Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 305

[RIN 3084-AB03]

Appliance Labeling Rule

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: Section 321 of the Energy Independence and Security Act of 2007 requires the Commission to conduct a rulemaking to consider the effectiveness of current labeling requirements for lamps (commonly referred to as ''light bulbs'') and to consider alternative labeling approaches. After reviewing public comments and consumer research, the Commission seeks comments on proposed changes to the existing labeling requirements for lamp products.

DATES: Written comments must be received on or before December 28, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/lampamendmentsNPRM*) (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135(Annex N), 600 Pennsylvania Avenue, N.W., Washington, DC 20580, in the manner detailed in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326-2889, or Lemuel Dowdy, (202) 326-2981, Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room NJ-2122, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

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I. Introduction

In accordance with the Energy Independence and Security Act of 2007 (Pub. L. 110-140) (''EISA''), the Commission has considered the effectiveness of current requirements and alternative approaches for labeling lamps, commonly referred to as light bulbs.[1] After reviewing public comments and conducting consumer research, the Commission now proposes amendments to the Appliance Labeling Rule (16 CFR Part 305) that would require light bulb packages to display brightness and energy cost information on the front panel and a detailed ''Lighting Facts'' label on the side or rear. The proposed amendments also would require certain disclosures on the bulbs. These new labeling requirements should help consumers choose energy efficient bulbs that meet their lighting needs. The Commission seeks comments on these proposed changes.

To facilitate comment, this Notice provides background on the EISA provisions, the current labeling requirements, the public comments, and the FTC consumer research; details the proposed changes to the labeling, reporting, website and catalog requirements; discusses proposed consumer education measures; provides a section by section description of the proposed changes; and analyzes the impact of the proposed changes pursuant to the Paperwork Reduction Act and the Regulatory Flexibility Act.

II. Background

EISA directs the Department of Energy (''DOE'') to issue stringent energy efficiency standards for lighting products. These standards will eliminate low efficiency incandescent light bulbs from store shelves. The remaining high efficiency light bulbs will include products widely available now, such as compact fluorescent lamps (''CFLs''), as well as products that are likely to become increasingly available in the future such as improved incandescent bulbs and very high efficiency solid-state lighting (*e.g.*, light-emitting diode (LED) products).

Given these changes, Congress directed the FTC to consider the effectiveness of its current light bulb disclosure requirements and possible alternative labeling disclosures that could help consumers understand new high-efficiency bulbs and help them choose bulbs that meet their needs.[2] In particular, the law directs the Commission to consider labeling disclosures that address consumer needs for information about lighting level, light quality, lamp life, and total lifecycle cost. The Commission must complete this effort by June 2010.[3] EISA (section 321(c)) also requires DOE, in cooperation with the FTC and other agencies, to conduct a ''proactive

[1] This Notice uses the terms lamp, light bulb, and bulb interchangeably.

[2] Section 321(b) of EISA amends section 324(a)(2)(C) of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6294(a)(2)(C)). Additional amendments in EISA redesignate 6294(a)(2)(C) as 6294(a)(2)(D) (*see* section 324(d) of EISA).

[3] Section 321(b) of EISA (42 U.S.C. 6294(a)(2)(D)) also gives the Commission the discretion to ''consider reopening the rulemaking not later than 180 days before the effective dates of the standards for general service incandescent lamps [implemented by DOE], if the Commission determines that further labeling changes are needed to help consumers understand lamp alternatives.''

national program of consumer awareness, information, and education'' to help consumers understand new light bulb labels and make energy-efficient lighting choices that meet their needs.

To begin fulfilling this mandate, the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') on July 18, 2008 (73 FR 40988) seeking comment, and then held a public roundtable on September 15, 2008.[4] Commenters and roundtable participants discussed the effectiveness of current labeling requirements, as well as whether labeling alternatives would help consumers in their purchasing decisions. Using this information, the Commission conducted a consumer research study to aid in determining what revisions, if any, it should make to existing labeling requirements.[5]

III. Current FTC Labeling

Current FTC regulations require that most incandescent and compact fluorescent lamp packages display information about the product's light output (in lumens), energy use (in watts), and lamp life (in hours).[6] The package disclosures also must provide the following statement: ''To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.'' Additionally, catalog retailers (including websites) must disclose this information for the covered lamps they sell.[7] The current rule provides manufacturers flexibility regarding the size, font, and style in which the information is presented, but otherwise mandates the wording, relative size, and order of the disclosures.[8] Figure 1 provides one example of how the disclosures required by the current rule may appear on the package.

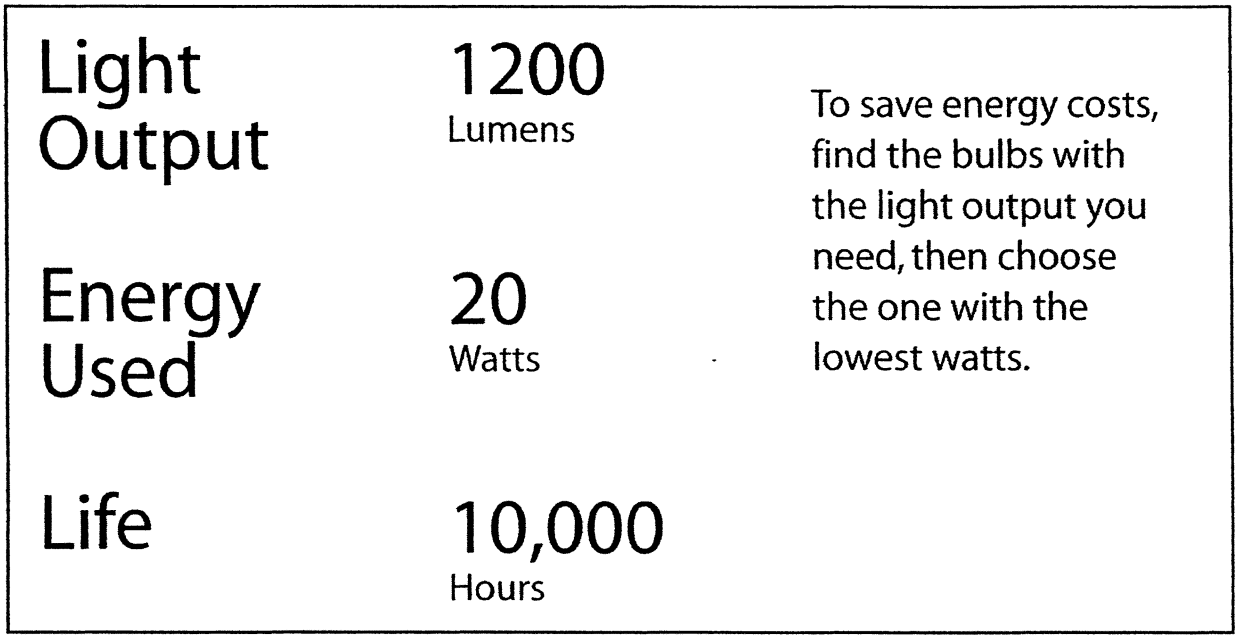


Figure 1

Example of Current Disclosures

The current rule also requires manufacturers to possess and rely upon a reasonable basis consisting of competent and reliable scientific tests to substantiate the information on their labels. For lamp life and light output representations, the rule states that the Commission will accept as substantiation data derived from applicable IES (''Illuminating Engineering Society'') test protocols.[9] The rule, however, does not require manufacturers to use these protocols.

IV. Consumer Research

In its ANPR, the Commission requested that commenters provide consumer research related to lighting disclosures. However, no commenters submitted or identified any recent, comprehensive consumer studies. Therefore, the FTC, through a contractor, conducted a consumer focus group about various light bulb attributes in October 2008.[10] After considering the results of this focus group, the FTC conducted a quantitative label study in the Spring of 2009.[11]

[4] The comments received in response to the ANPR are at (*http://www.ftc.gov/os/comments/lightbulbs/index.shtm*). A transcript of the Roundtable can be found at (*http://www.ftc.gov/bcp/workshops/lamp/transcript.pdf*).

[5] *See* 73 FR 72800 (Dec. 1, 2008); 74 FR 7894 (Feb. 20, 2009). *See* comments at (*http://www.ftc.gov/os/comments/lampstudypra2/index.shtm*).

[6] The FTC issued the current lighting disclosure requirements in 1994 (*see* 16 CFR §§ 305.15(a), (b), & (c)). *See* 59 FR 25176 (May 13, 1994). Figure 1 contains a sample of the current label.

[7] 16 CFR 305.20.

[8] In addition to the requirements for common household (medium screw base) light bulbs, the rule directs manufacturers of fluorescent lamp ballasts and luminaires, metal halide lamp fixtures, and certain tube-type (''general service'') fluorescent lamps to mark their products with an encircled ''E,'' a symbol signifying compliance with DOE minimum efficiency standards. *See* 16 CFR 305.15. Packages for incandescent reflector lamps must also display the encircled ''E'' as well as information on light output, energy use, and watts.

[9] *See* 16 CFR 305.5. For fluorescent lamp ballasts, the rule requires manufacturers to derive energy consumption information using specific DOE test procedures (10 CFR Part 430, subpart B, 430.23(q)). There were no DOE test procedures available for other lighting products when the FTC first published the lamp labeling rules in 1994.

[10] A report on the focus group (''FTC Focus Group Report''), prepared by FTC's contractor, Synovate, Inc., is available at (*http://www.ftc.gov/os/comments/lightbulbs/index.shtm*).

[11] The Commission announced this study in a December 1, 2008 notice (73 FR 72800) and provided details regarding the research in a February 20, 2009 notice (74 FR 7894). Comments received in response to the February 20, 2009 notice are available at (*http://www.ftc.gov/os/comments/lampstudypra2/index.shtm*).

The label study employed standard consumer survey methodologies, including choice experiments, to explore how different disclosure approaches impact consumer decision-making.[12] The FTC analyzed the data using a multi-variate probit model to determine which disclosure approaches were most successful in helping respondents choose correct answers, holding other factors constant.[13] The study did not generate information about national public opinion and did not provide nationally representative results. Instead, the results provided the FTC with information about the comparative effectiveness of various label approaches.[14]

In addition to the FTC research, the Commission considered concurrent research conducted in 2009 by Natural Resources Canada (''NRCan'').[15] NRCan's research sought to gather information on 'Canadians' knowledge, perceptions and understanding of household lighting, both in terms of the product and the terminology used to describe it.'' Specifically, NRCan conducted ten focus groups and an online survey. The survey explored Canadian consumers' experiences with different bulb types, their understanding of energy efficiency related to lighting options, their understanding of lighting terminology, the criteria they use in the selection of light bulbs, and their reaction to different labeling concepts.[16]

V. Effectiveness of Current Labeling Requirements

In considering the effectiveness of the current label, the Commission reviewed comments, information provided at the fall roundtable, and the consumer research. The review yielded two primary conclusions. First, the use of watts in the required disclosure is problematic because consumers tend to use watts (instead of lumens) as a measure of brightness. Second, the current FTC disclosures do not provide some types of information that may be important to consumers.

The comments and research show that consumers interpret wattage to measure brightness even though wattage is a measure of energy use. For instance, the Focus Group Report concluded that ''respondents mistakenly understood the measure of brightness to be wattage, and this was how they selected bulbs.''[17] In the FTC label study, respondents viewing label variations including watts on the front panel, who were asked to choose the brightest bulb, were somewhat more likely to pick the incorrect bulb than respondents viewing labels with other energy descriptors.[18] Thus, a significant number of respondents viewing those variations appear to have based their brightness determination on wattage information, rather than criteria intended to communicate light output. Similarly, the Canadian research concluded that the majority of respondents in Canada think of ''watts as a measure of brightness or both as a measure of brightness and energy use.''[19]

Consumers' use of watts, and not lumens, to gauge light output worked in a market dominated by incandescent bulbs because the wattage (*i.e.*, energy use) of incandescent lamps provides a consistent proxy for brightness (*i.e.*, light output). For example, a ''100-watt'' incandescent bulb typically provides enough light for reading while a ''40-watt'' incandescent bulb typically provides sufficient brightness to light a hallway or utility room. However, a wattage based approach does not work in a market that includes different high efficiency bulbs because the wattage needed to attain a particular light output can differ substantially across these technologies.[20]

In addition to concerns about wattage disclosures, the Commission's review identified three types of important information the current disclosures do not address. First, the current disclosures do not provide consumers with energy cost information. Many commenters identified energy cost as important information for the FTC label.[21] Second, the current rule does not require color temperature information (*i.e.*, the cool or warm appearance of a bulb's light). Color temperature garnered significant attention in the comments and during the roundtable because, as more color temperature variations become available, particularly for high efficiency bulbs, uniform color temperature information may become increasingly important.[22] Finally, some commenters noted that there are no current federal disclosures regarding the mercury content in CFLs.[23] They argued that such information is important to help consumers understand how to safely use and dispose of these products.

VI. Proposed Rule Changes

The Commission is proposing significant changes to its light bulb labeling requirements. These changes affect the rule's product coverage, the required package and product disclosures, reporting, and website (catalog) disclosures. In drafting these requirements, the Commission considered the severe space limitations on typical light bulb packaging and sought to propose simple, straightforward disclosures.

A. Proposed Product Coverage

The proposed amendments apply to common household (medium screw base) light bulbs, including general service incandescent bulbs and CFLs. These two technologies are the most commonly available bulbs presently on the market. The amendments also would apply to medium screw base light emitting diode (LED) lamps, which

[12] The FTC's contractor administered questions over the Internet to a sample of approximately 5,600 respondents who were at least 18 years old and were recent or likely future light bulb purchasers.

[13] A probit analysis is a statistical technique that uses several independent variables to predict the probability of some outcome, such as the probability that a correct answer will be selected. In some cases, the FTC staff also performed Pearson's chi-squared tests to test for significant differences across treatment groups in the proportion of respondents selecting the correct answer.

[14] The complete results (''Lamp Labeling Consumer Research Supplement to Notice of Proposed Rulemaking Related to the Effectiveness of the Current Lamp Labeling Requirements (16 CFR Part 305)''), including the questionnaire and all other study details, are available at (*www.ftc.gov/energy*).

[15] ''Lighting Survey: Combined Executive Summary,'' Sage Research Corporation (prepared for the Canadian Electricity Association and Natural Resources Canada) (''NRCan Lighting Survey'') May 2009, at 2.

[16] *See* generally NRCan Lighting Survey.

[17] FTC Focus Group Report at 6.

[18] Question 201 asked respondents to choose the bulb that would fill their room with as much light as possible. Question 202 asked them to give their second choice. Of the respondents who viewed watts as the only descriptor on the front panel, 59.28% and 49.72% correctly answered Questions 201 and 202, respectively; whereas 66.72% and 52.92% of respondents who did not view watts on the front panel correctly answered Questions 201 and 202, respectively. *See* Consumer Research Supplement at 356.

[19] The NRCan research study states: ''When asked to describe in their own words their understanding of ''watts,'' less than half (42%) of respondents mentioned something approximating the correct definition of energy/power use, while 64% mentioned brightness (or synonyms).'' NRCan Lighting Survey at 17. The NRCan research also found that the majority of Canadians ''still have an incandescent mindset in how they tend to think about lighting choices, the terminology they use, and the criteria they use to make decisions about what they buy.'' NRCan Lighting Survey at 14.

[20] For example, a traditional, standard incandescent bulb typically uses 100 watts to provide 1,600 lumens of light output. A CFL, on the other hand, can provide the same light output using only 25 watts, while an LED lamp may use even less energy to produce the same light output.

[21] See, *e.g.*, sample labels from Philips, GE, OSRAM, and NRDC at (*http://www.ftc.gov/bcp/workshops/lamp/index.shtml*).

[22] For example, session two of the Roundtable addressed color disclosures. *See* (*http://www.ftc.gov/bcp/workshops/lamp/index.shtml*).

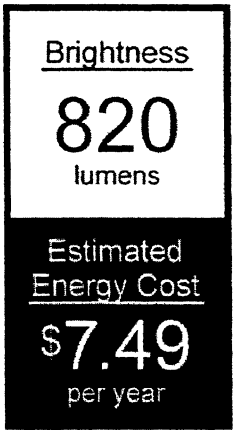
[23] *See* GE (#540385-00002) and NEMA (#540385-00005).

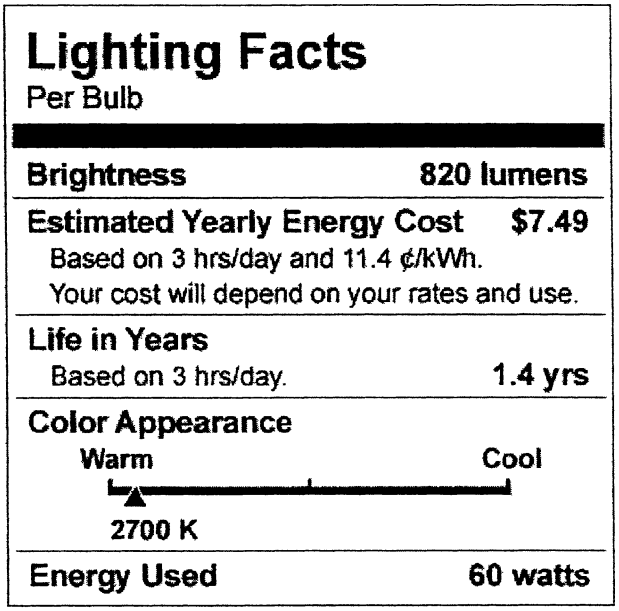
are likely to become widely available over the next few years.[24] Though the EISA amendments do not expressly require labeling for LEDs (42 U.S.C. 6294),[25] the Commission proposes to cover them using its general authority to label consumer products under 42 U.S.C. 6294(a)(6).[26]

To effect the coverage of these three bulb types, the proposed rule requires the new labels for any ''general service lamp,'' a term defined in the proposed rule to include any medium screw base lamp that is a general service incandescent, CFL, or general service LED.[27] This proposed coverage is consistent with commenter suggestions urging the Commission to require consistent disclosures for lamps regardless of technologies.[28]

B. Proposed Package Labeling

The proposed package labeling amendments create a two-panel labeling format: a front panel with brightness and energy cost information and a Lighting Facts label with additional information on the side or rear panel (see Figure 2). This two-panel approach benefits consumers by providing the most important information in a simple-to-read format on the package front and more detailed information on the side or rear panel. The proposed required disclosures are brightness, energy cost, life, color appearance, wattage, mercury content, and, for non-standard voltage bulbs, voltage information. The proposed amendments also allow manufacturers the discretion to provide the ENERGY STAR logo (if applicable). Additionally, the amendments expand the current rules for voluntary cost and life claims, and do not require manufacturers to make disclosures regarding a light bulb's lifecycle or its color rendering index. Finally, in addition to changing the disclosures on package labels, the amendments would require the bulbs themselves to display brightness and mercury information.





[24] LED products are more efficient and last longer than both incandescent and CFL bulbs and can replace those bulbs in common residential fixtures. The U.S. Department of Energy (''DOE'') is currently supporting domestic research and development for new solid-state lighting technologies. For more information about DOE's efforts and LED technology in general, *see* (*http://www1.eere.energy.gov/buildings/ssl/*).

[25] The EISA amendments included definitions for solid-state lighting products (*e.g.*, LED), but did not alter the scope of lighting products for which labeling is required. Therefore, the current law does not specifically direct the FTC to require labeling for solid-state lighting products. (*See* 42 U.S.C. 6291(30)(BB-DD) and 42 U.S.C. 6294(a)).

[26] Section 6294(a)(6) gives the Commission authority to require disclosures for consumer products not subject to specific labeling requirements in section 6294 (*i.e.*, products ''not specified'' under existing labeling requirements). The law defines ''consumer product'' as any article (other than an automobile) which ''in operation consumes, or is designed to consume energy'' and ''which, to any significant extent is distributed in commerce for personal use or consumption by an individual.'' 42 U.S.C. 6291(1). The Commission believes that labeling for LED bulbs is likely to assist consumers in their purchasing decisions because they are substitutes for incandescents and CFLs and are likely to become increasingly available for household use.

[27] The Commission also plans to use section 6294(a)(6) to require labeling for two types of incandescent bulbs: reflector lamps and 3-way incandescent lamps. Prior to EISA, the Commission's rules covered such products because they fell under the statutory definition of ''general service incandescent lamp.'' The EISA amendments, however, appear to have inadvertently removed these products from the labeling section by excluding them from the definition of ''general service incandescent lamps.'' *See* 42 U.S.C. 6291(30)(D). The Commission proposes to continue required labeling for reflector lamps and 3-way incandescent lamps because they have been labeled by the FTC for more than a decade, because they remain common products for which continued labeling would assist consumers, and because no comments suggest any reason for excluding them. The Commission seeks comment on this proposal, including any reasons why these lamps should not be subject to the labeling requirements.

[28] See, *e.g.*, Phillips (#536795-00015), Energy Solutions (#536795-00010), NRDC (#536795-0003), and CEE (#536795-00011). The Commission also seeks comment on whether there are other types of consumer lamps that the Commission should include under the new labeling requirements proposed in this Notice.

FRONT PANEL

REAR PANEL

Figure 2

Front Panel and Lighting Facts

1. Front and Rear Panel Format

Under the proposed rule, the front panel displays brightness in the form of lumens and energy information in the form of annual energy cost. Brightness and energy information warrant placement on the front panel because both are particularly important to consumers. Participants in the FTC focus group identified ''brightness'' as the most important bulb attribute.[29] In the FTC label study, respondents gave high scores to the importance of brightness as well as energy information.[30] Similarly, the NRCan research indicated that the ''two top pieces of information people look for on light bulb packaging are brightness and energy usage or efficiency.''[31] The prominent disclosure of these two key pieces of information on the front panel should allow consumers to make quick comparisons in the store.

The rear or side panel features a more detailed Lighting Facts label similar in format to the ''Nutrition Facts'' and ''Drug Facts'' labels required by the Food and Drug Administration. Each of these proposed disclosures is discussed in detail in Section B.2. To ensure uniformity, the proposed rule limits the permissible disclosures on the Lighting Facts label.

The Lighting Facts label has several benefits.[32] First, it provides a format consistent with other government mandated labels, which should help consumers find information to compare bulbs. Second, the label reinforces the brightness and cost information on the front of the package, including detail about the electricity rate and usage assumptions underlying the energy cost estimate. Third, the label provides detailed information in a small space, which is a particular concern given the size of typical light bulb packages. Finally, it provides uniform information that online sellers would be able to use to comply with the catalog disclosure requirements (section 305.20).

The Commission considered requiring only a Lighting Facts label (with no required disclosures on the front of the package). In the FTC label study, however, the label variation which contained only the Lighting Facts label did not perform as well as two-panel variations in aiding respondents to answer questions regarding light output.[33]

The Commission seeks comment on whether the rule should require a front and back label format as proposed. The Commission also seeks comment on whether the Lighting Facts label will fit on existing packages and whether the FTC needs to specify an alternative format for packages that are too small for the proposed label.

2. Required Package Disclosures

The proposed amendments require six mandatory disclosures on the package: brightness, energy cost, bulb life, color temperature (appearance), wattage, and, in some cases, voltage and mercury information.

a. Brightness/Light Output

Two significant problems with the current labeling requirements shaped the Commission's approach to light output disclosures. First, as discussed in section V, the current label highlights bulb wattage on the front of the package as an energy descriptor, but consumers tend to use it to measure light output. Second, many consumers do not understand that lumens provides a consistent measurement of light output. For example, in the FTC label study, even when provided with lumens information, roughly one-fifth of respondents mistakenly chose the dimmest bulb when asked to choose the brightest model.[34] Similarly, the majority of respondents in the NRCan study did not understand that ''lumens'' or even ''light output'' convey brightness.[35]

To address these two concerns and enhance consumer understanding of the light output of high efficiency bulbs, the Commission proposes two changes to the labeling requirements. First, the amended rule would remove mandatory wattage information from the front of the package, while maintaining a prominent lumens disclosure. This change should help consumers focus on lumens, instead of watts, to determine light output. A less prominent wattage disclosure would appear on the Lighting Facts label for consumers and professionals who want to know the wattage of a bulb. Second, the proposed amendments change the term describing lumens from ''light output'' to ''brightness.''[36] Both the FTC focus group and NRCan research suggest that consumers prefer the term ''brightness'' to ''light output,''[37] and participants at the FTC's Roundtable routinely used the term ''brightness'' when describing the light output of lamps.[38]

In addition to these labeling changes, the Commission recommends education efforts to help consumers understand how to use lumens. When properly understood, lumens permit consumers to determine whether a bulb provides sufficient light to meet their needs across technologies. The DOE-led consumer education programs required by section 321(c)(1)(C) of EISA provide an opportunity to improve consumer understanding of lumens, and the FTC plans to work with DOE as it implements these programs. In addition, the FTC may develop its own consumer education materials and strategies.

[29] FTC Focus Group Report at 6.

[30] Respondents in the FTC label study also scored bulb life high in terms of importance. However, the Canadian research indicated that consumers refer to bulb life only ''on occasion'' when buying light bulbs and ranked life below brightness and energy efficiency as a descriptor that ''must'' appear on the label. NRCan Lighting Survey at 13. Given the contradictory research results and the need to minimize disclosures on the front package, the Commission proposes to require life information on the Lighting Facts label, but not on the package front.

[31] NRCan Lighting Survey at 13. When asked what information must appear on the label, the Canadian opinion survey results indicated an 83% response rate for brightness, 74% for energy efficiency, and 69% for bulb life.

[32] ''Lighting Facts'' is a trademark held by the U.S. Government through the DOE solid-state lighting program. During the Roundtable and in comments, several commenters suggested a uniform label consistent with the ''Nutrition Facts.'' See, *e.g.*, Roundtable Tr. at 107, 108, 120, and 121; Philips #536795-00015.

[33] Question 201 asked respondents to choose the bulb that would fill their room with as much light as possible. Question 202 asked them to give their second choice. Of respondents who viewed the Lighting Facts label only, 52.56% and 39.49% correctly answered Questions 201 and 202, respectively; whereas 66.17% and 53.17% of respondents who viewed two panel label formats correctly answered the questions, respectively. *See* Consumer Research Supplement at 357.

[34] In Question 201, 17.9% of all respondents chose the dimmest bulb when asked to choose the bulb that would fill their room with the most light. *See* Consumer Research Supplement at 89.

[35] NRCan Lighting Survey Combined Executive Summary at 17. The NRCan focus group report indicated that ''quite a few'' participants ''said they were not sure what 'light output' means.'' Lighting Research Focus Groups Final Report, Sage Research Corporation (for NRCan and the Canadian Electrical Association), May 20, 2009 (''NRCan Focus Group Report'') at 22.

[36] The Commission recognizes that the technical term to describe a light source's lumen output is ''luminous flux,'' not ''brightness'' (or even ''light output''). However, this technical distinction is unlikely to be material to consumers.

[37] FTC Focus Group Report at 3; and NRCan Lighting Survey at 17. The FTC Focus Group Report concluded that: ''All respondents agreed that 'Brightness' was a far superior communication than 'Light Output.' 'Brightness' was direct, easy to understand, and most importantly, the word respondents already use when referring to this attribute.'' The NRCan survey report recommended that lumen disclosures be prefaced with a widely understood term such as ''brightness.'' The NRCan focus group indicated that several participants stated that they would have paid more attention to package information it if had been labeled ''brightness'' because that is a much more familiar term. NRCan Focus Group Report at 22.

[38] See, *e.g.*, Roundtable Tr. at 32, 35, 41, 67, and 121.

The Commission also considered whether to require watt equivalence information to help consumers compare the light output of high efficiency bulbs to incandescent bulbs. Manufacturers routinely communicate light output on CFL packages by providing conspicuous comparisons to incandescent lamps (*e.g.*, ''this bulb is a '100-watt' equivalent'' or ''13W=60W'').[39] Although both industry practice and the NRCan research suggest that watt equivalence information aids consumers in understanding the brightness of high efficiency bulbs,[40] the proposed rule does not require such information for two reasons. First, watt-equivalence information is likely to become much less important as the new DOE energy standards render most incandescent bulbs obsolete. Indeed, by the time any new FTC labeling rules become effective, the DOE standards eliminating traditional low efficiency incandescent bulbs will be close at hand. Second, mandatory wattage equivalence information could perpetuate consumer reliance on outdated incandescent watt information and hinder their transition to using lumens.[41]

b. Energy Use/Efficiency

As discussed in Section VI.b.1., a bulb's energy information is important to consumers whether they are concerned about their electricity bills, improving the environment by using less energy, or both. The current rule provides energy information to consumers in the form of watts. However, the FTC looked for an alternative because of consumers' tendency to equate watts with brightness.

Commenters suggested three alternatives: annual energy cost, lumens per watt, and a five-star rating system.[42] In general, annual energy cost is a measure of energy use while lumens per watt and the star rating are measures of energy efficiency (*i.e.*, energy the product uses for a given light output). More specifically, annual energy cost communicates a bulb's energy use by converting watts to dollars per year based on a given electricity rate and daily usage estimate; lumens per watt communicates a bulb's energy efficiency by providing the number of lumens the bulb produces for a single watt of energy; and the five-star system communicates the energy efficiency of the bulb by assigning a star rating (*e.g.*, three stars) to a bulb's energy efficiency (as measured in lumens per watt). The FTC consumer research explored each of these approaches in conjunction with the ENERGY STAR logo, which also communicates energy efficiency information.

After considering the research results and the comments, the Commission proposes to require annual energy cost as the primary energy disclosure on the front package panel and on the rear (or side panel) Lighting Facts label. Specifically, the proposed rule would require that the front panel display ''estimated energy cost'' in an annual dollar figure (*e.g.*, $7.49 per year). The proposed Lighting Facts label also provides this information with rate and usage assumptions (*i.e.*, 3 hours per day and 11.4 cents per kWh),[43] and a disclosure that actual cost depends on a consumer's electricity rates and usage.

The Commission has decided to propose requiring annual energy cost for three reasons. First, estimated annual energy cost provides a simple way to convey how much energy a bulb is likely to use.[44] In essence, the disclosure is a conversion of wattage to the amount of money the bulb costs to operate in a year. Second, in the label study, compared to the five-star rating and the lumens per watt disclosure, energy cost information performed well in enabling respondents to answer energy questions correctly.[45] Specifically, for questions asking respondents to pick the bulb that used the least (or, for some questions, most) energy, the energy cost descriptor somewhat outperformed the five-star rating and substantially outperformed the lumens per watt disclosure.[46] For most questions asking respondents to pick the most energy efficient bulb, energy cost performed as well as the

[39] Several comments recommend that the FTC require watt-equivalence information on the label. See, *e.g.*, CEE (#536795-00011), NRDC (#536795-00003), and ACEEE (#536795-00012). In addition, NRDC urged the Commission to set standards for watt equivalence claims. NRDC (#536795-0003). NRDC also suggested the creation of categories similar to batteries (such as A, AAA, C, etc.), to describe light output. Roundtable Tr. at 29 (Horowitz). However, the Commission believes it is better to focus on educating consumers about lumens, a descriptor that already exists and may have some consumer recognition, rather than to create an entirely new system.

[40] NRCan Lighting Survey at 13. In the FTC label study, wattage equivalent information included on the Lighting Facts labels did not make a difference in respondents' ability to choose the brightest bulb. The study, however, did not explore whether such information helped consumers relate CFL brightness to their experience with the wattage (and associated brightness) of incandescent bulbs.

[41] The Commission expects that, in the short term, manufacturers will continue to make watt equivalence representations voluntarily. As the market rapidly changes over the next few years, manufacturers can adjust such voluntary representations to evolving consumer understanding and reevaluate the need for watt equivalence disclosures with greater flexibility than the Commission can through rulemaking. Nevertheless, to avoid consumer confusion, when making such claims manufacturers should ensure that the incandescent bulb they are comparing is similar to the CFL (or LED) they are selling not only in brightness, but also in other material respects such as bulb type and color appearance. Manufacturers, of course, must also substantiate all other material claims they make about the product.

[42] *See* sample labels from Philips, GE, OSRAM, and NRDC at (*http://www.ftc.gov/bcp/workshops/lamp/index.shtml*). *See* also, *e.g.*, EPA comments (#536795-00006), NRDC comments (suggesting five star system and energy cost) (#536795-00003), and NEMA (suggesting energy cost) (#536795-00007). Some comments also suggested consideration of lifetime cost (see, *e.g.*, NEMA (#536795-00007). However, the Commission has not explored lifetime cost in detail because the tremendous variability of bulb life makes it a confusing descriptor. For example, an efficient bulb that lasts 20 years and costs $1 per year to operate would have a lifetime cost of $20 whereas a lower efficiency bulb that last 2 years and costs $2 per year to run would have a lifetime cost of $4. The labels in this scenario could lead consumers to choose the lower efficiency bulb simply because the cost printed on its label is lower.

[43] The general consensus at the Roundtable was that 3 hours per day was a reasonable figure to use for such estimates. Roundtable Tr. at 54. The electricity cost figure is based on 2009 DOE data. *See* 74 FR 26675 (June 3, 2009). Consistent with the Commission's approach on the EnergyGuide label (16 CFR 305.10), the Commission would change the cost rate every five years based on DOE data. This approach minimizes label changes while ensuring that cost information is based on a reasonable estimate of national average electricity costs. However, as with appliance labeling, the Commission may revisit the energy cost estimate sooner than five years should such costs change significantly.

[44] The NRCan Focus Group Report stated that ''some participants liked the idea of expressing energy usage in terms of operating cost per year, as they felt dollar figures are tangible, easily understood, and motivating.'' NRCan Focus Group Report at 8.

[45] Respondents in the label study who viewed watts were somewhat more likely to answer correctly most energy-related questions in the FTC labeling study (Questions 213, 213.1, 214, 214.1, 215, 216, and 216.1) than respondents who viewed other energy descriptors. *See* Consumer Research Supplement at 360-362. However, the proposed rule does not require such information on the front of the package because of the significant confusion it causes related to light output as discussed in Section IV.A.2.b. The proposed rule retains a less prominent watts disclosure on the Lighting Facts label because such precise wattage information may be important to some consumers.

[46] Two questions (213 and 215) asked respondents to view three bulbs and choose the one that used the least amount of energy. In Question 213, the percentage of respondents who answered the question correctly, grouped by front-panel energy descriptor, were: energy cost (74.5%); stars (69.94%); and lumens per watt (50.62%). For Question 215, the results were: energy cost (79.9%); stars (70.42%); and lumens per watt (41.71%). Two other questions (214 and 216) asked respondents to view three bulbs and choose the one that used the most energy. In Question 214, the percentage of respondents who answered the question correctly, grouped by front-panel energy descriptor, were: energy cost (71.83%); stars (67.58%); and lumens per watt (47.68%). For Question 216, the results were: energy cost (71.61%); stars (68.34%); and lumens per watt (48.91%). *See* Consumer Research Supplement at 363-366.

five-star rating and substantially better than lumens per watt.[47]

Third, unlike efficiency ratings, an energy cost disclosure should help consumers avoid buying bulbs that are brighter than necessary. In many cases, a higher energy efficiency rating for a particular bulb equates to lower energy costs or energy use - but not always. For example, a bright bulb with a high efficiency rating may cost much more to operate than a dimmer bulb with a lower efficiency rating.[48] Thus, reliance on efficiency information alone may lead consumers, in some cases, to purchase bulbs that are brighter than needed and thus use more energy and pay more money than necessary. The annual energy cost descriptor helps avoid this problem.

The proposed rule also allows manufacturers to place the ENERGY STAR logo on the Lighting Facts label if the product meets ENERGY STAR criteria. This approach is consistent with the EnergyGuide label for appliances and allows manufacturers to place relevant information about the product in one place.[49]

The Commission is not proposing to require lumens per watt on the Lighting Facts label. As discussed above, in the FTC label study, respondents viewing lumens per watt information were less likely to provide correct answers to most energy use and efficiency questions (*e.g.*, accurately pick the most efficient bulb) than respondents viewing the other energy descriptors. Additionally, as discussed above, lumens per watt information could lead consumers to choose bulbs that are brighter than needed. Lumens per watt, however, is a common efficiency metric used in the lighting industry and serves as the yardstick for the DOE efficiency standards and for performance criteria in the ENERGY STAR program. It also appears on the existing Lighting Facts label developed by DOE under its LED program. Therefore, the Commission seeks comment on whether lumens per watt should appear as an energy descriptor on the Lighting Facts label either as a mandatory or voluntary disclosure.

The Commission also is not proposing to include a five-star rating system on the Lighting Facts Label even though the FTC's research suggests some benefits to this approach. Specifically, respondents viewing this descriptor were somewhat more likely to spend more for a higher efficiency bulb; in addition, all respondents scored this descriptor 's usefulness and trustworthiness somewhat higher than other descriptors.[50] However, four problems with the five-star rating system outweigh these benefits. First, the star-system did not perform better than energy cost in helping consumers answer the energy questions in the label study. Second, the star system may have a greater tendency inadvertently to communicate quality information. Specifically, in the label study, respondents viewing the five-star label were somewhat more likely than other respondents to say one bulb was more reliable than the others, even though the label did not contain information about reliability.[51] Third, the five-star system potentially would create confusion over time as bulb technology changes. For instance, after 2012, the FTC would have to reconfigure the star levels as inefficient incandescent bulbs leave the market, which could confuse consumers. Finally, the five-star system may raise problems in terms of its interaction with ENERGY STAR. Specifically, respondents viewing the five-star label were more likely to identify incorrectly a bulb as ENERGY STAR qualified even when the question displayed no bulbs with the ENERGY STAR logo.[52] Given these issues, the Commission sees no compelling need to create a five level energy efficiency rating system.[53]

c. Life

Bulb life information helps consumers compare the value of competing bulbs. For instance, if two bulbs have the same purchase price and energy use, the longer lasting bulb provides a better value. Bulb life information also helps consumers reduce the time spent replacing bulbs, particularly those located in remote areas. The current rule (§ 305.15(b)) requires bulb life to be expressed in hours. However, several

[47] For example, Question 213.1 asked respondents to view three bulbs and choose the most energy efficient one. The percentage of respondents who answered that question correctly, grouped by front-panel descriptor, were: stars (81.66%); energy cost (81.09%); and lumens per watt (63.22%). Both Questions 214.1 and 216.1 asked respondents to choose the least efficient bulb (though each question displayed a different set of bulbs). The percentage of respondents who answered Question 214.1 correctly were: energy cost (77.17%); stars (76.28%); and lumens per watt (57.91%). For Question 216.1, the results were: stars (80.25%); energy cost (78.02%); and lumens per watt (63.51%). The differences between the cost and star descriptor results, however, are not statistically significant. *See* Consumer Research Supplement at 367-371.

[48] For example, compare the characteristics of high efficiency bulb ''A'' to lower efficiency bulb ''B''. Bulb A= 1750 lumens, 26 watts, 67 lumens per watt, and $3.25 per year (assuming 11.4 cents per kWh) and Bulb B= 825 lumens, 13 watts, 63 lumens per watt, and $1.62. Therefore, bulb ''A'' has a higher efficiency rating in lumens per watt but uses more energy and thus costs more to operate.

[49] Manufacturers would continue to have the discretion to place the ENERGY STAR logo elsewhere on the package consistent with EPA's criteria.

[50] In the FTC label study, respondents answered questions about whether they would be willing to pay more for a higher efficiency bulb of similar brightness (Questions 217). The percentages of respondents willing to pay more, grouped by energy descriptor, were: stars (73.16%); energy cost (68.65%); watts (66.57%); and lumens per watt (65.02%). *See* Consumer Research Supplement at 372-373.

The questionnaire also asked respondents who indicated they would pay more how much they would pay for the higher efficiency bulb (Question 218). Even though the more efficient bulb could save over $6.00 in energy cost during the first year, and about $140 over the entire life of the bulb, the average price that all subjects in the various treatment groups were willing to pay were as follows, as grouped by front-panel energy descriptor: star ($2.92); energy cost ($2.58); lumens per watt ($2.42); and watts ($2.16). The difference between the star ($2.92) and energy cost ($2.58) willingness-to-pay numbers is not statistically significant. *See* Consumer Research Supplement at 377-378.

Respondents also scored the ''usefulness'' of various energy descriptors (Question 220b) on a 1 to 10 scale. The average scores were: stars (8.69); energy cost (8.53); and lumens per watt (8.21). Additionally, on average, respondents scored the ''trustworthiness'' of the same information (Question 220c) as follows: stars (8.04); lumens per watt (7.80); and energy cost (7.60). *See* Consumer Research Supplement at 379-380.

[51] Likewise, when asked to identify the most reliable bulb (Question 701), respondents who viewed the star descriptor on the front panel were somewhat less likely than respondents who viewed other energy descriptors to provide correct responses, which were ''can't tell'' or ''not sure.'' The percentages of respondents who correctly answered Question 701, grouped by front-panel energy descriptor, were: energy cost (29.36%), lumens per watt (26.16%), and stars (21.83%). *See* Consumer Research Supplement at 376.

[52] Question 403 asked respondents to review three bulb labels and identify the ENERGY STAR models. None of the models, however, displayed the ENERGY STAR logo. The rates at which respondents mistakenly identified at least one of the bulbs as an ENERGY STAR were as follows, as grouped by front panel: stars (48.87%); energy cost (37.59%); and lumens per watt (37.44%). There were no significant differences in correct responses, however, between stars and other treatments when the ENERGY STAR logo appeared on bulbs (Question 402). *See* Consumer Research Supplement at 374-375.

[53] This conclusion is consistent with prior Commission consideration of the five-star rating in the context of EnergyGuide labels for appliances. 72 FR 6836, 6844-6846 (Feb. 13, 2007). At that time, the Commission concluded that the FTC label should complement, not detract from, the ENERGY STAR program. The Commission explained that the combination of the FTC label and the ENERGY STAR program appears to provide a sound framework for conveying energy information to consumers and promoting energy efficiency. The FTC label displays detailed energy information about all products regardless of energy efficiency. ENERGY STAR provides the U.S. Government's imprimatur for high efficiency products. This system, as a whole, provides a robust source of energy efficiency information to consumers. The consumer research on light bulb labeling reinforces these earlier findings.

commenters urged the Commission to consider requiring bulb life in years.[54]

In the label study, consumers correctly identified longer lasting bulbs whether life was expressed in years or hours. However, when asked about the usefulness of life information (Question 208b), respondents showed a slight preference for life in years (8.74) over life in hours (8.31). In addition, the NRCan research noted that consumers ''find it difficult to relate stated numbers of hours to actual experience of bulb life'' (NRCan Labeling Survey at 14). Therefore, the Commission is proposing to require a ''life in years'' disclosure on the Lighting Facts label based on a usage rate of three hours per day.

d. Color Appearance

Some bulbs have a warm appearance while others have a cooler appearance. Different color appearances are scientifically expressed as correlated color temperature (''CCT'').[55] While many consumers are unfamiliar with color appearance, it may become a more important factor for consumers as new products with a wide variety of color temperatures increasingly become available.[56] Several comments noted the growing importance of color appearance and suggested the FTC include on the label a uniform method of communicating color temperature. Specifically, some commenters suggested the label require a consistent set of terms for conveying color temperature (*e.g.*, ''soft white'' or ''daylight'') (DOE (#536795-00001) and NRDC (#536795-00003).[57] Others urged consideration of a graphical approach for color temperature such as a range (GE (#536795-00005) or the color scale system considered in earlier research funded by DOE and EPA.[58] Accordingly, the Commission explored three approaches for communicating color temperature: a word descriptor (*e.g.*, soft white and daylight), a simple ''warm-cool'' black and white scale, and a color scale consisting of six colored boxes.[59]

After considering these approaches, the Commission proposes to require a black and white warm-cool scale with a Kelvin number on the Lighting Facts Label. In the FTC label study, a scale performed somewhat better than word descriptors.[60] Moreover, unlike word descriptors, a scale provides both an empirical Kelvin measurement that consumers can use to compare bulbs across technologies, as well as information about whether that Kelvin rating is associated with a ''warmer'' or ''cooler'' appearance. Manufacturers would have the discretion to non-deceptively supplement the required scale with word descriptors elsewhere on the package or in other marketing.

The Commission proposes a black and white warm-cool scale, instead of a color scale, because the former holds down costs.[61] The color scale, however, performed somewhat better in the label study.[62] Therefore, the Commission seeks comment on whether the FTC should require a scale printed in color, including any benefits of a color scale and any costs or other burdens associated with a color scale, particularly for small manufacturers. The Commission also seeks comment on whether the label should use the term ''Light Appearance'' on the label instead of ''Color Appearance'' to minimize the possibility that consumers will interpret the label to convey information about colored lights (*e.g.*, red, green, etc.).

[54] See, *e.g.*, NEMA (#536795-00007); Philips (#536795-00015); and GE (#540385-00005). Roundtable participants appeared to be comfortable with using 3 hours as a usage pattern for expressing life in years. Roundtable Tr. at 54.

[55] Light color measurements, expressed in Kelvin (''K''), range generally from 2700K to 6500K. A bulb with lower kelvin numbers (*e.g.*, 2700K or 3000K) produces light that has a yellowish appearance, such as light provided by traditional incandescent bulbs. Bulbs with higher Kelvin numbers produce light that is whiter (*e.g.*, 4100K) or blueish (*e.g.*, 6500K).

[56] The research results suggest that consumers are generally unfamiliar with color temperature. For example, the FTC's focus group indicated there was little awareness of ''color'' among respondents. And, according to the focus group report, respondents ''had no idea of how light color was measured'' and were largely unfamiliar with the term ''color temperature'' and entirely unfamiliar with the Kelvin scale. FTC Focus Group Report at 3. However, after exposure to color appearance concepts in the FTC label study, respondents on average assigned color appearance a score of 7.6 on a 10 point scale designed to rate the importance of particular light bulb attributes (0 = not important; 10 = very important) (Question 211). This suggests that, once consumers become aware of color appearance, it is an important issue.

[57] It is common for bulb packages to provide various descriptions of color temperature or appearance on their packages and in marketing materials, such as ''soft white,'' ''cool white,'' and ''daylight.''

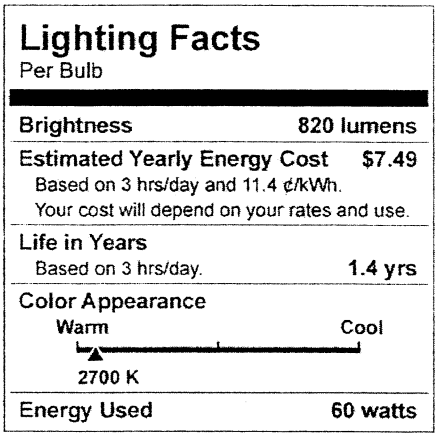
[58] *See* Leslie, R., and Rea, M., ''A System for Communicating Color: What Do Consumers Think,'' Lighting Research Center, Rensselaer Polytechnical Institute (*http://www.lrc.rpi.edu/programs/lightingTransformation/colorCommunication/pdf/whatDoConsumersThink.pdf*).

[59] In the label study, respondents viewed three photographs of a table lamp, each displaying a bulb with a different color temperature. The questionnaire then asked respondents to pick the bulb label that would provide the light displayed in each photograph.

[60] Questions 209 and 210 asked respondents to match the color appearance of several photographs to specific labels bearing color appearance information. Of respondents who viewed a scale communicating color appearance information, 48.30% and 43.89% correctly answered Questions 209 and 210, respectively; whereas 30.58% and 34.47% of respondents who viewed the color appearance word descriptor on the front panel correctly answered Questions 209 and 210, respectively. *See* Consumer Research Supplement at 358.

[61] Because there is no test procedure in DOE's regulations for measuring color temperature, the proposed rule requires manufacturers to substantiate their CCT and color appearance claims with competent and reliable evidence. Should DOE publish applicable test procedures in the future, the Commission will consider amending its rules.

[62] Of respondents who viewed the color scale on the front panel, 53.4% and 48.58% correctly answered Questions 209 and 210 (questions related to color appearance), respectively; whereas 46.84% and 42.54% of respondents who viewed the black and white warm-cool scale on the front panel correctly answered Questions 209 and 210, respectively. *See* Consumer Research Supplement at 359.



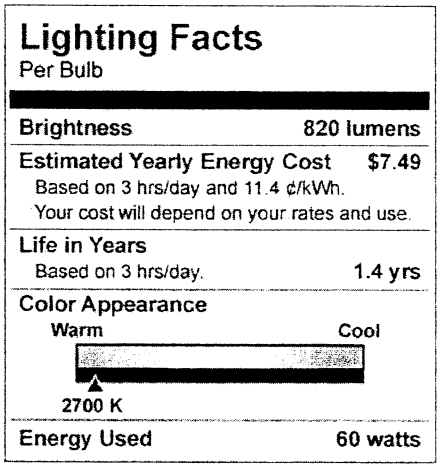


Figure 3

Proposed (Left) and Alternative (Right) Color Appearance Scales[63]

e. Voltage

Voltage is a measure of the electromotive force of electricity and can affect the operation of a light bulb.[64] For instance, for a given bulb, the higher the voltage, the higher the light output in lumens, the higher the wattage, and the shorter the life. In the U.S. residential market, the voltage provided by electric utilities for lighting purposes is primarily 120 volts. As a result, under the current rule, manufacturers do not have to disclose the design voltage of a bulb unless it is other than 120.

No comments urged the FTC to amend this approach. Accordingly, the amendments would maintain the current rule's requirements. If the manufacturer must disclose voltage under the rule, because it is not 120, it must do so on the Lighting Facts panel. For 120 volt bulbs for which no voltage disclosure is required, manufacturers may disclose voltage voluntarily elsewhere on the package. The Commission seeks comment on whether the voluntary disclosure of 120 volts also should be permitted on the Lighting Facts label.

f. Mercury Disclosure

Mercury is an essential component of compact fluorescent light bulbs (CFLs).[65] CFLs do not release mercury when the bulbs are intact (not broken) or in use, but they can release mercury vapor, and thus create environmental concerns, if they break after being dropped, roughly handled, or disposed of improperly.[66] Therefore, two commenters urged the FTC to consider requiring mercury disclosures for CFL bulbs. GE (#540385-00002) wrote that "a uniform national approach is needed for mercury content labeling" and the FTC should consider a consistent notice that would clearly convey mercury content. NEMA (#540385-00005) also encouraged the FTC to require a nationwide mercury label and suggested that the FTC require the disclosure NEMA recommends for its members (*i.e.*, the symbol "Hg," a statement such as "Manage in accordance with disposal laws," and a link to NEMA's website "www.lamprecycle.org").[67] NEMA noted that their disclosure is consistent with state requirements.

Given the mercury content of CFLs, it is important for consumers to have access to information about proper disposal and handling of these products. Thus, the Commission proposes requiring disclosures for light bulbs containing mercury.[68] The proposed language would appear on the Lighting Facts label (see Figure 4) as follows: "Contains Mercury: Manage in accordance with local, state, and federal disposal laws. For more information see *epa.gov/bulbrecycling* or call 1-800-XXX-XXXX. Hg [encircled]." This language is consistent with disclosures that already appear on many packages as a result of existing ENERGY STAR criteria and language recommended by NEMA to its members.[69] Accordingly, the Commission expects that most manufacturers already provide information about mercury on their packages. In addition, as detailed in subsection C below, the proposed amendments require a shorter mercury disclosure on the bulbs themselves to help consumers properly dispose of CFLs.

Unlike NEMA's disclosure, which uses the website *www.lamprecycle.org*, the proposed FTC language directs consumers to EPA's website and EPA's telephone hotline. This link would ensure that the disclosure leads consumers to information provided by the U.S. government. Such an approach is consistent with the FTC's alternative fuel vehicle label which directs

[63] Color versions of these graphics are available at *www.ftc.gov/energy*.

[64] *See* discussion at 59 FR 25184 (May 13, 1994).

[65] Although lighting manufacturers have greatly reduced the amount of mercury used in CFLs over the past 20 years, they have not eliminated it. Currently, on average, CFLs contain about 5 milligrams or about 1/100th of the amount of mercury found in a mercury fever thermometer. Therefore, CFLs can affect the environment during disposal. *See* (*http://www.epa.gov/epawaste/hazard/wastetypes/universal/lamps/basic.htm*).

[66] EPA provides consumers with recommendations for cleaning up and disposing of broken bulbs to help minimize any exposure to released mercury vapor. It also encourages consumers to recycle burned out fluorescent bulbs rather than dispose of them in regular household trash. According to EPA, "[r]ecycling of burned out CFLs is one of the best ways to help prevent the release of mercury to the environment by keeping mercury out of landfills and incinerators." *See* (*http://epa.gov/mercury/consumerinfo.htm#cfl*).

[67] See, NEMA, "The Labeling of Mercury Containing Lamps, October 2004," (*http://www.nema.org/gov/env_conscious_design/lamps/upload/Labeling%20White%20Paper%20Final%2010%2004-2.pdf*).

[68] The EISA amendments provided the Commission with general authority to consider "alternative labeling approaches that will help consumers to understand new high efficiency lamp products" including CFLs. *See* 42 U.S.C. 6294(a)(2)(D)(iii)(I)(bb).

[69] ENERGY STAR, which covers a large majority of CFLs in the market, requires all participating manufacturers to label their packages with:

(1) the symbol "Hg" within a circle;

(2) "Lamp Contains Mercury"; and

(3) (*www.epa.gov/bulbrecycling*). ENERGY STAR provides manufacturers the option of using (*www.lamprecycle.org*) instead of the EPA website. NEMA recommends that its members use the following language: "Hg - LAMP CONTAINS MERCURY; MANAGE IN ACCORD WITH DISPOSAL LAWS; *See* (*www.lamprecycle.org*)."

consumers to EPA's website for information on vehicle emissions.[70] Finally, the Commission notes that several states have issued mercury disclosure requirements. The Commission intends for the proposed rule to be as consistent with state requirements for mercury disclosure as possible. Therefore, the Commission seeks comment on the impact of the proposed labeling on existing state requirements. Further, if any inconsistencies exist between the proposed disclosure and existing state requirements, the Commission seeks comment on whether, how, and why the Commission should address such inconsistencies.

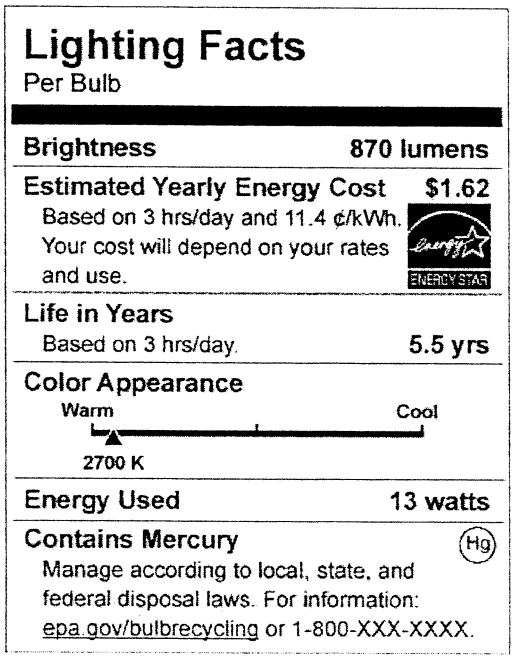


Figure 4

Lighting Facts with Mercury Disclosure

3. Affirmative Disclosures for Energy Cost and Life Claims on Package

The Commission is concerned that consumer confusion and deception could arise from voluntary claims on bulb packages about energy cost savings and life that are based on different assumptions than those used for the required disclosures. In particular, if the assumptions behind an energy cost-related claim are different from those used for the Lighting Facts label, consumers may have difficulty comparing claims across products. For instance, if a manufacturer makes an energy saving claim using a significantly higher electricity rate than the rate used for the mandatory energy cost disclosures, consumers may be confused or even misled regarding the energy performance of that bulb.[71] To address this concern, some commenters urged the Commission to create uniform requirements for cost and life-related claims made by manufacturers.[72]

After considering these comments, the Commission is not proposing to require uniform cost and life-related assumptions because it does not appear that such claims would be deceptive in all cases. However, the proposed rule[73] requires manufacturers that make any energy cost-related claim based on an electricity rate or usage rate other than the rate required on the Lighting Facts label to make an equally conspicuous disclosure calculated using the required electricity rate.[74] This approach should ensure that consumers can easily compare voluntary energy cost-related claims across products. The same rationale also applies to life claims. Specifically, if a manufacturer provides any life claim based on an annual usage rate other than the rate required on the label, the manufacturer also must provide, equally conspicuously, the bulb life calculated with the usage rate required on the Lighting Facts label (*i.e.*, 3 hours per day).

4. Total Lifecycle Cost (Not Proposed for Label)

The EISA amendments directed the Commission to consider total lifecycle cost disclosures in developing alternative labeling approaches.[75] After consideration, the Commission has decided not to propose such a requirement. Several participants at the Roundtable suggested that the numerous potential criteria related to assessing lifecycle cost make attaining an accurate, uniform measurement problematic at this time. For example, one participant explained that different retail prices, alone, severely impede any effort to accurately communicate a useful disclosure of total lifecycle cost (Roundtable Tr., Horowitz at 50). Another participant explained that differences in disposal costs similarly hamper efforts to present an accurate measurement.[76] Given these concerns and the absence of comments urging the Commission to explore this issue in detail, the proposed amendments do not require total lifecycle cost disclosures

[70] *See* 16 CFR Part 309 (Appendix A, Figure 4).

[71] The current rule (section 350.14(b)(4)) already contains a provision that requires manufacturers to disclose the assumptions upon which any operating cost claim is based, including, for example, purchase price, unit cost of electricity, hours of use, and patterns of use.

[72] See, *e.g.*, NEMA #536795-00007 and NRDC #536795-00003.

[73] Proposed section 305.15(c)(4).

[74] The FTC's Guide Concerning Fuel Economy Advertising for New Automobiles follows a similar approach for mileage claims based on non-EPA test procedures. *See* 16 CFR 259.2(c).

[75] *See* 42 U.S.C. 6294(a)(2)(D)(iii)(I)(bb).

[76] Roundtable Tr. 58 (Karney); *see* also Roundtable Tr. at 59 and NEMA Comments.

on the label. However, if manufacturers and other sellers make advertising claims related to lifecycle costs, they must have competent and reliable scientific evidence to support such claims.

5. Color Rendering Index (Not Proposed for Label)

The color rendering index (''CRI'') measures how the colors of an object look when the object is illuminated by a particular bulb using a rating of 0 to 100.[77] A standard incandescent bulb has a CRI of 100. In the ANPR and at the Roundtable, the FTC sought comments about the inclusion of CRI on the required labels. Commenters explained there is no need for mandatory CRI disclosures because EISA sets a minimum CRI standard of 80 for all bulbs beginning in 2012 and distinctions between the CRIs of bulbs at such high ratings are not significant enough to warrant mandatory disclosures.[78] Therefore, the Commission is not proposing to require such a disclosure, but seeks comment on whether the rule should allow manufacturers to place CRI information on the proposed Lighting Facts label.[79] The Commission seeks comment on what benefits and costs such voluntary information would provide to consumers, as well as on whether consumers will understand its meaning.

C. Product Labeling

In addition to the proposed package labeling requirements, some commenters suggested that the FTC require manufacturers to include light output on the bulb itself. For example, NRDC (#536795-00003) explained that ''[p]utting the light output directly on the bulb will help the consumer when they need to replace the existing bulb when it fails.'' NRDC also indicated that manufacturers already disclose a bulb's energy use in watts on the glass and that it should not be difficult also to include lumens information. Similarly, Energy Solutions (#536795-00010) stated that lumens information on the bulb will ''ensure that consumers can find a product of equivalent light output when returning to the store to replace a burned out bulb.''

The Commission agrees that having lumens information on the bulb should help consumers in purchasing appropriate replacement bulbs. It also should reinforce the importance of lumens as the key measure of light output for high efficiency bulbs. Because bulbs already typically display information such as watts, the addition of lumens should not impose a significant burden on manufacturers so long as they are given sufficient time to implement such changes. Therefore, the proposed rule requires that bulbs be labeled with lumens.

As discussed above, the proposed rule also requires manufacturers of mercury-containing lamps to print somewhere on the product itself the following information: ''Contains MERCURY. See epa.gov/bulbrecycling or 1-800-XXX-XXXX.'' Because it is highly unlikely consumers will have the package available to them when a bulb burns out, mercury information on the bulb itself will be useful to them at the time of disposal.[80] The Commission seeks comment on these proposals.

D. Reporting Requirements

EPCA indicates that each manufacturer of a labeled product ''shall annually, at a time specified by the Commission,'' supply to the Commission relevant data respecting energy consumption or water use developed in accordance with ''applicable DOE test procedures.''[81]

The Commission's current rule does not require such reporting because the Commission stayed the reporting requirement (section 305.8) for lighting products in 1994 due to the absence of a DOE test procedure. See 59 FR 25176, 25201-25202 (May 13, 1994). Since then, DOE has issued test procedures for general service incandescent lamps and medium base compact fluorescent lamps (see 10 CFR Subpart B, App. R and W). Accordingly, the Commission now proposes requiring energy data reporting for CFL and incandescent lighting products.[82] To minimize burden, the proposed rule requires these reports beginning in 2012 to coincide with the effective date of DOE standards (which will require the same testing). The reports will be due on March 1 of each year.

The Commission seeks comments on whether the specific reporting requirements, which are currently stayed, should be modified. The current rule indicates that annual reports for CFLs and incandescent lamps should include: (1) the name and address of the manufacturer; (2) all trade names under which the lamps are marketed; (3) the model or other identification numbers; (4) the starting serial number, date code, or other means of identifying the date of manufacture (date of manufacture information must be included only with the first submission for each basic model or type); and (5) the test results for the wattage and light output ratings of each lamp model or type, and for each model or type of covered fluorescent lamp, test results for the color rendering index, measured according to the DOE test procedure.[83]

E. Website and Paper Catalog Requirements

Section 305.20 of the current rule requires any manufacturer, distributor, retailer, or private labeler who advertises a covered product in a catalog, including a website that qualifies as a catalog, to disclose energy information about the product to consumers. For lamp products, the current rule (section 305.20(c)) requires catalog sellers to disclose the information that is required on the package label (except for the number of units in the package).[84]

The proposed rule requires website and paper catalog sellers to disclose the same information that appears on the proposed Lighting Facts label.[85] This requirement should ensure that online consumers have the same information available in stores. To encourage uniform disclosures and reduce burden on catalog sellers, the proposed rule would allow catalog sellers to comply

[77] Under the current law (EPCA), the term ''color rendering index'' or ''CRI'' means ''the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.'' (42 U.S.C. 6291(30)(J)).

[78] *See* Roundtable Tr., Horowitz at 91 (''Within the lighting industry, it's assumed if you're 80, you're giving at least pretty good color rendering.''); Howley at 100. *See* 42 U.S.C. 6295(i)(B)(ii).

[79] Several commenters, however, did suggest that CRI should be allowed as a voluntary disclosure. NRDC (#540385-00003); and Roundtable Tr., Horowitz at 83; Karney at 100; Howley at 100.

[80] The FTC's current labeling requirements apply to the bulb package and not the product itself (*see* 42 U.S.C. 6294(a)(2)(C)). In passing EISA, however, Congress directed the Commission to consider ''alternative labeling approaches.'' This broad directive provides the Commission with authority to consider requiring labeling on the bulb.

[81] 42 U.S.C. 4296(b)(4).

[82] In conjunction with lifting the stay on reporting requirements for CFLs and general service incandescent lamps, the Commission proposes to amend the testing provisions in section 305.5 to make them consistent with DOE test procedures in 10 CFR Part 430 covering general service incandescent lamps, general service fluorescent lamps, and medium base CFLs.

[83] The DOE tests currently do not include procedures for measuring correlated color temperature. Therefore, consistent with 42 U.S.C.6296(b), the proposed rule would not require reporting for such information.

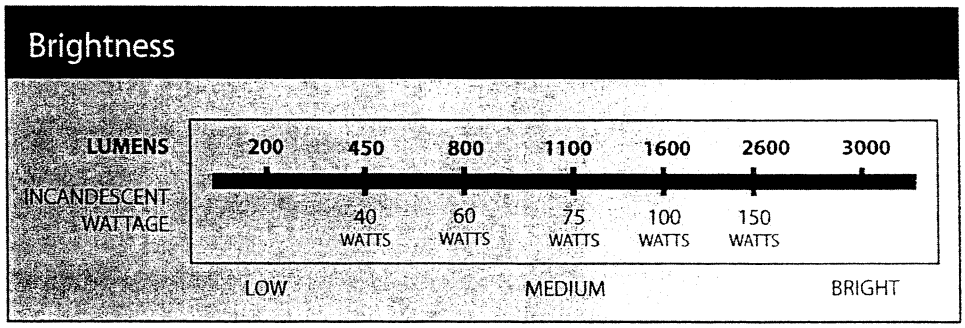
[84] EPCA indicates that catalogs must ''contain all information required to be displayed on the label, except as otherwise provided by the rule of the Commission.'' (42 U.S.C. 6296(a)).

[85] The Commission is not proposing to require the same two-panel disclosure for websites or catalogs that is being proposed for product packages. Although the two-panel format will be helpful for consumers examining physical packages in stores, the format is likely to be repetitive and cumbersome for consumers navigating information on the internet.

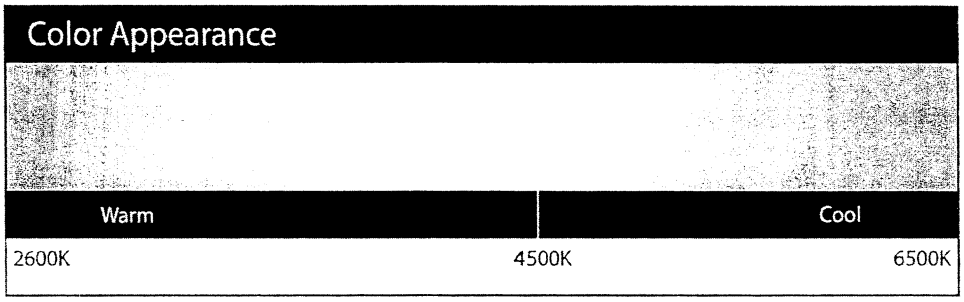
with the rule by posting the manufacturer's Lighting Facts label for each covered lamp model. The rule currently allows this approach for appliances (see section 305.20(a)). The Commission seeks comments on this proposal.

VII. Consumer Education

Section 321(c) of EISA directs the Department of Energy, in cooperation with the FTC and other agencies, to conduct a proactive national program of "consumer awareness, information, and education" to help consumers understand light bulb labels and make energy-efficient lighting choices that meet their needs. In response, the Commission is considering ways to communicate general consumer guidance that does not fit easily on the average lamp package. In particular, such education material could include a detailed watt-equivalence scale as suggested in comments (*e.g.*, NRDC (#536795-00003)) and a detailed color temperature scale similar to that considered in NRCan's research and currently used under the Department of Energy's solid-state lighting program.[86] Figure 5 contains a draft of such information. The Commission seeks comments on such an approach, how such information should be presented, and whether there is additional information that can be provided to consumers.



Typical brightness (in lumens) of traditional incandescent bulbs.



The color appearance of light bulbs can range from warm to cool depending on color temperature (in Kelvin). This scale illustrates different color appearances and corresponding Kelvin temperatures.

Figure 5

Sample Graphs for Consumer Education Materials[87]

VIII. Section by Section Description of Proposed Changes

Lamp Coverage (section 305.3): The proposed labeling requirements apply to medium screw base general service incandescent (including halogen and reflector), compact fluorescent, and LED lamps. The proposed amendments group these products under the term "general service lamp."

Front Package Panel (section 305.15(b) & (c)): The proposed amendments require two disclosures on the front package panel: brightness in lumens and energy cost in dollars per year.

Rear or Side Package Panel (section 305.15(b) & (c)): The back (or side) panel contains detailed disclosures in the form of a Lighting Facts label similar to the Nutrition Facts label required on food packaging. The disclosures on the Lighting Facts label would detail brightness, energy cost, life, color temperature, watts, and, in some cases, voltage, and mercury information. *Cost and Life Claims on Packages (section 305.15(c))*: Manufacturers that make a cost or life-related claim on the package based on an electricity cost figure or usage rate other than that required on the Lighting Facts label have to include an equally clear and conspicuous disclosure of the same information using the electricity cost figure and usage assumption on the Lighting Facts label.

Product Labeling (section 305.15(b)): The proposed amendments require manufacturers to print the lumen output and, where applicable, mercury information on the product.

Catalog Requirements (section 305.20): Catalog sellers (including websites) have to provide, for each bulb, the same information required on the Lighting Facts label.

[86] *See http://www.lighting-facts.com/.*

[87] Color versions of these graphics are available at *www.ftc.gov/energy.*

Substantiating Required Disclosures (section 305.5): Effective January 1, 2012, the proposed amendments require manufacturers to follow DOE test procedures if such procedures are applicable to their products to substantiate claims required by the rule. For lamp types or information not covered by the DOE test procedure but required by the rule, manufacturers would have to possess and rely upon competent and reliable scientific tests to substantiate their representations on the label.

Testing, Reporting, and Sampling Requirements (section 305.5, 305.6, and 305.8): Beginning in 2012, manufacturers would have to submit data for their labeled lamps based on applicable DOE test procedures. The amendments also contain a minor change to the terms used in the sampling requirements.

IX. Request for Comment

The Commission invites interested persons to submit written comments on any issue of fact, law, or policy that may bear upon the Commission's lamp labeling requirements. These issues include the overall effectiveness of existing disclosures on lamp labels, alternative labeling disclosures, and the labeling of lamp types not currently covered by the rule. Please provide explanations for your answers and supporting evidence where appropriate.

All comments should be filed as prescribed below, and must be received on or before December 28, 2009. In addition to the questions and requests for comment found throughout this Notice, the Commission also asks that commenters address the following questions: What costs or burdens, and any other impacts, would the proposed requirements impose, and on whom? What regulatory alternatives to the proposed requirements are available that would reduce the burdens and/or increase the benefits of the proposed requirements?

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Proposed Lamp Labeling Amendments, P084206'' to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential'' as provided in Section 6(f) of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c).[88]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following weblink: (*https://public.commentworks.com/ftc/lampamendmentsNPRM*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (*https://public.commentworks.com/ftc/lampamendmentsNPRM*). If this Notice appears at (*http://www.regulations.gov/search/Regs/home.html#home*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Website at (*http://www.ftc.gov*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Proposed Lamp Labeling Amendments, P084206'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex N), 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to the paperwork burden review under the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget (''OMB''), Attention: Desk Officer for Federal Trade Commission. Comments should submitted via facsimile to (202) 395-5167 because U.S. postal mail at the OMB is subject to delays due to heightened security precautions.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.htm*).

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an oral hearing regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register** stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a hearing request, on or before November 30, 2009, in the form of a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

X. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed

[88] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR § 4.9.(c).

on the public record. See 16 CFR 1.26(b)(5).

XI. Paperwork Reduction Act

The rule contains disclosure requirements that constitute ''information collection requirements'' as defined by 5 CFR § 1320.7(c), the regulation that implements the Paperwork Reduction Act (''PRA'').[89] OMB has approved the rule's existing information collection requirements through May 31, 2011 (OMB Control No. 3084-0069). The proposed amendments make changes in the current rule's labeling requirements.[90] Accordingly, the Commission has submitted this proposed rule and a Supporting Statement to OMB for review under the PRA.

Burden estimates for the proposed rule are based on data previously submitted by manufacturers to the FTC under the Rule's existing requirements and on the staff's general knowledge of manufacturing practices.

Package and Product Labeling: The proposed rule requires manufacturers to change their light bulb packages and light bulbs to include new disclosures. The new requirements would require a one-time change for manufacturers. The Commission estimates that this one-time change will take 80 hours per manufacturer. Annualized for a single year reflective of a prospective 3-year clearance, this averages to 26.67 hours per year. Therefore, the label design change will result in cumulative burden of 1,334 hours (50 manufacturers x 26.67 hours). In estimating the associated labor cost, the Commission assumes that the label design change will be implemented by graphic designers at an hourly wage rate of $22.70 per hour based on Bureau of Labor Statistics information.[91] Thus, the Commission estimates labor cost for this new label design change will total $30,282 (1,334 hours × $22.70 per hour).

Color Temperature: The proposed rule may require additional testing for correlated color temperature, if such testing has not already been conducted in the normal course of business. Although the Commission expects that many manufacturers conduct such testing for other purposes (*e.g.*, ENERGY STAR criteria), the Commission assumes, based on past estimates of basic models, that manufacturers will have to test 2,100 basic models at 0.5 hours for each model for a total of 1,050 hours. In calculating the associated labor cost estimate, the Commission assumes that the label design change will be implemented by electrical engineers at an hourly wage rate of $39.79 per hour based on Bureau of Labor Statistics information (see footnote 90). Thus, the Commission estimates that the new label design change will result in associated labor cost of approximately $41,780 (1,050 hours × $39.79 per hour).

Accordingly, the estimated total burden of the proposed amendments is 2,384 hours (1,334 hours for packaging and labeling + 1,050 hours for additional testing for correlated color temperature).

The Commission invites comments that will enable it to: (1) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collections of information on those who must comply, including through the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information technology.

XII. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601-612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a proposed rule and a Final Regulatory Flexibility Analysis (''FRFA''), if any, with the final rule, unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 603-605.

The Commission does not anticipate that the proposed rule will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds. However, the Commission does not expect that the economic impact of the proposed amendments will be significant. In any event, to minimize any burden, the Commission plans to provide manufacturers with ample time to implement the proposed changes.

The Commission estimates that these new requirements will apply to about 50 product manufacturers and an additional 150 online and paper catalog sellers of covered products. The Commission expects that approximately 150 qualify as small businesses.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the proposed rule, the number of these companies that are ''small entities,'' and the average annual burden for each entity. Although the Commission certifies under the RFA that the rule proposed in this notice would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed rule on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

Section 321(b) of the Energy Independence and Security Act of 2007 (Pub. L. 110-140) requires the Commission to conduct a rulemaking to consider the effectiveness of the lamp labeling and to consider alternative labeling approaches.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the proposed rule is to improve the effectiveness of the current lamp labeling program. EISA directs the Commission to consider whether alternative labeling approaches would help consumers better understand new high-efficiency lamp products and help them choose lamps that meet their needs. In particular, the law directs the Commission to consider labeling disclosures that address consumer needs for information about lighting level, light quality, lamp lifetime, and total lifecycle cost. The

[89] 44 U.S.C. 3501-3521.

[90] Although the current reporting requirements in the rule for these products is currently stayed (as discussed in section IV.D. of this notice), the existing PRA clearance for the rule's information collection requirements includes burdens associated with those requirements.

[91] *See* (*http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables*) (National Compensation Survey: Occupational Earnings in the United States 2008, U.S. Department of Labor (August 2009), Bulletin 272004, Table 3 (''Full-time civilian workers,'' mean and median hourly wages), at 3-12).

Commission must complete this effort by June of 2010.[92]

C. Small Entities to Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, lamp manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees). Lamp catalog sellers qualify as small businesses if their sales are less than $8.0 million annually. The Commission estimates that there are approximately 150 entities subject to the proposed rule's requirements qualify as small businesses. The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the proposed rule would have a significant economic impact

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The Commission recognizes that the proposed labeling rule will involve some increased drafting costs and reporting requirements for appliance manufacturers. As discussed in this notice, the increase reporting burden should be *de minimis*. The transition to the use of a new label design should represent a one-time cost that will not be substantial. The Commission does not expect that the labeling requirements will impose significant additional costs on catalog sellers. All of these burdens are discussed in Section XI of this notice and there should be no difference in that burden as applied to small businesses. The Commission invites comment and information on these issues.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed rule. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Rule

The Commission seeks comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the rule on small entities. As one alternative to reduce the burden, the Commission could delay the rule's effective date to provide additional time for small business compliance. The Commission could also consider further reductions in the amount of information catalog sellers must provide. If the comments filed in response to this notice identify small entities that are affected by the rule, as well as alternative methods of compliance that would reduce the economic impact of the rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final rule.

[92] Section 321(b) of EISA (42 U.S.C. 6294(a)(2)(D)) also gives the Commission the discretion to ''consider reopening the rulemaking not later than 180 days before the [statutorily mandated] effective dates of the standards for general service incandescent lamps established under section 325(i)(1)(A) [and implemented by DOE], if the Commission determines that further labeling changes are needed to help consumers understand lamp alternatives.''

XIII. Proposed Rule Language

List of Subjects in 16 CFR Part 305

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

For the reasons set out above, the Commission proposes the following amendments to 16 CFR Part 305:

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'')

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

Authority: 42 U.S.C. 6294.

2. In § 305.3, paragraphs (l) and (m) are revised, paragraphs (n), (o), (p), (q), (r), (s), and (t) are redesignated as (r), (s), (t), (u), (v), (w), and (x) respectively, and new paragraphs (n), (o), (p), and (q) are added to read as follows:

§ 305.3 Description of covered products.

* * * * *

(l) *General service lamp* means:

(1) A lamp that is:

(i) A general service incandescent lamp;

(ii) A medium base compact fluorescent lamp;

(iii) A general service light-emitting diode (LED or OLED) lamp; or

(iv) Any other lamp that the Secretary of Energy determines is used to satisfy lighting applications traditionally served by general service incandescent lamps.

(2) Exclusions. The term *general service lamp* does not include—

(i) Any lighting application or bulb shape described in paragraphs (n)(3)(A) through (T) of this section; and(ii) any general service fluorescent lamp.

(m) *Medium base compact fluorescent lamp* means an integrally ballasted fluorescent lamp with a medium screw base, a rated input voltage range of 115 to 130 volts and which is designed as direct replacement for a general service incandescent lamp; however, the term does not include—

(1) Any lamp that is—

(i) Specifically designed to be used for special purpose applications; and

(ii) Unlikely to be used in general purpose applications, such as the applications described in the definition of ''General Service Incandescent Lamp'' in this paragraph (n)(3)(ii) of this section; or

(2) Any lamp not described in the definition of ''General Service Incandescent Lamp'' in this section that is excluded by the Department of Energy, by rule, because the lamp is—

(i) Designed for special applications; and

(ii) Unlikely to be used in general purpose applications.

(n) *Incandescent lamp:* (1) Means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp;

(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding ER or BR) with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

(A) A low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

(B) A high(er) wattage reflector lamp which has a rated wattage above 205 watts;

(iii) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp); but

(2) *Incandescent lamp* does not mean any lamp excluded by the Secretary of Energy, by rule, as a result of a

determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types; and

(3) *General service incandescent lamp* means

(i) In general, a standard incandescent or halogen type or reflector lamp that—

(A) Is intended for general service applications;

(B) Has a medium screw base;

(C) Has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and

(D) Is capable of being operated at a voltage range at least partially within 110 and 130 volts.

(ii) Exclusions.—The term 'general service incandescent lamp' does not include the following incandescent lamps:

(A) An appliance lamp as defined at 42 U.S.C. 6291(30);

(B) A black light lamp;

(C) A bug lamp;

(D) A colored lamp as defined at 42 U.S.C. 6291(30);

(E) An infrared lamp;

(F) A left-hand thread lamp;

(G) A marine lamp;

(H) A marine signal service lamp;

(I) A mine service lamp;

(J) A plant light lamp;

(K) A rough service lamp as defined at 42 U.S.C. 6291(30));

(L) A shatter-resistant lamp (including a shatter-proof lamp and a shatter-protected lamp);

(M) A sign service lamp;

(N) A silver bowl lamp;

(O) A showcase lamp;

(P) A traffic signal lamp;

(Q) A vibration service lamp as defined at 42 U.S.C. 6291(30);

(R) A G shape lamp (as defined in ANSI C78.20–2003 and C79.1–2002) with a diameter of 5 inches or more;

(S) A T shape lamp (as defined in ANSI C78.20–2003 and C79.1–2002) and that uses not more than 40 watts or has a length of more than 10 inches; or

(T) A B, BA, CA, F, G16–1/2, G–25, G30, S, or M–14 lamp (as defined in ANSI C79.1–2002 and ANSI C78.20–2003) of 40 watts or less.

(4) *Incandescent reflector lamp* means a lamp described in paragraph (n)(1)(ii) of this section; and

(5) *Tungsten-halogen lamp* means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

(o) *Light-emitting diode (LED)* means a p-n junction solid state device the radiated output of which is a function of the physical construction, material used, and exciting current of the device. The output of a light-emitting diode may be in—

(1) The infrared region;

(2) The visible region; or

(3) The ultraviolet region.

(p) *Organic light-emitting diode (OLED)* means a thin-film light-emitting device that typically consists of a series of organic layers between 2 electrical contacts (electrodes).

(q) *General service light-emitting diode (LED or OLED)* lamps means any light-emitting diode (LED or OLED) lamp that:

(1) Is intended for general service applications;

(2) Has a medium screw base;

(3) Has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and

(4) Is capable of being operated at a voltage range at least partially within 110 and 130 volts.

3. In § 305.5, paragraphs (a)(12), (13), and (14) are added and paragraph (b) is revised to read as follows:

Testing

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, and of water use rate.

(a) * * *

(12) General Service Incandescent Lamps - § 420.23(r) (Beginning Jan. 1, 2012).

(13) General Service Fluorescent Lamps - § 420.23(r) (Beginning Jan. 1, 2012).

(14) Medium Base Compact Fluorescent Lamps - § 420.23(w) (Beginning Jan. 1, 2012).

(b) Unless otherwise provided in paragraph (a), manufacturers and private labelers of any covered product that is a general service fluorescent lamp, general service lamp, or metal halide lamp fixture, must, for any representation required by this Part including but not limited to of the design voltage, wattage, energy cost, light output, life, correlated color temperature, or color rendering index of such lamp or for any representation made by the encircled ''E'' that such a lamp is in compliance with an applicable standard established by section 325 of the Act, possess and rely upon a reasonable basis consisting of competent and reliable scientific tests substantiating the representation. For representations of the light output and life ratings of any covered product that is a general service lamp, unless otherwise provided by paragraph (a), the Commission will accept as a reasonable basis scientific tests conducted according to the following applicable IES test protocols that substantiate the representations:

For measuring light output (in lumens):	
General Service Fluorescent	IES LM 9
Compact Fluorescent	IES LM 66
General Service Incandescent (Other than Reflector Lamps)	IES LM 45
General Service Incandescent (Reflector Lamps)	IES LM 20
For measuring laboratory life (in hours): General Service Fluorescent	IES LM 40
Compact Fluorescent	IES LM 65
General Service Incandescent (Other than Reflector Lamps)	IES LM 49
General Service Incandescent (Reflector Lamps)	IES LM 49

* * * * *

4. Section 305.6 is revised to read as follows:

§ 305.6 Sampling.

(a) For any covered product (except general service fluorescent lamps or general service lamps), any representation with respect to or based upon a measure or measures of energy consumption incorporated into §305.5 shall be based upon the sampling procedures set forth in §430.24 of 10 CFR part 430, subpart B.

(b) For any covered product that is a general service lamp, any representation required by § 305.15 and, for any covered product that is a general service fluorescent lamp or incandescent reflector lamp, any representation made by the encircled ''E'' that such lamp is in compliance with an applicable standard established by section 325 of the Act, shall be based upon tests using a competent and reliable scientific sampling procedure. The Commission will accept ''Military Standard 105—Sampling Procedures and Tables for Inspection by Attributes'' as such a sampling procedure.

5. Section 305.8 is amended as follows:

a. In paragraph (a)(1), remove the phrase ''medium base compact fluorescent lamps or general service incandescent lamps including, incandescent reflector lamps'' wherever

it appears and add in its place ''and general service lamps;''

b. In paragraph (a)(3), remove the phrase ''medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp)'' wherever it appears and add in its place ''and general service lamps.''

c. Revise paragraph (b)(1) to read as follows:

§ 305.8 Submission of data.

* * * * *

(b)(1) All data required by §305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	Aug. 1
Refrigerators-freezers	Aug. 1
Freezers	Aug. 1
Central air conditioners	July 1
Heat pumps	July 1
Dishwashers	June 1
Water heaters	May 1
Room air conditioners	May 1
Furnaces	May 1
Pool heaters	May 1
Clothes washers	Oct. 1
Fluorescent lamp ballasts	Mar. 1
Showerheads	Mar. 1
Faucets	Mar. 1
Water closets	Mar. 1
Ceiling fans	Mar. 1
Urinals	Mar. 1
Metal halide lamp fixtures	Sept. 1
General Service Fluorescent lamps	Mar. 1 (beginning 2012)
Medium Base Compact Fluorescent Lamps	Mar. 1 (beginning 2012)
General Service Incandescent Lamps	Mar. 1 (beginning 2012)

* * * * *

6. Section 305.15 is amended as follows:

a. Paragraph (c) is redesignated as paragraph (e).

b. Paragraphs (b) is revised and paragraphs (c) and (d) are added to read as follows:

§ 305.15 Labeling for lighting products.

* * * * *

(b) *General Service Lamps* — (1) Principal Display Panel Content: Any covered product that is a general service lamp shall be labeled clearly and conspicuously on the product's principal display panel with the following information:

(i) The light output of each lamp included in the package, expressed as ''Brightness'' in average initial lumens; and

(ii) The estimated annual energy cost of the lamp, expressed as ''Estimated Energy Cost'' in dollars and based on usage of 3 hours per day and 11.4 cents ($0.114) per kWh.

(2) Principal Panel Format: The light output (brightness) and energy cost of any covered product that is a general service lamp shall appear in that order and with equal clarity and conspicuousness on the product's principal display panel. The format, terms, specifications, and minimum sizes shall follow the specifications and minimum sizes displayed in Prototype Label 5 to Appendix L.

(3) Lighting Facts Label Content: Any covered product that is a general service lamp shall be labeled clearly and conspicuously on the product's side or rear display panel with a Lighting Facts label that contains the following information in the following order:

(i) The light output of each lamp included in the package, expressed as ''Brightness'' in average initial lumens.

(ii) The estimated annual energy cost of the lamp based on the average initial wattage, a usage rate of 3 hours per day and 11.4 cents ($0.114) per kWh and explanatory text as illustrated in Prototype Labels 6 and 7 to Appendix L.

(iii) The life, as defined in § 305.2(w), of each lamp included in the package, expressed in years (based on 3 hours operation per day).

(iv) The correlated color temperature, as measured in degrees Kelvin and expressed as ''Color Appearance'' and by a number and a marker in the form of a scale as illustrated in Prototype Labels 6 and 7 to Appendix L placed proportionately on the scale where the left end equals 2,600 K and the right end equals 6,600 K;

(v) The wattage, as defined in § 305.2(hh), for each lamp included in the package, expressed as energy used in average initial wattage;

(vi) The ENERGY STAR logo as illustrated in Prototype Label 7 to Appendix L for qualified products, if desired by the manufacturer. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on qualifying covered products; such manufacturers may add the ENERGY STAR logo to labels only on those products that are covered by the Memorandum of Understanding.

(vii) The design voltage of each lamp included in the package, if other than 120 volts.

(viii) For any general service lamp containing mercury, the following statement: Contains Mercury ''Hg [Encircled]: Manage in accordance with local, state, and federal disposal laws. For information: epa.gov/bulbrecycling or 1-800-XXX-XXXX.''

(ix) No marks or information other than that specified in this part shall appear on the Lighting Facts label.

(4) Lighting Facts Label Format: Information specified in subsection (b)(3) shall be presented on covered lamp packages in the format, terms, explanatory text, specifications, and minimum sizes as shown in Prototype Labels 6 and 7 to Appendix L. The text and lines shall be all black or one color type, printed on a white or other neutral contrasting background whenever practical.

(i) The Lighting Facts information shall be set off in a box by use of hairlines and shall be all black or one color type, printed on a white or other neutral contrasting background whenever practical.

(ii) All information within the Lighting Facts label shall utilize:

(A) Arial or an equivalent type style,

(B) Upper and lower case letters,

(C) Leading as indicated in Prototype Labels 6 and 7 to Appendix L,

(D) Letters should never touch,

(E) The box and hairlines separating information as illustrated in Prototype Labels 6 and 7 to Appendix L.

(F) The minimum font sizes and line thicknesses as illustrated in Prototype Labels 6 and 7 to Appendix L. No information on the Lighting Facts label shall be in type smaller than 6 point.

(5) Product Labeling: Any general service lamp shall be labeled legibly on the product itself with the following information:

(i) The lamp's average initial lumens, expressed as a number followed by the word ''lumens''; and

(ii) For general service lamps containing mercury, the following statement: ''Contains Mercury. See epa.gov/bulbrecycling or 1-800-XXX-XXXX.''

(c)(1) The required disclosures of any covered product that is a general service lamp shall be measured at 120 volts, regardless of the lamp's design voltage. If a lamp's design voltage is 125 volts or 130 volts, the disclosures of the wattage, light output and life ratings shall in each instance be:

(i) At 120 volts and followed by the phrase ''at 120 volts.'' In such case, the labels for such lamps also may disclose the lamp's wattage, light output and life at the design voltage (*e.g.*, ''Light Output 1710 Lumens at 125 volts''); or

(ii) At the design voltage and followed by the phrase ''at (125 volts/130 volts)'' if the ratings at 120 volts are disclosed clearly and conspicuously on another panel of the package, and if all panels of the package that contain a claimed light output, wattage or life clearly and conspicuously identify the lamp as ''(125 volt/130 volt),'' and if the principal display panel clearly and conspicuously discloses the following statement:

This product is designed for (125/130) volts. When used on the normal line voltage of 120 volts, the light output and energy efficiency are noticeably reduced. See (side/back) panel for 120 volt ratings.

(2) For any covered product that is an incandescent reflector lamp, the required disclosures of light output shall be given for the lamp's total forward lumens.

(3) For any covered product that is a compact fluorescent lamp, the required light output disclosure shall be measured at a base-up position; but, if the manufacturer or private labeler has reason to believe that the light output at a base-down position would be more than 5% different, the label also shall disclose the light output at the base-down position or, if no test data for the base-down position exist, the fact that at a base-down position the light output might be more than 5% less.

(4) For any covered product that is a general service incandescent lamp and operates with multiple filaments, the light output, energy cost, and wattage disclosures required by § 305.15(b) must be provided at each of the lamp's levels of light output and the lamp's life provided on the basis of the filament that fails first. The multiple numbers shall be separated by a ''/'' (*e.g.*, 800/1600/2500 lumens).

(5) A manufacturer or private labeler who distributes general service fluorescent lamps, or general service lamps without labels attached to the lamps or without labels on individual retail-sale packaging for one or more lamps may meet the package disclosure requirements of this section by making the required disclosures, in the manner and form required by those paragraphs, on the bulk shipping cartons that are to be used to display the lamps for retail sale.

(6) Any manufacturer or private labeler who makes any representation, other than those required by this section, on a package of any covered product that is a general service fluorescent lamp or general service lamp regarding the cost of operation or life of such lamp shall clearly and conspicuously disclose in close proximity to such representation the assumptions upon which it is based, including, *e.g.*, purchase price, unit cost of electricity, hours of use, patterns of use. If those assumptions differ for those required for cost and life information on the Lighting Facts label (11.4 cents per kWh and 3 hours per day), the manufacturer or private labeler must also disclose, with equal clarity and conspicuousness, the same representation based on those required on the Lighting Facts label.

(d)(1) Any covered product that is a general service fluorescent lamp or an incandescent reflector lamp shall be labeled clearly and conspicuously with a capital letter ''E'' printed within a circle and followed by an asterisk. The label shall also clearly and conspicuously disclose, either in close proximity to that asterisk or elsewhere on the label, the following statement:

*[The encircled ''E''] means this bulb meets Federal minimum efficiency standards.

(A) If the statement is not disclosed on the principal display panel, the asterisk shall be followed by the following statement:

See [Back, Top, Side] panel for details.

(B) For purposes of this paragraph, the encircled capital letter ''E'' shall be clearly and conspicuously disclosed in color-contrasting ink on the label of any covered product that is a general service fluorescent lamp and will be deemed ''conspicuous,'' in terms of size, if it appears in typeface at least as large as either the manufacturer's name or logo or another logo disclosed on the label, such as the ''UL'' or ''ETL'' logos, whichever is larger.

(2) Instead of labeling any covered product that is a general service fluorescent lamp with the encircled ''E'' and with the statement described in paragraph (d)(1) of this section, a manufacturer or private labeler who would not otherwise put a label on such a lamp may meet the disclosure requirements of that paragraph by permanently marking the lamp clearly and conspicuously with the encircled ''E''.

(3) Any cartons in which any covered products that are general service fluorescent lamps and general service lamps are shipped within the United States or imported into the United States shall disclose clearly and conspicuously the following statement:

These lamps comply with Federal energy efficiency labeling requirements.

* * * * *

§ 305.19 [Amended]

7. In § 305.19, remove the phrase ''medium base compact fluorescent lamps, or general service incandescent lamps including incandescent reflector lamps'' and add in its place ''general service lamps'' wherever it appears.

8. Section 305.20 is amended as follows:

a. In paragraph (a)(1), remove the phrase ''medium base compact fluorescent lamps, general service incandescent lamps including incandescent reflector lamps'' and add in its place ''general service lamps'' wherever it appears;

b. In paragraph (a)(3), remove the phrase ''medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp)'' and add in its place ''general service lamps'' wherever it appears.

c. Revise paragraph (c)(1) to read as follows:

§ 305.20 Paper catalogs and websites.

* * * * *

(c)(1) Any manufacturer, distributor, retailer, or private labeler who advertises in a catalog a covered product that is a general service fluorescent lamp or general service lamp shall disclose clearly and conspicuously in such catalog:

(i) On each page listing any covered product that is a general service lamp, all the information concerning that lamp required by § 305.15 of this part to be disclosed on the lamp's label either in the form of the manufacturer's Lighting Facts label prepared pursuant to § 305.15 or otherwise in a clear and conspicuous manner; and

(ii) On each page listing a covered product that is a general service fluorescent lamp or an incandescent reflector lamp, all the information required by § 305.15 of this part to be disclosed on the lamp's label according to the following format:

(A) The encircled ''E'' shall appear with each lamp entry; and

(B) The accompanying statement described in § 305.15(d)(1) shall appear at least once on the page.

* * * * *

§ 305.21 [Amended]

9. In § 305.21, add the term ''correlated color temperature,'' after the term ''energy usage.''

10. In Appendix L:

a. Add Prototype Labels 5 through 7; and

b. Remove all sections labeled Lamp Packaging Disclosures

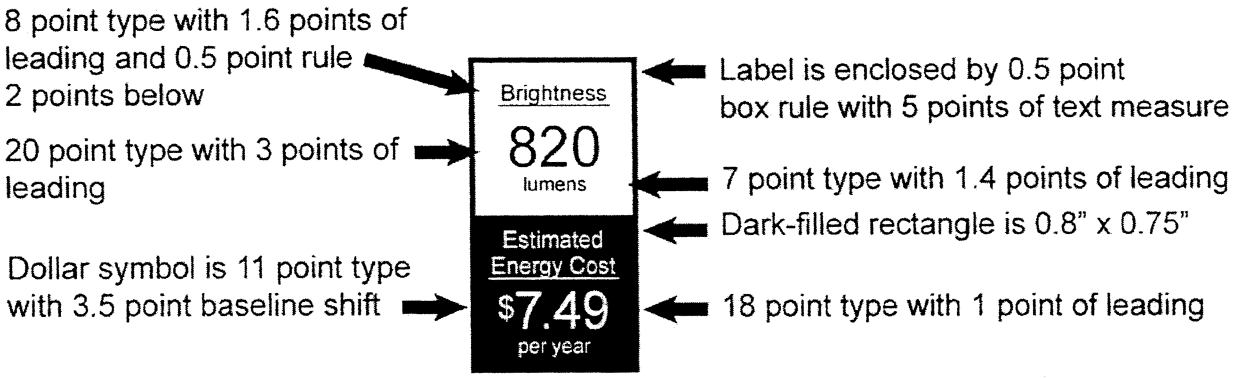
The Additions read as follows:

Appendix L to Part 305

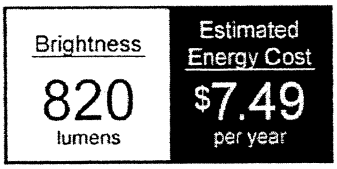
Sample Labels

* * * * *

* Typeface is Arial or equivalent type style. Type is black or one color printed on a white or other neutral contrasting background.



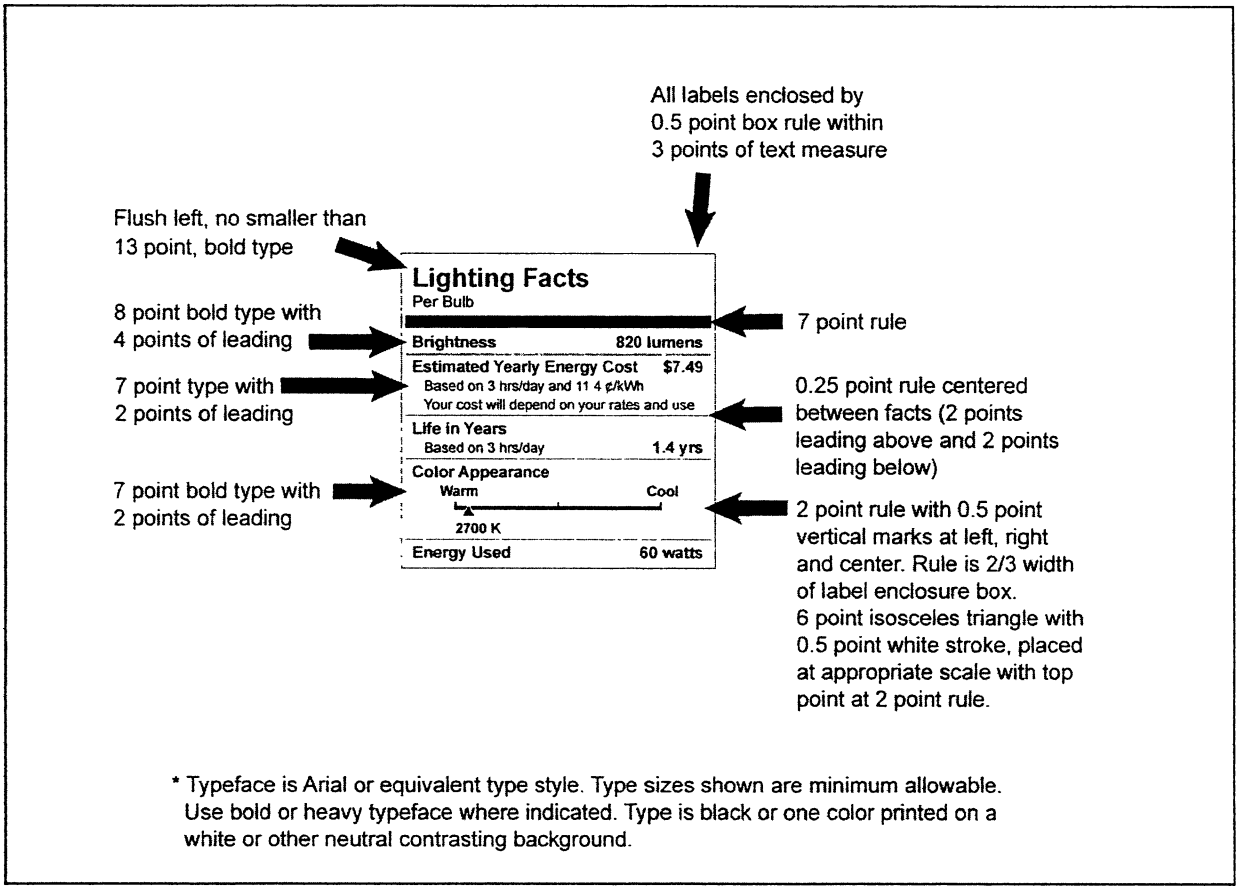
* Minimum size for vertical label is 0.8" x 1.5". Scale label and all text proportionally.



* Minimum size for vertical label is 1.6" x 0.75". Scale label and all text proportionally.

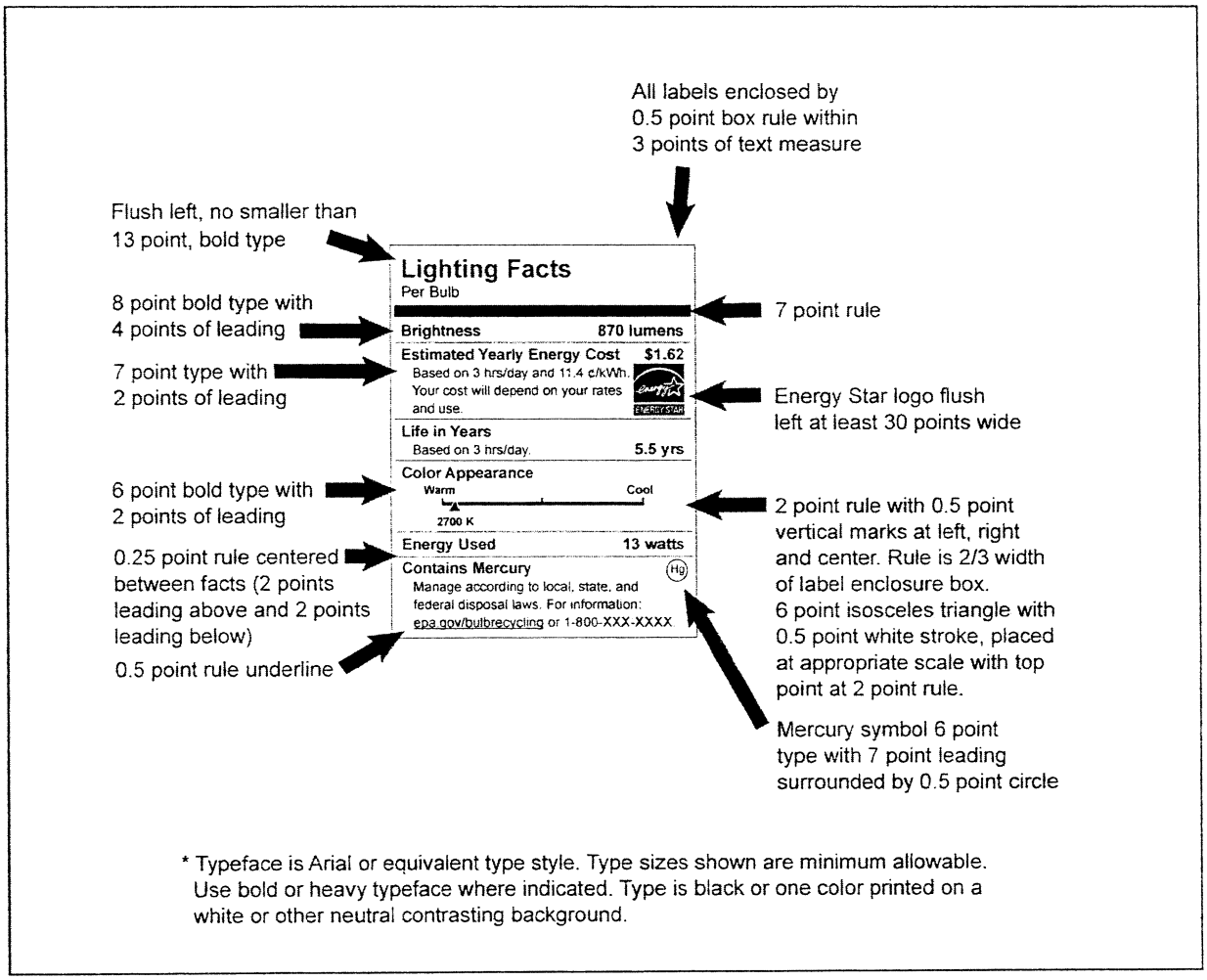
PROTOTYPE LABEL 5

FRONT PACKAGE DISCLOSURE FOR GENERAL SERVICE LAMPS



PROTOTYPE LABEL 6

LIGHTING FACTS LABEL FOR GENERAL SERVICE LAMPS NOT CONTAINING MERCURY



PROTOTYPE LABEL 7

LIGHTING FACTS LABEL FOR GENERAL SERVICE LAMP CONTAINING MERCURY

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–27036 Filed 11–9–09; 2:25 pm]

BILLING CODE 6750–01–S

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA–2009–0038]

RIN 0960–AH03

Revised Medical Criteria for Evaluating Genitourinary Impairments

AGENCY: Social Security Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: We are requesting your comments on whether and how we should revise the criteria in our Listing of Impairments (the listings) for evaluating genitourinary impairments in adults and children. We are requesting your comments as part of our ongoing effort to ensure that our listings reflect current medical knowledge. If we propose specific revisions, we will publish a Notice of Proposed Rulemaking in the **Federal Register.**

DATES: To be sure that we consider your comments, we must receive them by no later than January 11, 2010.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2009–0038 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov*. Use the *Search* function to find docket number SSA–2009–0038. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Mail your comments to the Office of Regulations, Social Security Administration, 137 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Paul Scott, Social Insurance Specialist, Office of Medical Listings Improvement, Social