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14th and Constitution Avenue, Washington, DC, 20230.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by §8c.70(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Assistant Secretary for Administration.

(j) The Assistant Secretary for Administration shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the Assistant Secretary for Administration determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additonal information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of the section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[53 FR 19277, May 27, 1988; 53 FR 25722, July 8, 1988]

PART 9—PROCEDURES FOR A VOLUNTARY LABELING PROGRAM FOR HOUSEHOLD APPLIANCES AND EQUIPMENT TO EFFECT ENERGY CONSERVATION

Sec.

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AUTHORITY: Sec. 2, 31 Stat. 1449, as amended, sec. 1, 64 Stat. 371; 15 U.S.C. 272, Reorganization Plan No. 3 of 1946, Part VI; Message from the President of the United States Concerning Energy Resources, April 18, 1973 (119 Cong. Rec. H2886).

SOURCE: 38 FR 29574, Oct. 26, 1973, unless otherwise noted.

§9.0 Purpose.

The purpose of this part is to establish procedures relating to the Department's voluntary labeling program for household appliances and equipment to promote and effect energy conservation.

§9.1 Goal of program.

(a) This program was initiated in response to the direction of President Nixon in his 1973 Energy Message that the Department of Commerce in cooperation with the Council on Environmental Quality and the Environmental Protection Agency develop a voluntary labeling program which would apply to energy-consuming home appliances.

(b) The goal of this program is to encourage manufacturers to provide consumers, at the point of sale, with information on the energy consumption and energy efficiency of household appliances and equipment. Such information, presented in a uniform manner readily understandable to consumers, would be displayed on labels attached to or otherwise provided with the appliances or equipment. The labels will include a system intended to make it possible for consumers to compare by cost or otherwise the energy consumption and energy efficiency characteristics when purchasing household appliances and equipment and to select those that can effect savings in energy consumption.

§ 9.2 Definitions.

(a) The term *Secretary* means the Secretary of Commerce.

(b) The term *manufacturer* means any person engaged in the manufacturing or assembling of new appliances or equipment in the United States, or in the importing of such products for sale or resale, or any person whose brand or trademark appears on such products who owns such brand or trademark and has authorized its use on such products, if the brand or trademark of the person actually manufacturing or assembling the products does not appear on the products.

(c) The term *energy consumption* means the energy resources used by appliances or equipment under conditions of use approximating actual operating conditions insofar as practical as determined through test procedures contained or identified in a final Voluntary Energy Conservation Specification published under § 9.4(e).

(d) The term *energy efficiency* means the energy use of appliances or equipment relative to their output of services, as determined through test procedures contained or identified in a final Voluntary Energy Conservation Specification published under § 9.4(e).

(e) The term *consumer* means the first person who purchases a new appliance or item of equipment for purposes other than resale.

(f) The term *class of appliance or equipment* means a group of appliances or equipment whose functions or features are similar, and whose functional output covers a range that may be of interest to consumers.

(g) The term *Specification* means a Voluntary Energy Conservation Specification developed under § 9.4.

(h) The term *label* means printed matter affixed to or otherwise provided with appliances or equipment and meeting all the requirements called for in a Voluntary Energy Conservation Specification published under § 9.4(e).

[38 FR 29574, Oct. 26, 1973, as amended at 40 FR 33966, Aug. 13, 1975]

§ 9.3 Appliances and equipment included in program.

The appliances and equipment included in this program are room and central air conditioners, household refrigerators, home freezers, clothes washers, dishwashers, clothes dryers, kitchen ranges and ovens, water heaters, comfort heating equipment, and television receivers. Additional appliances and equipment may be included in the program by the Secretary pursuant to rule making procedures as set out in 5 U.S.C. 553. Individual units of appliances and equipment manufactured for export are not included in this program.

[38 FR 29574, Oct. 26, 1973, as amended at 40 FR 33966, Aug. 13, 1975]

§ 9.4 Development of voluntary energy conservation specifications.

(a) The Secretary in cooperation with appropriate Federal agencies and in cooperation with affected manufacturers, distributors, retailers, consumers, environmentalists, and other interested parties shall develop proposed Specifications for the specific classes of appliances and equipment covered under § 9.3.

(b) Each Specification shall as a minimum include:

(1) A description of the class of appliance or equipment covered by the Specification, listing the distribution of energy efficiencies for that class of appliance or equipment.

(2) Listings or descriptions of test methods to be used in measuring the energy consumption and/or energy efficiency characteristics of the class of appliance or equipment.

(3) A prototype Label and directions for displaying the Label on or with appliances or equipment of that class. The Label shall be prominent, readable, and visible and shall include information that will assist the consumer in comparing by cost or otherwise the energy consumption and/or energy efficiency characteristics of a particular appliance or item of equipment with all others in its class. The Label shall also include the Department of Commerce Energy Conservation Mark specified in § 9.7.

(4) Conditions for the participation of manufacturers in the program.

(c) The test methods listed or described in the Specification pursuant to § 9.4(b)(2) shall be those described in existing nationally-recognized voluntary standards where such methods are appropriate. Where appropriate test methods do not so exist, they will be developed by the Department of Commerce in cooperation with interested parties.

(d) The Secretary upon development of a proposed Specification shall publish in the FEDERAL REGISTER a notice giving the complete text of the proposed Specification, and any other pertinent information, and inviting any interested person to submit written comments on the proposed Specification within 30 days after its publication in the FEDERAL REGISTER, unless another time limit is provided by the Secretary. Interested persons wanting to express their views in an informal hearing may do so if, within 15 days after the proposed Specification is published in the FEDERAL REGISTER, they request the Secretary to hold a hearing. Such informal hearings shall be held so as to give all interested persons opportunity for the oral presentation of data, views, or arguments in addition to the opportunity to make written submissions. Notice of such hearings shall be published in the FEDERAL REGISTER. A transcript shall be kept of any oral presentations.

(e) The Secretary, after consideration of all written and oral comments and other materials received in accordance with paragraph (d) of this section, shall publish in the FEDERAL REGISTER within 30 days after the final date for receipt of comments, or as soon as practicable thereafter, a notice either:

(1) Giving the complete text of a final Specification, including conditions of use, and stating that any manufacturer of appliances or equipment in the class concerned desiring voluntarily to use the Label and Energy Conservation Mark with such appliances or equipment must advise the Department of Commerce; or

(2) Stating that the proposed Specification will be further developed before final publication; or

(3) Withdrawing the proposed Specification from further consideration.

§ 9.5 Participation of manufacturers.

(a) Manufacturers desiring to participate in this program will so notify the Department of Commerce. The notification will identify the particular Specification to be used and the manufacturer's model numbers for the products to be labeled. The notification will also state that the manufacturer will abide by all conditions contained in the Specification and will desist from using the Label and Energy Conservation Mark if requested by the Department of Commerce under the provisions of § 9.6.

(b) The conditions for participation will be set out in the Specification and will include, but not be limited to, the following:

(1) Prior to the use of a Label the manufacturer will make or have made the measurements to obtain the information required for inclusion on the Label and, if requested, will forward within 30 days such measurement data to the Department of Commerce. Such measurement data will be kept on file by the manufacturer or his agent for two years after that model of appliance or equipment is no longer manufactured unless otherwise provided in the Specification. The use of independent test laboratories or national certification programs available to any manufacturer is acceptable for the purposes of this program.

(2) The manufacturer will describe the test results on the Label as prescribed in the Specification.

(3) The manufacturer will display or arrange to display, in accordance with the appropriate Specification, the

Label on or with each individual unit of appliance or equipment within the subject class and with the same brand name manufactured by him except for units exported from the United States. All models with the same brand name that fall within the class must be included in the program unless they are for export only.

(4) The manufacturer agrees at his expense to comply with any reasonable request of the Department of Commerce to have appliances or equipment manufactured by him tested to determine that testing has been done according to the relevant Specification.

(5) Manufacturers may reproduce the Department of Commerce Labels and Energy Conservation Mark in advertising provided that the entire Label, complete with all information required to be displayed at the point of retail sale, is shown legibly.

§ 9.6 Termination of participation.

(a) The Department of Commerce upon finding that a manufacturer is not complying with the conditions of participation set out in these procedures or in a Specification may terminate upon 30 days notice the manufacturer's participation in the program: *Provided,* That the manufacturer shall first be given an opportunity to show cause why the participation should not be terminated. Upon receipt of a notice of termination, a manufacturer may request within 30 days a hearing under the provisions of 5 U.S.C. 558.

(b) A manufacturer may at any time terminate his participation and responsibilities under this program with regard to a specific class of products by giving written notice to the Secretary that he has discontinued use of the Label and Energy Conservation Mark for all appliances or equipment within that class.

§ 9.7 Department of Commerce energy conservation mark.

The Department of Commerce shall develop an Energy Conservation Mark which shall be registered in the U.S. Patent Office under 15 U.S.C. 1054 for use on each Label described in a Specification.

§ 9.8 Amendment or revision of voluntary energy conservation specifications.

The Secretary may by order amend or revise any Specification published under §9.4. The procedure applicable to the establishment of a Specification under §9.4 shall be followed in amending or revising such Specification. Such amendment or revision shall not apply to appliances or equipment manufactured prior to the effective date of the amendment or revision.

§ 9.9 Consumer education.

The Department of Commerce, in close cooperation and coordination with interested Government agencies, appropriate industry trade associations and industry members, and interested consumers and environmentalists shall carry out a program to educate consumers relative to the significance of the labeling program. Some elements of this program shall also be directed toward informing retailers and other interested groups about the program.

§ 9.10 Coordination with State and local programs.

The Department of Commerce will establish and maintain an active program of communication with appropriate state and local government offices and agencies and will furnish and make available information and assistance that will promote to the greatest practicable extent uniformity in State, local, and Federal programs for the labeling of household appliances and equipment to effect energy conservation.

§ 9.11 Annual report.

The Secretary will prepare an annual report of activities under the program, including an evaluation of the program and a list of participating manufacturers and classes of appliances and equipment.

PART 10—PROCEDURES FOR THE DEVELOPMENT OF VOLUNTARY PRODUCT STANDARDS

Sec.

10.0 General.
10.1 Initiating development of a new standard.