SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

PART 300—RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

DEFINITIONS

Sec.

300.1 Terms defined.

LABELING

300.2 General requirement.

300.3 Required label information.

300.4 Registered identification numbers.

300.5 Required label and method of affixing.

300.6 Labels to be avoided.

300.7 English language requirement.

300.8 Use of fiber trademark and generic names.

300.9 Abbreviations, ditto marks, and asterisks.

300.10 Disclosure of information on labels.

300.11 Improper methods of labeling.

300.12 Labeling of pairs or products containing two or more units.

300.13 Name or other identification required to appear on labels.

300.14 Substitute label requirement.

300.15 Labeling of containers or packaging of wool products.

300.16 Ornamentation.

300.17 Use of the term “all” or “100%”.

300.18 Use of name of specialty fiber.

300.19 Use of terms “mohair” and “cashmere”.

300.20 Use of the terms “virgin” or “new”.

300.21 Marking of samples, swatches, or specimens.

300.22 Sectional disclosure of content.

300.23 Linings, paddings, stiffening, trimmings and facings.

300.24 Representations as to fiber content.

300.25 Country where wool products are processed or manufactured.

300.25a Country of origin in mail order advertising.

300.26 Pile fabrics and products composed thereof.

300.27 Wool products containing superimposed or added fibers.

300.28 Undetermined quantities of reclaimed fibers.

300.29 Garments or products composed of or containing miscellaneous cloth scraps.

300.30 Deceptive labeling in general.

MANUFACTURERS’ RECORDS

300.31 Maintenance of records.

GUARANTEES

300.32 Form of separate guaranty.

300.33 Continuing guaranty filed with Federal Trade Commission.

300.34 Reference to existing guaranty on labels not permitted.

GENERAL

300.35 Hearings under section 4(d) of the Act.


SOURCE: 6 FR 3426, July 15, 1941, unless otherwise noted.

DEFINITIONS

§ 300.1 Terms defined.


(b) The terms rule, rules, regulations and rules and regulations mean the rules and regulations prescribed by the Commission pursuant to the Act.

(c) The term ornamentation means any fibers or yarns imparting a visibly discernible pattern or design to a yarn or fabric.

(d) The term fiber trademark means a word or words used by a person to identify a particular fiber produced or sold by him and to distinguish it from fibers of the same generic class produced or sold by others. Such term shall not include any trademark, product mark, house mark, trade name or other name which does not identify a particular fiber.

(e) The terms required information or information required mean such information as is required to be disclosed on the required stamp, tag, label or other means of identification under the Act and regulations.

(f) The definitions of terms contained in section 2 of the Act shall be applicable also to such terms when used in rules promulgated under the Act.

(g) The term United States means the several States, the District of Columbia, and the territories and possessions of the United States.

(h) The terms mail order catalog and mail order promotional material mean
any materials, used in the direct sale or direct offering for sale of wool products, that are disseminated to ultimate consumers in print or by electronic means, other than by broadcast, and that solicit ultimate consumers to purchase such wool products by mail, telephone, electronic mail, or some other method without examining the actual product purchased.

(i) The terms label, labels, labeled, and labeling mean the stamp, tag, label, or other means of identification, or authorized substitute therefore, required to be on or affixed to wool products by the Act or Regulations and on which the information required is to appear.

(j) The terms invoice and invoice or other paper have the meaning set forth in §303.1(h) of this chapter.

(k) The term trimmings has the meaning set forth in §303.12 of this chapter.

(b) Any manufacturer of a wool product or person subject to section 3 of the Act with respect to such wool product, residing in the United States, may apply to the Federal Trade Commission for a registered identification number for use by the applicant on the stamp, tag, label, or other mark of identification required under the Act.

(c) Registered identification numbers shall be used only by the person or firm to whom they are issued, and such numbers are not transferable or assignable. Registered identification numbers shall be subject to cancellation whenever any such number was procured or has been used improperly or contrary to the requirements of the Acts administered by the Federal Trade Commission, and regulations in this part, or when otherwise deemed necessary in the public interest. Registered identification numbers shall be subject to cancellation if the Commission fails to receive prompt notification of any change in name, business address, or legal business status of a person or firm to whom a registered identification number has been assigned, by application duly executed in the form set out in paragraph (e) of this section, reflecting the current name, business address, and legal business status of the person or firm.

(d) Registered identification numbers assigned under this section may be used on labels required in labeling products subject to the provisions of the Fur Products Labeling Act and Textile Fiber Products Identification Act, and numbers previously assigned by the Commission under such Acts may be used as and for the required name in labeling under this Act. When so used by the person or firm to whom assigned, the use of the numbers shall be construed as identifying and binding the applicant as fully and in all respects as though assigned under the specific Act for which it is used.

(e) The form to apply for a registered identification number or to update information pertaining to an existing number is found in §303.20(d) of this chapter. The form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or on the Internet at http://www.ftc.gov.

§300.5 Required label and method of affixing.

(a) A label is required to be affixed to each wool product and, where required, to its package or container in a secure manner. Such label shall be conspicuous and shall be of such durability as to remain attached to the product and its package throughout any distribution, sale, resale and until sold and delivered to the ultimate consumer.

(b) Each wool product with a neck must have a label disclosing the country of origin affixed to the inside center of the neck midway between the shoulder seams or in close proximity to another label affixed to the inside center of the neck. The fiber content and RN or name of the company may be disclosed on the same label as the country of origin or on another conspicuous and readily accessible label or labels on the inside or outside of the garment. On all other wool products, the required information shall be disclosed on a conspicuous and readily accessible label or labels on the inside or outside of the product. The country of origin disclosure must always appear on the front side of the label. Other required information may appear either on the front side or the reverse side of a label, provided that the information is conspicuous and readily accessible.

(c) In the case of hosiery products, this section does not require affixing a label to each hosiery product contained in a package if, (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a label bearing the required information for the hosiery products contained in the package, and (3) the information on the label affixed to the package is equally applicable to each wool product contained therein.

§ 300.6 Labels to be avoided.

Stamps, tags, labels, or other marks of identification, which are insecurely attached, or which in the course of offering the product for sale, selling, reselling, transporting, marketing, or handling incident thereto are likely to become detached, indistinct, obliterated, illegible, mutilated, inaccessible, or inconspicuous, shall not be used.

§ 300.7 English language requirement.

All words, statements and other information required by or under authority of the Act and the rules and regulations thereunder to appear on the stamp, tag, label, or other mark of identification, shall appear in the English language. If the product bears any stamp, tag, label, or mark of identification which contains any of the required information in a language other than English, all of the required information shall appear both in such other language and in the English language.

§ 300.8 Use of fiber trademark and generic names.

(a) Except where another name is required or permitted under the Act or regulations, the respective common generic name of the fiber shall be used when naming fibers in the required information; as for example, "wool," "recycled wool," "cotton," "rayon," "silk," "linen," "acetate," "nylon," "polyester."

(b) The generic names of manufactured fibers as heretofore or hereafter established in § 303.7 of this part (Rule 7) of the regulations promulgated under the Textile Fiber Products Identification Act (72 Stat. 1717; 15 U.S.C. 70) shall be used in setting forth the required fiber content information as to wool products.

(c) A non-deceptive fiber trademark may be used on a label in conjunction with the generic name of the fiber to which it relates. Where such a trademark is placed on a label in conjunction with the required information, the generic name of the fiber must appear in immediate conjunction therewith, and such trademark and generic name must appear in type or lettering of equal size and conspicuousness.

(d) Where a generic name or a fiber trademark is used on any label, whether required or nonrequired, a full and complete fiber content disclosure with percentages shall be made on such label in accordance with the Act and regulations.

(e) If a fiber trademark is not used in the required information, but is used elsewhere on the label as nonrequired information, the generic name of the fiber shall accompany the fiber trademark in legible and conspicuous type or lettering the first time the trademark is used.

(f) No fiber trademark or generic name or word, coined word, symbol or depiction which connotes or implies any fiber trademark or generic name shall be used on any label or elsewhere on the product in such a manner as to be false, deceptive, or misleading as to fiber content, or to indicate directly or indirectly that a wool product is composed wholly or in part of a particular fiber, when such is not the case.

(g) The term fur fiber may be used to describe the hair or fur fiber or mixtures thereof of any animal or animals other than the sheep, lamb, Angora goat, Cashmere goat, camel, alpaca, llama and vicuna. If the name, symbol, or depiction of any animal producing the hair or fur fiber is used on the stamp, tag, label, or other means of identification applied or affixed to the wool product, the percentage by weight of such hair or fur fiber in the total fiber weight of the wool product shall be separately stated in the required fiber content disclosure: Provided, That no such name, symbol or depiction shall be used where such hair or fur fiber is present in the amount of less than five per centum of the total fiber weight. No such name, symbol or depiction shall be used in such a way as to imply in any manner that a wool product contains the fur or hair of an animal when the hair or fur fiber of such animal is not present in the product in the amount of five per centum or more of the total fiber weight. The following are examples of fiber content disclosures under this paragraph:

- 60% Wool
- 40% Fur Fiber
- or
- 60% Wool
- 30% Fur Fiber
- 10% Angora Rabbit
- or
- 100% Cashgora Hair
§ 300.9 Abbreviations, ditto marks, and asterisks.

(a) In disclosing required information, words or terms shall not be designated by ditto marks or appear in footnotes referred to by asterisks or other symbols in required information, and shall not be abbreviated.

(b) Where the generic name of a textile fiber is required to appear in immediate conjunction with a fiber trademark, a disclosure of the generic name by means of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the fiber trademark, shall not be sufficient in itself to constitute compliance with the Act and regulations.

§ 300.10 Disclosure of information on labels.

(a) Subject to the provisions of §300.5(b), the required information may appear on any label or labels attached to the product, including the care label required by 16 CFR part 423, provided all the pertinent requirements of the Act and regulations in this part are met and so long as the combination of required information and non-required information is not misleading. All parts of the required information shall be set forth in such a manner as to be clearly legible, conspicuous, and readily accessible to the prospective purchaser. All parts of the required fiber content information shall appear in type or lettering of equal size and conspicuousness.

(b) Subject to the provisions of §300.8, any non-required information or representations placed on the product shall not minimize, detract from, or conflict with required information and shall not be false, deceptive, or misleading.

§ 300.11 Improper methods of labeling.

The stamp, tag, label, or other mark of identification required under the act, or the required information contained therein, shall not be minimized, rendered obscure or inconspicuous, or be so placed as likely to be unnoticed or unseen by purchasers and purchaser-consumers when the product is offered or displayed for sale or sold to purchasers or the consuming public, by reason of, among others:

(a) Small or indistinct type.

(b) Failure to use letters and numerals of equal size and conspicuousness in naming all fibers and percentages of such fibers as required by the act.

(c) Insufficient background contrast.

(d) Crowding, intermingling, or obscuring with designs, vignettes, or other written, printed or graphic matter.

§ 300.12 Labeling of pairs or products containing two or more units.

(a) Where a wool product consists of two or more parts, units, or items of different fiber content, a separate label containing the required information shall be affixed to each of such parts, units, or items showing the required information as to such part, unit, or item, provided that where such parts, units, or items, are marketed or handled as a single product or ensemble and are sold and delivered to the ultimate consumer as a single product or ensemble, the required information may be set out on a single label in such a manner as to separately show the fiber composition of each part, unit, or item.

(b) Where garments, wearing apparel, or other wool products are marketed or handled in pairs or ensembles of the same fiber content, only one unit of the pair or ensemble need be labeled with the required information when sold and delivered to the ultimate consumer.

(c) Where parts or units of wool products of the types referred to in paragraphs (a) and (b) of this section are sold separately, such parts or units shall be labeled with the information required by the Act and regulations.

§ 300.13 Name or other identification required to appear on labels.

(a) The name required by the Act to be used on labels shall be the name
under which the manufacturer of the wool product or other person subject to section 3 of the Act with respect to such product is doing business. Trade names, trade marks or other names which do not constitute the name under which such person is doing business shall not be used for required identification purposes.

(b) Registered identification numbers, as provided for in §300.4 of this part (Rule 4), may be used for identification purposes in lieu of the required name.

[29 FR 6625, May 21, 1964]

§ 300.14 Substitute label requirement.

When necessary to avoid deception, the name of any person other than the manufacturer of the product appearing on the stamp, tag, label, or other mark of identification affixed to such product shall be accompanied by appropriate words showing that the product was not manufactured by such person; as for example:

Manufactured for: __________
Distributed by: __________
               Distributors

§ 300.15 Labeling of containers or packaging of wool products.

When wool products are marketed and delivered in a package which is intended to remain unbroken and intact until after delivery to the ultimate consumer, each wool product in the package, except hosiery, and the package shall be labeled with the required information. If the package is transparent to the extent it allows for a clear reading of the required information on the wool product, the package is not required to be labeled.

[50 FR 15106, Apr. 17, 1985]

§ 300.16 Ornamentation.

(a) Where the wool product contains fiber ornamentation not exceeding 5 percent of the total fiber weight of the product and the stated percentages of fiber content of the product are exclusive of such ornamentation, the stamp, tag, label, or other means of identification shall contain a phrase or statement showing such fact; as for example:

50% Wool
25% Recycled Wool
25% Cotton
Exclusive of Ornamentation

The fiber content of such ornamentation may be disclosed where the percentage of the ornamentation in relation to the total fiber weight of the principal fiber or blend of fibers is shown; as for example:

70% Recycled Wool
30% Acetate
Exclusive of 4% Metallic Ornamentation

(b) Where the fiber ornamentation exceeds five per centum it shall be included in the statement of required percentages of fiber content.

c) Where the ornamentation constitutes a distinct section of the product, sectional disclosure may be made in accordance with §300.23 of this part (Rule 23).

[29 FR 6625, May 21, 1964, as amended at 45 FR 44261, July 1, 1980]

§ 300.17 Use of the term “all” or “100%.”

Where the fabric or product to which the stamp, tag, label, or mark of identification applies is composed wholly of one kind of fiber, either the word “all” or the term “100%” may be used with the correct fiber name; as for example “100% Wool,” “All Wool,” “100% Recycled Wool,” “All Recycled Wool.” If any such product is composed wholly of one fiber with the exception of fiber ornamentation not exceeding 5%, such term “all” or “100%” as qualifying the name of the fiber may be used, provided it is immediately followed by the phrase “exclusive of ornamentation,” or by a phrase of like meaning; such as, for example:

All Wool—Exclusive of Ornamentation

or

100% Wool—Exclusive of Ornamentation.

[45 FR 44261, July 1, 1980]

§ 300.18 Use of name of specialty fiber.

(a) In setting forth the required fiber content of a product containing any of the specialty fibers named in Section 2(b) of the Act, the name of the specialty fiber present may be used in lieu of the word “wool,” provided the percentage of each named specialty fiber is given, and provided further that the
§ 300.19 Use of terms "mohair" and "cashmere."

(a) In setting forth the required fiber content of a product containing hair of the Angora goat known as mohair or containing hair or fleece of the Cashmere goat known as cashmere, the term mohair or cashmere, respectively, may be used for such fiber in lieu of the word "wool," provided the respective percentage of each such fiber designated as "mohair" or "cashmere" is given, and provided further that such term "mohair" or "cashmere" where used is qualified by the word "recycled" as defined in the Act. The following are examples of fiber content designations permitted under this rule:

50% Mohair—50% Wool
60% Recycled Mohair—40% Cashmere
60% Cotton—40% Recycled Cashmere.

(b) Where an election is made to use the term "mohair" or "cashmere" in lieu of the term wool as permitted by this section, the appropriate designation of "mohair" or "cashmere" shall be used at any time reference is made to such fiber in either required or nonrequired information. The term "mohair" or "cashmere" or any words, coined words, symbols or depictions connoting or implying the presence of such fibers shall not be used in nonrequired information on the required label or on any secondary or auxiliary label attached to the wool product if the term "mohair" or "cashmere" as the case may be does not appear in the required fiber content disclosure.

[29 FR 6625, May 21, 1964, as amended at 45 FR 44262, July 1, 1980]

§ 300.20 Use of the terms "virgin" or "new."

The terms "virgin" or "new" as descriptive of a wool product, or any fiber or part thereof, shall not be used when the product or part so described is not composed wholly of new or virgin fiber which has never been reclaimed from any spun, woven, knitted, felted, braided, bonded, or otherwise manufactured or used product.

[29 FR 6625, May 21, 1964]

§ 300.21 Marking of samples, swatches or specimens.

Where samples, swatches or specimens of wool products subject to the act were used to promote or effect sales of such wool products in commerce, said samples, swatches and specimens, as well as the products themselves, shall be labeled or marked to show their respective fiber contents and other information required by law.

[6 FR 3426, July 15, 1941. Redesignated at 63 FR 7317, Feb. 13, 1998]

§ 300.22 Sectional disclosure of content.

(a) Permissive. Where a wool product is composed of two or more sections which are of different fiber composition, the required information as to fiber content may be separated on the same label in such manner as to show the fiber composition of each section.
§ 300.25 Country where wool products are processed or manufactured.

(a) In addition to the other information required by the Act and Regulations:

(1) Each imported wool product shall be labeled with the name of the country where such imported product was processed or manufactured;

(2) Each wool product completely made in the United States of materials that were made in the United States shall be labeled using the term Made in U.S.A. or some other clear and equivalent term.
§ 300.25a Country of origin in mail order advertising.

When a wool product is advertised in any mail order catalog or mail order promotional material, the description of such product shall contain a clear
and conspicuous statement that the product was either made in U.S.A., imported, or both. Other words or phrases with the same meaning may be used. The statement of origin required by this section shall not be inconsistent with the origin labeling of the product being advertised.

§ 300.26 Pile fabrics and products composed thereof.

The fiber content of pile fabrics or products made thereof may be stated in the label or mark of identification in such segregated form as will show the fiber content of the face or pile and of the back or base, with the percentages of the respective fibers as they exist in the face or pile and in the back or base:

Provided. That in such disclosure the respective percentages of the face and the back be given in such manner as will show the ratio between the face and the back. Examples of the form of marking pile fabrics as to fiber content provided for in this section are as follows:

100% Wool Pile
100% Cotton Back
(Back constitutes 60% of fabric and pile 40%)

Pile—60% Recycled Wool, 40% Wool
Back—70% Cotton, 30% Rayon
(Pile constitutes 60% of fabric and back 40%).

§ 300.27 Wool products containing superimposed or added fibers.

Where a wool product is made wholly of one fiber or a blend of fibers with the exception of an additional fiber in minor proportion superimposed or added in certain separate and distinct areas or sections for reinforcing or other useful purposes, the product may be designated according to the fiber content of the principal fiber or blend of fibers, with an excepting naming the superimposed or added fiber, giving the percentage thereof in relation to the total fiber weight of the principal fiber or blend of fibers, and indicating the area or section which contains the superimposed or added fiber. An example of this type of fiber content disclosure, as applied to products having reinforcing fibers added to a particular area or section, is as follows:

55% Recycled Wool
45% Rayon
Except 5% Nylon added to toe and heel

(29 FR 6626, May 21, 1964, as amended at 45 FR 44262, July 1, 1980)

§ 300.28 Undetermined quantities of reclaimed fibers.

(a) Where a wool product is composed in part of various man-made fibers recovered from textile products containing underdetermined qualities of such fibers, the percentage content of the respective fibers recovered from such products may be disclosed on the required stamp, tag, or label, in aggregate form as “man-made fibers” followed by the naming of such fibers in the order of their predominance by weight, as for example:

60% Wool
40% Man-made fibers
Rayon
Acetate
Nylon

(b) Where a wool product is composed in part of wool or recycled wool and in part of unknown and, for practical purposes, undeterminable non-woolen fibers reclaimed from any spun, woven, knitted, felted, braided, bonded or otherwise manufactured or used product, the required fiber content disclosure may, when truthfully applicable, in lieu of the fiber content disclosure otherwise required by the Act and regulations, set forth (1) the percentages of wool or recycled wool, and (2) the generic names and the percentages of all other fibers whose presence is known or practically ascertainable and (3) the percentage of the unknown and undeterminable reclaimed fibers, designating such reclaimed fibers as “unknown reclaimed fibers” or “undetermined reclaimed fibers,” as for example:

75% Recycled Wool—25% Unknown Reclaimed Fibers.
35% recycled Wool—30% Acetate—15% Cotton—20% Undetermined Reclaimed Fibers.

In making the required fiber content disclosure any fibers referred to as “unknown reclaimed fibers” or “undetermined reclaimed fibers” shall be listed last.
(c) The terms unknown recycled fibers and undetermined recycled fibers may be used in describing the unknown and undeterminable reclaimed fibers referred to in paragraph (b) of this rule in lieu of the terms specified therein, provided, however, That the same standard is used in determining the applicability of the term recycled as is used in defining “recycled wool” in section 2(c) of the Act.

(d) For purposes of this rule undetermined or unascertained amounts of wool or recycled wool may be classified and designated as recycled wool.

(e) Nothing contained in this rule shall excuse a full and accurate disclosure of fiber content with correct percentages if the same is known or practically ascertainable, or permit a deviation from the requirements of section 4(a)(2)(A) of the Act with respect to products not labeled under the provisions of this rule or permit a higher classification of wool or recycled wool than that provided by Section 2 of the Act.

§ 300.29 Garments or products composed of or containing miscellaneous cloth scraps.

(a) For wool products which consist of, or are made from, miscellaneous cloth scraps comprising manufacturing by-products and containing various fibers of undetermined percentages, the following form of disclosure as to fiber content of such wool products, where truthfully applicable and with appropriate percentage figure inserted, may be used in the stamp, tag, label, or mark of identification of such product:

(1) Where the product contains chiefly cotton as well as woolen fibers in the minimum percentage designated for recycled wool:

Made of Miscellaneous Cloth Scraps Composed Chiefly of Cotton With Minimum of ___% Recycled Wool.

(2) Where the product contains chiefly rayon as well as woolen fibers in the minimum percentage designated for recycled wool:

Made of Miscellaneous Cloth Scraps Composed Chiefly of Rayon With Minimum of ___% Recycled Wool.

(3) Where the product is composed chiefly of a mixture of cotton and rayon as well as woolen fibers in the minimum percentage designated for recycled wool:

Made of Miscellaneous Cloth Scraps Composed Chiefly of Cotton and Rayon With Minimum of ___% Recycled Wool.

(4) Where the product contains chiefly woolen fibers with the balance of undetermined mixtures of cotton, rayon or other non-woolen fibers:

Made of Miscellaneous Cloth Scraps Containing Cotton, Rayon and Other Non-Woolen Fibers, With Minimum of ___% Recycled Wool.

(b) Where the cotton or rayon content or the non-woolen fiber content mentioned in such forms of disclosure is not known to comprise as much as 50% of the fiber content of the product, the word “chiefly” in the respective form of disclosure specified in this section shall be omitted.

(c) The words “Contents are” may be used in the above-mentioned forms of marking in lieu of the words “Made of” where appropriate to the nature of the product.

(d) For purposes of this rule, undetermined or unascertained amounts of wool or recycled wool which may be contained in the product may be classified and designated as recycled wool.

§ 300.30 Deceptive labeling in general.

Products subject to the act shall not bear, nor have used in connection therewith, any stamp, tag, label, mark or representation which is false, misleading or deceptive in any respect.

Manufacturers’ Records

§ 300.31 Maintenance of records.

(a) Pursuant to the provisions of section 6 of the Act, every manufacturer of a wool product subject to the Act, irrespective of whether any guaranty has been given or received, shall maintain records showing the information required by the Act and Regulations with respect to all such wool products made
by such manufacturer. Such records shall show:

(1) The fiber content of the product specified in section 4(a)(2)(A) of the Act.

(2) The maximum percentage of the total weight of the wool product of any non-fibrous loading, filling or adulterating matter as prescribed by section 4(a)(2)(B) of the Act.

(3) The name, or registered identification number issued by the Commission, of the manufacturer of the wool product or the name or registered identification number of one or more persons subject to section 3 of the Act with respect to such wool product.

(4) The name of the country where the wool product was processed or manufactured as prescribed by sections 300.25a and/or .25b.

(b) Any person substituting labels shall keep such records as will show the information on the label removed and the name or names of the person or persons from whom the wool product was received.

(c) The purpose of these records is to permit a determination that the requirements of the Act and Regulations have been met and to establish a traceable line of continuity from raw material through processing to finished product. The records shall be preserved for at least three years.

[53 FR 31314, Aug. 18, 1988]

§ 300.32 Form of separate guaranty.

(a) The following are suggested forms of separate guaranties under section 9 of the Act which may be used by a guarantor residing in the United States on or as part of an invoice or other paper relating to the marketing or handling of any wool products listed and designated therein and showing the date of such invoice or other paper and the signature and address of the guarantor:

(1) General form.

We guarantee that the wool products specified herein are not misbranded under the provisions of the Wool Products Labeling Act and rules and regulations thereunder.

(b) Guaranty based on guaranty.

Based upon a guaranty received, we guarantee that the wool products specified herein are not misbranded under the provisions of the Wool Products Labeling Act and rules and regulations thereunder.

NOTE: The printed name and address on the invoice or other paper will suffice to meet the signature and address requirements.

(b) The mere disclosure of required information including the fiber content of wool products on a label or on an invoice or other paper relating to its marketing or handling shall not be considered a form of separate guaranty.

[29 FR 6627, May 21, 1964]

§ 300.33 Continuing guaranty filed with Federal Trade Commission.

(a)(1) Under section 9 of the Act any person residing in the United States and marketing or handling wool products may file a continuing guaranty with the Federal Trade Commission.

(2) When filed with the Commission a continuing guaranty shall be fully executed in duplicate. Forms for use in preparing continuing guaranties will be supplied by the Commission upon request.

(3) Continuing guaranties filed with the Commission shall continue in effect until revoked. The guarantor shall promptly report any change in business status to the Commission.

[29 FR 3127, May 21, 1964]

§ 300.32 Form of separate guaranty.

(a) The following are suggested forms of separate guaranties under section 9 of the Act which may be used by a guarantor residing in the United States on or as part of an invoice or other paper relating to the marketing or handling of any wool products listed and designated therein and showing the date of such invoice or other paper and the signature and address of the guarantor:

(1) General form.

We guarantee that the wool products specified herein are not misbranded under the provisions of the Wool Products Labeling Act and rules and regulations thereunder.

(b) Guaranty based on guaranty.

Based upon a guaranty received, we guarantee that the wool products specified herein are not misbranded under the provisions of the Wool Products Labeling Act and rules and regulations thereunder.

NOTE: The printed name and address on the invoice or other paper will suffice to meet the signature and address requirements.

(b) The mere disclosure of required information including the fiber content of wool products on a label or on an invoice or other paper relating to its marketing or handling shall not be considered a form of separate guaranty.

[29 FR 6627, May 21, 1964]
§ 300.34 Reference to existing guaranty on labels not permitted.

No representation or suggestion that a wool product is guaranteed under the act by the Government, or any branch thereof shall be made on or in the stamp, tag, label, or other mark of identification, applied or affixed to wool products.

GENERAL

§ 300.35 Hearings under section 4(d) of the act.

Hearings under section 4(d) of the act will be held when deemed by the Commission to be in the public interest. Interested persons may file applications for such hearings. Such applications shall be filed in quadruplicate and shall contain a detailed technical description of the class or classes of articles or products regarding which applicant requests a determination and announcement by the Commission concerning express or implied representations of fiber content of articles or concerning insignificant or inconsequential textile content of products.

(Sec. 4(d), 54 Stat. 1129; 15 U.S.C. 68b(d))
### NAME GUIDE

#### § 301.0 Fur products name guide.

<table>
<thead>
<tr>
<th>Name</th>
<th>Order</th>
<th>Family</th>
<th>Genus-species</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alpaca</td>
<td>Ungulata</td>
<td>Camelidae</td>
<td>Lama pacos.</td>
</tr>
<tr>
<td>Antelope</td>
<td>do</td>
<td>Bovidae</td>
<td>Hippopotamus niger and Antelope cervicapra.</td>
</tr>
<tr>
<td>Bass</td>
<td>do</td>
<td>Mustelidae</td>
<td>Taricha sp. and Meles sp.</td>
</tr>
<tr>
<td>Bassarisk</td>
<td>do</td>
<td>Procyniidae</td>
<td>Bassariscus astutus.</td>
</tr>
<tr>
<td>Bear</td>
<td>do</td>
<td>Ursidae</td>
<td>Thalarctos sp.</td>
</tr>
<tr>
<td>Bear, Polar</td>
<td>do</td>
<td>Thalarctos</td>
<td>Thalarctos martes.</td>
</tr>
<tr>
<td>Beaver</td>
<td>Rodentia</td>
<td>Castoridae</td>
<td>Castor canadensis.</td>
</tr>
<tr>
<td>Bunuduk</td>
<td>do</td>
<td>Sciuridae</td>
<td>Eutamias asiaticus.</td>
</tr>
<tr>
<td>Cat, Caracal</td>
<td>Carnivora</td>
<td>Felidae</td>
<td>Caracal caracal.</td>
</tr>
<tr>
<td>Cat, Domestic</td>
<td>do</td>
<td>do</td>
<td>Felis catus.</td>
</tr>
<tr>
<td>Cat, Lynx</td>
<td>do</td>
<td>do</td>
<td>Lynx refus.</td>
</tr>
<tr>
<td>Cat, Manul</td>
<td>do</td>
<td>do</td>
<td>Felis manul.</td>
</tr>
<tr>
<td>Cat, Margay</td>
<td>do</td>
<td>do</td>
<td>Felis wiedi.</td>
</tr>
<tr>
<td>Cat, Spotted</td>
<td>do</td>
<td>do</td>
<td>Felis sp. (South America).</td>
</tr>
<tr>
<td>Cat, Wild</td>
<td>do</td>
<td>do</td>
<td>Felis catus and Felis lybica.</td>
</tr>
<tr>
<td>Cheeta</td>
<td>do</td>
<td>do</td>
<td>Accipitridae.</td>
</tr>
<tr>
<td>Chinchilla</td>
<td>Rodentia</td>
<td>Chinchiliidae</td>
<td>Chinchilla chinchilla.</td>
</tr>
<tr>
<td>Chipmunk</td>
<td>do</td>
<td>Sciuridae</td>
<td>Eutamias sp.</td>
</tr>
<tr>
<td>Civet</td>
<td>Carnivora</td>
<td>Viveridae</td>
<td>Viverera sp., Viverricula sp., Paradoxurus sp., Paguma sp., and Herpestes sp.</td>
</tr>
<tr>
<td>Desman</td>
<td>Insectivora</td>
<td>Talpidae</td>
<td>Desmana moschata and Galemys pyrenaicus.</td>
</tr>
<tr>
<td>Dog</td>
<td>Carnivora</td>
<td>Canidae</td>
<td>Canis familiaris.</td>
</tr>
<tr>
<td>Ermine</td>
<td>do</td>
<td>Mustelidae</td>
<td>Mustela erminea.</td>
</tr>
<tr>
<td>Fisher</td>
<td>do</td>
<td>do</td>
<td>Martes pennanti.</td>
</tr>
<tr>
<td>Flitch</td>
<td>do</td>
<td>do</td>
<td>Mustela putorius.</td>
</tr>
<tr>
<td>Fox</td>
<td>Canidae</td>
<td>do</td>
<td>Vulpes fulva, Vulpes, vulpes, and Vulpes macrotis.</td>
</tr>
<tr>
<td>Fox, Blue</td>
<td>do</td>
<td>do</td>
<td>Alopec sp.</td>
</tr>
<tr>
<td>Fox, Grey</td>
<td>do</td>
<td>do</td>
<td>Urocyon cinereoargentus and Urocyon littoralis.</td>
</tr>
<tr>
<td>Fox, Kit</td>
<td>do</td>
<td>do</td>
<td>Vulpes velox.</td>
</tr>
<tr>
<td>Fox, White</td>
<td>Carnivora</td>
<td>Canidae</td>
<td>Alpoex sp.</td>
</tr>
<tr>
<td>Genet</td>
<td>do</td>
<td>Viveridae</td>
<td>Genetta genetta.</td>
</tr>
<tr>
<td>Goat</td>
<td>Ungulata</td>
<td>Bovidae</td>
<td>Cpra prisa.</td>
</tr>
<tr>
<td>Guanaco, or its young, the</td>
<td>do</td>
<td>do</td>
<td>Lama guanicos.</td>
</tr>
<tr>
<td>Guanaco</td>
<td></td>
<td>do</td>
<td></td>
</tr>
<tr>
<td>Hamster</td>
<td>Rodentia</td>
<td>Cricetidae</td>
<td>Cricetus cricetus.</td>
</tr>
<tr>
<td>Hari</td>
<td>do</td>
<td>Mustelidae</td>
<td>Lepus sp. and Lepus europaeus occidentalis.</td>
</tr>
<tr>
<td>Jackal</td>
<td>Carnivora</td>
<td>Canidae</td>
<td>Canis aureus and Canis adustus.</td>
</tr>
<tr>
<td>Jackal, Cape</td>
<td>do</td>
<td>do</td>
<td>Canis mesomelas.</td>
</tr>
<tr>
<td>Jaguar</td>
<td>Felidae</td>
<td>do</td>
<td>Felis onca.</td>
</tr>
<tr>
<td>Jaguarondi</td>
<td>do</td>
<td>do</td>
<td>Felis yagouaroundi.</td>
</tr>
<tr>
<td>Kangaroo</td>
<td>Marsupialia</td>
<td>Macropodidae</td>
<td>Macropus sp.</td>
</tr>
<tr>
<td>Kangaroo-nat</td>
<td>do</td>
<td>do</td>
<td>Bettongia sp.</td>
</tr>
<tr>
<td>Kid</td>
<td>Ungulata</td>
<td>Bovidae</td>
<td>Capra priscia.</td>
</tr>
<tr>
<td>Kinkajou</td>
<td>Carnivora</td>
<td>Procyonidae</td>
<td>Polos flavus.</td>
</tr>
<tr>
<td>Koala</td>
<td>Marsupialia</td>
<td>Phascolarctidae</td>
<td>Phascolarctos cinerus.</td>
</tr>
<tr>
<td>Kolinsky</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Mustela sibirica.</td>
</tr>
<tr>
<td>Lamb</td>
<td>Ungulata</td>
<td>Bovidae</td>
<td>Ovis aries.</td>
</tr>
<tr>
<td>Leopard</td>
<td>Carnivora</td>
<td>Felidae</td>
<td>Felis pardus.</td>
</tr>
<tr>
<td>Llama</td>
<td>do</td>
<td>do</td>
<td>Lama glama.</td>
</tr>
<tr>
<td>Lynx</td>
<td>Carnivora</td>
<td>Felidae</td>
<td>Lynx canadensis and Lynx lynx.</td>
</tr>
<tr>
<td>Marmot</td>
<td>Rodentia</td>
<td>Sciuridae</td>
<td>Marmota bobak.</td>
</tr>
<tr>
<td>Marten, American</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Martes americana and Martes caurina.</td>
</tr>
<tr>
<td>Marten, Baum</td>
<td>do</td>
<td>do</td>
<td>Martes martes.</td>
</tr>
<tr>
<td>Marten, Japanese</td>
<td>do</td>
<td>do</td>
<td>Martes melampus.</td>
</tr>
<tr>
<td>Marten, Stone</td>
<td>do</td>
<td>do</td>
<td>Martes foina.</td>
</tr>
<tr>
<td>Mink</td>
<td>do</td>
<td>do</td>
<td>Mustela vison and Mustela lutreola.</td>
</tr>
<tr>
<td>Mole</td>
<td>Insectivora</td>
<td>Talpidae</td>
<td>Taipia sp.</td>
</tr>
<tr>
<td>Monkey</td>
<td>Primates</td>
<td>Colobiidae</td>
<td>Colobus polykomos.</td>
</tr>
<tr>
<td>Muskrat</td>
<td>Rodentia</td>
<td>Muridae</td>
<td>Onidra zibethicus.</td>
</tr>
<tr>
<td>Nutria</td>
<td>do</td>
<td>Capromyidae</td>
<td>Myocastor coypus.</td>
</tr>
<tr>
<td>Ocelot</td>
<td>Carnivora</td>
<td>Felidae</td>
<td>Felis pardinai.</td>
</tr>
<tr>
<td>Opossum</td>
<td>Marsupialia</td>
<td>Didelphidae</td>
<td>Didelphis sp.</td>
</tr>
<tr>
<td>Opossum, Australian</td>
<td>do</td>
<td>do</td>
<td>Trichosurus vulgaris.</td>
</tr>
<tr>
<td>Opossum, Ring-tail</td>
<td>do</td>
<td>do</td>
<td>Pseudocheirrus sp.</td>
</tr>
<tr>
<td>Opossum, South American</td>
<td>do</td>
<td>do</td>
<td>Lutreolina crassicaudata.</td>
</tr>
</tbody>
</table>
Regulations

Source: 17 FR 6075, July 8, 1952, unless otherwise noted.

§ 301.1 Terms defined.

(a) As used in this part, unless the context otherwise specifically requires:


2. The terms rule, rules, regulations, and rules and regulations, mean the rules and regulations prescribed by the Commission pursuant to section 8 (b) of the act.

3. The definitions of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

4. The terms Fur Products Name Guide and Name Guide mean the register of names of hair fleece and fur bearing animals issued by the Commission on February 8, 1952, pursuant to the provisions of section 7 (a) of the act.

5. The terms required information and information required mean the information required to be disclosed on labels, invoices and in advertising under the act and rules and regulations, and such further information as may be permitted by the regulations, when and if used.

6. The term cat fur means the pelt or skin of any animal of the species Felis catus.

### NAME GUIDE—Continued

<table>
<thead>
<tr>
<th>Name</th>
<th>Order</th>
<th>Family</th>
<th>Genus-species</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opossum, Water</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Chironectes minimus.</td>
</tr>
<tr>
<td>Otter</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Lutra canadenensis, Pteronura brasiliensis, Lutra annectens and Lutra lutra.</td>
</tr>
<tr>
<td>Otter, Sea</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Enhydra lutris.</td>
</tr>
<tr>
<td>Pahmi</td>
<td>Rodentia</td>
<td>Sciuroidae</td>
<td>Alairus fulgens.</td>
</tr>
<tr>
<td>Panda</td>
<td>Rodentia</td>
<td>Sciuroidae</td>
<td>Procyonidae.</td>
</tr>
<tr>
<td>Peschanik</td>
<td>Rodentia</td>
<td>Sciuroidae</td>
<td>Citellus fulvus.</td>
</tr>
<tr>
<td>Pony</td>
<td>Ungulata</td>
<td>Equidae</td>
<td>Equus caballus.</td>
</tr>
<tr>
<td>Rabbit</td>
<td>Rodentia</td>
<td>Leporidae</td>
<td>Oryctolagus cuniculus.</td>
</tr>
<tr>
<td>Raccoon</td>
<td>Carnivora</td>
<td>Procyonidae</td>
<td>Procyon litor and Procyon cancrivorus.</td>
</tr>
<tr>
<td>Raccoon, Asiatic</td>
<td>Carnivora</td>
<td>Canidae</td>
<td>Nyctereutes procyonoidos.</td>
</tr>
<tr>
<td>Raccoon, Mexican</td>
<td>Carnivora</td>
<td>Canidae</td>
<td>Canis lupus and Canis niger.</td>
</tr>
<tr>
<td>Reindeer</td>
<td>Ungulata</td>
<td>Cervidae</td>
<td>Ovis aries.</td>
</tr>
<tr>
<td>Sable, American</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Martes americana and Martes caurina.</td>
</tr>
<tr>
<td>Seal, Fur</td>
<td>Pinnipedia</td>
<td>Otariidae</td>
<td>Callorhinus ursinus and Arctocephalus sp.</td>
</tr>
<tr>
<td>Seal, Har</td>
<td>Phocidae</td>
<td>Phocidae</td>
<td>Phoca sp.</td>
</tr>
<tr>
<td>Seal, Raco</td>
<td>Otariidae</td>
<td>Otaria favecens.</td>
<td></td>
</tr>
<tr>
<td>Sheep</td>
<td>Ungulata</td>
<td>Bovidae</td>
<td>Ovis aries.</td>
</tr>
<tr>
<td>Skunk</td>
<td>Prodromidae</td>
<td>Mustelidae</td>
<td>Mephitis mephitis, Mephitis macroura, Conepatus semistriatus and Conepatus semistriatus.</td>
</tr>
<tr>
<td>Skunk, Spotted</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Martes zibellina.</td>
</tr>
<tr>
<td>Squirrel</td>
<td>Rodentia</td>
<td>Sciuridae</td>
<td>Sciurus vulgaris.</td>
</tr>
<tr>
<td>Squirrel, Flying</td>
<td>Rodentia</td>
<td>Sciuridae</td>
<td>Eupetaurus cinereus, Pteromys volans and Petaurista leucogenys.</td>
</tr>
<tr>
<td>Suslik</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Citellus fulvus.</td>
</tr>
<tr>
<td>Vicuna</td>
<td>Ungulata</td>
<td>Camelidae</td>
<td>Vicugna vicugna.</td>
</tr>
<tr>
<td>Viscacha</td>
<td>Rodentia</td>
<td>Chinchillidae</td>
<td>Lignium viscacia.</td>
</tr>
<tr>
<td>Wallaby</td>
<td>Marsupialia</td>
<td>Macropodidae</td>
<td>Wallabia sp., Petrogale sp., and Thylogale sp.</td>
</tr>
<tr>
<td>Weasel</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Mustela frenata.</td>
</tr>
<tr>
<td>Weasel, Chinese</td>
<td>Rodentia</td>
<td>Mustelidae</td>
<td>Mustela ecaudata.</td>
</tr>
<tr>
<td>Weasel, Japanese</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Mustela itatsi (also classified as Mustela sibirica itatsi).</td>
</tr>
<tr>
<td>Weasel, Manchurian</td>
<td>Carnivora</td>
<td>Mustelidae</td>
<td>Mustela altaica and Mustela rixosa.</td>
</tr>
<tr>
<td>Wolf</td>
<td>Carnivora</td>
<td>Canidae</td>
<td>Canis lupus and Canis niger.</td>
</tr>
<tr>
<td>Wolverine</td>
<td>Rodentia</td>
<td>Mustelidae</td>
<td>Gulo luscus and Gulo gulo.</td>
</tr>
<tr>
<td>Wombat</td>
<td>Marsupialia</td>
<td>Vombatidae</td>
<td>Vombatidae.</td>
</tr>
<tr>
<td>Woodchuck</td>
<td>Rodentia</td>
<td>Sciuridae</td>
<td>Marmota monax.</td>
</tr>
</tbody>
</table>

(Secs. 7, 8, 65 Stat. 179; 15 U.S.C. 69e, 69f)

(7) The term dog fur means the pelt or skin of any animal of the species Canis familiaris.

(8) The term dog or cat fur product means any item of merchandise which consists, or is composed in whole or in part, of any dog fur, cat fur, or both.

(b) The term wearing apparel as used in the definition of a fur product in section 2(d) of the Act means (1) Any articles of clothing or covering for any part of the body; and (2) shall include any assembled furs, used furs, or waste furs, in attached form, including mats, plaited or garment shells or furs flat off the board, and furs which have been dyed, tip-dyed, bleached or artificially colored, intended for use as or in wearing apparel: Provided, however, That the provisions of section 4(2) of the Act shall not be applicable to those fur products set out in paragraph (b)(2) of this section.

§ 301.4 Abbreviations or ditto marks prohibited.

In disclosing required information in labeling and advertising, words or terms shall not be abbreviated or designated by the use of ditto marks but shall be spelled out fully, and in invoicing the required information shall not be abbreviated but shall be spelled out fully.

§ 301.5 Use of Fur Products Name Guide.

(a) The Fur Products Name Guide (§ 301.0 of this part) is set up in four columns under the headings of Name, Order, Family and Genus-Species. The applicable animal name appearing in the column headed “Name” shall be used in the required information in labeling, invoicing and advertising of fur products and furs. The scientific names appearing under the columns headed Order, Family, and Genus-Species are furnished for animal identification purposes and shall not be used.

(b) Where the name of the animal appearing in the Name Guide consists of two separate words the second word shall precede the first in designating the name of the animal in the required information; as for example: “Fox, Black” shall be disclosed as “Black Fox.”

§ 301.6 Animals not listed in Fur Products Name Guide.

(a) All furs are subject to the act and regulations regardless of whether the name of the animal producing the fur appears in the Fur Products Name Guide.

(b) Where fur is obtained from an animal not listed in the Fur Products Name Guide it shall be designated in the required information by the true English name of the animal or in the absence of a true English name, by the name which properly identifies such animal in the United States.

§ 301.7 Describing furs by certain breed names prohibited.

If the fur of an animal is described in any manner by its breed, species, strain or coloring, irrespective of former usage, such descriptive matter shall not contain the name of another animal either in the adjective form or
otherwise nor shall such description (subject to any exception contained in this part or animal names appearing in the Fur Products Name Guide) contain a name in an adjective form or otherwise which connotes a false geographic origin of the animal. For example, such designations as “Sable Mink,” “Chinchilla Rabbit,” and “Aleutian Mink” shall not be used.

§ 301.8 Use of terms “Persian Lamb,” “Broadtail Lamb,” and “Persian-broadtail Lamb” permitted.

(a) The term Persian Lamb may be used to describe the skin of the young lamb of the Karakul breed of sheep or top-cross breed of such sheep, having hair formed in knuckled curls.

(b) The term Broadtail Lamb may be used to describe the skin of the prematurely born, stillborn, or very young lamb of the Karakul breed of sheep or top-cross breed of such sheep, having flat light-weight fur with a moire pattern.

(c) The term Persian-broadtail Lamb may be used to describe the skin of the very young lamb of the Karakul breed of sheep or top-cross breed of such sheep, having hair formed in flattened knuckled curls with a moire pattern.

(d) The terms “Persian Lamb”, “Broadtail Lamb”, or “Persian-broadtail Lamb” shall not be used to describe: (1) The so-called Krimmer, Bessarabian, Rumanian, Shiraz, Salzfelle, Metis, Dubar, Meshed, Caracul, Iranian, Iraqi, Chinese, Mongolian, Chekiang, or Indian lamb skins, unless such lamb skins conform with the requirements set out in paragraph (a), (b), or (c) of this section respectively; or (2) any other lamb skins having hair in a wavy or open curl pattern.

§ 301.9 Use of terms “Mouton Lamb” and “Shearling Lamb” permitted.

(a) The term Mouton Lamb may be used to describe the skin of a lamb which has been sheared, the hair straightened, chemically treated, and thermally set to produce a moisture repellent finish; as for example:

Dyed Mouton Lamb

(b) The term Shearling Lamb may be used to describe the skin of a lamb which has been sheared and combed.


§ 301.10 Use of term “Broadtail-processed Lamb” permitted.

The term Broadtail-processed Lamb may be used to describe the skin of a lamb which has been sheared, leaving a moire hair pattern on the pelt having the appearance of the true fur pattern of “Broadtail Lamb”, as for example:

Dyed Broadtail-processed Lamb

Fur origin: Argentina

§ 301.11 Fictitious or non-existing animal designations prohibited.

No trade names, coined names, nor other names or words descriptive of a fur as being the fur of an animal which is in fact fictitious or non-existent shall be used in labeling, invoicing or advertising of a fur or fur product.

§ 301.12 Country of origin of imported furs.

(a)(1) In the case of furs imported into the United States from a foreign country, the country of origin of such furs shall be set forth as a part of the information required by the act in invoicing and advertising.

(2) In the case of fur products imported into the United States from a foreign country, or fur products made from furs imported into the United States from a foreign country, the country of origin of the furs contained in such products shall be set forth as a part of the information required by the act in labeling, invoicing and advertising.

(b) The term country means the political entity known as a nation. Colonies, possessions or protectorates outside the boundaries of the mother country shall be considered separate countries and the name thereof shall be deemed acceptable in designating the “country of origin” unless the Commission shall otherwise direct.

(c) The country in which the animal producing the fur was raised, or if in a feral state, was taken, shall be considered the “country of origin.”

(d) When furs are taken within the territorial waters of a country, such
country shall be considered the “country of origin.” Furs taken outside such territorial waters, or on the high seas, shall have as their country of origin the country having the nearest mainland.

(e)(1) The English name of the country of origin shall be used. Abbreviations which unmistakably indicate the name of a country, such as “Gt. Britain” for “Great Britain,” are acceptable. Abbreviations such as “N.Z.” for “New Zealand” are not acceptable.

(2) The name of the country of origin, when used as a part of the required information in labeling shall be preceded by the term fur origin; as for example:

Dyed Muskrat
Fur Origin: Russia

or

Dyed China Mink
Fur Origin: China

(3) In addition to the required disclosure of country of origin the name of the country may also appear in adjective form in connection with the name of the animal; as for example:

Tip-dyed Canadian American Sable
Fur Origin: Canada

or

Russian Sable
Fur Origin: Russia

(f) Nothing in this section shall be construed as limiting in any way the information required to be disclosed on labels under the provisions of any Tariff Act of the United States or regulations prescribed by the Secretary of the Treasury.

§ 301.13 Fur products having furs with different countries of origin.

When a fur product is composed of furs with different countries of origin the names of such countries shall be set forth in the required information in the order of predominance by surface areas of the furs in the fur product.

§ 301.14 Country of origin of used furs.

When the country of origin of used furs is unknown, and no representations are made directly or by implication with respect thereto, this fact shall be set out as a part of the required information in lieu of the country of origin as “Fur origin: Unknown.”

§ 301.15 Designation of section producing domestic furs permitted.

In the case of furs produced in the United States the name of the section or area producing the furs used in the fur product may be set out in connection with the name of the animal; as for example:

Dyed Fur Seal
Fur origin: Alaska

or

Dyed Muskrat
Fur origin: Minnesota

§ 301.16 Disclosure of origin of certain furs raised or taken in United States.

If the name of any animal set out in the Fur Products Name Guide or term permitted by the regulations to be used in connection therewith connotes foreign origin and such animal is raised or taken in the United States, furs obtained therefrom shall be described in disclosing the required information as having the United States as the country of origin; as for example:

Dyed Persian Lamb
Fur origin: United States

or

Mexican Raccoon
Fur origin: United States

§ 301.17 Misrepresentation of origin of furs.

No misleading nor deceptive statements as to the geographical or zoological origin of the animal producing a fur shall be used directly or indirectly in labeling, invoicing or advertising furs or fur products.

§ 301.18 Passing off domestic furs as imported furs prohibited.

No domestic furs nor fur products shall be labeled, invoiced or advertised in such a manner as to represent directly or by implication that they have been imported.

§ 301.19 Pointing, dyeing, bleaching or otherwise artificially coloring.

(a) Where a fur or fur product is pointed or contains or is composed of bleached, dyed or otherwise artificially
colored fur, such facts shall be disclosed as a part of the required information in labeling, invoicing and advertising.

(b) The term pointing means the process of inserting separate hairs into furs or fur products for the purpose of adding guard hairs, either to repair damaged areas or to simulate other furs.

(c) The term bleaching means the process for producing a lighter shade of a fur, or removing off-color spots and stains by a bleaching agent.

(d) The term dyeing (which includes the processes known in the trade of tip-dyeing the hair or fur, feathering, and beautifying) means the process of applying dyestuffs to the hair or fur, either by immersion in a dye bath or by application of the dye by brush, feather, spray, or otherwise, for the purpose of changing the color of the fur or hair, or to accentuate its natural color. When dyestuff is applied by immersion in a dye bath or by application of the dye by brush, feather, or spray, it may respectively be described as “vat dyed”, “brush dyed”, “feather dyed”, or “spray dyed”, as the case may be. When dyestuff is applied only to the ends of the hair or fur, by feather or otherwise, it may also be described as “tip-dyed”. The application of dyestuff to the leather or the skin (known in the trade as “tipping”, as distinguished from tip-dyeing the hair or fur as above described) and which does not affect a change of, nor accentuate the natural color of the hair or fur, shall not be considered as “dyeing”. When fluorescent dye is applied to a fur or fur product it may be described as “brightener added”.

(e) The term artificial coloring means any change or improvement in color of a fur or fur product in any manner other than by pointing, bleaching, dyeing, or tip-dyeing, and shall be described in labeling, invoicing and advertising as “color altered” or “color added”.

(f) The term blended shall not be used as a part of the required information to describe the pointing, bleaching, dyeing, tip-dyeing, or otherwise artificially coloring of furs.

(g) Where a fur or fur product is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored it shall be described as “natural”.

(h) Where any fur or fur product is dressed, processed or treated with a solution or compound containing any metal and such compound or solution effects any change or improvement in the color of the hair, fleece or fur fiber, such fur or fur product shall be described in labeling, invoicing and advertising as “color altered” or “color added”.

(i)(1) Any person dressing, processing or treating a fur pelt in such a manner that it is required under paragraph (e) or (h) of this section to be described as “color altered” or “color added” shall place a black stripe at least one half inch (1.27 cm) in width across the leather side of the skin immediately above the rump or place a stamp with a solid black center in the form of either a two inch (5.08 cm) square or a circle at least two inches (5.08 cm) in diameter on the leather side of the pelt and shall use black ink for all other stamps or markings on the leather side of the pelt.

(2) Any person dressing, processing or treating a fur pelt which after processing is considered natural under paragraph (g) of this section shall place a white stripe at least one half inch (1.27 cm) in width across the leather side of the skin immediately above the rump or place a stamp with a solid white center in the form of either a two inch (5.08 cm) square or a circle at least two inches (5.08 cm) in diameter on the leather side of the pelt and shall use white ink for all other stamps or markings on the leather side of the pelt.

(j) Where any fur or fur product is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored it shall be described as “natural”.

(k) Any person dressing, processing or treating a fur pelt in such a manner that it is considered dyed under paragraph (d) of this section shall place a yellow stripe at least one half inch (1.27 cm) in width across the leather side immediately above the rump or place a stamp with a solid yellow center in the form of either a two inch (5.08 cm) square or a circle at least two inches (5.08 cm) in diameter on the leather side of the pelt and shall use yellow ink for all other stamps or markings on the leather side of the pelt.

(l) In lieu of the marking or stamping otherwise required by paragraphs.
(i) (1), (2), and (3) of this section, any person dressing, processing or treating a fur pelt so as to be subject to the stamping or marking requirements of this paragraph may stamp the leather side of the pelt with the appropriate truthful designation “dyed”, “color altered”, “color added”, or “natural”, as the case may be, in such manner that the stamp will not be obliterated or mutilated by further processing and will remain clearly legible until the finished fur product reaches the ultimate consumer.

(5) Where, after assembling, fur garment shells, mats, plates or other assembled furs are processed or treated in such a manner as to fall within the stamping or marking provisions of this paragraph, such assembled furs, in lieu of the stamping or marking of each individual pelt or piece, may be appropriately stamped on the leather side as provided in this paragraph in such a manner that the stamp will remain on the finished fur product and clearly legible until it reaches the ultimate consumer and will not be mutilated or obliterated by further processing.

(j) Any person who shall process a fur pelt in such a manner that after such processing it is no longer considered as natural shall clearly, conspicuously and legibly stamp on the leather side of the pelt and on required invoices relating thereto a lot number or other identifying number which relates to such records of the processor as will show the source and disposition of the pelts and the details of the processing performed. Such person shall also stamp his name or registered identification number on the leather side of the pelt.

(k) Any person who possesses fur pelts of a type which are always considered as dyed under paragraph (d) of this section after processing or any person who processes fur pelts which are always natural at the time of sale to the ultimate consumer, which pelts for a valid reason cannot be marked or stamped as provided in this section, may file an affidavit with the Federal Trade Commission’s Bureau of Consumer Protection setting forth such facts as will show that the pelts are always dyed or natural as the case may be and that the stamping of such pelts cannot be reasonably accomplished. If the Bureau of Consumer Protection is satisfied that the public interest will be protected by the filing of the affidavit, it may accept such affidavit and advise the affiant that marking of the fur pelts themselves as provided in this section will be unnecessary until further notice. Any person filing such an affidavit shall promptly notify the Commission of any change in circumstances with respect to its operations.

(l) Any person subject to this section who incorrectly marks or fails to mark fur pelts as provided in paragraphs (i) and (j) of this section shall be deemed to have misbranded such products under section 4(l) of the Act. Any person subject to this section who furnishes a false or misleading affidavit under paragraph (k) of this section or fails to give the notice required by paragraph (k) of this section shall be deemed to have neglected and refused to maintain the records required by section 8(d) of the Act.

(1) In connection with paragraph (h) of this section, the following method may be used for detection of parts per million of iron and copper in hairs from fur pelts including mink pelts. Procedure for detection of parts per million of iron and copper in hairs from fur pelts including mink hairs.

(2) A recommended method for preparation of samples would be: Carefully pluck hair samples from 10 to 15 different representative sites on the pelt or garment. This can best be accomplished by using a long nose stainless steel pliers with a tip diameter of 1/16 inch (1.59 mm). The pliers should be inserted at the same angle as the guard hairs with the tip opened to 1/4 inch (6.35 mm). After contact with the hide, the tip should be raised about 1/4 inch (6.35 mm), closed tightly and pulled quickly and firmly to remove the hair.

(3) Place an accurately weighed sample of approximately .000 grams of mink hair into a beaker with 20 ml. concentrated nitric acid. Evaporate just to dryness on a hot plate.

(4) If there is any organic matter still present, add 10 ml. of concentrated nitric acid (see paragraph 7) and again evaporate just to dryness on a hot plate. This step should be repeated until the nitric acid solution becomes.
clear to light green. Add 10 ml. of 1% hydrochloric acid to the dried residue in the beaker. Warm on a hot plate to insure complete solution of the residue.

(5) A recommended analytical procedure would be atomic absorption spectrophotometry. In testing for iron, the atomic absorption instrument must have the capability of a 2 angstrom band pass at the 2483 A line. When analyzing for iron the air-acetylene flame should be as lean as possible.

(6) A reagent blank should be carried through the entire procedure as outlined above and the final results corrected for the amounts of iron and copper found in the reagent blank.

(7) If facilities are available for handling perchloric acid, a preferred alternate to the additional nitric acid treatment would be to add 2 ml. of perchloric acid and 8 ml. of nitric acid, cover the beaker with a watch glass and allow the solutions to become clear to light green before removal of the watch glass and evaporation just to dryness.

§ 301.20 Fur products composed of pieces.

(a) Where fur products, or fur mats and plates, are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces, or waste fur, such fact shall be disclosed as a part of the required information in labeling, invoicing and advertising. Where a fur product is made of the backs of skins such fact may be set out in labels, invoices and advertising.

(b) Where fur products, or fur mats and plates, are composed wholly or substantially of two or more of the parts set out in paragraph (a) of this section or one or more of such parts and other fur, disclosure in respect thereto shall be made by naming such parts or other fur in order of predominance by surface area.

(c) The terms substantial part and substantially mean ten per centum (10 percent) or more in surface area.

(d) The term assembled shall not be used in lieu of the terms set forth in paragraph (a) of this section to describe fur products or fur mats and plates composed of such parts.

§ 301.21 Disclosure of used furs.

(a) When fur in any form has been worn or used by an ultimate consumer it shall be designated “used fur” as a part of the required information in invoicing and advertising.

(b) When fur products or fur mats and plates are composed in whole or in part of used fur, such fact shall be disclosed as a part of the required information in labeling, invoicing and advertising; as for example:

Leopard Used Fur
or
Dyed Muskrat Contains Used Fur

§ 301.22 Disclosure of damaged furs.

(a) The term damaged fur, as used in this part, means a fur, which, because of a known or patent defect resulting from natural causes or from processing, is of such a nature that its use in a fur product would decrease the normal life and durability of such product.

(b) When damaged furs are used in a fur product, full disclosure of such fact shall be made as a part of the required information in labeling, invoicing, or advertising such product; as for example:

Mink Fur origin: Canada Contains Damaged Fur

§ 301.23 Second-hand fur products.

When a fur product has been used or worn by an ultimate consumer and is subsequently marketed in its original, reconditioned, or rebuilt form with or without the addition of any furs or used furs, the requirements of the act and regulations in respect to labeling, invoicing and advertising of such product shall be applicable thereto, subject, however, to the provisions of §301.14 of this part as to country of origin requirement, and in addition, as a part of the required information such product shall be designated “Second-hand”,
§ 301.24 Repairing, restyling and remodeling fur products for consumer.

When fur products owned by and to be returned to the ultimate-consumer are repaired, restyled or remodeled and used fur or fur is added thereto, labeling of the fur product shall not be required. However, the person adding such used fur or fur to the fur product, or who is responsible therefor, shall give to the owner an invoice disclosing the information required under the act and regulations respecting the used fur or fur added to the fur product, subject, however, to the provisions of §301.14 of this part as to country of origin requirements.

§ 301.25 Name required to appear on labels and invoices.

The name required by the act to be used on labels and invoices shall be the full name under which the person is doing business, and no trade-mark, trade name nor other name which does not constitute such full name shall be used in lieu thereof.

§ 301.26 Registered identification numbers.

(a) Registered numbers for use as the required identification in lieu of the name on fur product labels as provided in section 4(2)(E) of the act will be issued by the Commission to qualified persons residing in the United States upon receipt of an application duly executed in the form set out in paragraph (d) of this section.

(b)(1) Registered identification numbers shall be used only by the person or concern to whom they are issued, and such numbers are not transferable or assignable.

(2) Registered identification numbers shall be subject to cancellation if the Federal Trade Commission fails to receive prompt notification of any change in name, business address, or legal business status of a person or firm to whom a registered identification number has been assigned, by application duly executed in the form set out in paragraph (d) of this section, reflecting the current name, business address, and legal business status of the person or firm.

(3) Registered identification numbers shall be subject to cancellation whenever any such number was procured or has been used improperly or contrary to the requirements of the act and regulations, or when otherwise deemed necessary in the public interest.

(c) Registered identification numbers assigned under this rule may be used on labels required in labeling products subject to the provisions of the Wool Products Labeling Act and Textile Fiber Products Identification Act, and numbers previously assigned or to be assigned by the Commission under such Acts may be used as and for the required name in labeling under this Act. When so used by the person or firm to whom assigned, the use of the numbers shall be construed as identifying and binding the applicant as fully and in all respects as though assigned under the specific Act for which it is used.

(d) The form to apply for a registered identification number or to update information pertaining to an existing number is found in §303.20(d) of this chapter. The form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or on the Internet at http://www.ftc.gov.

§ 301.27 Label and method of affixing.

At all times during the marketing of a fur product the required label shall have a minimum dimension of one and three-fourths (1 ¾") inches by two and three-fourths (2 ¾") inches (4.5 cm × 7 cm). Such label shall be of a material of sufficient durability and shall be conspicuously affixed to the product in a secure manner and with sufficient permanency to remain thereon throughout the sale, resale, distribution and handling incident thereto, and shall remain on or be firmly affixed to the respective product when sold and delivered to the purchaser and purchaser-consumer thereof.

[61 FR 67710, Dec. 24, 1996]
§ 301.28 Labels to be avoided.

Labels which are insecurely or inconspicuously attached, or which in the course of offering the fur product for sale, selling, transporting, marketing, or handling incident thereto, are likely to become detached, indistinct, obliterated, illegible, mutilated, inaccessible or inconspicuous shall not be used.

§ 301.29 Requirements in respect to disclosure on label.

(a) The required information shall be set out on the label in a legible manner and in not smaller than pica or twelve (12) point type, and all parts of the required information shall be set out in letters of equal size and conspicuousness. All of the required information with respect to the fur product shall be set out on one side of the label and no other information shall appear on such side except the lot or style designation and size. The lot or style designation may include non-deceptive terms indicating the type of garment, color of fur, and brand name for fur. The other side of the label may be used to set out any nonrequired information which is true and non-deceptive and which is not prohibited by the Act and regulations, but in all cases the animal name used shall be that set out in the Name Guide.

(b) The required information may be set out in hand printing provided it conforms to the requirements of paragraph (a) of this section, and is set out in indelible ink in a clear, distinct, legible and conspicuous manner. Handwriting shall not be used in setting out any of the required information on the label.

§ 301.30 Arrangement of required information on label.

(a) The applicable parts of the information required with respect to the fur to appear on labels affixed to fur products shall be set out in the following sequence:

(1) That the fur product contains or is composed of natural, pointed, bleached, dyed, tip-dyed or otherwise artificially colored fur, when such is the fact;

(2) That the fur product contains fur which has been sheared, plucked, or letout, when such is the fact;

(3) That the fur contained in the fur product originated in a particular country (when so used the name of the country should be stated in the adjective form), when such is the fact;

(4) The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur;

(5) That the fur product is composed in whole of backs or in whole or in substantial part of paws, tails, bellies, sides flanks, gills, ears, throats, heads, scrap pieces, or waste fur, when such is the fact;

(6) The name of the country of origin of any imported furs used in the fur product;

(7) Any other information required or permitted by the Act and regulations with respect to the fur.

Note: The information set out in paragraphs (a) (2) and (3) of this section and the term backs set out in paragraph (a)(5) of this section are not mandatory, but when and if used, shall be set out in the sequence noted.

(b) That part of the required information with respect to the name or registered identification number of the manufacturer or dealer may precede or follow the required information set out in paragraph (a) of this section.

17 FR 6075, July 8, 1952, as amended at 26 FR 3187, Apr. 14, 1961

§ 301.31 Labeling of fur products consisting of two or more units.

(a) The label shall be attached to and appear upon each garment or separate article of wearing apparel subject to the act irrespective of whether two or more garments or articles may be sold or marketed together or in combination with each other.

(b) In the case of fur products manufactured for use in pairs or groups, only one label will be required if all units in the pair or group are of the same fur and have the same country of origin, and are firmly attached to each other when marketed and delivered in the channels of trade and to the purchaser-consumer and the information set out on the label is clearly applicable to
§ 301.32 Fur product containing material other than fur.

(a) Where a fur product contains a material other than fur the content of which is required to be disclosed on labels under other statutes administered by the Commission, such information may be set out on the same side of the label and in immediate conjunction with the information required under this Act; as for example:

100% Wool
Interlining—100% Recycled Wool
Trim—Dyed Muskrat
Fur Origin: Canada

or

Body: 100% Cotton
Lining: 100% Nylon
Collar: Dyed Mouton Lamb
Fur Origin: Argentina

(b) Information which may be desirable or necessary to fully inform the purchaser of other material content of a fur product may be set out on the same side of the label as used for disclosing the information required under the Act and rules and regulations; as for example:

Body—Leather
Trim—Dyed Mink

§ 301.33 Labeling of samples.

Where samples of furs or fur products subject to the act are used to promote or effect sales of fur products, said samples, as well as the fur products purchased therefrom, shall be labeled to show the information required under the act and regulations.

§ 301.34 Misbranded or falsely invoiced fur products.

(a) If a person subject to section 3 of the Act with respect to a fur product finds that a fur product is misbranded he shall correct the label or replace same with a substitute containing the required information.

(b) If a person subject to section 3 of the Act with respect to a fur or fur product finds that the invoice issued to him is false or deceptive, he shall, in connection with any invoice issued by him in relation to such fur or fur product correctly set forth all of the information required by the Act and regulations in relation to such fur or fur product.

[26 FR 3187, Apr. 14, 1961]

§ 301.35 Substitution of labels.

(a) Persons authorized under the provisions of section 3(e) of the act to substitute labels affixed to fur products may do so, provided the substitute label is complete and carries all the information required under the act and rules and regulations in the same form and manner as required in respect to the original label. The substitute label need not, however, show the name or registered number appearing on the original label if the name or registered number of the person who affixes the substitute appears thereon.

(b) The original label may be used as a substitute label provided the name or registered number of the person making the substitution, together with the item number or mark assigned by such person to said fur product for record purposes is inserted thereon without interfering with or obscuring in any manner other required information. In connection with such substitution the name or registered number as well as any record numbers appearing on the original label may be removed.

(c) Persons substituting labels under the provision of this section shall maintain the records required under § 301.41 of this part.

§ 301.36 Sectional fur products.

(a) Where a fur product is composed of two or more sections containing different animal furs the required information with respect to each section shall be separately set forth in labeling, invoicing or advertising; as for example:

Dyed Rabbit
Fur origin: France
Trimming: Dyed Mouton-processed Lamb
Fur origin: Argentina

or

Body: Dyed Kolinsky
Fur origin: Russia
Tail: Dyed Mink
Fur origin: Canada
(b) The provisions of this section shall not be interpreted so as to require the disclosure of very small amounts of different animal furs added to complete a fur product or skin such as the ears, snoot, or under part of the jaw.

§ 301.37 Manner of invoicing furs and fur products.

(a) In the invoicing of furs and fur products, all of the required information shall be set out in a clear, legible, distinct and conspicuous manner. The invoice shall be issued at the time of the sale or other transaction involving furs or fur products, but the required information need not be repeated in subsequent periodic statements of account respecting the same furs or fur products.

(b) Non-required information or representations appearing in the invoicing of furs and fur products shall in no way be false or deceptive nor include any names, terms or representations prohibited by the act and regulations. Nor shall such information or representations be set forth or used in such manner as to interfere with the required information.

§ 301.38 Advertising of furs and fur products.

(a)(1) In advertising furs or fur products, all parts of the required information shall be stated in close proximity with each other and, if printed, in legible and conspicuous type of equal size. (2) Non-required information or representations appearing in the advertising of furs and fur products shall in no way be false or deceptive nor include any names, terms or representations prohibited by the act and regulations. Nor shall such information or representations be set forth or used in such manner as to interfere with the required information.

(b)(1) In general advertising of a group of fur products composed in whole or in part of imported furs having various countries of origin, the disclosure of such countries of origin may, by reference, be made through the use of the following statement in the advertisement in a clear and conspicuous manner:

Fur products labeled to show country of origin of imported furs

(2) The provisions of this paragraph shall not be applicable in the case of catalogue, mail order, or other types of advertising which solicit the purchase of fur products in such a manner that the purchaser or prospective purchaser would not have the opportunity of viewing the product and attached label prior to delivery thereof.

(c) In advertising of an institutional type referring only to the general nature or kind of business conducted or to the general classification of the types or kinds of furs or fur products manufactured or handled, and which advertising is not intended to aid, promote, or assist directly or indirectly in the sale or offering for sale of any specific fur products or furs, the required information need not be set forth: Provided, however, That if reference is made in the advertisement to a color of the fur which was caused by dyeing, bleaching or other artificial coloring, such facts shall be disclosed in the advertising, and provided further, that when animal names are used in such advertising, such names shall be those set forth in the Fur Products Name Guide. For example, the kind of advertising contemplated by this paragraph is as follows:

X Fur Company
Famous for its Black Dyed Persian Lamb
Since 1900
or
X Company
Manufacturers of Fine Muskrat Coats, Capes and Stoles

§ 301.39 Exempted fur products.

(a) If the cost of any fur trim or other manufactured fur or furs contained in a fur product, exclusive of any costs incident to its incorporation therein, does not exceed one hundred fifty dollars ($150) to the manufacturer of the finished fur product, or if a manufacturer’s selling price of a fur product does not exceed one hundred fifty dollars ($150), and the provisions of paragraphs (b) and (c) of this section are met, the fur product shall be exempted from the requirements of the Act and regulations in this part; provided, however, that if the fur product is made of or contains any used fur, or if the fur product itself is or purports to be the whole skin of an animal with
§ 301.41 Maintenance of records.

(a) Pursuant to section 3(e) and section 8(d)(1), of the Act, each manufacturer or dealer in fur products or furs (including dressers, dyers, bleachers and processors), irrespective of whether any guaranty has been given or received, shall maintain records showing all of the required information relative to such fur products or furs in such manner as will readily identify each fur or fur product manufactured or handled. Such records shall show:

(1) That the fur product contains or is composed of natural, pointed, bleached, dyed, tip-dyed or otherwise artificially colored fur, when such is the fact;

(2) That the fur product contains used fur, when such is the fact;

(3) The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces, or waste fur, when such is the fact;

(5) The name of the country of origin of any imported furs used in the fur products;

§ 301.40 Item number or mark to be assigned to each fur product.

(a) For the purpose of identification, each fur product shall be assigned a separate item number or mark by the manufacturer thereof. Provided, however, That where all of the furs used in a group of fur products are obtained through the same purchase and from the same source and all of the required information with respect to such furs is identical, then a single item number or mark may be assigned to identify all of the fur products in such group. Each number or mark so assigned shall appear on the required label and invoice pertaining to such product and used for the identification thereof in the records required by § 301.41 of this part.

(b) Any subsequent dealer in fur products may assign to each fur product handled a different item number or mark to be used on the required label and invoice pertaining to such product, in lieu of that of the manufacturer or other supplier, and for the identification of such fur product in the records required by § 301.41 of this part.

VerDate Mar<15>2010 11:49 Mar 18, 2011 Jkt 223051 PO 00000 Frm 00237 Fmt 8010 Sfmt 8010 Y:\SGML\223051.XXX 223051erowe on DSK5CLS3C1PROD with CFR
§ 301.42 Deception as to nature of business.

When necessary to avoid deception, the name of any person other than the manufacturer of the fur product appearing on the label or invoice shall be accompanied by appropriate words showing that the fur product was not manufactured by such person; as for example:

Distributed by

or

Wholesalers

§ 301.43 Use of deceptive trade or corporate names, trademarks or graphic representations prohibited.

No person shall use in labeling, invoicing or advertising any fur or fur product a trade name, corporate name, trademark or other trade designation or graphic representation which misrepresents directly or by implication to purchasers, prospective purchasers or the consuming public:

(a) The character of the product including method of construction;
(b) The name of the animal producing the fur;
(c) The method or manner of distribution; or
(d) The geographical or zoological origin of the fur.

§ 301.44 Misrepresentation of prices.

(a) No person shall, with respect to a fur or fur product, advertise such fur or fur product at alleged wholesale prices or at alleged manufacturers cost or less, unless such representations are true in fact; nor shall any person advertise a fur or fur product at prices purported to be reduced from what are in fact fictitious prices, nor at a purported reduction in price when such purported reduction is in fact fictitious.

(b) No person shall, with respect to a fur or fur product, advertise such fur or fur product with comparative prices and percentage savings claims except on the basis of current market values or unless the time of such compared price is given.

(c) No person shall, with respect to a fur or fur product, advertise such fur or fur product as being “made to sell for”, being “worth” or “valued at” a certain price, or by similar statements, unless such claim or representation is true in fact.

(d) No person shall, with respect to a fur or fur product, advertise such fur or fur product as being of a certain value or quality unless such claims or representations are true in fact.

(e) Persons making pricing claims or representations of the types described in paragraphs (a), (b), (c) and (d) of this section shall maintain full and adequate records disclosing the facts upon which such claims or representations are based.

(f) No person shall, with respect to a fur or fur product, advertise such fur or fur product by the use of an illustration which shows such fur or fur product to be a higher priced product than the one so advertised.

(g) No person shall, with respect to a fur or fur product, advertise such fur or fur product as being “bankrupt stock”, “samples”, “show room models”, “Hollywood Models”, “Paris Models”, “French Models”, “Parisian Creations”, “Furs Worn by Society Women”, “Clearance Stock”, “Auction Stock”, “Stock of a business in a state of liquidation”, or similar statements, unless such representations or claims are true in fact.

§ 301.45 Representations as to construction of fur products.

(a) No misleading nor deceptive statements as to the construction of fur products shall be used directly or
indirectly in labeling, invoicing or advertising such products. (For example, a fur product made by the skin-on-skin method should not be represented as having been made by the letout method.)

(b) Where a fur product is made by the method known in the trade as letting-out, or is made of fur which has been sheared or plucked, such facts may be set out in labels, invoices and advertising.

§ 301.46 Reference to guaranty by Government prohibited.

No representation nor suggestion that a fur or fur product is guaranteed under the act by the Government, or any branch thereof, shall be made in the labeling, invoicing or advertising in connection therewith.

§ 301.47 Form of separate guaranty.

The following is a suggested form of separate guaranty under section 10 of the Act which may be used by a guarantor residing in the United States, on and as part of an invoice in which the merchandise covered is listed and specified and which shows the date of such document, the date of shipment of the merchandise and the signature and address of the guarantor:

We guarantee that the fur products or furs specified herein are not misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Fur Products Labeling Act and rules and regulations thereunder.

§ 301.48 Continuing guaranty filed with Federal Trade Commission.

(a) (1) Under section 10 of the Act any person residing in the United States and handling fur or fur products may file a continuing guaranty with the Federal Trade Commission. When filed with the Commission a continuing guaranty shall be fully executed in duplicate. Forms for use in preparing continuing guaranties shall be supplied by the Commission upon request.

(2) Continuing guaranties filed with the Commission shall continue in effect until revoked. The guarantor shall promptly report any change in business status to the Commission.

(3) The prescribed form for a continuing guaranty is found in § 303.38(b) of this chapter. The form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

(b) Any person who has a continuing guaranty on file with the Commission may, during the effective date of the guaranty, give notice of such fact by setting forth on the invoice or other paper covering the marketing or handling of the product guaranteed the following: “Continuing guaranty under the Fur Products Labeling Act filed with the Federal Trade Commission.”

(c) Any person who falsely represents in writing that he has a continuing guaranty on file with the Federal Trade Commission when such is not a fact shall be deemed to have furnished a false guaranty under section 10(b) of the Act.

§ 301.48a Guaranties not received in good faith.

A guaranty shall not be deemed to have been received in good faith within the meaning of section 10(a) of the Act:

(a) Unless the recipient of such guaranty shall have examined the required label, required invoice and advertisement relating to the fur product or fur so guaranteed;

(b) If the recipient of the guaranty has knowledge that the fur or fur product guaranteed is misbranded, falsely invoiced or falsely advertised.

§ 301.49 Deception in general.

No furs nor fur products shall be labeled, invoiced, or advertised in any manner which is false, misleading or deceptive in any respect.
§ 303.1 Terms defined.

As used in this part, unless the context otherwise specifically requires:


(b) The terms rule, rules, regulations, and rules and regulations mean the rules and regulations prescribed by the Commission pursuant to section 7(c) of the Act.

(c) The definition of terms contained in section 2 of the Act shall be applicable also to such terms when used in rules promulgated under the Act.

(d) The term United States means the several States, the District of Columbia, and the Territories and possessions of the United States.

(e) The terms required information and information required mean such information as is required to be disclosed on labels or invoices and in advertising under the Act and regulations.

(f) The terms label, labels, labeled, and labeling mean the stamp, tag, label, or other means of identification, or authorized substitute therefor, required to be on or affixed to textile fiber products by the Act and regulations and on which the information required is to appear.

(g) The terms marketing or handling and marketed or handled, when applied to textile fiber products, mean any one or all of the transactions set forth in section 3 of the Act.

(h) The terms invoice and invoice or other paper mean an account, order, memorandum, list, or catalog, which is issued to a purchaser, consignee, baillee, correspondent, agent, or any other person, in writing or in some other form capable of being read and preserved in a tangible form, in connection with the marketing or handling of any textile fiber product transported or delivered to such person.

(i) The term outer coverings of furniture, mattresses, and box springs means those coverings as are permanently incorporated in such articles.

AUTHORITY: 15 U.S.C. 70 et seq.

SOURCE: 24 FR 4480, June 2, 1959, unless otherwise noted.
(j) The term wearing apparel means any costume or article of clothing or covering for any part of the body worn or intended to be worn by individuals.

(k) The term beddings means sheets, covers, blankets, comforters, pillows, pillowcases, quilts, bedspreads, pads, and all other textile fiber products used or intended to be used on or about a bed or other place for reclining or sleeping but shall not include furniture, mattresses or box springs.

(l) The term headwear means any textile fiber product worn exclusively on or about the head or face by individuals.

(m) The term backings, when applied to floor coverings, means that part of a floor covering to which the pile, face, or outer surface is woven, tufted, hooked, knitted, or otherwise attached, and which provides the structural base of the floor covering. The term backing shall also include fabrics attached to the structural base of the floor covering in such a way as to form a part of such structural base, but shall not include the pile, face, or outer surface of the floor covering or any part thereof.

(n) The term elastic material means a fabric composed of yarn consisting of an elastomer or a covered elastomer.

(o) The term coated fabric means any fabric which is coated, filled, impregnated, or laminated with a continuous-film-forming polymeric composition in such a manner that the weight added to the base fabric is at least 35 percent of the weight of the fabric before coating, filling, impregnation, or lamina-

(p) The term upholstered product means articles of furniture containing stuffing and shall include mattresses and box springs.

(q) The term ornamentation means any fibers or yarns imparting a visibly discernible pattern or design to a yarn or fabric.

(r) The term fiber trademark means a word or words used by a person to identify a particular fiber produced or sold by him and to distinguish it from fibers of the same generic class produced or sold by others. Such term shall not include any trade mark, product mark, house mark, trade name or other name which does not identify a particular fiber.

(s) The term wool means the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat (and may include the so-called specialty fibers from the hair of the camel, alpaca, llama, and vicuna) which has never been reclaimed from any woven or felted wool product.

(t) The term recycled wool means (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, or (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(u) The terms mail order catalog and mail order promotional material mean any materials, used in the direct sale or direct offering for sale of textile products, that are disseminated to ultimate consumers in print or by electronic means, other than by broadcast, and that solicit ultimate consumers to purchase such textile products by mail, telephone, electronic mail, or some other method without examining the actual product purchased.


§ 303.2 General requirements.

(a) Each textile fiber product, except those exempted or excluded under section 12 of the Act, shall be labeled or invoiced in conformity with the requirements of the Act and regulations.

(b) Any advertising of textile fiber products subject to the Act shall be in conformity with the requirements of the Act and regulations.


(d) Any person marketing or handling textile fiber products who shall cause or direct a processor or finisher to label, invoice, or otherwise identify any textile fiber product with required information shall be responsible under...
§ 303.3 Fibers present in amounts of less than 5 percent.

(a) Except as permitted in sections 4(b)(1) and 4(b)(2) of the Act, as amended, no fiber present in the amount of less than 5 percent of the total fiber weight shall be designated by its generic name or fiber trademark in disclosing the constituent fibers in required information, but shall be designated as “other fiber.” When more than one of such fibers are present in a product, they shall be designated in the aggregate as “other fibers.” Provided, however, that nothing in this section shall be construed as prohibiting the disclosure of any fiber present in a textile fiber product which has a clearly established and definite functional significance when present in the amount contained in such product, as for example:

96 percent Acetate
4 percent Spandex.

(b) In making such disclosure, all of the provisions of the Act and regulations in this part setting forth the manner and form of disclosure of fiber content information, including the provisions of §§303.17 and 303.41 of this part relating to the use of generic names and fiber trademarks, shall be applicable.

[83 FR 7518, Feb. 13, 1998]

§ 303.4 English language requirement.

All required information shall be set out in the English language. If the required information appears in a language other than English, it also shall appear in the English language. The provisions of this section shall not apply to advertisements in foreign language newspapers or periodicals, but such advertising shall in all other respects comply with the Act and regulations.

§ 303.5 Abbreviations, ditto marks, and asterisks prohibited.

(a) In disclosing required information, words or terms shall not be designated by ditto marks or appear in footnotes referred to by asterisks or other symbols in required information, and shall not be abbreviated except as permitted in §303.33(e) of this part.

(b) Where the generic name of a textile fiber is required to appear in immediate conjunction with a fiber trademark in advertising, labeling, or invoicing, a disclosure of the generic name by means of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the fiber trademark, shall not be sufficient in itself to constitute compliance with the Act and regulations.


§ 303.6 Generic names of fibers to be used.

(a) Except where another name is permitted under the Act and regulations, the respective generic names of all fibers present in the amount of 5 per centum or more of the total fiber weight of the textile fiber product shall be used when naming fibers in the required information; as for example: “cotton,” “rayon,” “silk,” “linen,” “nylon,” etc.

(b) Where a textile fiber product contains the hair or fiber of a fur-bearing animal present in the amount 5 per centum or more of the total fiber weight of the product, the name of the animal producing such fiber may be used in setting forth the required information, provided the name of such animal is used in conjunction with the words “fiber,” “hair,” or “blend,” as for example:

80 percent Rabbit hair.
20 percent Nylon.
or
80 percent Silk.
20 percent Mink fiber.

(c) The term fur fiber may be used to describe the hair or fur fiber or mixtures thereof of any animal or animals other than the sheep, lamb, Angora goat, Cashmere goat, camel, alpaca, llama or vicuna where such hair or fur fiber or mixture is present in the
Federal Trade Commission

§ 303.7

amount of 5 per centum or more of the total fiber weight of the textile fiber product and no direct or indirect representations are made as to the animal or animals from which the fiber so designated was obtained; as for example:

60 percent Cotton.
40 percent Fur fiber.
or
50 percent Nylon.
30 percent Mink hair.
20 percent Fur fiber.

(d) Where textile fiber products subject to the Act contain (1) wool or (2) recycled wool in amounts of five per centum or more of the total fiber weight, such fibers shall be designated and disclosed as wool or recycled wool as the case may be.

[24 FR 4480, June 2, 1959, as amended at 45 FR 44263, July 1, 1980]

§ 303.7 Generic names and definitions for manufactured fibers.

Pursuant to the provisions of section 7(c) of the Act, the Commission hereby establishes the generic names for manufactured fibers, together with their respective definitions, set forth in this section, and the generic names for manufactured fibers, together with their respective definitions, set forth in International Organization for Standardization ISO 2076: 1999(E), "Textiles—Man-made fibres—Generic names." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American National Standards Institute, 11 West 42nd St., 13th floor, New York, NY 10036. Copies may be inspected at the Federal Trade Commission, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(a) Acrylic. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85 percent by weight of acrylonitrile units

\[ \text{CN} \]

(b) Modacrylic. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of less than 85 percent but at least 35 percent by weight of acrylonitrile units

\[ \text{(-CH}_2\text{-CH\text{-CN)}} \]

except fibers qualifying under paragraph (j)(2) of this section and fibers qualifying under paragraph (q) of this section. (Sec. 7, 72 Stat. 1717; 15 U.S.C. section 70e)

(c) Polyester. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85 percent by weight of an ester of a substituted aromatic carboxylic acid, including but not restricted to substituted terephthalate units,

\[ \text{p}(-\text{R-O-C-C\text{6H}_4-C\text{-O-}}) \text{O} \text{O} \]

and para substituted hydroxy-benzoate units,

\[ \text{p}(-\text{R-O-C\text{6H}_4-C\text{-O-}}) \text{O} \]

(1) Where the fiber is formed by the interaction of two or more chemically distinct polymers (of which none exceeds 85% by weight), and contains ester groups as the dominant functional unit (at least 85% by weight of the total polymer content of the fiber), and which, if stretched at least 100%, durably and rapidly reverts substantially to its unstretched length when the tension is removed, the term elasterell-p may be used as a generic description of the fiber.

(2) Where the glycol used to form the ester consists of at least ninety mole percent 1,3-propanediol, the term
§ 303.7

“triexta” may be used as a generic description of the fiber.

(d) Rayon. A manufactured fiber composed of regenerated cellulose, as well as manufactured fibers composed of regenerated cellulose in which substituents have replaced not more than 15% of the hydrogens of the hydroxyl groups. Where the fiber is composed of cellulose precipitated from an organic solution in which no substitution of the hydroxyl groups takes place and no chemical intermediates are formed, the term lyocell may be used as a generic description of the fiber.

(e) Acetate. A manufactured fiber in which the fiber-forming substance is cellulose acetate. Where not less than 92 percent of the hydroxyl groups are acetylated, the term triacetate may be used as a generic description of the fiber.

(f) Saran. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 90 percent by weight of vinylidene chloride units (–CH2–CCl2–).

(g) Azlon. A manufactured fiber in which the fiber-forming substance is composed of any regenerated naturally occurring proteins.

(h) Nylom. A manufactured fiber containing at least 85 percent of a long chain polymer of vinylidene dinitrile (–CH2–C(CN)2–) where the vinylidene dinitrile content is no less than every other unit in the polymer chain.

(i) Nylom. A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polyamide in which less than 85 percent of the amide linkages are attached directly to two aromatic rings.

(j) Rubber. A manufactured fiber in which the fiber-forming substance is comprised of natural or synthetic rubber, including the following categories:

(1) A manufactured fiber in which the fiber-forming substance is a hydrocarbon such as natural rubber, polyisoprene, polybutadiene, copolymers of dienes and hydrocarbons, or amorphous (noncrystalline) polyolefins.

(2) A manufactured fiber in which the fiber-forming substance is a copolymer of acrylonitrile and a diene (such as butadiene) composed of not more than 50 percent by weight of acrylonitrile units

\[ \text{–CH2–CH–} \]

CN

The term lastri le may be used as a generic description for fibers falling within this category.

(3) A manufactured fiber in which the fiber-forming substance is a polychloroprene or a copolymer of chloroprene in which at least 35 percent by weight of the fiber-forming substance is composed of chloroprene units

\[ \text{–CH2–C–CH2–} \]

Cl

(k) Spandex. A manufactured fiber in which the fiber-forming substance is a long chain synthetic polymer comprised of at least 85 percent of a segmented polyurethane.

(l) Vinal. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 50 percent by weight of vinyl alcohol units (–CH2–CHOH–), and in which the total of the vinyl alcohol units and any one or more of the various acetel units is at least 85 percent by weight of the fiber.

(m) Olefin. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85 percent by weight of ethylene, propylene, or other olefin units, except amorphous (noncrystalline) polyolefins qualifying under paragraph (j)(1) of this section [Rule 7]. Where the fiber-forming substance is a cross-linked synthetic polymer, with low but significant crystallinity, composed of at least 95 percent by weight of ethylene and at least one other olefin unit, and the fiber is substantially elastic and heat resistant, the
term lastol may be used as a generic description of the fiber.

(n) Vinyon. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85 percent by weight of vinyl chloride units (–CH₂–CHCl—).

(o) Metallic. A manufactured fiber composed of metal, plastic-coated metal, metal-coated plastic, or a core completely covered by metal.

(p) Glass. A manufactured fiber in which the fiber-forming substance is glass.

(q) Anidex. A manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 50 percent by weight of one or more esters of a monohydric alcohol and acrylic acid, CH₂=CH—COOH.

(r) Novoloid. A manufactured fiber containing at least 85 percent by weight of a cross-linked novolac.

(s) Aramid. A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polyamide in which at least 85 percent of the amide

\[
\begin{align*}
&\text{C–NH–O} \\
&\text{linkages are attached directly to two aromatic rings.}
\end{align*}
\]

(t) Sulfar. A manufactured fiber in which the fiber-forming substance is a long-chain aromatic polymer having reoccurring imidazole groups as an integral part of the polymer chain.

(u) PBI. A manufactured fiber in which the fiber-forming substance is a long chain aromatic polymer having reoccurring imidazole groups as an integral part of the polymer chain.

(v) Elastoester. A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polymer composed of at least 50% by weight of aliphatic polyether and at least 35% by weight of polyester, as defined in 16 CFR 303.7.(c).

(w) Melamine. A manufactured fiber in which the fiber-forming substance is a synthetic polymer composed of at least 50% by weight of a cross-linked melamine polymer.

(x) Fluoropolymer. A manufactured fiber containing at least 95% of a long-chain polymer synthesized from aliphatic fluorocarbon monomers.

(y) PLA. A manufactured fiber in which the fiber-forming substance is composed of at least 65% by weight of lactic acid ester units derived from naturally occurring sugars.

(Sec. 6, 72 Stat. 1717; 15 U.S.C. 70e) [24 FR 3480, June 2, 1959; 24 FR 5737, July 17, 1959]

EDITORIAL NOTE: For Federal Register citations affecting §303.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 303.8 Procedure for establishing generic names for manufactured fibers.

(a) Prior to the marketing or handling of a manufactured fiber for which no generic name has been established or otherwise recognized by the Commission, the manufacturer or producer thereof shall file a written application with the Commission, requesting the establishment of a generic name for such fiber, stating therein:

(1) The reasons why the applicant’s fiber should not be identified by one of the generic names established by the Commission in §303.7 of this part;

(2) The chemical composition of the fiber, including the fiber-forming substances and respective percentages thereof, together with samples of the fiber;

(3) Suggested names for consideration as generic, together with a proposed definition for the fiber;

(4) Any other information deemed by the applicant to be pertinent to the application, including technical data in the form of test methods;

(5) The earliest date on which the application proposes to market or handle the fiber in commerce for other than developmental or testing purposes.

(b) Upon receipt of the application, the Commission will, within sixty (60) days, either deny the application or assign to the fiber a numerical or alphabetical symbol for temporary use during further consideration of such application.
§ 303.9 Use of fur-bearing animal names and symbols prohibited.

(a) The advertising or the labeling of a textile fiber product shall not contain any names, words, depictions, descriptive matter, or other symbols which connote or signify a fur-bearing animal, unless such product or the part thereof in connection with which the names, words, depictions, descriptive matter, or other symbols are used is a fur product within the meaning of the Fur Products Labeling Act.

(b) Subject to the provisions of paragraph (a) of this section and §303.6 of this part, a textile fiber product shall not be described or referred to in any manner in an advertisement or label with:

(1) The name or part of the name of a fur-bearing animal, whether as a single word or a combination word, or any coined word which is phonetically similar to a fur-bearing animal name, or which is only a slight variation in spelling of a fur-bearing animal name or part of the name. As for example, such terms as “Ermine,” “Mink,” “Persian,” “Broadtail,” “Beaverton,” “Marmink,” “Sablelon,” “Lam,” “Pershian,” “Minx,” or similar terms shall not be used.

(2) Any word or name symbolic of a fur-bearing animal by reason of conventional usage or by reason of its close relationship with fur-bearing animals. As for example, such terms as “guardhair,” “underfur,” and “mutation,” or similar terms, shall not be used.

(c) Nothing contained herein shall prevent:

(1) The nondeceptive use of animal names or symbols in referring to a textile fiber product where the fur of such animal is not commonly or commercially used in fur products, as that term is defined in the Fur Products Labeling Act, as for example “kitten soft”, “Bear Brand”, etc.

(2) The nondeceptive use of a trademark or trade name containing the name, symbol, or depiction of a fur-bearing animal unless:

(i) The textile fiber product in connection with which such trademark or trade name is used simulates a fur or fur product; or

(ii) Such trademark or trade name is used in any advertisement of a textile fiber product together with any depiction which has the appearance of a fur or fur product; or

(iii) The use of such trademark or trade name is prohibited by the Fur Products Labeling Act.


§ 303.10 Fiber content of special types of products.

(a) Where a textile product is made wholly of elastic yarn or material, with minor parts of non-elastic material for structural purposes, it shall be identified as to the percentage of the elastomer, together with the percentage of all textile coverings of the elastomer and all other yarns or materials used therein.

Where a textile fiber product is made in part of elastic material and in part of other fabric, the fiber content of such fabric shall be set forth sectionally by percentages as in the case of other fabrics. In such cases the elastic material may be disclosed by describing the material as elastic followed by a listing in order of predominance by weight of the fibers used in such elastic, including the elastomer, where such fibers are present by 5 per centum or more with the designation “other fiber” or “other fibers” appearing last when fibers required to be so designated are present. An example of labeling under this paragraph is:

Front and back non-elastic sections:

50 percent Acetate.
50 percent Cotton.
Elastic: Rayon, cotton, nylon, rubber.

(b) Where drapery or upholstery fabrics are manufactured on hand-operated looms for a particular customer after the sale of such fabric has been consummated, and the amount of the
Federal Trade Commission § 303.12

order does not exceed 100 yards (91.44 m) of fabric, the required fiber content disclosure may be made by listing the fibers present in order of predominance by weight with any fiber or fibers required to be designated as "other fiber" or "other fibers" appearing last, as for example:

Rayon
Wool
Acetate
Metallic
Other fibers

(c)(1) Where a manufactured textile fiber is essentially a physical combination or mixture of two or more chemically distinct constituents or components combined at or prior to the time of extrusion, which components if separately extruded would each fall within different existing definitions of textile fibers as set forth in §303.7 of this part (Rule 7), the fiber content disclosure as to such fiber, shall for all purposes under the regulations in this part

(i) Disclose such fact in the required fiber content information by appropriate nondeceptive descriptive terminology, such as "biconstituent fiber" or "multiconstituent fiber."

(ii) Set out the components contained in the fiber by the appropriate generic name specified in §303.7 of this part (Rule 7) in the order of their predominance by weight, and

(iii) Set out the respective percentages of such components by weight.

(2) If the components of such fibers are of a matrix-fibril configuration, the term matrix-fibril fiber or matrix fiber may be used in setting forth the information required by this paragraph.

(3) Examples of proper fiber content designations under this paragraph are:

100% Biconstituent Fiber
(65% Nylon, 35% Polyester)
80% Matrix Fiber (60% Nylon, 40% Polyester)
15% Polyester
5% Rayon

(4) All of the provisions as to fiber content disclosures contained in the Act and regulations, including the provisions relative to fiber content tolerances and disclosures of fibers present in amounts of less than 5 percentum of the total fiber weight, shall also be applicable to the designations and disclosures prescribed by this paragraph.


§ 303.11 Floor coverings containing backings, fillings, and paddings.

In disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, the disclosure shall be made in such manner as to indicate that it relates only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding. Examples of the form of marking these types of floor coverings as to fiber content are as follows:

100% Cotton Pile
Face—60% Rayon, 40% Cotton
Outer Surface—100% Wool

§ 303.12 Trimmings of household textile articles.

(a) Trimmings incorporated in articles of wearing apparel and other household textile articles may, among other forms of trim, include: (1) Rickrack, tape, belting, binding, braid, labels (either required or non-required), collars, cuffs, wrist bands, leg bands, waist bands, gussets, gores, welts, and findings, including superimposed garters in hosiery, and elastic materials and threads inserted in or added to the basic product or garment in minor proportion for holding, reinforcing or similar structural purposes; (2) decorative trim, whether applied by embroidery, overlay, applique, or attachment; and (3) decorative patterns or designs which are an integral part of the fabric out of which the household textile article is made: Provided, That such decorative trim or decorative pattern or design, as specified in paragraphs (a) (2) and (3) of this section, does not exceed 15 percent of the surface area of the household textile article. If no representation is made as to the fiber content of the decorative trim or decoration, as provided for in paragraphs (a) (2) and (3) of this section, the fiber content designation of the basic fabric shall be followed by the statement "exclusive of decoration."
§ 303.13 Sale of remnants and products made of remnants.

(a) In disclosing the required fiber content information as to remnants of fabric which are for practical purposes of unknown or undeterminable fiber content:

(1) The fiber content disclosure of such remnants of fabrics may be designated in the required information as “remnants of undetermined fiber content.”

(2) Where such remnants of fabrics are displayed for sale at retail, a conspicuous sign may, in lieu of individual labeling, be used in immediate conjunction with such display, stating with respect to required fiber content disclosure that the goods are “remnants of undetermined fiber content.”

(3) Where textile fiber products are made of such remnants, the required fiber content information of the products may be disclosed as “made of remnants of undetermined fiber content.”

(b) Where remnants of fabrics are marketed or handled in bales, bundles, or packages and are all of the same fiber content or are designated in the manner permitted by paragraph (a) of this section, the individual remnants need not be labeled if the bales, bundles, or packages containing such remnants are labeled with the required information including fiber content percentages or the designation permitted by paragraph (a) of this section.

(c) Where remnants of fabrics of the same fiber content are displayed for sale at retail, a conspicuous sign may, in lieu of individual labeling, be used in immediate conjunction with such display, stating the fiber content information with respect to such remnants; as for example: “remnants, 100 percent cotton,” “remnants, 50 percent rayon, 50 percent acetate,” etc.

§ 303.14 Products containing unknown fibers.

(a) Where a textile fiber product is made from miscellaneous scraps, rags, odd lots, secondhand materials, textile by-products, or waste materials of unknown, and for practical purposes, undeterminable fiber content, the required fiber content disclosure may, when truthfully applicable, in lieu of the fiber content disclosure otherwise required by the Act and regulations, indicate that such product is composed of miscellaneous scraps, rags, odd lots, textile by-products, secondhand materials (in case of secondhand materials, words of like import may be used) or waste materials, as the case may be, of unknown or undetermined fiber content, as for example:

Made of miscellaneous scraps of undetermined fiber content
100% unknown fibers—rags
All undetermined fibers—textile by-products
100% miscellaneous odd lots of undetermined fiber content
Secondhand materials—fiber content unknown
Made of unknown fibers—waste materials

(b) Where a textile fiber product is made in part from miscellaneous scraps, rags, odd lots, textile by-products, second-hand materials or waste materials of unknown and, for practical purposes, undeterminable fiber content together with a percentage of known or determinable fibers, the required fiber content disclosure may, when truthfully applicable, in lieu of the fiber content disclosure otherwise required by the Act and regulations, indicate the percentage of miscellaneous scraps, rags, odd lots, textile by-products, or waste materials of unknown or undetermined fiber content and the percentage of known fibers, as for example:

45% Rayon
30% Acetate
25% Miscellaneous scraps of undetermined fiber content.
§ 303.16 Arrangement and disclosure of information on labels.

(a) Subject to the provisions of §303.15(b), information required by the Act and regulations in this part may appear on any label or labels attached to the textile fiber product, including the care label required by 16 CFR part 205.
§ 303.17 Use of fiber trademarks and generic names on labels.

(a) A non-deceptive fiber trademark may be used on a label in conjunction with the generic name of the fiber to which it relates. Where such a trademark is placed on a label in conjunction with the required information, the generic name of the fiber must appear in immediate conjunction therewith, and such trademark and generic name must appear in type or lettering of equal size and conspicuousness.

(b) Where a generic name or a fiber trademark is used on any label, whether required or non-required, a full and complete fiber content disclosure shall be made in accordance with the Act and regulations the first time the generic name or fiber trademark appears on the label.

(c) If a fiber trademark is not used in the required information, but is used elsewhere on the label as non-required information, the generic name of the fiber shall accompany the fiber trademark in legible and conspicuous type or lettering the first time the trademark is used.

(d) No fiber trademark or generic name shall be used in non-required information on a label in such a manner as to be false, deceptive, or misleading as to fiber content, or to indicate directly or indirectly that a textile fiber product is composed wholly or in part of a particular fiber, when such is not the case.

§ 303.18 Terms implying fibers not present.

Words, coined words, symbols or depictions, (a) which constitute or imply the name or designation of a fiber which is not present in the product, (b) which are phonetically similar to the name or designation of such a fiber, or (c) which are only a slight variation of spelling from the name or designation of such a fiber shall not be used in such a manner as to represent or imply that such fiber is present in the product.

§ 303.19 Name or other identification required to appear on labels.

(a) The name required by the Act to be used on labels shall be the name...
Federal Trade Commission

§ 303.20 Registered identification numbers.

(a) Registered numbers for use as the required identification in lieu of the name on textile fiber product labels, as provided in section 4(b)(3) of the Act, will be issued by the Commission to qualified persons residing in the United States upon receipt of an application duly executed in the form set out in paragraph (d) of this section.

(b)(1) Registered identification numbers shall be used only by the person or concern to whom they are issued, and such numbers are not transferable or assignable.

(2) Registered identification numbers shall be subject to cancellation whenever any such number was procured or has been used improperly or contrary to the requirements of the Acts administered by the Federal Trade Commission, and regulations promulgated thereunder, or when otherwise deemed necessary in the public interest.

(3) Registered identification numbers shall be subject to cancellation if the Commission fails to receive prompt notification of any change in name, business address, or legal business status of a person or firm to whom a registered identification number has been assigned, by application duly executed in the form set out in paragraph (d) of this section, reflecting the current name, business address, and legal business status of the person or firm.

(c) Registered identification numbers assigned under this section may be used on labels required in labeling products subject to the provisions of the Wool Products Labeling Act and Fur Products Labeling Act, and numbers previously assigned by the Commission under such Acts may be used as and for the required name in labeling under this Act. When so used by the person or firm to whom assigned, the use of the numbers shall be construed as identifying and binding the applicant as fully and in all respects as though assigned under the specific Act for which it is used.

(d) Form to apply for a registered identification number or to update information pertaining to an existing number (the form is available upon request from: Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, or on the Internet at http://www.ftc.gov; application may also be made directly on the Internet):
APPLICATION FOR A REGISTERED IDENTIFICATION NUMBER ("RN")

<table>
<thead>
<tr>
<th>DATE ISSUED:</th>
<th>DATE UPDATED:</th>
<th>RN:</th>
</tr>
</thead>
</table>

1. PURPOSE OF APPLICATION: (Both new applicants and update applicants must complete all entries on this form)
- [ ] APPLY FOR A NEW RN
- [ ] UPDATE INFORMATION ON AN EXISTING RN OR WPL NUMBER. ENTER EXISTING RN OR WPL NUMBER

2. LEGAL NAME OF APPLICANT FIRM. (Note: Proprietorships, please provide full legal name of the person who is the proprietor)

3. NAME UNDER WHICH APPLICANT DOES BUSINESS. (Only if different from legal name)

4. TYPE OF COMPANY. (If "OTHER" is checked, please state the type of company)

5. ADDRESS OF PRINCIPAL OFFICE OR PLACE OF BUSINESS. (Include zip code. Address must be actual location where business is conducted in the U.S. An additional mailing address or PO Box address may also be listed, if desired)

6. TYPE OF BUSINESS. (Mark all that apply)

7. LIST OF PRODUCTS. (To qualify for an RN, a company must be engaged in the importation, manufacturing, selling or other marketing of at least one (1) product line subject to the Textile, Wool or Fur Act)

8. CERTIFICATION

By filing this form with the Federal Trade Commission, the company named above applies for a registered number to use on labels required by one or more of the following acts: the Textile Fiber Products Identification Act (15 U.S.C. §770-78), the Wool Products Labeling Act (15 U.S.C. §§69-69g), or the Fur Products Labeling Act (15 U.S.C. §§69-69g). The company official (proprietor, partner, or corporate officer) listed below verifies that the information supplied on this form is true and correct.

9. NAME OF COMPANY OFFICIAL. (Type or print legibly)

10. TITLE OF COMPANY OFFICIAL

11. DATE SUBMITTED

INSTRUCTIONS
Regulations under the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act provide that any US company that is a manufacturer or marketer of fiber or for products may, in lieu of the names under which it does business, be identified by its RN on labels required by these statutes.

In completing this form, please observe the following:

(a) All numbered boxes must be filled in except for optional information.
(b) PLEASE, Type or Print legibly.

§ 303.21 Marking of samples, swatches, or specimens and products sold therefrom.

(a) Where samples, swatches, or specimens of textile fiber products subject to the Act are used to promote or effect sales of such textile fiber products, the samples, swatches, or specimens, as well as the products themselves, shall be labeled to show their respective fiber contents and other required information: Provided, That such samples, swatches or specimens need not be labeled:

(1) If the samples, swatches, or specimens are less than two square inches (12.9 cm²) in area and the information otherwise required to appear on the label is clearly, conspicuously, and non-deceptively disclosed on accompanying promotional matter in accordance with the Act and regulations.

(2) If the samples, swatches, or specimens are keyed to a catalogue to which reference is necessary in order to complete the sale of the textile fiber products, and which catalogue at the necessary point of reference clearly, conspicuously, and non-deceptively discloses the information otherwise required to appear on the label in accordance with the Act and regulations; or

(3) If such samples, swatches, or specimens are not used to effect sales to ultimate consumers and are not in the form intended for sale or delivery to, or for use by, the ultimate consumer, and are accompanied by an invoice or other paper showing the required information.

(b) Where properly labeled samples, swatches, or specimens are used to effect the sale of articles of wearing apparel or other household textile articles which are manufactured specifically for a particular customer after the sale is consummated, the articles of wearing apparel or other household textile articles need not be labeled if they are of the same fiber content as the samples, swatches, or specimens from which the sale was effected and an invoice or other paper accompanies them showing the information otherwise required to appear on the label.

[24 FR 4480, June 2, 1959, as amended at 61 FR 11544, Mar. 21, 1996]

§ 303.22 Products containing linings, interlinings, fillings, and paddings.

In disclosing the required information as to textile fiber products, the fiber content of any linings, interlinings, fillings, or paddings shall be set forth separately and distinctly if such linings, interlinings, fillings, or paddings are incorporated in the product for warmth rather than for structural purposes, or if any express or implied representations are made as to their fiber content. Examples are as follows:

100% Nylon
Interlining: 100% Rayon
Covering: 100% Rayon
Filling: 100% Cotton.

§ 303.23 Textile fiber products containing superimposed or added fibers.

Where a textile fiber product is made wholly of one fiber or a blend of fibers with the exception of an additional fiber in minor proportion superimposed or added in certain separate and distinct areas or sections for reinforcing or other useful purposes, the product may be designated according to the fiber content of the principal fiber or blend of fibers, with an exception naming the superimposed or added fiber, giving the percentage thereof in relation to the total fiber weight of the principal fiber or blend of fibers, and indicating the area or section which contains the superimposed or added fiber. Examples of this type of fiber content disclosure, as applied to products having reinforcing fibers added to a particular area or section, are as follows:

55% Cotton
45% Rayon
Except 5% Nylon added to toe and heel.
All Cotton except 1% Nylon added to neckband.

§ 303.24 Pile fabrics and products composed thereof.

The fiber content of pile fabrics or products composed thereof may be stated on the label in such segregated form as will show the fiber content of the face or pile and of the back or base, with percentages of the respective fibers as they exist in the face or pile and in the back or base: Provided, That
§ 303.25 Sectional disclosure of content.

(a) Permissive. Where a textile fiber product is composed of two or more sections which are of different fiber composition, the required information as to fiber content may be separated in the same label in such manner as to show the fiber composition of each section.

(b) Mandatory. The disclosure as above provided shall be made in all instances where such form of marking is necessary to avoid deception.

§ 303.26 Ornamentation.

(a)(1) Where the textile fiber product contains fiber ornamentation not exceeding five per centum of the total fiber weight of the product and the stated percentages of the fiber content are exclusive of such ornamentation, the label or any invoice used in lieu thereof shall contain a phrase or statement showing such fact; as for example:

60% Cotton
40% Rayon
Exclusive of Ornamentation;
or
All Cotton
Exclusive of Ornamentation.

(2) The fiber content of such ornamentation may be disclosed where the percentage of the ornamentation in relation to the total fiber weight of the principal fiber or blend of fibers is shown; as for example:

70% Nylon
30% Acetate
Exclusive of 4% Metallic Ornamentation;
or
100% Rayon
Exclusive of 3% Silk Ornamentation.

(b) Where the fiber ornamentation exceeds five per centum, it shall be included in the statement of required percentages of fiber content.

(c) Where the ornamentation constitutes a distinct section of the product, sectional disclosure may be made in accordance with §303.25 of this part.

§ 303.27 Use of the term “All” or “100%.”

Where a textile fiber product or part thereof is comprised wholly of one fiber, other than any fiber ornamentation, decoration, elastic, or trimming as to which fiber content disclosure is not required, either the word All or the term 100% may be used in labeling, together with the correct generic name of the fiber and any qualifying phrase, when required; as for example: “100% Cotton,” “All Rayon, Exclusive of Ornamentation,” “100% Acetate, Exclusive of Decoration,” “All Nylon, Exclusive of Elastic,” etc.

§ 303.28 Products contained in packages.

When textile products are marketed and delivered in a package which is intended to remain unbroken and intact until after delivery to the ultimate consumer, each textile product in the package, except hosiery, and the package shall be labeled with the required information. If the package is transparent to the extent it allows for a clear reading of the required information on the textile product, the package is not required to be labeled.

[50 FR 15107, Apr. 17, 1985]

§ 303.29 Labeling of pairs or products containing two or more units.

(a) Where a textile fiber product consists of two or more parts, units, or items of different fiber content, a separate label containing the required information shall be affixed to each of such parts, units or items showing the required information as to such part, unit, or item: Provided, That where such parts, units, or items are marketed or handled as a single product or ensemble and are sold and delivered to the ultimate consumer as a single
§ 303.33 Country where textile fiber products are processed or manufactured.

(a) In addition to the other information required by the Act and Regulations:

(1) Each imported textile fiber product shall be labeled with the name of the country where such imported product was processed or manufactured;

(2) Each textile fiber product completely made in the United States of materials that were made in the United States shall be labeled using the term Made in U.S.A. or some other clear and equivalent term;

(3) Each textile fiber product made in the United States, either in whole or in part of imported materials, shall contain a label disclosing these facts; for example:

Made in USA of imported fabric
or
Knitted in USA of imported yarn

and

(4) Each textile fiber product partially manufactured in a foreign country and partially manufactured in the United States shall contain on a label the following information:

(i) The manufacturing process in the foreign country and in the USA; for example:

Imported cloth, finished in USA
or
Sewn in USA of imported components
or
Made in [foreign country], finished in USA
or
Scarf made in USA of fabric made in China
or
Comforter Filled, Sewn and Finished in the U.S. With Shell Made in China
or
Made in [Foreign Country]/fabric made in USA
or

§ 303.33

Federal Trade Commission

product or ensemble, the required information may be set out on a single label in such a manner as to separately show the fiber composition of each part, unit, or item.

(b) Where garments, wearing apparel, or other textile fiber products are marketed or handled in pairs or ensembles of the same fiber content, only one unit of the pair or ensemble need be labeled with the required information when sold and delivered to the ultimate consumer.


§ 303.30 Textile fiber products in form for consumer.

A textile fiber product shall be considered to be in the form intended for sale or delivery to, or for use by, the ultimate consumer when the manufacturing or processing of the textile fiber product is substantially complete. The fact that minor or insignificant details of the manufacturing or processing have not been completed shall not excuse the labeling of such products as to the required information. For example, a garment must be labeled even though such matters as the finishing of a hem or cuff or the affixing of buttons there-to remain to be completed.

§ 303.31 Invoice in lieu of label.

Where a textile fiber product is not in the form intended for sale, delivery to, or for use by the ultimate consumer, an invoice or other paper may be used in lieu of a label, and such invoice or other paper shall show, in addition to the name and address of the person issuing the invoice or other paper, the fiber content of such product as provided in the Act and regulations as well as any other required information.

§ 303.32 Products containing reused stuffing.

Any upholstered product, mattress, or cushion which contains stuffing which has been previously used as stuffing in any other upholstered product, mattress, or cushion shall have securely attached thereto a substantial tag or label, at least 2 inches (5.08 cm) by 3 inches (7.62 cm) in size, and statements thereon conspicuously stamped or printed in the English language and in plain type not less than 1/2 inch (8.38 mm) high, indicating that the stuffing therein is composed in whole or in part of “reused stuffing,” “secondhand stuffing,” “previously used stuffing,” or “used stuffing.”

[61 FR 11544, Mar. 21, 1996]
“Knit in USA, assembled in [Foreign Country].”

(ii) When the U.S. Customs Service requires an origin label on the unfinished product, the manufacturing processes as required in paragraph (a)(4)(i) of this section or the name of the foreign country required by Customs, for example:

“Made in (foreign country)”

(b) For the purpose of determining whether a product should be marked under paragraphs (a) (2), (3), or (4) of this section, a manufacturer needs to consider the origin of only those materials that are covered under the Act and that are one step removed from that manufacturing process. For example, a yarn manufacturer must identify fiber if it is imported, a cloth manufacturer must identify imported yarn and a household product manufacturer must identify imported cloth or imported yarn for household products made directly from yarn, or imported fiber used as filling for warmth.

(c) The term country means the political entity known as a nation. Except for the United States, colonies, possessions or protectorates outside the boundaries of the mother country shall be considered separate countries, and the name thereof shall be deemed acceptable in designating the country where the textile fiber product was processed or manufactured unless the Commission shall otherwise direct.

(d) The country where the imported textile fiber product was principally made shall be considered to be the country where such textile fiber product was processed or manufactured. Further work or material added to the textile fiber product in another country must effect a basic change in form in order to render such other country the place where such textile fiber product was processed or manufactured.

(e) The English name of the country where the imported textile fiber product was processed or manufactured shall be used. The adjectival form of the name of the country will be acceptable as the name of the country where the textile fiber product was processed or manufactured, provided the adjectival form of the name does not appear with such other words so as to refer to a kind or species of product. Variant spellings which clearly indicate the name of a country, such as Brasil for Brazil and Italie for Italy, are acceptable. Abbreviations which unmistakably indicate the name of a country, such as “Gt. Britain” for “Great Britain,” are acceptable.

(f) Nothing in this rule shall be construed as limiting in any way the information required to be disclosed on labels under the provisions of any Tariff Act of the United States or regulations prescribed by the Secretary of the Treasury.

§ 303.34 Country of origin in mail order advertising.

When a textile fiber product is advertised in any mail order catalog or mail order promotional material, the description of such product shall contain a clear and conspicuous statement that the product was either made in U.S.A., imported, or both. Other words or phrases with the same meaning may be used. The statement of origin required by this section shall not be inconsistent with the origin labeling of the product being advertised.

§ 303.35 Use of terms “virgin” or “new.”

The terms virgin or new as descriptive of a textile fiber product, or any fiber or part thereof, shall not be used when the product or part so described is not composed wholly of new or virgin fiber which has never been reclaimed from any spun, woven, knitted, felted, bonded, or similarly manufactured product.

§ 303.36 Form of separate guaranty.

(a) The following are suggested forms of separate guaranties under section 10 of the Act which may be used by a guarantor residing in the United States on or as part of an invoice or other paper relating to the marketing or handling of any textile fiber products listed and designated therein, and showing the date of such invoice or other paper and the signature and address of the guarantor.
§ 303.38 Continuing guaranty filed with Federal Trade Commission.

(a)(1) Under section 10 of the act any person residing in the United States and marketing or handling textile fiber products may file a continuing guaranty with the Federal Trade Commission. When filed with the Commission a continuing guaranty shall be fully executed in duplicate. Forms for use in preparing continuing guaranties will be supplied by the Commission upon request.

(2) Continuing guaranties filed with the Commission shall continue in effect until revoked. The guarantor shall promptly report any change in business status to the Commission.

(b) Prescribed form for a continuing guaranty:

(1) General form. We guarantee that the textile fiber products specified herein are not misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification Act and rules and regulations thereunder.

(2) Guaranty based on guaranty. Based upon a guaranty received, we guarantee that the textile fiber products specified herein are not misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification Act and rules and regulations thereunder.

NOTE: The printed name and address on the invoice or other paper will suffice to meet the signature and address requirements.

(b) The mere disclosure of required information including the fiber content of a textile fiber product on a label or on an invoice or other paper relating to its marketing or handling shall not be considered a form of separate guaranty.

§ 303.37 Form of continuing guaranty from seller to buyer.

Under section 10 of the Act, a seller residing in the United States may give a buyer a continuing guaranty to be applicable to all textile fiber products sold or to be sold. The following is the prescribed form of continuing guaranty from seller to buyer:

We, the undersigned, guaranty that all textile fiber products now being sold or which may hereafter be sold or delivered to are not, and will not be misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification Act and rules and regulations thereunder. This guaranty effective until .

Dated, signed, and certified this day of , 19 , at (City), (State or Territory) (name under which business is conducted.)

Under penalty of perjury, I certify that the information supplied in this form is true and correct.

Signature of Proprietor, Principal Partner, or Corporate Official

Name (Print or Type) Title

[48 FR 12518, Mar. 25, 1983]
§ 303.38  16 CFR Ch. I (1–1–11 Edition)

CONTINUING GUARANTY

1. LEGAL NAME OF GUARANTOR FIRM

2. NAME UNDER WHICH GUARANTOR FIRM DOES BUSINESS, IF DIFFERENT FROM LEGAL NAME

3. TYPE OF COMPANY
   ☐ PROPRIETORSHIP  ☐ PARTNERSHIP  ☐ CORPORATION

4. ADDRESS OF PRINCIPAL OFFICE OR PLACE OF BUSINESS (Include Zip Code)  OPTIONAL INFORMATION
   TELEPHONE NUMBER:
   FAX NUMBER:
   INTERNET ADDRESS:

5. LAW UNDER WHICH THE CONTINUING GUARANTY IS TO BE FILED (Put an "X" in the appropriate box)
   ☐ Under the Textile Fiber Products Identification Act (15 U.S.C. §§ 70-70q): The company named above, which manufactures, markets, or handles textile fiber products, guarantees that when it ships or delivers any textile fiber product, the product will not be misbranded, falsely or deceptively invoiced, falsely or deceptively advertised, within the meaning of the Textile Fiber Products Identification Act and the rules and regulations under that Act.
   ☐ Under the Wool Products Labelling Act (15 U.S.C. §§ 68-83): The company named above, which manufactures, markets, or handles wool products, guarantees that when it ships or delivers any wool product, the product will not be misbranded within the meaning of the Wool Products Labelling Act and the rules and regulations under that Act.
   ☐ Under the Fur Products Labelling Act (15 U.S.C. §§ 69-89): The company named above, which manufactures, markets, or handles fur products, guarantees that when it ships or delivers any fur product, the product will not be misbranded, falsely or deceptively invoiced, falsely or deceptively advertised, within the meaning of the Fur Products Labelling Act and the rules and regulations under that Act.

6. CERTIFICATION
   Under penalty of perjury, I certify that the information supplied on this form is true and correct.

   SIGNATURE OF PROPRIETOR, PRINCIPAL PARTNER, OR CORPORATE OFFICIAL

7. NAME (Please print or type)

8. TITLE

9. CITY AND STATE WHERE SIGNED

   (c) Send two completed, signed original copies to:
   Federal Trade Commission
   Division of Enforcement
   600 Pennsylvania Ave., NW
   Washington, DC 20580

   (d) Do not fax application - mail signed original only.

   Continuing guaranties filed with the Commission continue in effect until revoked. The guarantor must immediately notify the Commission in writing of any change in business status. Any change in the address of the guarantor's principal office and place of business must also be promptly reported.

   DO NOT USE THIS SPACE

   Filed ____________ 19____
   FEDERAL TRADE COMMISSION

   (c) Any person who has a continuing guaranty on file with the Commission may, during the effective dates of the guaranty, give notice of such fact by setting forth on the invoice or other paper covering the marketing or handling of the product guaranteed the following:
§ 303.41 Use of fiber trademarks and generic names in advertising.

(a) In advertising textile fiber products, the use of a fiber trademark shall require a full disclosure of the fiber content information required by the Act and regulations in at least one instance in the advertisement.

(b) Where a fiber trademark is used in advertising textile fiber products containing only one fiber, other than permissible ornamentation, such fiber trademark and the generic name of the fiber must appear in immediate proximity and in immediately conspicuous type or lettering of equal size and conspicuousness.

(c) Where a fiber trademark is used in advertising textile fiber products containing only one fiber, other than permissible ornamentation, such fiber trademark and the generic name of the fiber must appear in immediate proximity and in immediately conspicuous type or lettering at least once in the advertisement.
§ 303.42 Arrangement of information in advertising textile fiber products.

(a) Where a textile fiber product is advertised in such manner as to require disclosure of the information required by the Act and regulations, all parts of the required information shall be stated in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence. In making the required disclosure of the fiber content of the product, the generic names of fibers present in an amount 5 percent or more of the total fiber weight of the product, together with any fibers disclosed in accordance with §303.3(a), shall appear in order of predominance by weight, to be followed by the designation “other fiber” or “other fibers” if a fiber or fibers required to be so designated are present.

(b) Non-required information or representations shall in no way be false, deceptive, or misleading as to fiber content and shall not include any names, terms, or representations prohibited by the Act and regulations. Such non-required information or representations shall not be set forth or so used as to interfere with, minimize, or detract from the required information.

(c) Non-deceptive terms which are properly and truthfully descriptive of a fiber may be used in conjunction with the generic name of such fiber; as for example: “cross-linked rayon,” “solution dyed acetate,” “combed cotton,” “nylon 66,” etc.


§ 303.43 Fiber content tolerances.

(a) A textile fiber product which contains more than one fiber shall not be deemed to be misbranded as to fiber content percentages if the percentages by weight of any fibers present in the total fiber content of the product, exclusive of permissive ornamentation, do not deviate or vary from the percentages stated on the label in excess of 3 percent of the total fiber weight of the product. For example, where the label indicates that a particular fiber is present in the amount of 40 percent, the amount of such fiber present may vary from a minimum of 37 percent of the total fiber weight of such product to a maximum of 43 percent of the total fiber weight of such product.

(b) Where the percentage of any fiber or fibers contained in a textile fiber product deviates or varies from the percentage stated on the label by more than the tolerance or variation provided in paragraph (a) of this section, such product shall be misbranded unless the person charged proves that the entire deviation or variation from the fiber content percentages stated on the label resulted from unavoidable variations in manufacture and despite the exercise of due care.

(c) Where representations are made to the effect that a textile fiber product is composed wholly of one fiber, the tolerance provided in section 4(b)(2) of the Act and paragraph (a) of this section shall not apply, except as to permissive ornamentation where the textile fiber product is represented to be composed of one fiber “exclusive of ornamentation.”

§ 303.44 Products not intended for uses subject to the act.

Textile fiber products intended for uses not within the scope of the Act and regulations or intended for uses in other textile fiber products which are exempted or excluded from the Act shall not be subject to the labeling and invoicing requirements of the Act and regulations: Provided, An invoice or other paper covering the marketing or handling of such products is given, which indicates that the products are not intended for uses subject to the Textile Fiber Products Identification Act.
§ 303.45 Exclusions from the act.

(a) Pursuant to section 12(b) of the Act, the Commission hereby excludes from the operation of the Act:

(1) All textile fiber products except:

(i) Articles of wearing apparel:

(ii) Scarfs;

(iii) Beddings;

(iv) Curtains and casements;

(vi) Draperies;

(vii) Tablecloths, napkins, and doilies;

(viii) Floor coverings;

(ix) Towels;

(x) Wash cloths and dish cloths;

(xi) Ironing board covers and pads;

(xii) Umbrellas and parasols;

(xiii) Batts;

(xiv) Products subject to section 4(h) of the Act;

(xv) Flags with heading or more than 216 square inches (13.9 dm²) in size;

(xvi) Cushions;

(xvii) All fibers, yarns and fabrics (including narrow fabrics except packaging ribbons);

(xviii) Furniture slip covers and other covers or coverlets for furniture;

(xix) Afghanis and throws;

(xx) Sleeping bags;

(xxi) Antimacassars and tidies;

(xxii) Hammocks;

(xxiii) Dresser and other furniture scarfs.

(2) Belts, suspenders, arm bands, permanently knotted neckties, garters, sanitary belts, diaper liners, labels (either required or non-required) individually and in rolls, looper clips intended for handicraft purposes, book cloth, artists’ canvases, tapestry cloth, and shoe laces.

(3) All textile fiber products manufactured by the operators of company stores and offered for sale and sold exclusively to their own employees as ultimate consumers.

(4) Coated fabrics and those portions of textile fiber products made of coated fabrics.

(5) Secondhand household textile articles which are discernibly secondhand or which are marked to indicate their secondhand character.

(6) Non-woven products of a disposable nature intended for one-time use only.

(7) All curtains, casements, draperies, and table place mats, or any portions thereof otherwise subject to the Act, made principally of slats, rods, or strips, composed of wood, metal, plastic, or leather.

(8) All textile fiber products in a form ready for the ultimate consumer procured by the military services of the United States which are bought according to specifications, but shall not include those textile fiber products sold and distributed through post exchanges, sales commissaries, or ship stores; provided, however, that if the military services sell textile fiber products for nongovernmental purposes the information with respect to the fiber content of such products shall be furnished to the purchaser thereof who shall label such products in conformity with the Act and regulations before such products are distributed for civilian use.

(9) All hand woven rugs made by Navajo Indians which have attached thereto the “Certificate of Genuineness” supplied by the Indian Arts and Crafts Board of the United States Department of Interior. The term Navajo Indian means any Indian who is listed on the register of the Navajo Indian Tribe or is eligible for listing thereon.

(b) The exclusions provided for in paragraph (a) of this section shall not be applicable (1) if any representations as to the fiber content of such products are made on any label or in any advertisement without making a full and complete fiber content disclosure on such label or in such advertisement in accordance with the Act and regulations with the exception of those products excluded by paragraph (a)(6) of this section, or (2) if any false, deceptive, or misleading representations are made as to the fiber content of such products.

(c) The exclusions from the Act provided in paragraph (a) of this section are in addition to the exemptions from the Act provided in section 12(a) of the Act and shall not affect or limit such exemptions.

(Sec. 12, 72 Stat. 1723; 15 U.S.C. 70j)

PART 304—RULES AND REGULATIONS UNDER THE HOBBY PROTECTION ACT

Sec. 304.1 Terms defined.
304.2 General requirement.
304.3 Applicability.
304.4 Application of other law or regulation.
304.5 Marking requirements for imitation political items.
304.6 Marking requirements for imitation numismatic items.

SOURCE: 40 FR 5496, Feb. 6, 1975, unless otherwise noted.

§ 304.1 Terms defined.
(b) Commerce has the same meanings as such term has under the Federal Trade Commission Act.
(c) Commission means the Federal Trade Commission.
(d) Imitation numismatic item means an item which purports to be, but in fact is not, an original numismatic item or which is a reproduction, copy, or counterfeit of an original numismatic item. Such term includes an original numismatic item which has been altered or modified in such a manner that it could reasonably purport to be an original numismatic item other than the one which was altered or modified. The term shall not include any re-issue or re-strike of any original numismatic item by the United States or any foreign government.
(e) Imitation political item means an item which purports to be, but in fact is not, an original political item, or which is a reproduction, copy or counterfeit of an original item.
(f) Original numismatic item means anything which has been a part of a coinage or issue which has been used in exchange or has been used to commemorate a person, object, place, or event. Such term includes coins, tokens, paper money, and commemorative medals.
(g) Original political item means any political button, poster, literature, sticker, or any advertisement produced for use in any political cause.
(h) Person means any individual, group, association, partnership, or any other business entity.
(i) Regulations means any or all regulations prescribed by the Federal Trade Commission pursuant to the Act.
(j) United States means the States, the District of Columbia, and the Commonwealth of Puerto Rico.
(k) Diameter of a reproduction means the length of the longest possible straight line connecting two points on the perimeter of the reproduction.

§ 304.2 General requirement.
Imitation political or numismatic items subject to the Act shall be marked in conformity with the requirements of the Act and the regulations promulgated thereunder. Any violation of these regulations shall constitute a violation of the Act and of the Federal Trade Commission Act.

§ 304.3 Applicability.
Any person engaged in the manufacturing, or importation into the United States for introduction into or distribution in commerce, of imitation political or imitation numismatic items shall be subject to the requirements of the Act and the regulations promulgated thereunder.

§ 304.4 Application of other law or regulation.
The provisions of these regulations are in addition to, and not in substitution for or limitation of, the provisions of any other law or regulation of the United States (including the existing statutes and regulations prohibiting the reproduction of genuine currency) or of the law or regulation of any State.

§ 304.5 Marking requirements for imitation political items.
(a) An imitation political item which is manufactured in the United States, or imported into the United States for introduction into or distribution in commerce, shall be plainly and permanently marked with the calendar year in which such item was manufactured.
(b) The calendar year shall be marked upon the item legibly, conspicuously and nondeceptively, and in accordance with the further requirements of these regulations.

1. The calendar year shall appear in arabic numerals, shall be based upon the Gregorian calendar and shall consist of four digits.

2. The calendar year shall be marked on either the obverse or the reverse surface of the item. It shall not be marked on the edge of the item.

3. An imitation political item of incusable material shall be incused with the calendar year in sans-serif numerals. Each numeral shall have a vertical dimension of not less than two millimeters (2.0 mm) and a minimum depth of three-tenths of one millimeter (0.3 mm) or to one-half (1⁄2) the thickness of the reproduction, whichever is the lesser. The minimum total horizontal dimension for the four numerals composing the calendar year shall be six millimeters (6.0 mm).

4. An imitation political button, poster, literature, sticker, or advertisement composed of nonincusable material shall be imprinted with the calendar year in sans-serif numerals. Each numeral shall have a vertical dimension of not less than two millimeters (2.0 mm). The minimum total horizontal dimension of the four numerals composing the calendar year shall be six millimeters (6.0 mm).

§ 304.6 Marking requirements for imitation numismatic items.

(a) An imitation numismatic item which is manufactured in the United States, or imported into the United States for introduction into or distribution in commerce, shall be plainly and permanently marked “COPY”.

(b) The word “COPY” shall be marked upon the item legibly, conspicuously, and nondeceptively, and in accordance with the further requirements of these regulations.

1. The word “COPY” shall appear in capital letters, in the English language.

2. The word “COPY” shall be marked on either the obverse or the reverse surface of the item. It shall not be marked on the edge of the item.

3. An imitation numismatic item of incusable material shall be incused with the word “COPY” in sans-serif letters having a vertical dimension of not less than two millimeters (2.0 mm) or not less than one-sixth of the diameter of the reproduction, and a minimum depth of three-tenths of one millimeter (0.3 mm) or to one-half (1⁄2) the thickness of the reproduction, whichever is the lesser. The minimum total horizontal dimension for the word “COPY” shall be six millimeters (6.0 mm) or not less than one-half of the diameter of the reproduction.

4. An imitation numismatic item composed of nonincusable material shall be imprinted with the word “COPY” in sans-serif letters having a vertical dimension of not less than two millimeters (2.0 mm) or not less than one-sixth of the diameter of the reproduction. The minimum total horizontal dimension for the word “COPY” shall be six millimeters (6.0 mm) or not less than one-half of the diameter of the reproduction.

[40 FR 5496, Feb. 6, 1975, as amended at 53 FR 38942, Oct. 4, 1988]
§ 305.1 Scope of the regulations in this part.

The rule in this part establishes requirements for consumer appliance products, as hereinafter described, in commerce, as “commerce” is defined in the Energy Policy and Conservation Act, 42 U.S.C. 6291, with respect to:

(a) Labeling and/or marking the products with information required by this part indicating their operating cost (or
different useful measure of energy consumption) and related information, disclosing their water use rate and related information, or stating their compliance with applicable standards under section 325 of the Energy Policy and Conservation Act, 42 U.S.C. 6295; (b) Including in printed matter displayed or distributed at the point of sale of such products, or including in any catalog from which the products may be purchased, information concerning their water use or their energy consumption; (c) Including on the labels, separately attaching to the products, or shipping with the products, additional information relating to energy consumption, energy efficiency, or energy cost; and (d) Making representations, in writing or in broadcast advertising, respecting the water use, energy consumption, or energy efficiency of the products, or the cost of water used or energy consumed by the products.


DEFINITIONS

§ 305.2 Definitions.

(a) Act means the Energy Policy and Conservation Act (Pub. L. 94–163), and amendments thereto.

(b) ANSI means the American National Standards Institute and, as used herein, is the prefix for national standards and codes adopted by ANSI.

(c) ASME means the American Society of Mechanical Engineers and, as used herein, is the prefix for national standards and codes adopted by ASME.

(d) Average lamp efficacy means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

(e) Ballast efficacy factor means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in American National Standards Institute (ANSI) standard C82.2–1984, or as may be prescribed by the Secretary of Energy. Copies of ANSI standard C82.2–1984 may be obtained from the American National Standards Institute, 11 West 42nd St., New York, NY 10036.

(f) Base for lamps means the portion of the lamp which screws into the socket.

(g) Bulb shape means the shape of the lamp, especially the glass portion.

(h) Catalog means printed material, including material disseminated over the Internet, which contains the terms of sale, retail price, and instructions for ordering, from which a retail consumer can order a covered product.

(i) Color rendering index or CRI for lamps 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.


(k) Consumer product means any article (other than an automobile, as “automobile” is defined in 15 U.S.C. 2001(1) [sec. 501(1) of the Motor Vehicle Information and Cost Savings Act]) of a type—

(1) Which in operation consumes, or is designed to consume, energy or, with respect to showerheads, faucets, water closets, and urinals, water; and

(2) Which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article or such type is in fact distributed in commerce for personal use or consumption by an individual, except that such term includes fluorescent lamp ballasts, metal halide lamp fixtures, general service fluorescent lamps, medium base compact fluorescent lamps, general service incandescent lamps (including incandescent reflector lamps), showerheads, faucets, water closets, and urinals distributed in commerce for personal or commercial use or consumption.

(l) Consumer appliance product means any of the following consumer products, excluding those products designed solely for use in recreational vehicles and other mobile equipment:

(1) Refrigerators, refrigerator-freezers, and freezers that can be operated by alternating current electricity, excluding—

(1) Any type designed to be used without doors; and
§ 305.2

(ii) Any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(ii) Any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(2) Dishwashers.

(3) Water heaters.

(4) Room air conditioners.

(5) Clothes washers.

(6) Clothes dryers.

(7) Central air conditioners and central air conditioning heat pumps.

(8) Furnaces.

(9) Direct heating equipment.

(10) Pool heaters.

(11) Kitchen ranges and ovens.

(12) Television sets.

(13) Fluorescent lamp ballasts.

(14) General service fluorescent lamps.

(15) Medium base compact fluorescent lamps.

(16) General service incandescent lamps, including incandescent reflector lamps.

(17) Showerheads.

(18) Faucets.

(19) Water closets.

(20) Urinals.

(21) Metal halide lamp fixtures.

(22) Ceiling fans.

(23) Any other type of consumer product that the Department of Energy classifies as a covered product under section 322(b) of the Act (42 U.S.C. 6292).

(m) Correlated color temperature for lamps means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

(n) Covered product means any consumer product or consumer appliance product described in §305.3 of this part.

(o) Distributor means a person (other than a manufacturer or retailer) to whom a consumer appliance product is delivered or sold for purposes of distribution in commerce.

(p) Energy efficiency rating means the following product-specific energy usage descriptors: annual fuel utilization efficiency (AFUE) for furnaces; energy efficiency ratio (EER) for room air conditioners; seasonal energy efficiency ratio (SEER) for the cooling function of central air conditioners and heat pumps; heating seasonal performance factor (HSPF) for the heating function of heat pumps; airflow efficiency for ceiling fans; and, thermal efficiency (TE) for pool heaters, as these descriptors are determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). These product-specific energy usage descriptors shall be used in satisfying all the requirements of this part.

(q) Estimated annual energy consumption and estimated annual operating cost—

(i) Kilowatt-hour use per year, or kWh/yr., means estimated annual energy consumption expressed in kilowatt-hours of electricity.

(ii) Therm use per year, or therms/yr., means estimated annual energy consumption expressed in therms of natural gas.

(iii) Gallon use per year, or gallons/yr., means estimated annual energy consumption expressed in gallons of propane or No. 2 heating oil.

(2) Estimated annual operating cost means the aggregate retail cost of the energy that is likely to be consumed annually in representative use of a consumer product, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(r) Flow restricting or controlling spout end device means an aerator used in a faucet.

(s) Flushometer valve means a valve attached to a pressured water supply pipe and so designed that, when actuated, it opens the line for direct flow into the fixture at a rate and quantity to operate properly the fixture, and then gradually closes to provide trap reseal in the fixture in order to avoid water hammer. The pipe to which this device is connected is in itself of sufficient size that, when opened, will allow the device to deliver water at a sufficient rate of flow for flushing purposes.

(t) IES means the Illuminating Engineering Society of North America and, as used herein, is the prefix for test procedures adopted by IES.
Federal Trade Commission

§ 305.3 Description of covered products.

(a) Refrigerators and refrigerator-freezers. (1) Electric refrigerator means a cabinet designed for the refrigerated storage of food at temperatures above 32 °F and below 39 °F, configured for general refrigerated food storage, and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32 °F, but does not provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8 °F.

(2) Electric refrigerator-freezer means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of food at temperatures above 32 °F and with at least one of the compartments designed for the freezing and storage of food at temperatures below 8 °F. The source of refrigeration requires single phase, alternating current electric energy input only.

(b) Freezer means a cabinet designed as a unit for the freezing and storage of food at temperatures of 0 °F, or below, and having a source of refrigeration requiring single phase, alternating current electric energy input only.

(u) Lamp efficacy means the light output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

(v) Lamp type means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

(w) Life and lifetime for lamps mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group.

(x) Light output for lamps means the total luminous flux (power) of a lamp in lumens.

(y) Luminaire means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(aa) New covered product, as used in § 305.4, means a covered product the title of which has not passed to a purchaser who buys the product for purposes other than resale or leasing for a period in excess of one year.

(bb) Private labeler means an owner of a brand or trademark on the label of a consumer appliance product which bears a private label.

(cc) Range of comparability means a group of models within a class of covered products, each model of which satisfies approximately the same consumer needs.

(dd) Range of energy efficiency ratings means the range of energy efficiency ratings for all models within a designated range of comparability.

(ee) Range of estimated annual energy cost means the range of estimated annual energy cost per year of all models within a designated range of comparability.

(ff) Retailer means a person to whom a consumer appliance product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale. The term retailer includes purchasers of appliances who install such appliances in newly constructed or newly rehabilitated housing, or mobile homes, with the intent to sell the covered appliances as part of the sale of such housing or mobile homes.

(gg) Water use means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323 of the Act, 42 U.S.C. 6293.

(hh) Wattage for lamps means the total electrical power consumed by a lamp in watts, after an initial seasoning period and including, for fluorescent lamps, arc watts plus cathode watts.

(c) **Dishwasher** means a cabinetlike appliance which, with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils and most cooking utensils by chemical, mechanical, and/or electrical means and discharges to the plumbing drainage system.

(1) **Water Heating Dishwasher** means a dishwasher which is designed for heating cold inlet water (nominal 50 °F.) or a dishwasher for which the manufacturer recommends operation with a nominal inlet water temperature of 120 °F, and may operate at either of these inlet water temperatures by providing internal water heating to above 120 °F in at least one wash phase of the normal cycle.

(2) [Reserved]

(d) **Water heater** means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(1) Storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(2) Instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(3) Heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

(e) **Room air conditioner** means a consumer product, other than a packaged terminal air conditioner, which is powered by a single phase electric current and which is an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and heating.

(f) **Clothes washer** means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement, and must be one of the following classes: automatic clothes washers, semi-automatic clothes washers, and other clothes washers.

(1) **Automatic clothes washer** means a class of clothes washer which has a control system capable of scheduling a pre-selected combination of operations, such as regulation of water fill level, and performance of wash, rinse, drain and spin functions, without the need for the user to intervene subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves.

(2) **Semi-automatic clothes washer** means a class of clothes washer that is the same as an automatic clothes washer except that the user must intervene to regulate the water temperature by adjusting the external water faucet valves.

(3) **Other clothes washer** means a class of clothes washer which is not an automatic or semi-automatic clothes washer.

(g) **Furnaces.** (1) **Furnace** means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

(i) Is designed to be the principal heating sources for the living space of a residence;

(ii) Is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;
(iii) Is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and

(iv) Has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

(2) Electric central furnace means a furnace designed to supply heat through a system of ducts with air as the heating medium, in which heat is generated by one or more electric resistance heating elements and the heated air is circulated by means of a fan or blower.

(3) Forced air central furnace means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

(4) Gravity central furnace means a gas fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

(5) Electric boiler means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds per square inch gauge (psig) steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F. water temperature.

(6) Low pressure steam or hot water boiler means an electric, gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F. water temperature.

(7) Outdoor furnace or boiler is a furnace or boiler normally intended for installation out-of-doors or in an unheated space (such as an attic or a crawl space).

(8) Weatherized warm air furnace or boiler means a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own ventilating system.

(b) Central air conditioner means a product, other than a packaged terminal air conditioner, which is powered by single phase electric current, air cooled, rated below 65,000 Btu per hour, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu per hour, and is a heat pump or a cooling only unit.

(1) Condenser-evaporator coil combination means a condensing unit made by one manufacturer and one of several evaporator coils, either manufactured by the same manufacturer or another manufacturer, intended to be combined with that particular condensing unit.

(2) Condensing unit means a component of a “central air conditioner” which is designed to remove heat absorbed by the refrigerant and to transfer it to the outside environment, and which consists of an outdoor coil, compressor(s), and air moving device.

(3) Evaporator coil means a component of a central air conditioner which is designed to absorb heat from an enclosed space and transfer the heat to a refrigerant.

(4) Single package unit means any central air conditioner in which all the major assemblies are enclosed in one cabinet.

(5) Split system means any central air conditioner in which one or more of the major assemblies are separate from the others.

(1) Heat pump means a product, other than a packaged terminal heat pump, which consists of one or more assemblies, powered by single phase electric current, rated below 65,000 Btu per hour, utilizing an indoor conditioning coil, compressor, and refrigerant-to-outdoor air heat exchanger to provide air heating, and may also provide air cooling, dehumidifying, humidifying, circulating, and air cleaning.

(2) Fluorescent lamp ballast means a device that is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation, and that is designed to operate at
nominal input voltages of 120 or 277 volts with a frequency of 60 Hertz and is for use in connection with F40T12, F96T12 or F96T12HO lamps.

(k) Fluorescent lamp: (1) Means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultra-violet energy generated by the mercury discharge into light, including only the following:
   (i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more;
   (ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more;
   (iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements (copies of ANSI C78.1–1978 and related supplements may be obtained from the American National Standards Institute, 11 West 42nd St., New York, NY 10036); and
   (iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 and related supplement ANSI C78.3a–1985 (copies of ANSI C78.3–1978 and related supplement ANSI C78.3a–1985 may be obtained from the American National Standards Institute, 11 West 42nd St., New York, NY 10036); but
(2) Fluorescent lamp does not mean any lamp excluded by the Department 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 fluorescent lamp means a fluorescent lamp which can be used to satisfy the majority of fluorescent applications, but does not mean any lamp designed and marketed for the following nongeneral lighting applications:
   (i) Fluorescent lamps designed to promote plant growth;
   (ii) Fluorescent lamps specifically designed for cold temperature installations;
   (iii) Colored fluorescent lamps;
   (iv) Impact-resistant fluorescent lamps;
   (v) Reflectorized or aperture lamps;
   (vi) Fluorescent lamps designed for use in reprographic equipment;
   (vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum; and
   (viii) Lamps with a color rendering index of 82 or greater.

(l) 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 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.

(m) 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:
(i) 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 lower wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

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

(iii) Any general service incandescent lamp (commonly referred to as a high-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 any incandescent lamp (other than a miniature or photographic lamp), including an incandescent reflector lamp, that has an E26 medium screw base, a rated voltage range at least partially within 115 and 130 volts, and which can be used to satisfy the majority of lighting applications, but does not include any lamp specifically designed for:

(i) Traffic signal, or street lighting service;

(ii) Airway, airport, aircraft, or other aviation service;

(iii) Marine or marine signal service;

(iv) Photo, projection, sound reproduction, or film viewer service;

(v) Stage, studio, or television service;

(vi) Mill, saw mill, or other industrial process service;

(vii) Mine service;

(viii) Headlight, locomotive, street railroad, or other transportation service;

(ix) Heating service;

(x) Code beacon, marine signal, light-house, reprographic, or other communication service;

(xi) Medical or dental service;

(xii) Microscope, map, microfilm, or other specialized equipment service;

(xiii) Swimming pool or other underwater service;

(xiv) Decorative or showcase service;

(xv) Producing colored light;

(xvi) Shatter resistance which has an external protective coating; or

(xvii) Appliance service; and

(4) Incandescent reflector lamp means a lamp described in paragraph (m)(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.

(n) Showerhead means any showerhead (including a handheld showerhead), except a safety shower showerhead.

(o) Faucet means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

(p) Water closet means a plumbing fixture having a water-containing receptor which receives liquid and solid body waste and, upon actuation, conveys the waste through an exposed integral trap seal into a gravity drainage system, except such term does not include fixtures designed for installation in prisons.

(q) Urinal means a plumbing fixture which receives only liquid body waste and, on demand, conveys the waste through a trap seal into a gravity drainage system, except such term does not include fixtures designed for installation in prisons.

(r) Pool heater means an appliance designed for heating nonpotable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs and similar applications.

(s) Metal halide lamp fixture means a light fixture for general lighting application that is designed to be operated with a metal halide lamp and a ballast for a metal halide lamp and that is subject to and complies with Department of Energy efficiency standards issued pursuant to 42 U.S.C. 6295.
§ 305.3 Description of covered products.

(1) **Metal halide ballast** means a ballast used to start and operate metal halide lamps.

(2) **Metal halide lamp** means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(t) **Ceiling fan** means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades. The requirements of this part are limited to those ceiling fans for which the Department of Energy has adopted and published test procedures for measuring energy usage.


EFFECTIVE DATE NOTE: At 75 FR 41713, July 19, 2010, §305.3 was amended by revising paragraphs (i) and (m), redesignating paragraphs (n), (o), (p), (q), (r), (s), and (t) as (r), (s), (t), (u), (v), (w), and (x), and adding new paragraphs (n), (o), (p), and (q), effective July 19, 2011. For the convenience of the user, the added and revised text is set forth as follows:

§ 305.3 Description of covered products.

* * * * *

(i) **General service lamp** means:

(1) A lamp that is—

(1) A medium base compact fluorescent lamp;

(2) A general service incandescent lamp;

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

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

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

(i) Any lighting application or bulb shape described in paragraphs (n)(3)(i)(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 a 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 paragraph (n)(3)(i) of this section; or

(2) Any lamp not described in the definition of “General Service Incandescent Lamp” in this section and 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, BR, BPAR, or similar bulb shapes 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 has a rated wattage that is 40 watts or higher;

(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;

(iii) **General service incandescent lamp** means

(1) In general, a standard incandescent, halogen, or reflector type 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 special purpose incandescent 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.

§ 305.4 Prohibited acts.

(a) It shall be unlawful and subject to the enforcement penalties of section 333 of the Act, as adjusted for inflation pursuant to § 1.98 of this chapter, for each unit of any new covered product to which the part applies:

(1) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product unless such covered product is marked and/or labeled in accordance with this part with a marking, label, hang tag, or energy fact sheet which conforms to the provisions of the Act and this part.

(2) For any manufacturer, distributor, retailer, or private labeler knowingly to remove or render illegible any marking or label required to be provided with such product by this part.

(3) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product, if there is not included (i) on the label, (ii) separately attached to the product, or (iii) shipped with the product, additional information relating to energy consumption or energy efficiency which conforms to the requirements in this part.

(b) It shall be unlawful and subject to the enforcement penalties of section 333 of the Act, as adjusted for inflation pursuant to § 1.98 of this chapter, for any manufacturer or private labeler knowingly to:

(1) Refuse a request by the Commission or its designated representative for access to, or copying of, records required to be supplied under this part.

(2) Refuse to make reports or provide upon request by the Commission or its designated representative any information required to be supplied under this part.

(3) Refuse upon request by the Commission or its designated representative to permit a representative designated by the Commission to observe any testing required by this part while such testing is being conducted or to inspect the results of such testing. This section shall not limit the Commission from requiring additional testing under this part.
(4) Refuse, when requested by the Commission or its designated representative, to supply at the manufacturer’s expense, no more than two of each model of each covered product to any laboratory designated by the Commission for the purpose of ascertaining whether the information in catalogs or set out on the label or marked on the product as required by this part is accurate. This action will be taken only after review of a manufacturer’s testing records and an opportunity to revalidate test data has been extended to the manufacturer.

(5) Distribute in commerce any catalog containing a listing for a covered product without the information required by §305.20 of this part. This subsection shall also apply to distributors and retailers.

(c) Pursuant to section 333(c) of the Act, it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer, or private labeler in or affecting commerce to display or distribute at point of sale any printed material applicable to a covered product under this rule if such printed material does not contain the information required by §305.19. This requirement does not apply to any broadcast advertisement or to any advertisement in a newspaper, magazine, or other periodical.

(d)(1) It shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), for any manufacturer, distributor, retailer, or private labeler to make any representation in or affecting commerce, in writing (including a representation on a label) or in any broadcast advertisement, with respect to the energy use or efficiency or, in the case of showerheads, faucets, water closets and urinals, water use of such product, or cost of energy consumed by such product, unless the product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing.

(2) Effective 180 days after an amended or new test procedure applicable to a covered product is prescribed or established under section 323(b) of the Act, 42 U.S.C. 6293(b), it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), for any manufacturer, distributor, retailer or private labeler to make any representation in or affecting commerce, in writing (including a representation on a label) or in any broadcast advertisement, with respect to the energy use or efficiency or, in the case of showerheads, faucets, water closets and urinals, water use of such product, or cost of energy consumed by such product, unless the product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing. This requirement is not limited to consumer appliance products covered by the labeling requirements of this part.

(3) Any manufacturer, distributor, retailer, or private labeler may file a petition with the Commission not later than sixty (60) days before the expiration of the period involved for an extension of the 180 day period. If the Commission finds that the requirements would impose an undue hardship on the petitioner, the Commission may extend the 180 day period with respect to the petitioner up to an additional 180 days.

(e) This part shall not apply to:

(1) Any covered product if it is manufactured, imported, sold, or held for sale for export from the United States, so long as such product is not in fact distributed in commerce for use in the United States, and such covered product or the container thereof bears a stamp or label stating that such covered product is intended for export.

(2) Any covered product, other than central air conditioners, pulse combustion and condensing furnaces, fluorescent lamp ballasts, showerheads, faucets, water closets, urinals, pool heaters, instantaneous water heaters, heat pump water heaters, general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps (including incandescent reflector lamps), if the
manufacture of the product was completed prior to May 19, 1980. Any central air conditioner or any pulse combustion or condensing furnace if its manufacture was completed prior to June 7, 1988. Any fluorescent lamp ballast if its manufacture was completed prior to January 1, 1990. Any pool heater, instantaneous water heater, or heat pump water heater if its manufacture was completed prior to December 29, 1994. Any general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including any incandescent reflector lamp), if its manufacture was completed prior to May 15, 1995.

(3) Any catalog or point-of-sale printed material pertaining to any covered products that were manufactured prior to May 19, 1980; any catalog or point-of-sale printed material pertaining to any central air conditioners or pulse combustion or condensing furnaces manufactured prior to June 7, 1988; any catalog or point-of-sale printed material pertaining to any fluorescent lamp ballasts manufactured prior to June 23, 1989; any catalog or point-of-sale printed material pertaining to any showerheads, faucets, water closets or urinals manufactured prior to October 24, 1994; or any catalog or point-of-sale printed material pertaining to general service fluorescent lamps, medium base compact fluorescent lamps, or general service incandescent lamps (including incandescent reflector lamps), that were manufactured prior to May 15, 1995, except that any representations respecting the energy consumption, energy efficiency, or water use of any covered product or other consumer appliance product, or respecting the cost of energy consumed or water used by such product, are subject to the requirements of paragraph (d) of this section.

As used in paragraphs (a) and (b) of this section, the term knowing means:

(1) The having of actual knowledge, or
(2) The presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care.


§ 305.5 Testing

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

(a) Procedures for determining the estimated annual energy consumption, the estimated annual operating costs, the energy efficiency ratings, and the efficacy factors of the following covered products are those located in 10 CFR part 430, subpart B. For the following list of covered products, the requirements of this part apply only to products for which the Department of Energy has adopted and published test procedures for measuring energy usage or efficiency.

(1) Refrigerators and refrigerator-freezers—§ 430.23(a).
(2) Freezers—§ 430.23(b).
(3) Dishwashers—§ 430.23(c).
(4) Water heaters—§ 430.23(e).
(5) Room air conditioners—§ 430.23(f).
(6) Clothes washers—§ 430.23(j).
(7) Central air conditioners and heat pumps—§ 430.23(m).
(8) Furnaces—§ 430.23(n).
(9) Pool Heaters—§ 430.23(p).
(10) Fluorescent lamp ballasts—§ 430.23(q).
(11) Ceiling Fans—§ 430.23.

(b) Manufacturers and private labelers of any covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), must, for any representation of the design voltage, wattage, light output or life 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
§ 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 – § 430.23(r).

(13) General Service Fluorescent Lamps – § 430.23(r).

(14) Medium Base Compact Fluorescent Lamps – § 430.23(y).

(b) Unless otherwise provided in paragraph (a) of this section or § 305.3, manufacturers and private labelers of any covered product that is not an incandescent or compact fluorescent lamp, metal halide 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 medium base compact fluorescent lamp or incandescent lamp (including an incandescent reflector lamp), the Commission will accept as a reasonable basis competent and reliable scientific tests conducted according to the following applicable IES test protocols that substantiate the representations:

For measuring light output (in lumens):

- General Service Incandescent Lamp (Other than Reflector Lamps) – IES LM 45.
- General Service Incandescent Lamp (Reflector Lamps) – IES LM 20.
- Compact Fluorescent Lamp (Other than Reflector Lamps) – IES LM 66.
- General Service Fluorescent Lamp (Other than Reflector Lamps) – IES LM 49.
- General Service Incandescent Lamp (Other than Reflector Lamps) – IES LM 65.
- Compact Fluorescent Lamp (Other than Reflector Lamps) – IES LM 65.
- General Service Incandescent Lamp (Other than Reflector Lamps) – IES LM 49.
- General Service Incandescent Lamp (Reflector Lamps) – IES LM 49.

(c) Procedures for determining the water use rates of covered products are those found in the following standards:

(1) Showerheads and faucets—ASME A112.18.1M–1989, Plumbing Fixture Fittings. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASME A112.18.1M may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(2) Water closets and urinals—ASME A112.19.2M–1990, Vitreous China Plumbing Fixtures. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASME A112.19.2M may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

For measuring light output (in lumens):

<table>
<thead>
<tr>
<th>Product Type</th>
<th>IES LM</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Service Fluorescent</td>
<td>LM9</td>
</tr>
<tr>
<td>Compact Fluorescent</td>
<td>LM66</td>
</tr>
<tr>
<td>General Service Incandescent (Other than Reflector Lamps)</td>
<td>LM45</td>
</tr>
<tr>
<td>General Service Incandescent (Reflector Lamps)</td>
<td>LM20</td>
</tr>
<tr>
<td>General Service Light-emitting Diode (LED or OLED) lamps</td>
<td>LM79</td>
</tr>
</tbody>
</table>

For measuring laboratory life (in hours):

<table>
<thead>
<tr>
<th>Product Type</th>
<th>IES LM</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Service Fluorescent</td>
<td>LM40</td>
</tr>
<tr>
<td>Compact Fluorescent</td>
<td>LM65</td>
</tr>
<tr>
<td>General Service Incandescent (Other than Reflector Lamps)</td>
<td>LM49</td>
</tr>
<tr>
<td>General Service Incandescent (Reflector Lamps)</td>
<td>LM49</td>
</tr>
</tbody>
</table>

§ 305.6 Sampling.

(a) For any covered product (except general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps, including incandescent reflector 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.

§ 305.7 Determinations of capacity.

The capacity of covered products shall be determined as follows:

(a) Refrigerators and refrigerator-freezers. The capacity shall be the total refrigerated volume (VT) and the adjusted total volume (AV) in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix A1 to 10 CFR part 430, subpart B.

(b) Freezers. The capacity shall be the total refrigerated volume (VT) and the adjusted total volume (AV) in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix B1 to 10 CFR part 430, subpart B.

(c) Dishwashers. The capacity shall be the place-setting capacity, determined according to appendix C to 10 CFR part 430, subpart B.

(d) Water heaters. The capacity shall be the first hour rating, as determined according to appendix E to 10 CFR part 430, subpart B.

(e) Pool heaters. The capacity shall be the heating capacity in Btu’s per hour, rounded to the nearest 1,000 Btu’s per hour, as determined according to appendix P to 10 CFR part 430, subpart B.

(f) Room air conditioners. The capacity shall be the cooling capacity in Btu’s...
per hour, as determined according to appendix F to 10 CFR part 430, subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the value of EER used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

(g) Clothes washers. The capacity shall be the tub capacity as determined according to appendix J1 to 10 CFR part 430, subpart B, in the terms "standard" or "compact" as defined in appendix J1.

(h) Furnaces. The capacity shall be the heating capacity in Btu's per hour, rounded to the nearest 1,000 Btu's per hour, as determined according to appendix N to 10 CFR part 430, subpart B.

(i) Central air conditioners, cooling. The capacity shall be the cooling capacity in Btu's per hour, as determined according to appendix M to 10 CFR part 430, subpart B, rounded to the nearest 100 Btu's per hour for capacities less than 20,000 Btu's per hour; to the nearest 200 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 500 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

(j) Central air conditioners, heating. The capacity shall be the heating capacity in Btu's per hour, as determined according to appendix M to 10 CFR part 430, subpart B, rounded to the nearest 100 Btu's per hour for capacities less than 20,000 Btu's per hour; to the nearest 200 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 500 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

(k) Fluorescent lamp ballasts. The capacity shall be the ballast input voltage, as determined according to appendix Q to 10 CFR part 430, subpart B.

(l) Ceiling fans. The capacity shall be the airflow in cubic feet per minute as determined according to appendix U of 10 CFR part 430, subpart B.

§ 305.8 Submission of data.

(a)(1) Each manufacturer of a covered product (except manufacturers of fluorescent lamp ballasts, metal halide lamp fixtures, showerheads, faucets, water closets, urinals, general service fluorescent lamps, and general service lamps) shall submit annually to the Commission a report listing the estimated annual energy consumption (for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters) or the energy efficiency rating (for room air conditioners, central air conditioners, heat pumps, furnaces, ceiling fans, and pool heaters) for each basic model in current production, determined according to §305.5 and statistically verified according to §305.6. The report must also list, for each basic model in current production: the brand name; the model numbers for each basic model; the total energy consumption, determined in accordance with §305.5, used to calculate the estimated annual energy consumption or energy efficiency rating; the number of tests performed; and, its capacity, determined in accordance with §305.7. For those models that use more than one energy source or more than one cycle, each separate amount of energy consumption, measured in accordance with §305.5, shall be listed in the report. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted whenever a new basic model is introduced on the market. For ceiling fans, the report shall contain the fan diameter in inches and also shall contain efficiency ratings, energy consumption, and capacity at high speed.

(2) Each manufacturer of a covered fluorescent lamp ballast shall submit annually to the Commission a report for each basic model of fluorescent lamp ballast in current production. The report shall contain the following information:

(i) Name and address of manufacturer;

(ii) All trade names under which the fluorescent lamp ballast is marketed;

(iii) Model number;

(iv) Starting serial number, date code or other means of identifying the date of manufacture (date of manufacture

(3) Each manufacturer of a covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), shall submit annually to the Commission a report for each lamp type in current production. The report shall contain the following information:

(i) Name and address of manufacturer;
(ii) All trade names under which the lamp is marketed;
(iii) Model number;
(iv) Starting serial number, date code or other means of identifying the date of manufacture (date of manufacture information must be included with only the first submission for each lamp type); and
(v) For all covered lamps, the test results based on 10 CFR §430.23 for the lamp’s wattage and light output ratings.

(vi) For all covered general service fluorescent lamps, the test results based on 10 CFR §430.23 for the lamp’s color rendering index and correlated color temperature.

(vii) For all covered incandescent lamps, the test results based on 10 CFR §430.23 for the lamp’s correlated color temperature.

(viii) For all covered compact fluorescent lamps, the test results based on 10 CFR §430.23 for the lamp’s life.

(4) Each manufacturer of a covered showerhead, faucet, water closet or urinal shall submit annually to the Commission a report for each basic model of such products in current production. The report shall contain the following information:

(i) Name and address of manufacturer;
(ii) All trade names under which the product is marketed;
(iii) Model number;
(iv) Starting serial number, date code or other means of identifying the date of manufacture (date of manufacture information must be included with only the first submission for each basic model);
(v) The product’s water use, expressed in gallons and liters per flush (gpf and Lpf) or gallons and liters per minute (gpm and L/min) or per cycle (gpc and L/cycle) as determined in accordance with §305.5.

(5) Each manufacturer of a metal halide lamp fixture shall submit annually to the Commission a report for each basic model of metal halide lamp fixture in current production. The report shall contain the following information:

(i) Name and address of manufacturer;
(ii) All trade names under which the metal halide lamp fixture is marketed;
(iii) Model number;
(iv) Starting serial number, date code or other means of identifying the date of manufacture (date of manufacture information must be included with only the first submission for each basic model);
(v) Type of ballast (e.g., pulse, probe, or electronic);
(vi) Nominal input voltage and frequency;
(vii) Ballast efficiency (as determined pursuant to 42 U.S.C. 6293(b)(18)); and
(viii) Lamp type and wattage (or range of wattages) with which the metal halide lamp fixture is designed to be used.

(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:

<table>
<thead>
<tr>
<th>Product category</th>
<th>Deadline for data submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refrigerators</td>
<td>Aug. 1</td>
</tr>
<tr>
<td>Refrigerators-freezers</td>
<td>Aug. 1</td>
</tr>
<tr>
<td>Freezers</td>
<td>Aug. 1</td>
</tr>
<tr>
<td>Freezer-compressors</td>
<td>Aug. 1</td>
</tr>
<tr>
<td>Central air conditioners</td>
<td>July 1</td>
</tr>
<tr>
<td>Central air conditioners</td>
<td>July 1</td>
</tr>
<tr>
<td>Heat pumps</td>
<td>June 1</td>
</tr>
<tr>
<td>Water heaters</td>
<td>May 1</td>
</tr>
<tr>
<td>Room air conditioners</td>
<td>May 1</td>
</tr>
<tr>
<td>Room air conditioners</td>
<td>May 1</td>
</tr>
<tr>
<td>Pool heaters</td>
<td>May 1</td>
</tr>
<tr>
<td>Pool heaters</td>
<td>May 1</td>
</tr>
<tr>
<td>Clothes washers</td>
<td>Oct. 1</td>
</tr>
<tr>
<td>Fluorescent lamp ballasts</td>
<td>Mar. 1</td>
</tr>
<tr>
<td>Fluorescent lamp ballasts</td>
<td>Mar. 1</td>
</tr>
<tr>
<td>Showerheads</td>
<td>Mar. 1</td>
</tr>
<tr>
<td>Faucets</td>
<td>Mar. 1</td>
</tr>
<tr>
<td>Faucets</td>
<td>Mar. 1</td>
</tr>
<tr>
<td>Water closets</td>
<td>Mar. 1</td>
</tr>
</tbody>
</table>
§ 305.10  Ranges of comparability on the required labels.

(a) Range of estimated annual operating costs or energy efficiency ratings. The range of estimated annual operating costs or energy efficiency ratings for each covered product (except fluorescent lamp ballasts, metal halide lamp fixtures, lamps, showerheads, faucets, water closets, urinals, or ceiling fans) shall be taken from the appropriate appendix to this part in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges every five years beginning in 2012 in the FEDERAL REGISTER. When the ranges are revised, all information disseminated after 90 days following the publication of the revision shall conform to the new ranges.

(b) Representative average unit energy cost. The Representative Average Unit Energy Cost to be used on labels as required by §305.11 and disclosures as required by §305.20 are listed in appendix K to this part. The Commission shall publish revised Representative Average Unit Energy Cost figures every five years beginning in 2012 in the FEDERAL REGISTER. When the cost figures are revised, all information disseminated after 90 days following the publication of the revision shall conform to the new cost figure.

(c) Operating Costs or Efficiency Ratings Outside Current Range. When the estimated annual operating cost or energy efficiency rating of a given model of a covered product falls outside the limits of the current range for that product, which could result from the introduction of a new or changed model, the manufacturer shall:

(1) Omit placement of such product on the scale that appears as required by §§305.11 and 305.12 of this part, and

(2) Add one of the two sentences below, as appropriate, in the space just below the scale on the label, as follows:

The estimated yearly operating cost of this model was not available at the time the range was published.

The energy efficiency rating of this model was not available at the time the range was published.

§ 305.11  Labeling for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters.

(a) Layout. All energy labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, pool heaters, and room air conditioners shall use one size, similar colors, and typefaces with consistent positioning of headline, copy, and charts to maintain uniformity for immediate consumer recognition and readability. Trim size dimensions for all labels shall be as follows: width must be between 5 1/4 inches and 5 1/2 inches (13.34 cm. and 13.97 cm.); length must be between 7 3/8 inches (18.78 cm.) and 7 5/8 (19.34 cm.). Copy is to be set...
between 27 picas and 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely the prototype labels appearing at the end of this part illustrating the basis layout. All positioning, spacing, type sizes, and line widths should be similar to and consistent with the prototype and sample labels in appendix L.

(b) **Type style and setting.** The Arial series typeface or equivalent shall be used exclusively on the label. Specific sizes and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. Generally, text must be set flush left with two points leading except where otherwise indicated. See the prototype labels for specific directions.

(c) **Colors.** The basic colors of all labels covered by this section shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow. All type and graphics shall be print process black.

(d) **Label types.** The labels must be affixed to the product in the form of an adhesive label or a hang tag as follows:

(1) **Adhesive labels.** All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25 x 38") or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard.

(2) **Hang tags.** Labels may be affixed to the product in the form of a hang tag using string or similar material. The paper stock for hang tags shall have a basic weight of not less than 110 pounds per 500 sheets (25 1/2 x 30 1/2; index). When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to insure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(e) **Placement—(1) Adhesive labels.** Manufacturers shall affix adhesive labels to the covered products in such a position that it is easily read by a consumer examining the product. The label should be generally located on the upper-right-front corner of the product’s front exterior. However, some other prominent location may be used as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer. The top of the label should not exceed 74 inches from the base of taller products. The label can be displayed in the form of a flap tag adhered to the top of the appliance and bent (folded at 90°) to hang over the front, as long as this can be done with assurance that it will be readily visible.

(2) **Hang tags.** A hang tag shall be affixed to the interior of the product in such a position that it can be easily read by a consumer examining the product. A hang tag can be affixed in any position that meets this requirement as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer.

(f) **Label content.**

(1) **Headlines and texts,** as illustrated in the prototype and sample labels in appendix L to this part.

(2) **Name of manufacturer or private labeler** shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) **Model number(s)** will be the designation given by the manufacturer or private labeler.

(4) **Capacity or size** is that determined in accordance with §305.7. For
refrigerators, refrigerator-freezers, and freezers, the capacity provided on the label shall be the model’s total refrigerated volume (VT) as determined in accordance §305.7.

(5) Estimated annual operating costs for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, and water heaters are as determined in accordance with §305.5 and appendix K to this part. Thermal efficiencies for pool heaters are as determined in accordance with §305.5. Labels for clothes washers and dishwashers must disclose estimated annual operating cost for both electricity and natural gas as illustrated in the sample labels in appendix L.

(6) Ranges of comparability for estimated annual operating costs or thermal efficiencies, as applicable, are found in the appropriate appendices accompanying this part.

(7) Placement of the labeled product on the scale shall be proportionate to the lowest and highest estimated annual operating costs or thermal efficiencies, as applicable.

(8) Labels for refrigerators, refrigerator-freezers, freezers, clothes washers, and water heaters must contain the model’s estimated annual energy consumption as determined in accordance with §305.5 and as indicated on the sample labels in appendix L. Labels for room air conditioners and pool heaters must contain the model’s energy efficiency rating or thermal efficiency, as applicable, as determined in accordance with §305.5 and as indicated on the sample labels in appendix L.

(9) Labels must contain a statement explaining information on the label as illustrated in the prototype labels in appendix L and specified as follows by product type:

(i) For refrigerators, refrigerator-freezers, and freezers, the statement will read as follows (fill in the blanks with the appropriate year and energy cost figures):

Your costs will depend on your utility rates and use.

[Insert statement required by §305.11(f)(9)(i)].

Estimated operating cost is based on a [Year] national average electricity cost of _____ cents per kWh.

For more information, visit www.ftc.gov/appliances.

(ii) For refrigerators, refrigerator-freezers, and freezers, the following sentence shall be included as part of the statement required by §305.11(f)(10)(i):

(A) For models covered under appendix A1, the sentence shall read:

Cost range based only on refrigerator models of similar capacity with automatic defrost.

(B) For models covered under appendix A2, the sentence shall read:

Cost range based only on models of similar capacity with manual defrost.

(C) For models covered under appendix A3, the sentence shall read:

Cost range based only on models of similar capacity with partial automatic defrost.

(D) For models covered under appendix A4, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, top-mounted freezer, and without through-the-door ice.

(E) For models covered under appendix A5, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, side-mounted freezer, and without through-the-door ice.

(F) For models covered under appendix A6, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, bottom-mounted freezer, and without through-the-door ice.

(G) For models covered under appendix A7, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, top-mounted freezer, and through-the-door ice.

(H) For models covered under appendix A8, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice.

(I) For models covered under appendix B1, the sentence shall read:

Cost range based only on upright freezer models of similar capacity with manual defrost.

(J) For models covered under appendix B2, the sentence shall read:

Cost range based only on upright freezer models of similar capacity with automatic defrost.

(K) For models covered under appendix B3, the sentence shall read:

Cost range based only on chest and other freezer models of similar capacity.
(iii) For room air conditioners, the statement will read as follows (fill in the blanks with the appropriate model type, year, energy type, and energy cost figure):

Your costs will depend on your utility rates and use.
Cost range based only on models of similar capacity without reverse cycle and without louvered sides; of similar capacity without reverse cycle and with louvered sides; or with reverse cycle and without louvered sides.
Estimated operating cost is based on a [Year] national average electricity cost of ____ cents per kWh and natural gas cost of $____ per therm.

For more information, visit www.ftc.gov/appliances.

(iv) For water heaters covered by Appendices D1, D2, and D3, the statement will read as follows (fill in the blanks with the appropriate fuel type, year, and energy cost figures):

Your costs will depend on your utility rates and use.
Cost range based only on models of similar capacity fueled by [natural gas, oil, propane, or electricity].
Estimated operating cost is based on a [Year] national average [electricity, natural gas, propane, or oil] cost of [____ cents per kWh or $____ per therm or gallon].

For more information, visit www.ftc.gov/appliances.

(v) For instantaneous gas water heaters (appendix D4) and heat pump water heaters (appendix D5), the statement will read as follows (fill in the blanks with the appropriate model type, the operating cost, the year, and the energy cost figures):

Your costs will depend on your utility rates and use.
Cost range based only on [instantaneous gas water heater or heat pump water heater] models of similar capacity. Estimated operating cost is based on a [Year] national average [electricity, natural gas, or propane] cost of [____ cents per kWh or $____ per therm or gallon].

For more information, visit www.ftc.gov/appliances.

(vi) For clothes washers and dishwashers, the statement will read as follows (fill in the blanks with the appropriate appliance type, the operating cost, the number of loads per week, the year, and the energy cost figures):

Your costs will depend on your utility rates and use.
Cost range based only on [compact/standard] capacity models.
Estimated operating cost is based on [4 washloads a week for dishwashers, or 8 washloads a week for clothes washers] and a [Year] national average electricity cost of ____ cents per kWh and natural gas cost of $____ per therm.

For more information, visit www.ftc.gov/appliances.

(vii) For pool heaters, the statement will read as follows:

Efficiency range based only on models fueled by [natural gas or oil].
For more information, visit www.ftc.gov/appliances.

(11) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L:

Federal law prohibits removal of this label before consumer purchase.

(12) No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(i) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.
(ii) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.
(iii) The manufacturer may include the ENERGY STAR logo on the bottom right corner of the label for qualified products. The logo must be 1 inch by 1 inch in size. 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 covered products that are contemplated by the Memorandum of Understanding.

[72 FR 49967, Aug. 29, 2007]
with consistent positioning of headline, copy, and charts to maintain uniformity for immediate consumer recognition and readability. Trim size dimensions for all labels shall be as follows: width must be between 5 1/4 inches and 5 1/2 inches (13.34 cm. and 13.97 cm.); length must be between 7 3/8 inches (18.78 cm.) and 7 5/8 (19.34 cm.).

Copy is to be set between 27 picas and 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely the prototype labels appearing at the end of this part illustrating the basic layout. All positioning, spacing, type sizes, and line widths should be similar to and consistent with the prototype and sample labels in appendix L.

(b) Type style and setting. The Arial series typeface or equivalent shall be used exclusively on the label. Specific sizes and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. Generally, text must be set flush left with two points leading except where otherwise indicated. See the prototype labels for specific directions.

(c) Colors. The basic colors of all labels covered by this section shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow. All type and graphics shall be print process black.

(d) Label Type. The labels must be affixed to the product in the form of an adhesive label.

All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25"x38") or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard.

(e) Placement. Manufacturers shall affix adhesive labels to the covered products in such a position that it is easily read by a consumer examining the product. The label shall be generally located on the upper-right-front corner of the product’s front exterior. However, some other prominent location may be used as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer. The top of the label should not exceed 74 inches from the base of taller products. The label can be displayed in the form of a flap tag adhered to the top of the appliance and bent (folded at 90°) to hang over the front, as long as this can be done with assurance that it will be readily visible. Labels for split system central air conditioners shall be affixed to the condensing unit.

(f) Content of Labels for furnaces. (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) The annual fuel utilization efficiency for furnaces is determined in accordance with §305.5.

(4) Ranges of comparability consisting of the lowest and highest annual fuel utilization efficiencies (AFUE) (for furnaces) for all furnaces that utilize the same energy source as indicated in the appendices to this part.

(5) Placement of the labeled product on the scale shall be proportionate to the lowest and highest annual fuel utilization efficiency ratings forming the scale.

(6) The following statement shall appear on furnace labels beneath the range(s) as illustrated in the sample labels in appendix L. Fill in the blanks.
with the appropriate product subcategory listed in brackets:
Efficiency range based only on [natural gas furnaces; electric furnaces; oil furnaces; mobile home furnaces; gas (except steam) boilers; gas (steam) boilers; oil boilers; or electric boilers].
For more information, visit www.ftc.gov/appliances.
(7) The following statement shall appear at the top of the label as illustrated in the sample labels in appendix L:
Federal law prohibits removal of this label before consumer purchase.
(8) No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:
(i) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.
(ii) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.
(iii) The manufacturer may include the ENERGY STAR logo on the bottom right corner of the label for qualified products. The logo must be 1 inch by 1 inch in size. 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 covered products that are contemplated by the Memorandum of Understanding.
(9) Manufacturers of boilers shipped with more than one input nozzle to be installed in the field must label such boilers with the AFUE of the system when it is set up with the nozzle that results in the lowest annual fuel utilization efficiency rating.
(10) Manufacturers that ship out boilers that may be set up as either steam or hot water units must label the boilers with the AFUE rating derived by conducting the required test on the boiler as a hot water unit.
(g) Content of Labels for central air conditioners and heat pumps. (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part.
(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.
(3) The seasonal energy efficiency ratio for the cooling function of central air conditioners is determined in accordance with §305.5. For the heating function, the heating seasonal performance factor shall be calculated for heating Region IV for the standardized design heating requirement nearest the capacity measured in the High Temperature Test in accordance with §305.5. In addition, the energy efficiency rating(s) for split system condenser-evaporator coil combinations shall be either:
(i) The energy efficiency rating of the condenser-evaporator coil combination that is the particular manufacturer’s most commonly sold combination for that condenser model; or
(ii) The energy efficiency rating of the actual condenser-evaporator coil combination comprising the system to which the label is to be attached.
(4)(i) Each cooling only central air conditioner label shall contain a range of comparability consisting of the lowest and highest seasonal energy efficiency ratios for all cooling only central air conditioners.
(ii) Each heat pump label, except as noted in paragraph (g)(4)(iii) of this section, shall contain two ranges of comparability. The first range shall consist of the lowest and highest seasonal energy efficiency ratios for the cooling side of all heat pumps. The second range shall consist of the lowest and highest heating seasonal performance factors for the heating side of all heat pumps.
§ 305.13 Labeling for ceiling fans.

(a) **Ceiling fans**—(1) **Content.** Any covered product that is a ceiling fan shall be labeled clearly and conspicuously on the principal display panel with the following information in order from top to bottom on the label:

(i) The words “ENERGY INFORMATION” shall appear at the top of the label with the words “at High Speed” directly underneath;

(ii) The product’s airflow at high speed expressed in cubic feet per minute and determined pursuant to §305.5 of this part;

(iii) The product’s electricity usage at high speed expressed in watts and determined pursuant to §305.5 of this part, including the phrase “excludes lights” as indicated in Ceiling Fan

Federal law prohibits removal of this label before consumer purchase.

(9) No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(i) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(ii) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(iii) The manufacturer may include the ENERGY STAR logo on the bottom right corner of the label for qualified products. The logo must be 1 inch by 1 inch in size. 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 covered products that are contemplated by the Memorandum of Understanding.

[72 FR 49969, Aug. 29, 2007]
Label Illustration of appendix L of this part;
(iv) The product’s airflow efficiency rating at high speed expressed in cubic feet per minute per watt and determined pursuant to §305.5 of this part;
(v) The following statement shall appear on the label for fans fewer than 49 inches in diameter: “Compare: 36" to 48" ceiling fans have airflow efficiencies ranging from approximately 71 to 86 cubic feet per minute per watt at high speed.”;
(vi) The following statement shall appear on the label for fans 49 inches or more in diameter: “Compare: 49" to 60" ceiling fans have airflow efficiencies ranging from approximately 51 to 176 cubic feet per minute per watt at high speed.”; and
(vii) The following statements shall appear at the bottom of the label as indicated in Ceiling Fan Label Illustration of Appendix L of this part: “Money-Saving Tip: Turn off fan when leaving room.”
(2) Label size and text font. The label shall be four inches wide and three inches high. The text font shall be Arial or another equivalent font. The text on the label shall be black with a white background. The label’s text size and content, and the order of the required disclosures shall be consistent with Ceiling Fan Label Illustration of appendix L of this part.
(3) Placement. The ceiling fan label shall be printed on the principal display panel of the product’s packaging.
(4) Additional information. No marks or information other than that specified in this part shall appear on this label, except a model name, number, or similar identifying information.
(b) [Reserved]

§ 305.14 Energy information disclosures for heating and cooling equipment.

(a) Required information: Manufacturers and private labelers of central air conditioners, heat pumps, and furnaces (including boilers) must provide energy information about the equipment they sell to distributors and retailers, including contractors. This information can be provided through means such as fact sheets, product brochures, and directories. All required information must be disclosed clearly and conspicuously. The information must include:
(1) Name of manufacturer or private labeler which, in the case of a corporation, shall be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used;
(2) Trade name (if different from manufacturer);
(3) Model number(s) given by the manufacturer or private labeler;
(4) Capacity or size as determined in accordance with §305.7;
(5) Energy efficiency rating as determined in accordance with §305.5. The energy efficiency rating(s) for split system condenser-evaporator coil combinations shall be either:
(i) The energy efficiency rating of the actual condenser-evaporator coil combination comprising the listed split system or
(ii) The energy efficiency rating of the condenser-evaporator coil combination that is the particular manufacturer’s most commonly sold combination for that condenser model.
(6) Ranges of comparability and of energy efficiency ratings found in the appropriate appendices accompanying this part.
(7) A statement that the energy efficiency ratings are based on U.S. Government standard tests.
(8) If the “most common” condenser-evaporator coil combinations are given for central air conditioners and heat pump efficiency ratings pursuant to §305.14(a)(5)(ii), the statement required by §305.14(a)(7) as follows:
(i) For information disclosing the seasonal energy efficiency ratio for cooling, the statement should read:
This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.
(ii) For information disclosing both the seasonal energy efficiency ratio for cooling and the heating seasonal performance factor for heating, the statement should read:
This energy rating is based on U.S. Government standard tests of this condenser model
§ 305.15 Labeling for lighting products.

(a) Fluorescent lamp ballasts and luminaires—(1) Contents. Fluorescent lamp ballasts that are “covered products,” as defined in §305.2(n), and to which standards are applicable under section 325 of the Act, shall be marked conspicuously, in color-contrasting ink, with a capital letter “E” printed within a circle. Packaging for such fluorescent lamp ballasts, as well as packaging for luminaires into which they are incorporated, shall also be marked conspicuously with a capital letter “E” printed within a circle. For purposes of this section, the encircled capital letter “E” will be deemed “conspicuous,” in terms of size, if it is as large as either the manufacturer’s name or another logo, such as the “UL,” “CBM” or “ETL” logos, whichever is larger, that appears on the fluorescent lamp ballast, the packaging for such ballast or the packaging for the luminaire into which the covered ballast is incorporated, whichever is applicable for purpose of labeling.

(2) Product labeling. The encircled capital letter “E” on fluorescent lamp ballasts must appear conspicuously, in color-contrasting ink, (i.e., in a color that contrasts with the background on which the encircled capital letter “E” is placed) on the surface that is normally labeled. It may be printed on the label that normally appears on the fluorescent lamp ballast, printed on a separate label, or stamped indelibly on the surface of the fluorescent lamp ballast.

(3) Package labeling. For purposes of labeling under this section, packaging for such fluorescent lamp ballasts and the luminaires into which they are incorporated consists of the plastic sheeting, or “shrink-wrap,” covering pallet loads of fluorescent lamp ballasts or luminaires as well as any containers in which such fluorescent lamp ballasts or the luminaires into which they are incorporated are marketed individually or in small numbers. The encircled capital letter “E” on packages containing fluorescent lamp ballasts or the luminaires into which they are incorporated must appear conspicuously,
in color-contrasting ink, on the surface of the package on which printing or a label normally appears. If the package contains printing on more than one surface, the label must appear on the surface on which the product inside the package is described. The encircled capital letter “E” may be printed on the surface of the package, printed on a label containing other information, printed on a separate label, or indelibly stamped on the surface of the package. In the case of pallet loads containing fluorescent lamp ballasts or the luminaires into which they are incorporated, the encircled capital letter “E” must appear conspicuously, in color-contrasting ink, on the plastic sheeting, unless clear plastic sheeting is used and the encircled capital letter “E” is legible underneath this packaging. The encircled capital letter “E” must also appear conspicuously on any documentation that would normally accompany such a pallet load. The encircled capital letter “E” may appear on a label affixed to the sheeting or may be indelibly stamped on the sheeting. It may be printed on the documentation, printed on a separate label that is affixed to the documentation or indelibly stamped on the documentation.

(b) Lamps. (1) Any covered product that is a compact fluorescent lamp or general service incandescent lamp (including an incandescent reflector lamp) shall be labeled clearly and conspicuously on the product’s principal display panel. The light output, energy usage and life ratings of any covered product that is a medium base compact fluorescent lamp or general service incandescent lamp (including an incandescent reflector lamp), shall appear in that order and with equal clarity and conspicuousness on the product’s principal display panel. The light output, energy usage and life ratings shall be disclosed in terms of “lumens,” “watts” and “hours” respectively, with the lumens, watts and hours rating numbers each appearing in the same type style and size and with the words “lumens,” “watts” and “hours” appearing in the same type style and size. The words “light output,” “energy used” and “life” shall precede and have the same conspicuousness as both the rating numbers and the words “lumens,” “watts” and “hours,” except that the letters of the words “lumens,” “watts” and “hours” shall be approximately 50% of the sizes of those used for the words “light output,” “energy used” and “life” respectively.

(iii) The light output, energy usage and life ratings of any covered product that is a medium base compact fluorescent lamp or general service incandescent lamp (including an incandescent reflector 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:

(A) 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

(B) 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.

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

(v) 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.

(vi) For any covered product that is a compact fluorescent lamp or a general service incandescent lamp (including an incandescent reflector lamp), there shall be clearly and conspicuously disclosed on the principal display panel the following statement:

*To save energy costs, find the bulbs with the (beam spread and) light output you need, then choose the one with the lowest watts.*

(vii) For any covered product that is a general service incandescent lamp and operates with multiple filaments, the principal display panel shall disclose clearly and conspicuously, in the manner required by paragraph (b)(1)(i)–(iii) and (vi) of this section, the lamp’s wattage and light output at each of the lamp’s levels of light output and the lamp’s life measured on the basis of the filament that fails first.

(2) Any covered product that is a general service incandescent lamp and operates with multiple filaments, the principal display panel 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.

(3) A manufacturer or private labeler who distributes general service fluorescent lamps, compact fluorescent lamps, or general service incandescent lamps (including incandescent reflector lamps) without labels attached to the lamps or without labels on individual retail-sale packaging for one or more lamps may meet the disclosure requirements of paragraphs (b)(1) and (b)(2) 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.

(1) Instead of labeling any covered product that is a general service fluorescent lamp with the encircled “E” and with the statement described in paragraph (b)(2) 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”.

(4) Any manufacturer or private labeler who makes any representation on a label of any covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), regarding the cost of operation 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.

(5) Any cartons in which any covered products that are general service fluorescent lamps, medium base compact fluorescent lamps, or general service incandescent lamps (including incandescent reflector 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.
§ 305.15, NI.

(c) Metal halide lamp fixtures and metal halide ballasts—(1) Contents. Metal halide ballasts contained in a metal halide lamp fixture covered by this Part shall be marked conspicuously, in color-contrasting ink, with a capital letter “E” printed within a circle. Packaging for metal halide lamp fixtures covered by this part shall also be marked conspicuously with a capital letter “E” printed within a circle. For purposes of this section, the encircled letter marked conspicuously with a capital letter “E” must appear conspicuously, in color-contrasting ink, on the plastic sheeting, unless clear plastic sheeting is used and the encircled capital letter “E” is legible underneath this packaging.


EFFECTIVE DATE NOTE: At 75 FR 41714, July 19, 2010, §305.15 was amended by revising paragraph (b), redesignating paragraph (d) as (f), and adding new paragraphs (c), (d) and, (e), effective July 19, 2011. For the convenience of the user, the added and revised text is set forth as follows:

§ 305.15 Labeling for lighting products.

* * * * *

(b) General service lamps—Except as provided in paragraph (c) of this section, any covered product that is a general service lamp shall be labeled as follows:

(1) Principal display panel content: The principal display panel of the product package shall be labeled clearly and conspicuously with the following information:

(i) The light output of each lamp included in the package, expressed as “Brightness” in watts

(ii) The estimated annual energy cost of each lamp included in the package, expressed as “Estimated Energy Cost” in dollars and based on usage of 3 hours per day and 11 cents ($0.11) per kWh.

(2) Principal display panel format: The light output (brightness) and energy cost shall appear in that order and with equal clarity and conspicuousness on the principal display panel of the product package. The format, terms, specifications, and minimum sizes shall follow the specifications and minimum sizes displayed in Prototype Label 5 in Appendix L.

(3) Lighting Facts label content: The side or rear display panel of the product package shall be labeled clearly and conspicuously 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 rounded to the nearest five;

(ii) The estimated annual energy cost of each lamp included in the package based on usage of 3 hours per day and 11 cents ($0.11) per kWh and explanatory text as illustrated in Prototype Label 6 in Appendix L;

(iii) The life, as defined in §305.2(w), of each lamp included in the package, expressed...
§ 305.15, Nt. 16 CFR Ch. I (1–1–11 Edition)

in years rounded to the nearest tenth (based on 3 hours operation per day):

(iv) The correlated color temperature of each lamp included in the package, as measured in degrees Kelvin and expressed as “Light Appearance” and by a number and a marker in the form of a scale as illustrated in Prototype Label 6 to Appendix L placed proportionately on the scale where the left end equals 2,600 K and the right end equals 6,000 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 6 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 For more on clean up and safe disposal, visit epa.gov/cfl.” The manufacturer may also print an “Hg[Encircled]” symbol on the label after the term “Contains Mercury”;

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

(a) Standard Lighting Facts label format: Except as provided in paragraph (b)(5) of this section, information specified in paragraph (b)(3) of this section shall be presented on covered lamp packages in the format, terms, explanatory text, specifications, and minimum sizes as shown in Prototype Labels 6 in Appendix L and consistent in format and orientation with Sample Labels 10, 11, or 12 in 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 Label 6 in Appendix L;

(D) Letters that never touch;

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

(F) The minimum font sizes and line thicknesses as illustrated in Prototype Label 6 in Appendix L.

(5) Lighting Facts format for small packages. If the total surface area of the product package available for labeling is less than 24 square inches and the package shape or size cannot accommodate the standard label required by paragraph (b)(4) of this section, manufacturers may provide the information specified in paragraph (b)(3) of this section using a smaller, linear label following the format, terms, explanatory text, specifications, and minimum sizes illustrated in Prototype Label 7 in Appendix L.

(6) Bilingual labels. The information required by paragraphs (b)(1) through (5) of this section may be presented in a second language either by using separate labels for each language or in a bilingual label with the English text in the format required by this section immediately followed by the text in the second language. Sample Label 13 in Appendix L provides an example of a bilingual Lighting Facts label. All required information must be included in both languages. Numeric characters that are identical in both languages need not be repeated.

(7) Product labeling. Any general service lamp shall be labeled legibly on the product with the following information:

(i) The lamp’s average initial lumens, expressed as a number rounded to the nearest five, adjacent to the word “lumens,” both provided in minimum 8 point font; and

(ii) For general service lamps containing mercury, the following statement: “Contains Mercury. For more on clean up and safe disposal, visit epa.gov/cfl.”

(c)(1) Any covered incandescent lamp that is subject to and does not comply with the January 1, 2012 efficiency standards specified in 42 U.S.C. 6296 shall be labeled clearly and conspicuously on the principal display panel of product package with the following information in lieu of the labeling requirements specified in paragraph (b) of this section:

(i) The number of lamps included in the package, if more than one;

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

(iii) The light output of each lamp included in the package, expressed in average initial lumens;

(iv) The electrical power consumed (energy used) by each lamp included in the package, expressed in average initial wattage; and

(v) The life of each lamp included in the package, expressed in hours.

(2) The light output, energy usage and life ratings of any product covered by paragraph (c)(1) of this section shall appear in that
Federal Trade Commission

§ 305.15, NI.

order and with equal clarity and conspicuousness on the product’s principal display panel. The light output, energy usage and life ratings shall be disclosed in terms of “light output,” “watts,” and “hours” respectively, with the lumens, watts, and hours rating numbers each appearing in the same type style and size and with the words “lumens,” “watts,” and “hours” respectively each appearing in the same type style and size. The words “light output,” “energy used,” and “life” shall precede and have the same conspicuousness as both the rating numbers and the words “lumens,” “watts,” and “hours,” except that the letters of the words “lumens,” “watts,” and “hours” shall be approximately 50% of the sizes of those used for the words “light output,” “energy used,” and “life,” respectively.

(d)(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, energy cost, and life ratings shall in each instance be:

(1) 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, energy cost, 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, energy cost, 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 this section 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 or in any manner that is not clearly and conspicuously identified, shall 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 from those required for the cost and life information on the Lighting Facts label (11 cents per kWh and 3 hours per day), the manufacturer or private labeler shall also clearly and conspicuously disclose 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 from those required for the cost and life information on the Lighting Facts label (11 cents per kWh and 3 hours per day), the manufacturer or private labeler shall also clearly and conspicuously disclose the assumptions upon which it is based.

The following statement:

“The encircled “E” means this bulb meets Federal minimum efficiency standards.”

(i) 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.

(ii) 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 (e)(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.

§ 305.16 Labeling and marking for plumbing products.

(a) Showerheads and faucets. Showerheads and faucets shall be marked and labeled as follows:

(1) Each showerhead and flow restricting or controlling spout end device shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325 of the Act, 42 U.S.C. 6295(j). Except where impractical due to the size of the fitting, each flow rate disclosure shall also be given in liters per minute (L/min) or liters per cycle (L/cycle). For purposes of this section, the marking indicating the flow rate will be deemed “legible,” in terms of placement, if it is located in close proximity to the manufacturer’s identification marking.

(2) Each showerhead and faucet shall bear a permanent legible marking to identify the manufacturer. This marking shall be the trade name, trademark, or other mark known to identify the manufacturer. Such marking shall be located where it can be seen after installation.

(3) Each showerhead and faucet shall be marked “A112.18.1M” to demonstrate compliance with the applicable ASME standard. The marking shall be by means of either a permanent mark on the product, a label on the product, or a tag attached to the product.

(4) The package for each showerhead and faucet shall disclose the manufacturer’s name and the model number.

(5) The package or any label attached to the package for each showerhead or faucet shall contain at least the following: “A112.18.1M” and the flow rate expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325 of the Act, 42 U.S.C. 6295(j). Each flow rate disclosure shall also be given in liters per minute (L/min) or liters per cycle (L/cycle).

(b) Water closets and urinals. Water closets and urinals shall be marked and labeled as follows:

(1) Each such fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the flow rate, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325 of the Act, 42 U.S.C. 6295(k). Except where impractical due to the size of the fixture, each flow rate disclosure shall also be given in liters per flush (Lpf). For purposes of this section, the marking indicating the flow rate will be deemed “legible,” in terms of placement, if it is located in close proximity to the manufacturer’s identification marking.

(2) Each water closet (and each component of the water closet if the fixture is comprised of two or more components) and urinal shall be marked with the manufacturer’s name or trademark or, in the case of private labeling, the name or registered trademark of the customer for whom the unit was manufactured. This mark shall be legible, readily identified, and applied so as to be permanent. The mark shall be located so as to be visible after the fixture is installed, except for fixtures built into or for a counter or cabinet.

(3) Each water closet (and each component of the water closet if the fixture is comprised of two or more components) and urinal shall be marked at a location determined by the manufacturer with the designation “ASME A112.19.2M” to signify compliance with the applicable standard. This mark
need not be permanent, but shall be visible after installation.

(4) The package, and any labeling attached to the package, for each water closet and urinal shall disclose the flow rate, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325 of the Act, 42 U.S.C. 6295(k). Each flow rate disclosure shall also be given in liters per flush (Lpf).

(5) With respect to any gravity tank-type white 2-piece toilet offered for sale or sold before January 1, 1997, which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point-of-sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words “For Commercial Use Only.”

(c) Annual operating cost claims for covered plumbing products. Until such time as the Commission has prescribed a format and manner of display for labels conveying estimated annual operating costs of covered showerheads, faucets, water closets, and urinals or ranges of estimated annual operating costs for the types or classes of such plumbing products, the Act prohibits manufacturers from making such representations on the labels of such covered products. 42 U.S.C. 6294(c)(8). If, before the Commission has prescribed such a format and manner of display for labels of such products, a manufacturer elects to provide for any such product a label conveying such a claim, it shall submit the proposed claim to the Commission so that a format and manner of display for a label may be prescribed.

[73 FR 49973, Aug. 29, 2007]

§ 305.19 Promotional material displayed or distributed at point of sale.

(a)(1) Any manufacturer, distributor, retailer or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product (except fluorescent lamp ballasts, metal halide lamp fixtures, general service fluorescent lamps, medium base compact fluorescent lamps, or general service incandescent lamps including incandescent reflector lamps, showerheads, faucets, water closets or urinals) shall clearly and conspicuously include in such printed material the following required disclosure:

Before purchasing this appliance, read important information about its estimated annual energy consumption, yearly operating cost, or energy efficiency rating that is available from your retailer.

(2) Any manufacturer, distributor, retailer or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product that is a fluorescent lamp ballast or metal halide lamp fixture to which standards are applicable under section 325 of the Act, shall disclose conspicuously in such printed material, in each description of such product, an encircled capital letter “E”.

(3) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), and who makes any representation in such promotional material regarding the cost of operation 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, and patterns of use.

(4) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point-of-sale concerning a covered product that is a showerhead, faucet, water closet, or urinal shall clearly and conspicuously include in such printed material the product’s water use, expressed in gallons and liters per minute (gpm and L/min) or per cycle (gpc and L/cycle) or gallons and liters per flush (gpf and Lpf) as specified in §305.11(f).

(b) This section shall not apply to:

(1) Written warranties.
§ 305.20 Paper catalogs and websites.

(a) Any manufacturer, distributor, retailer, or private labeler who advertises in a catalog, a covered product (except ceiling fan, fluorescent lamp ballasts, metal halide lamp fixtures, general service fluorescent lamps, medium base compact fluorescent lamps, general service incandescent lamps including incandescent reflector lamps, showerheads, faucets, water closets, or urinals) shall include in such catalog either the EnergyGuide labels prepared in accordance with §§305.11 and 305.12 for products they offer or the following information:

(1) The capacity of the model on each page that lists the covered product.

(2) The estimated annual operating costs for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, and water heaters as determined in accordance with §305.5 and appendix K of this part on each page that lists the covered product.

(3) A statement conspicuously placed in the catalog:

(i) For refrigerators, refrigerator-freezers, and freezers (fill in the blanks with the appropriate year and energy cost figures):

Your operating costs will depend on your utility rates and use. The estimated operating cost is based on a Year national average electricity cost of [ ___ cents per kWh]. For more information, visit www.ftc.gov/appliances.

(ii) For room air conditioners and water heaters, (fill in the blanks with the appropriate year and energy cost figures):

Your operating costs will depend on your utility rates and use. The estimated operating cost is based on a Year national average electricity cost of [ ___ cents per kWh]. For more information, visit www.ftc.gov/appliances.

(iii) For clothes washers and dishwashers, (fill in the blanks with the appropriate information such as the year, and the energy cost figures):

Your operating costs will depend on your utility rates and use. The estimated operating cost is based on a Year national average electricity cost of [ ___ cents per kWh] for electricity and [ ___ cents per therm] for natural gas. For more information, visit www.ftc.gov/appliances.

(b) Any manufacturer, distributor, retailer, or private labeler who advertises fluorescent lamp ballasts that are “covered products,” as defined in §305.2(l), and to which standards are applicable under section 325 of the Act, in a catalog, from which they may be purchased by cash, charge account or credit terms, shall disclose conspicuously in such catalog, in each description of such fluorescent lamp ballasts, a capital letter “E” printed within a circle.

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

(i) On each page listing any covered product that is a compact fluorescent lamp or a general service incandescent...
§ 305.20 Paper catalogs and websites.

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

(B) The accompanying statement shall appear at least once on the page.

(2) Any manufacturer, distributor, retailer, or private labeler who advertises a covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), in a catalog who makes any representation in such catalog regarding the cost of operation 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.

(d) Any manufacturer, distributor, retailer, or private labeler who advertises 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 package labeling either in the form of a catalog prepared pursuant to §305.20 shall appear at least once on the page.

(e) Any manufacturer, distributor, retailer, or private labeler who advertises metal halide lamp fixtures manufactured on or after January 1, 2009, from which they may be purchased by cash, charge account or credit terms, shall disclose conspicuously in such catalog, in each description of such metal halide lamp fixture, a capital letter “E” printed within a circle.

EFFECTIVE DATE NOTES: 1. At 75 FR 41716, July 19, 2010, §305.20 was amended in paragraph (a)(1), by removing the phrase “medium base compact fluorescent lamps, general service incandescent lamps including incandescent reflector lamps” and adding in its place, “general service lamps” wherever it appears, and by revising paragraph (c)(1), effective July 19, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 305.20 Paper catalogs and websites.

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

(i) On each page listing any covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), in a catalog who makes any representation in such catalog regarding the cost of operation 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.

(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 package labeling either in the form of a catalog prepared pursuant to §305.20 shall appear at least once on the page.

* * *
§ 305.21  Test data records.

(a) Test data shall be kept on file by the manufacturer of a covered product for a period of two years after production of that model has been terminated.

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the water use or energy consumption rate, the energy efficiency rating, the estimated annual cost of using each basic model, or the light output, energy usage and life ratings and, for fluorescent lamps, the color rendering index, for each basic model or lamp type were derived.


EFFECTIVE DATE NOTE: At 75 FR 41717, July 19, 2010, § 305.21 was amended by revising paragraph (b), effective July 19, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 305.21  Test data records.

* * * * *

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the water use or energy consumption rate, the energy efficiency rating, the estimated annual cost of using each basic model, or the light output, energy usage and life ratings and, for fluorescent lamps, the color rendering index, for each basic model or lamp type were derived.


EFFECT OF THIS PART

§ 305.23  Effect on other law.

This regulation supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to the Act, all State regulations that require the disclosure for any covered product of information with respect to energy consumption, other than the information required to be disclosed in accordance with this part, are superseded.

§ 305.24 Stayed or invalid parts.

If any section or portion of a section of this part is stayed or held invalid, the remainder of the part will not be affected.


§ 305.25 [Reserved]

APPENDIX A1 TO PART 305—REFRIGERATORS WITH AUTOMATIC DEFROST

RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 2.5</td>
<td>$32</td>
</tr>
<tr>
<td>2.5 to 4.4</td>
<td>$33</td>
</tr>
<tr>
<td>4.5 to 6.4</td>
<td>$32</td>
</tr>
<tr>
<td>6.5 to 8.4</td>
<td>$48</td>
</tr>
<tr>
<td>8.5 to 10.4</td>
<td>$37</td>
</tr>
<tr>
<td>10.5 to 12.4</td>
<td>$35</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>$33</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>$46</td>
</tr>
<tr>
<td>16.5 and over</td>
<td>$36</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49974, Aug. 29, 2007]

APPENDIX A2 TO PART 305—REFRIGERATORS AND REFRIERATORS-FREEZERS WITH MANUAL DEFROST

RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 2.5</td>
<td>$29</td>
</tr>
<tr>
<td>2.5 to 4.4</td>
<td>$29</td>
</tr>
<tr>
<td>4.5 to 6.4</td>
<td>$29</td>
</tr>
<tr>
<td>6.5 to 8.4</td>
<td>$39</td>
</tr>
<tr>
<td>8.5 to 10.4</td>
<td>$24</td>
</tr>
<tr>
<td>10.5 to 12.4</td>
<td>$35</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>(*)</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>(*)</td>
</tr>
<tr>
<td>16.5 to 18.4</td>
<td>$36</td>
</tr>
<tr>
<td>18.5 to 20.4</td>
<td>(*)</td>
</tr>
<tr>
<td>20.5 to 22.4</td>
<td>(*)</td>
</tr>
<tr>
<td>22.5 to 24.4</td>
<td>$48</td>
</tr>
<tr>
<td>24.5 to 26.4</td>
<td>(*)</td>
</tr>
<tr>
<td>26.5 to 28.4</td>
<td>(*)</td>
</tr>
<tr>
<td>28.5 and over</td>
<td>(*)</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49975, Aug. 29, 2007]

APPENDIX A3 TO PART 305—REFRIGERATOR-FREEZERS WITH PARTIAL AUTOMATIC DEFROST

RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 10.5</td>
<td>$27</td>
</tr>
</tbody>
</table>

289
### RANGE INFORMATION—Continued

<table>
<thead>
<tr>
<th>Manufacturer's Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.5 to 12.4</td>
<td>$33 $33</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>16.5 to 18.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>18.5 to 20.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>20.5 to 22.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>22.5 to 24.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>24.5 to 26.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>26.5 to 28.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>28.5 and over</td>
<td>(<em>) (</em>)</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49975, Aug. 29, 2007]

### APPENDIX A4 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH TOP-MOUNTED FREEZER WITHOUT THROUGH-THE-DOOR ICE SERVICE

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer's Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 10.5</td>
<td>$35 $49</td>
</tr>
<tr>
<td>10.5 to 12.4</td>
<td>$41 $44</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>$40 $47</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>$40 $48</td>
</tr>
<tr>
<td>16.5 to 18.4</td>
<td>$42 $52</td>
</tr>
<tr>
<td>18.5 to 20.4</td>
<td>$41 $53</td>
</tr>
<tr>
<td>20.5 to 22.4</td>
<td>$44 $56</td>
</tr>
<tr>
<td>22.5 to 24.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>24.5 to 26.4</td>
<td>$51 $51</td>
</tr>
<tr>
<td>26.5 to 28.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>28.5 and over</td>
<td>(<em>) (</em>)</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49975, Aug. 29, 2007]

### APPENDIX A5 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH SIDE-MOUNTED FREEZER WITHOUT THROUGH-THE-DOOR ICE SERVICE

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer's Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 10.5</td>
<td>$56 $56</td>
</tr>
<tr>
<td>10.5 to 12.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>16.5 to 18.4</td>
<td>(<em>) (</em>)</td>
</tr>
<tr>
<td>18.5 to 20.4</td>
<td>$66 $66</td>
</tr>
<tr>
<td>20.5 to 22.4</td>
<td>$46 $68</td>
</tr>
<tr>
<td>22.5 to 24.4</td>
<td>$59 $73</td>
</tr>
<tr>
<td>24.5 to 26.4</td>
<td>$58 $78</td>
</tr>
<tr>
<td>26.5 to 28.4</td>
<td>$71 $71</td>
</tr>
<tr>
<td>28.5 and over</td>
<td>$62 $73</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49976, Aug. 29, 2007]
### APPENDIX A6 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST
WITH BOTTOM-MOUNTED FREEZER WITHOUT THROUGH-THE-DOOR ICE SERVICE

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 10.5</td>
<td>$46</td>
</tr>
<tr>
<td>10.5 to 12.4</td>
<td>$47</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>(*)</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>$48</td>
</tr>
<tr>
<td>16.5 to 18.4</td>
<td>$50</td>
</tr>
<tr>
<td>18.5 to 20.4</td>
<td>$47</td>
</tr>
<tr>
<td>20.5 to 22.4</td>
<td>$49</td>
</tr>
<tr>
<td>22.5 to 24.4</td>
<td>$62</td>
</tr>
<tr>
<td>24.5 to 26.4</td>
<td>$51</td>
</tr>
<tr>
<td>26.5 to 28.4</td>
<td>(*)</td>
</tr>
<tr>
<td>28.5 and over</td>
<td>(*)</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49976, Aug. 29, 2007]

### APPENDIX A7 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST
WITH TOP-MOUNTED FREEZER WITH THROUGH-THE-DOOR ICE SERVICE

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 10.5</td>
<td>(*)</td>
</tr>
<tr>
<td>10.5 to 12.4</td>
<td>(*)</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>(*)</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>(*)</td>
</tr>
<tr>
<td>16.5 to 18.4</td>
<td>$43</td>
</tr>
<tr>
<td>18.5 to 20.4</td>
<td>(*)</td>
</tr>
<tr>
<td>20.5 to 22.4</td>
<td>$56</td>
</tr>
<tr>
<td>22.5 to 24.4</td>
<td>(*)</td>
</tr>
<tr>
<td>24.5 to 26.4</td>
<td>(*)</td>
</tr>
<tr>
<td>26.5 to 28.4</td>
<td>(*)</td>
</tr>
<tr>
<td>28.5 and over</td>
<td>(*)</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49977, Aug. 29, 2007]

### APPENDIX A8 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST
WITH SIDE-MOUNTED FREEZER WITH THROUGH-THE-DOOR ICE SERVICE

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 10.5</td>
<td>(*)</td>
</tr>
<tr>
<td>10.5 to 12.4</td>
<td>(*)</td>
</tr>
<tr>
<td>12.5 to 14.4</td>
<td>(*)</td>
</tr>
<tr>
<td>14.5 to 16.4</td>
<td>(*)</td>
</tr>
<tr>
<td>16.5 to 18.4</td>
<td>(*)</td>
</tr>
<tr>
<td>18.5 to 20.4</td>
<td>$59</td>
</tr>
<tr>
<td>20.5 to 22.4</td>
<td>$57</td>
</tr>
<tr>
<td>22.5 to 24.4</td>
<td>$57</td>
</tr>
<tr>
<td>24.5 to 26.4</td>
<td>$60</td>
</tr>
<tr>
<td>26.5 to 28.4</td>
<td>$65</td>
</tr>
<tr>
<td>28.5 and over</td>
<td>$70</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.
### APPENDIX B1 TO PART 305—UPRIGHT FREEZERS WITH MANUAL DEFROST

**Range Information**

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 5.5</td>
<td>$29</td>
</tr>
<tr>
<td>5.5 to 7.4</td>
<td>$32</td>
</tr>
<tr>
<td>7.5 to 9.4</td>
<td>$36</td>
</tr>
<tr>
<td>9.5 to 11.4</td>
<td>($1)</td>
</tr>
<tr>
<td>11.5 to 13.4</td>
<td>$44</td>
</tr>
<tr>
<td>13.5 to 15.4</td>
<td>$42</td>
</tr>
<tr>
<td>15.5 to 17.4</td>
<td>$44</td>
</tr>
<tr>
<td>17.5 to 19.4</td>
<td>$46</td>
</tr>
<tr>
<td>19.5 to 21.4</td>
<td>$55</td>
</tr>
<tr>
<td>21.5 to 23.4</td>
<td>($1)</td>
</tr>
<tr>
<td>23.5 to 25.4</td>
<td>$62</td>
</tr>
<tr>
<td>25.5 to 27.4</td>
<td>($1)</td>
</tr>
<tr>
<td>27.5 to 29.4</td>
<td>($1)</td>
</tr>
<tr>
<td>29.5 and over</td>
<td>($1)</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

### APPENDIX B2 TO PART 305—UPRIGHT FREEZERS WITH AUTOMATIC DEFROST

**Range Information**

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 5.5</td>
<td>$51</td>
</tr>
<tr>
<td>5.5 to 7.4</td>
<td>($1)</td>
</tr>
<tr>
<td>7.5 to 9.4</td>
<td>($1)</td>
</tr>
<tr>
<td>9.5 to 11.4</td>
<td>$60</td>
</tr>
<tr>
<td>11.5 to 13.4</td>
<td>$61</td>
</tr>
<tr>
<td>13.5 to 15.4</td>
<td>$60</td>
</tr>
<tr>
<td>15.5 to 17.4</td>
<td>$62</td>
</tr>
<tr>
<td>17.5 to 19.4</td>
<td>$68</td>
</tr>
<tr>
<td>19.5 to 21.4</td>
<td>$71</td>
</tr>
<tr>
<td>21.5 to 23.4</td>
<td>$85</td>
</tr>
<tr>
<td>23.5 to 25.4</td>
<td>$91</td>
</tr>
<tr>
<td>25.5 to 27.4</td>
<td>($1)</td>
</tr>
<tr>
<td>27.5 to 29.4</td>
<td>($1)</td>
</tr>
<tr>
<td>29.5 and over</td>
<td>($1)</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

### APPENDIX B3 TO PART 305—CHEST FREEZERS AND ALL OTHER FREEZERS

**Range Information**

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 5.5</td>
<td>$20</td>
</tr>
<tr>
<td>5.5 to 7.4</td>
<td>$25</td>
</tr>
<tr>
<td>7.5 to 9.4</td>
<td>$31</td>
</tr>
<tr>
<td>9.5 to 11.4</td>
<td>$30</td>
</tr>
<tr>
<td>11.5 to 13.4</td>
<td>$35</td>
</tr>
<tr>
<td>13.5 to 15.4</td>
<td>$38</td>
</tr>
<tr>
<td>15.5 to 17.4</td>
<td>$38</td>
</tr>
<tr>
<td>17.5 to 19.4</td>
<td>($1)</td>
</tr>
<tr>
<td>19.5 to 21.4</td>
<td>$46</td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.
### RANGE INFORMATION—Continued

<table>
<thead>
<tr>
<th>Manufacturer’s Rated Total Refrigerated Volume in Cubic feet</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
<th>Low</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>21.5 to 23.4</td>
<td>$49</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23.5 to 25.4</td>
<td>$55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25.5 to 27.4</td>
<td>(*)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>27.5 to 29.4</td>
<td>(*)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>29.5 and over</td>
<td>(*)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(*) No data submitted for units meeting the Department of Energy’s Energy Conservation Standards effective July 1, 2001.

[72 FR 49978, Aug. 29, 2007]

#### APPENDIX C1 TO PART 305—COMPACT DISHWASHERS

**Range Information**

“Compact” includes countertop dishwasher models with a capacity of fewer than eight (8) place settings. Place settings shall be in accordance with appendix C to 10 CFR part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compact</td>
<td>$19</td>
</tr>
</tbody>
</table>

[72 FR 49979, Aug. 29, 2007]

#### APPENDIX C2 TO PART 305—STANDARD DISHWASHERS

**Range Information**

“Standard” includes dishwasher models with a capacity of fewer than eight (8) or more place settings. Place settings shall be in accordance with appendix C to 10 CFR part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard</td>
<td>$20</td>
</tr>
</tbody>
</table>

[72 FR 49979, Aug. 29, 2007]

#### APPENDIX D1 TO PART 305—WATER HEATERS—GAS

**Range Information**

<table>
<thead>
<tr>
<th>CAPACITY</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Gas ($/year)</td>
<td>Propane ($/year)</td>
</tr>
<tr>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>Less than 21</td>
<td>*</td>
</tr>
<tr>
<td>21 to 24</td>
<td>*</td>
</tr>
<tr>
<td>25 to 29</td>
<td>*</td>
</tr>
<tr>
<td>30 to 34</td>
<td>*</td>
</tr>
<tr>
<td>35 to 40</td>
<td>*</td>
</tr>
<tr>
<td>41 to 47</td>
<td>*</td>
</tr>
<tr>
<td>48 to 55</td>
<td>$285</td>
</tr>
<tr>
<td>56 to 64</td>
<td>$295</td>
</tr>
<tr>
<td>65 to 74</td>
<td>$273</td>
</tr>
<tr>
<td>75 to 86</td>
<td>$273</td>
</tr>
<tr>
<td>87 to 99</td>
<td>$285</td>
</tr>
<tr>
<td>100 to 114</td>
<td>$276</td>
</tr>
<tr>
<td>115 to 131</td>
<td>$276</td>
</tr>
</tbody>
</table>
### APPENDIX D2 TO PART 305—WATER HEATERS—ELECTRIC

**RANGE INFORMATION**

<table>
<thead>
<tr>
<th>CAPACITY</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural Gas ($/year)  Propane ($/year)</td>
</tr>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>OVER 31</td>
<td>$309</td>
</tr>
</tbody>
</table>

* No data submitted.

[72 FR 49979, Aug. 29, 2007]

### APPENDIX D3 TO PART 305—WATER HEATERS—OIL

**RANGE INFORMATION**

<table>
<thead>
<tr>
<th>CAPACITY</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural Gas ($/year)  Propane ($/year)</td>
</tr>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>OVER 31</td>
<td>$386</td>
</tr>
</tbody>
</table>

* No data submitted.

[72 FR 49979, Aug. 29, 2007]

### APPENDIX D4 TO PART 305—WATER HEATERS-INSTANTANEOUS-GAS

**RANGE INFORMATION**

<table>
<thead>
<tr>
<th>CAPACITY</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural Gas ($/year)  Propane ($/year)</td>
</tr>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>OVER 99</td>
<td>$285</td>
</tr>
<tr>
<td>OVER 12</td>
<td>$280</td>
</tr>
</tbody>
</table>

294
### RANGE INFORMATION—Continued

<table>
<thead>
<tr>
<th>CAPACITY</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural Gas ($/year)</td>
</tr>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>2.01 to 3.00</td>
<td>$174</td>
</tr>
<tr>
<td>Over 3.00</td>
<td>$199</td>
</tr>
</tbody>
</table>

* No data submitted.

[72 FR 49979, Aug. 29, 2007]

**EFFECTIVE DATE NOTE:** At 75 FR 67615, November 3, 2010, appendix D4 to part 305 was revised, effective July 19, 2011. For the convenience of the user, the revised text is set forth as follows:

### APPENDIX D4 TO PART 305—WATER HEATERS—INSTANTANEOUS—GAS

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>Capacity (maximum flow rate); gallons per minute (gpm)</th>
<th>Range of estimated annual operating costs (dollars/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural gas ($/year)</td>
</tr>
<tr>
<td></td>
<td>LOW</td>
</tr>
<tr>
<td>Under 1.00</td>
<td>285</td>
</tr>
<tr>
<td>1.00 to 2.00</td>
<td>280</td>
</tr>
<tr>
<td>2.01 to 3.00</td>
<td>174</td>
</tr>
<tr>
<td>Over 3.00</td>
<td>199</td>
</tr>
</tbody>
</table>

* No data submitted.

### APPENDIX D5 TO PART 305—WATER HEATERS—HEAT PUMP

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>CAPACITY</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Less than 21</td>
<td>*</td>
</tr>
<tr>
<td>21 to 24</td>
<td>*</td>
</tr>
<tr>
<td>25 to 29</td>
<td>*</td>
</tr>
<tr>
<td>30 to 34</td>
<td>*</td>
</tr>
<tr>
<td>35 to 40</td>
<td>*</td>
</tr>
<tr>
<td>41 to 47</td>
<td>*</td>
</tr>
<tr>
<td>48 to 55</td>
<td>*</td>
</tr>
<tr>
<td>56 to 64</td>
<td>*</td>
</tr>
<tr>
<td>65 to 74</td>
<td>*</td>
</tr>
<tr>
<td>75 to 86</td>
<td>*</td>
</tr>
<tr>
<td>87 to 99</td>
<td>*</td>
</tr>
<tr>
<td>100 to 114</td>
<td>*</td>
</tr>
<tr>
<td>115 to 131</td>
<td>*</td>
</tr>
<tr>
<td>Over 131</td>
<td>*</td>
</tr>
</tbody>
</table>

* No data submitted.

[72 FR 49979, Aug. 29, 2007]

### APPENDIX E TO PART 305—ROOM AIR CONDITIONERS

#### RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s rated cooling capacity in Btu/s/yr</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LOW</td>
</tr>
<tr>
<td>Without Reverse Cycle and with Louvered Sides:</td>
<td></td>
</tr>
<tr>
<td>Less than 6,000 Btu</td>
<td>$37</td>
</tr>
<tr>
<td>6,000 to 7,999 Btu</td>
<td>$44</td>
</tr>
<tr>
<td>8,000 to 13,999 Btu</td>
<td>$59</td>
</tr>
</tbody>
</table>
### RANGE INFORMATION—Continued

<table>
<thead>
<tr>
<th>Manufacturer’s rated cooling capacity in Btu's/yr</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>14,000 to 19,999 Btu</td>
<td>$105</td>
</tr>
<tr>
<td>20,000 and more Btu</td>
<td>$166</td>
</tr>
<tr>
<td>Without Reverse Cycle and without Louvered Sides:</td>
<td></td>
</tr>
<tr>
<td>Less than 6,000 Btu</td>
<td>*</td>
</tr>
<tr>
<td>6,000 to 7,999 Btu</td>
<td>$48</td>
</tr>
<tr>
<td>8,000 to 13,999 Btu</td>
<td>$61</td>
</tr>
<tr>
<td>14,000 to 19,999 Btu</td>
<td>$124</td>
</tr>
<tr>
<td>20,000 and more Btu</td>
<td>*</td>
</tr>
<tr>
<td>With Reverse Cycle and with Louvered Sides</td>
<td>$61</td>
</tr>
<tr>
<td>With Reverse Cycle, without Louvered Sides</td>
<td>$67</td>
</tr>
</tbody>
</table>

* No data submitted for units meeting Federal Minimum Efficiency Standards effective October 1, 2000.

[72 FR 49981, Aug. 29, 2007]

### APPENDIX F1 TO PART 305—STANDARD CLOTHES WASHERS

**Range Information**

“Standard” includes all household clothes washers with a tub capacity of 1.6 cu. ft. or more.

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Standard</td>
<td>$10</td>
</tr>
</tbody>
</table>

[72 FR 49981, Aug. 29, 2007]

### APPENDIX F2 TO PART 305—COMPACT CLOTHES WASHERS

**Range Information**

“Compact” includes all household clothes washers with a tub capacity of less than 1.6 cu. ft.

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Range of Estimated Annual Operating Costs (Dollars/Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Compact</td>
<td>$19</td>
</tr>
</tbody>
</table>

[72 FR 49981, Aug. 29, 2007]

### APPENDIX G1 TO PART 305—FURNACES—GAS

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu's/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>All Capacities</td>
<td>78.0</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]

### APPENDIX G2 TO PART 305—FURNACES—ELECTRIC

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu's/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>All Capacities</td>
<td>100</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]
Federal Trade Commission

Appendix G3 to Part 305—Furnaces—Oil

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu’s/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Capacities</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>78.0</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]

Appendix G4 to Part 305—Mobile Home Furnaces

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu’s/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Capacities</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>75.0</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]

Appendix G5 to Part 305—Boilers—Gas (Except Steam)

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu’s/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Capacities</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>80</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]

Appendix G6 to Part 305—Boilers—Gas (Steam)

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu’s/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Capacities</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>75.8</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]

Appendix G7 to Part 305—Boilers—Oil

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu’s/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Capacities</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>80.0</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]

Appendix G8 to Part 305—Boilers—Electric

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities (Btu’s/hr.)</th>
<th>Range of annual fuel utilization efficiencies (AFUE’s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Capacities</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>100</td>
</tr>
</tbody>
</table>

[72 FR 49982, Aug. 29, 2007]
APPENDIX H TO PART 305—COOLING PERFORMANCE AND COST FOR CENTRAL AIR CONDITIONERS

<table>
<thead>
<tr>
<th>Manufacturer’s rated cooling capacities (Btu’s/hr.)</th>
<th>Range of SEER’s</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Single Package Units.</td>
<td></td>
</tr>
<tr>
<td>Central Air Conditioners (Cooling Only): All capacities</td>
<td>10.6</td>
</tr>
<tr>
<td>Heat Pumps (Cooling Function): All capacities</td>
<td>10.6</td>
</tr>
<tr>
<td>Split System Units.</td>
<td></td>
</tr>
<tr>
<td>Central Air Conditioners (Cooling Only): All capacities</td>
<td>10.9</td>
</tr>
<tr>
<td>Heat Pumps (Cooling Function): All capacities</td>
<td>10.9</td>
</tr>
</tbody>
</table>

[72 FR 49983, Aug. 29, 2007]

APPENDIX I TO PART 305—HEATING PERFORMANCE AND COST FOR CENTRAL AIR CONDITIONERS

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacity (Btu’s/hr.)</th>
<th>Range of HSPF’s</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>Single Package Units.</td>
<td></td>
</tr>
<tr>
<td>Heat Pumps (Heating Function): All capacities</td>
<td>7.0</td>
</tr>
<tr>
<td>Split System Units.</td>
<td></td>
</tr>
<tr>
<td>Heat Pumps (Heating Function): All capacities</td>
<td>7.1</td>
</tr>
</tbody>
</table>

[72 FR 49983, Aug. 29, 2007]

APPENDIX J1 TO PART 305—POOL HEATERS—GAS

RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacity</th>
<th>Range of Thermal Efficiencies (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural Gas</td>
</tr>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>All capacities</td>
<td>79.0</td>
</tr>
</tbody>
</table>

[72 FR 49983, Aug. 29, 2007]

APPENDIX J2 TO PART 305—POOL HEATERS—OIL

RANGE INFORMATION

<table>
<thead>
<tr>
<th>Manufacturer’s rated heating capacities</th>
<th>Range of Thermal Efficiencies (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>All capacities</td>
<td>79.0</td>
</tr>
</tbody>
</table>

[72 FR 49983, Aug. 29, 2007]

APPENDIX K TO PART 305—REPRESENTATIVE AVERAGE UNIT ENERGY COSTS

This Table contains the representative unit energy costs that must be utilized to calculate estimated annual operating cost disclosures required under sections 305.11 and 305.20. This Table is based on information published by the U.S. Department of Energy in 2007. Unless otherwise indicated by the Commission, this table will be revised in 2012.

<p>| Representative Average Unit Costs of Energy for Five Residential Energy Sources (2007) |</p>
<table>
<thead>
<tr>
<th>Type of Energy</th>
<th>In Commonly Used Terms</th>
<th>As required by DOE test procedure</th>
<th>Dollars per million Btu</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity</td>
<td>10.65¢/kWh</td>
<td>$1.065/kWh</td>
<td>$31.21</td>
</tr>
</tbody>
</table>
This Table contains the representative unit energy costs that must be utilized to calculate estimated annual operating cost disclosures required under sections 305.11 and 305.20. This Table is based on information published by the U.S. Department of Energy in 2007. Unless otherwise indicated by the Commission, this table will be revised in 2012.

<table>
<thead>
<tr>
<th>Type of Energy</th>
<th>In Commonly Used Terms</th>
<th>As required by DOE test procedure</th>
<th>Dollars per million Btu</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Gas</td>
<td>$1.218/therm&lt;sup&gt;4&lt;/sup&gt;</td>
<td>$0.00001218/Btu</td>
<td>$12.18</td>
</tr>
<tr>
<td></td>
<td>$12.53/MCF&lt;sup&gt;5,6&lt;/sup&gt;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. 2 heating oil</td>
<td>$2.22/gallon&lt;sup&gt;7&lt;/sup&gt;</td>
<td>$0.00001601/Btu</td>
<td>$16.01</td>
</tr>
<tr>
<td>Propane</td>
<td>$1.87/gallon&lt;sup&gt;8&lt;/sup&gt;</td>
<td>$0.00002047/Btu</td>
<td>$20.47</td>
</tr>
<tr>
<td>Kerosene</td>
<td>$2.63/gallon&lt;sup&gt;9&lt;/sup&gt;</td>
<td>$0.00001948/Btu</td>
<td>$19.48</td>
</tr>
</tbody>
</table>

<sup>1</sup> Btu stands for British thermal unit.
<sup>2</sup> kWh stands for kilo Watt hour.
<sup>3</sup> 1 kWh = 3,412 Btu.
<sup>4</sup> 1 therm = 100,000 Btu. Natural gas prices include taxes.
<sup>5</sup> MCF stands for 1,000 cubic feet.
<sup>6</sup> For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,029 Btu.
<sup>7</sup> For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
<sup>8</sup> For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
<sup>9</sup> For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

[73 FR 49985, Aug. 29, 2007]
APPENDIX L TO PART 305—SAMPLE LABELS

PROTOTYPE LABEL 1:

[Image of the ENERGYGUIDE label with the following details:
- Estimated Yearly Operating Cost: $58
- Cost Range of Similar Models: $57 to $74
- Estimated Yearly Electricity Use: 545 kWh
- XYZ Corporation Model ABC-1
  Capacity: 23 Cubic Feet
- Federal law prohibits removal of this label before consumer purchase.
- Your cost will depend on your utility rates and use.
- Cost range based only on models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice.
- Estimated operating cost based on a 2007 national average electricity cost of 10.65 cents per kWh.
- For more information, visit www.ftc.gov/appliances.]
Federal Trade Commission

ENERGYGUIDE

Estimated Yearly Operating Cost
(when used with an electric water heater)

$43

Cost Range of Similar Models

$10 - $71

Estimated Yearly Electricity Use

400 kWh

$21

Your cost will depend on your utility rates and use.

- Cost range based only on standard capacity models.
- Estimated operating cost based on eight wash loads a week and a 2007
national average electricity cost of 10.65 cents per kWh and natural gas
cost of $1.210 per therm.
- For more information, visit www.ftc.gov/appliances.

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

XYZ Corporation
Models G30, X36, Z33

10/12
Arial Narrow Bold

1 pt. rule

11 pt.
Arial Narrow Bold

36 pt.
Arial Black

6 pt. rule

11 pt.
Arial Narrow Bold

1 pt. rule

36/21
Arial Black

12 pt.
Arial Narrow Bold

17 pt.
Arial Narrow

10/12
Arial Narrow Bold
Use both
where indicated

Federal Trade Commission
Pt. 305, App. L

PROTOTYPE LABEL 2
Prototype Label 3

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Furnace - Natural Gas

XYZ Corporation
Model 23466

10/12 Arial Narrow Bold

Annual Fuel Utilization Efficiency

82.7

78.0 Least Efficient

96.6 Most Efficient

Efficiency Range of Similar Models

* Efficiency range based only on natural gas furnaces.
* For more information, visit [www.ftc.gov/appliances](http://www.ftc.gov/appliances).
Federal Trade Commission

PROTOTYPE LABEL 4

ENERGYGUIDE

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

Heat Pump
Cooling and Heating
Split System

XYZ Corporation
Model 3232

Seasonal Energy Efficiency Ratio

15.5

16.5 pt.
Arial Narrow Bold

10/12
Arial Narrow Bold

6 pt. rule

2 pt. rule

Efficiency Range of Similar Models

Least Efficient

10.9

Most Efficient

21.0

11/13.2
Arial Narrow Bold

1 pt. rule

1 pt. rule

1 pt. rule

1 pt. rule

Heating Seasonal Performance Factor

8.7

11/13.2
Arial Narrow

6 pt. rule

6 pt. rule

6 pt. rule

6 pt. rule

Efficiency Range of Similar Models

Least Efficient

7.1

Most Efficient

10.2

12/16
Arial Narrow

User bold
where indicated

* Efficiency range based only on split system units.

* This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

* For more information, visit www.ftc.gov/appliances.
U.S. Government Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Refrigerator-Freezer
- Automatic Defrost
- Side-Mounted Freezer
- Through-the-Door Ice

XYZ Corporation
Model ABC-L
Capacity: 23 Cubic Feet

Estimated Yearly Operating Cost

$58

Cost Range of Similar Models

$57

$74

545 kWh
Estimated Yearly Electricity Use

Your cost will depend on your utility rates and use.

- Cost range based only on models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice.
- Estimated operating cost based on a 2007 national average electricity cost of 10.65 cents per kWh.
- For more information, visit www.ftc.gov/appliances.

SAMPLE LABEL 1
Estimated Yearly Operating Cost 
(when used with an electric water heater)

$43

Cost Range of Similar Models

$10

$71

400 kWh
Estimated Yearly Electricity Use

$21
Estimated Yearly Operating Cost 
(when used with a natural gas water heater)

Your cost will depend on your utility rates and use.

- Cost range based only on standard capacity models.
- Estimated operating cost based on eight wash loads a week and a 2007 national average electricity cost of 10.65 cents per kWh and natural gas cost of $1.218 per therm.
- For more information, visit www.ftc.gov/appliances.
Estimated Yearly Operating Cost (when used with an electric water heater)

$19

Cost Range of Similar Models
The estimated yearly operating cost of this model was not available at the time the range was published.

175 kWh
Estimated Yearly Electricity Use

$13
Estimated Yearly Operating Cost (when used with a natural gas water heater)

Your cost will depend on your utility rates and use.

- Cost range based only on standard capacity models.
- Estimated operating cost based on four wash loads a week and a 2007 national average electricity cost of 10.65 cents per kWh and natural gas cost of $1.218 per therm.
- For more information, visit www.ftc.gov/appliances.

SAMPLE LABEL 3
SAMPLE LABEL 4

**ENERGYGUIDE**

**Room Air Conditioner**  
Without Reverse Cycle  
With Louvered Sides

**XYZ Corporation**  
Model 12X4  
Capacity: 13,000 BTUs

**Estimated Yearly Operating Cost**

$103

Cost Range of Similar Models

$59  $112

**10.1**  
Energy Efficiency Ratio

Your cost will depend on your utility rates and use.

- Cost range based only on models of similar capacity without reverse cycle and with louvered sides.
- Estimated operating cost based on a 2007 national average electricity cost of 10.65 cents per kWh.
- For more information, visit www.ftc.gov/appliances.
Estimated Yearly Operating Cost

$328

Cost Range of Similar Models

$276 - $345

Estimated Yearly Energy Use

269 therms

Your cost will depend on your utility rates and use.

- Cost range based only on models of similar capacity fueled by natural gas.
- Estimated operating cost based on a 2007 national average natural gas cost of $1.218 per therm.
- For more information, visit www.ftc.gov/appliances.
SAMPLE LABEL 6
Sample Label 7

- Efficiency range based only on split system units.
- This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.
- For more information, visit www.ftc.gov/appliances.
U.S. Government

Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Heat Pump
Cooling and Heating
Split System

XYZ Corporation
Model 3232

Seasonal Energy Efficiency Ratio

15.5

10.9 Least Efficient

Efficiency Range of Similar Models

21.0 Most Efficient

Heating Seasonal Performance Factor

8.7

7.1 Least Efficient

Efficiency Range of Similar Models

10.2 Most Efficient

• Efficiency range based only on split system units.

• This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

• For more information, visit www.ftc.gov/appliances.
Annual Fuel Utilization Efficiency

82.7

Efficiency Range of Similar Models

- Efficiency range based only on natural gas furnaces.
- For more information, visit www.ftc.gov/appliances.
Lamp Packaging Disclosures

Specifications

- All required disclosures must be clear and conspicuous.
- The words "light output" must appear first in order, followed by the lumens number. The word "lumens" must be close to either "light output" or the lumens number.
- The words "energy used" must appear second in order, followed by the wattage number. The word "watts" must be close to either "energy used" or the wattage number.
- The word "life" must appear third in order, followed by the life in hours number. The word "hours" must be close to either "life" or the life in hours number.
- The numbers for light output, energy used, and life must be of equal size and in the same typestyle.
- The words "light output," "energy used," and "life" must be of equal size and in the same typestyle.
- The words "lumens," "watts," and "hours" must be of equal size and in the same typestyle, but only approximately 50 percent of the size of the words "light output," "energy used," and "life."

Illustration

*Note: This illustrates the elements and relative sizes of the required disclosures.*

<table>
<thead>
<tr>
<th>Principal Display Panel</th>
<th>Light Output</th>
<th>Energy Used</th>
<th>Life</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1710 Lumens</td>
<td>100 Watts</td>
<td>750 Hours</td>
</tr>
</tbody>
</table>

To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.

Incandescent (non-reflector) Lamp Illustration
Lamp Packaging Disclosures

Specifications

- All required disclosures must be clear and conspicuous.
- The words "light output" must appear first in order, followed by the lumens number. The word "lumens" must be close to either "light output" or the lumens number.
- The words "energy used" must appear second in order, followed by the wattage number. The word "watts" must be close to either "energy used" or the wattage number.
- The word "life" must appear third in order, followed by the life in hours number. The word "hours" must be close to either "life" or the life in hours number.
- The numbers for light output, energy used, and life must be of equal size and in the same typestyle.
- The words "light output," "energy used," and "life" must be of equal size and in the same typestyle.
- The words "lumens," "watts," and "hours" must be of equal size and in the same typestyle, but only approximately 50 percent of the size of the words "light output," "energy used," and "life."

Illustration

Note: This illustrates the elements and relative sizes of the required disclosures.

![Principal Display Panel](image)

To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.

Incandescent (non-reflector) Lamp Illustration
Lamp Packaging Disclosures

Specifications

- All required disclosures must be clear and conspicuous.
- The words “light output” must appear first in order, followed by the lumens number. The word “lumens” must be close to either “light output” or the lumens number.
- The words “energy used” must appear second in order, followed by the wattage number. The word “watts” must be close to either “energy used” or the wattage number.
- The word “life” must appear third in order, followed by the life in hours number. The word “hours” must be close to either “life” or the life in hours number.
- The numbers for light output, energy used, and life must be of equal size and in the same typestyle.
- The words “light output,” “energy used,” and “life” must be of equal size and in the same typestyle.
- The words “lumens,” “watts,” “hours,” and “at beam spread” must be of equal size and in the same typestyle, but only approximately 50 percent of the size of the words “light output,” “energy used,” and “life.”

Illustration

*Note: This illustrates the elements and relative sizes of the required disclosures.*

<table>
<thead>
<tr>
<th>Light Output at beam spread</th>
<th>985 Lumens</th>
<th>To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Used</td>
<td>75 Watts</td>
<td></td>
</tr>
<tr>
<td>Life</td>
<td>2,000 Hours</td>
<td></td>
</tr>
</tbody>
</table>

The explanatory statement next to the circled “E” on the principal display panel above could be disclosed (clearly and conspicuously) on another panel, provided asterisks and the words “See [Back, Top, Side] panel for details” are used.

Inconspicuous Reflector Lamp Illustration
Lamp Packaging Disclosures

Specifications

- All required disclosures must be clear and conspicuous.
- The words "light output" must appear first in order, followed by the lumens number. The word "lumens" must be close to either "light output" or the lumens number.
- The words "energy used" must appear second in order, followed by the wattage number. The word "watts" must be close to either "energy used" or the wattage number.
- The word "life" must appear third in order, followed by the life in hours number. The word "hours" must be close to either "life" or the life in hours number.
- The numbers for light output, energy used, and life must be of equal size and in the same typestyle.
- The words "light output," "energy used," and "life" must be of equal size and in the same typestyle.
- The words "lumens," "watts," "hours," and "at beam spread" must be of equal size and in the same typestyle, but only approximately 50 percent of the size of the words "light output," "energy used," and "life."

Illustration

Note: This illustrates the elements and relative sizes of the required disclosures.

Principal Display Panel

<table>
<thead>
<tr>
<th>Light Output at beam spread</th>
<th>Energy Used</th>
<th>Life</th>
</tr>
</thead>
<tbody>
<tr>
<td>985 Lumens</td>
<td>75 Watts</td>
<td>2,000 Hours</td>
</tr>
</tbody>
</table>

To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.

* (E) means this bulb meets Federal minimum efficiency standards.

The explanatory statement next to the encircled "E" on the principal display panel above could be disclosed (clearly and conspicuously) on another panel, provided asterisks and the words "See [Back, Top, Side] panel for details" are used.

Incandescent Reflector Lamp Illustration
Lamp Packaging Disclosures

Specifications

• All required disclosures must be clear and conspicuous.
• The words “light output” must appear first in order, followed by the lumens number. The word “lumens” must be close to either “light output” or the lumens number.
• The words “energy used” must appear second in order, followed by the wattage number. The word “watts” must be close to either “energy used” or the wattage number.
• The word “life” must appear third in order, followed by the life in hours number. The word “hours” must be close to either “life” or the life in hours number.
• The numbers for light output, energy used, and life must be of equal size and in the same typstyle.
• The words “light output,” “energy used,” and “life” must be of equal size and in the same typstyle.
• The words “lumens,” “watts,” and “hours” must be of equal size and in the same typstyle, but only approximately 50 percent of the size of the words “light output,” “energy used,” and “life.”

Illustration

Note: This illustrates the elements and relative sizes of the required disclosures.

<table>
<thead>
<tr>
<th>Principal Display Panel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Light Output</td>
</tr>
<tr>
<td>Energy Used</td>
</tr>
<tr>
<td>Life</td>
</tr>
</tbody>
</table>

To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.

Compact Fluorescent Lamp Illustration
Lamp Packaging Disclosures

Specifications

- All required disclosures must be clear and conspicuous.
- The words "light output" must appear first in order, followed by the lumens number.
  The word "lumens" must be close to either "light output" or the lumens number.
- The words "energy used" must appear second in order, followed by the wattage number.
  The word "watts" must be close to either "energy used" or the wattage number.
- The word "life" must appear third in order, followed by the life in hours number.
  The word "hours" must be close to either "life" or the life in hours number.
- The numbers for light output, energy used, and life must be of equal size and in the same typestyle.
- The words "light output," "energy used," and "life" must be of equal size and in the same typestyle.
- The words "lumens," "watts," and "hours" must be of equal size and in the same typestyle, but only approximately 50 percent of the size of the words "light output," "energy used," and "life."

Illustration

*Note: This illustrates the elements and relative sizes of the required disclosures.*

Principal Display Panel

<table>
<thead>
<tr>
<th>Light Output</th>
<th>Energy Used</th>
<th>Life</th>
</tr>
</thead>
<tbody>
<tr>
<td>1200 Lumens</td>
<td>20 Watts</td>
<td>10,000 Hours</td>
</tr>
</tbody>
</table>

To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.

Compact Fluorescent Lamp Illustration
Energy Information at High Speed

<table>
<thead>
<tr>
<th>Airflow</th>
<th>Electricity Use</th>
<th>Airflow Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,609</td>
<td>63</td>
<td>80</td>
</tr>
<tr>
<td>Cubic Feet Per Minute</td>
<td>Watts (excludes lights)</td>
<td>Cubic Feet Per Minute Per Watt</td>
</tr>
</tbody>
</table>

Compare: 49" to 60" ceiling fans have airflow efficiencies ranging from approximately 51 to 176 cubic feet per minute per watt at high speed.

Money-Saving Tip: Turn off fan when leaving room.

Ceiling Fan Label Illustration


Editorial Note: For Federal Register citations affecting appendix L, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Effective Date Note: At 75 FR 47177, July 19, 2010, appendix L to part 305 was amended by adding Prototype Labels 5, 6, and 7, removing all graphics labeled Lamp Packaging Disclosures, and adding Sample Labels 10, 11, 12, and 13, effective July 19, 2011. At 75 FR 49819, Aug. 16, 2010, Sample Label 13 was correctly added, effective July 19, 2011. For the convenience of the user, the added text is set forth as follows:
* Typeface is Arial or equivalent type style. Type is black or one color printed on a white or other neutral contrasting background.

- 8 point type with 1.6 points of leading and 0.5 point rule 2 points below
- 20 point type with 3 points of leading
- Dollar symbol is 11 point type with 3.5 point baseline shift

Label is enclosed by 0.5 point box rule with 5 points of text measure
- 7 point type with 1.4 points of leading
- Dark-filled rectangle is 0.8" x 0.75"
- 18 point type with 1 point of leading

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

**Prototype Label 5**

**Front Package Disclosure for General Service Lamps**
**Lighting Facts**

- **Brightness**: 870 lumens
- **Estimated Yearly Energy Cost**: $1.57
  - Based on 3 hours/day, 11¢/KWh
  - Cost depends on rates and use
- **Life**: 6.6 years
- **Light Appearance**
  - Warm: 2700 K
- **Energy Used**: 13 watts
- **Contains Mercury**
  - For more on clean up and safe disposal, visit epa.gov/cfl.

*Typeface is Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black or one color printed on a white or other neutral contrasting background. Pursuant to § 305.15(b)(3)(vi), the Energy Star logo may appear only on qualified lamps. Pursuant to § 305.15(b)(3)(viii), the mercury disclosure is required only for lamps containing mercury.*

**Lighting Facts Label for General Service Lamps**

(STANDARD FORMAT)
PROTOTYPE LABEL 7
LIGHTING FACTS LABEL FOR GENERAL SERVICE LAMPS
CONTAINING MERCURY (LINEAR FORMAT)

* * * * *

**Lighting Facts** Per Bulb

- **Brightness**: 820 lumens
- **Estimated Yearly Energy Cost**: $7.23
  - Based on 3 hrs/day, 11¢/kWh
  - Cost depends on rates and use
- **Life**: 1.4 years
- **Light Appearance**
  - Warm
  - Cool
  - 2700 K
- **Energy Used**: 60 watts

Typeface is Arial or equivalent type style. Type sizes shown are minimum allowable. Use bold or heavy typeface where indicated. Type is black or one color printed on a white or other neutral contrasting background. Pursuant to § 305.15(b)(3)(viii), the mercury disclosure is required only for lamps containing mercury.
SAMPLE LABEL 10
LIGHTING FACTS LABEL FOR GENERAL SERVICE LAMP NOT CONTAINING MERCURY

<table>
<thead>
<tr>
<th>Lighting Facts Per Bulb</th>
<th>Light Appearance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brightness 870 lumens</td>
<td>Warm Cool</td>
</tr>
<tr>
<td>Estimated Yearly Energy Cost $1.57</td>
<td></td>
</tr>
<tr>
<td>Based on 3 hrs/day, 11¢/kWh</td>
<td></td>
</tr>
<tr>
<td>Cost depends on rates and use</td>
<td></td>
</tr>
<tr>
<td>Life Based on 3 hrs/day 5.5 years</td>
<td></td>
</tr>
<tr>
<td>Energy Used 13 watts</td>
<td></td>
</tr>
<tr>
<td>Contains Mercury</td>
<td></td>
</tr>
<tr>
<td>For more on clean up and safe disposal, visit epa.gov/cfl.</td>
<td></td>
</tr>
</tbody>
</table>

SAMPLE LABEL 11
LIGHTING FACTS LABEL FOR GENERAL SERVICE LAMP CONTAINING MERCURY (WIDE ORIENTATION)

<table>
<thead>
<tr>
<th>Lighting Facts Per Bulb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brightness 870 lumens</td>
</tr>
<tr>
<td>Estimated Yearly Energy Cost $1.57</td>
</tr>
<tr>
<td>Based on 3 hrs/day, 11¢/kWh</td>
</tr>
<tr>
<td>Energy Used 13 watts</td>
</tr>
<tr>
<td>Contains Mercury</td>
</tr>
<tr>
<td>For more on clean up and safe disposal, visit epa.gov/cfl.</td>
</tr>
</tbody>
</table>

SAMPLE LABEL 12
LIGHTING FACTS LABEL FOR GENERAL SERVICE LAMP CONTAINING MERCURY (TALL ORIENTATION)
SAMPLE LABEL 13
LIGHTING FACTS LABEL FOR GENERAL SERVICE LAMP
CONTAINING MERCURY (BILINGUAL EXAMPLE)
<table>
<thead>
<tr>
<th><strong>Lighting Facts/Datos de Iluminación</strong></th>
<th><strong>Per Bulb/Por Bombilla</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Brightness/Brillo</strong></td>
<td>870 lumens/lúmenes</td>
</tr>
<tr>
<td><strong>Estimated Yearly Energy Cost/</strong></td>
<td><strong>$1.57</strong></td>
</tr>
<tr>
<td><strong>Costo Estimado Anual de Energía</strong></td>
<td></td>
</tr>
<tr>
<td>Based on 3 hrs/day, 11¢/kWh. Cost depends on rates and use./Basado en 3 hrs/día, 11¢/kWh. Costo depende de la tarifa y el uso.</td>
<td></td>
</tr>
<tr>
<td><strong>Life/Duración</strong></td>
<td><strong>5.5 years/años</strong></td>
</tr>
<tr>
<td>Based on 3 hrs/day/Basado en 3 hrs/día</td>
<td></td>
</tr>
<tr>
<td><strong>Light Appearance/Apariencia de Iluminación</strong></td>
<td></td>
</tr>
<tr>
<td>Warm/Cálida</td>
<td>Cool/Fría</td>
</tr>
<tr>
<td></td>
<td>2700 K</td>
</tr>
<tr>
<td><strong>Energy Used/Uso de Energía</strong></td>
<td><strong>13 watts/vatios</strong></td>
</tr>
<tr>
<td><strong>Contains Mercury/Contiene Mercurio</strong></td>
<td></td>
</tr>
<tr>
<td>For more on clean up and safe disposal, visit epa.gov/cfl. Para más sobre limpieza y desecho seguro, visite epa.gov/cfl.</td>
<td></td>
</tr>
</tbody>
</table>

* * * * * PART 306—AUTOMOTIVE FUEL RATINGS, CERTIFICATION AND POSTING

Sec.

325
§ 306.0 Definitions.
306.1 What this rule does.
306.2 Who is covered.
306.3 Stayed or invalid parts.
306.4 Preemption.

DUTIES OF REFINERS, IMPORTERS, AND PRODUCERS
306.5 Automotive fuel rating.
306.6 Certification.
306.7 Recordkeeping.

DUTIES OF DISTRIBUTORS
306.8 Certification.
306.9 Recordkeeping.

DUTIES OF RETAILERS
306.10 Automotive fuel rating posting.
306.11 Recordkeeping.

LABEL SPECIFICATIONS
306.12 Labels.

APPENDIX A TO PART 306—SUMMARY OF LABELING REQUIREMENTS FOR BIODIESEL FUELS

SOURCE: 44 FR 19169, Mar. 30, 1979, unless otherwise noted.

GENERAL

§ 306.0 Definitions.

As used in this part:
(a) Octane rating means the rating of the anti-knock characteristics of a grade or type of gasoline as determined by dividing by 2 the sum of the research octane number plus the motor octane number.
(c) Refiner means any person engaged in the production or importation of automotive fuel.
(d) Producer means any person who purchases component elements and combines them to produce and market automotive fuel.
(e) Distributor means any person who receives automotive fuel and distributes such automotive fuel to another person other than the ultimate purchaser.
(f) Retailer means any person who markets automotive fuel to the general public for ultimate consumption.
(g) Ultimate purchaser means, with respect to any item, the first person who purchases such item for purposes other than resale.
(h) Person, for purposes of applying any provision of the Federal Trade Commission Act, 15 U.S.C. 41 et seq., with respect to any provision of this part, includes a partnership and a corporation.
(i) Automotive fuel means liquid fuel of a type distributed for use as a fuel in any motor vehicle, and the term includes, but is not limited to:
(1) Gasoline, an automotive spark-ignition engine fuel, which includes, but is not limited to, gasohol (generally a mixture of approximately 90% unleaded gasoline and 10% denatured ethanol) and fuels developed to comply with the Clean Air Act, 42 U.S.C. 7401 et seq., such as reformulated gasoline and oxygenated gasoline; and
(2) Alternative liquid automotive fuels, including, but not limited to:
   (i) Methanol, denatured ethanol, and other alcohols;
   (ii) Mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and/or other alcohols (or
such other percentage, but not less than 70 percent, as determined by the Secretary of the United States Department of Energy, by rule, to provide for requirements relating to cold start, safety, or vehicle functions), with gasoline or other fuels:

(iii) Liquefied natural gas;

(iv) Liquefied petroleum gas;

(v) Coal-derived liquid fuels;

(vi) Biodiesel;

(vii) Biomass-based diesel;

(viii) Biodiesel blends containing more than 5 percent biodiesel by volume; and

(ix) Biomass-based diesel blends containing more than 5 percent biomass-based diesel by volume.

(3) Biodiesel blends and biomass-based diesel blends that contain less than or equal to 5 percent biodiesel by volume and less than or equal to 5 percent biomass-based diesel by volume, and that meet American Society for Testing and Materials ("ASTM") standard D975-07b ("Standard Specification for Diesel Fuel Oils"), are not automotive fuels covered by the requirements of this part. The incorporation of ASTM D975-07b by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D975-07b may be obtained from ASTM International, 1916 Race Street, Philadelphia, PA, 19103, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: (http://www.archives.gov/federal_register/cfr/ibr_locations.html)

(j) Automotive fuel rating means—

(1) For gasoline, the octane rating; or

(2) For an alternative liquid automotive fuel other than biodiesel, biomass-based diesel, biodiesel blend, or biomass-based diesel blend, the commonly used name of the fuel with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. A disclosure of other components, expressed as a minimum percentage by volume, may be included, if desired.

(3) For biomass-based diesel, biodiesel, biomass-based diesel blends with more than five percent biomass-based diesel, and biodiesel blends with more than five percent biodiesel, a disclosure of the biomass-based diesel or biodiesel component, expressed as the percentage by volume.

(k) Biomass-based diesel means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under 42 U.S.C. 7545, and includes fuel derived from animal wastes, including poultry fats and poultry wastes, and other waste materials, or from municipal solid waste and sludges and oils derived from wastewater, except that the term does not include biodiesel as defined in this part.

(l) Biodiesel means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet: the registration requirements for fuels and fuel additives under 40 CFR part 79; and the requirements of the American Society for Testing and Materials standard D6751-07b ("Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels"). The incorporation of ASTM D6751-07b by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D6751-07b may be obtained from ASTM International, 1916 Race Street, Philadelphia, PA, 19103, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at NARA. For information on the availability of this material at NARA, call 202-741-6030, or go to: (http://www.archives.gov/federal_register/cfr/ibr_locations.html).

(m) Biodiesel blend means a blend of petroleum-based diesel fuel with biodiesel.

(n) Biomass-based diesel blend means a blend of petroleum-based diesel fuel with biomass-based diesel.
§ 306.1 What this rule does.

This rule deals with the certification and posting of automotive fuel ratings in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, 15 U.S.C. 41 et seq. It applies to persons, partnerships, and corporations. If you are covered by this regulation, breaking any of its rules is an unfair or deceptive act or practice under section 5 of that Act. You can be fined up to $10,000 (plus an adjustment for inflation, under § 1.98 of this chapter) each time you break a rule.


§ 306.2 Who is covered.

You are covered by this rule if you are a refiner, importer, producer, distributor, or retailer of automotive fuel.

[58 FR 41373, Aug. 3, 1993]

§ 306.3 Stayed or invalid parts.

If any part of this rule is stayed or held invalid, the rest of it will stay in force.


§ 306.4 Preemption.

The Petroleum Marketing Practices Act ("PMPA"), 15 U.S.C. 2801 et seq., as amended, is the law that directs the FTC to enact this rule. Section 204 of PMPA, 15 U.S.C. 2824, provides:

(a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

(b) A State or political subdivision thereof may provide for any investigatory or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigatory or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).

[58 FR 41373, Aug. 3, 1993]

§ 306.5 Automotive fuel rating.

If you are a refiner, importer, or producer, you must determine the automotive fuel rating of all automotive fuel before you transfer it. You can do that yourself or through a testing lab.

(a) To determine the automotive fuel rating of gasoline, add the research octane number and the motor octane number and divide by two, as explained by the American Society for Testing and Materials ("ASTM") in ASTM D4814–92c, entitled "Standard Specifications for Automotive Spark-Ignition Engine Fuel." To determine the research octane number, use ASTM standard test method D2699–92, and to determine the motor octane number, use ASTM standard test method D2700–92.

(b) To determine automotive fuel ratings for alternative liquid automotive fuels other than biodiesel blends and biomass-based diesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage by volume of the principal component of the alternative liquid automotive fuel that you must disclose. In the case of biodiesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage of biodiesel contained in the fuel, and in the case of biomass-based diesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage of biomass-based diesel contained in the fuel. You also must have a reasonable basis, consisting of competent and reliable evidence, for the minimum percentages by volume of other components that you choose to disclose.

[58 FR 41373, Aug. 3, 1993, as amended at 73 FR 40162, July 11, 2008]

§ 306.6 Certification.

In each transfer you make to anyone who is not a consumer, you must certify the automotive fuel rating of the automotive fuel consistent with your determination. You can do this in either of two ways:

(a) Include a delivery ticket or other paper with each transfer of automotive...
§ 306.7 Recordkeeping.

You must keep records of how you determined automotive fuel ratings for one year. They must be available for inspection by Federal Trade Commission and Environmental Protection Agency staff members, or by people authorized by FTC or EPA.

[58 FR 41374, Aug. 3, 1993]

§ 306.8 Certification.

If you are a distributor, you must certify the automotive fuel rating of the automotive fuel in each transfer you make to anyone who is not a consumer.

(a) In the case of gasoline, if you do not blend the gasoline with other gasoline, you must certify the gasoline’s octane rating consistent with the octane rating certified to you. If you blend the gasoline with other gasoline, you must certify consistent with your determination of the average, weighted by volume, of the octane ratings certified to you for each gasoline in the blend, or consistent with the lowest octane rating certified to you for any gasoline in the blend. Whether you blend gasoline or not, you may choose to certify the octane rating of the gasoline consistent with your determination of the octane rating according to the method in §306.5. In cases involving gasoline, the octane rating may be rounded to a whole or half number equal to or less than the number certified to you or determined by you.

(b) If you do not blend alternative liquid automotive fuels, you must certify consistent with the automotive fuel rating certified to you. If you blend alternative liquid automotive fuels, you must possess a reasonable basis, consisting of competent and reliable evidence, for the automotive fuel rating that you certify for the blend.

(c) You may certify either by using a delivery ticket with each transfer of automotive fuel, as outlined in §306.6(a), or by using a letter of certification, as outlined in §306.6(b).

(d) When you transfer automotive fuel to a common carrier, you must certify the automotive fuel rating of the automotive fuel to the common carrier, either by letter or on the delivery ticket or other paper. When you receive automotive fuel from a common carrier, you also must receive from the common carrier a certification of the automotive fuel rating of the automotive fuel, either by letter or on the delivery ticket or other paper.

§ 306.9 Recordkeeping
You must keep for one year any delivery tickets or letters of certification on which you based your automotive fuel rating certifications. You must also keep for one year records of any automotive fuel rating determinations you made according to § 306.5. They must be available for inspection by Federal Trade Commission and Environmental Protection Agency staff members, or by persons authorized by FTC or EPA.

[58 FR 41374, Aug. 3, 1993]

§ 306.10 Automotive fuel rating posting.
(a) If you are a retailer, you must post the automotive fuel rating of all automotive fuel you sell to consumers. You must do this by putting at least one label on each face of each dispenser through which you sell automotive fuel. If you are selling two or more kinds of automotive fuel with different automotive fuel ratings from a single dispenser, you must put separate labels for each kind of automotive fuel on each face of the dispenser.

(b)(1) The label, or labels, must be placed conspicuously on the dispenser so as to be in full view of consumers and as near as reasonably practical to the price per unit of the automotive fuel.

(2) You may petition for an exemption from the placement requirements by writing the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the reasons that you want the exemption.

(c) In the case of gasoline, if you do not blend the gasoline with other gasoline, you must post the octane rating of the gasoline consistent with the octane rating certified to you. If you blend the gasoline with other gasoline, you must post consistent with your determination of the average, weighted by volume, of the octane ratings certified to you for each gasoline in the blend, or consistent with the lowest octane rating certified to you for any gasoline in the blend. Whether you blend gasoline or not, you may choose to post the octane rating of the gasoline consistent with your determination of the octane rating according to the method in § 306.5. In cases involving gasoline, the octane rating must be shown as a whole or half number equal to or less than the number certified to you or determined by you.

(d) If you do not blend alternative liquid automotive fuels, you must post consistent with the automotive fuel rating certified to you. If you blend alternative liquid automotive fuels, you must possess a reasonable basis, consisting of competent and reliable evidence, for the automotive fuel rating that you post for the blend.

(e)(1) You must maintain and replace labels as needed to make sure consumers can easily see and read them.

(2) If the labels you have are destroyed or are unusable or unreadable for some unexpected reason, you can satisfy the law by posting a temporary label as much like the required label as possible. You must still get and post the required label without delay.

(f) The following examples of automotive fuel rating disclosures for some presently available alternative liquid automotive fuels are meant to serve as illustrations of compliance with this part, but do not limit the Rule's coverage to only the mentioned fuels:

1. “Methanol/Minimum ___% Methanol”
   (2) “Ethanol/Minimum ___% Ethanol”
   (3) “M—85/Minimum ___% Methanol”
   (4) “E—85/Minimum ___% Ethanol”
   (5) “LPG/Minimum ___% Propane” or “LPG/Minimum ___% Propane and ___% Butane”
   (6) “LNG/Minimum ___% Methane”
   (7) “B–20 Biodiesel Blend/contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent”
   (8) “20% Biomass-Based Diesel Blend/contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent”
   (9) “B–100 Biodiesel/contains 100 percent biodiesel”
   (10) “100% Biomass-Based Diesel/contains 100 percent biomass-based diesel”

(g) When you receive automotive fuel from a common carrier, you also must receive from the common carrier a certification of the automotive fuel rating.
§ 306.11 Recordkeeping.

You must keep for one year any delivery tickets or letters of certification on which you based your posting of automotive fuel ratings. You also must keep for one year records of any automotive fuel rating determinations you made according to §306.5. These records may be kept at the retail outlet or at another, reasonably close location. They must be available for inspection by Federal Trade Commission and Environmental Protection Agency staff members or by persons authorized by FTC or EPA.

§ 306.12 Labels.

All labels must meet the following specifications:

(a) Layout—(1) For gasoline labels. The label is 3 inches (7.62 cm) wide × 2 1/2" (6.35 cm) long. The illustrations appearing at the end of this rule are prototype labels that demonstrate the proper layout. "Helvetica Black" type is used throughout except for the octane rating number on octane labels, which is in Franklin gothic type. All type is centered. Spacing of the label is % " (.64 cm) between the top border and the first line of text, 1/8" (.32 cm) between the first and second line of text, % " (.64 cm) between the octane rating and the line of text above it. All text and numerals are centered within the interior borders.

(2) For alternative liquid automotive fuel labels (one principal component) other than biodiesel, biomass-based diesel, biodiesel blends, and biomass-based diesel blends. The label is 3 inches (7.62 cm) wide × 2 ¼ " (6.35 cm) long. "Helvetica black" type is used throughout. All type is centered. The band at the top of the label contains the name of the fuel. This band should measure 1 inch (2.54 cm) deep. Spacing of the fuel name is ¼ inch (.64 cm) from the top of the label and 3/16 inch (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is 1/8 inch (.32 cm) from the bottom of the black band. All type below the black band is centered horizontally, with ¼" (.32 cm) between each line. The bottom line of type is 3/16 inch (.48 cm) from the bottom of the label. All type should fall no closer than 3/16 inch (.48 cm) from the side edges of the label. If you wish to change the dimensions of this single component label to accommodate a fuel descriptor that is longer than shown in the sample labels, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission, Washington, D.C. 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.

(3) For alternative liquid automotive fuel labels (two components). The label is 3 inches (7.62 cm) wide × 2 1/2" (6.35 cm) long. "Helvetica black" type is used throughout. All type is centered. The band at the top of the label contains the name of the fuel. This band should measure 1" (2.54 cm) deep. Spacing of the fuel name is % " (.64 cm) from the top of the label and % " (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is % " (.48 cm) from the bottom of the black band. All type below the black band is centered horizontally, with % " (.32 cm) between each line. The bottom line of type is % " (.64 cm) from the bottom of the label. All type should fall no closer than % " (.48 cm) from the side edges of the label. If you wish to change the dimensions of this two component label to accommodate additional fuel components, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission, Washington, D.C. 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.

(4) For biodiesel blends containing more than 5 percent and no greater than 20 percent biodiesel by volume. (i) The label is 3 inches (7.62 cm) wide × 2 ¼ inches (6.35 cm) long. "Helvetica black" type is
§ 306.12  16 CFR Ch. I (1–1–11 Edition)

used throughout. All type is centered. The band at the top of the label contains either:

(A) The capital letter “B” followed immediately by the numerical value representing the volume percentage of biodiesel in the fuel (e.g., “B-20”) and then by the term “Biodiesel Blend”; or

(B) The term “Biodiesel Blend.”

(ii) The band should measure 1 inch (2.54 cm) deep. Spacing of the text in the band in the label is 1/4 inch (.64 cm) from the top of the label and 3/16 inch (.48 cm) from the bottom of the black band, centered horizontally within the black band. Directly underneath the black band, the label shall read “contains biomass-based diesel or biodiesel.”

The band at the top of the label contains the capital letter “B.”

(i) The band should measure 1 inch (2.54 cm) deep. Spacing of the text in the band in the label is 1/4 inch (.64 cm) from the top of the label and 3/16 inch (.48 cm) from the bottom of the black band, centered horizontally within the black band. Directly underneath the black band, the label shall read “contains biomass-based diesel.”

(B) The term “Biomass-Based Diesel Blend.”

(i) The band should measure 1 inch (2.54 cm) deep. Spacing of the text in the band in the label is 1/4 inch (.64 cm) from the top of the label and 3/16 inch (.48 cm) from the bottom of the black band, centered horizontally within the black band. Directly underneath the black band, the label shall read “contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent.” The script underneath the black band must be centered horizontally, with 1/8 inch (.32 cm) between each line. The bottom line of type is 1/4 inch (.64 cm) from the bottom of the label. All type should fall no closer than 3/16 inch (.48 cm) from the side edges of the label.

(5) For biomass-based diesel blends containing more than 5 percent and no greater than 20 percent biomass-based diesel by volume. The requirements are the same as in paragraph (a)(4) of this section, except that the black band at the top of the label shall contain the numerical value representing the volume percentage of biomass-based diesel in the fuel (e.g., “B–70”) and then the term “Biodiesel Blend.”

(i) The label is 3 inches (7.62 cm) wide × 2 1/2 inches (6.35 cm) long. “Helvetica black” type is used throughout. All type is centered. The band at the top of the label contains either:

(A) The capital letter “B” followed immediately by the numerical value representing the volume percentage of biomass-based diesel in the fuel followed immediately by the percentage symbol (e.g., “70%”) and then the term “B–70 Biodiesel.”

(B) The term “B–70 Biodiesel.”

(6) For biodiesel blends containing more than 20 percent biodiesel by volume. The requirements are the same as in paragraph (a)(4) of this section, except that the black band at the top of the label shall contain the capital letter “B” followed immediately by the numerical value representing the volume percentage of biodiesel in the fuel (e.g., “B–70”) and then the term “Biodiesel Blend.”

In addition, the words directly underneath the black band shall read “contains more than 20 percent biomass-based diesel or biodiesel.”

(7) For biomass-based diesel blends containing more than 20 percent biomass-based diesel by volume. The requirements are the same as in paragraph (a)(5) of this section, except that the black band at the top of the label shall contain the numerical value representing the volume percentage of biomass-based diesel in the fuel followed immediately by the percentage symbol (e.g., “70%”) and then the term “Biomass-Based Diesel Blend.”

In addition, the words directly underneath the black band shall read “contains more than 20 percent biomass-based diesel or biodiesel.”

(8) For 100% biodiesel. The requirements are the same as in paragraph (a)(4) of this section, except that the black band at the top of the label shall contain the phrase “100% Biodiesel.”

In addition, the words directly underneath the black band shall read “contains 100 percent biodiesel.”

(9) For 100% biomass-based diesel. The requirements are the same as in paragraph (a)(5) of this section, except that the black band at the top of the label shall contain the phrase “100% Biomass-Based Diesel.”

In addition, the words directly underneath the black band shall read “contains 100 percent biomass-based diesel.”

(b) Type size and setting—(1) For gasoline labels. The Helvetica series is used for all numbers and letters with the exception of the octane rating number. Helvetica is available in a variety of phototype setting systems, by linotype, and in a variety of computer desk-top and phototype setting systems. Its name may vary, but the type must conform in style and thickness to
§ 306.12

the sample provided here. The line "Minimum Octane Rating" is set in 12 point Helvetica Bold, all capitals, with letterspace set at 12½ points. The line "(R+M)/2 METHOD" is set in 10 point Helvetica Bold, all capitals, with letterspace set at 10½ points. The octane number is set in 96 point Franklin gothic condensed with ¼" (.32 cm) space between the numbers.

(2) For alternative liquid automotive fuel labels (one principal component). All type should be set in upper case (all caps) "Helvetica Black" throughout. Helvetica Black is available in a variety of computer desk-top and phototype setting systems. Its name may vary, but the type must conform in style and thickness to the sample provided here. The spacing between letters and words should be set as "normal." The type for the fuel name is 50 point (½" (1.27 cm) cap height) "Helvetica Black," knocked out of a 1" (2.54 cm) deep band. The type for the words "MINIMUM" and the principal component is 24 pt. (¼" (.64 cm) cap height.) The type for percentage is 36 pt. (¾" (.96 cm) cap height).

(3) For alternative liquid automotive fuel labels (two components). All type should be set in upper case (all caps) "Helvetica Black" throughout. Helvetica Black is available in a variety of computer desk-top and phototype setting systems. Its name may vary, but the type must conform in style and thickness to the sample provided here. The spacing between letters and words should be set as "normal." The type for the fuel name is 50 point (½" (1.27 cm) cap height) "Helvetica Black," knocked out of a 1" (2.54 cm) deep band. All other type is 24 pt. (¼" (.64 cm) cap height.)

(c) Colors—(1) For gasoline labels. The basic color on all octane labels is process yellow. All type is process black. All borders are process black. All colors must be non-fade.

(2) For alternative liquid automotive fuel labels other than biodiesel and biodiesel blends. The background color on all the labels is Orange: PMS 1495 or its equivalent. The knock-out type within the black band is Orange: PMS 1495 or its equivalent. All other type is process black. All borders are process black. All colors must be non-fade.

(d) Contents. Examples of the contents are shown in the sample labels. The proper octane rating for each gasoline must be shown. The proper automotive fuel rating for each alternative liquid automotive fuel must be shown. No marks or information other than that called for by this rule may appear on the labels.

(e) Special label protection. All labels must be capable of withstanding extremes of weather conditions for a period of at least one year. They must be resistant to automotive fuel, oil, grease, solvents, detergents, and water.

(f) Illustrations of labels. Labels should meet the specifications in this section, and should look like these examples, except the black print should be on the appropriately colored background.
§ 306.12

M-85
MINIMUM
85% METHANOL

LPG
MINIMUM
90% PROPANE
2% BUTANE

LPG
MINIMUM
90% PROPANE

E-100
MINIMUM
95% ETHANOL
APPENDIX A TO PART 306—SUMMARY OF LABELING REQUIREMENTS FOR BIODIESEL FUELS

<table>
<thead>
<tr>
<th>Fuel type</th>
<th>Blends of 5 percent or less</th>
<th>Blends of more than 5 but not more than 20 percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biodiesel</td>
<td>No label required</td>
<td>Either “B-XX Biodiesel Blend” or “Biodiesel Blend” contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Blue</td>
</tr>
<tr>
<td>Biomass-Based Diesel</td>
<td>No label required</td>
<td>Either “XX% Biomass-Based Diesel Blend” or “Biomass-Based Diesel Blend” contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Orange</td>
</tr>
</tbody>
</table>

[58 FR 41375, Aug. 3, 1993, as amended at 73 FR 40163, July 11, 2008]
Section 228 of the Communications Act of 1934 states:

(1) The term pay-per-call services means any service—

(A) In which any person provides or purports to provide—

(i) Audio information or audio entertainment produced or packaged by such person;

(ii) Access to simultaneous voice conversation services; or

(iii) Any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

(B) For which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(C) Which is accessed through use of a 900 telephone number or other prefix or area code designated by the Commission in accordance with subsection (b)(5) (47 U.S.C. 228(b)(5)).

(2) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

---

Fuel type | Blends of more than 20 percent | Pure (100%) Biodiesel or Biomass-Based diesel
---|---|---
Biodiesel | B-XX Biodiesel Blend contains more than 20 percent biomass-based diesel or biodiesel | B-100 Biodiesel contains 100 percent biodiesel
Biomass-Based Diesel | XX% Biomass-Based Diesel Blend contains more than 20 percent biomass-based diesel or biodiesel | 100% Biomass-Based Diesel contains 100 percent biomass-based diesel

[c] Pay-per-call service has the meaning provided in section 228 of the Communications Act of 1934, 47 U.S.C. 228.

d) Person means any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

e)(1) Presubscription or comparable arrangement means a contractual agreement in which

(i) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service.

---

[73 FR 40164, July 11, 2008]

PART 307—[Reserved]

PART 308—TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Sec.
308.1 Scope of regulations in this part.
308.2 Definitions.
308.3 Advertising of pay-per-call services.
308.4 Special rule for infrequent publications.
308.5 Pay-per-call service standards.
308.6 Access to information.
308.7 Billing and collection for pay-per-call services.
308.8 Severability.
308.9 Rulemaking review.


SOURCE: 58 FR 42400, Aug. 9, 1993, unless otherwise noted.

§ 308.1 Scope of regulations in this part.


§ 308.2 Definitions.

(a) Bona fide educational service means any pay-per-call service dedicated to providing information or instruction relating to education, subjects of academic study, or other related areas of school study.

(b) Commission means the Federal Trade Commission.
service, including the service provider’s name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(ii) The service provider agrees to notify the consumer of any future rate changes;

(iii) The consumer agrees to utilize the service on the terms and conditions disclosed by the service provider; and

(iv) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers.

(2) Disclosure of a credit card or charge card number, along with authorization to bill that number, made during the course of a call to a pay-per-call service shall constitute a presubscription or comparable arrangement if the credit or charge card is subject to the dispute resolution requirements of the Fair Credit Billing Act and the Truth in Lending Act, as amended. No other action taken by the consumer during the course of a call to a pay-per-call service can be construed as creating a presubscription or comparable arrangement.

(f) Program-length commercial means any commercial or other advertisement fifteen (15) minutes in length or longer or intended to fill a television or radio broadcasting or cablecasting time slot of fifteen (15) minutes in length or longer.

(g) Provider of pay-per-call services means any person who sells or offers to sell a pay-per-call service. A person who provides only transmission services or billing and collection services shall not be considered a provider of pay-per-call services.

(h) Reasonably understandable volume means at an audible level that renders the message intelligible to the receiving audience, and, in any event, at a cadence or rate no faster than that principally used in the advertisement or the pay-per-call service.

(k) Sweepstakes, including games of chance, means a game or promotional mechanism that involves the elements of a prize and chance and does not require consideration.

§ 308.3 Advertising of pay-per-call services.

(a) General requirements. The following requirements apply to disclosures required in advertisements under §§308.3 (b)–(d), and (f):

(1) The disclosures shall be made in the same language as that principally used in the advertisement.

(2) Television video and print disclosures shall be of a color or shade that readily contrasts with the background of the advertisement.

(3) In print advertisements, disclosures shall be parallel with the base of the advertisement.

(4) Audio disclosures, whether in television or radio, shall be delivered in a slow and deliberate manner and in a reasonably understandable volume.

(5) Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium; nor shall any audio, video or print technique be used that is likely to detract significantly from the communication of the disclosures.

(6) In any program-length commercial, required disclosures shall be made at least three times (unless more frequent disclosure is otherwise required) near the beginning, middle and end of the commercial.

(b) Cost of the call. (1) The provider of pay-per-call services shall clearly and conspicuously disclose the cost of the call, in Arabic numerals, in any advertisement for the pay-per-call service, as follows:

(i) If there is a flat fee for the call, the advertisement shall state the total cost of the call.

(ii) If the call is billed on a time-sensitive basis, the advertisement shall state the cost per minute and any minimum charges. If the length of the program can be determined in advance,
the advertisement shall also state the maximum charge that could be incurred if the caller listens to the complete program.

(iii) If the call is billed on a variable rate basis, the advertisement shall state, in accordance with §§308.3(b)(1)(i) and (ii), the cost of the initial portion of the call, any minimum charges, and the range of rates that may be charged depending on the options chosen by the caller.

(iv) The advertisement shall disclose any other fees that will be charged for the service.

(v) If the caller may be transferred to another pay-per-call service, the advertisement shall disclose the cost of the other call, in accordance with §§308.3(b)(1)(i), (ii), (iii), and (iv).

(2) For purposes of §308.3(b), disclosures shall be made “clearly and conspicuously” as set forth in §308.3(a) and as follows:

(i) In a television or videotape advertisement, the video disclosure shall appear adjacent to each video presentation of the pay-per-call number. However, in an advertisement displaying more than one pay-per-call number with the same cost, the video disclosure need only appear adjacent to the largest presentation of the pay-per-call number. Each letter or numeral of the disclosure shall be, at a minimum, one-half the size of each letter or numeral of the pay-per-call number to which the disclosure is adjacent. In addition, the video disclosure shall appear on the screen for the duration of the presentation of the pay-per-call number. An audio disclosure shall be made at least once, simultaneously with a video presentation of the disclosure. However, no audio presentation of the information regarding the pay-per-call service, including the pay-per-call number. In an advertisement in which the pay-per-call number is presented only in the audio portion, the cost of the call shall be delivered immediately following the first and last delivery of the pay-per-call number, except that in a program-length commercial, the disclosure shall be delivered immediately following each delivery of the pay-per-call number.

(ii) In a print advertisement, the disclosure shall be placed adjacent to each presentation of the pay-per-call number. However, in an advertisement displaying more than one pay-per-call number with the same cost, the disclosure need only appear adjacent to the largest presentation of the pay-per-call number. Each letter or numeral of the disclosure shall be, at a minimum, one-half the size of each letter or numeral of the pay-per-call number to which the disclosure is adjacent.

(iii) In a radio advertisement, the disclosure shall be made at least once, and shall be delivered immediately following the first delivery of the pay-per-call number. In a program-length commercial, the disclosure shall be delivered immediately following each delivery of the pay-per-call number.

(2) For purposes of §308.3(c), disclosures shall be made “clearly and conspicuously” as set forth in §308.3(a) and as follows:

(c) Sweepstakes; games of chance. (1) The provider of pay-per-call services that advertises a prize or award or a service or product at no cost or for a reduced cost, to be awarded to the winner of any sweepstakes, including games of chance, shall clearly and conspicuously disclose in the advertisement the odds of being able to receive the prize, award, service, or product. If the odds are not calculable in advance, the advertisement shall disclose the factors used in calculating the odds. Either the advertisement or the preamble required by §308.5(a) for such service shall clearly and conspicuously disclose that no call to the pay-per-call service is required to participate, and shall also disclose the existence of a free alternative method of entry, and either instructions on how to enter, or a local or toll-free telephone number or address to which consumers may call or write for information on how to enter the sweepstakes. Any description or characterization of the prize, award, service, or product that is being offered at no cost or reduced cost shall be truthful and accurate.

(2) For purposes of §308.3(c), disclosures shall be made “clearly and conspicuously” as set forth in §308.3(a) and as follows:
(i) In a television or videotape advertisement, the disclosures may be made in either the audio or video portion of the advertisement. If the disclosures are made in the video portion, they shall appear on the screen in sufficient size and for sufficient time to allow consumers to read and comprehend the disclosures.

(ii) In a print advertisement, the disclosures shall appear in a sufficient size and prominence and such location to be readily noticeable, readable and comprehensible.

(d) Federal programs. (1) The provider of pay-per-call services that advertises a pay-per-call service that is not operated or expressly authorized by a Federal agency, but that provides information on a Federal program, shall clearly and conspicuously disclose in the advertisement that the pay-per-call service is not authorized, endorsed, or approved by any Federal agency. Advertisements providing information on a Federal program shall include, but not be limited to, advertisements that contain a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal government connection, approval, or endorsement.

(2) For purposes of § 308.3(d), disclosures shall be made “clearly and conspicuously” as set forth in § 308.3(a) and as follows:

(i) In a television or videotape advertisement, the disclosure may be made in either the audio or video portion of the advertisement. If the disclosure is made in the video portion, it shall appear on the screen in sufficient size and for sufficient time to allow consumers to read and comprehend the disclosure. The disclosure shall begin within the first fifteen (15) seconds of the advertisement.

(ii) In a print advertisement, the disclosure shall appear in a sufficient size and prominence and such location to be clearly noticeable, readable and comprehensible. The disclosure shall appear in the top one-third of the advertisement.

(iii) In a radio advertisement, the disclosure shall begin within the first fifteen (15) seconds of the advertisement.

(e) Prohibition on advertising to children. (1) The provider of pay-per-call services shall not direct advertisements for such pay-per-call services to children under the age of 12, unless the service is a bona fide educational service.

(2) For the purposes of this regulation, advertisements directed to children under 12 shall include any pay-per-call advertisement appearing during or immediately adjacent to programming for which competent and reliable audience composition data demonstrate that more than 50% of the audience is composed of children under 12, and any pay-per-call advertisement appearing in a periodical for which competent and reliable readership data demonstrate that more than 50% of the readership is composed of children under 12.

(3) For the purposes of this regulation, if competent and reliable audience composition or readership data does not demonstrate that more than 50% of the audience or readership is composed of children under 12, then the Commission shall consider the following criteria in determining whether an advertisement is directed to children under 12:

(i) Whether the advertisement appears in a publication directed to children under 12, including, but not limited to, books, magazines and comic books;

(ii) Whether the advertisement appears during or immediately adjacent to television programs directed to children under 12, including, but not limited to, children’s programming as defined by the Federal Communications Commission, animated programs, and after-school programs;

(iii) Whether the advertisement appears on a television station or channel directed to children under 12;

(iv) Whether the advertisement is broadcast during or immediately adjacent to radio programs directed to children under 12, or broadcast on a radio station directed to children under 12;

(v) Whether the advertisement appears on the same video as a commercially-prepared video directed to children under 12, or preceding a movie directed to children under 12 shown in a movie theater;

VerDate Mar<15>2010 11:49 Mar 18, 2011 Jkt 223051 PO 00000 Frm 00349 Fmt 8010 Sfmt 8010 Y:\SGML\223051.XXX 223051erowe on DSK5CLS3C1PROD with CFR
(vi) Whether the advertisement or promotion appears on product packaging directed to children under 12; and
(vii) Whether the advertisement, regardless of when or where it appears, is directed to children under 12 in light of its subject matter, visual content, age of models, language, characters, tone, message, or the like.

(f) Advertising to individuals under the age of 18. (1) The provider of pay-per-call services shall ensure that any pay-per-call advertisement directed primarily to individuals under the age of 18 shall contain a clear and conspicuous disclosure that all individuals under the age of 18 must have the permission of such individual’s parent or legal guardian prior to calling such pay-per-call service.

(2) For purposes of §308.3(f), disclosures shall be made “clearly and conspicuously” as set forth in §308.3(a) and as follows:

(i) In a television or videotape advertisement, each letter or numeral of the video disclosure shall be, at a minimum, one-half the size of each letter or numeral of the largest presentation of the pay-per-call number. The video disclosure shall appear on the screen for sufficient time to allow consumers to read and comprehend the disclosure. An audio disclosure shall be made at least once, simultaneously with a video presentation of the disclosure. However, no audio presentation of the disclosure is required in: (A) An advertisement fifteen (15) seconds or less in length in which the pay-per-call number is not presented in the audio portion, or (B) an advertisement in which there is no audio presentation of information regarding the pay-per-call service, including the pay-per-call number.

(ii) In a print advertisement, each letter or numeral of the disclosure shall be, at a minimum, one-half the size of each letter or numeral of the largest presentation of the pay-per-call number.

(3) For the purposes of this regulation, advertisements directed primarily to individuals under 18 shall include: Any pay-per-call advertisement appearing during or immediately adjacent to programming for which competent and reliable audience composition data demonstrate that more than 50% of the audience is composed of individuals under 18, and any pay-per-call advertisement appearing in a periodical for which competent and reliable readership data demonstrate that more than 50% of the readership is composed of individuals under 18.

(4) For the purposes of this regulation, if competent and reliable audience composition or readership data does not demonstrate that more than 50% of the audience or readership is composed of individuals under 18, then the Commission shall consider the following criteria in determining whether an advertisement is directed primarily to individuals under 18:

(i) Whether the advertisement appears in publications directed primarily to individuals under 18, including, but not limited to, books, magazines and comic books;

(ii) Whether the advertisement appears during or immediately adjacent to television programs directed primarily to individuals under 18, including, but not limited to, mid-afternoon weekday television shows;

(iii) Whether the advertisement is broadcast on radio stations that are directed primarily to individuals under 18;

(iv) Whether the advertisement appears on a cable or broadcast television station directed primarily to individuals under 18;

(v) Whether the advertisement appears on the same video as a commercially-prepared video directed primarily to individuals under 18, or preceding a movie directed primarily to individuals under 18 shown in a movie theater; and

(vi) Whether the advertisement, regardless of when or where it appears, is directed primarily to individuals under 18 in light of its subject matter, visual content, age of models, language, characters, tone, massage, or the like.

(g) Electronic tones in advertisements. The provider of pay-per-call services is prohibited from using advertisements that emit electronic tones that can automatically dial a pay-per-call service.

(h) Telephone solicitations. The provider of pay-per-call services shall ensure that any telephone message that solicits calls to the pay-per-call service
discloses the cost of the call in a slow and deliberate manner and in a reasonably understandable volume, in accordance with §§308.3(b)(1)(i)-(v).

(i) Referral to toll-free telephone numbers. The provider of pay-per-call services is prohibited from referring in advertisements to an 800 telephone number, or any other telephone number advertised as or widely understood to be toll-free, if that number violates the prohibition concerning toll-free numbers set forth in §308.5(i).

§ 308.4 Special rule for infrequent publications.

(a) The provider of any pay-per-call service that advertises a pay-per-call service in a publication that meets the requirements set forth in §308.4(c) may include in such advertisement, in lieu of the cost disclosures required by §308.3(b), a clear and conspicuous disclosure that a call to the advertised pay-per-call service may result in a substantial charge.

(b) The provider of any pay-per-call service that places an alphabetical listing in a publication that meets the requirements set forth in §308.4(c) is not required to make any of the disclosures required by §§308.3(b), (c), (d) and (f) in the alphabetical listing, provided that such listing does not contain any information except the name, address and telephone number of the pay-per-call provider.

(c) The publication referred to in §308.4(a) and (b) must be:

(1) Widely distributed;

(2) Printed annually or less frequently; and

(3) One that has an established policy of not publishing specific prices in advertisements.

§ 308.5 Pay-per-call service standards.

(a) Preamble message. The provider of pay-per-call services shall include, in each pay-per-call message, an introductory disclosure message ("preamble") in the same language as that principally used in the pay-per-call message, that clearly, in a slow and deliberate manner and in a reasonably understandable volume:

(1) Identifies the name of the provider of the pay-per-call service and describes the service being provided;

(2) Specifies the cost of the service as follows:

(i) If there is a flat fee for the call, the preamble shall state the total cost of the call;

(ii) If the call is billed on a time-sensitive basis, the preamble shall state the cost per minute and any minimum charges; if the length of the program can be determined in advance, the preamble shall also state the maximum charge that could be incurred if the caller listens to the complete program;

(iii) If the call is billed on a variable rate basis, the preamble shall state, in accordance with §§308.5(a)(2)(i) and (ii), the cost of the initial portion of the call, any minimum charges, and the range of rates that may be charged depending on the options chosen by the caller;

(iv) Any other fees that will be charged for the service shall be disclosed, as well as fees for any other pay-per-call service to which the caller may be transferred;

(3) Informs the caller that charges for the call begin, and that to avoid charges the call must be terminated, three seconds after a clearly discernible signal or tone indicating the end of the preamble;

(4) Informs the caller that anyone under the age of 18 must have the permission of parent or legal guardian in order to complete the call; and

(5) Informs the caller, in the case of a pay-per-call service that is not operated or expressly authorized by a Federal agency but that provides information on a Federal program, or that uses a trade or brand name or any other term that reasonably could be interpreted or construed as implying any Federal government connection, approval or endorsement, that the pay-per-call service is not authorized, endorsed, or approved by any Federal agency.

(b) No charge to caller for preamble message. The provider of pay-per-call services is prohibited from charging a caller any amount whatsoever for such a service if the caller hangs up at any time prior to three seconds after the signal or tone indicating the end of the preamble described in §308.5(a). However, the three-second delay, and the
message concerning such delay described in §308.5(a)(3), is not required if the provider of pay-per-call services offers the caller an affirmative means (such as pressing a key on a telephone keypad) of indicating a decision to incur the charges.

(c) Nominal cost calls. The preamble described in §308.5(a) is not required when the entire cost of the pay-per-call service, whether billed as a flat rate or on a time sensitive basis, is $2.00 or less.

(d) Data service calls. The preamble described in §308.5(a) is not required when the entire call consists of the non-verbal transmission of information.

(e) Bypass mechanism. The provider of pay-per-call services that offers to frequent callers or regular subscribers to such services the option of activating a bypass mechanism to avoid listening to the preamble during subsequent calls shall not be deemed to be in violation of §308.5(a), provided that any such bypass mechanism shall be disabled for a period of no less than 30 days immediately after the institution of an increase in the price for the service or a change in the nature of the service offered.

(f) Billing limitations. The provider of pay-per-call services is prohibited from billing consumers in excess of the amount described in the preamble for those services and from billing for any services provided in violation of any section of this rule.

(g) Stopping the assessment of time-based charges. The provider of pay-per-call services shall stop the assessment of time-based charges immediately upon disconnection by the caller.

(h) Prohibition on services to children. The provider of pay-per-call services shall not direct such services to children under the age of 12, unless such service is a bona fide educational service. The Commission shall consider the following criteria in determining whether a pay-per-call service is directed to children under 12:

1. Whether the pay-per-call service is advertised in the manner set forth in §§308.3(e) (2) and (3); and

2. Whether the pay-per-call service, regardless of when or where it is advertised, is directed to children under 12, in light of its subject matter, content, language, featured personality, characters, tone, message, or the like.

(i) Prohibition concerning toll-free numbers. Any person is prohibited from using an 800 number or other telephone number advertised as or widely understood to be toll-free in a manner that would result in:

1. The calling party being assessed, by virtue of completing the call, a charge for the call;

2. The calling party being connected to an access number for, or otherwise transferred to, a pay-per-call service;

3. The calling party being charged for information conveyed during the call unless the calling party has a presubscription or comparable arrangement to be charged for the information; or

4. The calling party being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products.

(j) Disclosure requirements for billing statements. The provider of pay-per-call services shall ensure that any billing statement for such provider’s charges shall:

1. Display any charges for pay-per-call services in a portion of the consumer’s bill that is identified as not being related to local and long distance telephone charges;

2. For each charge so displayed, specify the type of service, the amount of the charge, and the date, time, and, for calls billed on a time-sensitive basis, the duration of the call; and

3. Display the local or toll-free telephone number where consumers can obtain answers to their questions and information on their rights and obligations with regard to their use of pay-per-call services, and can obtain the name and mailing address of the provider of pay-per-call services.

(k) Refunds to consumers. The provider of pay-per-call services shall be liable for refunds or credits to consumers who have been billed for pay-per-call services, and who have paid the charges for such services, pursuant to pay-per-call programs that have been found to have violated any provision of this rule or any other Federal rule or law.
§ 308.7 Billing and collection for pay-per-call services.

(a) Definitions. For the purposes of this section, the following definitions shall apply:

(1) Billing entity means any person who transmits a billing statement to a customer for a telephone-billed purchase, or any person who assumes responsibility for receiving and responding to billing error complaints or inquiries.

(2) Billing error means any of the following:

(i) A reflection on a billing statement of a telephone-billed purchase that was not made by the customer nor made from the telephone of the customer who was billed for the purchase or, if made, was not in the amount reflected on such statement.

(ii) A reflection on a billing statement of a telephone-billed purchase for which the customer requests additional clarification, including documentary evidence thereof.

(iii) A reflection on a billing statement of a telephone-billed purchase that was not accepted by the customer or not provided to the customer in accordance with the stated terms of the transaction.

(iv) A reflection on a billing statement of a telephone-billed purchase for a call made to an 800 or other toll free telephone number.

(v) The failure to reflect properly on a billing statement a payment made by the customer or a credit issued to the customer with respect to a telephone-billed purchase.

(vi) A computation error or similar error of an accounting nature on a billing statement of a telephone-billed purchase.

(vii) Failure to transmit a billing statement for a telephone-billed purchase to a customer’s last known address if that address was furnished by the customer at least twenty days before the end of the billing cycle for which the statement was required.

(viii) A reflection on a billing statement of a telephone-billed purchase that is not identified in accordance with the requirements of §308.5(j).

(3) Customer means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase, or who receives a billing statement for a telephone-billed purchase charged to a telephone number assigned to that person by a providing carrier.

(4) Preexisting agreement means a “presubscription or comparable arrangement,” as that term is defined in §308.2(e).

(5) Providing carrier means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error complaint or inquiry.

(6) Telephone-billed purchase means any purchase that is completed solely as a consequence of the completion of the call or a subsequent dialing, touch tone entry, or comparable action of the caller. Such term does not include:

(i) A purchase by a caller pursuant to a preexisting agreement with a vendor;

(ii) Local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines by rule—

(A) Is closely related to the provision of local exchange telephone services or interexchange telephone services; and

(B) Is subject to billing dispute resolution procedures required by Federal or state statute or regulation; or

(iii) The purchase of goods or services that is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.
§ 308.7

(7) Vendor means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(b) Initiation of billing review. A customer may initiate a billing review with respect to a telephone-billed purchase by providing the billing entity with notice of a billing error no later than 60 days after the billing entity transmitted the first billing statement that contains a charge for such telephone-billed purchase. If the billing error is the reflection on a billing statement of a telephone-billed purchase not provided to the customer in accordance with the stated terms of the transaction, the 60-day period shall begin to run from the date the goods or services are delivered or, if not delivered, should have been delivered, if such date is later than the date the billing statement was transmitted. A billing error notice shall:

(1) Set forth or otherwise enable the billing entity to identify the customer’s name and the telephone number to which the charge was billed;

(2) Indicate the customer’s belief that the statement contains a billing error and the type, date, and amount of such; and

(3) Set forth the reasons for the customer’s belief, to the extent possible, that the statement contains a billing error.

(c) Disclosure of method of providing notice; presumption if oral notice is permitted. A billing entity shall clearly and conspicuously disclose on each billing statement or on other material accompanying the billing statement the method (oral or written) by which the customer may provide notice to initiate review of a billing error in the manner set forth in §308.7(b). If oral notice is permitted, any customer who orally communicates an allegation of a billing error to a billing entity shall be presumed to have properly initiated a billing review in accordance with the requirements of §308.7(b).

(d) Response to customer notice. A billing entity that receives notice of a billing error as described in §308.7(b) shall:

(1) Send a written acknowledgement to the customer including a statement that any disputed amount need not be paid pending investigation of the billing error. This shall be done no later than forty (40) days after receiving the notice, unless the action required by §308.7(d)(2) is taken within such 40-day period; and

(2)(i) Correct the billing error and credit the customer’s account for any disputed amount and any related charges, and notify the customer of the correction. The billing entity also shall disclose to the customer that collection efforts may occur despite the credit, and shall provide the names, mailing addresses, and business telephone numbers of the vendor and providing carrier, as applicable, that are the subject of the telephone-billed purchase, or provide the customer with a local or toll-free telephone number that the customer may call to obtain this information directly. However, the billing entity is not required to make the disclosure concerning collection efforts if the vendor, its agent, or the providing carrier, as applicable, will not collect or attempt to collect the disputed charge; or

(ii) Transmit an explanation to the customer, after conducting a reasonable investigation (including, where appropriate, contacting the vendor or providing carrier), setting forth the reasons why it has determined that no

---

2The standard for “clear and conspicuous” as used in this section shall be the standard enunciated by the Board of Governors of the Federal Reserve System in its Official Staff Commentary on Regulation Z, which requires simply that the disclosures be in a reasonably understandable form. See 12 CFR part 226, Supplement I, Comment 226.5(a)(1)-1.

3If a customer submits a billing error notice alleging either the nondelivery of goods or services or that information appearing on a billing statement has been reported incorrectly to the billing entity, the billing entity shall not deny the assertion unless it conducts a reasonable investigation and determines that the goods or services were actually delivered to the extent that a vendor or providing carrier produces documents prepared and maintained in the ordinary course of business showing the date on, and the place to, which the goods or services were transmitted or delivered.
billing error occurred or that a different billing error occurred from that asserted, make any appropriate adjustments to the customer’s account, and, if the customer so requests, provide a written explanation and copies of documentary evidence of the customer’s indebtedness.

(3) The action required by §308.7(d)(2) shall be taken no later than two complete billing cycles of the billing entity (in no event later than ninety (90) days) after receiving the notice of the billing error and before taking any action to collect the disputed amount, or any part thereof. After complying with §308.7(d)(2), the billing entity shall:

(i) If it is determined that any disputed amount is in error, promptly notify the appropriate providing carrier or vendor, as applicable, of its disposition of the customer’s billing error and the reasons therefor; and

(ii) Promptly notify the customer in writing of the time when payment is due of any portion of the disputed amount determined not to be in error, which time shall be the longer of ten (10) days or the number of days the customer is ordinarily allowed (whether by custom, contract or state law) to pay undisputed amounts, and that failure to pay such amount may be reported to a credit reporting agency or subject the customer to a collection action, if that in fact may happen.

(e) Withdrawal of billing error notice. A billing entity need not comply with the requirements of §308.7(d) if the customer has, after giving notice of a billing error and before the expiration of the time limits specified therein, agreed that the billing statement was correct or agreed to withdraw voluntarily the billing error notice.

(f) Limitation on responsibility for billing error. After complying with the provisions of §308.7(d), a billing entity has no further responsibility under that section if the customer continues to make substantially the same allegation with respect to a billing error.

(g) Customer’s right to withhold disputed amount; limitation on collection action. Once the customer has submitted notice of a billing error to a billing entity, the customer need not pay, and the billing entity, providing carrier, or vendor may not try to collect, any portion of any required payment that the customer reasonably believes is related to the disputed amount until the billing entity receiving the notice has complied with the requirements of §308.7(d). The billing entity, providing carrier, or vendor are not prohibited from taking any action to collect any undisputed portion of the bill, or from reflecting a disputed amount and related charges on a billing statement, provided that the billing statement clearly states that payment of any disputed amount or related charges is not required pending the billing entity’s compliance with §308.7(d).

(b) Prohibition on charges for initiating billing review. A billing entity, providing carrier, or vendor may not impose on the customer any charge related to the billing review, including charges for documentation or investigation.

(i) Restrictions on credit reporting—(1) Adverse credit reports prohibited. Once the customer has submitted notice of a billing error to a billing entity, a billing entity, providing carrier, vendor, or other agent may not report or threaten directly or indirectly to report adverse information to any person because of the customer’s withholding payment of the disputed amount or related charges, until the billing entity has met the requirements of §308.7(d) and allowed the customer as many days thereafter to make payment as prescribed by §308.7(d)(3)(ii).

(2) Reports on continuing disputes. If a billing entity receives further notice from a customer within the time allowed for payment under §308.7(i)(1) that any portion of the billing error is still in dispute, a billing entity, providing carrier, vendor, or other agent may not report or threaten directly or indirectly to report adverse information to any person because of the customer’s withholding payment of the disputed amount or related charges, until the billing entity has met the requirements of §308.7(d) and allowed the customer as many days thereafter to make payment as prescribed by §308.7(d)(3)(ii).

(ii) Adverse credit reports prohibited. If the billing entity receives further notice from the customer within the time allowed under §308.7(i)(1) that any portion of the disputed amount is still in dispute, a billing entity, providing carrier, vendor, or other agent may not report or threaten directly or indirectly to report adverse information to any person because of the customer’s withholding payment of the disputed amount or related charges, until the billing entity has met the requirements of §308.7(d) and allowed the customer as many days thereafter to make payment as prescribed by §308.7(d)(3)(ii).
(3) Reporting of dispute resolutions required. A billing entity, providing carrier, vendor, or other agent shall report in writing any subsequent resolution of any matter reported pursuant to §308.7(i)(2) to all persons to whom such matter was initially reported.

(j) Forfeiture of right to collect disputed amount. Any billing entity, providing carrier, vendor, or other agent who fails to comply with the requirements of §§308.7(c), (d), (g), (h), or (i) forfeits any right to collect from the customer the amount indicated by the customer, under §308.7(b)(2), to be in error, and any late charges or other related charges thereon, up to $50 per transaction.

(k) Prompt notification of returns and crediting of refunds. When a vendor other than the billing entity accepts the return of property or forgives a debt for services in connection with a telephone-billed purchase, the vendor shall, within seven (7) business days from accepting the return or forgiving the debt, either:

(1) Mail or deliver a cash refund directly to the customer’s address, and notify the appropriate billing entity that the customer has been given a refund, or

(2) Transmit a credit statement to the billing entity through the vendor’s normal channels for billing telephone-billed purchases. The billing entity shall, within seven (7) business days after receiving a credit statement, credit the customer’s account with the amount of the refund.

(l) Right of customer to assert claims or defenses. Any billing entity or providing carrier who seeks to collect charges from a customer for a telephone-billed purchase that is the subject of a dispute between the customer and the vendor shall be subject to all claims (other than tort claims) and defenses arising out of the transaction and related to the failure to resolve the dispute that the customer could assert against the vendor, if the customer has made a good faith attempt to resolve the dispute with the vendor or providing carrier (other than the billing entity). The billing entity or providing carrier shall not be liable under this paragraph for any amount greater than the amount billed to the customer for the purchase (including any related charges).

(m) Retaliatory actions prohibited. A billing entity, providing carrier, vendor, or other agent may not accelerate any part of the customer’s indebtedness or restrict or terminate the customer’s access to pay-per-call services solely because the customer has exercised in good faith rights provided by this section.

(n) Notice of billing error rights—(1) Annual statement. (i) A billing entity shall mail or deliver to each customer, with the first billing statement for a telephone-billed purchase mailed or delivered after the effective date of these regulations, a statement of the customer’s billing rights with respect to telephone-billed purchases. Thereafter the billing entity shall mail or deliver the billing rights statement at least once per calendar year to each customer to whom it has mailed or delivered a billing statement for a telephone-billed purchase during the previous twelve months. The billing rights statement shall disclose that the rights and obligations of the customer and the billing entity, set forth therein, are provided under the federal Telephone Disclosure and Dispute Resolution Act. The statement shall describe the procedure that the customer must follow to notify the billing entity of a billing error and the steps that the billing entity must take in response to the customer’s notice. If the customer is permitted to provide oral notice of a billing error, the statement shall disclose that a customer who orally communicates an allegation of a billing error is presumed to have provided sufficient notice to initiate a billing review. The statement shall also disclose the customer’s right to withhold payment of any disputed amount, and that any action to collect any disputed amount will be suspended, pending completion of the billing review. The statement shall further disclose the customer’s rights and obligations if the billing entity determines that no billing error occurred, including what action the billing entity may take if the customer continues to withhold payment of the disputed amount. Additionally, the statement shall inform the customer of the billing entity’s obligation to forfeit
any disputed amount (up to $50 per transaction) if the billing entity fails to follow the billing and collection procedures prescribed by §308.7 of this rule.

(ii) A billing entity that is a common carrier may comply with §308.7(n)(1)(i) by, within 60 days after the effective date of these regulations, mailing or delivering the billing rights statement to all of its customers and, thereafter, mailing or delivering the billing rights statement at least once per calendar year, at intervals of not less than 6 months nor more than 18 months, to all of its customers.

(2) Alternative summary statement. As an alternative to §308.7(n)(1), a billing entity may mail or deliver, on or with each billing statement, a statement that sets forth the procedure that a customer must follow to notify the billing entity of a billing error. The statement shall also disclose the customer’s right to withhold payment of any disputed amount, and that any action to collect any disputed amount will be suspended, pending completion of the billing review.

(3) General disclosure requirements. (i) The disclosures required by §308.7(n)(1) shall be made clearly and conspicuously on a separate statement that the customer may keep.

(ii) The disclosures required by §308.7(n)(2) shall be made clearly and conspicuously and may be made on a separate statement or on the customer’s billing statement. If any of the disclosures are provided on the back of the billing statement, the billing entity shall include a reference to those disclosures on the front of the statement.

(iii) At the billing entity’s option, additional information or explanations may be supplied with the disclosures required by §308.7(n), but none shall be stated, utilized, or placed so as to mislead or confuse the customer or contradict, obscure, or detract attention from the information required to be disclosed. The disclosures required by §308.7(n) shall appear separately and above any other disclosures.

(o) Multiple billing entities. If a telephone-billed purchase involves more than one billing entity, only one set of disclosures need by given, and the billing entities shall agree among themselves which billing entity must comply with the requirements that this regulation imposes on any or all of them. The billing entity designated to receive and respond to billing errors shall remain the only billing entity responsible for complying with the terms of §308.7(d). If a billing entity other than the one designated to receive and respond to billing errors receives notice of a billing error as described in §308.7(b), that billing entity shall either: (1) Promptly transmit to the customer the name, mailing address, and business telephone number of the billing entity designated to receive and respond to billing errors; or (2) transmit the billing error notice within fifteen (15) days to the billing entity designated to receive and respond to billing errors. The time requirements in §308.7(d) shall not begin to run until the billing entity designated to receive and respond to billing errors receives notice of the billing error, either from the customer or from the billing entity to whom the customer transmitted the notice.

(p) Multiple customers. If there is more than one customer involved in a telephone-billed purchase, the disclosures may be made to any customer who is primarily liable on the account.

§ 308.8 Severability.

The provisions of this rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

§ 308.9 Rulemaking review.

No later than four years after the effective date of this Rule, the Commission shall initiate a rulemaking review proceeding to evaluate the operation of the rule.

PART 309—LABELING REQUIREMENTS FOR ALTERNATIVE FUELS AND ALTERNATIVE FUELED VEHICLES

Subpart A—General

Sec. 309.1 Definitions.
§ 309.1 Definitions.

As used in subparts B and C of this part:

(a) Acquisition includes either of the following:
(1) Acquiring the beneficial title to a covered vehicle; or
(2) Acquiring a covered vehicle for transportation purposes pursuant to a contract or similar arrangement for a period of 120 days or more.

(b) Aftermarket conversion system means any combination of hardware which allows a vehicle or engine to operate on a fuel other than the fuel which the vehicle or engine was originally certified to use.

(c) Alternative fuel means
(1) Methanol, denatured ethanol, and other alcohols;
(2) Mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and/or other alcohols (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions), with gasoline or other fuels;
(3) Natural gas;
(4) Liquefied petroleum gas;
(5) Hydrogen;
(6) Coal-derived liquid fuels;
(7) Fuels (other than alcohol) derived from biological materials;
(8) Electricity (including electricity from solar energy); and
(9) Any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

(d) (1) Consumer in subpart C means an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States.
(2) Consumer or ultimate purchaser in subpart B means, with respect to any non-liquid alternative vehicle fuel (including electricity), the first person who purchases such fuel for purposes other than resale.

(e) Conventional fuel means gasoline or diesel fuel.

(f) Covered vehicle means either of the following:
(1) A dedicated or dual fueled passenger car (or passenger car derivative) capable of seating 12 passengers or less; or
(2) A dedicated or dual fueled motor vehicle (other than a passenger car or passenger car derivative) with a gross vehicle weight rating less than 8,500 pounds which has a vehicle curb weight of less than 6,000 pounds and which has a basic vehicle frontal area of less than 45 square feet, which is:
(i) Designed primarily for purposes of transportation of property or is a derivative of such a vehicle; or
(ii) Designed primarily for transportation of persons and has a capacity of more than 12 persons.

(g) Dedicated means designed to operate solely on alternative fuel.

(h) Distributor means any person, except a common carrier, who receives non-liquid alternative vehicle fuel (other than electricity) and distributes such fuel to another person other than the consumer. It also means any person, except a common carrier, who receives an electric vehicle fuel dispensing system and distributes such system to a retailer.

(i) Dual fueled means capable of operating on alternative fuel and capable of operating on conventional fuel.

(j) Electric charging system equipment means equipment that includes an electric battery charger and is used for dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(k) Electric vehicle (“EV”) means a vehicle designed to operate exclusively on electricity stored in a rechargeable battery, multiple batteries, or battery pack.

(l) Electric vehicle fuel dispensing system means electric charging system equipment or an electrical energy dispensing system.

(m) Electrical energy dispensing system means equipment that does not include an electric charger and is used for dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle that contains an on-board electric battery charger.

(n) Emission certification standard means the emission standard to which a covered vehicle has been certified pursuant to 40 CFR parts 86 and 88.

(o) Estimated cruising range for non-EVs means a manufacturer’s reasonable estimate of the number of miles a new covered vehicle will travel between refueling, expressed as a lower estimate (i.e., minimum estimated cruising range) and an upper estimate (i.e., maximum estimated cruising range), as determined by §309.22. Estimated cruising range for EVs means a manufacturer’s reasonable estimate of the number of miles a new covered EV will travel between recharging, expressed as a single estimate, as determined by §309.22.

(p) Fuel dispenser means:
(1) For non-liquid alternative vehicle fuels (other than electricity), the dispenser through which a retailer sells the fuel to consumers.
(2) For electric vehicle fuel dispensing systems, the dispenser through which a retailer dispenses electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(q) Fuel rating means:
(1) For non-liquid alternative vehicle fuels (other than electricity), including, but not limited to, compressed natural gas and hydrogen gas, the commonly used name of the fuel with a disclosure of the amount, expressed as a minimum molecular percentage, of the principal component of the fuel. A disclosure of other components, expressed as a minimum molecular percentage, may be included, if desired.
(2) For electric vehicle fuel dispensing systems, a common identifier (such as, but not limited to, “electricity,” “electric charging system,” “electric charging station”) with a disclosure of the system’s kilowatt (“kW”) capacity, voltage, whether the voltage is alternating current (“ac”) or direct current (“dc”), amperage, and whether the system is conductive or inductive.

(r) Manufacturer means the person who obtains a certificate of conformity that the vehicle complies with the standards and requirements of 40 CFR parts 86 and 88.

(s) Manufacturer of an electric vehicle fuel dispensing system means any person who manufactures or assembles an electric vehicle fuel dispensing system that is distributed specifically for use by retailers in dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(t) New covered vehicle means a covered vehicle which has not been acquired by a consumer.

(u) New vehicle dealer means a person who is engaged in the sale or leasing of new covered vehicles.

(v) New vehicle label means a window sticker containing the information required by §309.20(e).
§ 309.2 What this part does.

This part establishes labeling requirements for non-liquid alternative vehicle fuels, and for certain vehicles powered in whole or in part by alternative fuels.

§ 309.3 Stayed or invalid portions.

If any portion of this part is stayed or held invalid, the rest of it will stay in force.

§ 309.4 Preemption.

Inconsistent state and local regulations are preempted to the extent they would frustrate the purposes of this part.

Subpart B—Requirements for Alternative Fuels

DUTIES OF IMPORTERS, PRODUCERS, AND REFINERS OF NON-LIQUID ALTERNATIVE VEHICLE FUELS (OTHER THAN ELECTRICITY) AND OF MANUFACTURERS OF ELECTRIC VEHICLE FUEL DISPENSING SYSTEMS

§ 309.10 Alternative vehicle fuel rating.

(a) If you are an importer, producer, or refiner of non-liquid alternative vehicle fuel (other than electricity), you must determine the fuel rating of all non-liquid alternative vehicle fuel (other than electricity) before you transfer it. You can do that yourself or through a testing lab. To determine fuel ratings, you must possess a reasonable basis, consisting of competent and reliable evidence, for the minimum percentage of the principal component of the non-liquid alternative vehicle fuel (other than electricity) that you must disclose, and for the minimum percentages of other components that you choose to disclose. For the purposes of this section, fuel ratings for the tank through the filler pipe with the vehicle on a level surface and with the unusable capacity already in the tank). The term does not include unusable capacity (i.e., the volume of fuel left at the bottom of the tank when the vehicle’s fuel pump can no longer draw fuel from the tank), the vapor volume of the tank (i.e., the space above the fuel tank filler neck), or the volume of the fuel tank filler neck.
the minimum percentage of the principal component of compressed natural gas are to be determined in accordance with test methods set forth in American Society for Testing and Materials ("ASTM") D 1945–91, "Standard Test Method for Analysis of Natural Gas by Gas Chromatography." For the purposes of this section, fuel ratings for the minimum percentage of the principal component of hydrogen gas are to be determined in accordance with test methods set forth in ASTM D 1946–90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of D 1945–91 and D 1946–90 may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, or may be inspected at the Federal Trade Commission, Public Reference Room, room 130, 600 Pennsylvania Avenue, NW, Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/ code_of_federal_regulations/ibr_locations.html.

(b) If you are a manufacturer of electric vehicle fuel dispensing systems, you must determine the fuel rating of the electric charge delivered by the electric vehicle fuel dispensing system before you transfer such systems. To determine the fuel rating of the electric vehicle fuel dispensing system, you must possess a reasonable basis, consisting of competent and reliable evidence, for the following output information you must disclose: kilowatt ("kW") capacity, voltage, whether the voltage is alternating current ("ac") or direct current ("dc"), amperage, and whether the system is conductive or inductive.

§ 309.11 Certification.

(a) For non-liquid alternative vehicle fuel (other than electricity), in each transfer you make to anyone who is not a consumer, you must certify the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) consistent with your determination. You can do this in either of two ways:

(1) Include a delivery ticket or other paper with each transfer of non-liquid alternative vehicle fuel (other than electricity) you will transfer to that person from the date of the letter onwards. This letter of certification will be good until you transfer non-liquid alternative vehicle fuel (other than electricity) with a lower percentage of the principal component, or of any other component disclosed in the certification. When this happens, you must certify the fuel rating of the new non-liquid alternative vehicle fuel (other than electricity) either with a delivery ticket or by sending a new letter of certification.

(b) For electric vehicle fuel dispensing systems, in each transfer you make to anyone who is not a consumer, you must certify the fuel rating of the electric vehicle fuel dispensing system consistent with your determination. You can do this in either of two ways:

(1) Include a delivery ticket or other paper with each transfer of an electric vehicle fuel dispensing system. It may be an invoice, bill of lading, bill of sale, terminal ticket, delivery ticket, or any other written proof of transfer. It must contain at least these five items:

(i) Your name;
(ii) The name of the person to whom the electric vehicle fuel dispensing system is transferred;
(iii) The date of the transfer; and
(iv) The fuel rating.

(2) Give the person a letter or written statement. This letter must include the date, your name, the other person’s name, and the fuel rating of any non-liquid alternative vehicle fuel (other than electricity) you will transfer to that person from the date of the letter onwards. This letter of certification will be good until you transfer non-liquid alternative vehicle fuel (other than electricity) with a lower percentage of the principal component, or of any other component disclosed in the certification. When this happens, you must certify the fuel rating of the new non-liquid alternative vehicle fuel (other than electricity) either with a delivery ticket or by sending a new letter of certification.
(iv) The model number, serial number, or other identifier of the electric vehicle fuel dispensing system; and
(v) The fuel rating.

(2) Make the required certification by placing clearly and conspicuously on the electric vehicle fuel dispensing system a permanent legible marking or permanently attached label that discloses the manufacturer’s name, the model number, serial number, or other identifier of the system, and the fuel rating. Such marking or label must be located where it can be seen after installation of the system. The marking or label will be deemed “legible,” in terms of placement, if it is located in close proximity to the manufacturer’s identification marking. This marking or label must be in addition to, and not a substitute for, the label required to be posted on the electric vehicle fuel dispensing system by the retailer.

(c) When you transfer non-liquid alternative vehicle fuel (other than electricity), or an electric vehicle fuel dispensing system, to a common carrier, you must certify the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) or electric vehicle fuel dispensing system to the common carrier, either by letter or on the delivery ticket or other paper, or by a permanent marking or label attached to the electric vehicle fuel dispensing system by the manufacturer.

§ 309.12 Recordkeeping.

You must keep for one year records of how you determined fuel ratings. The records must be available for inspection by Federal Trade Commission staff members, or by people authorized by FTC.

§ 309.13 Certification.

(a) If you are a distributor of non-liquid alternative vehicle fuel (other than electricity), you must certify the fuel rating of the fuel in each transfer you make to anyone who is not a consumer. You may certify either by using a delivery ticket or other paper with each transfer, as outlined in §309.11(a)(1), or by using a letter of certification, as outlined in §309.11(a)(2).

(b) If you are a distributor of electric vehicle fuel dispensing systems, you must certify the fuel rating of the system in each transfer you make to anyone who is not a consumer. You may certify by using a delivery ticket or other paper with each transfer, as outlined in §309.11(b)(1), or by using the permanent marking or permanent label attached to the system by the manufacturer, as outlined in §309.11(b)(2).

(c) If you do not blend non-liquid alternative vehicle fuels (other than electricity), you must certify consistent with the fuel rating certified to you. If you blend non-liquid alternative vehicle fuel (other than electricity), you must possess a reasonable basis, consisting of competent and reliable evidence, as required by §309.10(a), for the fuel rating that you certify for the blend.

(d) When you transfer non-liquid alternative vehicle fuel (other than electricity), or an electric vehicle fuel dispensing system, to a common carrier, you must certify the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) or electric vehicle fuel dispensing system to the common carrier, either by letter or on the delivery ticket or other paper, or by a permanent marking or label attached to the electric vehicle fuel dispensing system by the manufacturer.

§ 309.14 Recordkeeping.

You must keep for one year any delivery tickets, letters of certification, or other paper on which you based your fuel rating certifications for non-liquid alternative vehicle fuels (other than electricity) and for electric vehicle fuel.
dispensing systems. You also must keep for one year records of any fuel rating determinations you made according to §309.10. If you rely for your certification on a permanent marking or permanent label attached to the electric vehicle fuel dispensing system by the manufacturer, you must not remove or deface the permanent marking or label. The records must be available for inspection by Federal Trade Commission staff members, or by persons authorized by FTC.

DUTIES OF RETAILERS

§ 309.15 Posting of non-liquid alternative vehicle fuel rating.

(a) If you are a retailer who offers for sale or sells non-liquid alternative vehicle fuel (other than electricity) to consumers, you must post the fuel rating of each non-liquid alternative vehicle fuel. If you are a retailer who offers for sale or sells electricity to consumers through an electric vehicle fuel dispensing system, you must post the fuel rating of the electric vehicle fuel dispensing system you use. You must do this by putting at least one label on the face of each fuel dispenser through which you sell non-liquid alternative vehicle fuel. If you are selling two or more kinds of non-liquid alternative vehicle fuels with different fuel ratings from a single fuel dispenser, you must put separate labels for each kind of non-liquid alternative vehicle fuel on the face of the fuel dispenser.

(b)(1) The label, or labels, must be placed conspicuously on the fuel dispenser so as to be in full view of consumers and as near as reasonably practical to the price per unit of the non-liquid alternative vehicle fuel.

(2) You may petition for an exemption from the placement requirements by writing the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the reasons that you want the exemption.

(c) If you do not blend non-liquid alternative vehicle fuels (other than electricity), you must post consistent with the fuel rating certified to you. If you blend non-liquid alternative vehicle fuel (other than electricity), you must possess a reasonable basis, consisting of competent and reliable evidence, as required by §309.10(a), for the fuel rating that you post for the blend.

(d)(1) You must maintain and replace labels as needed to make sure consumers can easily see and read them.

(2) If the labels you have are destroyed or are unusable or unreadable for some unexpected reason, you may satisfy this part by posting a temporary label as much like the required label as possible. You must still get and post the required label without delay.

(e) The following examples of fuel rating disclosures for CNG and hydrogen are meant to serve as illustrations of compliance with this part, but do not limit the rule’s coverage to only the mentioned non-liquid alternative vehicle fuels (other than electricity):

1. “CNG”
   - Minimum
   - XXX%
   - Methane

2. “Hydrogen”
   - Minimum
   - XXX%
   - Hydrogen

(f) The following example of fuel rating disclosures for electric vehicle fuel dispensing systems is meant to serve as an illustration of compliance with this part:

- Electricity
- XX kW
- XXX vac/XX amps
- Inductive

(g) When you receive non-liquid alternative vehicle fuel (other than electricity), or an electric vehicle fuel dispensing system, from a common carrier, you also must receive from the common carrier a certification of the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) or electric vehicle fuel dispensing system, either by letter or on the delivery ticket or other paper, or by a permanent marking or label attached to the electric vehicle fuel dispensing system by the manufacturer.

§ 309.16 Recordkeeping.

You must keep for one year any delivery tickets, letters of certification, or other paper on which you based your posting of fuel ratings for non-liquid
§ 309.17 Labels.

All labels must meet the following specifications:

(a) Layout:

(1) Non-liquid alternative vehicle fuel (other than electricity) labels with disclosure of principal component only. The label is 3” (7.62 cm) wide × 2½” (6.35 cm) long. “Helvetica black” type is used throughout. All type is centered. The black band at the top of the label contains the name of the fuel. This band should measure 1” (2.54 cm) deep. Spacing of the fuel name is ¼” (.64 cm) from the top of the label and ¾” (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is ½” (.32 cm) from the bottom of the black band. All type below the black band is centered horizontally, with ¼” (.32 cm) between lines. The bottom line of type is ½” (.64 cm) from the bottom of the label. All type should fall no closer than ½” (.48 cm) from the side edges of the label. If you wish to change the format of this single component label, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.

(2) Non-liquid alternative vehicle fuel (other than electricity) labels with disclosure of two components. The label is 3” (7.62 cm) wide × 2½” (6.35 cm) long. “Helvetica black” type is used throughout. All type is centered. The band at the top of the label contains the name of the fuel. This band should measure 1” (2.54 cm) deep. Spacing of the fuel name is ¼” (.64 cm) from the top of the label and ¾” (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is ¾” (.48 cm) from the bottom of the black band. All type below the black band is centered horizontally, with ¼” (.32 cm) between lines. The bottom line of type is ¼” (.64 cm) from the bottom of the label. All type should fall no closer than ½” (.48 cm) from the side edges of the label. If you wish to change the format of this two component label, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.

(b) Type size and setting:

(1) Labels for non-liquid alternative vehicle fuels (other than electricity) with disclosure of principal component only. All type should be set in upper case (all caps) “Helvetica Black” throughout.

(2) Electric vehicle fuel dispensing system labels. The label is 3” (7.62 cm) wide × 2½” (6.35 cm) long. “Helvetica black” type is used throughout. All type is centered. The band at the top of the label contains the common identifier of the fuel. This band should measure 1” (2.54 cm) deep. Spacing of the common identifier is ¼” (.64 cm) from the top of the label and ¾” (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is ½” (.32 cm) from the bottom of the black band. All type below the black band is centered horizontally, with ¼” (.32 cm) between lines. The bottom line of type is ½” (.64 cm) from the bottom of the label. All type should fall no closer than ½” (.48 cm) from the side edges of the label. If you wish to change the format of this single component label, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.
§ 309.20 Labeling requirements for new covered vehicles.

(a) Affixing and maintaining labels. (1) Before offering a new covered vehicle for acquisition to consumers, manufacturers shall affix or cause to be affixed, and new vehicle dealers shall maintain or cause to be maintained, a new vehicle label on a visible surface of each such vehicle.

(2) If an aftermarket conversion system is installed on a vehicle by a person other than the manufacturer prior to such vehicle’s being acquired by a consumer, the manufacturer shall provide that person with the vehicle’s estimated cruising range (as determined by §309.22(a) for dedicated vehicles and §309.22(b) for dual fueled vehicles) and ensure that new vehicle labels are affixed to such vehicles as required by paragraph (a) of this section.

(b) Layout. Figures 4, 5, and 5.1 are prototype labels that demonstrate the proper layout. All positioning, spacing, type size, and line widths shall be similar to and consistent with the prototype labels. Labels required by this section are one-sided and rectangular in shape measuring 7 inches (17.78 cm) wide and 71/2 inches (19.05 cm) long. Figure 4 of appendix A represents the prototype for the labels for dedicated vehicles. Figures 5 and 5.1 of appendix A represent the prototype of the labels for dual-fueled vehicles; Figure 5 of appendix A represents the prototype for vehicles with one fuel tank and Figure 5.1 of appendix A represents the prototype for vehicles with two fuel tanks. No marks or information other than that called for by this part may appear on the labels.

(e) Special label protection. All labels must be capable of withstanding extremes of weather conditions for a period of at least one year. They must be resistant to vehicle fuel, oil, grease, solvents, detergents, and water.

(f) Illustrations of labels. Labels must meet the specifications in this section and look like Figures 1 through 3 of appendix A, except the black print should be on the appropriately colored background.

Subpart C—Requirements for Alternative Fueled Vehicles

§ 309.20 Labeling requirements for new covered vehicles.

(a) Affixing and maintaining labels. (1) Before offering a new covered vehicle for acquisition to consumers, manufacturers shall affix or cause to be affixed, and new vehicle dealers shall maintain or cause to be maintained, a new vehicle label on a visible surface of each such vehicle.

(2) If an aftermarket conversion system is installed on a vehicle by a person other than the manufacturer prior to such vehicle’s being acquired by a consumer, the manufacturer shall provide that person with the vehicle’s estimated cruising range (as determined by §309.22(a) for dedicated vehicles and §309.22(b) for dual fueled vehicles) and ensure that new vehicle labels are affixed to such vehicles as required by paragraph (a) of this section.

(b) Layout. Figures 4, 5, and 5.1 are prototype labels that demonstrate the proper layout. All positioning, spacing, type size, and line widths shall be similar to and consistent with the prototype labels. Labels required by this section are one-sided and rectangular in shape measuring 7 inches (17.78 cm) wide and 71/2 inches (19.05 cm) long. Figure 4 of appendix A represents the prototype for the labels for dedicated vehicles. Figures 5 and 5.1 of appendix A represent the prototype of the labels for dual-fueled vehicles; Figure 5 of appendix A represents the prototype for vehicles with one fuel tank and Figure 5.1 of appendix A represents the prototype for vehicles with two fuel tanks. No marks or information other than that called for by this part may appear on the labels.

(e) Special label protection. All labels must be capable of withstanding extremes of weather conditions for a period of at least one year. They must be resistant to vehicle fuel, oil, grease, solvents, detergents, and water.

(f) Illustrations of labels. Labels must meet the specifications in this section and look like Figures 1 through 3 of appendix A, except the black print should be on the appropriately colored background.

Subpart C—Requirements for Alternative Fueled Vehicles
§ 309.21 Labeling requirements for used covered vehicles.

(a) Affixing and maintaining labels. Before offering a used covered vehicle for acquisition to consumers, used vehicle dealers shall affix and maintain, or cause to be affixed and maintained, a used vehicle label on a visible surface of each such vehicle.

(b) Layout. Figure 6 of appendix A is the prototype label that demonstrates the proper layout. All positioning, spacing, type size, and line widths should be similar to and consistent with the prototype label. The label required by this section is one-sided and rectangular in shape measuring 7 inches (17.78 cm) in width and 7 1/2 inches (19.05 cm) in height. No marks or information other than that specified in this subpart shall appear on this label except that the label may include part numbers, bar codes, and vehicle identification numbers consistent with Figure 6.

(c) Type size and setting. The Helvetica Condensed and Helvetica family typefaces or equivalent shall be used exclusively on the label. Specific type sizes and faces to be used are indicated on the prototype label (Figure 6 of appendix A). No hyphenation should be used in setting headline or text copy. Positioning and spacing should follow the prototype closely.

(d) Colors and paper stock. All labels shall be printed in process black ink on Hammermill Offset Opaque Vellum/S.70 Sky Blue (or equivalent) paper.

(e) Content. Headlines and text, as illustrated in Figure 6 of appendix A, are standard for all labels.

[69 FR 55338, Sept. 14, 2004]

§ 309.22 Determining estimated cruising range.

(a) Dedicated vehicles. (1) Estimated cruising range values for dedicated vehicles required to comply with the provisions of 40 CFR part 600 are to be calculated in accordance with the following:

(i) The lower range value shall be determined by multiplying the vehicle's estimated city fuel-economy by its fuel tank capacity, then rounding to the next lower integer value.

(ii) The upper range value shall be determined by multiplying the vehicle's estimated highway fuel-economy by its fuel tank capacity, then rounding to the next higher integer value.

(ii) For dual fueled vehicles, determined in accordance with § 309.22(b).

(2) Estimated cruising range for an EV is the actual vehicle range determined in accordance with test methods set forth in Society of Automotive Engineers ("SAE") Surface Vehicle Recommended Practice SAE J1634–1993–05–20, "Electric Vehicle Energy Consumption and Range Test Procedure." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of SAE J1634–1993–05–20 may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA, 15096–0001, or may be inspected at the Federal Trade Commission, Public Reference Room, room 130, 600 Pennsylvania Avenue, NW, Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/
(3) To determine the estimated cruising range values for dedicated vehicles not required to comply with the provisions of 40 CFR part 600 (other than electric vehicles), you must possess a reasonable basis, consisting of competent and reliable evidence that substantiates the minimum and maximum number of miles the vehicle will travel between refuelings or rechargings that is claimed.

(b) *Dual-fueled vehicles.* (1) Estimated cruising range values for dual-fueled vehicles required to comply with the provisions of 40 CFR part 600 are to be calculated in accordance with the following:

(i) The lower range value for the vehicle while operating exclusively on alternative fuel shall be determined by multiplying the vehicle’s estimated city fuel-economy by its alternative-fuel tank capacity, then rounding to the next lower integer value.

(ii) The upper range value for the vehicle while operating exclusively on alternative fuel shall be determined by multiplying the vehicle’s estimated highway fuel-economy by its alternative-fuel tank capacity, then rounding to the next higher integer value.

(iii) The lower range value for the vehicle while operating exclusively on conventional fuel shall be determined by multiplying the vehicle’s estimated city fuel-economy by its conventional-fuel tank capacity, then rounding to the next lower integer value.

(iv) The upper range value for the vehicle while operating exclusively on conventional fuel shall be determined by multiplying the vehicle’s estimated highway fuel-economy by its conventional-fuel tank capacity, then rounding to the next higher integer value.

(2) [Reserved]

(3) To determine the estimated cruising range values for dual-fueled vehicles not required to comply with the provisions of 40 CFR part 600 (other than electric vehicles), you must possess a reasonable basis, consisting of competent and reliable evidence, of:

(i) The minimum and maximum number of miles the vehicle will travel between refuelings or rechargings when operated exclusively on alternative fuel, and

(ii) The minimum and maximum number of miles the vehicle will travel between refuelings or rechargings when operated exclusively on conventional fuel.

[60 FR 26955, May 19, 1995, as amended at 69 FR 18803, Apr. 9, 2004]

§ 309.23 Recordkeeping.

Manufacturers required to comply this subpart shall establish, maintain, and retain copies of all data, reports, records, and procedures used to meet the requirements of this subpart for three years after the end of the model year to which they relate. They must be available for inspection by Federal Trade Commission staff members, or by people authorized by the Federal Trade Commission.
APPENDIX A TO PART 309—FIGURES FOR PART 309

**Figure 1**

**CNG**

MINIMUM 90% METHANE

**Figure 2**

**HYDROGEN**

MINIMUM 98% HYDROGEN

**Figure 3**

**ELECTRICITY**

9.6 kW
240 vac/40 amps
CONDUCTIVE
# Alternative Fueled Vehicle Buyers Guide

Compare the Cruising Range of this Vehicle with Other Alternative Fueled Vehicles (AFVs) Before You Buy

### Manufacturer's Estimated Cruising Range

<table>
<thead>
<tr>
<th>Range</th>
<th>Miles on one tank or charge.</th>
</tr>
</thead>
<tbody>
<tr>
<td>440-520</td>
<td></td>
</tr>
</tbody>
</table>

Actual cruising range will vary with options, driving conditions, driving habits, and vehicle condition.

### Before Selecting An Alternative Fueled Vehicle Consider:

- **Fuel Type and Availability**: Know which fuel(s) power this vehicle. Determine whether refueling and/or recharging facilities that meet your driving needs are readily available.
- **Operating Costs**: Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably. Visit [www.fueleconomy.gov](http://www.fueleconomy.gov).
- **Performance/Convenience**: Vehicles powered by different fuels differ in their ability to start a cold engine, how long it takes to refill the vehicle's tank to full capacity, acceleration rates, and refueling methods.
- **Energy Security/Renewability**: Consider where and how the fuel powering this vehicle is typically produced.
- **Emissions**: Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit [www.epa.gov/greenelectric](http://www.epa.gov/greenelectric).

### Additional Information

**Department of Energy (DOE)**

For more information about AFVs, contact DOE's National Alternative Fuels Hotline, 1-800-423-1111, or visit DOE's Alternative Fuels Data Center website, [www.afdc.energy.gov](http://www.afdc.energy.gov).

**National Highway Traffic Safety Administration (NHTSA)**

For more information about vehicle safety, contact NHTSA's Auto Safety Hotline, 1-800-424-9393.

The information on this label is required by the Federal Trade Commission, 16 CFR Part 309. For more information call toll-free (877) FTC-HELP or visit [www.ftc.gov](http://www.ftc.gov).

Space Reserved for Part Numbers, Bar Codes, and Vehicle Identification Numbers
# ALTERNATIVE FUELED VEHICLE BUYERS GUIDE

Compare the Cruising Range of this Vehicle with Other Alternative Fueled Vehicles (AFVs) Before You Buy

<table>
<thead>
<tr>
<th>Manufacturer's Estimated Cruising Range</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>400-480</strong> Miles on one tank or charge exclusively on alternative fuel</td>
</tr>
<tr>
<td><strong>440-520</strong> Miles on one tank exclusively on gasoline/diesel</td>
</tr>
</tbody>
</table>

Actual cruising range will vary with options, driving conditions, driving habits and vehicle condition.

Before Selecting An Alternative Fueled Vehicle Consider:

- **FUEL TYPE AND AVAILABILITY:** Know which fuel(s) power this vehicle. Determine whether refueling and/or recharging facilities that meet your driving needs are readily available.
- **OPERATING COSTS:** Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably. Visit www.fueleconomy.gov.
- **PERFORMANCE/CONVENIENCE:** Vehicles powered by different fuels differ in their ability to start a cold engine, how long it takes to refill the vehicle’s tank to full capacity, acceleration rates, and refueling methods.
- **ENERGY SECURITY/RENEWABILITY:** Consider where and how the fuel powering this vehicle is typically produced.
- **EMISSIONS:** Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit www.epa.gov/greenvehicle.

**Additional Information**

**DEPARTMENT OF ENERGY (DOE)**
For more information about AFVs, contact DOE’s National Alternative Fuels Hotline, 1-800-423-1DOE, or visit DOE’s Alternative Fuels Data Center website, www.afdc.energy.gov.

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)**
For more information about vehicle safety, contact NHTSA’s Auto Safety Hotline, 1-800-424-9393.

The information on this label is required by the Federal Trade Commission, 16 CFR Part 309. For more information call toll-free (877) FTC-HELP or visit www.ftc.gov.
ALTERNATIVE FUELED VEHICLE BUYERS GUIDE

Compare the Cruising Range of this Vehicle with Other Alternative Fueled Vehicles (AFVs) Before You Buy

<table>
<thead>
<tr>
<th>Manufacturer's Estimated Cruising Range</th>
<th>400-480</th>
<th>440-520</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miles on one tank or charge exclusively on alternative fuel</td>
<td>Miles on one tank exclusively on gasoline/diesel</td>
<td></td>
</tr>
</tbody>
</table>

The total possible cruising range of this vehicle is the sum of the alternative fuel range and the conventional fuel range. Actual cruising range will vary with options, driving conditions, driving habits, and vehicle condition.

Before Selecting An Alternative Fueled Vehicle Consider:

1. FUEL TYPE AND AVAILABILITY: Know which fuel(s) power this vehicle. Determine whether refueling and/or recharging facilities that meet your driving needs are readily available.
2. OPERATING COSTS: Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably. Visit www.fueleconomy.gov.
3. PERFORMANCE/CONVENIENCE: Vehicles powered by different fuels differ in their ability to start a cold engine, how long it takes to refill the vehicle's tank to full capacity, acceleration rates, and refueling methods.
4. ENERGY SECURITY/RENEWABILITY: Consider where and how the fuel powering this vehicle is typically produced.
5. EMISSIONS: Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit www.epa.gov/greenevehicles.

Additional Information

DEPARTMENT OF ENERGY (DOE)
For more information about AFVs, contact DOE's National Alternative Fuels Hotline, 1-800-423-DOE, or visit DOE's Alternative Fuels Data Center website, www.afdc.energy.gov.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)
For more information about vehicle safety, contact NHTSA's Auto Safety Hotline, 1-800-424-9393.

The information on this label is required by the Federal Trade Commission, 16 CFR Part 309. For more information call toll-free (877) FTC-HELP or visit www.ftc.gov.

Figure 5.1
PART 310—TELEMARKETING SALES

RULE 16 CFR PART 310

Sec. 310.1 Scope of regulations in this part.
310.2 Definitions.
310.3 Deceptive telemarketing acts or practices.
310.4 Abusive telemarketing acts or practices.
310.5 Recordkeeping requirements.
310.6 Exemptions.
310.7 Actions by states and private persons.
310.8 Fee for access to the National Do Not Call Registry.
310.9 Severability.


SOURCE: 75 FR 48516, Aug. 10, 2010, unless otherwise noted.

§310.1 Scope of regulations in this part.

This part implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101-6108, as amended.
§ 310.2 Definitions.

(a) Acquirer means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.

(b) Attorney General means the chief legal officer of a state.

(c) Billing information means any data that enables any person to access a customer’s or donor’s account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card.

(d) Caller identification service means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber’s telephone.

(e) Cardholder means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued.

(f) Charitable contribution means any donation or gift of money or any other thing of value.

(g) Commission means the Federal Trade Commission.

(h) Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(i) Credit card means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(j) Credit card sales draft means any record or evidence of a credit card transaction.

(k) Credit card system means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system.

(l) Customer means any person who is or may be required to pay for goods or services offered through telemarketing.

(m) Debt relief service means any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector.

(n) Donor means any person solicited to make a charitable contribution.

(o) Established business relationship means a relationship between a seller and a consumer based on:

1. The consumer’s purchase, rental, or lease of the seller’s goods or services or a financial transaction between the consumer and seller, within the eighteen (18) months immediately preceding the date of a telemarketing call; or

2. The consumer’s inquiry or application regarding a product or service offered by the seller, within the three (3) months immediately preceding the date of a telemarketing call.

(p) Free-to-pay conversion means, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period.

(q) Investment opportunity means anything, tangible or intangible, that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation.

(r) Material means likely to affect a person’s choice of, or conduct regarding, goods or services or a charitable contribution.

(s) Merchant means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(t) Merchant agreement means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the
purchase of goods or services or a charitable contribution.

(u) **Negative option feature** means, in an offer or agreement to sell or provide any goods or services, a provision under which the customer's silence or failure to take an affirmative action to reject goods or services or to cancel the agreement is interpreted by the seller as acceptance of the offer.

(v) **Outbound telephone call** means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

(w) **Person** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(x) **Preacquired account information** means any information that enables a seller or telemarketer to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged.

(y) **Prize** means anything offered, or purportedly offered, and given, or purportedly given, to a person by chance. For purposes of this definition, chance exists if a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telemarketer does not identify the specific item that the person will receive.

(2) **Prize promotion** means:

1. A sweepstakes or other game of chance; or

2. An oral or written express or implied representation that a person has won, has been selected to receive, or may be eligible to receive a prize or purported prize.

(aa) **Seller** means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration.

(bb) **State** means any state of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(cc) **Telemarketer** means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

(dd) **Telemarketing** means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which: contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term “further solicitation” does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer’s call or in a substantially similar catalog.

(ee) **Upselling** means soliciting the purchase of goods or services following an initial transaction during a single telephone call. The upsell is a separate telemarketing transaction, not a continuation of the initial transaction. An “external upsell” is a solicitation made by or on behalf of a seller different from the seller in the initial transaction, regardless of whether the initial transaction and the subsequent solicitation are made by the same telemarketer. An “internal upsell” is a solicitation made by or on behalf of the same seller as in the initial transaction, regardless of whether the initial transaction and subsequent solicitation are made by the same telemarketer.
§ 310.3 Deceptive telemarketing acts or practices.

(a) Prohibited deceptive telemarketing acts or practices. It is a deceptive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Before a customer consents to pay for goods or services offered, failing to disclose truthfully, in a clear and conspicuous manner, the following material information:

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the sales offer;  

(ii) All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer; 

(iii) If the seller has a policy of not making refunds, cancellations, exchanges, or repurchases, a statement informing the customer that this is the seller’s policy; or, if the seller or telemarketer makes a representation about a refund, cancellation, exchange, or repurchase policy, a statement of all material terms and conditions of such policy; 

(iv) In any prize promotion, the odds of being able to receive the prize, and, if the odds are not calculable in advance, the factors used in calculating the odds; that no purchase or payment is required to win a prize or to participate in a prize promotion and that any purchase or payment will not increase the person’s chances of winning; and the no-purchase/no-payment method of participating in the prize promotion with either instructions on how to participate or an address or local or toll-free telephone number to which customers may write or call for information on how to participate;  

(v) All material costs or conditions to receive or redeem a prize that is the subject of the prize promotion;  

(vi) In the sale of any goods or services represented to protect, insure, or otherwise limit a customer’s liability in the event of unauthorized use of the customer’s credit card, the limits on a cardholder’s liability for unauthorized use of a credit card pursuant to 15 U.S.C. 1643;  

(vii) If the offer includes a negative option feature, all material terms and conditions of the negative option feature, including, but not limited to, the fact that the customer’s account will be charged unless the customer takes an affirmative action to avoid the charge(s), the date(s) the charge(s) will be submitted for payment, and the specific steps the customer must take to avoid the charge(s); and  

(viii) In the sale of any debt relief service:

(A) the amount of time necessary to achieve the represented results, and to the extent that the service may include a settlement offer to any of the customer’s creditors or debt collectors, the time by which the debt relief service provider will make a bona fide settlement offer to each of them;  

(B) to the extent that the service may include a settlement offer to any of the customer’s creditors or debt collectors, the amount of money or the percentage of each outstanding debt that the customer must accumulate before the debt relief service provider will make a bona fide settlement offer to each of them;  

(C) to the extent that any aspect of the debt relief service relies upon or results in the customer’s failure to make timely payments to creditors or debt collectors, that the use of the debt relief service will likely adversely affect the customer’s creditworthiness, may result in the customer being subject to collections or sued by creditors or debt collectors, and may increase the amount of money the customer owes

659 When a seller or telemarketer uses, or directs a customer to use, a courier to transport payment, the seller or telemarketer must make the disclosures required by §310.3(a)(1) before sending a courier to pick up payment or authorization for payment, or directing a customer to have a courier pick up payment or authorization for payment. In the case of debt relief services, the seller or telemarketer must make the disclosures required by §310.3(a)(1) before the consumer enrolls in an offered program.

660 For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 CFR 226, compliance with the disclosure requirements under the Truth in Lending Act and Regulation Z shall constitute compliance with §310.3(a)(1) of this Rule.
due to the accrual of fees and interest; and

(D) to the extent that the debt relief service requests or requires the customer to place funds in an account at an insured financial institution, that the customer owns the funds held in the account, the customer may withdraw from the debt relief service at any time without penalty, and, if the customer withdraws, the customer must receive all funds in the account, other than funds earned by the debt relief service, in compliance with §310.4(a)(5)(i)(A) through (C).

(2) Misrepresenting, directly or by implication, in the sale of goods or services any of the following material information:

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer;

(ii) Any material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a sales offer;

(iii) Any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer;

(iv) Any material aspect of the nature or terms of the seller’s refund, cancellation, exchange, or repurchase policies;

(v) Any material aspect of a prize promotion including, but not limited to, the odds of being able to receive a prize, the nature or value of a prize, or that a purchase or payment is required to win a prize or to participate in a prize promotion;

(vi) Any material aspect of an investment opportunity including, but not limited to, risk, liquidity, earnings potential, or profitability;

(vii) A seller’s or telemarketer’s affiliation with, or endorsement or sponsorship by, any person or government entity;

(viii) That any customer needs offered goods or services to provide protections a customer already has pursuant to 15 U.S.C. 1643;

(ix) Any material aspect of a negative option feature including, but not limited to, the fact that the customer’s account will be charged unless the customer takes an affirmative action to avoid the charge(s), the date(s) the charge(s) will be submitted for payment, and the specific steps the customer must take to avoid the charge(s); or

(x) Any material aspect of any debt relief service, including, but not limited to, the amount of money or the percentage of the debt amount that a customer may save by using such service; the amount of time necessary to achieve the represented results; the amount of money or the percentage of each outstanding debt that the customer must accumulate before the provider of the debt relief service will initiate attempts with the customer’s creditors or debt collectors or make a bona fide offer to negotiate, settle, or modify the terms of the customer’s debt; the effect of the service on a customer’s creditworthiness; the effect of the service on collection efforts of the customer’s creditors or debt collectors; the percentage or number of customers who attain the represented results; and whether a debt relief service is offered or provided by a non-profit entity.

(3) Causing billing information to be submitted for payment, or collecting or attempting to collect payment for goods or services or a charitable contribution, directly or indirectly, without the customer’s or donor’s express verifiable authorization, except when the method of payment used is a credit card subject to protections of the Truth in Lending Act and Regulation Z; or a debit card subject to the protections of the Electronic Fund Transfer Act and Regulation E. Such authorization shall be deemed verifiable if any of the following means is employed:

(i) Express written authorization by the customer or donor, which includes the customer’s or donor’s signature;
Federal Trade Commission

§ 310.3

(ii) Express oral authorization which is audio-recorded and made available upon request to the customer or donor, and the customer’s or donor’s bank or other billing entity, and which evidences clearly both the customer’s or donor’s authorization of payment for the goods or services or charitable contribution that are the subject of the telemarketing transaction and the customer’s or donor’s receipt of all of the following information:

(A) The number of debits, charges, or payments (if more than one);
(B) The date(s) the debit(s), charge(s), or payment(s) will be submitted for payment;
(C) The amount(s) of the debit(s), charge(s), or payment(s);
(D) The customer’s or donor’s name;
(E) The customer’s or donor’s billing information, identified with sufficient specificity such that the customer or donor understands what account will be used to collect payment for the goods or services or charitable contribution that are the subject of the telemarketing transaction;
(F) A telephone number for customer or donor inquiry that is answered during normal business hours; and
(G) The date of the customer’s or donor’s oral authorization; or

(iii) Written confirmation of the transaction, identified in a clear and conspicuous manner as such on the outside of the envelope, sent to the customer or donor via first class mail prior to the submission for payment of the customer’s or donor’s billing information, and that includes all of the information contained in §§310.3(a)(3)(ii)(A)-(G) and a clear and conspicuous statement of the procedures by which the customer or donor can obtain a refund from the seller or telemarketer or charitable organization in the event the confirmation is inaccurate; provided, however, that this means of authorization shall not be deemed verifiable in instances in which goods or services are offered in a transaction involving a free-to-pay conversion and preacquired account information.

(b) Assisting and facilitating. It is a deceptive telemarketing act or practice and a violation of this Rule for a person to provide substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates §§310.3(a), (c) or (d), or §310.4 of this Rule.

(c) Credit card laundering. Except as expressly permitted by the applicable credit card system, it is a deceptive telemarketing act or practice and a violation of this Rule for:

(1) A merchant to present to or deposit into, or cause another to present to or deposit into, the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant;
(2) Any person to employ, solicit, or otherwise cause a merchant, or an employee, representative, or agent of the merchant, to present to or deposit into the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or
(3) Any person to obtain access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement or the applicable credit card system.

(d) Prohibited deceptive acts or practices in the solicitation of charitable contributions. It is a fraudulent charitable solicitation, a deceptive telemarketing act or practice, and a violation of this Rule for any telemarketer soliciting charitable contributions to misrepresent, directly or by implication, any of the following material information:

(1) The nature, purpose, or mission of any entity on behalf of which a charitable contribution is being requested;
(2) That any charitable contribution is tax deductible in whole or in part;
(3) The purpose for which any charitable contribution will be used;
(4) The percentage or amount of any charitable contribution that will go to
§ 310.4 Abusive telemarketing acts or practices.

(a) Abusive conduct generally. It is an abusive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Threats, intimidation, or the use of profane or obscene language;

(2) Requesting or receiving payment of any fee or consideration for goods or services represented to remove derogatory information from, or improve, a person’s credit history, credit record, or credit rating until:

(i) The time frame in which the seller has represented all of the goods or services will be provided to that person has expired; and

(ii) The seller has provided the person with documentation in the form of a consumer report from a consumer reporting agency demonstrating that the promised results have been achieved, such report having been issued more than six months after the results were achieved. Nothing in this Rule should be construed to affect the requirement in the Fair Credit Reporting Act, 15 U.S.C. 1681, that a consumer report may only be obtained for a specified permissible purpose;

(3) Requesting or receiving payment of any fee or consideration from a person for goods or services represented to recover or otherwise assist in the return of money or any other item of value paid for by, or promised to, that person in a previous telemarketing transaction, until seven (7) business days after such money or other item is delivered to that person. This provision shall not apply to goods or services provided to a person by a licensed attorney;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) (i) Requesting or receiving payment of any fee or consideration for any debt relief service until and unless:

(A) The seller or telemarketer has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a settlement agreement, debt management plan, or other valid contractual agreement executed by the customer;

(B) The customer has made at least one payment pursuant to that settlement agreement, debt management plan, or other valid contractual agreement between the customer and the creditor or debt collector; and

(C) To the extent that debts enrolled in a service are renegotiated, settled, reduced, or otherwise altered individually, the fee or consideration either:

(1) Bears the same proportional relationship to the total fee for renegotiating, settling, reducing, or altering the terms of the entire debt balance as the individual debt amount bears to the entire debt amount. The individual debt amount and the entire debt amount are those owed at the time the debt was enrolled in the service; or

(2) Is a percentage of the amount saved as a result of the renegotiation, settlement, reduction, or alteration. The percentage charged cannot change from one individual debt to another. The amount saved is the difference between the amount owed at the time the debt was enrolled in the service and the amount actually paid to satisfy the debt.

(ii) Nothing in §310.4(a)(5)(i) prohibits requesting or requiring the customer to place funds in an account to be used for the debt relief provider’s fees and for payments to creditors or debt collectors in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt, provided that:

(A) The funds are held in an account at an insured financial institution;
§ 310.4

(B) The customer owns the funds held in the account and is paid accrued interest on the account, if any;

(C) The entity administering the account is not owned or controlled by, or in any way affiliated with, the debt relief service;

(D) The entity administering the account does not give or accept any money or other compensation in exchange for referrals of business involving the debt relief service; and

(E) The customer may withdraw from the debt relief service at any time without penalty, and must receive all funds in the account, other than funds earned by the debt relief service in compliance with §310.4(a)(5)(i)(A) through (C), within seven (7) business days of the customer’s request.

(6) Disclosing or receiving, for consideration, unencrypted consumer account numbers for use in telemarketing; provided, however, that this paragraph shall not apply to the disclosure or receipt of a customer’s or donor’s billing information to process a payment for goods or services or a charitable contribution pursuant to a transaction;

(7) Causing billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer or donor. In any telemarketing transaction, the seller or telemarketer must obtain the express informed consent of the customer or donor. In any telemarketing transaction, the seller or telemarketer must obtain the express informed consent of the customer or donor to be charged for the goods or services or charitable contribution pursuant to a transaction.

(7) Causing billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer or donor. In any telemarketing transaction, the seller or telemarketer must obtain the express informed consent of the customer or donor. In any telemarketing transaction, the seller or telemarketer must obtain the express informed consent of the customer or donor to be charged for the goods or services or charitable contribution pursuant to a transaction.

(b) Pattern of calls. (1) It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in, or for a seller to cause a telemarketer to engage in, the following conduct:

(i) Causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number;

(ii) Denying or interfering in any way, directly or indirectly, with a person’s right to be placed on any registry of names and/or telephone numbers of persons who do not wish to receive outbound telephone calls established to comply with §310.4(b)(1)(iii);

(iii) Initiating any outbound telephone call to a person when:

(A) That person previously has stated that he or she does not wish to receive an outbound telephone call made by or
§ 310.4

16 CFR Ch. I (1–1–11 Edition)

on behalf of the seller whose goods or services are being offered or made on behalf of the charitable organization for which a charitable contribution is being solicited; or

(B) That person’s telephone number is on the “do-not-call” registry, maintained by the Commission, of persons who do not wish to receive outbound telephone calls to induce the purchase of goods or services unless the seller:

(i) Has obtained the express agreement, in writing, of such person to place calls to that person. Such written agreement shall clearly evidence such person’s authorization that calls made by or on behalf of a specific party may be placed to that person, and shall include the telephone number to which the calls may be placed and the signature of that person; or

(ii) Has an established business relationship with such person, and that person has not stated that he or she does not wish to receive outbound telephone calls under paragraph (b)(1)(ii)(A) of this section; or

(iv) Abandoning any outbound telephone call. An outbound telephone call is “abandoned” under this section if a person answers it and the telemarketer does not connect the call to a sales representative within two (2) seconds of the person’s completed greeting.

(v) Initiating any outbound telephone call that delivers a prerecorded message, other than a prerecorded message permitted for compliance with the call abandonment safe harbor in §310.4(b)(4)(iii), unless:

(A) In any such call to induce the purchase of any good or service, the seller has obtained from the recipient of the call an express agreement, in writing, that:

(i) The seller obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the seller to place prerecorded calls to such person;

(ii) The seller obtained without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service;

(iii) Evidences the willingness of the recipient of the call to receive calls that deliver prerecorded messages by or on behalf of a specific seller; and

(iv) Includes such person’s telephone number and signature and

(B) In any such call to induce the purchase of any good or service, or to induce a charitable contribution from a member of, or previous donor to, a nonprofit charitable organization on whose behalf the call is made, the seller or telemarketer:

(i) Allows the telephone to ring for at least fifteen (15) seconds or four (4) rings before disconnecting an unanswered call; and

(ii) Within two (2) seconds after the completed greeting of the person called, plays a prerecorded message that promptly provides the disclosures required by §310.4(d) or (e), followed immediately by a disclosure of one or both of the following:

(A) In the case of a call that could be answered in person by a consumer, that the person called can use an automated interactive voice and/or keypress-activated opt-out mechanism to assert a Do Not Call request pursuant to §310.4(b)(1)(iii)(A) at any time during the message. The mechanism must:

(1) Automatically add the number called to the seller’s entity-specific Do Not Call list;

(2) Once invoked, immediately disconnect the call; and

(3) Be available for use at any time during the message; and

(B) In the case of a call that could be answered by an answering machine or voicemail service, that the person called can use a toll-free telephone number to assert a Do Not Call request pursuant to §310.4(b)(1)(iii)(A). The number provided must connect directly to an automated interactive voice or keypress-activated opt-out mechanism that:

---

664 For purposes of this Rule, the term “signature” shall include an electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.

665 For purposes of this Rule, the term “signature” shall include an electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.
§ 310.4

(1) Automatically adds the number called to the seller’s entity-specific Do Not Call list;

(2) Immediately thereafter disconnects the call; and

(3) Is accessible at any time throughout the duration of the telemarketing campaign; and

(iii) Complies with all other requirements of this part and other applicable federal and state laws.

(C) Any call that complies with all applicable requirements of this paragraph (v) shall not be deemed to violate § 310.4(b)(1)(iv) of this part.

(D) This paragraph (v) shall not apply to any outbound telephone call that delivers a prerecorded healthcare message made by, or on behalf of, a covered entity or its business associate, as those terms are defined in the HIPAA Privacy Rule, 45 CFR 160.103.

(2) It is an abusive telemarketing act or practice and a violation of this Rule for any person to sell, rent, lease, purchase, or use any list established to comply with § 310.4(b)(1)(ii)(A), or maintained by the Commission pursuant to § 310.4(b)(1)(ii)(B), for any purpose except compliance with the provisions of this Rule or otherwise to prevent telephone calls to telephone numbers on such lists.

(3) A seller or telemarketer will not be liable for violating § 310.4(b)(1)(ii) and (iii) if it can demonstrate that, as part of the seller’s or telemarketer’s routine business practice:

(i) It has established and implemented written procedures to comply with § 310.4(b)(1)(ii) and (iii);

(ii) It has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to § 310.4(b)(3)(i);

(iii) The seller, or a telemarketer or another person acting on behalf of the seller or charitable organization, has maintained and recorded a list of telephone numbers the seller or charitable organization may not contact, in compliance with § 310.4(b)(1)(ii)(A);

(iv) The seller or a telemarketer uses a process to prevent telemarketing to any telephone number on any list established pursuant to § 310.4(b)(3)(iii) or § 310.4(b)(1)(ii)(B), employing a version of the “do-not-call” registry obtained from the Commission no more than thirty-one (31) days prior to the date any call is made, and maintains records documenting this process;

(v) The seller or a telemarketer or another person acting on behalf of the seller or charitable organization, monitors and enforces compliance with the procedures established pursuant to § 310.4(b)(3)(i); and

(vi) Any subsequent call otherwise violating § 310.4(b)(1)(ii) or (iii) is the result of error.

(4) A seller or telemarketer will not be liable for violating § 310.4(b)(1)(iv) if:

(i) The seller or telemarketer employs technology that ensures abandonment of no more than three (3) percent of all calls answered by a person, measured over the duration of a single calling campaign, if less than 30 days, or separately over each successive 30-day period or portion thereof that the campaign continues.

(ii) The seller or telemarketer, for each telemarketing call placed, allows the telephone to ring for at least fifteen (15) seconds or four (4) rings before disconnecting an unanswered call;

(iii) Whenever a sales representative is not available to speak with the person answering the call within two (2) seconds after the person’s completed greeting, the seller or telemarketer promptly plays a recorded message that states the name and telephone number of the seller on whose behalf the call was placed666; and

(iv) The seller or telemarketer, in accordance with § 310.5(b)-(d), retains records establishing compliance with § 310.4(b)(4)(i)-(iii).

(c) Calling time restrictions. Without the prior consent of a person, it is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in outbound telephone calls to a person’s residence at any time other than between 8:00 a.m. and 9:00 p.m. local time at the called person’s location.

(d) Required oral disclosures in the sale of goods or services. It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer in

666 This provision does not affect any seller’s or telemarketer’s obligation to comply with relevant state and federal laws, including but not limited to the TCPA, 47 U.S.C. 227, and 47 CFR part 64.1200.
§ 310.5 Recordkeeping requirements.

(a) Any seller or telemarketer shall keep, for a period of 24 months from the date the record is produced, the following records relating to its telemarketing activities:

(1) All substantially different advertising, brochures, telemarketing scripts, and promotional materials;
(2) The name and last known address of each prize recipient and the prize awarded for prizes that are represented, directly or by implication, to have a value of $25.00 or more;
(3) The name and last known address of each customer, the goods or services purchased, the date such goods or services were shipped or provided, and the amount paid by the customer for the goods or services;\(^{667}\)
(4) The name, any fictitious name used, the last known home address and telephone number, and the job title(s) for all current and former employees directly involved in telephone sales or solicitations; provided, however, that if the seller or telemarketer permits fictitious names to be used by employees, each fictitious name must be traceable to only one specific employee; and
(5) All verifiable authorizations or records of express informed consent or express agreement required to be provided or received under this Rule.

(b) A seller or telemarketer may keep the records required by §310.5(a) in any form, and in the same manner, format, or place as they keep such records in the ordinary course of business. Failure to keep all records required by §310.5(a) shall be a violation of this Rule.

(c) The seller and the telemarketer calling on behalf of the seller may, by written agreement, allocate responsibility between themselves for the recordkeeping required by this Section. When a seller and telemarketer have entered into such an agreement, the terms of that agreement shall govern, and the seller or telemarketer, as the case may be, need not keep records that duplicate those of the other. If the agreement is unclear as to who must maintain any required record(s), or if no such agreement exists, the seller shall be responsible for complying with §§310.5(a)(1)-(3) and (5); the telemarketer shall be responsible for complying with §310.5(a)(4).

(d) In the event of any dissolution or termination of the seller’s or telemarketer’s business, the principal of

---

\(^{667}\) For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 CFR 226, compliance with the recordkeeping requirements under the Truth in Lending Act, and Regulation Z, shall constitute compliance with §310.5(a)(3) of this Rule.
that seller or telemarketer shall maintain all records as required under this section. In the event of any sale, assignment, or other change in ownership of the seller’s or telemarketer’s business, the successor business shall maintain all records required under this section.

§ 310.6 Exemptions.

(a) Solicitations to induce charitable contributions via outbound telephone calls are not covered by §310.4(b)(1)(iii)(B) of this Rule.

(b) The following acts or practices are exempt from this Rule:

(1) The sale of pay-per-call services subject to the Commission’s Rule entitled “Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992,” 16 CFR Part 308, provided, however, that this exemption does not apply to the requirements of §§310.4(a)(1), (a)(7), (b), and (c);

(2) The sale of franchises subject to the Commission’s Rule entitled “Disclosure Requirements and Prohibitions Concerning Franchising,” (“Franchise Rule”) 16 CFR Part 436, and the sale of business opportunities subject to the Commission’s Rule entitled “Disclosure Requirements and Prohibitions Concerning Business Opportunities,” (“Business Opportunity Rule”) 16 CFR Part 437, provided, however, that this exemption does not apply to the requirements of §§310.4(a)(1), (a)(7), (b), and (c);

(3) Telephone calls in which the sale of goods or services or charitable solicitation is not completed, and payment or authorization of payment is not required, until after a face-to-face sales or donation presentation by the seller or charitable organization, provided, however, that this exemption does not apply to the requirements of §§310.4(a)(1), (a)(7), (b), and (c);

(4) Telephone calls initiated by a customer or donor that are not the result of any solicitation by a seller, charitable organization, or telemarketer, provided, however, that this exemption does not apply to any instances of upselling included in such telephone calls;

(5) Telephone calls initiated by a customer or donor in response to an advertisement through any medium, other than direct mail solicitation, provided, however, that this exemption does not apply to calls initiated by a customer or donor in response to an advertisement relating to investment opportunities, debt relief services, business opportunities other than business arrangements covered by the Franchise Rule or Business Opportunity Rule, or advertisements involving goods or services described in §§310.3(a)(1)(vi) or 310.4(a)(2)-(4); or to any instances of upselling included in such telephone calls;

(6) Telephone calls initiated by a customer or donor in response to a direct mail solicitation, including solicitations via the U.S. Postal Service, facsimile transmission, electronic mail, and other similar methods of delivery in which a solicitation is directed to specific address(es) or person(s), that clearly, conspicuously, and truthfully discloses all material information listed in §310.3(a)(1) of this Rule, for any goods or services offered in the direct mail solicitation, and that contains no material misrepresentation regarding any item contained in §310.3(d) of this Rule for any requested charitable contribution; provided, however, that this exemption does not apply to calls initiated by a customer in response to a direct mail solicitation relating to prize promotions, investment opportunities, debt relief services, business opportunities other than business arrangements covered by the Franchise Rule or Business Opportunity Rule, or goods or services described in §§310.3(a)(1)(vi) or 310.4(a)(2)-(4); or to any instances of upselling included in such telephone calls; and

(7) Telephone calls between a telemarketer and any business, except calls to induce the retail sale of nondurable office or cleaning supplies; provided, however, that §310.4(b)(1)(vi)(B) and §310.5 of this Rule shall not apply to sellers or telemarketers of nondurable office or cleaning supplies.

§ 310.7 Actions by states and private persons.

(a) Any attorney general or other officer of a state authorized by the state to bring an action under the Telemarketing and Consumer Fraud and
§ 310.8  Fee for access to the National Do Not Call Registry.

(a) It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller, either directly or through another person, first has paid the annual fee, required by §310.8(c), for access to telephone numbers within that area code that are included in the National Do Not Call Registry maintained by the Commission under §310.4(b)(1)(iii)(B); provided, however, that such payment is not necessary if the seller initiates, or causes a telemarketer to initiate, calls solely to persons pursuant to §§310.4(b)(1)(iii)(B)(i) or (ii), and the seller does not access the National Do Not Call Registry for any other purpose.

(b) Nothing contained in this Section shall prohibit any attorney general or other authorized state official from proceeding in state court on the basis of an alleged violation of any civil or criminal statute of such state.

§ 310.8  Fee for access to the National Do Not Call Registry.

(a) It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller, either directly or through another person, first has paid the annual fee, required by §310.8(c), for access to telephone numbers within that area code that are included in the National Do Not Call Registry maintained by the Commission under §310.4(b)(1)(iii)(B); provided, however, that such payment is not necessary if the seller initiates, or causes a telemarketer to initiate, calls solely to persons pursuant to §§310.4(b)(1)(iii)(B)(i) or (ii), and the seller does not access the National Do Not Call Registry for any other purpose.

(b) Nothing contained in this Section shall prohibit any attorney general or other authorized state official from proceeding in state court on the basis of an alleged violation of any civil or criminal statute of such state.

§ 310.8  Fee for access to the National Do Not Call Registry.

(a) It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller, either directly or through another person, first has paid the annual fee, required by §310.8(c), for access to telephone numbers within that area code that are included in the National Do Not Call Registry maintained by the Commission under §310.4(b)(1)(iii)(B); provided, however, that such payment is not necessary if the seller initiates, or causes a telemarketer to initiate, calls solely to persons pursuant to §§310.4(b)(1)(iii)(B)(i) or (ii), and the seller does not access the National Do Not Call Registry for any other purpose.

(b) Nothing contained in this Section shall prohibit any attorney general or other authorized state official from proceeding in state court on the basis of an alleged violation of any civil or criminal statute of such state.

§ 310.8  Fee for access to the National Do Not Call Registry.

(a) It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller, either directly or through another person, first has paid the annual fee, required by §310.8(c), for access to telephone numbers within that area code that are included in the National Do Not Call Registry maintained by the Commission under §310.4(b)(1)(iii)(B); provided, however, that such payment is not necessary if the seller initiates, or causes a telemarketer to initiate, calls solely to persons pursuant to §§310.4(b)(1)(iii)(B)(i) or (ii), and the seller does not access the National Do Not Call Registry for any other purpose.

(b) Nothing contained in this Section shall prohibit any attorney general or other authorized state official from proceeding in state court on the basis of an alleged violation of any civil or criminal statute of such state.

§ 310.8  Fee for access to the National Do Not Call Registry.

(a) It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller, either directly or through another person, first has paid the annual fee, required by §310.8(c), for access to telephone numbers within that area code that are included in the National Do Not Call Registry maintained by the Commission under §310.4(b)(1)(iii)(B); provided, however, that such payment is not necessary if the seller initiates, or causes a telemarketer to initiate, calls solely to persons pursuant to §§310.4(b)(1)(iii)(B)(i) or (ii), and the seller does not access the National Do Not Call Registry for any other purpose.

(b) Nothing contained in this Section shall prohibit any attorney general or other authorized state official from proceeding in state court on the basis of an alleged violation of any civil or criminal statute of such state.

§ 310.8  Fee for access to the National Do Not Call Registry.

(a) It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller, either directly or through another person, first has paid the annual fee, required by §310.8(c), for access to telephone numbers within that area code that are included in the National Do Not Call Registry maintained by the Commission under §310.4(b)(1)(iii)(B); provided, however, that such payment is not necessary if the seller initiates, or causes a telemarketer to initiate, calls solely to persons pursuant to §§310.4(b)(1)(iii)(B)(i) or (ii), and the seller does not access the National Do Not Call Registry for any other purpose.

(b) Nothing contained in this Section shall prohibit any attorney general or other authorized state official from proceeding in state court on the basis of an alleged violation of any civil or criminal statute of such state.
not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

(e) Access to the National Do Not Call Registry is limited to telemarketers, sellers, others engaged in or causing others to engage in telephone calls to consumers, service providers acting on behalf of such persons, and any government agency that has law enforcement authority. Prior to accessing the National Do Not Call Registry, a person must provide the identifying information required by the operator of the registry to collect the fee, and must certify, under penalty of law, that the person is accessing the registry solely to comply with the provisions of this Rule or to otherwise prevent telephone calls to telephone numbers on the registry. If the person is accessing the registry on behalf of sellers, that person also must identify each of the sellers on whose behalf it is accessing the registry, must provide each seller’s unique account number for access to the national registry, and must certify, under penalty of law, that the sellers will be using the information gathered from the registry solely to comply with the provisions of this Rule or otherwise to prevent telephone calls to telephone numbers on the registry.


§ 310.9 Severability.

The provisions of this Rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

PART 311—TEST PROCEDURES AND LABELING STANDARDS FOR RECYCLED OIL

Sec.
311.1 Definitions.
311.2 Stayed or invalid parts.
311.3 Preemption.
311.4 Testing.
311.5 Labeling.
311.6 Prohibited acts.

AUTHORITY: 42 U.S.C. 6363(d).
§ 311.4 Testing.

To determine the substantial equivalency of processed used oil with new oil for use as engine oil, manufacturers or their designees must use the test procedures that were reported to the Commission by the National Institutes of Standards and Technology ("NIST") on July 27, 1995, entitled "Engine Oil Licensing and Certification System." American Petroleum Institute ("API"), Publication 1509, Thirteenth Edition, January 1995. API Publication 1509, Thirteenth Edition has been updated to API Publication 1509, Fifteenth Edition, April 2002. API Publication 1509, Fifteenth Edition, April 2002, is incorporated by reference. This incorporation by reference is approved by the Director of the Federal Register in accord with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the materials incorporated by reference may be obtained from: API, 1220 L Street, NW., Washington, DC 20005. Copies may be inspected at the National Archives and Records Administration ("NARA"). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

[72 FR 14413, Mar. 28, 2007]

§ 311.5 Labeling.

A manufacturer or other seller may represent, on a label on a container of processed used oil, that such oil is substantially equivalent to new oil for use as engine oil only if the manufacturer has determined that the oil is substantially equivalent to new oil for use as engine oil in accordance with the NIST test procedures prescribed under §311.4 of this part, and has based such representation on the manufacturer’s determination that the processed used oil is substantially equivalent to new oil for use as engine oil in accordance with the NIST test procedures prescribed under §311.4 of this part. Violations will be subject to enforcement through civil penalties (as adjusted for inflation pursuant to §1.98 of this chapter), imprisonment, and/or injunctive relief in accordance with the enforcement provisions of Section 525 of the Energy Policy and Conservation Act (42 U.S.C. 6395).


PART 312—CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Sec. 312.1 Scope of regulations in this part.
312.2 Definitions.
312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
312.4 Notice.
312.5 Parental consent.
312.6 Right of parent to review personal information provided by a child.
312.7 Prohibition against conditioning a child’s participation on collection of personal information.
312.8 Confidentiality, security, and integrity of personal information collected from children.
312.9 Enforcement.
312.10 Safe harbors.
312.11 Rulemaking review.
312.12 Severability.


SOURCE: 64 FR 59911, Nov. 3, 1999, unless otherwise noted.

§ 312.1 Scope of regulations in this part.

This part implements the Children’s Online Privacy Protection Act of 1998, (15 U.S.C. 6501, et seq.,) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet. The effective date of this part is April 21, 2000.
§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(a) Requesting that children submit personal information online;

(b) Enabling children to make personal information publicly available through a chat room, message board, or other means, except where the operator deletes all individually identifiable information from postings by children before they are made public, and also deletes such information from the operator’s records; or

(c) The passive tracking or use of any identifying code linked to an individual, such as a cookie.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclosure means, with respect to personal information:

(a) The release of personal information collected from a child in identifiable form by an operator for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the website or online service and who does not disclose or use that information for any other purpose. For purposes of this definition:

(1) Release of personal information means the sharing, selling, renting, or any other means of providing personal information to any third party, and

(2) Support for the internal operations of the website or online service means those activities necessary to maintain the technical functioning of the website or online service, or to fulfill a request of a child as permitted by §312.5(c)(2) and (3); or

(b) Making personal information collected from a child by an operator publicly available in identifiable form, by any means, including by a public posting through the Internet, or through a personal home page posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Online contact information means an e-mail address or any other substantially similar identifier that permits direct contact with a person online.

Operator means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce:

(a) Among the several States or with 1 or more foreign nations;

(b) In any territory of the United States or in the District of Columbia, or between any such territory and

(1) Another such territory, or

(2) Any State or foreign nation; or

(c) Between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(a) A first and last name;

(b) A home or other physical address including street name and name of a city or town;
§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the website or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§312.4(b));

(b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§312.6);

(d) Not condition a child’s participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§312.8).
§ 312.4 Notice.

(a) General principles of notice. All notices under §§312.3(a) and 312.5 must be clearly and understandably written, be complete, and must contain no unrelated, confusing, or contradictory materials.

(b) Notice on the website or online service. Under §312.3(a), an operator of a website or online service directed to children must post a link to a notice of its information practices with regard to children on the home page of its website or online service and at each area on the website or online service where personal information is collected from children. An operator of a general audience website or online service that has a separate children’s area or site must post a link to a notice of its information practices with regard to children on the home page of the children’s area.

(1) Placement of the notice. (i) The link to the notice must be clearly labeled as a notice of the website or online service’s information practices with regard to children;

(ii) The link to the notice must be placed in a clear and prominent place and manner on the home page of the website or online service; and

(iii) The link to the notice must be placed in a clear and prominent place and manner at each area on the website or online service where children directly provide, or are asked to provide, personal information, and in close proximity to the requests for information in each such area.

(2) Content of the notice. To be complete, the notice of the website or online service’s information practices must state the following:

(i) The name, address, telephone number, and e-mail address of all operators collecting or maintaining personal information from children through the website or online service.

Provided that: the operators of a website or online service may list the name, address, phone number, and e-mail address of one operator who will respond to all inquiries from parents concerning the operators’ privacy policies and use of children’s information, as long as the names of all the operators collecting or maintaining personal information from children through the website or online service are also listed in the notice;

(ii) The types of personal information collected from children and whether the personal information is collected directly or passively;

(iii) How such personal information is or may be used by the operator(s), including but not limited to fulfillment of a requested transaction, record-keeping, marketing back to the child, or making it publicly available through a chat room or by other means;

(iv) Whether personal information is disclosed to third parties, and if so, the types of business in which such third parties are engaged, and the general purposes for which such information is used; whether those third parties have agreed to maintain the confidentiality, security, and integrity of the personal information they obtain from the operator; and that the parent has the option to consent to the collection and use of their child’s personal information without consenting to the disclosure of that information to third parties;

(v) That the operator is prohibited from conditioning a child’s participation in an activity on the child’s disclosing more personal information than is reasonably necessary to participate in such activity; and

(vi) That the parent can review and have deleted the child’s personal information, and refuse to permit further collection or use of the child’s information, and state the procedures for doing so.

(c) Notice to a parent. Under §312.5, an operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives notice of the operator’s practices with regard to the collection, use, and/or disclosure of the child’s personal information, including notice of any material change in the collection, use, and/or disclosure practices to which the parent has previously consented.

(1) Content of the notice to the parent. (i) All notices must state the following:

(A) That the operator wishes to collect personal information from the child;
§ 312.5 Parental consent.

(a) General requirements. (1) An operator is required to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information from children, including consent to any material change in the collection, use, and/or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child’s personal information without consenting to disclosure of his or her personal information to third parties.

(b) Mechanisms for verifiable parental consent. (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child’s parent.

(2) Methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include: providing a consent form to be signed by the parent and returned to the operator by postal mail or facsimile; requiring a parent to use a credit card in connection with a transaction; having a parent call a toll-free telephone number staffed by trained personnel; using a digital certificate that uses public key technology; and using e-mail accompanied by a PIN or password obtained through one of the verification methods listed in this paragraph. Provided that: Until the Commission otherwise determines, methods to obtain verifiable parental consent for uses of information other than the “disclosures” defined by §312.2 may also include use of e-mail coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: sending a confirmatory e-mail to the parent following receipt of consent; or obtaining a postal address or telephone number from the parent and confirming the parent’s consent by letter or telephone call. Operators who use such methods must provide notice that the parent can revoke any consent given in response to the earlier e-mail.

(c) Exceptions to prior parental consent. Verifiable parental consent is required prior to any collection, use and/or disclosure of personal information from a child except as set forth in this paragraph. The exceptions to prior parental consent are as follows:

(1) Where the operator collects the name or online contact information of a parent or child to be used for the sole purpose of obtaining parental consent or providing notice under §312.4. If the
§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a website or online service, the operator of that website or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, e-mail address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator’s further use or future online collection of personal information from that child, and to direct the operator to delete the child’s personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator’s agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in §312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator’s further use or collection of personal information from his or her child or has directed the operator to delete the child’s personal information.
§ 312.7 Prohibition against conditioning a child’s participation on collection of personal information.

An operator is prohibited from conditioning a child’s participation in a game, the offering of a prize, or another activity on the child’s disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children’s Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Safe harbors.

(a) In general. An operator will be deemed to be in compliance with the requirements of this part if that operator complies with self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, that, after notice and comment, are approved by the Commission.

(b) Criteria for approval of self-regulatory guidelines. To be approved by the Commission, guidelines must include the following:

(1) A requirement that operators subject to the guidelines (“subject operators”) implement substantially similar requirements that provide the same or greater protections for children as those contained in §§312.2 through 312.9;

(2) An effective, mandatory mechanism for the independent assessment of subject operators’ compliance with the guidelines. This performance standard may be satisfied by:

(i) Periodic reviews of subject operators’ information practices conducted on a random basis either by the industry group promulgating the guidelines or by an independent entity;

(ii) Periodic reviews of all subject operators’ information practices, conducted either by the industry group promulgating the guidelines or by an independent entity;

(iii) Seeding of subject operators’ databases, if accompanied by either paragraphs (b)(2)(i) or (b)(2)(ii) of this section; or

(iv) Any other equally effective independent assessment mechanism; and

(3) Effective incentives for subject operators’ compliance with the guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of disciplinary action taken against subject operators by the industry group promulgating the guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the guidelines; or

(v) Any other equally effective incentive.

(4) The assessment mechanism required under paragraph (b)(2) of this section can be provided by an independent enforcement program, such as a seal program. In considering whether to initiate an investigation or to bring an enforcement action for violations of this part, and in considering appropriate remedies for such violations, the Commission will take into account whether an operator has been subject to self-regulatory guidelines approved under this section and whether the operator has taken remedial action pursuant to such guidelines, including but not limited to actions set forth in paragraphs (b)(3)(i) through (iii) of this section.

(c) Request for Commission approval of self-regulatory guidelines. (1) To obtain Commission approval of self-regulatory guidelines, industry groups or other persons must file a request for such approval. A request shall be accompanied by the following:
Federal Trade Commission

(i) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(ii) A comparison of each provision of §§312.3 through 312.8 with the corresponding provisions of the guidelines; and

(iii) A statement explaining:

(A) How the guidelines, including the applicable assessment mechanism, meet the requirements of this part; and

(B) How the assessment mechanism and compliance incentives required under paragraphs (b)(2) and (3) of this section provide effective enforcement of the requirements of this part.

(2) The Commission shall act upon a request under this section within 180 days of the filing of such request and shall set forth its conclusions in writing.

(3) Industry groups or other persons whose guidelines have been approved by the Commission must submit proposed changes in those guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(1). The statement required under paragraph (c)(1)(iii) must describe how the proposed changes affect existing provisions of the guidelines.

(d) Records. Industry groups or other persons who seek safe harbor treatment by compliance with guidelines that have been approved under this part shall maintain for a period not less than three years and upon request make available to the Commission for inspection and copying:

(1) Consumer complaints alleging violations of the guidelines by subject operators;

(2) Records of disciplinary actions taken against subject operators; and

(3) Results of the independent assessments of subject operators’ compliance required under paragraph (b)(2) of this section.

(e) Revocation of approval. The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory guidelines and their implementation do not, in fact, meet the requirements of this part.

§ 312.11 Rulemaking review.

No later than April 21, 2005, the Commission shall initiate a rulemaking review proceeding to evaluate the implementation of this part, including the effect of the implementation of this part on practices relating to the collection and disclosure of information relating to children, children’s ability to obtain access to information of their choice online, and on the availability of websites directed to children; and report to Congress on the results of this review.

§ 312.12 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

PART 313—PRIVACY OF CONSUMER FINANCIAL INFORMATION

Sec.
313.1 Purpose and scope.
313.2 Model privacy form and examples.
313.3 Definitions.

Subpart A—Privacy and Opt Out Notices

313.4 Initial privacy notice to consumers required.
313.5 Annual privacy notice to customers required.
313.6 Information to be included in privacy notices.
313.7 Form of opt out notice to consumers; opt out methods.
313.8 Revised privacy notices.
313.9 Delivering privacy and opt out notices.

Subpart B—Limits on Disclosures

313.10 Limitation on disclosure of nonpublic personal information to nonaffiliated third parties.
313.11 Limits on redisclosure and reuse of information.
313.12 Limits on sharing account number information for marketing purposes.

Subpart C—Exceptions

313.13 Exception to opt out requirements for service providers and joint marketing.
313.14 Exceptions to notice and opt out requirements for processing and servicing transactions.

383
§ 313.1 Purpose and scope.

(a) Purpose. This part governs the treatment of nonpublic personal information about consumers by the financial institutions listed in paragraph (b) of this section. This part:

(1) Requires a financial institution in specified circumstances to provide notice to customers about its privacy policies and practices;

(2) Describes the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and

(3) Provides a method for consumers to prevent a financial institution from disclosing nonpublic personal information about consumers to nonaffiliated third parties.

(b) Scope. This part applies only to nonpublic personal information about individuals who obtain financial products or services primarily for personal, family or household purposes from the institutions listed below. This part does not apply to information about companies or about individuals who obtain financial products or services for business, commercial, or agricultural purposes. This part applies to those “financial institutions” and “other persons” over which the Federal Trade Commission (“Commission”) has enforcement authority pursuant to Section 505(a)(7) of the Gramm-Leach-Bliley Act. An entity is a “financial institution” if its business is engaging in a financial activity as described in Section 4(k) of the Bank Holding Company Act of 1936, 12 U.S.C. 1843(k), which incorporates by reference activities enumerated by the Federal Reserve Board in 12 CFR 211.5(d) and 12 CFR 225.28. The “financial institutions” subject to the Commission’s enforcement authority are those that are not otherwise subject to the enforcement authority of another regulator under Section 505 of the Gramm-Leach-Bliley Act. More specifically, those entities include, but are not limited to, mortgage lenders, “pay day” lenders, finance companies, mortgage brokers, account servicers, check cashers, wire transferors, travel agencies operated in connection with financial services, collection agencies, credit counselors and other financial advisors, tax preparation firms, non-federally insured credit unions, and investment advisors that are not required to register with the Securities and Exchange Commission. They are referred to in this part as “You.” The “other persons” to whom this part applies are third parties that are not financial institutions, but that receive nonpublic personal information from financial institutions with whom they are not affiliated. Nothing in this part modifies, limits, or supersedes the standards governing individually identifiable health information promulgated by the Secretary of Health and Human Services under the authority of sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d–1320d–8. Any institution of higher education that complies with the Federal Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. 1232g, and its implementing regulations, 34 CFR part 99, and that is also a financial institution subject to the requirements of this part, shall be deemed to be in compliance with this part if it is in compliance with FERPA.

§ 313.2 Model privacy form and examples.

(a) Model privacy form. Use of the model privacy form in appendix A of this part, consistent with the instructions in appendix A, constitutes compliance with the notice content requirements of §§313.6 and 313.7 of this part, although use of the model privacy form is not required.

(b) Examples. The examples in this part are not exclusive. Compliance
§ 313.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) **Affiliate** means any company that controls, is controlled by, or is under common control with another company.

(b)(1) **Clear and conspicuous** means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

   (2) **Examples**—(i) **Reasonably understandable.** You make your notice reasonably understandable if you:

   (A) Present the information in the notice in clear, concise sentences, paragraphs, and sections;

   (B) Use short explanatory sentences or bullet lists whenever possible;

   (C) Use definite, concrete, everyday words and active voice whenever possible;

   (D) Avoid multiple negatives;

   (E) Avoid legal and highly technical business terminology whenever possible; and

   (F) Avoid explanations that are imprecise and readily subject to different interpretations.

   (ii) **Designed to call attention.** You design your notice to call attention to the nature and significance of the information in it if you:

   (A) Use a plain-language heading to call attention to the notice;

   (B) Use a typeface and type size that are easy to read;

   (C) Provide wide margins and ample line spacing;

   (D) Use boldface or italics for key words; and

   (E) In a form that combines your notice with other information, use distinctive type size, style, and graphic devices, such as shading or sidebars, when you combine your notice with other information.

   (iii) **Notices on web sites.** If you provide a notice on a web page, you design your notice to call attention to the nature and significance of the information in it if you use text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the web site (such as text, graphics, hyperlinks, or sound) do not distract attention from the notice, and you either:

   (A) Place the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

   (B) Place a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

(c) **Collect** means to obtain information that you organize or can retrieve by the name of an individual or by identifying number, symbol, or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(d) **Company** means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(e)(1) **Consumer** means an individual who obtains or has obtained a financial product or service from you that is to be used primarily for personal, family, or household purposes, or that individual’s legal representative.

   (2) **Examples**—(i) An individual who applies to you for credit for personal, family, or household purposes is a consumer of a financial service, regardless of whether the credit is extended.

   (ii) An individual who provides non-public personal information to you in order to obtain a determination about whether he or she may qualify for a loan to be used primarily for personal, family, or household purposes is a consumer of a financial service, regardless of whether the loan is extended.

   (iii) An individual who provides non-public personal information to you in connection with obtaining or seeking to obtain financial, investment, or economic advisory services is a consumer, regardless of whether you establish a continuing advisory relationship.

   (iv) If you hold ownership or servicing rights to an individual’s loan that is used primarily for personal, family, or household purposes, the individual is your consumer, even if you hold those rights in conjunction with one or more
other institutions. (The individual is also a consumer with respect to the other financial institutions involved.) An individual who has a loan in which you have ownership or servicing rights is your consumer, even if you, or another institution with those rights, hire an agent to collect on the loan. (v) An individual who is a consumer of another financial institution is not your consumer solely because you act as agent for, or provide processing or other services to, that financial institution. (vi) An individual is not your consumer solely because he or she has designated you as trustee for a trust. (vii) An individual is not your consumer solely because he or she is a beneficiary of a trust for which you are a trustee. (viii) An individual is not your consumer solely because he or she is a participant or a beneficiary of an employee benefit plan that you sponsor or for which you act as a trustee or fiduciary. (f) Consumer reporting agency has the same meaning as in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)). (g) Control of a company means: (1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons; (2) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or (3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company. (h) Customer means a consumer who has a customer relationship with you. (i)(1) Customer relationship means a continuing relationship between a consumer and you under which you provide one or more financial products or services to the consumer that are to be used primarily for personal, family, or household purposes. (2) Examples—(i) Continuing relationship. A consumer has a continuing relationship with you if the consumer: (A) Has a credit or investment account with you; (B) Obtains a loan from you; (C) Purchases an insurance product from you; (D) Holds an investment product through you, such as when you act as a custodian for securities or for assets in an Individual Retirement Arrangement; (E) Enters into an agreement or understanding with you whereby you undertake to arrange or broker a home mortgage loan, or credit to purchase a vehicle, for the consumer; (F) Enters into a lease of personal property on a non-operating basis with you; (G) Obtains financial, investment, or economic advisory services from you for a fee; (H) Becomes your client for the purpose of obtaining tax preparation or credit counseling services from you; (I) Obtains career counseling while seeking employment with a financial institution or the finance, accounting, or audit department of any company (or while employed by such a financial institution or department of any company); (J) Is obligated on an account that you purchase from another financial institution, regardless of whether the account is in default when purchased, unless you do not locate the consumer or attempt to collect any amount from the consumer on the account; (K) Obtains real estate settlement services from you; or (L) Has a loan for which you own the servicing rights. (ii) No continuing relationship. A consumer does not, however, have a continuing relationship with you if: (A) The consumer obtains a financial product or service from you only in isolated transactions, such as using your ATM to withdraw cash from an account at another financial institution; purchasing a money order from you; purchasing a loan from you; cashing a check with you; or making a wire transfer through you; (B) You sell the consumer’s loan and do not retain the rights to service that loan; (C) You sell the consumer airline tickets, travel insurance, or traveler’s checks in isolated transactions;
(D) The consumer obtains one-time personal or real property appraisal services from you; or
(E) The consumer purchases checks for a personal checking account from you.

(j) Federal functional regulator means:
(1) The Board of Governors of the Federal Reserve System;
(2) The Office of the Comptroller of the Currency;
(3) The Board of Directors of the Federal Deposit Insurance Corporation;
(4) The Director of the Office of Thrift Supervision;
(5) The National Credit Union Administration Board; and

(k)(1) Financial institution means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). An institution that is significantly engaged in financial activities is a financial institution.

(2) Examples of financial institution. (i) A retailer that extends credit by issuing its own credit card directly to consumers is a financial institution because extending credit is a financial activity listed in 12 CFR 225.28(b)(1) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.
(ii) A personal property or real estate appraiser is a financial institution because real and personal property appraisal is a financial activity listed in 12 CFR 225.28(b)(2)(i) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.
(iii) An automobile dealership that, as a usual part of its business, leases automobiles on a nonoperating basis for longer than 90 days is a financial institution with respect to its leasing business because leasing personal property on a nonoperating basis where the initial term of the lease is at least 90 days is a financial activity listed in 12 CFR 225.28(b)(3) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.
(iv) A career counselor that specializes in providing career counseling services to individuals currently employed by or recently displaced from a financial organization, individuals who are seeking employment with a financial organization, or individuals who are currently employed by or seeking placement with the finance, accounting or audit departments of any company is a financial institution because such career counseling activities are financial activities listed in 12 CFR 225.28(b)(9)(ii) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.
(v) A business that prints and sells checks for consumers, either as its sole business or as one of its product lines, is a financial institution because printing and selling checks is a financial activity that is listed in 12 CFR 225.28(b)(10)(ii) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.
(vi) A business that regularly wires money to and from consumers is a financial institution because transferring money is a financial activity referenced in section 4(k)(4)(A) of the Bank Holding Company Act.
(vii) A check cashing business is a financial institution because cashing a check is exchanging money, which is a financial activity listed in section 4(k)(4)(A) of the Bank Holding Company Act.
(viii) An accountant or other tax preparation service that is in the business of completing income tax returns is a financial institution because tax preparation services is a financial activity listed in 12 CFR 225.28(b)(6)(vi) and referenced in section 4(k)(4)(G) of the Bank Holding Company Act.
(ix) A business that operates a travel agency in connection with financial services is a financial institution because operating a travel agency in connection with financial services is a financial activity listed in 12 CFR 211.5(d)(15) and referenced in section 4(k)(4)(G) of the Bank Holding Company Act.
(x) An entity that provides real estate settlement services is a financial...
§ 313.3 Financial institution does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party other than as permitted by §§313.14 and 313.15 of this part.

(iv) Entities that engage in financial activities but that are not significantly engaged in those financial activities.

(4) Examples of entities that are not significantly engaged in financial activities.

(i) A retailer is not a financial institution if its only means of extending credit are occasional "lay away" and deferred payment plans or accepting payment by means of credit cards issued by others.

(ii) A retailer is not a financial institution merely because it accepts payment in the form of cash, checks, or credit cards that it did not issue.

(iii) A merchant is not a financial institution merely because it allows an individual to "run a tab."

(iv) A grocery store is not a financial institution merely because it allows individuals to whom it sells groceries to cash a check, or write a check for a higher amount than the grocery purchase and obtain cash in return.

(l)(1) Financial product or service means any product or service that a financial holding company could offer by engaging in a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(2) Financial service includes your evaluation or brokerage of information that you collect in connection with a request or an application from a consumer for a financial product or service.

(m)(1) Nonaffiliated third party means any person except:

(i) Your affiliate; or

(ii) A person employed jointly by you and any company that is not your affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(2) Nonaffiliated third party includes any company that is an affiliate by virtue of your or your affiliate’s direct or indirect ownership or control of the company in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

(n)(1) Nonpublic personal information means:

(i) Personally identifiable financial information; and

(ii) Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

(2) Nonpublic personal information does not include:

(i) Publicly available information, except as included on a list described in paragraph (n)(1)(ii) of this section; or

(ii) Any list, description, or other grouping of consumers (and publicly available information pertaining to
them) that is derived without using any personally identifiable financial information that is not publicly available.

(3) *Examples of lists*—(i) Nonpublic personal information includes any list of individuals’ names and street addresses that is derived in whole or in part using personally identifiable financial information (that is not publicly available), such as account numbers.

(ii) Nonpublic personal information does not include any list of individuals’ names and addresses that contains only publicly available information, is not derived, in whole or in part, using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(o)(1) *Personally identifiable financial information* means any information:

(i) A consumer provides to you to obtain a financial product or service from you;

(ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or

(iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.

(2) *Examples*—(i) *Information included.* Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to obtain a loan, credit card, or other financial product or service;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you;

(D) Any information about your consumer if it is disclosed in a manner that indicates that the individual is or has been your consumer;

(E) Any information that a consumer provides to you or that you or your agent otherwise obtain in connection with collecting on, or servicing, a credit account;

(F) Any information you collect through an Internet “cookie” (an information collecting device from a web server); and

(G) Information from a consumer report.

(ii) *Information not included.* Personally identifiable financial information does not include:

(A) A list of names and addresses of customers of an entity that is not a financial institution; and

(B) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

(p)(1) *Publicly available information* means any information that you have a reasonable basis to believe is lawfully made available to the general public from:

(i) Federal, State, or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by Federal, State, or local law.

(2) *Reasonable basis.* You have a reasonable basis to believe that information is lawfully made available to the general public if you have taken steps to determine:

(i) That the information is of the type that is available to the general public; and

(ii) Whether an individual can direct that the information not be made available to the general public and, if so, that your consumer has not done so.

(3) *Examples*—(i) *Government records.* Publicly available information in government records includes information in government real estate records and security interest filings.

(ii) *Widely distributed media.* Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper, or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so
long as access is available to the general public.

(iii) Reasonable basis—(A) You have a reasonable basis to believe that mortgage information is lawfully made available to the general public if you have determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(B) You have a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if you have located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

(q) You includes each "financial institution" (but excludes any "other person") over which the Commission has enforcement jurisdiction pursuant to section 505(a)(7) of the Gramm-Leach-Bliley Act.

Subpart A—Privacy and Opt Out Notices

§313.4 Initial privacy notice to consumers required.

(a) Initial notice requirement. You must provide a clear and conspicuous notice that accurately reflects your privacy policies and practices to:

(1) Customer. An individual who becomes your customer, not later than when you establish a customer relationship, except as provided in paragraph (e) of this section; and

(2) Consumer. A consumer, before you disclose any nonpublic personal information about the consumer to any nonaffiliated third party, if you make such a disclosure other than as authorized by §§313.14 and 313.15.

(b) When initial notice to a consumer is not required. You are not required to provide an initial notice to a consumer under paragraph (a) of this section if:

(1) You do not disclose any nonpublic personal information about the consumer to any nonaffiliated third party, other than as authorized by §§313.14 and 313.15; and

(2) You do not have a customer relationship with the consumer.

(c) When you establish a customer relationship—(1) General rule. You establish a customer relationship when you and the consumer enter into a continuing relationship.

(ii) Examples of loan rule. You establish a customer relationship with a consumer when you originate a loan to the consumer for personal, family, or household purposes. If you subsequently transfer the servicing rights to that loan to another financial institution, the customer relationship transfers with the servicing rights.

(3)(i) Examples of establishing customer relationship. You establish a customer relationship when the consumer:

(A) Opens a credit card account with you;

(B) Executes the contract to obtain credit from you or purchase insurance from you;

(C) Agrees to obtain financial, economic, or investment advisory services from you for a fee; or

(D) Becomes your client for the purpose of your providing credit counseling or tax preparation services, or to obtain career counseling while seeking employment with a financial institution or the finance, accounting, or audit department of any company (or while employed by such a company or financial institution);

(E) Provides any personally identifiable financial information to you in an effort to obtain a mortgage loan through you;

(F) Executes the lease for personal property with you;

(G) Is an obligor on an account that you purchased from another financial institution and whom you have located and begun attempting to collect amounts owed on the account; or

(H) Provides you with the information necessary for you to compile and provide access to all of the consumer's on-line financial accounts at your Web site.

(ii) Examples of loan rule. You establish a customer relationship with a consumer who obtains a loan for personal, family, or household purposes when you:

(A) Originate the loan to the consumer and retain the servicing rights; or

(B) Purchase the servicing rights to the consumer's loan.

(d) Existing customers. When an existing customer obtains a new financial
product or service from you that is to be used primarily for personal, family, or household purposes, you satisfy the initial notice requirements of paragraph (a) of this section as follows:

(1) You may provide a revised privacy notice, under §313.8, that covers the customer's new financial product or service; or

(2) If the initial, revised, or annual notice that you most recently provided to that customer was accurate with respect to the new financial product or service, you do not need to provide a new privacy notice under paragraph (a) of this section.

(e) Exceptions to allow subsequent delivery of notice. (1) You may provide the initial notice required by paragraph (a)(1) of this section within a reasonable time after you establish a customer relationship if:

(i) Establishing the customer relationship is not at the customer's election; or

(ii) Providing notice not later than when you establish a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(2) Examples of exceptions—(i) Not at customer's election. Establishing a customer relationship is not at the customer's election if you acquire a customer's loan, or the servicing rights, from another financial institution and the customer does not have a choice about your acquisition.

(ii) Substantial delay of customer's transaction. Providing notice not later than when you establish a customer relationship would substantially delay the customer's transaction when:

(A) You and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the financial product or service; or

(B) You establish a customer relationship with an individual under a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or similar student loan programs where loan proceeds are disbursed promptly without prior communication between you and the customer.

(iii) No substantial delay of customer's transaction. Providing notice not later than when you establish a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at your office or through other means by which the customer may view the notice, such as through a web site.

(f) Delivery. When you are required to deliver an initial privacy notice by this section, you must deliver it according to §313.9. If you use a short-form initial notice for non-customers according to §313.6(d), you may deliver your privacy notice according to §313.6(d)(3).

§313.5 Annual privacy notice to customers required.

(a)(1) General rule. You must provide a clear and conspicuous notice to customers that accurately reflects your privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of 12 consecutive months during which that relationship exists. You may define the 12-consecutive-month period, but you must apply it to the customer on a consistent basis.

(2) Example. You provide a notice annually if you define the 12-consecutive-month period as a calendar year and provide the annual notice to the customer once in each calendar year following the calendar year in which you provided the initial notice. For example, if a customer opens an account on any day of year 1, you must provide an annual notice to that customer by December 31 of year 2.

(b)(1) Termination of customer relationship. You are not required to provide an annual notice to a former customer.

(2) Examples. Your customer becomes a former customer when:

(i) In the case of a closed-end loan, the customer pays the loan in full, you charge off the loan, or you sell the loan without retaining servicing rights;

(ii) In the case of a credit card relationship or other open-end credit relationship, you sell the receivables without retaining servicing rights;

(iii) In the case of credit counseling services, the customer has failed to make required payments under a debt management plan, has been notified that the plan is terminated, and you no
§ 313.6 Information to be included in privacy notices.

(a) General rule. The initial, annual, and revised privacy notices that you provide under §§313.4, 313.5, and 313.8 must include each of the following items of information that applies to you or to the consumers to whom you send your privacy notice, in addition to any other information you wish to provide:

(1) The categories of nonpublic personal information that you collect;

(2) The categories of nonpublic personal information that you disclose;

(3) The categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information, other than those parties to whom you disclose information under §§313.16 and 313.15;

(4) The categories of nonpublic personal information about your former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your former customers, other than those parties to whom you disclose information under §§313.14 and 313.15;

(5) If you disclose nonpublic personal information to a nonaffiliated third party under §313.13 (and no exception under §§313.14 or 313.15 applies to that disclosure), a separate statement of the categories of information you disclose and the categories of third parties with whom you have contracted;

(6) An explanation of the consumer’s right under §313.10(a) to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right at that time;

(7) Any disclosures that you make under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

(8) Your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

(9) Any disclosure that you make under paragraph (b) of this section.

(b) Description of nonaffiliated third parties subject to exceptions. If you disclose nonpublic personal information to third parties as authorized under §§313.14 and 313.15, you are not required to list those exceptions in the initial or annual privacy notices required by §§313.4 and 313.5. When describing the categories with respect to those parties, it is sufficient to state that you make disclosures to other nonaffiliated companies for your everyday business purposes, such as to process transactions, maintain account(s), respond
to court orders and legal investigations, or report to credit bureaus.

(c) Examples—(1) Categories of nonpublic personal information that you collect. You satisfy the requirement to categorize the nonpublic personal information that you collect if you list the following categories, as applicable:
   (i) Information from the consumer;
   (ii) Information about the consumer’s transactions with you or your affiliates;
   (iii) Information about the consumer’s transactions with nonaffiliated third parties; and
   (iv) Information from a consumer reporting agency.

(2) Categories of nonpublic personal information you disclose—(i) You satisfy the requirement to categorize the nonpublic personal information that you disclose if you list the categories described in paragraph (e)(1) of this section, as applicable, and a few examples to illustrate the types of information in each category.

(ii) If you reserve the right to disclose all of the nonpublic personal information about consumers that you collect, you may simply state that fact without describing the categories or examples of the nonpublic personal information you disclose.

(3) Categories of affiliates and nonaffiliated third parties to whom you disclose. You satisfy the requirement to categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information if you list them using the following categories, as applicable, and a few applicable examples to illustrate the significant types of third parties covered in each category.

(i) Financial service providers, followed by illustrative examples such as mortgage bankers, securities brokers, dealers, and insurance agents.

(ii) Non-financial companies, followed by illustrative examples such as retailers, magazine publishers, airlines, and direct marketers; and

(iii) Others, followed by examples such as nonprofit organizations.

(4) Disclosures under exception for service providers and joint marketers. If you disclose nonpublic personal information under the exception in §313.13 to a nonaffiliated third party to market products or services that you offer alone or jointly with another financial institution, you satisfy the disclosure requirement of paragraph (a)(5) of this section if you:

(i) List the categories of nonpublic personal information you disclose, using the same categories and examples you used to meet the requirements of paragraph (a)(2) of this section, as applicable; and

(ii) State whether the third party is:
   (A) A service provider that performs marketing services on your behalf or on behalf of you and another financial institution; or
   (B) A financial institution with whom you have a joint marketing agreement.

(5) Simplified notices. If you do not disclose, and do not wish to reserve the right to disclose, nonpublic personal information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under §§313.14 and 313.15, you may simply state that fact, in addition to the information you must provide under paragraphs (a)(1), (a)(8), (a)(9), and (b) of this section.

(6) Confidentiality and security. You describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information if you do both of the following:

(i) Describe in general terms who is authorized to have access to the information; and

(ii) State whether you have security practices and procedures in place to ensure the confidentiality of the information in accordance with your policy. You are not required to describe technical information about the safeguards you use.

(d) Short-form initial notice with opt out notice for non-customers—(1) You may satisfy the initial notice requirements in §§313.4(a)(2), 313.7(b), and 313.7(c) for a consumer who is not a customer by providing a short-form initial notice at the same time as you deliver an opt out notice as required in §313.7.

(2) A short-form initial notice must:

(i) Be clear and conspicuous;

(ii) State that your privacy notice is available upon request; and
(iii) Explain a reasonable means by which the consumer may obtain that notice.

(3) You must deliver your short-form initial notice according to §313.9. You are not required to deliver your privacy notice with your short-form initial notice. You instead may simply provide the consumer a reasonable means to obtain your privacy notice. If a consumer who receives your short-form notice requests your privacy notice, you must deliver your privacy notice according to §313.9.

(4) Examples of obtaining privacy notice. You provide a reasonable means by which a consumer may obtain a copy of your privacy notice if you:

(i) Provide a toll-free telephone number that the consumer may call to request the notice; or

(ii) For a consumer who conducts business in person at your office, maintain copies of the notice on hand that you provide to the consumer immediately upon request.

(e) Future disclosures. Your notice may include:

(1) Categories of nonpublic personal information that you reserve the right to disclose in the future, but do not currently disclose; and

(2) Categories of affiliates or nonaffiliated third parties to whom you reserve the right in the future to disclose, but to whom you do not currently disclose, nonpublic personal information.

(f) Model privacy form. Pursuant to §313.2(a) of this part, a model privacy form that meets the notice content requirements of this section is included in appendix A of this part.

(g) Sample clauses and description of nonaffiliated third parties subject to exceptions.

(1) Sample clauses. Sample clauses illustrating some of the notice content required by this section are included in appendix B of this part. Use of a sample clause in a privacy notice provided on or before December 31, 2010, to the extent applicable, constitutes compliance with this part.

(2) Description of nonaffiliated third parties subject to exceptions. For a privacy notice provided on or before December 31, 2010, if you disclose nonpublic personal information to third parties as authorized under §§313.14 and 313.15, when describing the categories with respect to those parties, it is sufficient to state, as an alternative to the language in the second sentence of paragraph (b) of this section, that you make disclosures to other nonaffiliated third parties as permitted by law.

[65 FR 33677, May 24, 2000, as amended at 74 FR 62965, Dec. 1, 2009]

EFFECTIVE DATE NOTE: At 74 FR 62965, Dec. 1, 2009, §313.6 was amended by adding paragraph(g), effective Dec. 31, 2009 through January 1, 2012.

§313.7 Form of opt out notice to consumers; opt out methods.

(a)(1) Form of opt out notice. If you are required to provide an opt out notice under §313.10(a), you must provide a clear and conspicuous notice to each of your consumers that accurately explains the right to opt out under that section. The notice must state:

(i) That you disclose or reserve the right to disclose nonpublic personal information about your consumer to a nonaffiliated third party;

(ii) That the consumer has the right to opt out of that disclosure; and

(iii) A reasonable means by which the consumer may exercise the opt out right.

(2) Examples—(1) Adequate opt out notice. You provide adequate notice that the consumer can opt out of the disclosure of nonpublic personal information to a nonaffiliated third party if you:

(A) Identify all of the categories of nonpublic personal information that you disclose or reserve the right to disclose, and all of the categories of nonaffiliated third parties to which you disclose the information, as described in §313.6(a) (2) and (3) and state that the consumer can opt out of the disclosure of that information; and

(B) Identify the financial products or services that the consumer obtains from you, either singly or jointly, to which the opt out direction would apply.

(ii) Reasonable opt out means. You provide a reasonable means to exercise an opt out right if you:

(A) Designate check-off boxes in a prominent position on the relevant forms with the opt out notice;
(B) Include a reply form that includes the address to which the form should be mailed; or
(C) Provide an electronic means to opt out, such as a form that can be sent via electronic mail or a process at your web site, if the consumer agrees to the electronic delivery of information; or
(D) Provide a toll-free telephone number that consumers may call to opt out.

(iii) Unreasonable opt out means. You do not provide a reasonable means of opting out if:

(A) The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or
(B) The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that you provided with the initial notice but did not include with the subsequent notice.

(iv) Specific opt out means. You may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(b) Same form as initial notice permitted. You may provide the opt out notice together with or on the same written or electronic form as the initial notice you provide in accordance with §313.4.

(c) Initial notice required when opt out notice delivered subsequent to initial notice. If you provide the opt out notice later than required for the initial notice in accordance with §313.4, you must also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

(d) Joint relationships. (1) If two or more consumers jointly obtain a financial product or service from you, you may provide a single opt out notice, unless one or more of those consumers requests a separate opt out notice. Your opt out notice must explain how you will treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(i) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(ii) Permit each joint consumer to opt out separately.

(3) If you permit each joint consumer to opt out separately, you must permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(4) You may not require all joint consumers to opt out before you implement any opt out direction.

(5) Example. If John and Mary have a joint credit card account with you and arrange for you to send statements to John’s address, you may do any of the following, but you must explain in your opt out notice which opt out policy you will follow:

(i) Send a single opt out notice to John’s address, but you must accept an opt out direction from either John or Mary.

(ii) Treat an opt out direction by either John or Mary as applying to the entire account. If you do so, and John opts out, you may not require Mary to opt out as well before implementing John’s opt out direction.

(iii) Permit John and Mary to make different opt out directions. If you do so,

(A) You must permit John and Mary to opt out for each other;

(B) If both opt out, you must permit both to notify you in a single response (such as on a form or through a telephone call); and

(C) If John opts out and Mary does not, you may only disclose nonpublic personal information about Mary, but not about John and not about John and Mary jointly.

(e) Time to comply with opt out. You must comply with a consumer’s opt out direction as soon as reasonably practicable after you receive it.

(f) Continuing right to opt out. A consumer may exercise the right to opt out at any time.

(g) Duration of consumer’s opt out direction. (1) A consumer’s direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.
§ 313.8 Revised privacy notices.

(a) General rule. Except as otherwise authorized in this part, you must not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party other than as described in the initial notice that you provided to that consumer under § 313.4, unless:

(1) You have provided to the consumer a clear and conspicuous revised notice that accurately describes your policies and practices;

(2) You have provided to the consumer a new opt out notice;

(3) You have given the consumer a reasonable opportunity, before you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) the consumer does not opt out.

(b) Examples—(1) Except as otherwise permitted by §§ 313.13, 313.14, and 313.15, you must provide a revised notice before you:

(i) Disclose a new category of nonpublic personal information to any nonaffiliated third party;

(ii) Disclose nonpublic personal information to a new category of nonaffiliated third party; or

(iii) Disclose nonpublic personal information about a former customer to a nonaffiliated third party if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

(2) A revised notice is not required if you disclose nonpublic personal information to a new nonaffiliated third party that you adequately described in your prior notice.

(c) Delivery. When you are required to deliver a revised privacy notice by this section, you must deliver it according to § 313.9.

§ 313.9 Delivering privacy and opt out notices.

(a) How to provide notices. You must provide any privacy notices and opt out notices, including short-form initial notices, that this part requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) (1) Examples of reasonable expectation of actual notice. You may reasonably expect that a consumer will receive actual notice if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer;

(iii) For the consumer who conducts transactions electronically, clearly and conspicuously post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial product or service;

(iv) For an isolated transaction with the consumer, such as an ATM transaction, post the notice on the ATM screen and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular financial product or service.

(2) Examples of unreasonable expectation of actual notice. You may not, however, reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(i) Only post a sign in your branch or office or generally publish advertisements of your privacy policies and practices;
(i) Send the notice via electronic mail to a consumer who does not obtain a financial product or service from you electronically.

(c) Annual notices only. You may reasonably expect that a customer will receive actual notice of your annual privacy notice if:

(1) The customer uses your web site to access financial products and services electronically and agrees to receive notices at the web site and you post your current privacy notice continuously in a clear and conspicuous manner on the web site; or

(2) The customer has requested that you refrain from sending any information regarding the customer relationship, and your current privacy notice remains available to the customer upon request.

(d) Oral description of notice insufficient. You may not provide any notice required by this part solely by orally explaining the notice, either in person or over the telephone.

(e) Retention or accessibility of notices for customers—(1) For customers only, you must provide the initial notice required by §313.4(a)(1), the annual notice required by §313.5(a), and the revised notice required by §313.8 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(2) Examples of retention or accessibility. You provide a privacy notice to the customer so that the customer can retain it or obtain it later if you:

(i) Hand-deliver a printed copy of the notice to the customer;

(ii) Mail a printed copy of the notice to the last known address of the customer; or

(iii) Make your current privacy notice available on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and agrees to receive the notice at the web site.

(f) Joint notice with other financial institutions. You may provide a joint notice from you and one or more of your affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to you and the other institutions.

(g) Joint relationships. If two or more consumers jointly obtain a financial product or service from you, you may satisfy the initial, annual, and revised notice requirements of §§313.4(a), 313.5(a), and 313.8(a) by providing one notice to those consumers jointly, unless one or more of those consumers requests separate notices.

Subpart B—Limits on Disclosures

§313.10 Limits on disclosure of non-public personal information to non-affiliated third parties.

(a)(1) Conditions for disclosure. Except as otherwise authorized in this part, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless:

(i) You have provided to the consumer an initial notice as required under §313.4;

(ii) You have provided to the consumer an opt out notice as required in §313.7;

(iii) You have given the consumer a reasonable opportunity, before you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(iv) The consumer does not opt out.

(2) Opt out definition. Opt out means a direction by the consumer that you not disclose nonpublic personal information about that consumer to a nonaffiliated third party, other than as permitted by §§313.13, 313.14, and 313.15.

(b) Examples of reasonable opportunity to opt out. You provide a consumer with a reasonable opportunity to opt out if:

(i) By mail. You mail the notices required in paragraph (a)(1) of this section to the consumer and allow the consumer to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means within 30 days from the date you mailed the notices.

(ii) By electronic means. A customer opens an on-line account with you and agrees to receive the notices required in paragraph (a)(1) of this section electronically, and you allow the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.
§ 313.11 Limits on redisclosure and reuse of information.

(a)(1) Information you receive under an exception. If you receive nonpublic personal information from a nonaffiliated financial institution under an exception in §313.14 or 313.15 of this part, your disclosure and use of that information is limited as follows:

(i) You may disclose the information to the affiliates of the financial institution from which you received the information;

(ii) You may disclose the information to your affiliates, but your affiliates may, in turn, disclose and use the information only to the extent that you may disclose and use the information; and

(iii) You may disclose and use the information pursuant to an exception in §313.14 or 313.15 in the ordinary course of business to carry out the activity covered by the exception under which you received the information.

(b) Example. If you receive a customer list from a nonaffiliated financial institution in order to provide account processing services under the exception in §313.14(a), you may disclose that information under any exception in §313.14 or §313.15 in the ordinary course of business in order to provide those services. You could also disclose that information in response to a properly authorized subpoena. You could not disclose that information to a third party for marketing purposes or use that information for your own marketing purposes.

(b)(1) Information you receive outside of an exception. If you receive nonpublic personal information from a nonaffiliated financial institution other than under an exception in §313.14 or §313.15 of this part, you may disclose the information only:

(i) To the affiliates of the financial institution from which you received the information;

(ii) To your affiliates, but your affiliates may, in turn, disclose the information only to the extent that you can disclose the information; and

(iii) To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which you received the information.

(2) Example. If you obtain a customer list from a nonaffiliated financial institution outside of the exceptions in §§313.14 and 313.15:

(i) You may use that list for your own purposes; and

(ii) You may disclose that list to another nonaffiliated third party only if the financial institution from which you purchased the list could have lawfully disclosed the list to that third party. That is, you may disclose the list in accordance with the privacy policy of the financial institution from which you received the list, as limited by the opt out direction of each consumer whose nonpublic personal information you intend to disclose, and you may disclose the list in accordance with an exception in §313.14 or §313.15, such as to your attorneys or accountants.

(c) Information you disclose under an exception. If you disclose nonpublic personal information to a nonaffiliated third party under an exception in §313.14 or 313.15 of this part, the third
§ 313.13 Exception to opt out requirements for service providers and joint marketing.

(a) General rule. (1) The opt out requirements in §§313.7 and 313.10 do not apply when you provide nonpublic personal information to a nonaffiliated third party to perform services for you or functions on your behalf, if you:

(i) Provide the initial notice in accordance with §313.4; and

(ii) Enter into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which you disclosed the information, including use under an exception in §313.14 or §313.15 in the ordinary course of business to carry out those purposes.

(2) Example. If you disclose nonpublic personal information under this section to a financial institution with which you perform joint marketing, your contractual agreement with that institution meets the requirements of paragraph (a)(1)(ii) of this section if it prohibits the institution from disclosing or using the information other than to carry out the joint marketing or under an exception in §313.14 or §313.15 in the ordinary course of business to carry out that joint marketing.

(b) Service may include joint marketing. The services a nonaffiliated third party performs for you under paragraph (a) of
§ 313.14 Exceptions to notice and opt out requirements for processing and servicing transactions.

(a) Exceptions for processing transactions at consumer's request. The requirements for initial notice in §313.4(a)(2), for the opt out in §§313.7 and 313.10, and for service providers and joint marketing in §313.13 do not apply if you disclose nonpublic personal information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with:

(1) Servicing or processing a financial product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the consumer’s account with you, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

(3) A proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer.

(b) Necessary to effect, administer, or enforce a transaction means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce your rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service, or maintain the consumer’s account in the ordinary course of providing the financial service or financial product;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer’s agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by you or any other party;

(v) To underwrite insurance at the consumer’s request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer’s insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law;

(vi) In connection with:

(A) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card, check, or account number, or by other payment means;

(B) The transfer of receivables, accounts, or interests therein; or

(C) The audit of debit, credit, or other payment information.

§ 313.15 Other exceptions to notice and opt out requirements.

(a) Exceptions to opt out requirements. The requirements for initial notice in §313.4(a)(2), for the opt out in §§313.7 and 313.10, and for service providers and joint marketing in §313.13 do not apply when you disclose nonpublic personal information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2)(i) To protect the confidentiality or security of your records pertaining to the consumer, service, product, or transaction;
(ii) To protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;
(iii) For required institutional risk control or for resolving consumer disputes or inquiries;
(iv) To persons holding a legal or beneficial interest relating to the consumer; or
(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;
(3) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating you, persons that are assessing your compliance with industry standards, and your attorneys, accountants, and auditors;
(4) To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. et seq.), to law enforcement agencies (including a federal functional regulator, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a State insurance authority, with respect to any person domiciled in that insurance authority's State that is engaged in providing insurance, and the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;
(5)(i) To a consumer reporting agency in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), or
(ii) From a consumer report reported by a consumer reporting agency;
(6) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or
(7)(i) To comply with Federal, State, or local laws, rules and other applicable legal requirements;
(ii) To comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by Federal, State, or local authorities; or
(iii) To respond to judicial process or government regulatory authorities having jurisdiction over you for examination, compliance, or other purposes as authorized by law.
(b) Examples of consent and revocation of consent. (1) A consumer may specifically consent to your disclosure of nonaffiliated insurance company of the fact that the consumer has applied to you for a mortgage so that the insurance company can offer homeowner's insurance to the consumer.
(2) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of non-public personal information as permitted under §313.7(f).

Subpart D—Relation to Other Laws; Effective Date

§313.16 Protection of Fair Credit Reporting Act.

Nothing in this part shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and no inference shall be drawn on the basis of the provisions of this part regarding whether information is transaction or experience information under section 603 of that Act.

§313.17 Relation to State laws.

(a) In general. This part shall not be construed as superseding, altering, or affecting any statute, regulation, order, or interpretation in effect in any State, except to the extent that such State statute, regulation, order, or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) Greater protection under State law.

For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Commission on its own motion or upon the petition of any interested party, after consultation with the applicable federal functional regulator or other authority.
§ 313.18 Effective date; transition rule.

(a) Effective date—(1) General rule. This part is effective November 13, 2000. In order to provide sufficient time for you to establish policies and systems to comply with the requirements of this part, the Commission has extended the time for compliance with this part until July 1, 2001.

(2) Exception. This part is not effective as to any institution that is significantly engaged in activities that the Federal Reserve Board determines, after November 12, 1999, (pursuant to its authority in Section 4(k)(1–3) of the Bank Holding Company Act), are activities that a financial holding company may engage in, until the Commission so determines.

(b)(1) Notice requirement for consumers who are your customers on the compliance date. By July 1, 2001, you must have provided an initial notice, as required by §313.4, to consumers who are your customers on July 1, 2001.

(2) Example. You provide an initial notice to consumers who are your customers on July 1, 2001, if, by that date, you have established a system for providing an initial notice to all new customers and have mailed the initial notice to all your existing customers.

(c) Two-year grandfathering of service agreements. Until July 1, 2002, a contract that you have entered into with a nonaffiliated third party to perform services for you or functions on your behalf satisfies the provisions of §313.13(a)(1) of this part, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as you entered into the contract on or before July 1, 2000.

APPENDIX A TO PART 313—MODEL PRIVACY FORM

A. The Model Privacy Form
### FACTS

**What does [name of financial institution] do with your personal information?**

**Why?**
Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

**What?**
The types of personal information we collect and share depend on the product or service you have with us. This information can include:
- Social Security number and [income]
- [account balances] and [payment history]
- [credit history] and [credit scores]

When you are no longer our customer, we continue to share your information as described in this notice.

**How?**
All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons [name of financial institution] chooses to share; and whether you can limit this sharing.

<table>
<thead>
<tr>
<th>Reasons we can share your personal information</th>
<th>Does [name of financial institution] share?</th>
<th>Can you limit this sharing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>For our everyday business purposes—such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our marketing purposes—to offer our products and services to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For joint marketing with other financial companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes—information about your transactions and experiences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes—information about your creditworthiness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates to market to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For nonaffiliates to market to you</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Questions?** Call [phone number] or go to [website]
<table>
<thead>
<tr>
<th>Who we are</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Who is providing this notice?</td>
<td>[insert]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What we do</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>How does [name of financial institution] protect my personal information?</td>
<td>To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. [insert]</td>
</tr>
<tr>
<td>How does [name of financial institution] collect my personal information?</td>
<td>We collect your personal information, for example, when you ▪ open an account or deposit money ▪ pay your bills or apply for a loan ▪ use your credit or debit card [We also collect your personal information from other companies, OR We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.]</td>
</tr>
<tr>
<td>Why can't I limit all sharing?</td>
<td>Federal law gives you the right to limit only ▪ sharing for affiliates' everyday business purposes—information about your creditworthiness ▪ affiliates from using your information to market to you ▪ sharing for nonaffiliates to market to you State laws and individual companies may give you additional rights to limit sharing. [See below for more on your rights under state law.]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Definitions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Affiliates</td>
<td>Companies related by common ownership or control. They can be financial and nonfinancial companies. [affiliate information]</td>
</tr>
<tr>
<td>Nonaffiliates</td>
<td>Companies not related by common ownership or control. They can be financial and nonfinancial companies. [nonaffiliate information]</td>
</tr>
<tr>
<td>Joint marketing</td>
<td>A formal agreement between nonaffiliated financial companies that together market financial products or services to you. [joint marketing information]</td>
</tr>
</tbody>
</table>

| Other important information | [insert other important information] |
**Federal Trade Commission**

**Pt. 313, App. A**

**Version 2: Model Form with Opt-Out by Telephone and/or Online.**

**FACTS**

**WHAT DOES [NAME OF FINANCIAL INSTITUTION] DO WITH YOUR PERSONAL INFORMATION?**

**Why?** Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

**What?** The types of personal information we collect and share depend on the product or service you have with us. This information can include:
- Social Security number and [income]
- [account balances] and [payment history]
- [credit history] and [credit scores]

**How?** All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons [name of financial institution] chooses to share; and whether you can limit this sharing.

<table>
<thead>
<tr>
<th>Reasons we can share your personal information</th>
<th>Does [name of financial institution] share?</th>
<th>Can you limit this sharing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>For our everyday business purposes—such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our marketing purposes—to offer our products and services to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For joint marketing with other financial companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes—information about your transactions and experiences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes—information about your creditworthiness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates to market to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For nonaffiliates to market to you</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**To limit our sharing**

- Call [phone number]—our menu will prompt you through your choice(s) or
- Visit us online: [website]

**Please note:**

- If you are a new customer, we can begin sharing your information [30] days from the date we sent this notice. When you are no longer our customer, we continue to share your information as described in this notice.
- However, you can contact us at any time to limit our sharing.

**Questions?** Call [phone number] or go to [website]
## Who we are

| Who is providing this notice? | [insert] |

## What we do

### How does [name of financial institution] protect my personal information?

To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.

[insert]

### How does [name of financial institution] collect my personal information?

We collect your personal information, for example, when you
- [open an account] or [deposit money]
- [pay your bills] or [apply for a loan]
- [use your credit or debit card]

[We also collect your personal information from other companies.]

OR

[We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.]

### Why can’t I limit all sharing?

Federal law gives you the right to limit only
- sharing for affiliates’ everyday business purposes—information about your creditworthiness
- affiliates from using your information to market to you
- sharing for nonaffiliates to market to you

State laws and individual companies may give you additional rights to limit sharing. [See below for more on your rights under state law.]

### What happens when I limit sharing for an account I hold jointly with someone else?

[Your choices will apply to everyone on your account.]

OR

[Your choices will apply to everyone on your account—unless you tell us otherwise.]

## Definitions

### Affiliates

Companies related by common ownership or control. They can be financial and nonfinancial companies.

- [affiliate information]

### Nonaffiliates

Companies not related by common ownership or control. They can be financial and nonfinancial companies.

- [nonaffiliate information]

### Joint marketing

A formal agreement between nonaffiliated financial companies that together market financial products or services to you.

- [joint marketing information]

## Other important information

[insert other important information]
### Version 3: Model Form with Mail-In Opt-Out Form

**FACTS**

**WHAT DOES [NAME OF FINANCIAL INSTITUTION] DO WITH YOUR PERSONAL INFORMATION?**

- **Why?**
  - Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

- **What?**
  - The types of personal information we collect and share depend on the product or service you have with us. This information can include:
    - Social Security number and income
    - Account balances and payment history
    - Credit history and credit scores

- **How?**
  - All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons [name of financial institution] chooses to share; and whether you can limit this sharing.

<table>
<thead>
<tr>
<th>Reasons we can share your personal information</th>
<th>Does [name of financial institution] share?</th>
<th>Can you limit this sharing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>For our everyday business purposes — such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our marketing purposes — to offer our products and services to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For joint marketing with other financial companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes — information about your transactions and experiences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates' everyday business purposes — information about your creditworthiness</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For our affiliates to market to you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For nonaffiliates to market to you</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**To limit our sharing**

- Call [phone number] — our menu will prompt you through your choice(s)
- Visit us online [website] or
- Mail the form below

Please note:

If you are a new customer, we can begin sharing your information [30] days from the date we sent this notice. When you are no longer our customer, we continue to share your information as described in this notice. However, you can contact us at any time to limit our sharing.

**Questions?**

Call [phone number] or go to [website]

---

**Mail-in Form**

Leave Blank OR (If you have a joint account, your choices(s) will apply to everyone on your account unless you mark below)

- Apply my choices only to me

Mark any/all you want to Limit:

- ☐ Do not share information about my creditworthiness with your affiliates for their everyday business purposes.
- ☐ Do not allow your affiliates to use my personal information to market to me.
- ☐ Do not share my personal information with nonaffiliates to market their products and services to me.

<table>
<thead>
<tr>
<th>Name</th>
<th>Mail to:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Name of Financial Institution)</td>
</tr>
<tr>
<td></td>
<td>(Address)</td>
</tr>
<tr>
<td></td>
<td>(Address 2)</td>
</tr>
<tr>
<td></td>
<td>(City), (ST) (ZIP)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>City, State, Zip</td>
<td></td>
</tr>
</tbody>
</table>
1. How the Model Privacy Form is Used
(a) The model form may be used, at the option of a financial institution, including a group of financial institutions that use a common privacy notice, to meet the content requirements of the privacy notice and opt-out notice set forth in §§ 313.6 and 313.7 of this part.
(b) The model form is a standardized form, including page layout, content, format, style, pagination, and shading. Institutions seeking to obtain the safe harbor through use of the model form may modify it only as described in these Instructions.
(c) Note that disclosure of certain information, such as assets, income, and information from a consumer reporting agency, may give rise to obligations under the Fair Credit Reporting Act [15 U.S.C. 1681–1681x] (FCRA), such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.
(d) The word “customer” may be replaced by the word “member” whenever it appears in the model form, as appropriate.

2. The Contents of the Model Privacy Form
The model form consists of two pages, which may be printed on both sides of a single sheet of paper, or may appear on two separate pages. Where an institution provides a long list of institutions at the end of the model form in accordance with Instruction C.3(a)(1), or provides additional information in accordance with Instruction C.3(c), and such list or additional information exceeds the space available on page two of the model form, such list or additional information may extend to a third page.

(a) Page One. The first page consists of the following components:
(1) Date last revised (upper right-hand corner).
(2) Title.
(3) Key frame (Why?, What?, How?).
(4) Disclosure table (“Reasons we can share your personal information”).
(5) “To limit our sharing” box, as needed, for the financial institution’s opt-out information.
(6) “Questions” box, for customer service contact information.
(7) Mail-in opt-out form, as needed.

(b) Page Two. The second page consists of the following components:
(1) Heading (Page 2).
(2) Frequently Asked Questions (“Who we are” and “What we do”).
(3) Definitions.
(4) “Other important information” box, as needed.

3. The Format of the Model Privacy Form
The format of the model form may be modified only as described below.
(a) Easily readable type font. Financial institutions that use the model form must use an easily readable type font. While a number of factors together produce an easily readable type font, institutions are required to use a minimum of 10-point font (unless otherwise expressly permitted in these Instructions) and sufficient spacing between the lines of type.
(b) Logo. A financial institution may include a corporate logo on any page of the notice, so long as it does not interfere with the readability of the model form or the space constraints of each page.
Federal Trade Commission

(c) Page size and orientation. Each page of the model form must be printed on paper in portrait orientation, the size of which must be sufficient to meet the layout and minimum font size requirements, with sufficient white space on the top, bottom, and sides of the content.

(d) Color. The model form must be printed on white or light color paper (such as cream) with black or other contrasting ink color. Spot color may be used to achieve visual interest, so long as the color contrast is distinctive and the color does not detract from the readability of the model form. Logos may also be printed in color.

(e) Languages. The model form may be translated into languages other than English.

C. Information Required in the Model Privacy Form

The information in the model form may be modified only as described below:

1. Name of the Institution or Group of Affiliated Institutions Providing the Notice

Insert the name of the financial institution providing the notice or a common identity of affiliated institutions jointly providing the notice on the form wherever [name of financial institution] appears.

2. Page One

(a) Last revised date. The financial institution must insert in the upper right-hand corner the date on which the notice was last revised. The information shall appear in minimum 9-point font as “rev. [month/year]” using either the name or number of the month, such as “rev. July 2009” or “rev. 7/09.”

(b) General instructions for the “What?" box.

(1) The bulleted list identifies the types of personal information that the institution collects and shares. All institutions must use the term “Social Security number” in the first bullet.

(2) Institutions must use five (5) of the following terms to complete the bulleted list: income; account balances; payment history; transaction history; transaction or loss history; credit history; credit scores; assets; investment experience; credit-based insurance scores; insurance claim history; medical information; overdraft history; purchase history; account transactions; risk tolerance; medical-related debts; credit card or other debt; mortgage rates and payments; retirement assets; checking account information; employment information; wire transfer instructions.

(c) General instructions for the disclosure table. The left column lists reasons for sharing or using personal information. Each reason correlates to a specific legal provision described in paragraph C.2(d) of this Instruction. In the middle column, each institution must provide a “Yes” or “No” response that accurately reflects its information sharing policies and practices with respect to the reason listed on the left. In the right column, each institution provides the affiliate marketing information for each box one of the following three (3) responses, as applicable, that reflects whether a consumer can limit such sharing: “Yes” if it is required to or voluntarily provides an opt-out; “No” if it does not provide an opt-out; or “We don’t share” if it answers “No” in the middle column. Only the sixth row (“For our affiliates to market to you”) may be omitted at the option of the institution. See paragraph C.2(d)(6) of this Instruction.

(d) Specific disclosures and corresponding legal provisions.

(1) For our everyday business purposes. This reason incorporates sharing information under §§313.14 and 313.15 and with service providers pursuant to §313.13 of this part other than the purposes specified in paragraphs C.2(d)(2) or C.2(d)(3) of these Instructions.

(2) For our marketing purposes. This reason incorporates sharing information with service providers by an institution for its own marketing pursuant to §313.13 of this part. An institution that shares for this reason may choose to provide an opt-out.

(3) For joint marketing with other financial companies. This reason incorporates sharing information between two or more financial institutions and with any service provider used in connection with such agreements pursuant to §313.13 of this part. An institution that shares for this reason may choose to provide an opt-out.

(4) For our affiliates’ everyday business purposes—information about transactions and experiences. This reason incorporates sharing information specified in sections 603(d)(2)(A)(i) and (ii) of the FCRA. An institution that shares for this reason may choose to provide an opt-out.

(5) For our affiliates’ everyday business purposes—information about creditworthiness. This reason incorporates sharing information pursuant to section 603(d)(2)(A)(iii) of the FCRA. An institution that shares for this reason must provide an opt-out.

(6) For our affiliates to market to you. This reason incorporates sharing information specified in section 624 of the FCRA. This reason may be omitted from the disclosure table when: the institution does not have affiliates (or does not disclose personal information to its affiliates); the institution’s affiliates do not use personal information in a manner that requires an opt-out; or the institution provides the affiliate marketing notice separately. Institutions that include this reason must provide an opt-out of indefinite duration. An institution that is required to provide an affiliate marketing opt-out, but does not include that opt-out in the
model form under this part, must comply with section 624 of the FCRA and 16 CFR parts 680 and 698 with respect to the initial notice and opt-out and any subsequent renewal notice and opt-out. An institution not required to provide an opt-out under this subparagraph may elect to include this reason in the model form.

(4) **Financial institution tagline.** Only institutions that provide their joint accountholders the choice to opt out for only one accountholder, in accordance with paragraph C.3(a)(5) of these Instructions, must include this mail-in form the following statement: “If you have a joint account, your choice(s) will apply to everyone on your account unless you mark below. □ Apply my choice(s) only to me.” The word “choice” may be written in either the singular or plural, as appropriate. Financial institutions that provide insurance products or services, provide this option, and elect to use the model form may substitute the word “policy” for “account” in this statement. Institutions that do not provide this option may eliminate this left column from the mail-in form.

(5) **Additional opt-outs.** Financial institutions that use the disclosure table to provide opt-out options beyond those required by Federal law must provide those opt-outs in this section of the model form. A financial institution that chooses to offer an opt-out for its own marketing in the mail-in opt-out form must include one of the two following statements: “□ Do not share information about my creditworthiness with your affiliates for their everyday business purposes.”

(6) **Joint accountholder.** Only institutions that provide their joint accountholders the choice to opt out for only one accountholder, in accordance with paragraph C.3(a)(5) of these Instructions, must include the following statement: “If your account includes institutions that require customers to

(7) **Barcodes.** A financial institution may elect to include a barcode and/or “tagline” (an internal identifier) in 6-point font at the bottom of each page, as needed for information internal to the institution, so long as these do not interfere with the clarity or text of the form.
3. Page Two

(a) General Instructions for the Questions.

Certain of the Questions may be customized as follows:

(1) “Who is providing this notice?” This question may be omitted where only one financial institution provides the model form and that institution is clearly identified in the title on page one. Two or more financial institutions that jointly provide the model form must use this question to identify themselves as required by §313.9(f) of this part. Where the list of institutions exceeds four (4) lines, the institution must describe in the response to this question the general types and names of institutions jointly providing the notice and must separately identify those institutions, in minimum 8-point font, directly following the “Other important information” box, or, if that box is not included in the institution’s form, directly following the “Definitions.” The list may appear in a multi-column format.

(b) General Instructions for the Definitions.

The financial institution must customize the space below the responses to the three definitions in this section. This specific information must be in italicized lettering to set off the information from the standardized definitions.

(1) Affiliates. As required by §313.6(a)(3) of this part, where [affiliate information] appears, the financial institution must:

(i) If it does not share with nonaffiliated third parties, state: “[name of financial institution] has no affiliates”;

(ii) If it has affiliates but does not share personal information, state: “[name of financial institution] does not share with our affiliates”;

(iii) If it shares with its affiliates, state, as applicable: “Our affiliates include companies with a [common corporate identity of financial institution] name; financial companies such as [insert illustrative list of companies]; non-financial companies, such as [insert illustrative list of companies] and others, such as [insert illustrative list].”

(2) Nonaffiliates. As required by §313.6(c)(3) of this part, where [nonaffiliate information] appears, the financial institution must:

(i) If it does not share with nonaffiliated third parties, state: “[name of financial institution] does not share with nonaffiliates so they can market to you”;

(ii) If it shares with nonaffiliated third parties, state, as applicable: “Nonaffiliates we share with can include [list categories of companies such as mortgage companies, insurance companies, other entities]”.
companies, direct marketing companies, and nonprofit organizations]."

(3) Joint Marketing. As required by §313.13 of this part, where [joint marketing] appears, the financial institution must:
   (i) If it does not engage in joint marketing, state: "[name of financial institution] doesn’t jointly market"; or
   (ii) If it shares personal information for joint marketing, state, as applicable: "Our joint marketing partners include [list categories of companies such as credit card companies]."

(c) General instructions for the "Other important information" box. This box is optional. The space provided for information in this box is not limited. Only the following types of information can appear in this box:
   (1) State and/or international privacy law information; and/or
   (2) Acknowledgment of receipt form.

APPENDIX B TO PART 313—SAMPLE CLAUSES

This Appendix only applies to privacy notices provided before January 1, 2011. Financial institutions, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets and income, and information from a consumer reporting agency, may give rise to obligations under the Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A–1—Categories of Information You Collect (All Institutions)

You may use this clause, as applicable, to meet the requirement of §313.6(a)(1) to describe the categories of nonpublic personal information you collect.

Sample Clause A–1

We collect nonpublic personal information about you from the following sources:
   • Information we receive from you on applications or other forms;
   • Information about your transactions with us, our affiliates, or others; and
   • Information we receive from a consumer reporting agency.

A–2—Categories of Information You Disclose (Institutions That Disclose Outside of the Exceptions)

You may use one of these clauses, as applicable, to meet the requirement of §313.6(a)(2) to describe the categories of nonpublic personal information you disclose. You may use these clauses if you disclose nonpublic personal information other than as permitted by the exceptions in §§313.13, 313.14, and 313.15.

Sample Clause A–2, Alternative 1

We may disclose the following kinds of nonpublic personal information about you:
   • Information we receive from you on applications or other forms, such as [provide illustrative examples, such as "your name, address, social security number, assets, and income";]
   • Information about your transactions with us, our affiliates, or others, such as [provide illustrative examples, such as "your account balance, payment history, parties to transactions, and credit card usage";] and
   • Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as "your creditworthiness and credit history"].

Sample Clause A–2, Alternative 2

We may disclose all of the information that we collect, as described [describe location in the notice, such as "above" or "below"].

A–3—Categories of Information You Disclose and Parties to Whom You Disclose (Institutions That Do Not Disclose Outside of the Exceptions)

You may use this clause, as applicable, to meet the requirements of §§313.6(a)(2), (3), and (4) to describe the categories of nonpublic personal information about customers and former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose. You may use this clause if you do not disclose nonpublic personal information to any party, other than as permitted by the exceptions in §§313.14, and 313.15.

Sample Clause A–3

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

A–4—Categories of Parties to Whom You Disclose (Institutions That Disclose Outside of the Exceptions)

You may use this clause, as applicable, to meet the requirement of §313.6(a)(3) to describe the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information. You may use this clause if you disclose nonpublic personal information other than as permitted by the exceptions in §§313.13, 313.14, and 313.15, as well as when permitted by the exceptions in §§313.14, and 313.15.
Federal Trade Commission

Sample Clause A–4

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as “mortgage bankers, securities broker-dealers, and insurance agents”];
- Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and
- Others, such as [provide illustrative examples, such as “non-profit organizations”].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

A–5—Service Provider/Joint Marketing Exception

You may use one of these clauses, as applicable, to meet the requirements of §313.6(a)(5) related to the exception for service providers and joint marketers in §313.13. If you disclose nonpublic personal information under this exception, you must describe the categories of nonpublic personal information you disclose and the categories of third parties with whom you have contracted.

Sample Clause A–5, Alternative 1

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, and income”];
- Information about your transactions with us, our affiliates, or others, such as [provide illustrative examples, such as “your account balance, payment history, parties to transactions, and credit card usage”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A–5, Alternative 2

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below,”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A–6—Explanation of Opt Out Right (Institutions that Disclose Outside of the Exceptions)

You may use this clause, as applicable, to meet the requirement of §313.6(a)(6) to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. You may use this clause if you disclose nonpublic personal information other than as permitted by the exceptions in §§313.13, 313.14, and 313.15.

Sample Clause A–6

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)”].

A–7—Confidentiality and Security (All Institutions)

You may use this clause, as applicable, to meet the requirement of §313.6(a)(8) to describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A–7

We restrict access to nonpublic personal information about you to [provide an appropriate description, such as “those employees who need to know that information to perform the product or service that you obtain”]. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.


EFFECTIVE DATE NOTE: At 74 FR 62974, Dec. 1, 2009, appendix H to part 313 was removed, effective Jan. 1, 2012.

PART 314—STANDARDS FOR SAFE-GUARDING CUSTOMER INFORMATION

Sec.
314.1 Purpose and scope.
314.2 Definitions.
314.3 Standards for safeguarding customer information.
314.4 Elements.
314.5 Effective date.


SOURCE: 67 FR 36493, May 23, 2002, unless otherwise noted.
§ 314.1 Purpose and scope.

(a) Purpose. This part, which implements sections 501 and 505(b)(2) of the Gramm-Leach-Bliley Act, sets forth standards for developing, implementing, and maintaining reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information.

(b) Scope. This part applies to the handling of customer information by all financial institutions over which the Federal Trade Commission ("FTC" or "Commission") has jurisdiction. This part refers to such entities as "you." This part applies to all customer information in your possession, regardless of whether such information pertains to individuals with whom you have a customer relationship, or pertains to the customers of other financial institutions that have provided such information to you.

§ 314.2 Definitions.

(a) In general. Except as modified by this part or unless the context otherwise requires, the terms used in this part have the same meaning as set forth in the Commission’s rule governing the Privacy of Consumer Financial Information, 16 CFR part 313.

(b) Customer information means any record containing nonpublic personal information as defined in 16 CFR 313.3(n), about a customer of a financial institution, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of you or your affiliates.

(c) Information security program means the administrative, technical, or physical safeguards you use to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.

(d) Service provider means any person or entity that receives, maintains, processes, or otherwise is permitted access to customer information through its provision of services directly to a financial institution that is subject to this part.

§ 314.3 Standards for safeguarding customer information.

(a) Information security program. You shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to your size and complexity, the nature and scope of your activities, and the sensitivity of any customer information at issue. Such safeguards shall include the elements set forth in §314.4 and shall be reasonably designed to achieve the objectives of this part, as set forth in paragraph (b) of this section.

(b) Objectives. The objectives of section 501(b) of the Act, and of this part, are to:

(1) Insure the security and confidentiality of customer information;

(2) Protect against any anticipated threats or hazards to the security or integrity of such information; and

(3) Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

§ 314.4 Elements.

In order to develop, implement, and maintain your information security program, you shall:

(a) Designate an employee or employees to coordinate your information security program.

(b) Identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks. At a minimum, such a risk assessment should include consideration of risks in each relevant area of your operations, including:

(1) Employee training and management;

(2) Information systems, including network and software design, as well as information processing, storage, transmission and disposal; and

(3) Detecting, preventing and responding to attacks, intrusions, or other systems failures.

(c) Design and implement information safeguards to control the risks you identify through risk assessment,
§ 315.2

and regularly test or otherwise monitor the effectiveness of the safeguards’ key controls, systems, and procedures.

(d) Oversee service providers, by:

(1) Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue; and

(2) Requiring your service providers by contract to implement and maintain such safeguards.

(e) Evaluate and adjust your information security program in light of the results of the testing and monitoring required by paragraph (c) of this section; any material changes to your operations or business arrangements; or any other circumstances that you know or have reason to know may have a material impact on your information security program.

§ 314.5 Effective date.

(a) Each financial institution subject to the Commission’s jurisdiction must implement an information security program pursuant to this part no later than May 23, 2003.

(b) Two-year grandfathering of service contracts. Until May 24, 2004, a contract you have entered into with a nonaffiliated third party to perform services for you or functions on your behalf satisfies the provisions of §314.4(d), even if the contract does not include a requirement that the service provider maintain appropriate safeguards, as long as you entered into the contract not later than June 24, 2002.
or, in the case of a renewal prescription, ends when the prescriber determines that no change in the existing prescription is required, and such term may include:

(1) An examination to determine lens specifications;
(2) Except in the case of a renewal of a contact lens prescription, an initial evaluation of the fit of the contact lens on the eye; and
(3) Medically necessary follow-up examinations.

**Contact lens prescription** means a prescription, issued in accordance with State and Federal law, that contains sufficient information for the complete and accurate filling of a prescription for contact lenses, including the following:

(1) The name of the patient;
(2) The date of examination;
(3) The issue date and expiration date of prescription;
(4) The name, postal address, telephone number, and facsimile telephone number of prescriber;
(5) The power, material or manufacturer or both of the prescribed contact lens;
(6) The base curve or appropriate designation of the prescribed contact lens;
(7) The diameter, when appropriate, of the prescribed contact lens; and
(8) In the case of a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of equivalent brand name.

**Direct communication** means completed communication by telephone, facsimile, or electronic mail.

**Issue date** means the date on which the patient receives a copy of the prescription at the completion of a contact lens fitting.

**Ophthalmic goods** are contact lenses, eyeglasses, or any component of eyeglasses.

**Ophthalmic services** are the measuring, fitting, and adjusting of ophthalmic goods subsequent to an eye examination.

**Prescriber** means, with respect to contact lens prescriptions, an ophthalmologist, optometrist, or other person permitted under State law to issue prescriptions for contact lenses in compliance with any applicable requirements established by the Food and Drug Administration. “Other person,” for purposes of this definition, includes a dispensing optician who is permitted under State law to issue prescriptions and who is authorized or permitted under State law to perform contact lens fitting services.

**Private label contact lenses** mean contact lenses that are sold under the label of a seller where the contact lenses are identical to lenses made by the same manufacturer but sold under the labels of other sellers.

§ 315.3 Availability of contact lens prescriptions to patients.

(a) In general. When a prescriber completes a contact lens fitting, the prescriber:

(1) Whether or not requested by the patient, shall provide to the patient a copy of the contact lens prescription; and

(2) Shall, as directed by any person designated to act on behalf of the patient, provide or verify the contact lens prescription by electronic or other means.

(b) Limitations. A prescriber may not:

(1) Require the purchase of contact lenses from the prescriber or from another person as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section;

(2) Require payment in addition to, or as part of, the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section; or

(3) Require the patient to sign a waiver or release as a condition of releasing or verifying a prescription under paragraph (a)(1) or (a)(2) of this section.

§ 315.4 Limits on requiring immediate payment.

A prescriber may require payment of fees for an eye examination, fitting, and evaluation before the release of a contact lens prescription, but only if
the prescriber requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods. For purposes of the preceding sentence, presentation of proof of insurance coverage for that service shall be deemed to be a payment.

§ 315.5 Prescriber verification.

(a) Prescription requirement. A seller may sell contact lenses only in accordance with a contact lens prescription for the patient that is:

(1) Presented to the seller by the patient or prescriber directly or by facsimile; or

(2) Verified by direct communication.

(b) Information for verification. When seeking verification of a contact lens prescription, a seller shall provide the prescriber with the following information through direct communication:

(1) The patient’s full name and address;

(2) The contact lens power, manufacturer, base curve or appropriate designation, and diameter when appropriate;

(3) The quantity of lenses ordered;

(4) The date of patient request;

(5) The date and time of verification request;

(6) The name of a contact person at the seller’s company, including facsimile and telephone numbers; and

(7) If the seller opts to include the prescriber’s regular business hours on Saturdays as “business hours” for purposes of paragraph (c)(3) of this section, a clear statement of the prescriber’s regular Saturday business hours.

(c) Verification events. A prescription is verified under paragraph (a)(2) of this section only if one of the following occurs:

(1) The prescriber confirms the prescription is accurate by direct communication with the seller;

(2) The prescriber informs the seller through direct communication that the prescription is inaccurate and provides the accurate prescription; or

(3) The prescriber fails to communicate with the seller within eight (8) business hours after receiving from the seller the information described in paragraph (b) of this section. During these eight (8) business hours, the seller shall provide a reasonable opportunity for the prescriber to communicate with the seller concerning the verification request.

(d) Invalid prescription. If a prescriber informs a seller before the deadline under paragraph (c)(3) of this section that the contact lens prescription is inaccurate, expired, or otherwise invalid, the seller shall not fill the prescription. The prescriber shall specify the basis for the inaccuracy or invalidity of the prescription. If the prescription communicated by the seller to the prescriber is inaccurate, the prescriber shall correct it, and the prescription shall then be deemed verified under paragraph (c)(2) of this section.

(e) No alteration of prescription. A seller may not alter a contact lens prescription. Notwithstanding the preceding sentence, a seller may substitute for private label contact lenses specified on a prescription identical contact lenses that the same company manufactures and sells under different labels.

(f) Recordkeeping requirement—verification requests. A seller shall maintain a record of all direct communications referred to in paragraph (a) of this section. Such record shall consist of the following:

(1) For prescriptions presented to the seller: the prescription itself, or the facsimile version thereof (including an email containing a digital image of the prescription), that was presented to the seller by the patient or prescriber.

(2) For verification requests by the seller:

(i) If the communication occurs via facsimile or e-mail, a copy of the verification request, including the information provided to the prescriber pursuant to paragraph (b) of this section, and confirmation of the completed transmission thereof (including an email containing a digital image of the prescription), that was presented to the seller by the patient or prescriber.

(ii) For verification requests by the seller:

(A) If the communication occurs via telephone, a log:

(1) Describing the information provided pursuant to paragraph (b) of this section,

(B) Setting forth the date and time the request was made,

(C) Indicating how the call was completed, and
§ 315.6 Listing the names of the individuals who participated in the call.

(3) For communications from the prescriber, including prescription verifications:
   (i) If the communication occurs via facsimile or e-mail, a copy of the communication and a record of the time and date it was received;
   (ii) If the communication occurs via telephone, a log describing the information communicated, the date and time that the information was received, and the names of the individuals who participated in the call.

(4) The records required to be maintained under this section shall be maintained for a period of not less than three years, and these records must be available for inspection by the Federal Trade Commission, its employees, and its representatives.

(g) Recordkeeping requirement—Saturday business hours. A seller that exercises its option to include a prescriber's regular Saturday business hours in the time period for verification specified in §315.5(c)(3) shall maintain a record of the prescriber's regular Saturday business hours and the basis for the seller's actual knowledge thereof. Such records shall be maintained for a period of not less than three years, and these records must be available for inspection by the Federal Trade Commission, its employees, and its representatives.

§ 315.6 Expiration of contact lens prescriptions.

(a) In general. A contact lens prescription shall expire:
   (1) On the date specified by the law of the State in which the prescription was written, if that date is one year or more after the issue date of the prescription;
   (2) Not less than one year after the issue date of the prescription if such State law specifies no date or specifies a date that is less than one year after the issue date of the prescription; or
   (3) Notwithstanding paragraphs (a)(1) and (a)(2) of this section, on the date specified by the prescriber, if that date is based on the medical judgment of the prescriber with respect to the ocular health of the patient.

(b) Special rules for prescriptions of less than one year. (1) If a prescription expires in less than one year, the specific reasons for the medical judgment referred to in paragraph (a)(3) of this section shall be documented in the patient's medical record with sufficient detail to allow for review by a qualified professional in the field.
   (2) The documentation described in the paragraph above shall be maintained for a period of not less than three years, and it must be available for inspection by the Federal Trade Commission, its employees, and its representatives.
   (3) No prescriber shall include an expiration date on a prescription that is less than the period of time that he or she recommends for a reexamination of the patient that is medically necessary.

§ 315.7 Content of advertisements and other representations.

Any person who engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses may not represent, by advertisement, sales presentation, or otherwise, that contact lenses may be obtained without a prescription.

§ 315.8 Prohibition of certain waivers.

A prescriber may not place on a prescription, or require the patient to sign, or deliver to the patient, a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination. The preceding sentence does not impose liability on a prescriber for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's correctly verified prescription.

§ 315.9 Enforcement.

Any violation of this Rule shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, regarding unfair or deceptive acts or practices, and the Commission will enforce this Rule in the same manner, by the same means, and with the same jurisdiction, powers, and duties as are available to it pursuant to the Federal Trade Commission Act, 15 U.S.C. 41 et seq.
§ 315.10 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

§ 315.11 Effect on state and local laws.

(a) State and local laws and regulations that establish a prescription expiration date of less than one year or that restrict prescription release or require active verification are preempted.

(b) Any other State or local laws or regulations that are inconsistent with the Act or this part are preempted to the extent of the inconsistency.

PART 316—CAN-SPAM RULE

Sec. 316.1 Scope.
316.2 Definitions.
316.3 Primary purpose.
316.4 Requirement to place warning labels on commercial electronic mail that contains sexually oriented material.
316.5 Prohibition on charging a fee or imposing other requirements on recipients who wish to opt out.
316.6 Severability.


SOURCE: 73 FR 29677, May 21, 2008, unless otherwise noted.

§ 316.1 Scope.


§ 316.2 Definitions.

(a) The definition of the term “affirmative consent” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(1).


(c) The definition of the term “commercial electronic mail message” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(2).

(d) The definition of the term “electronic mail address” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(5).

(e) The definition of the term “electronic mail message” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(6).

(f) The definition of the term “initiate” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(9).

(g) The definition of the term “Internet” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(10).

(h) “Person” means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(i) The definition of the term “procure” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(12).

(j) The definition of the term “protected computer” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(13).

(k) The definition of the term “recipient” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(14).

(l) The definition of the term “routine conveyance” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(15).

(m) The definition of the term “sender” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(16), provided that, when more than one person’s products, services, or Internet website are advertised or promoted in a single electronic mail message, each such person who is within the Act’s definition will be deemed to be a “sender,” except that, only one person will be deemed to be the “sender” of that message if such person: (A) is within the Act’s definition of “sender”; (B) is identified in the “from” line as the sole sender of the message; and (C) is in compliance with 15 U.S.C. 7704(a)(1), 15 U.S.C. 7704(a)(2), 15 U.S.C. 7704(a)(3)(A)(i), 15 U.S.C. 7704(a)(5)(A), and 16 CFR 316.4.

(n) The definition of the term “sexually oriented material” is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(1).
§ 316.3 Primary purpose.

(a) In applying the term “commercial electronic mail message” defined in the CAN-SPAM Act, 15 U.S.C. 7702(2), the “primary purpose” of an electronic mail message shall be deemed to be commercial based on the criteria in paragraphs (a)(1) through (3) and (b) of this section: 1

(1) If an electronic mail message consists exclusively of the commercial advertisement or promotion of a commercial product or service, then the “primary purpose” of the message shall be deemed to be commercial.

(2) If an electronic mail message contains both the commercial advertisement or promotion of a commercial product or service as well as transactional or relationship content as set forth in paragraph (c) of this section, then the “primary purpose” of the message shall be deemed to be commercial if:

(i) A recipient reasonably interpreting the subject line of the electronic mail message would likely conclude that the message contains the commercial advertisement or promotion of a commercial product or service; or

(ii) A recipient reasonably interpreting the body of the message would likely conclude that the primary purpose of the message is the commercial advertisement or promotion of a commercial product or service, in whole or in substantial part, at the beginning of the body of the message; the proportion of the message dedicated to such content; and how color, graphics, type size, and style are used to highlight commercial content.

(b) In applying the term “transactional or relationship message” defined in the CAN-SPAM Act, 15 U.S.C. 7702(17), the “primary purpose” of an electronic mail message shall be deemed to be transactional or relationship if the electronic mail message consists exclusively of transactional or relationship content as set forth in paragraph (c) of this section.

(c) Transactional or relationship content of email messages under the CAN-SPAM Act is content:

(1) To facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(2) To provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(3) With respect to a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender, to provide —

1 The Commission does not intend for these criteria to treat as a “commercial electronic mail message” anything that is not commercial speech.
§ 316.4 Requirement to place warning labels on commercial electronic mail that contains sexually oriented material.

(a) Any person who initiates, to a protected computer, the transmission of a commercial electronic mail message that includes sexually oriented material must:

(1) Exclude sexually oriented materials from the subject heading for the electronic mail message and include in the subject heading the phrase “SEXUALLY-EXPLICIT: ” in capital letters as the first nineteen (19) characters at the beginning of the subject line;²

(2) Provide that the content of the message that is initially viewable by the recipient, when the message is opened by any recipient and absent any further actions by the recipient, include only the following information:

(i) The phrase “SEXUALLY-EXPLICIT: ” in a clear and conspicuous manner;³

(ii) Clear and conspicuous identification that the message is an advertisement or solicitation;

(iii) Clear and conspicuous notice of the opportunity of a recipient to decline to receive further commercial electronic mail messages from the sender;

(iv) A functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that

(A) A recipient may use to submit, in a manner specified in the message, a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from that sender at the electronic mail address where the message was received; and

(B) Remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message;

(v) Clear and conspicuous display of a valid physical postal address of the sender; and

(vi) Any needed instructions on how to access, or activate a mechanism to access, the sexually oriented material, preceded by a clear and conspicuous statement that to avoid viewing the sexually oriented material, a recipient should delete the email message without following such instructions.

(b) Prior affirmative consent. Paragraph (a) does not apply to the transmission of an electronic mail message if the recipient has given prior affirmative consent to receipt of the message.

§ 316.5 Prohibition on charging a fee or imposing other requirements on recipients who wish to opt out.

Neither a sender nor any person acting on behalf of a sender may require that any recipient pay any fee, provide any information other than the recipient’s electronic mail address and opt-out preferences, or take any other steps except sending a reply electronic mail message or visiting a single Internet Web page, in order to:

(a) Use a return electronic mail address or other Internet-based mechanism, required by 15 U.S.C. 7704(a)(3), to submit a request not to receive future commercial electronic mail messages from a sender; or

(b) Have such a request honored as required by 15 U.S.C. 7704(a)(3)(B) and (a)(4).

²The phrase “SEXUALLY-EXPLICIT” comprises 17 characters, including the dash between the two words. The colon (:) and the space following the phrase are the 18th and 19th characters.

³This phrase consists of nineteen (19) characters and is identical to the phrase required in §316.5(a)(1) of this Rule.
§ 316.6 Severability.

The provisions of this Part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

PART 317—PROHIBITION OF ENERGY MARKET MANIPULATION RULE

Sec. 317.1 Scope.
317.2 Definitions.
317.3 Prohibited practices.
317.4 Preemption.
317.5 Severability.


SOURCE: 74 FR 40701, Aug. 12, 2009, unless otherwise noted.

§ 317.1 Scope.


§ 317.2 Definitions.

The following definitions shall apply throughout this Rule:

(a) Crude oil means any mixture of hydrocarbons that exists:

(1) In liquid phase in natural underground reservoirs and that remains liquid at atmospheric pressure after passing through separating facilities; or

(2) As shale oil or tar sands requiring further processing for sale as a refinery feedstock.

(b) Gasoline means:

(1) Finished gasoline, including, but not limited to, conventional, reformulated, and oxygenated blends; and

(2) Conventional and reformulated gasoline blendstock for oxygenate blending.

(c) Knowingly means that the person knew or must have known that his or her conduct was fraudulent or deceptive.

(d) Person means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(e) Petroleum distillates means:

(1) Jet fuels, including, but not limited to, all commercial and military specification jet fuels; and

(2) Diesel fuels and fuel oils, including, but not limited to, No. 1, No. 2, and No. 4 diesel fuel, and No. 1, No. 2, and No. 4 fuel oil.

(f) Wholesale means:

(1) All purchases or sales of crude oil or jet fuel; and

(2) All purchases or sales of gasoline or petroleum distillates (other than jet fuel) at the terminal rack or upstream of the terminal rack level.

§ 317.3 Prohibited practices.

It shall be unlawful for any person, directly or indirectly, in connection with the purchase or sale of crude oil, gasoline, or petroleum distillates at wholesale, to:

(a) Knowingly engage in any act, practice, or course of business—including the making of any untrue statement of material fact—that operates or would operate as a fraud or deceit upon any person; or

(b) Intentionally fail to state a material fact that under the circumstances renders a statement made by such person misleading, provided that such omission distorts or is likely to distort market conditions for any such product.

§ 317.4 Preemption.

The Federal Trade Commission does not intend, through the promulgation of this Rule, to preempt the laws of any state or local government, except to the extent that any such law conflicts with this Rule. A law is not in conflict with this Rule if it affords equal or greater protection from the prohibited practices set forth in § 317.3.

§ 317.5 Severability.

The provisions of this Rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.
§ 318.1 Purpose and scope.
(a) This part, which shall be called the “Health Breach Notification Rule,” implements section 13407 of the American Recovery and Reinvestment Act of 2009. It applies to foreign and domestic vendors of personal health records, PHR related entities, and third party service providers, irrespective of any jurisdictional tests in the Federal Trade Commission (FTC) Act, that maintain information of U.S. citizens or residents. It does not apply to HIPAA-covered entities, or to any other entity to the extent that it engages in activities as a business associate of a HIPAA-covered entity.
(b) This part preempts state law as set forth in section 13421 of the American Recovery and Reinvestment Act of 2009.

§ 318.2 Definitions.
(a) Breach of security means, with respect to unsecured PHR identifiable health information of an individual in a personal health record, acquisition of such information without the authorization of the individual. Unauthorized acquisition will be presumed to include unauthorized access to unsecured PHR identifiable health information unless the vendor of personal health records, PHR related entity, or third party service provider that experienced the breach has reliable evidence showing that there has not been, or could not reasonably have been, unauthorized acquisition of such information.
(b) Business associate means a business associate under the Health Insurance Portability and Accountability Act, Public Law 104-191, 110 Stat. 1936, as defined in 45 CFR 160.103.
(c) HIPAA-covered entity means a covered entity under the Health Insurance Portability and Accountability Act, Public Law 104-191, 110 Stat. 1936, as defined in 45 CFR 160.103.
(d) Personal health record means an electronic record of PHR identifiable health information on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or primarily for the individual.
(e) PHR identifiable health information means “individually identifiable health information,” as defined in section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)), and, with respect to an individual, information:
(1) That is provided by or on behalf of the individual; and
(2) That identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
(f) PHR related entity means an entity, other than a HIPAA-covered entity or an entity to the extent that it engages in activities as a business associate of a HIPAA-covered entity, that:
(1) Offers products or services through the Web site of a vendor of personal health records;
(2) Offers products or services through the Web sites of HIPAA-covered entities that offer individuals personal health records; or
(3) Accesses information in a personal health record or sends information to a personal health record.
(g) State means any of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.
(h) Third party service provider means an entity that:
(1) Provides services to a vendor of personal health records in connection with the offering or maintenance of a personal health record or to a PHR related entity in connection with a product or service offered by that entity; and
(2) Accesses, maintains, retains, modifies, records, stores, destroys, or
§ 318.3 Breach notification requirement.

(a) In general. In accordance with §§318.4, 318.5, and 318.6, each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each PHR related entity, following the discovery of a breach of security of such information that is obtained through a product or service provided by such entity, shall:

(1) Notify each individual who is a citizen or resident of the United States whose unsecured PHR identifiable health information was acquired by an unauthorized person as a result of such breach of security; and

(2) Notify the Federal Trade Commission.

(b) Third party service providers. A third party service provider shall, following the discovery of a breach of security, provide notice of the breach to an official designated in a written contract by the vendor of personal health records or the PHR related entity to receive such notice or, if such a designation is not made, to a senior official at the vendor of personal health records or PHR related entity to which it provides services, and obtain acknowledgment from such official that such notice was received. Such notification shall include the identification of each customer of the vendor of personal health records or PHR related entity whose unsecured PHR identifiable health information has been, or is reasonably believed to have been, acquired during such breach. For purposes of ensuring implementation of this requirement, vendors of personal health records and PHR related entities shall notify third party service providers of their status as vendors of personal health records or PHR related entities subject to this Part.

(c) Breaches treated as discovered. A breach of security shall be treated as discovered as of the first day on which such breach is known or reasonably should have been known to the vendor of personal health records, PHR related entity, or third party service provider, respectively. Such vendor, entity, or third party service provider shall be deemed to have knowledge of a breach if such breach is known, or reasonably should have been known, to any person, other than the person committing the breach, who is an employee, officer, or other agent of such vendor of personal health records, PHR related entity, or third party service provider.

§ 318.4 Timeliness of notification.

(a) In general. Except as provided in paragraph (c) of this section and §318.5(c), all notifications required under §§318.3(a)(1), 318.3(b), and 318.5(b) shall be sent without unreasonable delay and in no case later than 60 calendar days after the discovery of a breach of security.

(b) Burden of proof. The vendor of personal health records, PHR related entity, and third party service provider involved shall have the burden of demonstrating that all notifications were made as required under this Part, including evidence demonstrating the necessity of any delay.

(c) Law enforcement exception. If a law enforcement official determines that a notification, notice, or posting required under this Part would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed. This paragraph shall be implemented in the same manner as provided under 45 CFR 164.528(a)(2), in the case of a disclosure covered under such section.
§ 318.5 Methods of notice.

(a) Individual notice. A vendor of personal health records or PHR related entity that discovers a breach of security shall provide notice of such breach to an individual promptly, as described in §318.4, and in the following form:

(1) Written notice, by first-class mail to the individual at the last known address of the individual, or by email, if the individual is given a clear, conspicuous, and reasonable opportunity to receive notification by first-class mail, and the individual does not exercise that choice. If the individual is deceased, the vendor of personal health records or PHR related entity that discovered the breach must provide such notice to the next of kin of the individual if the individual had provided contact information for his or her next of kin, along with authorization to contact them. The notice may be provided in one or more mailings as information is available.

(2) If, after making reasonable efforts to contact all individuals to whom notice is required under §318.3(a), through the means provided in paragraph (a)(1) of this section, the vendor of personal health records or PHR related entity finds that contact information for ten or more individuals is insufficient or out-of-date, the vendor of personal health records or PHR related entity shall provide substitute notice, which shall be reasonably calculated to reach the individuals affected by the breach, in the following form:

(i) Through a conspicuous posting for a period of 90 days on the home page of its Web site; or

(ii) In major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting shall include a toll-free phone number, which shall remain active for at least 90 days, where an individual can learn whether or not the individual's unsecured PHR identifiable health information may be included in the breach.

(3) In any case deemed by the vendor of personal health records or PHR related entity to require urgency because of possible imminent misuse of unsecured PHR identifiable health information, that entity may provide information to individuals by telephone or other means, as appropriate, in addition to notice provided under paragraph (a)(1) of this section.

(b) Notice to media. A vendor of personal health records or PHR related entity shall provide notice to prominent media outlets serving a State or jurisdiction, following the discovery of a breach of security, if the unsecured PHR identifiable health information of 500 or more residents of such State or jurisdiction is, or is reasonably believed to have been, acquired during such breach.

(c) Notice to FTC. Vendors of personal health records and PHR related entities shall provide notice to the Federal Trade Commission following the discovery of a breach of security. If the breach involves the unsecured PHR identifiable health information of 500 or more individuals, the vendor of personal health records or PHR related entity may maintain a log of any such breach, and submit such a log annually to the Federal Trade Commission no later than 60 calendar days following the end of the calendar year, documenting breaches from the preceding calendar year. All notices pursuant to this paragraph shall be provided according to instructions at the Federal Trade Commission's Web site.

§ 318.6 Content of notice.

Regardless of the method by which notice is provided to individuals under §318.5 of this part, notice of a breach of security shall be in plain language and include, to the extent possible, the following:

(a) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;

(b) A description of the types of unsecured PHR identifiable health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code);
§ 318.7 Enforcement.

A violation of this part shall be treated as an unfair or deceptive act or practice in violation of a regulation under § 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

§ 318.8 Effective date.

This part shall apply to breaches of security that are discovered on or after September 24, 2009.

§ 318.9 Sunset.

If new legislation is enacted establishing requirements for notification in the case of a breach of security that apply to entities covered by this part, the provisions of this part shall not apply to breaches of security discovered on or after the effective date of regulations implementing such legislation.

PART 320—DISCLOSURE REQUIREMENTS FOR DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE

320.1 Scope.
320.2 Definitions.
320.3 Disclosures in periodic statements and account records.
320.4 Disclosures in advertising and on the premises.
320.5 Disclosure acknowledgment.
320.6 Exception for certain depository institutions.
320.7 Enforcement.


SOURCE: 75 FR 31687, June 4, 2010, unless otherwise noted.
§ 320.4 Disclosures in advertising and on the premises.

(a) Required disclosures. Each depository institution lacking federal deposit insurance must include a clear and conspicuous notice disclosing that the institution is not federally insured:

(1) At each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page; and

(2) In all advertisements except as provided in paragraph (c) of this section.

(b) Format and type size. The disclosures required by this section must be clear and conspicuous and presented in a simple and easy to understand format, type size, and manner.

(c) Exceptions. The following need not include a notice that the institution is not federally insured:

(1) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution’s products or services or information otherwise promoting the institution; and

(2) Small utilitarian items that do not mention deposit products or insurance, if inclusion of the notice would be impractical.

§ 320.5 Disclosure acknowledgment.

(a) New depositors obtained other than through a conversion or merger. With respect to any depositor who was not a depositor at the depository institution on or before October 13, 2006, and who is not a depositor as described in paragraph (b) of this section, a depository institution lacking federal deposit insurance may receive a deposit for the account of such depositor only if:

(1) The institution has obtained the depositor’s signed written acknowledgement described in paragraph (a) of this section; or

(2) The institution makes an attempt, sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgement. In making such an attempt, the institution must transmit to each depositor who has not signed and returned a written acknowledgement described in paragraph (a) of this section:

(i) A conspicuous card containing the information described in paragraphs (a)(1) and (a)(2) of this section, and a line for the signature of the depositor; and

(ii) Accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

(b) New depositors obtained through a conversion or merger. With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking federal deposit insurance after October 13, 2006, a depository institution lacking federal deposit insurance may receive a deposit for the account of such depositor only if:

(1) The institution has obtained the depositor’s signed written acknowledgement described in paragraph (a) of this section; or

(2) The institution makes an attempt, sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgement. In making such an attempt, the institution must transmit to each depositor who has not signed and returned a written acknowledgement described in paragraph (a) of this section:

(i) A conspicuous card containing the information described in paragraphs (a)(1) and (a)(2) of this section, and a line for the signature of the depositor; and

(ii) Accompanying materials requesting that the depositor sign the card.

(c) Depositors obtained on or before October 13, 2006. Any depository institution lacking federal deposit insurance may receive any deposit after October 13, 2006, for the account of a depositor who was a depositor on or before that date only if:

(1) The depositor has signed a written acknowledgement described in paragraph (a) of this section; or

(2) The institution has transmitted to the depositor:

(i) A conspicuous card containing the information described in paragraphs (a)(1) and (a)(2) of this section, and a line for the signature of the depositor; and

(ii) Accompanying materials requesting that the depositor sign the card.
§ 320.6 Exception for certain depository institutions.

The requirements of this part do not apply to any depository institution lacking federal deposit insurance and located within the United States that does not receive initial deposits of less than an amount equal to the standard maximum deposit insurance amount from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

§ 320.7 Enforcement.

Compliance with the requirements of this part shall be enforced under the Federal Trade Commission Act, 15 U.S.C. 41 et seq.

PART 322—MORTGAGE ASSISTANCE RELIEF SERVICES

Sec.
322.1 Scope of regulations in this part.
322.2 Definitions.
322.3 Prohibited representations.
322.4 Disclosures required in commercial communications.
322.5 Prohibition on collection of advance payments and related disclosures.
322.6 Assisting and facilitating.
322.7 Exemptions.
322.8 Waiver not permitted.
322.9 Recordkeeping and compliance requirements.
322.10 Actions by states.
322.11 Severability.


SOURCE: 75 FR 75140, Dec. 1, 2010, unless otherwise noted.

§ 322.1 Scope of regulations in this part.


§ 322.2 Definitions.

For the purposes of this part:

(a) “Clear and prominent” means:

(1) In textual communications, the required disclosures shall be easily readable; in a high degree of contrast from the immediate background on which it appears; in the same languages that are substantially used in the commercial communication; in a format so that the disclosure is distinct from other text, such as inside a border; in a distinct type style, such as bold; parallel to the base of the commercial communication, and, except as otherwise provided in this rule, each letter of the disclosure shall be, at a minimum, the larger of 12-point type or one-half the size of the largest letter or numeral used in the name of the advertised website or telephone number to which consumers are referred to receive information relating to any mortgage assistance relief service. Textual communications include any communications in a written or printed form such as print publications or words displayed on the screen of a computer;

(2) In communications disseminated orally or through audible means, such as radio or streaming audio, the required disclosures shall be delivered in a slow and deliberate manner and in a reasonably understandable volume and pitch;

(3) In communications disseminated through video means, such as television or streaming video, the required
disclosures shall appear simultaneously in the audio and visual parts of the commercial communication and be delivered in a manner consistent with paragraphs (a)(1) and (2) of this section. The visual disclosure shall be at least four percent of the vertical picture or screen height and appear for the duration of the oral disclosure;

(4) In communications made through interactive media, such as the Internet, online services, and software, the required disclosures shall:

(i) Be consistent with paragraphs (a)(1) through (3) of this section;

(ii) Be made on, or immediately prior to, the page on which the consumer takes any action to incur any financial obligation;

(iii) Be unavoidable, i.e., visible to consumers without requiring them to scroll down a webpage; and

(iv) Appear in type at least the same size as the largest character of the advertisement;

(5) In all instances, the required disclosures shall be presented in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication of them; and

(6) For program-length television, radio, or Internet-based multi-media commercial communications, the required disclosures shall be made at the beginning, near the middle, and at the end of the commercial communication.

(b) "Client trust account" means a separate account created by a licensed attorney for the purpose of holding client funds, which is:

(1) Maintained in compliance with all applicable state laws and regulations, including licensing regulations; and

(2) Located in the state where the attorney’s office is located, or elsewhere in the United States with the consent of the consumer on whose behalf the funds are held.

(c) "Commercial communication" means any written or oral statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in purchasing any service, plan, or program, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, onhold script, upsell script, training materials provided to telemarketing firms, program-length commercial ("infomercial"), the Internet, cellular network, or any other medium. Promotional materials and items and Web pages are included in the term "commercial communication."

(1) “General Commercial Communication” means a commercial communication that occurs prior to the consumer agreeing to permit the provider to seek offers of mortgage assistance relief on behalf of the consumer, or otherwise agreeing to use the mortgage assistance relief service, and that is not directed at a specific consumer.

(2) “Consumer-Specific Commercial Communication” means a commercial communication that occurs prior to the consumer agreeing to permit the provider to seek offers of mortgage assistance relief on behalf of the consumer, or otherwise agreeing to use the mortgage assistance relief service, and that is directed at a specific consumer.

(d) "Consumer" means any natural person who is obligated under any loan secured by a dwelling.

(e) “Dwelling” means a residential structure containing four or fewer units, whether or not that structure is attached to real property, that is primarily for personal, family, or household purposes. The term includes any of the following if used as a residence: an individual condominium unit, cooperative unit, mobile home, manufactured home, or trailer.

(f) “Dwelling loan” means any loan secured by a dwelling, and any associated deed of trust or mortgage.

(g) “Dwelling Loan Holder” means any individual or entity who holds the dwelling loan that is the subject of the offer to provide mortgage assistance relief services.

(h) “Material” means likely to affect a consumer’s choice of, or conduct regarding, any mortgage assistance relief service.
§ 322.3 Prohibited representations.

It is a violation of this rule for any mortgage assistance relief service provider to engage in the following conduct:

(a) Representing, expressly or by implication, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, that a consumer cannot or should not contact or communicate with his or her lender or servicer.

(b) Misrepresenting, expressly or by implication, any material aspect of any mortgage assistance relief service, including but not limited to:

(1) The likelihood of negotiating, obtaining, or arranging any represented service or result, such as those set forth in §322.2(i);

(2) The amount of time it will take the mortgage assistance relief service provider to accomplish any represented service or result, such as those set forth in §322.2(i);

(3) That a mortgage assistance relief service is affiliated with, endorsed or provided to the consumer in exchange for consideration, that is represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

(1) Stopping, preventing, or postponing any mortgage or deed of trust foreclosure sale for the consumer’s dwelling, any repossession of the consumer’s dwelling, or otherwise saving the consumer’s dwelling from foreclosure or repossession;

(2) Negotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees;

(3) Obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan;

(4) Negotiating, obtaining, or arranging any extension of the period of time within which the consumer may:
   (i) Cure his or her default on a dwelling loan,
   (ii) Reinstate his or her dwelling loan,
   (iii) Redeem a dwelling, or
   (iv) Exercise any right to reinstate a dwelling loan or redeem a dwelling;

(5) Obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling; or

(6) Negotiating, obtaining or arranging:
   (i) A short sale of a dwelling,
   (ii) A deed-in-lieu of foreclosure, or
   (iii) Any other disposition of a dwelling other than a sale to a third party who is not the dwelling loan holder.

(j) “Mortgage Assistance Relief Service Provider” or “Provider” means any person that provides, offers to provide, or arranges for others to provide, any mortgage assistance relief service. This term does not include:

(1) The dwelling loan holder, or any agent or contractor of such individual or entity.

(2) The servicer of a dwelling loan, or any agent or contractor of such individual or entity.

(k) “Person” means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity, except to the extent that any person is specifically excluded from the Federal Trade Commission’s jurisdiction pursuant to 15 U.S.C. 44 and 45(a)(2).

(l) “Servicer” means the individual or entity responsible for:

(1) Receiving any scheduled periodic payments from a consumer pursuant to the terms of the dwelling loan that is the subject of the offer to provide mortgage assistance relief services, including amounts for escrow accounts under section 10 of the Real Estate Settlement Procedures Act (12 U.S.C. 2609); and

(2) Making the payments of principal and interest and such other payments with respect to the amounts received from the consumer as may be required pursuant to the terms of the mortgage servicing loan documents or servicing contract.

(m) “Telemarketing” means a plan, program, or campaign which is conducted to induce the purchase of any service, by use of one or more telephones and which involves more than one interstate telephone call.
§ 322.4 Disclosures required in commercial communications.

It is a violation of this rule for any mortgage assistance relief service provider to engage in the following conduct:

(a) Disclosures in All General Commercial Communications—Failing to place the following statements in every general commercial communication for any mortgage assistance relief service:

(1) “(Name of company) is not associated with the government, and our service is not approved by the government or your lender.”

(2) In cases where the mortgage assistance relief service provider has represented, expressly or by implication, that consumers will receive any service or result set forth in § 322.2(i)(2) through (6), “Even if you accept this offer and use our service, your lender may not agree to change your loan.”

(3) The disclosures required by this paragraph must be made in a clear and prominent manner, and—

(i) In textual communications the disclosures must appear together and be preceded by the heading "IMPORTANT NOTICE," which must be in bold face font that is two point-type larger than the font size of the required disclosures; and

(ii) In communications disseminated orally or through audible means, wholly or in part, the audio component of the required disclosures must be preceded by the statement “Before using

(approved by, or otherwise associated with:

(i) The United States government,
(ii) Any governmental homeowner assistance plan,
(iii) Any Federal, State, or local government agency, unit, or department,
(iv) Any nonprofit housing counselor agency or program,
(v) The maker, holder, or servicer of the consumer’s dwelling loan, or
(vi) Any other individual, entity, or program;

(4) The consumer’s obligation to make scheduled periodic payments or any other payments pursuant to the terms of the consumer’s dwelling loan;

(5) The terms or conditions of the consumer’s dwelling loan, including but not limited to the amount of debt owed;

(6) The terms or conditions of any refund, cancellation, exchange, or repurchase policy for a mortgage assistance relief service, including but not limited to the likelihood of obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted, for a mortgage assistance relief service;

(7) That the mortgage assistance relief service provider has completed any represented services or has a right to claim, demand, charge, collect, or receive payment or other consideration;

(8) That the consumer will receive legal representation;

(9) The availability, performance, cost, or characteristics of any alternative to for-profit mortgage assistance relief services through which the consumer can obtain mortgage assistance relief, including negotiating directly with the dwelling loan holder or servicer; or using any nonprofit housing counselor agency or program;

(10) The amount of money or the percentage of the debt amount that a consumer may save by using the mortgage assistance relief service;

(11) The total cost to purchase the mortgage assistance relief service; or

(12) The terms, conditions, or limitations of any offer of mortgage assistance relief the provider obtains from the consumer’s dwelling loan holder or servicer, including the time period in which the consumer must decide to accept the offer;

(c) Making a representation, expressly or by implication, about the benefits, performance, or efficacy of any mortgage assistance relief service unless, at the time such representation is made, the provider possesses and relies upon competent and reliable evidence that substantiates that the representation is true. For the purposes of this paragraph, “competent and reliable evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by individuals qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
§ 322.4 New Commercial Communications, Consumer-Specific Commercial Communications, and Other New Communications—In cases where the mortgage assistance relief service provider has represented, expressly or by implication, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, that the consumer should temporarily or permanently discontinue payments, in whole or in part, on a dwelling loan, failing to disclose, clearly and prominently, and in close proximity to any such representation that “If you stop paying your mortgage, you could lose your home and damage your credit rating.”

**Effective Date Note: At 75 FR 75140, Dec. 1, 2010, § 322.5 was added, effective January 31, 2011.**

§ 322.5 Prohibition on collection of advance payments and related disclosures.

It is a violation of this rule for any mortgage assistance relief service provider to:

(a) Request or receive payment of any fee or other consideration until the consumer has executed a written agreement between the consumer and the consumer’s dwelling loan holder or servicer incorporating the offer of mortgage assistance relief service obtained from the consumer’s dwelling loan holder or servicer;

(b) Fail to disclose, at the time the mortgage assistance relief service provider furnishes the consumer with the written agreement specified in paragraph (a) of this section, the following information: “This is an offer of mortgage assistance obtained from your [lender or servicer]. You may accept or reject the offer. If you accept the offer, you do not have to pay us. If you reject the offer, you will have to pay us [same amount as disclosed pursuant to § 322.4(b)(1)] for our services.” The disclosure required by this paragraph must be made in a clear and prominent manner, on a separate written page, and preceded by the heading: “IMPORTANT NOTICE: Before buying this service, consider the following information.” The heading must be in bold face font that is two point-type larger than the font size of the required disclosures; and

(c)(1) Fail to provide, at the time the mortgage assistance relief service provider furnishes the consumer with the written agreement specified in paragraph (a) of this section, a notice from the consumer’s dwelling loan holder or servicer that describes all material differences between the terms, conditions, and limitations associated with the consumer’s current mortgage loan and the terms, conditions, and limitations associated with the consumer’s mortgage loan if he or she accepts the dwelling loan holder’s or
servicer’s offer, including but not limited to differences in the loan’s:

(i) Principal balance;
(ii) Contract interest rate, including the maximum rate and any adjustable rates, if applicable;
(iii) Amount and number of the consumer’s scheduled periodic payments on the loan;
(iv) Monthly amounts owed for principal, interest, taxes, and any mortgage insurance on the loan;
(v) Amount of any delinquent payments owing or outstanding;
(vi) Assessed fees or penalties; and
(vii) Term

(2) The notice must be made in a clear and prominent manner, on a separate written page, and preceded by heading: “IMPORTANT INFORMATION FROM YOUR [name of lender or servicer] ABOUT THIS OFFER.” The heading must be in bold face font that is two-point-type larger than the font size of the required disclosure.

(d) Fail to disclose in the notice specified in paragraph (c) of this section, in cases where the offer of mortgage assistance relief the provider obtained from the consumer’s dwelling loan holder or servicer is a trial mortgage loan modification, the terms, conditions, and limitations of this offer, including but not limited to:

(1) The fact that the consumer may not qualify for a permanent mortgage loan modification; and
(2) The likely amount of the scheduled periodic payments and any arrears, payments, or fees that the consumer would owe in failing to qualify.

§ 322.6 Assisting and facilitating.

It is a violation of this rule for a person to provide substantial assistance or support to any mortgage assistance relief service provider when that person knows or consciously avoids knowing that the provider is engaged in any act or practice that violates this rule.

§ 322.7 Exemptions.

(a) An attorney is exempt from this part, with the exception of § 322.5, if the attorney:

(1) Provides mortgage assistance relief services as part of the practice of law;
(2) Is licensed to practice law in the state in which the consumer for whom the attorney is providing mortgage assistance relief services resides or in which the consumer’s dwelling is located; and
(3) Complies with state laws and regulations that cover the same type of conduct the rule requires.

(b) An attorney who is exempt pursuant to paragraph (a) of this section is also exempt from § 322.5 if the attorney:

(1) Deposits any funds received from the consumer prior to performing legal services in a client trust account; and
(2) Complies with all state laws and regulations, including licensing regulations, applicable to client trust accounts.

§ 322.8 Waiver not permitted.

It is a violation of this rule for any person to obtain, or attempt to obtain, a waiver from any consumer of any protection provided by or any right of the consumer under this rule.

§ 322.9 Recordkeeping and compliance requirements.

(a) Any mortgage assistance relief provider must keep, for a period of twenty-four (24) months from the date the record is created, the following records:

(1) All contracts or other agreements between the provider and any consumer for any mortgage assistance relief service;
(2) Copies of all written communications between the provider and any consumer occurring prior to the date on which the consumer entered into an agreement with the provider for any mortgage assistance relief service;
(3) Copies of all documents or telephone recordings created in connection with compliance with paragraph (b) of this section;
(4) All consumer files containing the names, phone numbers, dollar amounts paid, and descriptions of mortgage assistance relief services purchased, to the extent the mortgage assistance relief service provider keeps such information in the ordinary course of business;
(5) Copies of all materially different sales scripts, training materials, commercial communications, or other marketing materials, including websites and weblogs, for any mortgage assistance relief service; and
(6) Copies of the documentation provided to the consumer as specified in § 322.5 of this rule;
§ 322.10

(b) A mortgage assistance relief service provider also must:

(1) Take reasonable steps sufficient to monitor and ensure that all employees and independent contractors comply with this rule. Such steps shall include the monitoring of communications directed at specific consumers, and shall also include, at a minimum, the following:

(i) If the mortgage assistance relief service provider is engaged in the telemarketing of mortgage assistance relief services, performing random, blind recording and testing of the oral representations made by individuals engaged in sales or other customer service functions;

(ii) Establishing a procedure for receiving and responding to all consumer complaints; and

(iii) Ascertaining the number and nature of consumer complaints regarding transactions in which all employees and independent contractors are involved;

(2) Investigate promptly and fully each consumer complaint received;

(3) Take corrective action with respect to any employee or contractor whom the mortgage assistance relief service provider determines is not complying with this rule, which may include training, disciplining, or terminating such individual; and

(4) Maintain any information and material necessary to demonstrate its compliance with paragraphs (b)(1) through (3) of this section.

(c) A mortgage assistance relief provider may keep the records required by §322.10(a) through this section in any form, and in the same manner, format, or place as it keeps such records in the ordinary course of business.

(d) It is a violation of this rule for a mortgage assistance relief service provider not to comply with this section.

§ 322.10 Actions by states.

Any attorney general or other officer of a state authorized by the state to bring an action under this part may do so pursuant to Section 626(b) of the 2009 Omnibus Appropriations Act, Public Law 111–8, section 626, 123 Stat. 524 (Mar. 11, 2009), as amended by Public Law 111–24, section 511, 123 Stat. 1734 (May 22, 2009).

§ 322.11 Severability.

The provisions of this rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.