freezers, and freezers must continue to derive the operating cost disclosures on labels by using the 2001 National Average Representative Unit Costs (8.29 cents per kilo Watt-hour for electricity) published by DOE on March 8, 2001 (66 FR 13917), and by the Commission on May 21, 2001 (66 FR 27856), that were in effect when the current 2001 ranges of comparability for these products were published.<sup>4</sup>

<sup>2</sup> The DOE cost figures are not necessary for making data submissions to the Commission. The required energy use information that manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters must submit under section 305.8 of the Rule is no longer operating cost; it is now energy consumption (kilowatt-hour use per year for electricity, therms per year for natural gas, or gallons per year for propane and oil).

<sup>3</sup> Sections 305.11(a)(5)(i)(H)(2) and (3) of the Rule (16 CFR 305.11(a)(5)(i)(H)(2) and (3)) require that labels for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners contain a secondary energy usage disclosure in terms of an estimated annual operating cost (labels for clothes washers and dishwashers will show two such secondary disclosures—one based on operation with water heated by natural gas, and one on operation with water heated by electricity). The labels also must disclose, below this secondary estimated annual operating cost, the fact that the estimated annual operating cost is based on the appropriate DOE energy cost figure, and must identify the year in which the cost figure was published.

<sup>4</sup> The current (2001) ranges for refrigerators, refrigerator-freezers, and freezers were published on

Manufacturers must continue to use the foregoing DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figure for electricity then in effect.

## 2. Room Air Conditioners

Manufacturers of room air conditioners must continue to derive the operating cost disclosures on labels by using the 1995 National Average Representative Unit Costs for electricity (8.67 cents per kilo Watt-hour) that were published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9296), and that were in effect when the current (1995) ranges of comparability for these products were published.<sup>5</sup> Manufacturers of room air conditioners must continue to use the 1995 DOE cost figures until the Commission publishes new ranges of comparability and state that operating cost disclosures must be based on the DOE cost figure for electricity then in effect.

## 3. Storage-Type Water Heaters

Manufacturers of storage-type water heaters must continue to use the 1994 DOE cost figures (8.41 cents per kiloWatt-hour for electricity, 60.4 cents per therm for natural gas, \$1.05 per gallon for No. 2 heating oil, and 98.3 cents per gallon for propane) in determining the operating cost disclosures on the labels on their products. This is because the 1994 DOE cost figures were in effect when the 1994 ranges of comparability for storage-type water heaters were published, and those 1994 ranges are still in effect for those products.<sup>6</sup> Manufacturers of

storage-type water heaters must continue to use the 1994 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for energy then in effect.

## 4. Heat Pump Water Heaters

Manufacturers of heat pump water heaters must continue to derive the operating cost disclosures on labels by using the 2002 National Average Representative Unit Costs for electricity (8.28 cents per kiloWatt-hour) that were published by DOE on April 24, 2002 (67 FR 20104), and by the Commission on June 7, 2002 (67 FR 39269), and that were in effect when the current (2002) ranges of comparability for these products were published.<sup>7</sup> Manufacturers of heat pump water heaters must continue to use the 2002 DOE cost figures until the Commission publishes new ranges of comparability and state that operating cost disclosures must be based on the DOE cost figure for electricity then in effect.

## 5. Gas-Fired Instantaneous Water Heaters

Manufacturers of gas-fired instantaneous water heaters must continue to base the required secondary operating cost disclosures on labels on the 1999 National Average Representative Unit Costs for natural gas (68.8 cents per therm) and propane (77 cents per therm) that were published by DOE on January 5, 1999 (64 FR 487), and by the Commission on February 17, 1999 (64 FR 7783), and that were in effect when the 1999 ranges of comparability for these products were published.<sup>8</sup> Manufacturers must continue to use the 1999 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for natural gas and propane then in effect.

## 6. Dishwashers

Manufacturers of dishwashers must continue to base the required secondary operating cost disclosures on labels on the 2002 National Average Representative Unit Costs for electricity (8.28 cents per kiloWatt-hour) and natural gas (65.6 cents per therm) that

<sup>7</sup> The current (2002) ranges of comparability for heat pump water heaters were published on June 24, 2002 (67 FR 42478).

<sup>8</sup> The current ranges for gas-fired instantaneous water heaters were published on December 20, 1999 (64 FR 71019). On September 1, 2000 (65 FR 53165), August 2, 2001 (66 FR 40110), and June 24, 2002 (67 FR 42478), the Commission announced that the 1999 ranges for gas-fired instantaneous water heaters would remain in effect.

were published by DOE on April 24, 2002 (67 FR 20104), and by the Commission on June 7, 2002 (67 FR 39269), and that were in effect when the 2002 ranges of comparability for these products were published.<sup>9</sup> Manufacturers of dishwashers must continue to use the 2002 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for electricity and natural gas then in effect.

## 7. Clothes Washers

Manufacturers of clothes washers must continue to derive the operating cost disclosures on labels by using the 2000 National Average Representative Unit Costs for electricity (8.03 cents per kiloWatt-hour) and natural gas (68.8 cents per therm) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.<sup>10</sup> Manufacturers of clothes washers must continue to use the 2000 DOE cost figures until the Commission publishes new ranges of comparability and states that operating cost disclosures must be based on the DOE cost figures for electricity and natural gas then in effect.

### *B. Operating Cost Information for Central Air Conditioners and Heat Pumps Disclosed on Fact Sheets and in Industry Directories*

In the 2003 notice announcing whether there will be new ranges of comparability for central air conditioners and heat pumps, the Commission also will announce that operating cost disclosures for these products on fact sheets and in industry directories must be based on the 2003 DOE cost figure for electricity beginning on the effective date of that notice.

### *C. Operating Cost Representations for Products Covered by EPCA But Not by the Commission's Rule*

Manufacturers of products covered by section 323(c) of EPCA, 42 U.S.C. 6293(c), but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, and space heaters) must use the 2003 DOE energy costs in all operating cost

<sup>9</sup> The current ranges for dishwashers were published on July 19, 2002 (67 FR 47443).

<sup>10</sup> The current (2000) ranges of comparability for clothes washers were published on May 11, 2000 (65 FR 30351). On April 16, 2001 (66 FR 19389) and on April 12, 2002 (67 FR 17936), the Commission announced that the 2000 ranges for clothes washers would remain in effect.

November 19, 2001 (66 FR 57867). On October 24, 2002 (67 FR 65310), the Commission announced that the 2001 ranges for these products would remain in effect.

<sup>5</sup> The current (1995) ranges for room air conditioners were published on November 13, 1995 (60 FR 56945). On September 16, 1996 (61 FR 46820), August 25, 1997 (62 FR 44890), August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), September 1, 2000 (65 FR 53163), August 2, 2001 (66 FR 40110), and June 24, 2002 (67 FR 42478), the Commission announced that the 1995 ranges for room air conditioners would remain in effect.

<sup>6</sup> The 1994 DOE cost figures were published by DOE on December 29, 1993 (58 FR 68901), and by the Commission on February 8, 1994 (59 FR 5699). The current (1994) ranges of comparability for storage-type water heaters were published on September 23, 1994 (59 FR 48796). On August 21, 1995 (60 FR 43367), September 16, 1996 (61 FR 48620), August 25, 1997 (62 FR 44890), August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), September 1, 2000 (65 FR 53163), August 2, 2001 (66 FR 40110), and June 24, 2002 (67 FR 42478), the Commission announced that the 1994 ranges for storage-type water heaters would remain in effect.

representations beginning August 4, 2003.

**II. Administrative Procedure Act**

The amendments published in this notice involve routine, technical and minor, or conforming changes to the Rule's labeling requirements. These technical amendments merely provide a routine change to the cost information in the Rule. Accordingly, the Commission finds for good cause that public comment and a 30-day effective date for these technical, procedural amendments are impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

**III. 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 cost information in the

Rule. 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.

**IV. 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>11</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 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, Reporting and recordkeeping requirements.

**PART 305—[AMENDED]**

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

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

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

■ 2. Section 305.9(a) is revised to read as follows:

**§ 305.9 Representative average unit energy costs.**

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COST OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2003)

Type of energy	In commonly used terms	As required by DOE test procedure	Dollars per million Btu <sup>1</sup>
Electricity .....	8.41¢/kWh <sup>2,3</sup> .....	\$0.0841/kWh .....	\$24.65
Natural Gas .....	81.6¢/therm <sup>4</sup> or \$8.37/MCF <sup>5</sup> ..	\$0.00000816/Btu .....	\$8.16
No. 2 heating oil .....	\$1.22/gallon <sup>7</sup> .....	\$0.00000880/Btu .....	\$8.80
Propane .....	\$1.21/gallon <sup>8</sup> .....	\$0.00001325/Btu .....	\$13.25
Kerosene .....	\$1.43/gallon <sup>9</sup> .....	\$0.00001059/Btu .....	\$10.59

<sup>1</sup> Btu stands for British thermal unit.

<sup>2</sup> kWh stands for kiloWatt hour.

<sup>3</sup> 1 kWh=3,412 Btu.

<sup>4</sup> 1 therm=100,000 Btu. Natural gas prices include taxes.

<sup>5</sup> MCF stands for 1,000 cubic feet.

<sup>6</sup> For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,027 Btu.

<sup>7</sup> For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.

<sup>8</sup> For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.

<sup>9</sup> For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

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By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 03-11008 Filed 5-2-03; 8:45 am]

BILLING CODE 6750-01-M

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9056]

RIN 1545-BA82

**Earnings Calculation for Returned or Recharacterized IRA Contributions**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that provide a new method to be used for calculating the net income

attributable to IRA contributions that are distributed as a returned contribution pursuant to section 408(d)(4) of the Internal Revenue Code (Code) or recharacterized pursuant to section 408A(d)(6). These regulations will affect IRA owners and IRA trustees, custodians and issuers.

**DATES:** *Effective Date:* These final regulations are effective on May 5, 2003.

*Applicability Date:* These final regulations are applicable for calculating income allocable to IRA contributions made on or after January 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Cathy Vohs at 622-6090.

**SUPPLEMENTARY INFORMATION:**

<sup>11</sup> 44 U.S.C. 3501-3520.