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FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA74

APPLIANCE LABELING RULE

AGENCY: Federal Trade Commission (“FTC” or “Commission”)

ACTION: Notice of proposed rulemaking; request for public comment

SUMMARY: The Energy Policy Act of 2005 directs the Commission to issue labeling requirements for the electricity used by ceiling fans to circulate air. The Commission is seeking public comment on proposed energy labeling requirements for these products.

DATES: Written comments must be received on or before September 8, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to “Ceiling Fan Labeling, Matter No. R611018” to facilitate the organization of comments.

A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex L), 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Comments containing confidential material must be filed in paper form, and the first page of the document must be clearly labeled “Confidential” and must comply with Commission Rule 4.9(c).¹ The FTC is requesting that any comment filed in paper

¹ Any request for confidential treatment, including the factual and legal basis for the request, must accompany the comment and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 C.F.R. § 4.9(c).

form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments filed in electronic form should be submitted by following the instructions on the web-based form at <https://secure.commentworks.com/ftc-fan>. To ensure that the Commission considers an electronic comment, you must file it on that web-based form. You also may visit <http://www.regulations.gov> to read this proposed Rule, and may file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. postal mail at the Office of Management and Budget (“OMB”) is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws 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, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses

permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled a public workshop or any other oral hearing. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the Federal Register, stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit, on or before September 8, 2006, a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

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

SUPPLEMENTARY INFORMATION:

I. Background

Section 324 of the Energy Policy and Conservation Act of 1975 ("EPCA") (42 U.S.C. § 6291-6309), as amended, requires the FTC to prescribe labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for a variety of products covered by the statute, including home appliances, lighting, and plumbing products.² The Commission's Appliance Labeling Rule (16 CFR Part 305) implements the requirements of EPCA by directing manufacturers to disclose energy information about major household

² 42 U.S.C. § 6294.

appliances. This information enables consumers to compare the energy use or efficiency of competing models.³ When initially published in 1979,⁴ the Rule applied to eight appliance categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Since then, the Commission has expanded the Rule's coverage to include central air conditioners, heat pumps, fluorescent lamp ballasts, plumbing products, lighting products, pool heaters, and some other types of water heaters.⁵ As discussed in detail below, Congress has now directed the Commission to require labeling for ceiling fans. Before discussing the proposed Rule, this Notice first describes the provisions of the Energy Policy Act of 2005 ("EPACT"), ceiling fan uses, Energy Star specifications, and existing state labeling programs.

A. Energy Policy Act of 2005

Section 137 of EPACT (Pub. L. No. 109-58 (2005)) amends EPCA to include various requirements related to ceiling fans. Section 324(a)(2)(G)(i) of EPCA (42 U.S.C. § 6294(a)(2)(G)(i)) requires the Commission to "issue, by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room."⁶ The

³ More information about the Rule can be found at <http://www.ftc.gov/appliances>.

⁴ 44 FR 66466 (Nov. 19, 1979).

⁵ See 52 FR 46888 (Dec. 10, 1987) (central air conditioners); 59 FR 49556 (Sept. 28, 1994) (pool heaters); 54 FR 28031 (July 5, 1989) (fluorescent lamp ballasts); 58 FR 54955 (Oct. 25, 1993) (certain plumbing products); and 59 FR 25176 (May 13, 1994) (lighting products).

⁶ The Act does not authorize the Commission to require labeling for the energy use of light bulbs attached to ceiling fans.

rulemaking must be completed within 18 months. To implement this directive, the Commission is seeking comments on proposed labeling requirements for ceiling fans.

The statute directs the Department of Energy (“DOE”) to prescribe test procedures and energy conservation standards for ceiling fans.⁷ (See 42 U.S.C. § 6292(b)(16) and 42 U.S.C. 6295(v)). According to EPACK, the test procedure for ceiling fans must be based on the “Energy Star Testing Facility Guidance Manual: Building a Testing Facility and Performing the Solid State Test Method for ENERGY STAR Qualified Ceiling Fans, Version 1.1” (“Energy Star Guidance Manual”) published by the EPA. (42 U.S.C. § 6293(b)(16)). However, in issuing testing and conservation standards, DOE may exempt or set different standards for certain product classes if the primary standards are not technically feasible or economically justified. DOE may also establish separate or exempted product classes for highly decorative fans for which air movement performance is a secondary design feature. (42 U.S.C. § 6295(v)).

In developing labeling rules for products covered by EPCA (such as ceiling fans), the Commission must follow the requirements set out in section 324(c) of that law (42 U.S.C. § 6294(c)).⁸ Under that provision, labels must disclose the estimated annual operating cost determined in accordance with DOE test procedures unless otherwise indicated in the law. The

⁷ EPACK (42 U.S.C. 6292(ff)) also directs DOE to require that all ceiling fans manufactured after January 1, 2007 have fan speed controls separate from any lighting controls, adjustable speed controls (either more than 1 speed or variable speed), and reversible fan action capability (except for some exempted categories of fans). (10 CFR § 430.32(s)).

⁸ EPACK did not amend the list of covered products in EPCA section 322 (42 U.S.C. § 6292) to include the new products added by the legislation such as ceiling fans, exit signs, and torchieres. Nevertheless, language elsewhere in EPACK (*e.g.*, section 137(b)) makes it clear that Congress intended to treat these items as covered products. Accordingly, the Commission believes that ceiling fans are subject to EPCA requirements for covered products, such as energy range disclosures on labels required by section 324(c) and the reporting requirements of section 326(b).

Commission, however, may require a different measure of energy consumption if DOE determines that the cost disclosure is not technologically feasible, or the Commission determines such a disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. In addition, labels must disclose information about the range of operating costs (or a different measure of energy consumption if required by the Commission). The Commission's labeling rules also must include a description of the applicable type or class of covered product, information about the range of operating costs or energy use, a description of applicable test procedures, a prototype label, and directions for displaying the label.

Additionally, EPCA authorizes the Commission to require the disclosure of energy information found on the label in any printed material displayed or distributed at the point of sale. (42 U.S.C. § 6293(c)(4)). The Commission also may direct manufacturers to provide additional energy-related disclosures on the label (or information shipped with the product) including instructions for the maintenance, use, or repair of the covered product. (42 U.S.C. § 6293(c)(5)). Finally, section 326(b) of EPCA contains certain reporting requirements for covered products. (42 U.S.C. § 6296).

B. Ceiling Fan Uses

According to the DOE, 69.6 million of U.S. households (or 65.1 percent) had ceiling fans in 2001.⁹ Ceiling fans can improve the comfort of a home by circulating air to create a draft throughout a room. For homes using air conditioning, a ceiling fan allows consumers to raise the thermostat setting about 4°F with no reduction in comfort. In temperate climates, or during moderately hot weather, ceiling fans may allow consumers to avoid using air conditioning

⁹ See http://www.eia.doe.gov/emeu/recs/ceilingfan/ceiling_fan.html.

altogether. A larger fan blade provides comparable cooling at a lower velocity than a smaller blade. DOE recommends that a 36 or 44-inch diameter fan can be used to cool a room up to 225 square feet, while fans that are 52 inches or more should be used in larger rooms.¹⁰ In the winter, by reversing the blade direction and operating at low speed, ceiling fans can provide a gentle updraft, which forces warm air near the ceiling down into the occupied space.¹¹

C. Energy Star Specifications

As mentioned above, the statute requires manufacturers to derive the energy information on ceiling fan labels from DOE tests, which must be based on the Energy Star Guidance Manual. The Energy Star program, administered by the EPA and DOE, is a voluntary labeling program that identifies high efficiency products. Ceiling fans that move air 20% more efficiently, on average, than standard models qualify for the Energy Star label. The program also has minimum airflow requirements for qualifying models. Airflow is the rate of air movement at a specific fan setting expressed in cubic feet per minute (“CFM”). Airflow efficiency is the ratio of airflow divided by power consumed by the motor and controls at a specific ceiling fan setting expressed in CFM per watt (“CFM/Watt”).

Energy Star requires participating manufacturers to perform tests and self-certify those product models that meet the Energy Star guidelines. Manufacturers must derive airflow and airflow efficiency measurements using the Solid State Test Method as defined in the Energy Star

¹⁰ See http://www.eere.energy.gov/consumer/your_home/space_heating_cooling/index.cfm/mytopic=12355.

¹¹ See http://www.energystar.gov/index.cfm?c=ceiling_fans.pr_ceiling_fans_usage.

Guidance Manual.¹² Under this test method, testing personnel must place the fan above a large diameter tube in a standard temperature and humidity-controlled room. The air delivered by the fan passes through the tunnel where a row of velocity sensors mounted on a rotating arm measures the airflow at various points. Energy Star directs manufacturers to measure efficiency at each of three fan speeds (low, medium, high). For example, at low speed, fans must have a minimum airflow of 1,250 CFM and an efficiency of 155 CFM/Watt and, at high speed, fans must have a minimum airflow of 5,000 CFM and an efficiency of 75 CFM/Watt.

D. California Energy Commission

In addition to the Energy Star specifications and test method, the State of California has requirements for ceiling fans. Under the California regulations, each ceiling fan package must display, in characters no less than 1/4 inch high, the unit's airflow (in CFM) and airflow efficiency (in CFM/Watt) at high, medium, and low speeds. The requirements only apply to fans with diameters of 50 inches or greater. (Cal. Code Regs. tit. 20, § 1607(d)(7)). California regulations do not specify the test procedures manufacturers must use to derive the required information.

II. Proposed Rule For Ceiling Fans

The Commission is proposing a ceiling fan labeling rule that would require the disclosure of: 1) the fan's airflow at high speed in CFM; 2) the fan's power consumption in watts; 3) the fan's airflow efficiency in CFM/Watt at high speed; and 4) a range of airflow efficiencies for standard-sized fans on the market as published by the Commission. To obtain this information, manufacturers would have to test their fans pursuant to a DOE test procedure. The proposed

¹² Energy Star Testing Facility Guidance Manual, Version 1.1 (Dec. 9, 2002).

Rule would require manufacturers to provide this information on a label on the product packaging. Finally, the proposed Rule would require manufacturers to submit reports to the Commission with information such as airflow, power consumption, and airflow efficiency at high speed for the applicable models pursuant to EPCA's reporting requirements (42 U.S.C. § 6296). The following discussion details the specific information that the proposed Rule would require on the label and addresses several issues raised by the proposal.

A. Test Procedures - Stay of Labeling Rules

Under EPCA (42 U.S.C. § 6294(c)), manufacturers must determine the energy performance of their products pursuant to standard DOE test procedures. DOE has not published final test procedures for ceiling fans. Without such requirements, manufacturers cannot comply with the Commission's labeling rule. Under EPCACT (42 U.S.C. § 6294(a)(2)(G)(ii)), the labeling requirements for ceiling fans apply to products manufactured after January 1, 2009. Accordingly, the Commission plans to stay the effectiveness of any final labeling rules until that date or until DOE final test procedures become effective, whichever date is later. EPCA requires that DOE base its ceiling fan test procedures on Energy Star's test method (42 U.S.C. 6293(b)(16)). Therefore, the FTC expects that the information derived from DOE's required tests will allow manufacturers to derive all the energy-related data they need for the label required under the Commission's proposed Rule.

B. Operating Cost and Energy Disclosures

Section 324(c) of EPCA (42 U.S.C. § 6294(c)) requires labels for covered products to contain operating-cost information unless the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. The

Commission believes that annual operating costs may not be an appropriate energy performance measure because ceiling fan use is likely to vary significantly depending on factors such as climate, household heating and cooling systems, and individual use. Given these significant variations, it appears that annual cost information would have limited utility and could possibly mislead consumers. Instead, the Commission proposes to require the disclosure of fan energy performance as expressed in airflow (CFM), electricity use (watts), and airflow efficiency (CFM/Watt). Under the proposed Rule, the wattage disclosure will also include a phrase indicating that the disclosed amount does not include lights attached to the fan.

Each of the three proposed descriptors provides different information about the fan. Electricity use (in watts) provides information about the power drawn by the fan and allows consumers to compare the fan's energy use to other household items such as light bulbs. Electricity use information also provides an idea of how much the fan will cost to operate because the higher the wattage, the higher the operating costs. Electricity use does not, however, provide information about the amount of air the fan can move. For example, a fan that uses very little electricity may not create the air movement adequate for a consumer's needs. The airflow information describes the amount of air the fan will move in cubic feet per minute (CFM) - the greater the CFM, the more air the model will move. The airflow efficiency, expressed in cubic feet per minute per watt (CFM/W) indicates the amount of air the product will move for each watt of electricity it uses. This efficiency information describes the relationship between the product's energy use and its output, not just the electricity used by the product.

The Commission has considered simplifying the label to require the disclosure of a single descriptor (*e.g.*, electricity use or airflow efficiency). It appears, however, that each single

descriptor fails, by itself, to convey information to explain the product's energy performance. As discussed above, electricity use does not provide information about fan output. Similarly, the efficiency rating is not necessarily an accurate predictor of the fan's electricity consumption or its operating cost. For example, a model with an efficiency rating of 100 CFM/Watt, 6,000 CFM airflow, and 60 watts power consumption will use more electricity and thus cost more to operate than a fan with a lower efficiency rating of 91 CFM/Watt, 5,000 CFM airflow, and power consumption of 55 watts. Because airflow efficiency is the ratio of airflow (*i.e.*, fan strength) to power consumption, the less efficient model (91 CFM/Watt) may deliver less air but, at the same time, use less electricity and thus cost less to operate. Therefore, where there is significant variation in the airflow of competing models, the label should not suggest that high efficiency necessarily equates with cost savings.

Accordingly, the Commission proposes to require all three descriptors on the label. The Commission seeks suggestions on whether the proposed label can be simplified in a way that continues to provide accurate, useful information for consumers.

C. Disclosures At High Speed

Under the proposed Rule, each fan label must disclose the model's airflow efficiency, airflow, and power consumption at high speed. The Commission proposes to limit the disclosures to high speed settings in an effort to simplify the information on the label. The Commission expects that the information at high speed will be adequate to allow consumers to compare the efficiency rating and power consumed by competing models. The inclusion of information for other speed settings may clutter the label with few additional benefits. The Commission seeks comment on whether it is appropriate to require disclosures only at high speed

and whether there is a consistent relationship between the airflow efficiencies at high speeds and at low speeds (*e.g.*, whether high efficiency fans consistently provide relatively high airflow efficiencies at both high and low speeds).

D. Additional Performance Information

Under the proposed Rule, manufacturers would have the discretion to provide additional energy information elsewhere on the package or in other marketing information. This information could include airflow efficiencies, power consumption in watts, and airflow at other speeds as long as such information is adequately substantiated and fairly represents the results of the applicable test procedure. To ensure that all fan packages feature a uniform energy label, however, the proposed Rule would limit the information allowed on the required label. A uniform label should make it easier for consumers to locate and read the information on different labels as they shop. The Commission seeks comment on whether such restrictions are appropriate.

E. Efficiency Ranges and Additional Information

As directed by EPCA (42 U.S.C. § 6294), the Commission proposes to require range information on the label. The proposed label for fans of 49 inches or greater would bear the following statement: “Compare: 49" to 60" ceiling fans have airflow efficiencies ranging from approximately ___ to ___ cubic feet per minute per watt at high speed.” The Rule would require a similar statement for fans ranging from 36 to 48 inches. This statement will provide consumers with basic information about the relative energy efficiency of two general categories of ceiling-fan sizes on the market. The Commission is not proposing a more detailed system of range information (*e.g.*, a table of ranges for many different fan sizes and fan speeds) because it

is unclear whether such information would provide consumer benefits commensurate with the costs associated with label changes necessary to reflect periodic range changes, particularly if the label is printed on the product package itself. The Commission seeks comment on this proposal and, in particular, the range of efficiency numbers (*e.g.*, 50 CFM/Watt to 130 CFM/Watt) that should be used for both statements.

Finally, a fan's cooling comfort stems from its wind chill effect. Accordingly, ceiling fans produce no cooling benefit in unoccupied rooms. To help consumers avoid wasting electricity, the proposed label also contains the statement "Money-Saving Tip: Turn off fan when leaving room."

F. Location of Label

To maximize the label's utility, consumers should be able to view the energy information while making their purchasing decision. Under the proposed Rule, manufacturers would place the ceiling fan label on product packages rather than on the products themselves. Such a requirement will assist consumers while shopping in retail stores. This labeling method would not be helpful in stores that display the fans themselves in a showroom without the product packaging. In lieu of package labeling, the rule could require the attachment of the label directly on the product itself, perhaps through a hang tag. The Commission seeks comment on whether it is appropriate to require the labels on fan packages, instead of the ceiling fans themselves.

G. Size and Format Requirements

The proposed Rule indicates that the label must be at least four inches wide and three inches high. Prototype Label 6 contains suggested font types and sizes for the proposed label.

H. Reporting Requirements

Section 326 of EPCA (42 U.S.C. § 6296) contains certain reporting requirements for covered products. For example, EPCA requires manufacturers to submit annual reports. Therefore, consistent with existing reporting requirements for other covered products, the proposed Rule would require manufacturers to submit information on the energy efficiency of ceiling fans, the model numbers for each basic model, the total energy consumed, the number of tests performed, and the capacity (*i.e.*, cubic feet per minute).

I. Internet/Catalog disclosures

Section 305.14 of the Rule requires that any manufacturer, distributor, retailer, or private labeler who advertises a covered product in a catalog, including a website, must provide certain information related to the energy consumption or efficiency of that product. The proposed Rule would amend these catalog requirements to include ceiling fans.

III. Paperwork Reduction Act

The Rule contains disclosure and reporting requirements that constitute “information collection requirements” as defined by 5 CFR § 1320.7(c), the regulation that implements the Paperwork Reduction Act (“PRA”).¹³ OMB has approved the Rule’s information collection requirements through December 31, 2007 (OMB Control No. 3084-0069). The proposed amendments would expand the Rule's existing recordkeeping, labeling, and reporting requirements to include manufacturers for a product not previously covered. Accordingly, the Commission has submitted this proposed Rule and a Supporting Statement to OMB for review under the PRA.

¹³ 44 U.S.C. §§ 3501-3520.

The Commission's burden estimates are based on census data, Department of Energy figures and estimates, general knowledge of manufacturing practices, and trade association advice and figures. Because the burden of compliance falls almost entirely on manufacturers and importers (with a de minimis burden relating to retailers), the Commission has calculated the burden estimates based on the number of ceiling fan units shipped domestically.

The Commission estimates that there are 1,500 basic models (*i.e.*, units with essentially identical functional physical and electrical characteristics) of ceiling fans sold in the U.S. Consistent with reporting estimates for other products covered by the Rule, the Commission estimates that the average reporting burden for manufacturers is approximately two minutes per basic model. Based on this estimate the annual reporting burden for ceiling fans is an estimated 50 hours (2 minutes x 1,500 models ÷ 60 minutes per hour).

With regard to labeling burdens, manufacturers will require approximately four minutes to create a label for each basic model. Thus, the approximate annual drafting burden involved in labeling is 100 hours per year [1,500 basic models x four minutes (drafting time per basic model) ÷ 60 minutes per hour]. In addition, the Commission estimates that it will take, on average, six seconds to place labels on the packaging of each unit. Based on 2004 U.S. census data, the Commission estimates that there are approximately 6,000,000 ceiling fan units shipped each year in the U.S. Thus, the annual burden for affixing labels to ceiling fans is 10,000 hours [six (seconds) x 6,000,000 (the total products shipped in 2000) divided by 3,600 (seconds per hour)]. Accordingly, the total labeling burden would be 10,100 hours.

With regard to testing burdens, manufacturers will require approximately one hour to test each new basic model. The FTC estimates that, on average, 50% of the total basic models are

tested each year. Accordingly, the estimated annual testing burden would be approximately 1,500 hours [1 hour x 2 (average number of units tested) x 750 (50% of 1,500 basic models)].

The proposed Rule requires ceiling fan manufacturers to keep records of test data generated in performing the tests to derive information included on labels. The Commission estimates that it will take ceiling fan manufacturers one minute per record (*i.e.*, per model) to store the data. Accordingly, the estimated annual recordkeeping burden would be approximately 25 hours (1 minute x 1,500 basic models ÷ 60 minutes per hour).

The proposed Rule would also require sellers offering ceiling products through retail sales catalogs (*i.e.*, those publications from which a consumer can actually order merchandise) to disclose in the catalog energy information for each fan model. Because this information is supplied by the product manufacturers, the burden on the retailer consists of incorporating the information into the catalog presentation.

The Commission estimates that there are an additional 200 catalog sellers of ceiling fans (paper catalogs and online sellers) who are subject to the Rule's catalog disclosure requirements. This estimate was derived from Internet research conducted by the FTC staff regarding the number of manufacturers and online retailers of ceiling fans. The FTC estimates that these sellers each require approximately 17 hours per year to incorporate the data into their catalogs. This estimate is based on the assumption that entry of the required information takes one minute per covered product and an assumption that the average online catalog contains approximately 1,000 covered products. Given that there is great variety among sellers in the volume of products that they offer online, it is very difficult to estimate such numbers with precision. In addition, this analysis assumes that information for all 1,000 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 catalog disclosure burden for all industries covered by the Rule is 3,400 hours (200 sellers x 17 hours annually).

Therefore, the cumulative estimated annual burden for the proposed Rule would be 15,000 hours, rounded to the nearest thousand.

The Commission has derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. In calculating the cost figures, the FTC assumes that test procedures are conducted by skilled technical personnel at an hourly rate of \$29.40, and that recordkeeping and reporting, and labeling, marking, and preparation of fact sheets, generally are performed by clerical personnel at an hourly rate of \$14.21.¹⁴

Based on the above estimates and assumptions, the total annual labor cost for the five different categories of burden under the proposed Rule, applied to ceiling fans, is derived as follows: 1) annual testing labor cost is \$44,100 (1500 hours x \$29.40 (skilled technical wage category)); and 2) all other annual labor costs including labeling, recordkeeping, reporting, and catalog disclosures are \$192,901 (13,575 hours x \$14.21 (skilled clerical wage category)). Thus, the total annual labor cost is \$237,000 rounded to the nearest thousand.

The Commission invites comments that will enable it to: (1) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of

¹⁴ These hourly rates are based on data recently released by the U.S. Department of Labor's Bureau of Labor Statistics. See <http://www.bls.gov/ncs/ocs/sp/ncbl0757.pdf>.

the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collections of information on those who must comply, including through the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. postal mail at the OMB is subject to lengthy delays due to heightened security precautions.

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"), if any, 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. See 5 U.S.C. 603-605.

The Commission does not anticipate that the proposed Rule will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds

(i.e., 750 or fewer employees) and that the economic impact of the proposed Rule on a particular small entity could be significant. Overall, however, the proposed Rule likely will not have a significant economic impact on a substantial number of small entities. The Commission estimates that these requirements will apply to about 95 ceiling fan manufacturers and an additional 200 online and paper catalog sellers of ceiling fans. Out of these companies, the Commission expects that approximately 2/3 of these qualify as small businesses. In addition, the Commission does not expect that the disclosures specified in the proposed Rule will have a significant impact on these entities.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed Rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the proposed Rule, the number of these companies that are "small entities," and the average annual burden for each entity. Although the Commission certifies under the RFA that the rule proposed in this notice would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed Rule on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

The Federal Trade Commission is charged with enforcing the requirements of 42 U.S.C. 6294, which require the agency to issue this rule.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the proposed Rule is to establish energy labeling requirements for the movement of air by ceiling fans. Section 137 of EPACT amends section 324 of EPCA to require the Commission to “issue, by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.”

C. Small Entities to Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, household fan manufacturers qualify as small businesses if they have fewer than 750 employees. The Commission estimates that fewer than 200 entities subject to the proposed Rule’s requirements qualify as small businesses. The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the proposed Rule would have a significant economic impact

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The Commission recognizes that the proposed labeling rule will involve some increased costs for affected parties. Most of these costs will be in the form of drafting costs for the label. The entities affected will include ceiling fan manufacturers and catalog retailers (including online sellers) of ceiling fans. The Commission does not expect that there will be any significant legal, professional, or training costs to comply with the rule. The Commission does not expect that the labeling requirements will impose significant incremental costs for websites or other advertising. The Commission invites comment and information on these issues.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed Rule. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Rule

The provisions of the rule directly reflect the requirements of the statute, and thus leave little room for significant alternatives to decrease the burden on regulated entities. Nevertheless, the Commission seeks comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the rule on such small entities, including the need, if any, to delay the rule's effective date to provide additional time for small business compliance. If the comments filed in response to this notice identify small entities that are affected by the rule, as well as alternative methods of compliance that would reduce the economic impact of the rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final rule.

V. Questions for Comment

All comments should be filed as prescribed in the “ADDRESSES” section above, and must be received on or before September 8, 2006. The questions below are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

- A. What energy-related information should be required on the ceiling fan labels?

- B. Should the amount of information on the proposed label be reduced or otherwise simplified? If so, how should this be accomplished?
- C. Are the energy descriptors for the proposed label appropriate? Should “fan strength” or a similar term be used in lieu of “airflow”?
- D. Should the label contain information explaining terms such as “airflow,” “electricity use,” and “airflow efficiency”? If so, what should be the content of such explanations?
- E. Should the label contain information about annual operating costs?
- F. Do similar sized fans have similar airflow ratings (in cubic feet per minute)?
- G. Is it appropriate for the label to require energy information at high fan speed only? Or should it require the disclosure of such information at lower speeds?
- H. Should the label include a disclosure that the power use excludes the power used by light bulbs attached to the fan?
- I. Is the proposed range disclosure appropriate? Should the label require different range information? What efficiency numbers should be used in the proposed range information on the label?
- J. Should the Rule allow the inclusion of information on the label not specifically required by the Rule? Or should the Rule mandate uniformity in the content of the label?
- K. Should the label be affixed to the product itself or to the product packaging?
- L. What costs or burdens would the proposed requirements impose, and on whom?

M. What regulatory alternatives to the proposed requirements are available that would reduce the burdens of the proposed requirements? How would such alternatives affect the benefits provided by the proposed Rule?

VI. Proposed Rule Language

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons set out above, the Commission proposes the following amendments to 16 CFR Part 305:

Part 305 - [AMENDED]

1. The authority citation for Part 305 continues to read as follows:

AUTHORITY: 42 U.S.C. 6294.

2. Amend § 305.2 by revising paragraph (i), revising paragraph (o)(21), and adding paragraph (o)(22) to read as follow:

§ 305.2 Definitions.

* * * * *

(i) *Energy efficiency rating* means the following product-specific energy usage descriptors:

annual fuel utilization efficiency (AFUE) for furnaces; *energy efficiency ratio (EER)* for room air conditioners; *seasonal energy efficiency ratio (SEER)* for the cooling function of central air conditioners and heat pumps; *heating seasonal performance factor (HSPF)* for the heating function of heat pumps; *airflow efficiency* for ceiling fans; and, *thermal efficiency (TE)* for pool heaters, as these descriptors are determined in accordance with tests prescribed under section 323

of the Act (42 U.S.C. 6293). These product-specific energy usage descriptors shall be used in satisfying all the requirements of this part.

* * * * *

* * * * *

(o) * * *

(21) Ceiling fans.

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

* * * * *

3. Amend § 305.3 by adding paragraph (s) to read as follows:

§ 305.3 Description of covered products.

* * * * *

(s) *Ceiling fan* means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

4. Add § 305.5(a)(11) to read as follows:

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

* * * * *

(11) Ceiling Fans – § 430.23.

5. Add § 305.7(l) to read as follows:

§ 305.7 Determinations of capacity.

* * * * *

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

6. Amend § 305.8 to revise paragraphs (a)(1) and (b)(1) to read as follows:

§ 305.8 Submission of data.

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

* * * * *

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the

Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators.....	Aug. 1
Refrigerator-freezers.....	Aug. 1
Freezers.....	Aug. 1
Central air conditioners.....	July 1
Heat pumps.....	July 1
Dishwashers.....	June 1
Water heaters.....	May 1
Room air conditioners.....	May 1
Furnaces.....	May 1
Pool heaters.....	May 1
Clothes washers.....	Oct. 1
Fluorescent lamp ballasts.....	Mar. 1
Showerheads.....	Mar. 1
Faucets.....	Mar. 1
Water closets.....	Mar. 1
Urinals.....	Mar. 1
Ceiling fans	Mar. 1
Fluorescent lamps.....	Mar. 1
Medium Base Compact Fluorescent Lamps.....	[Stayed] Mar. 1
Incandescent Lamps, incl. Reflector Lamps..	[Stayed] Mar. 1

* * * * *

7. Revise § 305.10(a) to read as follows:

§ 305.10 Ranges of estimated annual energy consumption and energy efficiency ratings.

(a) The range of estimated annual energy consumption or energy efficiency ratings for each covered product (except fluorescent lamp ballasts, showerheads, faucets, water closets, urinals, or ceiling fans) shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges annually in the Federal Register, if appropriate, or a statement that the specific prior ranges are still applicable

for the new year. Ranges will be changed if the estimated annual energy consumption or energy efficiency ratings of the products within the range change in a way that would alter the upper or lower estimated annual energy consumption or energy efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication of the revision shall conform to the revised range. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

* * * * *

8. Amend § 305.11 by revising paragraph (a) and adding paragraph (g) to read as follows:

§ 305.11 Labeling for covered products.

(a) Labels for covered products other than fluorescent lamp ballasts, general service fluorescent lamps, medium base compact fluorescent lamps, general service incandescent lamps (including incandescent reflector lamps), showerheads, faucets, water closets, urinals, and ceiling fans

—(1) *Layout.* All energy labels for each category of covered product shall use one size, similar colors and typefaces with consistent positioning of headline, copy and charts to maintain uniformity for immediate consumer recognition and readability. Trim size dimensions for all labels shall be as follows: width must be between 5 1/4 inches and 5 1/2 inches (13.34 cm. and 13.97 cm.); length must be 7 3/8 inches (18.73 cm.). Copy is to be set between 27 picas and 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely the prototype labels appearing at the end of this part illustrating the basis

layout. All positioning, spacing, type sizes and line widths should be similar to and consistent with the prototype labels.

* * * * *

(g) *Ceiling Fans*. (1) *Content*. Any covered product that is a ceiling fan shall be labeled clearly and conspicuously on the principal display panel with the following information in order from top to bottom on the label:

(A) The words “ENERGY INFORMATION” shall appear at the top of the label with the words “at High Speed” directly underneath;

(B) The product’s airflow at high speed expressed in cubic feet per minute and determined pursuant to § 305.5 of this part;

(C) The product’s electricity usage at high speed expressed in watts and determined pursuant to § 305.5 of this part, including the phrase “excludes lights” as indicated in Prototype Label 6 of Appendix L of this part;

(D) The product’s airflow efficiency rating at high speed expressed in cubic feet per minute per watt and determined pursuant to § 305.5 of this part;

(E) The following statement shall appear on the label for fans fewer than 49 inches in diameter: “Compare: 36" to 48" ceiling fans have airflow efficiencies ranging from approximately ___ to ___ cubic feet per minute per watt at high speed.”

(F) The following statement shall appear on the label for fans 49 inches or more in diameter: “Compare: 49" to 60" ceiling fans have airflow efficiencies ranging from approximately ___ to ___ cubic feet per minute per watt at high speed.”

(G) The following statements shall appear at the bottom of the label as indicated in Prototype Label 6 of Appendix L of this part: “Money-Saving Tip: Turn off fan when leaving room.”

(2) *Label Size and Text Font.* The label shall be four inches wide and three inches high. The text font shall be Arial or another equivalent font. Prototype Label 6 of Appendix L of this part provides an example of the size, placement, and content of information required by this part.

(3) *Placement.* The ceiling fan label shall be printed on the principal display panel of the product’s packaging.

(4) *Additional Information:* No marks or information other than that specified in this part shall appear on this label, except a model name, number, or similar identifying information.

9. Add § 305.14(e) to read as follows:

§ 305.14 Catalogs.

* * * * *

(e) Any manufacturer, distributor, retailer, or private labeler who advertises a covered product that is a ceiling fan in a catalog, from which it may be purchased, shall include in such catalog, on each page that lists the covered product, all the information concerning the product required by § 305.11(g)(1).

10. Amend part 305, Appendix L by adding Prototype Label 6 to read as follows:

Appendix L to Part 305 – Sample Labels

* * * * *

[INSERT GRAPHIC FROM PAGE 30A HERE]

Prototype Label 6 (Ceiling Fan Label)

* * * * *

By direction of the Commission.

Donald S. Clark
Secretary

ENERGY INFORMATION

at High Speed

Airflow 5,609 Cubic Feet Per Minute	Electricity Use 63 Watts (excludes lights)	Airflow Efficiency 80 Cubic Feet Per Minute Per Watt
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Compare: 49" to 60" ceiling fans have airflow efficiencies ranging from approximately ___ to ___ cubic feet per minute per watt at high speed.

Money-Saving Tip: Turn off fan when leaving room.