*

with FAA Order 1050.1F. Environmental Impacts: Policies and Procedures, paragraph 5–6.5.d, "Modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace (such as changes in designation of the controlling or using agency, or correction of typographical errors)." This airspace action is an administrative change to the using agency names for restricted areas R-3007A, R-3007B, R-3007C, and R-3007D to update the using agency name. It does not alter the dimensions, altitudes, time of designation, or use of the airspace. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAAO 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§73.30 [Amended]

*

2. § 73.30 is amended as follows: * * *

R-3007A Townsend, GA [Amended]

* * By removing "Using agency. ANG, Savannah Combat Readiness Training Center, GA," and adding in its place "Using agency. USMC, Marine Corps Air Station Beaufort, SC.

R-3007B Townsend, GA [Amended]

By removing "Using agency. ANG, Savannah Combat Readiness Training Center, GA," and adding in its place "Using agency. USMC, Marine Corps Air Station Beaufort, SC.

R-3007C Townsend, GA [Amended]

By removing "Using agency. ANG, Savannah Combat Readiness Training Center, GA," and adding in its place "Using agency. USMC, Marine Corps Air Station Beaufort, SC."

R-3007D Townsend, GA [Amended] * * *

By removing "Using agency. ANG, Savannah Combat Readiness Training Center, GA," and adding in its place "Using agency. USMC, Marine Corps Air Station Beaufort, SC

Issued in Washington, DC, on June 21, 2017.

Rodger A. Dean, Jr.,

49. ÷ P S [FR Doc. 2017-13456 Filed 6-27-17; 8:45 am] BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 305

[3084-AB15]

Energy Labeling Rule

AGENCY: Federal Trade Commission ("FTC" or "Commission").

ACTION: Final rule.

SUMMARY: The Commission issues amendments to the Energy Labeling Rule to eliminate certain marking requirements for plumbing products and to exempt certain ceiling fans from labeling requirements. Additionally, the amendments update the Rule to include labeling requirements for electric instantaneous water heaters. The Commission also makes nonsubstantive, conforming changes to the testing provisions for LED covered lamps and minor corrections to other provisions.

DATES: This rule is effective on December 26, 2017, except for the amendments to § 305.13, which are effective on September 17, 2018, and the amendments to § 305.16, which are effective on July 28, 2017.

ADDRESSES: Relevant portions of the record of this proceeding, including this document, are available at ://

FOR FURTHER INFORMATION CONTACT:

Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission issued the Energy Labeling Rule ("Rule") in 1979,1 pursuant to the Energy Policy and Conservation Act of 1975 (EPCA).² The Rule requires energy labeling for major home appliances and other consumer products to help consumers compare competing models. It also contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, furnaces, central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels to many of the covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on Web sites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three key disclosures: Estimated annual energy cost, a product's energy consumption or energy efficiency rating as determined by DOE test procedures, and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. For cost calculations, the Rule specifies national average costs electricity, natural gas, oil) as calculated by DOE. Under the Rule, the Commission periodically updates comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule's reporting requirements.³

II. Amendments to the Energy Labeling Rule

In a September 12, 2016 Notice of Proposed Rulemaking (2016 NPRM), the Commission sought comment on several issues including portable air conditioner (portable AC or PAC) labeling, largediameter and high-speed small-diameter (HSSD) ceiling fan labels, electric instantaneous water heater labeling, and plumbing disclosures changes. The Commission received 10 comments in response.⁴ After reviewing responsive

³16 CFR 305.10.

4 (99 81 FR 62681. The comments received in response to the 2016 NPRM are here: :// 10 / ·~-681.

The comments included:

¹⁴⁴ FR 66466 (Nov. 19, 1979).

² 42 U.S.C. 6294. EPCA also requires the Department of Energy (DOE) to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy.

⁵ The Commission also stated such labels would be economically and technologically feasible. 42 42 U.S.C. 6294(a)(3). The Commission addressed the benefits and feasibility of labels for these products in earlier notices. 477 81 FR at 62682–83; 80 FR 67351, 67357 (Nov. 2, 2015).

⁶ 81 FR at 35251. DOE stated that it would consider amending the room air conditioner procedure to address this issue. However, it is not clear when it will do so.

⁷ Consistent with the Commission's recent decision on room air conditioners, the Commission indicated that the portable AC label would appear on the product box, not the unit itself. In addition, the portable AC label would disclose the Combined Energy Efficiency Ratio (CEER). geo 80 FR at 67293.

⁸ In response to an earlier notice, commenters had disagreed on this issue. <u>499</u> 81 FR at 62682–83. In DOE's test procedure notice, DOE stated that "comparative ratings between room ACs and portable ACs [are] desirable," suggesting that

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Delta T Corporation dba Big Ass Solutions (Delta T) (#00009); De Longhi Appliances (#00010); A.O. Smith Corporation (#00011); Association of Home Appliance Manufacturers (AHAM) (#00012); Rheem Manufacturing Company (#00013); Appliance Standards Awareness Project ("Joint Commenters") (#00014); Air-Conditioning, Heating, and Refrigeration Institute (AHRI) #00015; Hunter Fan Company (#00008); Plumbing Manufacturers International (PMI) #00003; and the People's Republic of China (#0016 and #0017).

production cycle (1999, the cooling season) for these products.¹⁴

: The Commission is not issuing final label requirements for portable air conditioners at this time. As discussed above, commenters disagree on the timing of compliance with new labeling requirements. AHAM and DeLonghi argued that the compliance dates for labels and DOE efficiency standards should be synchronized to allow industry to focus more of their resources during the five-year standards compliance period on developing more efficient products rather than on labeling products. The Joint Commenters, on the other hand, seek a shorter compliance period, arguing that the label information would benefit consumers before implementation of the standards.¹⁵ However, in January 2017, DOE withdrew its final efficiency standards from publication in the Federal Register pursuant to an Executive Order, leaving any final standards compliance date unclear at this time.¹⁶ Therefore, before considering this issue further, the Commission will wait for further clarity regarding DOE's energy efficiency standards.

published September 15, 2016 (81 FR 63634) (2016 Final Rule), the Commission issued updated ceiling fan

¹⁵ In arguing for a shorter label compliance period, the Joint Commenters note that a 2010 Commission rule (75 FR 41699 (July 19, 2010) required new labeling for certain lighting products prior to the effective date of energy efficiency standards for those products because labeling "will provide benefits to consumers that outweigh any additional cost to industry." However, in response to industry concerns in that proceeding, the Commission later exempted some of the bulbs in question from the new labeling requirements, explaining in part that the exemption would allow manufacturers to focus their labeling resources "on products that will remain in the market well into the future'' 76 FR 20233, 20236 (April 12, 2011).

¹⁶ In December 2016, DOE announced a final rule establishing reporting requirements and future efficiency standards for portable ACs. (27) "Issuance: 2016–12–28 Energy Conservation Program: Energy Conservation Standards for Portable Air Conditioners; Final Rule," :// 2016-12-28-0. (2) - (2)

-2. Pursuant to the Presidential Memorandum on Implementation of Regulatory Freeze (Jan. 24, 2017), DOE subsequently withdrew the final rule from publication in the **Federal Register**.

labels, which will be required on all fan boxes beginning on September 17, 2018. In publishing the new label, the Commission excluded large-diameter fans (1999, greater than 84 inches) and high-speed small-diameter fans because new DOE testing requirements prescribe significantly different operating assumptions (hours per day) for these models.¹⁷ As a result, the test yields incompatible yearly cost estimates among these different fan types.¹⁸ Absent adequate disclosures alerting consumers to these different operating assumptions, the resulting inconsistencies could be misleading. Accordingly, the Commission sought comment on the need for, and content of, large-diameter and HSSD fan labels.

··· Commenters agreed the Commission should not require labels for large-diameter fans. Delta T asserted that such labels would create little or no benefit for consumers while adding burden and costs for manufacturers. Citing DOE research, Delta T explained that large-diameter fans are typically not sold to individual consumers through retail outlets or e-commerce sites. Thus, in its view, labeling would not benefit typical purchasers while creating additional burden and cost for manufacturers. Hunter indicated that large diameter fan labels are likely to confuse consumers if such labels are inconsistent with small-diameter fan labels. Delta T cautioned that such inconsistent labels would confuse consumers given the vastly different applications for these products.

Should the FTC require labels, Delta T recommended the label display integrated efficiency, maximum power consumption, and maximum cubic feet per minute of airflow, and cost comparisons limited to similar-size products. In addition, Hunter recommended disclosures advising consumers not to compare largediameter models to small ones.

The Commission has determined not to require labels for large-diameter and HSSD fans.¹⁹ Based on the comments and DOE information, large-diameter and HSSD fans are generally not sold to residential consumers but rather purchased by commercial or industrial entities unlikely to use a consumer label.²⁰ Therefore, the Commission concludes that for these products the labeling costs would substantially outweigh labeling benefits.²¹ However, manufacturers and other marketers should note that, under EPCA (42 U.S.C. 6293(c)), any energy representations (∞ . ., airflow ratings) made for these products, whether on packaging, in advertising, or elsewhere, must fairly disclose the results of the DOE test procedure.²²

· 170 40 40 40 40 : In its 2016 NPRM, the Commission proposed to include EnergyGuide labeling provisions for electric instantaneous water heaters. Although such products already fell within the Rule's "water heater definition (section 305.3), the Commission in the past did not require that they be labeled because DOE did not have an applicable test method. In 2014, however, DOE updated its water heater test procedure to include such a test method.²³ Accordingly, in the 2016 NPRM, the Commission proposed updating the Rule to publish comparability ranges and labeling provisions for these water heater models.²⁴ The labels for the electric instantaneous models are no different from other covered water heaters. The Commission proposed requiring manufacturers to begin using labels on their products within 180 days of the final Rule to give manufacturers adequate time to label their models.

: The commenters (AHRI, A.O. Smith, and Rheem) supported the Commission requiring labels for electric

²¹ Under EPCA, the Commission may forgo label requirements for covered products if it determines that labeling for a product type or class thereof is not "economically or technically feasible." ges 42 U.S.C. 6294(b)(5). In interpreting this statutory provision, the Commission has stated "that Congress]'s] intent was to permit the exclusion of any product category, if the Commission found that the costs of the labeling program would substantially outweigh any potential benefits to consumers." 44 FR at 66467–68.

²² China requested the Rule include definitions for large-diameter and HSSD fans. The amendments published by the Commission on September 15, 2016 (81 FR at 63646) (section 305.3(x)) reference the DOE definitions for these terms in 10 CFR part 430.

¹⁴ AHAM also requested more details about the label content, compliance dates, and reporting requirements before issuing a final rule and urged that the reporting and labeling requirements be consistent with DOE's reporting requirements and the DOE test procedure. As the Commission has stated before, the proposed label content is largely identical to those for room ACs.

¹⁷ cm 81 FR 48620 (July 25, 2016). In its proposed test procedure Notice, DOE described a HSSD fan as a model that has a blade thickness of less than 3.2 mm at the edge or a maximum tip speed greater than applicable limits set out by DOE and does not otherwise qualify as "a very small-diameter ceiling fan, highly-decorative ceiling fan or belt-driven ceiling fan." 81 FR 1688, 1700, 1703 (Jan. 13, 2016).

¹⁸ The DOE test procedure dictates a 6.4-hour per day operating assumption for standard fans but a 12-hour per day figure for large-diameter and HSSD models. 81 FR at 48645.

¹⁹ The amendments contain a minor correction to section 305.13 regarding the fan sizes included for covered models.

²⁰ The commenters did not specifically address HSSD fans. However, DOE stated in an earlier notice that "HSSD ceiling fans generally operate at much higher speeds (in terms of RPM) than standard or hugger ceiling fans, and are installed in commercial applications." 81 FR at 1703.

²³79 FR 40542 (July 11, 2014).

²⁴ 81 FR at 62683–84. In earlier comments, AHRI recommended labels for these products in light of the DOE test procedure change. (an AHRI comments (Jan. 11, 2016) (#00015).

²⁵ Rheem and AHRI noted conforming changes

by these amendments. In addition, FTC staff estimates that there are 6 instantaneous water heater manufacturers. The FTC estimates that there are 100,000 electric instantaneous water heaters shipped each year in the U.S.

Annual Burden Hours

 FTC staff estimates that manufacturers will require approximately two minutes per model to enter label data per basic model. Accordingly, the FTC estimates that cumulative annual reporting burden will be 3 hours (2 minutes per model × 100 basic models).

FTC staff estimates that manufacturers will require six seconds per unit to affix labels. Accordingly, the FTC estimates that cumulative annual disclosure (labeling) burden will be 167 hours to affix labels [(six seconds per unit \times 100,000 total annual product shipments)].

For testing, manufacturers will require approximately 24 hours for each water heater. The FTC estimates that, on average, 50% of the total basic models are tested each year. Accordingly, the estimated annual testing burden for electric instantaneous water heaters is 1,200 hours (24 hours $\times 100 \times 0.5$).

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: Based upon FTC staff research concerning the number of manufacturers and online retailers, staff estimates that there are an additional 150 catalog sellers who are subject to the Rule's catalog disclosure requirements. Staff estimates further that these sellers each require approximately 2 hours per year to incorporate the data into their catalogs. This estimate is based on the assumptions that entry of the required information takes on average one minute per covered product and that the average online catalog contains approximately 100 covered products relevant here. Given that there is great variety among sellers in how many products that they offer online, it is very difficult to estimate such numbers with precision. In addition, this analysis assumes that information for all 100 covered products is entered into the

catalog each year. This is a conservative assumption because the number of incremental additions to the catalog from year to year is likely to be much lower after initial start-up efforts have been completed. Thus, the total annual disclosure burden for all catalog sellers of electric instantaneous water heaters covered by the Rule is 300 hours (150 sellers \times 2 hours).

Thus, estimated annual burden attributable to the amendments is 1,672hours (3 hours for reporting + 167 for labeling + 1,200 for testing + 2 hours for recordkeeping + 300 disclosure hours for catalog sellers).

Annual Labor Costs

Staff derived labor costs by applying assumed hourly wages ³⁴ to the burden hours described above. In calculating labor costs, the FTC assumes that electrical engineers perform test procedures, electronic equipment installers affix labels, and data entry workers enter label data, catalog disclosures, and perform recordkeeping. Average hourly wages for these labor categories, based on BLS data, are as follows: (1) Electrical engineers (\$47.41); (2) electronic equipment installers (\$24.27); and (3) data entry workers (\$16.24).

Based on the above estimates and assumptions, the total annual labor cost for the various burden categories and sub-categories noted above is as follows: (2) : 3 hours × \$16.24/hour (data entry workers) = \$49 (2) : 167 hours × \$24.27 (electronic equipment installers) = \$4,053 (2) : 1,200 hours × \$47.41/hour (electrical engineers) = \$56,892 (2) : 2 hours × \$16.24/hour (data entry workers) = \$32 (2) : 300 hours × \$16.24/

hour (data entry workers) = \$4,872 Thus, the total annual labor cost is approximately \$65,898.

Annual Non-Labor Costs

Manufacturers are not likely to require any significant capital costs to comply with the amendments. Industry members, however, will incur the cost of printing package labels for each covered unit. The estimated label cost, based on \$.03 per label, is \$3,000 (100,000 \times \$.03).

the estimated total hour burden of the

final amendments is 1,672 with associated labor costs of \$65,898 and annualized capital or other non-labor costs totaling \$3,000.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule, and a Final Regulatory Flexibility Analysis (FRFA) with the final Rule, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.

³⁴ The mean hourly wages that follow are drawn from "Occupational Employment and Wages—May 2016," Bureau of Labor Statistics ("BLS"), U.S. Department of Labor, Table 1, released March 31, 2017 ("National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2016"), available at ://

average electricity cost of cents per kWh and natural gas cost of \$ _ per therm.

10 10 . * *

3. In § 305.13, revise paragraph (a)(1)(xii), as added September 15, 2015, at 81 FR 63649, and effective September 17, 2018, to read as follows:

§ 305.13 Labeling for ceiling fans.

(a) * * * (1) * * *

(xii) For fans from 19 or more inches and less than or equal to 84 inches in diameter, the label shall display a cost range of \$3 to \$34 along with the statement underneath the range "Cost Range of Similar Models (19"-84"). * * *

4. In § 305.16, effective July 28, 2017, revise paragraphs (a)(3) and (4) and

(b)(3) and (4) to read as follows: § 305.16 Labeling and marking for plumbing products.

(a) * * *

(3) The package for each showerhead and faucet shall disclose the manufacturer's name and the model number.

(4) The package or any label attached to the package for each showerhead or faucet shall contain at least the following: The flow rate expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325 of the Act, 42 U.S.C. 6295(j). Each flow rate disclosure shall also be given in liters per minute (L/min) or liters per cycle (L/cycle). (b) * * *

(3) The package, and any labeling attached to the package, for each water closet and urinal shall disclose the flow rate, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325 of the Act, 42 U.S.C. 6295(k). Each flow rate disclosure shall also be given

in liters per flush (Lpf). (4) With respect to any gravity tanktype white 2-piece toilet offered for sale or sold before January 1, 1997, which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection

with such product (including packaging and point-of-sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words "For Commercial Use Only." *

5. In § 305.20, revise paragraph (b)(1)(i)(F) to read as follows:

§ 305.20 Paper catalogs and Web sites. *

* * *

(b) * * *

(1) * * *

(i) * * *

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