responsible Flight Standards Office for a purpose listed in § 93.309(c), no person may operate an aircraft within 500 feet of any terrain or structure located between the north and south rims of the Grand Canyon.

■ 7. In § 93.317, revise the introductory text to read as follows:

§ 93.317 Commercial Special Flight Rules Area operation curfew.

Unless otherwise authorized by the responsible Flight Standards Office, no person may conduct a commercial Special Flight Rules Area operation in the Dragon and Zuni Point corridors during the following flight-free periods:

* * * * *

■ 8. In § 93.321, revise paragraph (b)(4)(iii) to read as follows:

§ 93.321 Transfer and termination of allocations.

* * * * *

(b)

(4)

(iii) A certificate holder must notify in writing the responsible Flight Standards Office within 10 calendar days of a transfer of allocations. This notification must identify the parties involved, the type of transfer (permanent or temporary) and the number of allocations transferred. Permanent transfers are not effective until the responsible Flight Standards Office reissues the operations specifications reflecting the transfer. Temporary transfers are effective upon notification.

* * * * *

§ 93.323 [Reserved]

■ 9. Remove and reserve § 93.323.

■ 10. In § 93.325, revise paragraph (a) to read as follows:

§ 93.325 Quarterly reporting.

(a) Each certificate holder must submit in writing, within 30 days of the end of each calendar quarter, the total number of commercial SFRA operations conducted for that quarter. Quarterly reports must be filed with the responsible Flight Standards Office.

* * * * *

Issued under the authority provided by 49 U.S.C. 106(f) and (g), 44701(a)(5), and Public Law 100–91 in Washington, DC, on September 6, 2018.

Carl Burleson,

Acting Deputy Administrator.

[FR Doc. 2018–20176 Filed 9–21–18; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 311

RIN 3084–AB48

Test Procedures and Labeling Standards for Recycled Oil

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') has completed its regulatory review of the Test Procedures and Labeling Standards for Recycled Oil (''Recycled Oil Rule'' or ''Rule''), as part of the Commission's systematic review of all current Commission regulations and guides. The Commission now updates the Rule's reference to American Petroleum Institute Publication 1509 to reflect the most recent version of that document. Otherwise, the Commission retains the Rule in its current form.

DATES: The amendments are effective October 24, 2018. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of October 24, 2018.

ADDRESSES: Relevant portions of the record of this proceeding, including this document, are available at *https://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mailstop CC–9528, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Recycled Oil Rule, mandated by the Energy Policy and Conservation Act (''EPCA'') (42 U.S.C. 6363), contains testing and labeling requirements for recycled engine oil. As indicated in the statute, the Rule's purpose is to encourage oil recycling, promote recycled oil use, reduce new oil consumption, and reduce environmental hazards and wasteful practices associated with used oil disposal.[1] Initially promulgated in 1995 (60 FR 55414 (Oct. 31, 1995)), the Rule allows manufacturers to represent that processed used engine oil is substantially equivalent to new oil as long as they substantiate such claims using American Petroleum Institute (API) Publication 1509 (''Engine Oil Licensing and Certification System'').[2] The Rule does not require manufacturers to explicitly state their engine oil is substantially equivalent to new oil, nor does it mandate other specific qualifiers or disclosures.[3]

II. Regulatory Review Program

The Commission reviews its rules and guides periodically to seek information about their costs and benefits, regulatory and economic impact, and general effectiveness in protecting consumers and helping industry avoid deceptive claims. These reviews assist the Commission in identifying rules and guides warranting modification or rescission. When it last reviewed the Rule in 2007, the Commission updated the reference to API Publication 1509, Fifteenth Edition, and added an explanation of incorporation by reference in Section 311.4.[4]

In a December 20, 2017 proposed rule (82 FR 60334), the Commission initiated a new review and sought comments on, among other things, the need for the Rule, its economic impact, its benefits to consumers, and its burdens on industry members, including small businesses. The Commission also specifically asked whether it should update the Rule's reference to API Publication 1509 to reflect the most recent version. In response to the proposed rule, the Commission received seven comments.[5]

III. Public Comment Analysis and Amendment

After reviewing the comments, the Commission updates the Rule's reference to API Publication 1509 and the Rule's incorporation by reference language. Otherwise the Commission retains the Rule in its current form. A

[1] 42 U.S.C. 6363(a).

[2] Under EPCA (42 U.S.C. 6363(c)), the National Institute of Standards and Technology (''NIST'') must develop (and report to the FTC) applicable standards for determining the substantial equivalence of processed used engine oil with new engine oil. NIST recommended API Publication 1509 when the Commission originally promulgated the Rule in 1995.

[3] 60 FR at 55418–19. As the Commission has previously explained, until NIST develops test procedures for end uses other than engine oil, the Recycled Oil Rule is limited to recycled oil used for that purpose. Moreover, because NIST's test procedures and performance standards are the same as those adopted by API for engine oils, the Commission must limit the Rule's scope to categories of engine oil that are covered by the API Engine Oil Licensing and Certification System, as prescribed in API Publication 1509. *See* 72 FR 14410, n.1 (Mar. 28, 2007).

[4] 72 FR 14410, 14413 (Mar. 28, 2007).

[5] The public comments are posted at: *https://www.ftc.gov/policy/public-comments/2018/01/initiative-735*. They include: Avista Oil Group (Avista) (#00006); American Petroleum Institute (API) (#00007); National Automobile Dealers Association (NADA) (#00008); Independent Lubricant Manufacturers Association (ILMA) (#00010); NORA, An Association of Responsible Recyclers (NORA) (#00011); Safety-Kleen (#00005); and Curtiss (#00003).

discussion of the comments and the amendments follow.[6]

A. Rule Need, Benefits, Costs, and Compliance

As discussed below, commenters indicated the Commission should retain the Rule because it continues to serve its purpose, benefits both consumers and industry, imposes no unwarranted costs, and has high compliance rates.[7]

Several commenters indicated the Rule continues to serve EPCA's purposes. For example, NORA explained that the Rule encourages used oil recycling, promotes recycled oil use, reduces consumption of new oil, and reduces hazards and waste associated with used oil disposal. In addition, in NORA's view, the Rule's substantiation requirements for recycled oil have helped remedy a general perception that recycled oil is inferior to new oil. NORA also indicated that the Rule's provisions help encourage consumer demand for recycled oil, which creates environmental benefits through oil collection and reuse in place of costly disposal.[8] ILMA added that, without the Rule, some states may impose their own labeling requirements, potentially creating inconsistencies, which could confuse consumers nationwide. It further explained that the Rule furnishes ''an effective regulatory tool'' to prevent the marketing of ''junk'' oil.[9] Safety-Kleen concluded the Rule has ''helped to increase acceptance of re-refined oil by creating an objective benchmark by which all oil can be measured.''

In addition to serving the enumerated purposes of the statute, commenters indicated the Rule provides significant benefits to consumers and industry members. ILMA and API stated it helps consumers by providing an additional marketplace choice, backed by the API performance standards. NORA asserted that competition encouraged by the Rule keeps prices low. It also noted the Rule helps assure consumers that ''substantially similar'' claims for re-refined lubricants are accurate and supported by test data. Regarding industry benefits, API commented the Rule aids companies by allowing sellers to market re-refined base stocks without concern that consumers will view recycled oil as a lower quality product. Similarly, NADA contended the Rule aids sellers by encouraging growing market acceptance of recycled oil while affording processors marketing flexibility. According to Avista, the Rule has ''incentivized domestic re-refiners to pioneer new technology.'' NORA also indicated that recycled oil has a ''reduced carbon dioxide footprint.'' Finally, Safety-Kleen stated that a standardized testing and certification process decreases industry costs. No commenter identified any unwarranted costs associated with the Rule.[10]

No commenters identified significant compliance issues with the Rule. Safety Kleen explained that the Rule provides a standardized, objectively verifiable test that can be used to refute false claims. In addition, NORA and ILMA asserted that companies have little incentive to engage in deceptive conduct given the potential penalties involved. Furthermore, several commenters described ongoing industry efforts to monitor engine oil quality. For example, ILMA explained that it runs a program to randomly test engine oil marketed by its members and has found high compliance rates. Similarly, Safety-Kleen noted that API conducts an After Market Audit Program that tests products ''for compliance against the original fluid certification testing,'' and API did not identify any significant compliance problems.[11]

B. Suggested Changes and Updates

Comments: Commenters recommended several Rule amendments, including updating the reference to API Publication 1509, permitting automatic updates to the API publication, expanding the claims covered by the Rule, and changing several definitions.

Commenters agreed the Commission should update the Rule's reference to API Publication 1509 to reflect the seventeenth edition, as the Commission proposed in its December 2017 proposed rule.[12] For instance, Safety-Kleen explained that this update will ''ensure both virgin and re-refined quality levels meet the most current standard.'' ILMA identified no significant costs to industry for this updated reference. No commenters opposed the conforming change.

In addition, three commenters (API, NORA, and ILMA) recommended amending the Rule to allow for automatic updates to the ''most recent version'' of the API publication. In the commenters' view, such a change would preclude the need for the Commission to publish future Rule updates. Similarly, API supported automatic Rule updates, noting Publication 1509 is generally updated every three to five years.

Aside from updating the API Publication, several commenters urged the Commission to refrain from making any other changes.[13] For instance, Safety Kleen stated that all the current provisions are ''necessary and appropriate.'' Similarly, no commenters identified technological changes that necessitate Rule amendments; nor did they note any conflicts between the Rule and other requirements. NADA advised that any proposed Rule changes should comport with the statute's goals.

Other commenters, however, recommended additional revisions. First, Avista suggested the Rule allow recycled oil marketers to label their products as ''equal in quality'' to new oil (*i.e.,* oil manufactured from crude oil). In its view, technological improvements in the industry during the last decade have rendered recycled oil of equal or better quality than refined oil, and this fact ''must be reflected in the new Rule.''

Some commenters also recommended changing the Rule's definitions to make them more consistent with existing industry usage and practice. NORA explained that, in the oil recycling industry, the term ''recycled oil'' generally refers not only to oil processed for use as an engine oil (*i.e.,* lubricant) but also to used oil processed for fuel.[14] However, in the Rule, ''recycled oil'' only means re-refined oil successfully tested pursuant to the API publication (which addresses engine oil, not fuel). NORA also noted overlap in the Rule's definitions of ''processed used oil,'' ''recycled oil,'' and ''re-refined oil.'' Although NORA did not provide

[6] The Commission has not published an additional proposed rule in this proceeding because the December 2017 proposed rule provided interested persons an adequate opportunity to comment on the final amendments published here (*i.e.,* the updated reference to API Publication 1509).

[7] *See, e.g.,* API, NADA, NORA, and Safety-Kleen.

[8] Safety Kleen added that recycled oil, which is increasing in availability, ''generates significant energy and environmental benefits'' at a competitive price and helps create domestic jobs.

[9] ILMA also discussed its efforts to address the sale of ''obsolete oils'', an issue outside the Rule's scope.

[10] Commenter Curtiss stated that oil recycling should be a ''top priority'' and urged ''continued improvement of oil recycling.'' Curtiss also recommended, without elaboration, that ''this oil be labeled as such'' and certified. As discussed in the original rulemaking, the Commission has not identified a need for any affirmative disclosure requirements related to used oil, as long as marketers meet the API Publication 1509. *See* 60 FR at 55418–55419. Curtiss also recommended a deposit system for oil. However, such a system falls outside the scope of the Commission's authority.

[11] Commenters did not identify any conflicts between the Rule and other requirements, nor did they identify any technological advances that would warrant changes to the Rule.

[12] *See, e.g.,* API, NADA, NORA, and Safety-Kleen.

[13] *See* ILMA and Safety-Kleen.

[14] In addition, ''processed used oil'' as defined in the FTC Rule refers to re-refined used oil, while in EPA regulations (40 CFR part 279) the same term refers to used oil processed into a fuel.

specific suggestions, its comments implied that the Commission should harmonize the Rule's terms with common industry understanding and otherwise define the terms more precisely to avoid confusion.

Similarly, API recommended amending the Rule to clearly distinguish base stock ''manufacturers'' from ''oil marketers'' (*i.e.,* organizations ''responsible for identifying the standard met by an engine oil'').'' [15] Specifically, it urged the Commission to use the term ''oil marketer'' in lieu of ''manufacturer'' wherever the Rule addresses entities responsible for oil branding. API also suggested the Commission amend the definition of ''manufacturer'' to exclude entities that blend processed used oil with new oil or additives by limiting the definition to entities that re-refine or otherwise process ''used oil to remove physical or chemical impurities acquired through use.''

API also urged the Commission to change the definition for ''recycled oil'' so that it refers to oil ''deposited, collected, and managed in accordance with'' EPA's used oil management standards (40 CFR part 279), instead of oil determined to be ''substantially equivalent to new oil for use as engine oil'' under Publication 1509, as currently required by the Rule. API explained that this change would ''clarify oil disposition once it has been introduced'' into a vehicle engine. In clarifying the common industry understanding of various terms, API noted that the term ''used oil'' identifies the oil drained from a crankcase; ''recycled oil'' refers to the used oil once it has entered the used oil management stream; ''re-refined oil'' is one method used to repurpose used oil; and ''processed used oil'' is a broad term that covers all potential methods used to repurpose used oil.

Discussion: The Commission amends the Rule to update the reference to API Publication 1509, including the regulatory language for incorporation by reference. With the exception of this minor update, the Commission retains the Rule in its current form. As discussed below, the Commission does not propose making other changes suggested by commenters, including providing for automatic updates to the test procedures incorporated by reference, addressing ''equal in quality'' claims for recycled oil in the Rule, or changing the Rule's definitions.

The Commission does not amend the Rule to include automatic updates because such an approach is inconsistent with Office of Federal Register (OFR) requirements. Under OFR rules, incorporation by reference is ''limited to the edition of the publication that is approved'' and cannot include future amendments or revisions.[16] While the Commission cannot include such a perpetual update mechanism, it will consider future updates to the test procedures in the Rule as part of its periodic reviews. In the interim, stakeholders may petition the Commission if there is a pressing need for a particular update.

Likewise, the Commission declines to amend the Rule to address whether recycled oil marketers can label their products as ''equal in quality'' to new oil. The record does not clearly establish the basis and need for additional affirmative labeling provisions beyond the statutory requirement that representations of substantial equivalency be based on the NIST standards.[17] Furthermore, the FTC Act (15 U.S.C. 45(a)) does not restrict the scope of truthful advertising claims sellers may make for recycled oil. Indeed, marketers may make recycled oil claims beyond those covered by the Rule, as long as such representations are supported by competent and reliable evidence and do not otherwise violate the FTC Act.[18]

Further, the Commission declines to amend the Rule's definitions. Specifically, the proposed clarification to the definition of ''processed used oil'' does not appear necessary. Although industry members may understand the term as applying to oil processed for engine lubrication and fuel, the Rule's principal provisions clearly involve oil recycled ''for use as engine oil.'' [19] Moreover, the record provides little evidence that the narrow application of this term in the Rule has caused significant problems in the regulated community or for consumers.

Additionally, the Commission declines to alter the term ''manufacturer'' or add the term ''oil marketer'' as API recommended. The Rule's definition for ''manufacturer'' is consistent with the statutory language for that term, which encompasses not only entities that process used oil to remove impurities, but also entities that blend processed used oil with new oil. Although the statute's definition may stretch beyond industry's conventional use of the term, API did not detail any problems, for consumers or industry members, caused by the current language, nor did it delineate its proposal's benefits. Likewise, there appears to be no need to add a definition of ''oil marketer'' or to change the scope of ''manufacturer.'' The Rule's core provisions already apply broadly to ''any manufacturer *or other seller,*'' thus negating the need to expand the Rule's existing terms.[20]

Finally, the Commission does not change the definition of ''recycled oil'' to tie the term to EPA's used oil management regulations (instead of the substantial equivalency determination) as suggested by API. This change would be inconsistent with the statute, which specifically defines the term ''recycled oil'' as used oil the manufacturer has determined to be substantially equivalent to new oil under the procedures set out in the Rule.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires an agency to provide a Final Regulatory Flexibility Analysis with the final rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603–605. The amendment, which merely updates the Rule's reference to the API publication, does not increase the Rule's burdens.[21] Accordingly, the Commission certifies that the amendment will not have a significant economic impact on a substantial number of small entities. This document serves as notice of that determination to the Small Business Administration.

V. Paperwork Reduction Act

Under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501–3520, Federal agencies must obtain approval from the

[15] API recommended the Commission adopt the ''oil marketer'' definition in the current version of API 1509.

[16] *See* 1 CFR 51.1(f).

[17] *See* 60 FR 55414, 55419.

[18] The Rule, however, preempts any law, regulation, or order of any State (or political subdivision thereof), if it has labeling requirements with respect to the comparative characteristics of recycled oil with new oil that are not identical to the labels permitted by the Rule. *See* 42 U.S.C. 6363(e)(1); 16 CFR 311.3.

[19] *See, e.g.,* 16 CFR 311.1(d), 311.5, and 311.6.

[20] *See* 16 CFR 311.5 and 311.6 (emphasis added). Under EPCA, ''person'' is defined to include ''(A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.'' 42 U.S.C. 6202(2).

[21] The Rule itself permits rather than requires any container of recycled oil to bear a label indicating that it is substantially equivalent to new engine oil, if such a determination has been made in accordance with the prescribed test procedures. The Rule imposes no reporting or recordkeeping requirements, and it permits recycled oil to be labeled with information that is basic and easily ascertainable.

Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The amended Rule does not involve the ''collection of information'' under the PRA and, therefore, OMB approval is not required.

VI. Incorporation by Reference

Consistent with 5 U.S.C. 552(a) and 1 CFR part 51, the Commission incorporates the specifications of the following document published by the American Petroleum Institute: API 1509, ''Engine Oil Licensing and Certification System,'' Seventeenth Edition, September 2012 (Addendum 1, October 2014, Errata, March 2015). According to API, this publication ''describes the API Engine Oil Licensing and Certification System (EOLCS), a voluntary licensing and certification program designed to define, certify, and monitor engine oil performance deemed necessary for satisfactory equipment life and performance by vehicle and engine manufacturers.'' API 1509 is reasonably available to interested parties. Members of the public can obtain copies of API Publication 1509 from API, 1220 L Street NW, Washington, DC 20005; telephone: (202) 682–8000; internet address: *https://www.api.org.*

These standards are also available for inspection at the FTC Library, (202) 326–2395, Federal Trade Commission, Room H–630, 600 Pennsylvania Avenue NW, Washington, DC 20580.

List of Subjects in 16 CFR Part 311

Energy conservation, Incorporation by reference, Labeling, Recycled oil, Trade practices.

For the reason set forth in the preamble, 16 CFR part 311 is amended as follows:

PART 311—TEST PROCEDURES AND LABELING STANDARDS FOR RECYCLED OIL

■ 1. The authority citation for part 311 continues to read as follows:

Authority: 42 U.S.C. 6363(d).

■ 2. Revise § 311.4 to read as follows:

§ 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 in API 1509, Engine Oil Licensing and Certification System, Seventeenth Edition, September 2012 (Addendum 1, October 2014, Errata, March 2015). The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from API, 1220 L Street NW, Washington, DC 20005; telephone: 202–682–8000; internet address: *https://www.api.org.* You may inspect a copy at the FTC Library, 202–326–2395, Federal Trade Commission, Room H–630, 600 Pennsylvania Avenue NW, Washington, DC 20580. It is also available for inspection 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 *www.archives.gov/federal-register/cfr/ibr-locations.html.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–20273 Filed 9–21–18; 8:45 am]

BILLING CODE 6750–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2015–0016]

16 CFR Part 1233

Revisions to Safety Standard for Portable Hook-On Chairs

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In March 2016, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for portable hook-on chairs based on the ASTM voluntary standard for portable hook-on chairs. ASTM has since published a revised voluntary standard for portable hook-on chairs. We are publishing this direct final rule, revising the CPSC's mandatory standard for portable hook-on chairs to incorporate by reference the more recent version of the applicable ASTM standard.

DATES: The rule is effective on January 15, 2019, unless we receive significant adverse comment by October 24, 2018. If we receive timely significant adverse comments, we will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 15, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2015–0016, by any of the following methods:

Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov.*

Submit written submissions as follows:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301–504–6820; email: *kwalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. The Danny Keysar Child Product Safety Notification Act

Section 104(b)(1)(B) of the CPSIA, also known as the Danny Keysar Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires that these standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The CPSIA also sets forth a process for updating CPSC's durable infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed. Section 104(b)(4)(B) of the CPSIA provides that if an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. In addition, the revised