

encourages individuals to provide important safety information that it otherwise might not receive.

The FAA designates the following information as protected from disclosure in accordance with 49 U.S.C. 40123 and 14 CFR part 193:

b. Description of the type of information that may be voluntarily provided under the program and a summary of why the FAA finds that the information is safety-related.

(1) The following types of reports are ordinarily submitted under the T-SAP or ATSAP:

i. Noncompliance reports. Noncompliance reports identify specific instances of a failure to follow FAA directives.

ii. Aviation safety concern reports. Aviation safety concerns that do not involve specific noncompliance with FAA directives. These may include, but are not limited to, potential safety events or perceived problems with policies, procedures, and equipment.

(2) Technical Operations personnel support the delivery and efficiency of flight services through maintenance of the National Airspace System facilities, systems and equipment. Reports submitted by these employees under T-SAP ordinarily involve matters or observations occurring during the performance of their job responsibilities, and therefore the information submitted is inherently safety related. Air Traffic personnel provide and support the provision of air traffic services at FAA facilities throughout the NAS. Reports submitted by these employees under ATSAP ordinarily involve occurrences or problems identified or experienced during the performance of their job responsibilities which directly affect safety.

Issued in Washington, DC, on May 9, 2014.

Michael P. Huerta,
Administrator, Federal Aviation Administration.

[FR Doc. 2014-11150 Filed 5-14-14; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 259

Guide Concerning Fuel Economy Advertising for New Automobiles

AGENCY: Federal Trade Commission.

ACTION: Regulatory Review; Request for public comment.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) resumes its regulatory review of the Guide Concerning Fuel Economy

Advertising for New Automobiles (“Fuel Economy Guide” or “Guide”). The Commission seeks comments on potential amendments to update the Guide to reflect changes to the Environmental Protection Agency’s (“EPA”) fuel economy labeling rules, address advertising for alternative fueled vehicles, and consider other advertising claims prevalent in the market.

DATES: Comments must be received on or before July 10, 2014.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Fuel Economy Guide, R711008” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/fueleconomyguide> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610, (Annex O), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex O), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M-8102B, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission issued the Fuel Economy Guide (16 CFR Part 259) in 1975 to prevent deceptive fuel economy advertising for new automobiles and to facilitate the use of fuel economy information in advertising. The Guide helps advertisers avoid unfair or deceptive claims under Section 5 of the FTC Act. To accomplish this goal, the Guide advises marketers to disclose established EPA fuel economy estimates (e.g., miles per gallon or “mpg”) whenever they make any fuel economy claim based on those estimates. In addition, if advertisers make fuel economy claims based on non-EPA tests, the Guide directs them to disclose EPA-derived fuel economy information and provide details about the non-EPA tests such as the test’s source, driving conditions, and vehicle configurations.

On April 28, 2009 (74 FR 19148), the Commission published a Notice of Proposed Rulemaking (“NPRM”) soliciting comments on proposed amendments to the Guide. The Commission then postponed its Guide review in a June 1, 2011 Notice (76 FR 31467) pending new fuel economy labeling requirements from the EPA and completion of the FTC’s Alternative Fuel Rule (16 CFR Part 309) review. The Commission explained that Fuel Economy Guide revisions would be premature before the conclusion of these regulatory proceedings.

With these two activities now complete, the Commission resumes its review of the Fuel Economy Guide with this document.¹ The document contains a discussion of the Guide’s format and content, a brief analysis of earlier comments received, and a discussion of several fuel economy claims. The Commission seeks comments on these issues, including issues it has raised in earlier documents, and any other matter related to the Guide. Though this document contains several proposed changes to the Guide, it does not present specific, proposed text revisions. The Commission will wait and include, if warranted, such specific language in a subsequent document after reviewing comments and consumer research results.

In considering potential revisions to the FTC Guide, commenters should focus on information that helps marketers avoid deceptive or unfair claims prohibited by the FTC Act.² The Guide is not intended to identify disclosures that are merely helpful or desirable to consumers. Likewise, commenters should not address the adequacy of EPA fuel economy test procedures or the accuracy of EPA label content. Such issues fall within the EPA’s purview and the Commission generally defers to that agency’s technical expertise and statutory authority over such matters and are

¹ The Commission announced final revisions to the Alternative Fuels Rule in an April 23, 2013 Final Rule (78 FR 23832). In 2011, EPA completed revisions to its fuel economy labeling requirements, which, among other things, addressed labels for alternative-fueled vehicles (AFVs) not specifically addressed in past EPA requirements. See 76 FR 39478 (July 6, 2011).

² 15 U.S.C. 45(a). The Guides do not have the force and effect of law and are not independently enforceable. However, failure to comply with industry guides may result in law enforcement action under applicable statutory provisions. The Commission, therefore, can take action under the FTC Act if a business makes fuel economy claims inconsistent with the Guides. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive in violation of Section 5 of the FTC Act.

generally outside the scope of the Guide.

II. Issues for Comment

The Commission seeks comment on several issues related to the Fuel Economy Guide including some raised by earlier comments,³ and others identified by the Commission based on recent EPA label changes. These issues fall into two categories: General matters related to the Guide review and specific fuel economy advertising claims.

A. General Matters for the Guide Review

As discussed below, the Commission seeks comment on general issues related to the Guide including definitions, citation format, the Guide's overall format, and consumer research.

1. Definitions

In its previous NPRM, the Commission proposed five changes related to the Guide's definitions section (16 CFR 259.1). The Commission received no comments in response. The Commission again seeks comment on these changes.⁴

First, the Commission proposes to replace several outdated terms in the Guide to ensure they are consistent with those in EPA's current fuel economy rules.⁵ Specifically, the definition "Estimated city mpg." would change to "Estimated city fuel economy"; "Estimated highway mpg." would change to "Estimated highway fuel economy"; and the term "fuel economy" would change to refer to a vehicle's "fuel efficiency." In addition, the Commission proposes to eliminate the term "estimated in-use fuel economy range" because EPA's fuel economy label no longer provides such information.⁶

Second, the Commission proposes to add the term "Combined fuel economy" to Section 259.1 of the Guide to ensure consistency and reduce potential confusion because EPA now uses this term on its label.⁷ Consistent with EPA

requirements,⁸ the Commission proposes to define "Combined fuel economy" as "(1) the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively, (2) for electric vehicles, the term means the equivalent petroleum-based fuel economy value as determined by the calculation procedure promulgated by the Secretary of Energy."⁹ The new term would expand the Commission's guidance to marketers whose vehicles now display combined fuel economy estimate information required by the EPA.

Third, the Commission proposes to amend the Guide's definition of "new automobile" to incorporate changes made to the EPA's fuel labeling requirements. The EPA's rules require vehicle manufacturers to display a fuel economy label for a new class of vehicles, "medium-duty passenger vehicles."¹⁰ To conform with EPA's change, the Commission plans to augment the definition of "new automobile" to include "medium-duty passenger vehicle" as one of the classes of vehicles covered by the Fuel Economy Guide.

Fourth, the Commission proposes several minor revisions including an amendment to the definition of "range of fuel economy" to eliminate the phrase "in use," and changes to the definitions for "estimated city mpg" and "estimated highway mpg" to ensure consistency with the terms and definitions used by the EPA. The Commission also proposes to eliminate an obsolete reference to the term "unique nameplate" in footnote 2 of the Guide and replace it with the more appropriate EPA term "model type."¹¹

Finally, the Commission proposes to reorganize the definition of "new automobile" to reduce the definition's length and potential confusion. Specifically, the proposed amendment would remove the definitions "dealer," "manufacturer," and "ultimate purchaser" from "new automobile" and list them as separate terms under section 259.1.¹²

2. Regulatory Citations

In its previous NPRM, the FTC proposed to replace all specific regulatory citations to EPA regulations in the Guide with general citations (40 CFR Part 600) to reduce the frequency of future Guide changes should EPA amend its regulations. In comments, the Association of International Automobile Manufacturers, Inc. ("AIAM") noted that this proposal would create confusion because the general EPA provisions cited in the proposal contain two different sets of fuel economy requirements, one of which is not directly applicable to FTC's Guide. To avoid such confusion, the Commission no longer plans to use general citations in the Guide.

3. Guide Format

The Commission also proposes to improve the Guide's format to ensure consistency with other recently amended FTC guides, such as the Guides For the Use of Environmental Marketing Claims.¹³ Under this format, the revised Guide would contain a list of general principles to help marketers avoid deceptive practices, coupled with specific sample claims to illustrate those principles. This format, with its detailed examples, places the general principles in a useful context for marketers and helps readers locate relevant information. In addition, the sample claims frame the general principles in a clear context, thus improving understanding of the Guide. The Commission seeks comment on such an approach, including, as discussed in more detail below, the types of claims that the Guide should feature.

4. Consumer Research

The Commission plans to conduct consumer research to enhance the Commission's understanding of how consumers understand fuel economy advertising claims. In particular, the Commission plans to explore several common advertising claims, such as general fuel economy claims, unqualified or minimally qualified mpg disclosures, and claims for vehicle driving range based on non-EPA test procedures. The FTC and its contractor will administer questions to the respondents online over the Internet. The study will employ standard consumer survey methodologies, such as choice experiments, to explore how different claims affect consumer decision-making. The Commission will

³In response to the 2009 document, the Commission received eight comments from sources including the automobile manufacturing industry, local government, and consumers groups. Comments are available at: <http://www.ftc.gov/os/comments/fueleconadguidepropamend/index.shtml>. Generally, the comments supported retention of the Guide and recognized its benefits.

⁴The Commission, in the 2009 NPRM, also proposed to add two terms, "Fuel" and "Alternative Fueled Vehicles," to distinguish the vehicles that would be covered by the guidance for the EPA label requirements from those covered by the proposed guidance regarding alternative fueled vehicles. 74 FR 19148.

⁵ See 40 CFR 600.002.

⁶ See 16 CFR 259.1(e) (definition of "estimated in-use fuel economy range").

⁷ See 40 CFR 600, Appendix VI.

⁸ See 40 CFR 600.206–12.

⁹The Commission proposes to adopt EPA's definition for the term. See 71 FR 77872, 77927 (Dec. 27, 2006).

¹⁰ 40 CFR 86.1803–01. Previously, the EPA required fuel economy labels for only passenger automobiles and light trucks.

¹¹ 77 FR 77928.

¹²The definitions for "dealer," "manufacturer," and "ultimate purchaser" have not been altered in any other way.

¹³ See Guides for the Use of Environmental Marketing Claims ("Green Guides") (16 CFR Part 260); Guides Concerning the Use of Endorsements and Testimonials in Advertising (16 CFR Part 255).

provide more detail regarding the study in a separate document.

B. Types of Fuel Economy Claims

As discussed in detail below, the Commission seeks comment on specific types of advertising claims, including EPA-based miles-per-gallon claims, claims based on non-EPA tests, claims related to vehicle configuration, range of fuel economy claims, and alternative fueled vehicle claims.

1. EPA Miles-Per-Gallon Claims

The Commission seeks comment on the Guide's current provisions for mpg claims (section 259.2(a)). The current Guide states that any express or implied fuel economy claim must be accompanied by a corresponding EPA fuel economy rating (*i.e.*, EPA mpg number) matching the representation. For example, if an advertisement contains a city-related representation (*e.g.*, "XYC car gets great mileage in the city"), the Guide advises the advertiser to disclose the vehicle's EPA city mileage rating.¹⁴

In the NPRM, the Commission noted that EPA's labeling rule now requires manufacturers to disclose a "combined" fuel economy estimate, in addition to city and highway estimates, on the fuel economy label.¹⁵ Accordingly, consistent with guidance for highway and city ratings, the proposed amendments advised advertisers to disclose an EPA combined fuel economy estimate for any representation related to combined fuel economy.¹⁶

In response, commenters raised several concerns about the current guidance for mpg claims. First, two commenters insisted that both city and highway fuel economy estimates must appear in all advertisements because such estimates are material to consumers' purchasing decisions.¹⁷

¹⁴ The Guide does not direct marketers to provide both highway and city ratings unless the advertisement contains fuel economy claims related to both city and highway performance. Where a fuel economy claim does not specify highway or city performance (*e.g.*, "XYZ car gets great mileage"), the Guide indicates that the marketer should disclose the vehicle's city mpg. The Guide also advises marketers to state that EPA is the source of the mpg ratings and that such ratings are estimates.

¹⁵ 74 FR 19149.

¹⁶ 74 FR 19150. Section 259.2(a) does not prohibit disclosure of both the city and highway estimates. For example, a manufacturer could display the EPA's city and highway economy estimate in a print advertisement for a vehicle. Alternately, the same company could display only the EPA's combined fuel economy estimate in a television advertisement for the same vehicle and still comply with the current Guide.

¹⁷ Montgomery County, Maryland, Office of Consumer Protection (#541056-00007) ("Montgomery County"); Public Citizen, the Center for Auto Safety, and the Safe Climate Campaign

Second, comments suggested that disclosure of a single mpg rating (*e.g.*, highway mileage only) overstates the actual fuel economy for some contexts and that, regardless of the presence of qualifying language, consumers will expect a vehicle to attain the advertised mileage.¹⁸ Furthermore, Public Citizen and other consumer group commenters expressed concern that manufacturers advertise only the most favorable fuel economy estimates for their vehicles.¹⁹ Finally, another commenter suggested that only the combined city and highway fuel economy rating be allowed in advertising.²⁰

The Commission seeks comments on various aspects of the mpg provision of the current Guide (section 259.2(a)). Commenters should limit their comments to addressing deceptive and unfair claims under the FTC Act and should not recommend guidance, including affirmative disclosures, merely because such information would help consumer purchasing decisions. Among other things, the Commission seeks comments on: (1) Whether a general fuel economy claim (*e.g.*, "XYZ car gets great mileage") should be accompanied by a specific mpg disclosure to prevent consumer deception or unfairness; (2) whether an advertisement is unfair or deceptive if it provides only one type of mileage rating (*e.g.*, an advertisement that only provides highway mpg); (3) whether an unspecified mpg claim (*e.g.*, "37 mpg") is deceptive if the advertisement fails to identify whether the rating is city, highway, or combined; (4) how consumers understand "up to" mpg claims, which sometimes appear in ads (*e.g.*, "up to 45 mpg"); (5) whether the combined EPA mpg rating should serve as the default disclosure for unspecified fuel economy claims (instead of the city mpg as currently indicated in the Guide); (6) whether the Guide should advise marketers to avoid statements

(#541056-00009) ("Public Citizen"). Public Citizen proposed that both city and highway estimates be displayed and that the city fuel economy be expressed in larger text than the highway fuel economy. Montgomery County further suggested that the Guide adopt a comparative fuel economy scale, "similar to the 0-10 scale for air pollution provided by the EPA."

¹⁸ Public Citizen; Montgomery County. Montgomery County argued that disclosing only one fuel economy rating could be misleading to consumers with hybrid vehicles: "Unlike traditional autos . . . hybrids often receive higher city than highway ratings. . . . [M]any consumers, familiar with EPA estimates, look at the high city estimate in a hybrid ad and conclude, based on past experience, that the unstated highway mileage must be even higher." Montgomery County at 2.

¹⁹ Public Citizen.

²⁰ Consumer Federation of America *et al.* ("CFA") (#541056-00006).

that imply a linear relationship between mpg and fuel costs; (7) whether fuel economy advertisements containing mpg claims should identify EPA as the source of the ratings; and (8) whether FTC should provide additional guidance regarding disclaimers that the EPA ratings are only estimates.

2. Claims Based on Non-EPA Estimates

The Commission is also considering whether the Guide's provisions for advertising claims based on non-EPA tests should be updated. Section 259.2(c) advises that advertisers may make fuel economy claims based on non-EPA information only if they: (1) Disclose the corresponding EPA estimates with more prominence than other estimates; (2) identify the source of the non-EPA information; and (3) disclose how their non-EPA test differs from the EPA test in terms of driving conditions and other relevant variables.

In response to the NPRM, the comments offered conflicting views on this guidance. Some consumer groups urged the FTC to prohibit altogether any non-EPA fuel economy estimate in advertising because such estimates may thwart consumers' efforts to compare vehicle fuel economy.²¹ The Council of Better Business Bureaus ("BBB") supported the current Guide's non-EPA claim provision explaining that it gives advertisers the flexibility to advertise legitimate fuel efficiency claims while still permitting fair comparisons with other vehicles.

The Commission seeks further comment on this issue. Commenters should address, among other things, the prevalence of non-EPA fuel economy claims, including both traditional fuel economy claims (*e.g.*, mpg) as well as electric vehicle driving range claims (*e.g.*, "100 miles per charge"); and the adequacy of the current guidance for preventing deception.

3. Claims Related to Model Groups

The current Guide advises manufacturers to limit fuel economy ratings to the corresponding model type to ensure advertised fuel economy ratings match the advertised vehicle specification, citing EPA requirements for vehicle configuration (40 CFR

²¹ CFA stated that despite required source disclosures, non-EPA information would, "[a]t the worst . . . mislead consumers; at the best, simply confuse them and prevent them from using advertised rating information comparatively." Public Citizen shared the CFA's concerns and further stated that, "Allowing a non-EPA derived estimate does not have any consumer utility . . . [and] the existence of two different fuel economy rating systems in fuel economy advertisements can only create consumer confusion and mistrust for the reliability of both . . ." Public Citizen at 4.

600.207).²² Specifically, section 259.2, n. 2 of the Guide warns against using a single fuel economy estimate for all vehicles bearing a common model name, if separate vehicles within that model group have different fuel economy ratings.²³

Addressing this issue, two commenters argued that the Guide should require all advertisements to disclose the model year and the vehicle configuration tested.²⁴ Public Citizen noted that the current Guide would allow the “highest fuel economy vehicle configuration of one model to be applied to all vehicle configurations of that model.”²⁵ The BBB noted that, in some advertising, marketers fail to identify “the specific vehicle variables affecting a vehicle’s fuel economy not specified (e.g., automatic or standard transmission, engine size, four wheel drive versus front wheel drive, etc.).”

The Commission seeks further comment on this issue. Among other things, the Commission invites commenters to address whether the FTC should provide further guidance to help advertisers avoid deceptive claims in this context.

4. Claims for Alternative Fueled Vehicles

In the NPRM, the Commission proposed disclosure requirements for vehicles covered by the FTC’s Alternative Fuels Rule (16 CFR Part 309).²⁶ The proposed amendment mirrored the Guide’s other provisions by advising marketers to advertise estimated cruising ranges determined under the Alternative Fuels Rule as well as non-FTC sources. In advertisements that display non-FTC derived estimates, the proposal advised advertisers to: (1) Display the estimated cruising range required on the FTC label more prominently than any other estimate; (2) disclose the source of the cruising range estimate; and (3) display any material

differences between the method used and the method required by the FTC’s labeling rule.²⁷

Commenters raised several issues with the proposed amendments. Some argued that the numerous inconsistencies in EPA and FTC standards and calculations for AFVs would render any prospective guidance confusing and ineffective.²⁸ Another group of commenters recommended guidance about alternative fueled vehicles that also use gasoline (*i.e.*, flexible fueled vehicles (FFV)).²⁹ In particular, these comments noted that many FFVs have one fuel economy rating for gasoline and another for alternative fuel operation. They recommended disclosure of fuel economy estimates for every allowable fuel a vehicle may use. They also urged additional disclosures to reduce consumer confusion and raise awareness that alternative fueled vehicles may operate more efficiently on gasoline than on alternative fuel.

In April 2013, the Commission amended the Alternative Fuels Rule to consolidate the FTC’s alternative fueled vehicle labels with EPA’s new fuel economy labels.³⁰ Because those amendments removed any potential conflict between FTC and EPA labels, there is no need for information in the Guide related to FTC alternative fueled vehicles labels.

Nonetheless, the Commission seeks additional comment on whether the Guide should address advertising for FFVs, particularly as it pertains to different fuel economy estimates for different fuels. Specifically, commenters should address whether advertisements that provide a vehicle’s gasoline mpg rating and identify the vehicle as an FFV should also disclose that vehicle’s alternative fuel mpg rating. In addressing this issue, commenters should indicate whether such ads are common and whether FTC guidance

would help marketers avoid deceptive claims.

5. Fuel Economy Range Claims

Section 259.2(b)(1) addresses “estimated in-use fuel economy range” claims (e.g., “expected range for most drivers 15 to 21 mpg”). Because EPA’s revised label no longer contains this information and no evidence suggests such claims are prevalent in the market, the Commission proposes to eliminate that specific provision from the Guide. At this time, the Commission does not propose to eliminate section 259.2(b)(2), which addresses range information for automobile classes (e.g., “Small SUVs range from 16 to 32 mpg”).

III. Request for Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 10, 2014. Write “Fuel Economy Guide, R711008” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure

²² The EPA’s fuel economy regulations define *model type* as “a unique combination of *car line*, *basic engine*, and *transmission class*” 40 CFR 600.002–85 (emphasis added.)

²³ Section 259.2, n. 2 states that the “estimated city mpg” and the “estimated highway mpg” must be those applicable to the specific nameplate being advertised. Fuel economy estimates assigned to “unique nameplates” apply only to such unique car lines. As discussed earlier in this document, the Commission also proposes to eliminate an obsolete reference to the term “unique nameplate” in footnote 2 of the Guide and replacing it with the more appropriate EPA term “model type.”

²⁴ BBB; Public Citizen.

²⁵ Public Citizen. Similarly, Montgomery County offered several examples of noncompliant advertising as further proof that failing to disclose the vehicle configuration to which the estimates apply is deceptive.

²⁶ 77 FR 19152.

²⁷ The Commission also proposed adding two terms, “Fuel” and “Alternative Fueled Vehicles,” to distinguish the vehicles that would be covered by the guidance for the EPA label requirements from those covered by the proposed guidance regarding alternative fueled vehicles. The NPRM defined “Fuel” to include gasoline and diesel fuel, electrical energy, alcohol, and natural gas. The NPRM also defined “Alternative Fueled Vehicle” to cover any vehicle that qualifies as a covered vehicle under 16 CFR Part 309. This term covers any vehicle designed to operate solely on an alternative fuel, or dual-fuel such as ethanol, natural gas, liquefied petroleum gas, hydrogen, coal-derived fuel, fuels from biological materials, electricity, or other fuels determined by the secretary to yield substantial security and environmental benefits.

²⁸ See, e.g., Alliance of Automobile Manufacturers (#541056–00002).

²⁹ See Public Citizen.

³⁰ 78 FR 23832 (April 23, 2013).

explained in FTC Rule 4.9(c), 16 CFR 4.9(c).³¹ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/fueleconomyguide>, by following the instruction on the web-based form. If this Notice appears at <http://www.regulations.gov>, you also may file a comment through that Web site.

If you file your comment on paper, write "Fuel Economy Guide, R711008" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610, (Annex O), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex O), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this NPRM and the News Release describing this proceeding. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 10, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,

Secretary.

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BILLING CODE 6750-01-P

³¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN 3046-AA94

The Federal Sector's Obligation To Be a Model Employer of Individuals With Disabilities

AGENCY: Equal Employment Opportunity Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission ("EEOC" or "Commission") is issuing an Advance Notice of Proposed Rulemaking to invite the public to comment on how it can amend its regulations to clarify the federal government's obligation to be a model employer of individuals with disabilities.

DATES: Submit comments on or before July 14, 2014.

ADDRESSES: You may submit comments, identified by RIN 3046-AA94, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 663-4114. (There is no toll free FAX number). Only comments of six or fewer pages will be accepted via FAX transmittal, in order to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TTY). (These are not toll free numbers).
- *Mail:* Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, U.S. Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507.
- *Hand Delivery/Courier:* Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, U.S. Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507.

Instructions: The Commission invites comments from all interested parties. All comment submissions must include the agency name and docket number or the Regulatory Information Number ("RIN") for this rulemaking. Comments need be submitted in only one of the above-listed formats. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information you provide.

Docket: For access to the docket to read background documents or

comments received, go to <http://www.regulations.gov>. Copies of the received comments also will be available for review at the Commission's library, 131 M Street NE., Suite 4NW08R, Washington, DC 20507, between the hours of 9:30 a.m. and 5:00 p.m., from July 14, 2014 until the Commission publishes the rule in final form.

FOR FURTHER INFORMATION CONTACT:

Christopher Kuczynski, Assistant Legal Counsel, or Aaron Konopasky, Senior Attorney-Advisor, at (202) 663-4637 (voice) or (202) 663-7026 (TTY). (These are not toll free numbers.) Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663-4191 (voice) or (202) 663-4494 (TTY).

SUPPLEMENTARY INFORMATION: Section 501 of the Rehabilitation Act of 1973, as amended ("section 501"),¹ requires both nondiscrimination and affirmative action with respect to federal employees and applicants for federal employment who are individuals with disabilities. It provides specifically that the standards used to determine whether a federal agency² has discriminated against an individual with a disability "shall be the standards applied under title I of the Americans with Disabilities Act of 1990 . . . and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 . . . as such sections relate to employment."³ It also requires federal agencies to maintain, update annually, and submit to the Commission an "affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities."⁴

Commission regulations implementing section 501 reiterate that federal agencies are prohibited from discriminating against individuals with disabilities under Americans with Disabilities Act ("ADA") standards, and further clarify that 29 CFR part 1630 is intended to set forth those standards.⁵ Additionally, the section 501 regulations provide that the federal government "shall be a model employer of individuals with disabilities."⁶

¹ 29 U.S.C. 791.

² Section 501 applies to "each department, agency, and instrumentality (including the United States Postal Service and the Postal Regulatory Commission) in the executive branch and the Smithsonian Institution." 29 U.S.C. 791(b). For convenience, this Notice uses the term "federal agency" or "agency" to mean any federal entity covered by Section 501.

³ 29 U.S.C. 791(g).

⁴ 29 U.S.C. 791(b).

⁵ 29 CFR 1614.203(b).

⁶ 29 CFR 1614.203(a).