Proposed Rules

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

FEDERAL TRADE COMMISSION

16 CFR Part 309

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (''Commission'' or ''FTC'') is commencing a rulemaking proceeding to amend the alternative fueled vehicle (''AFV'') label specified in the Commission's rule concerning Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles (''Rule''). The Commission proposes amending the Rule's AFV label for new vehicles by either updating or deleting the Environmental Protection Agency (''EPA'') emission certification standards the Rule requires be disclosed, and by adding a reference to EPA's green vehicle guide. EPA's guide, located on its website at *http://www.epa.gov/greenvehicle,* provides detailed information regarding vehicle emissions generally and by vehicle model. The Commission is commencing this rulemaking proceeding because the emissions standards on the current AFV label will be obsolete starting in the 2004 vehicle model year, and the Ford Motor Company (''Ford'') has petitioned the Commission to revise the label in light of this. In this proceeding, the Commission also is conducting a review of this Rule pursuant to the Commission's regulatory review program. The notice includes a description of the procedures to be followed, an invitation to submit written comments, and questions and issues upon which the Commission particularly desires comments.

DATES: Written comments must be submitted on or before June 23, 2003.

ADDRESSES: Six paper copies of each written comment should be submitted to the Office of the Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. To encourage prompt and efficient review and dissemination of the comments to the public, all comments also should be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a label on the disk stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS are preferred. Files from other operating systems should be submitted in ASCII text format to be accepted.)

Alternatively, the Commission will accept papers and comments submitted to the following email address: *afv@ftc.gov,* provided the content of any papers or comments submitted by email is organized in sequentially numbered paragraphs. All comments and any electronic versions (*i.e.,* computer disks) should be identified as ''16 CFR Part 309 Comment—Alternative Fuels and Vehicles Rule. The Commission will make this notice and, to the extent possible, all papers and comments received in electronic form in response to this notice available to the public through the Internet at the following address: *http://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Robin Richardson, Attorney, (202) 326–2798 (email: *rrichardson@ftc.gov*), or Neil Blickman, Attorney, (202) 326–3038 (email: *nblickman@ftc.gov*), Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Part A—Background

This Notice of Proposed Rulemaking (''NPR'') is being published pursuant to the provisions of Part 1, Subpart C of the Commission's Rules of Practice, 16 CFR 1.21–1.26, and 5 U.S.C. 551 *et seq.* Specifically, this rulemaking proceeding is being conducted pursuant to section 553 of the Administrative Procedure Act (''APA''), 5 U.S.C. 553, as was the original proceeding promulgating the Rule.[1] Section 553(b)(3) of the APA provides the Commission with the option of publishing the substance of a proposed rule instead of specific proposed rule language. The Commission seeks comment on the substance of proposed amendments to the Rule. The Commission also seeks comment on whether other options not proposed herein would be more appropriate.

1. The Rule

The Energy Policy Act of 1992 (''EPA 92'' or the ''Act''),[2] establishes a comprehensive national energy policy to increase gradually and steadily U.S. energy security in cost-effective and environmentally beneficial ways. The Act seeks to reduce U.S. dependence on oil imports, encourage conservation and more efficient energy use, reduce the use of oil-based fuels in the motor vehicle sector, and provide new energy options. The Act provides for programs that encourage the development of alternative fuels and alternative fueled vehicles.

Section 406(a) of EPA 92 directed the Commission to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and AFVs.[3] In accordance with the statutory directive, on May 19, 1995, the Commission published a Rule requiring disclosure of specific information on labels posted on fuel dispensers for non-liquid alternative fuels (*e.g.,* compressed natural gas, electricity, and hydrogen), effective August 21, 1995, and on labels on AFVs, effective November 20, 1995.[4]

EPA 92 did not specify what information should be displayed on these labels. Instead, it provided generally that the Commission's rule must require disclosure of ''appropriate,'' ''useful,'' and ''timely'' cost and benefit information on ''simple'' labels. The purpose of the labeling requirements is to enable consumers to make informed choices and comparisons among competing non-liquid alternative vehicle fuels and AFVs.

Section 309.20 of the Rule provides that before offering for consumer sale a new covered AFV, manufacturers must affix, on a visible surface of each such vehicle, a label consisting of three

[1] *See* 59 FR 24014 (May 9, 1994). These procedures include: (1) Publishing this Notice of Proposed Rulemaking; (2) soliciting written comments on the Commission's proposals to amend the Rule; (3) obtaining a final recommendation from staff; and (4) announcing final Commission action in a notice published in the **Federal Register**.

[2] Pub. L. 102–486, 106 Stat. 2776 (1992).

[3] 42 U.S.C. 13232(a).

[4] 60 FR 26926. The Rule also requires that sellers maintain records substantiating product-specific disclosures they include on these labels.

parts.[5] Part one discloses objective information about the estimated cruising range and environmental impact of the particular AFV. Part two discloses and explains specific factors consumers should consider before buying an AFV.[6] Part three lists specific toll-free telephone numbers for consumers who want to call the federal government for more information about AFVs.[7] Section 309.20 of the Rule further states that no marks or information other than that specified by the Rule may appear on the label.

With respect to environmental impact, the labels must state whether the vehicle has met an EPA emission certification standard and, if so, what standard. If a vehicle has been certified, that fact must be noted with a mark in a box on the label and a caret must be inserted above the certification standard the vehicle meets. The graphic on the label depicts seven EPA emissions standards in increasing order of stringency.

2. EPA's Emissions Certification Program

For many years, EPA has promulgated emissions classification standards as part of its Federal Motor Vehicle Control Program, which establishes pollution limits for ''criteria air pollutants'' (*i.e.,* hydrocarbons, carbon monoxide, nitrogen oxides, and particulate matter). These pollutants are released as exhaust from an automobile's tailpipe. In addition, hydrocarbons in vapor form are released due to the evaporation of fuel and during refueling. The standards apply to new motor vehicles manufactured in specified model years. After manufacturers submit appropriate test reports and data, the EPA Administrator issues a ''certificate of conformity'' to those vehicle manufacturers demonstrating compliance with the applicable emissions standards.

Pursuant to its authority under the 1990 Clean Air Act Amendments,[8] EPA began issuing stricter emission standards for each model year as a way of reducing levels of the criteria air pollutants. One set of standards, the Tier 1 standards, was phased in beginning with the 1994 model year. The second set of standards, phased in beginning with the 1999 model year, establishes stricter standards as part of a new ''clean-fuel vehicles'' program.[9] To qualify as a clean-fuel vehicle, a vehicle must meet one of five increasingly stringent standards. The standards are denominated, in increasing order of stringency, TLEV (''Transitional Low Emission Vehicle''), LEV (''Low Emission Vehicle''), ULEV (''Ultra Low Emission Vehicle''), ILEV (''Inherently Low Emission Vehicle''), and ZEV (''Zero Emission Vehicle''). The Rule requires both sets of EPA emission standards to be disclosed because the Commission determined that information concerning EPA emission certification levels provides a simple way of comparing different AFVs and, therefore, is useful to consumers considering AFV acquisitions.[10] Since the FTC's Rule was promulgated, EPA has promulgated new tailpipe emission standards, called the ''Tier 2'' standards.[11] As a result, the EPA standards currently required to be disclosed on the Commission's AFV label will be obsolete starting in the 2004 vehicle model year.

3. Ford's Petition

Ford's petition concerns EPA's new more stringent federal tailpipe emission standards. These federal tailpipe emission standards, as well as new, more stringent California Low Emission Vehicle II (''LEV II'') standards discussed below, limit exhaust emissions of five pollutants: non-methane organic gases, carbon monoxide, nitrogen oxides, particulate matter, and formaldehyde.[12]

Tier 2 is a fleet averaging program, which is modeled after the California LEV II standards. Manufacturers can produce vehicles with emissions ranging from relatively dirty to zero, but the mix of vehicles a manufacturer sells each year must have average nitrogen oxide emissions below a specified value. The Tier 2 tailpipe emissions standards are structured into eleven certification levels of different stringency called ''certification bins.'' Vehicle manufacturers will have a choice of certifying particular vehicles to any of the eleven bins. However, the average nitrogen oxide emissions of the entire vehicle fleet sold by each manufacturer will have to meet an average nitrogen oxide standard of 0.07 grams per mile.

Additionally, Ford noted that in October 1999, California adopted more stringent state tailpipe emission standards, called the ''LEV II'' standards, which are effective starting in the 2004 vehicle model year. California did not adopt the same standards EPA established, nor did it adopt the same acronyms (bins) for its standards. California's LEV II standards are denominated, in increasing order of stringency, LEV, ULEV, SULEV (''Super Ultra Low Emission Vehicle''), PZEV (''Partial Zero Emission Vehicle''), and ZEV. California's LEV II standards affect passenger cars, light-duty trucks, and medium-duty vehicles. Generally, the LEV II standards extend passenger car emission standards to heavier sport utility vehicles and pick-up trucks, extend and tighten fleet average tailpipe emission standards during the period 2004–2010, significantly tighten nitrogen oxide and particulate matter standards for all vehicle emission categories, and further reduce evaporative emissions.

Ford, and other manufacturers, will be certifying their AFVs to the more stringent EPA Tier 2 emission standards in the 2004 model year. Ford is petitioning the Commission to amend the Commission's AFV label because it does not provide a means of conveying information about the new EPA Tier 2 standards. Ford, therefore, is requesting that the Commission amend the Rule to permit use of an AFV label that differs

[5] Section 309.1(f) of the Rule defines a covered vehicle as 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 derivation of such a vehicle; or (ii) designed primarily for transportation of persons and has a capacity of more than 12 persons. Further, section 309.1(t) of the Rule defines a new covered vehicle as a covered vehicle which has not been acquired by a consumer. The Rule also contains labeling requirements for used AFVs, but they are not at issue here because they do not require the disclosure of specific emissions information.

[6] The factors include information concerning fuel type, operating costs, performance/convenience, fuel availability, and energy security/renewability. As the proposed labels below indicate, the Commission proposes simplifying the descriptions of these factors to make them easier for consumers to read and comprehend.

[7] The federal government agencies referenced are the Department of Energy (''DOE'') and the National Highway Traffic Safety Administration (''NHTSA''). The Commission also proposes revising slightly part three of the label by listing the Commission's toll-free telephone number and website for consumers who wish to call the FTC for more information about AFVs.

[8] Pub. L. 101–549, 104 Stat. 2399 (1990).

[9] *See* 40 CFR 88 (1996).

[10] 60 FR 26926, 26946 (May 19, 1995).

[11] 65 FR 6698 (Feb. 10, 2000). These standards regulate emissions from cars and light-duty trucks, which include sport utility vehicles, pick-up trucks, and minivans.

[12] According to staff at EPA, the Tier 2 program is designed to reduce the emissions most responsible for the ozone and particulate matter impact from these vehicles—nitrogen oxides and non-methane organic gases consisting primarily of hydrocarbons and contributing to ambient volatile organic compounds. Hydrocarbons and nitrogen oxides are the major contributors to urban smog.

in two respects from the currently required AFV label, as follows:

(1) To convey accurate information to consumers nationwide regarding new covered AFVs, Ford requested that the Commission amend the Rule's AFV label by substituting the eleven Tier 2 certification bins for the EPA emission standards that currently appear on the AFV label. To convey accurate information to consumers in California, as well as the four other states that have adopted the California standards, Ford also requested that the Commission amend the Rule to permit inclusion of boxes and acronyms for California's LEV II emission standards on the Commission's AFV label. Ford further requested permission to add a check-box to the label with accompanying text that reads, ''This vehicle meets the California Air Resources Board LEV II emissions standard noted below.''

(2) Alternatively, Ford requested that the AFV label be amended to require disclosure of only the EPA Tier 2 emission standard, if any, to which the AFV has been certified, and permit disclosure on the same label of the California LEV II emission standard, if any, to which the AFV has been certified.

Ford asserted that granting its petition will provide useful information to consumers considering AFV acquisitions and will permit Ford to demonstrate to consumers the technological advances it has made in producing cleaner, lower-emitting vehicles. Without changes to the Commission's AFV label, Ford stated that it will not be possible to inform customers clearly of the true emissions performance of these cleaner vehicles, because the label would not reflect the correct emission standard. Ford also stated that it is important that a single AFV label be applied to all vehicles to avoid excessive cost and complexity. Thus, Ford requested permission to include California's LEV II emission standards on the AFV label. As a result of the adoption of the California standards by Maine, Massachusetts, New York, and Vermont, California certified vehicles will be required in five states, representing over 15% of the total U.S. sales, according to Ford. Therefore, Ford asserted that including California's standards on the label also would be helpful to consumers outside of California.

4. Discussion of the Rule's Emission Disclosure Requirements

In issuing the Rule, the Commission concluded that requiring disclosure of emission certification standards is appropriate and would be useful to consumers. The Commission noted further that incorporating environmental considerations into national energy policy was a key goal of EPA 92, and improving the environment was a principal purpose of that statute. EPA 92 gives special attention to the fact that the environmental performance of alternative fuels differs, and that those differences need to be explained to consumers.[13] Granting Ford's petition to include the federal Tier 2 and California LEV II standards on AFV labels may provide relevant comparative information regarding alternative fuels that will be helpful to consumers considering AFV acquisitions (*e.g.,* fleet operators as well as environmentally concerned consumers). Specifically, because an AFV is certified to a specific emission standard, disclosure of the certification level may continue to provide a useful way of comparing different AFVs, and evaluating comparative advertising and marketing claims regarding an AFV's environmental performance.

The Commission agrees that the current label should be amended in light of EPA's new Tier 2 standards. Accordingly, the Commission seeks comment on whether either of the two Rule amendments Ford proposed should be adopted by the Commission. The Commission recognizes, however, that including the federal Tier 2 and California LEV II standards on the AFV label may result in a label that is even more complex than the current label. The additional complexity may detract from a consumer's ability to evaluate the information presented on the label. Thus, the Commission also is seeking comment on additional proposed options for amending the AFV label. These options would consolidate the information now prescribed on a two-sided label onto one side and eliminate information that soon will become obsolete by (1) deleting specific emissions information altogether or (2) requiring only the disclosure of the emission certification standard that has been met.

Part B—Proposed Alternative Options

The Commission is seeking comment on four AFV labeling options.

1. *Option No. 1:* This option tracks Ford's first proposal. It modifies the AFV label by substituting EPA's Tier 2 emission standards for the EPA standards that currently are depicted on the label. The Tier 2 standards reflect the varying emissions levels and are divided into 11 categories or ''bins.'' These bins are depicted as a horizontal row of boxes and corresponding acronyms that is divided into 11 equal parts or ''bins.'' This option permits, and therefore includes, an additional, second row of boxes and acronyms that depict the California LEV II standards. If a vehicle has been certified to a California LEV II standard, this option would allow that fact to be noted with a mark in a box on the label, along with a caret inserted above the standard to which the vehicle has been certified. Because California did not adopt the same number of standards (''bins'') as EPA, and not all of the California standards have a bin equivalent, two different rows are necessary to present this information. The Commission has slightly modified Ford's proposal by adding a reference in part three of the label to EPA's new green vehicle guide website, and states: ''Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit *http://www.epa.gov/greenvehicle.*''[14]

The proposed label represents all of the applicable federal and state emissions standards that may be used to certify a vehicle through the 2010 model year period. However, the information provided may overwhelm the label's space limitations and may not be helpful to consumers because of its complexity, and the lack of contextual references explaining the rows of boxes. Also, the addition of state standards may make the label even more information dense.[15]

Including EPA's website address on the label may provide consumers a helpful reference to comparative emissions information. At its website, EPA provides a thorough explanation of emissions information in a more comprehensive manner than otherwise would be possible on the AFV label. Thus, the Commission believes it would be helpful to consumers to reference EPA's emissions resources on the label.

[13] 60 FR 26926, 26946.

[14] The Commission also proposes adding the EPA reference to the Rule's label for used AFVs.

[15] *See generally* Wesley A. Magat, W. Kip Viscusi, and Joel Huber, *Consumer Processing of Hazard Warning Information,* Journal of Risk and Uncertainty, 1:201–232, at 228 (1988) (''information overload results in less information retained by the consumer'').

Option No. 1

AFV Buyers Guide

Compare the Cruising Range and Emissions of this Vehicle with Other Alternative Fuel Vehicles (AFV) Before You Buy.

Manufacturer's Estimated Cruising Range

XX-XX

Miles on one tank or charge

Actual cruising range will vary with options, driving conditions, driving habits, and vehicle's condition.

Emissions

5 1/2"

☐ This vehicle has not been certified as meeting an EPA standard.
☐ This vehicle meets the EPA emissions standard noted below.
☐ This vehicle meets the California Air Resources Board (LEV II) emissions standard noted below.

E EPA C CARB

E

BIN 1	BIN 2	BIN 3	BIN 4	BIN 5	BIN 6	BIN 7	BIN 8	BIN 9	BIN 10	BIN 11

FEWER EMISSIONS **MORE EMISSIONS**

C

ZEV	PZEV	SULEV	ULEV	LEV

The overall environment impact of driving any vehicle includes many factors not currently measured by existing emissions standards.

Please read back for important information.

Back of Label

Before selecting an Alternative Fueled Vehicle consider:

☑ **FUEL TYPE:** Know which fuel(s) power this vehicle.

☑ **OPERATING COSTS:** Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably.

☑ **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.

☑ **FUEL AVAILABILITY:** Determine whether refueling and/or recharging facilities that meet your driving needs are readily available.

☑ **ENERGY SECURITY/RENEWABILITY:** Consider where and how the fuel powering this vehicle is typically produced.

5 1/2"

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, http://www.afdc.doe.gov.

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit http://www.epa.gov/greenvehicle.

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.

7"

2. *Option No. 2:* This option tracks Ford's alternate proposal. It would require disclosure of the EPA Tier 2 emission standard, if any, to which the AFV has been certified, and permit disclosure on the same label of the California LEV II emission standard, if any, to which the AFV has been certified. For this option, the Commission also proposes providing a reference in part three of the label to EPA's green vehicle guide website. This option simplifies the emissions disclosure section of the label and allows manufacturers to indicate their compliance with the EPA Tier 2 and California LEV II emission standards. The label would not, however, indicate where the vehicle falls on the two ranges of emission standards and, thus, may not readily communicate that other options, in terms of emissions certifications, are available. Consumers could consult EPA's website for comparative vehicle information based on emission levels. However, the limited emissions information on the label may not provide sufficient information to help consumers make comparisons.

Option No. 2

AFV Buyers Guide

Compare the Cruising Range and Emissions of this Vehicle with Other Alternative Fuel Vehicles (AFV) Before You Buy.

Manufacturer's Estimated Cruising Range

XX-XX

Miles on one tank or charge

Actual cruising range will vary with options, driving conditions, driving habits, and vehicle's condition.

Emissions

5 1/2"

☐ This vehicle has not been certified as meeting an EPA standard.
☐ This vehicle meets the EPA emissions standard noted below.
☐ This vehicle meets the California Air Resources Board (LEV II) emissions standard noted below.

EPA - Tier 2 Bin 5
CARB - LEV

The overall environment impact of driving any vehicle includes many factors not currently measured by existing emissions standards.

Please read back for important information.

Back of Label

Before selecting an Alternative Fueled Vehicle consider:

☑ **FUEL TYPE:** Know which fuel(s) power this vehicle.

☑ **OPERATING COSTS:** Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably.

☑ **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.

☑ **FUEL AVAILABILITY:** Determine whether refueling and/or recharging facilities that meet your driving needs are readily available.

☑ **ENERGY SECURITY/RENEWABILITY:** Consider where and how the fuel powering this vehicle is typically produced.

5 1/2"

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, http://www.afdc.doe.gov.

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit http://www.epa.gov/greenvehicle.

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.

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3. *Option No. 3:* This option deletes specific reference to EPA's emissions standards on the front of the AFV label, and instead directs interested consumers to EPA's green vehicle guide website where detailed information is provided. This website provides all of the necessary background information in a format more conducive to understanding and assessing comparative tailpipe emissions. It also includes references to all vehicles and is not limited to AFVs. Accordingly, the Commission requests comment on whether referring consumers to this website may provide a significantly more helpful basis for a consumer to assess relative costs and benefits in terms of purchasing an AFV than listing all the EPA emissions standards or disclosing which certification standard has been met.

This proposal is based on several considerations. First, the emissions information on the current label is based on emissions standards that change over time. Any label revisions made to reflect the new Tier 2 standards also will become obsolete in the future. Second, the emissions information on the current label already is complex. Revising the label to reflect the federal Tier 2 and California LEV II standards would add more complex and non-contextual information to the label, which may not be particularly helpful to consumers. Additionally, although the bins reflect all of EPA's Tier 2 emission standards, the overwhelming majority of AFVs ultimately may fall within only a limited number of bins. Thus, depicting bins that may never be referenced may not be helpful.

The Commission further proposes moving the information in parts two and three of the AFV label from the back to the front of the label. This information includes the specific factors consumers should consider before buying an AFV, as well as referrals to DOE, EPA, and NHTSA for more information about AFVs. This option would eliminate the need to include information on the back of the label. A one-sided label may be easier for consumer to use, and possibly less costly to produce, even if the label dimensions are increased to encompass information now on two sides.[16] A downside, however, may be that the front of the label includes so much information that it overwhelms consumers and does not help them make informed decisions.

[16] Currently the Rule specifies that the label must be 7 inches wide and 5½ inches long. One possibility would be to expand the label to 7½ inches wide and 7 inches long, or larger, so that the print size can be proportionately larger.

Option No. 3

AFV Buyers Guide

Compare the Cruising Range of this Vehicle with Other Alternative Fuel Vehicles (AFV) Before You Buy.

Manufacturer's Estimated Cruising Range

XX-XX

Miles on one tank or charge

Actual cruising range will vary with options, driving conditions, driving habits, and vehicle's condition.

7 1/2"

Before selecting an Alternative Fueled Vehicle consider:

☑ **FUEL TYPE:** Know which fuel(s) power this vehicle.

☑ **OPERATING COSTS:** Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably.

☑ **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.

☑ **FUEL AVAILABILITY:** Determine whether refueling and/or recharging facilities that meet your driving needs are readily available.

☑ **ENERGY SECURITY/RENEWABILITY:** Consider where and how the fuel powering this vehicle is typically produced.

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, http://www.afdc.doe.gov.

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit http://www.epa.gov/greenvehicle.

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.

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4. *Option No. 4:* This option combines option number two and, in part, option number three. Specifically, the Commission proposes requiring disclosure of only the EPA Tier 2 emission standard, if any, to which the AFV has been certified, and permitting disclosure on the same label of the California LEV II emission standard, if any, to which the AFV has been certified. For this option, the Commission also proposes providing a reference in part three of the label to EPA's green vehicle guide website. In addition, the Commission proposes moving the information in parts two and three of the AFV label from the back to the front of the label.

Option No. 4

AFV Buyers Guide

Compare the Cruising Range and Emissions of this Vehicle with Other Alternative Fuel Vehicles (AFV) Before You Buy.

Manufacturer's Estimated Cruising Range

XX-XX

Miles on one tank or charge

Actual cruising range will vary with options, driving conditions, driving habits, and vehicle's condition.

Emissions

☐ This vehicle has not been certified as meeting an EPA standard.
☐ This vehicle meets the EPA emissions standard noted below.
☐ This vehicle meets the California Air Resources Board (LEV II) emissions standard noted below.

7 1/2"

EPA - Tier 2 Bin 5
CARB - LEV

Before selecting an Alternative Fueled Vehicle consider:

☑ **FUEL TYPE:** Know which fuel(s) power this vehicle.

☑ **OPERATING COSTS:** Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably.

☑ **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.

☑ **FUEL AVAILABILITY:** Determine whether refueling and/or recharging facilities that meet your driving needs are readily available.

☑ **ENERGY SECURITY/RENEWABILITY:** Consider where and how the fuel powering this vehicle is typically produced.

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, http://www.afdc.doe.gov.

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emissions are an important factor. For more information about how the vehicle you are considering compares to others, visit http://www.epa.gov/greenvehicle.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)
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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.

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Part C—Regulatory Review

In accordance with the Commission's modified ten-year regulatory review schedule, the regulatory review of the Rule is being conducted during this rulemaking proceeding. Therefore, the Commission seeks information, as noted below, about the costs and benefits of the Rule and its regulatory and economic impact.

Part D—Preliminary Regulatory Analysis

Under section 22 of the FTC Act, 15 U.S.C. 57b, the Commission must issue a preliminary regulatory analysis for a proceeding to amend a rule only when it (1) estimates that the amendment will have an annual effect on the national economy of $100,000,000 or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission has preliminarily determined that the proposed amendments to the Rule will not have such effects on the national economy, on the cost of, or on covered businesses or consumers. The Commission, however, requests comment on the economic effects of the proposed amendments.

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–12, requires that the agency conduct an analysis of the anticipated economic impact of the proposed amendments on small businesses. The purpose of a regulatory flexibility analysis is to ensure that the agency considers impact on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA, 5 U.S.C. 605, provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities.

The Commission has tentatively concluded that the proposed Rule amendments will not affect a substantial

number of small entities because information the Commission currently possesses indicates that relatively few companies currently manufacture, convert, or sell AFVs. Of those that manufacture, convert, or sell AFVs, most are not ''small entities,'' as that term is defined either in section 601 of RFA, 5 U.S.C. 601(6), or applicable regulations of the Small Business Administration, 13 CFR Part 121. Accordingly, the proposed amendments would not appear to have a significant economic impact upon such small entities. Specifically, the proposed amendments to the AFV label to either substitute the new EPA Tier 2 emission standards for the EPA standards currently displayed on the Commission's AFV label, or eliminate altogether or reduce the number of emission standard disclosures, and add a reference on the label to EPA's green vehicle guide website should benefit both small and large businesses. The amendments also should not have a significant or disproportionate impact on the labeling costs of small AFV manufacturers.

Based on available information, therefore, the Commission certifies that amending the Rule as proposed will not have a significant economic impact on a substantial number of small businesses. To ensure that no significant economic impact is being overlooked, however, the Commission requests comments on this issue. The Commission also seeks comments on possible alternatives to the proposed amendments to accomplish the stated objectives. After reviewing any comments received, the Commission will determine whether a final regulatory flexibility analysis is appropriate.

Part E—Paperwork Reduction Act

The Rule contains various information collection requirements for which the Commission has obtained clearance under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* Office of Management and Budget (''OMB'') Control Number 3084–0094. As noted above, Section 309.20 of the Rule provides that before offering a new covered AFV for acquisition to consumers, manufacturers must affix on a visible surface of each such vehicle a new vehicle label consisting of three parts. Part one must disclose objective information about the estimated cruising range and environmental impact of the particular AFV. With respect to environmental impact, the labels must tell consumers whether or not the vehicle has met an EPA emission certification standard and, if so, what standard. If a vehicle has been certified, that fact must be noted with a mark in a box on the label, and a caret must be inserted above the standard the vehicle has been certified to meet. The graphic on the label depicts seven EPA emissions standards in increasing order of stringency.

The Commission has tentatively concluded that the proposed amendments would not increase and may decrease the paperwork burden associated with the aforementioned paperwork requirements. Consequently, there are no additional ''collection of information'' requirements included in the proposed amendments to submit to OMB for clearance under the Paperwork Reduction Act. The Commission's proposed amendments to modify the AFV label by either substituting the new EPA Tier 2 emission standards for the EPA standards currently displayed on the Commission's AFV label, or eliminating altogether or reducing the number of emission standard disclosures would not increase the Rule's paperwork burden. For example, substituting the EPA Tier 2 emission standards for the existing standards would not change the Rule's requirements, but merely would update the acronyms on the label to accurately depict the EPA emission standards currently in effect. Further, adding a specifically described reference on the label to EPA's green vehicle guide website would not increase the Rule's paperwork burden.[17]

Thus, the Commission has tentatively concluded that the proposed amendments would not increase the paperwork burden associated with compliance with the Rule. To ensure that no significant paperwork burden is being overlooked, however, the Commission requests comments on this issue.

Part F—Additional Information for Interested Persons

1. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

2. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Commission Rule 1.18(c)(1), 16 CFR 1.18(c)(1), the Commission has determined that communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor shall be subject to the following treatment. Written communications and summaries or transcripts of oral communications shall be placed on the rulemaking record if the communication is received before the end of the comment period. They shall be placed on the public record if the communication is received later.

Part G—Invitation To Comment and Questions for Comment

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of proposed amendments to the Rule. The Commission requests that factual data upon which the comments are based be submitted with the comments. In particular, copy test or focus group data about various label options would be appreciated. In addition to the issues raised above, the Commission solicits public comment on the costs and benefits to industry members and consumers of each of the proposals, as well as the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

The written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5 p.m. at the Federal Trade Commission, 600 Pennsylvania Ave., NW., Room 130, Washington, DC 20580, (202) 326–2222.

Questions

Proposed Rule Amendments

1. Should the Commission amend the Rule's AFV label in accordance with option number one by substituting EPA's new Tier 2 emission standards for the EPA standards that currently are depicted on the label, permitting manufacturers to disclose on the label the California LEV II emission standard, if any, to which the vehicle has been certified, and adding a reference in part three of the label to EPA's new green vehicle guide website? If so, why? If not, why not?

2. Should the Commission amend the Rule's AFV label in accordance with option number two by requiring disclosure of only the EPA Tier 2 emission standard, if any, to which the AFV has been certified, permitting

[17] The public disclosure of information originally supplied by the federal government to the recipient for the purpose of disclosure to the public is not included within the definition of ''collection of information'' in the Paperwork Reduction Act, 5 CFR 1320.3(c)(2).

disclosure on the same label of the California LEV II emission standard, if any, to which the AFV has been certified, and adding a reference in part three of the label to EPA's green vehicle guide website? If so, why? If not, why not?

3. Should the Commission amend the Rule's AFV label in accordance with option number three by deleting altogether specific reference to EPA's emissions standards on the front of the AFV label, directing consumers to EPA's green vehicle guide website, and moving the information in parts two and three of the AFV label from the back to the front of the label? If so, why? If not, why not? What dimensions should the Commission specify if the Commission adopts a one-sided label?

4. Should the Commission amend the Rule's AFV label in accordance with option number four by requiring disclosure of only the EPA Tier 2 emission standard, if any, to which the AFV has been certified, and permitting disclosure on the same label of the California LEV II emission standard, if any, to which the AFV has been certified, providing a reference in part three of the label to EPA's green vehicle guide website, and moving the information in parts two and three of the AFV label from the back to the front of the label? If so, why? If not, why not?

5. Are there any other options not proposed herein that the Commission should consider that would be more appropriate in terms of amending the Rule's AFV label in light of EPA's new Tier 2 emission standards and California's new LEV II standards?

6. Should the Commission amend the Rule to permit disclosure of a state (*e.g.,* California) emission standard to which a covered AFV has been certified?

7. Would a required disclosure in part one of the Commission's AFV label concerning EPA emission certification standards continue to be useful to consumers considering AFV acquisitions?

8. Part two of the Commission's AFV label requires disclosure of specific factors consumers should consider before purchasing an AFV. The factors relate to fuel type, operating costs, performance/convenience, fuel availability, and energy security/renewability. Do these factors continue to be relevant and useful to consumers considering buying an AFV?

9. Should the Commission also modify the Rule's label for used AFVs by adding a reference on the label to EPA's green vehicle guide website?

10. The Commission's Rule-required labels currently reference DOE for more information about AFVs. Should the Commission add a reference on the AFV labels to DOE's alternative fuels data center website, *http://www.afdc.doe.gov,* so that interested persons can access relevant brochures?

Regulatory Review

11. Is there a continuing need for the Rule as currently promulgated?

(a) What benefits has the Rule provided to purchasers of the non-liquid alternative fuels and the AFVs affected by the Rule?

(b) Has the Rule imposed costs on purchasers?

12. What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers? How would these changes affect the costs the Rule imposes on firms who comply with the Rule? How would these changes affect the benefits to purchasers?

13. What significant burdens or costs, including costs of compliance, has the Rule imposed on firms who comply with the Rule? Has the Rule provided benefits to such firms? If so, what benefits?

14. What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms that comply with the Rule? How would these changes affect the benefits provided by the Rule?

15. Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

16. Since the Rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rule?

List of Subjects in 16 CFR Part 309

Alternative fuel, Alternative fueled vehicle, Energy conservation, Labeling, Reporting and recordkeeping, Trade practices.

Authority: 42 U.S.C. 13232(a).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–11391 Filed 5–7–03; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM01–12–000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design

April 28, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule; Notice of white paper and request for comments.

SUMMARY: On July 31, 2002, the Commission issued a Notice of Proposed Rulemaking (NOPR) in the above-captioned docket, proposing to amend its regulations to remedy undue discrimination through open access transmission service and standard electricity market design. *See* 67 FR 55452 (Aug. 29, 2002). The Commission has distributed a white paper to set forth its assessment of how the electric industry should move forward to achieve long-term benefits for electricity customers, and how it intends to change the rule proposed in the above docket on July 31, 2002, to meet the concerns that have been raised in rulemaking comments. The Commission welcomes public comment on this document.

DATES: Comments are welcome at any time.

ADDRESSES: Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Alice Fernandez (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8284.

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David Withnell (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8421.