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**Rule Concerning Disclosures Regarding
Energy Consumption and Water Use of
Certain Home Appliances and other
Products Required Under the Energy
Policy and Conservation Act (“Appliance
Labeling Rule”); Final Rule**

FEDERAL TRADE COMMISSION**16 CFR Part 305**

[RIN 3084-AB03]

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")**AGENCY:** Federal Trade Commission ("FTC" or "Commission").**ACTION:** Final rule.

SUMMARY: Section 137 of the Energy Policy Act of 2005 (Pub. L. 109-58) requires the Commission to conduct a rulemaking to examine the effectiveness of current energy efficiency labeling requirements for consumer products covered by the Energy Policy and Conservation Act. The Commission has completed the required rulemaking and is publishing final amendments to the Appliance Labeling Rule (16 CFR Part 305).

DATES: The amendments published in this notice will become effective February 29, 2008.

ADDRESSES: Requests for copies of this document should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The complete record of this proceeding is also available at that address. Relevant portions of the proceeding, including this document, are available at <http://www.ftc.gov>.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room NJ-2122, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

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I. Introduction

Section 137 of the Energy Policy Act of 2005 (EPACT 2005) (Pub. L. 109-58) amends the Energy Policy and Conservation Act of 1975 (EPCA)¹ to require the Commission to initiate a rulemaking to consider "the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency." As part of this effort, the Act directs the Commission to consider "changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels." The Act directs the Commission to complete the rulemaking within two years. Following that law's enactment on August 8, 2005, the Commission published an Advance Notice of Proposed Rulemaking (ANPR), held a workshop, conducted consumer research, and published a Notice of Proposed Rulemaking (NPRM).² Based on comments received and the FTC's own consumer research, the Commission is now publishing final amendments to the Appliance Labeling Rule (16 CFR Part 305). The amendments implement a new design for EnergyGuide labels and make several other changes to update and improve the Rule.

II. Energy Policy and Conservation Act Labeling Requirements

Section 324 of EPCA requires the FTC to prescribe labeling rules for: (1) the disclosure of estimated annual energy cost or alternative energy consumption information for a variety of products covered by the statute, including home appliances (e.g., refrigerators, dishwashers, air conditioners, and furnaces), and lighting products, and (2) the disclosure of water use information for certain plumbing products.³ Labels

¹42 U.S.C. 6291 *et seq.*²ANPR (66 FR 66307 (Nov. 2, 2005)); Workshop Notice (71 FR 18023 (April 10, 2006)); Research Notice (71 FR 36088 (June 23, 2006)); and NPRM (72 FR 6836 (Feb. 13, 2007)).³42 U.S.C. 6294. For most products, the Commission must prescribe labeling rules unless it determines that labeling is not technologically or economically feasible (42 U.S.C. 6294(a)(1)). The statute requires labels for central air conditioners, heat pumps, furnaces, and clothes washers unless the Commission finds that labeling is not technologically or economically feasible or is not likely to assist consumers in making purchasing

for appliances covered under EPCA must disclose the estimated annual operating cost of such products, as determined by the Department of Energy (DOE) test procedures (42 U.S.C. 6294(c)).⁴ The Commission, however, may require a different measure of energy consumption if DOE determines that a cost disclosure is not technologically feasible, or if the Commission determines a cost disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible (42 U.S.C. 6294(c)(1)). Section 324(c) also requires that the label for appliances contain information about the range of estimated annual operating costs (or energy consumption) for covered products. The Commission may 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. 6294(c)(4)). In addition, the Commission 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. 6294(c)(5)).

III. FTC's Appliance Labeling Rule

The Commission's Appliance Labeling Rule implements the requirements of EPCA by directing manufacturers to disclose energy information about major household appliances. This information enables consumers to compare the energy use or efficiency of competing models.⁵ When initially published in 1979,⁶ the Rule applied to eight appliance categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Subsequently, the Commission expanded the Rule's coverage to include central air conditioners, heat pumps, fluorescent lamp ballasts, plumbing products,

decisions (42 U.S.C. 6294(a)(2)(A)). Pursuant to § 6294(a)(1), the Commission previously determined not to require labeling for television sets, kitchen ranges, ovens, clothes dryers, humidifiers, dehumidifiers, and certain home heating equipment other than furnaces. *See* 44 FR 66466, 66468-66469 (Nov. 19, 1979).

⁴Section 323 of EPCA (42 U.S.C. 6293) directs DOE to develop test procedures for major household appliances. Manufacturers must follow these test procedures to determine their products' compliance with DOE's energy conservation standards (required by 42 U.S.C. 6295) and to derive the energy consumption or efficiency values to disclose on required labels.

⁵More information about the Rule can be found at: <http://www.ftc.gov/appliances>.

⁶44 FR 66466 (Nov. 19, 1979).

lighting products, and certain types of water heaters.⁷

Under the Rule, manufacturers must disclose specific energy information about their appliances at the point of sale in the form of a yellow EnergyGuide label affixed to each unit. The information on the label also must appear in catalogs from which covered products can be ordered. Manufacturers of furnaces, central air conditioners, and heat pumps also must provide energy information in either fact sheets or an industry directory.

Required labels for appliances contain three key pieces of information. First, the labels disclose the energy consumption or energy efficiency rating of the appliance, as determined from standard DOE tests. Second, some labels include a "range of comparability" (published by the Commission) that shows the highest and lowest energy consumption or efficiencies for all similar models. Third, labels for most appliances must provide the product's estimated annual operating cost. Manufacturers calculate these costs using national average energy cost (*i.e.*, representative average energy cost) figures published by DOE.

The Rule contains specific requirements for the content and format of the EnergyGuide labels. Manufacturers must use a yellow label with the EnergyGuide headline and must provide information in the format and type prescribed. Additionally, manufacturers cannot place any information on the label other than that specifically allowed by the Rule. In 2000, the Commission issued an exemption allowing manufacturers to include the "ENERGY STAR" logo on the EnergyGuide label for covered appliances (65 FR 17554 (Apr. 3, 2000)).⁸

The Commission's Rule also requires certain reporting requirements that direct manufacturers of most covered products to file reports with the FTC both annually and when they begin manufacturing new models. These reports must contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests conducted pursuant to the DOE procedures (16 CFR § 305.8(b)). Energy information

submitted pursuant to these requirements is available on the Commission's website at <http://www.ftc.gov/appliances>.

Finally, the Rule has different labeling requirements for non-appliance consumer products (16 CFR § 305.11(d), (e), & (f)). Manufacturers of showerheads, faucets, toilets, and urinals must disclose water usage information on their products, packaging, and labeling. Manufacturers of certain incandescent bulbs, spot and flood bulbs, and screw-base compact fluorescent bulbs must disclose light output in lumens, energy used in watts, voltage, average life, and number of bulbs on their packaging. They also must explain how purchasers can select the most energy efficient bulb for their needs.

IV. Procedural History

The Commission initiated this proceeding on November 2, 2005 with the publication of an ANPR that sought comments on the effectiveness of the FTC's energy labeling regulations. (70 FR 66307). The ANPR also announced that the Commission would conduct its periodic regulatory review as part of this rulemaking. In response, the Commission received 28 comments.⁹ Following the receipt of ANPR comments, the Commission announced plans to conduct consumer research on various label designs to examine the effectiveness of the current label and to obtain information about alternatives (March 15, 2006 (71 FR 13398)). Based on the comments received in response to the ANPR, the Commission then conducted a Public Workshop ("Workshop") on May 3, 2006 to discuss a variety of issues associated with the labeling program, including: (1) EnergyGuide label design, (2) refrigerator comparability ranges, (3) labels for heating and cooling equipment, and (4) television labeling. After conducting the Workshop, the Commission received ten additional written comments.¹⁰

Using information adduced at the workshop, the Commission published an additional notice containing details about its planned consumer research project, including drafts of the appliance labels that the Commission

planned to use in the project. (June 23, 2006 (71 FR 36088)). The Commission received eight comments in response to that notice.¹¹ Armed with all this information, the FTC staff conducted consumer research on various label designs in October 2006.

Based on all the comments, the Workshop, and the FTC's consumer research, the Commission published a NPRM.¹² The NPRM contained a variety of proposed amendments, including a new EnergyGuide label design and significant changes to the disclosure requirements for heating and cooling equipment. The NPRM also contained detailed information about the design and the results of the FTC's consumer research.¹³ The Commission received 17 comments in response to the NPRM.¹⁴ Based on our review of these comments and all other information submitted during the course of this rulemaking, the Commission is now issuing final amendments to the Rule.

V. Section-by-Section Description of Final Amendments

The following are brief descriptions of the final amendments set out in this Notice.

Section 305.2 Definitions: To make section 305.2 more user-friendly, the Final Rule places the definitions in alphabetical order. In addition, the *definition of catalog* has been amended to clarify that the term covers both paper and Internet-based catalogs.

Section 305.3 Description of covered products: The Final Rule amends the description of refrigerators and refrigerator freezers to make it consistent with DOE regulations.

Section 305.4 Prohibited acts: The Final Rule contains nonsubstantive, conforming changes to several citations in this section.

Section 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, energy efficiency rating, and water use rate: The Final Rule clarifies that this section does not apply to covered appliances for which DOE has not issued test procedures.

Section 305.7 Determinations of capacity: Under the Final Rule, manufacturers must determine refrigerator and refrigerator-freezer

⁷See 52 FR 46888 (Dec. 10, 1987) (central air conditioners and heat pumps); 54 FR 28031 (July 5, 1989) (fluorescent lamp ballasts); 58 FR 54955 (Oct. 25, 1993) (certain plumbing products); 59 FR 25176 (May 13, 1994) (lighting products); and 59 FR 49556 (Sept. 28, 1994) (pool heaters).

⁸ENERGY STAR, which is administered by the Environmental Protection Agency (EPA) and DOE, is a voluntary U.S. Government labeling program to identify and promote energy-efficient products. See <http://www.energystar.gov>.

⁹Comments on the ANPR are available at: <http://www.ftc.gov/os/comments/energylabeling/index.htm>.

¹⁰The Commission announced the Workshop in an April 10, 2006 **Federal Register** notice (71 FR 18023). Written comments related to the Workshop are available at: <http://www.ftc.gov/os/comments/energylabeling-workshop/index.htm>. A copy of the Workshop transcript is available at: <http://www.ftc.gov/os/comments/energylabeling-workshop/060503wrkshoptmscript.pdf>.

¹¹Comments submitted in response to the June notice are available at: <http://www.ftc.gov/os/comments/appliancelabelingresearch/index.htm>.

¹²72 FR 6836 (Feb. 13, 2007).

¹³This information can be found at: <http://www.ftc.gov/opa/2007/01/fyi0714.htm>.

¹⁴Comments submitted in response to the NPRM are available at: <http://www.ftc.gov/os/comments/appliancelabel-energyguidereview/index.shtm>.

capacity using DOE standards.¹⁵ Manufacturers must report this information to the FTC pursuant to section 305.8 of the Rule.

Section 305.8 Submission of data: The Final Rule clarifies that required reports for appliances include the brand name of the reported model, if it is different from the name of the manufacturer.

Section 305.9 Representative average unit energy cost: The Final Rule removes and reserves this section. The information previously provided by section 305.9 is now published in Appendix K of the Final Rule.

Section 305.10 Ranges of comparability on the required labels: The Final Rule changes this section to direct the Commission to amend range of comparability and representative average energy cost information every five years.

Redesignation of sections 305.13, 305.14, 305.15, 305.16, 305.17, 305.18 and 305.19: The Final Rule divides section 305.11 into several smaller, less cluttered sections. To make room for these new sections, the Final Rule redesignates these sections as 305.19, 305.20, 305.21, 305.22, 305.23, 305.24 and 305.25, respectively.

Requirements for lighting and plumbing products (newly designated sections 305.15 and 305.16): Under the Final Rule, the labeling and marking requirements for lighting and plumbing products previously in section 305.11 have been moved to redesignated sections 305.15 (lighting) and 305.16 (plumbing). The Final Rule contains no substantive change to existing requirements for these products.

Section 305.11 Labeling for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters: The Final Rule amends this section to require operating cost as the primary disclosure on the EnergyGuide label for all these products except pool heaters. The Final Rule also requires new language to clarify the scope of the comparison ranges on the labels. Additionally, the Final Rule modifies and clarifies requirements related to the label placement on covered products.

Sections 305.12 (newly designated) Labeling for Central Air Conditioners, Heat Pumps, and Furnaces¹⁶: The Final

Rule requires manufacturers to label heating and cooling equipment with energy efficiency information using a new label design.

Section 305.14 (newly designated) Energy information disclosures for heating and cooling equipment: The Final Rule streamlines requirements related to the disclosure and distribution of energy information for central air conditioners and furnaces.¹⁷

§ 305.19 (newly designated) Promotional material displayed or distributed at point of sale: The Final Rule contains a conforming change related to operating costs in the required disclosures in paragraph (a)(1) of section 305.19.

Section 305.20 (newly designated) Paper catalogs and websites: The Final Rule requires the disclosure of annual estimated operating costs for certain products in paper and Internet-based catalogs. Under the Final Rule, catalog sellers are no longer required to provide range of comparability information. The Final Rule also contains conforming changes to cross-references in this section.

Section 305.24 (newly designated) Exemptions: The Final Rule incorporates the exemption permitting the inclusion of ENERGY STAR logos on EnergyGuide labels into section 305.11. Section 305.24 is, therefore, reserved.

Appendices: The Final Rule amends the Appendices to include range of comparability information in the form of estimated yearly operating costs for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, and water heaters. The amendments also eliminate fact sheet information in the Appendices for heating and cooling equipment. In addition, we have eliminated the sample reporting format in Appendix K. The Final Rule redesignates the remaining appendices accordingly. Finally, the amendments add a new Appendix K that contains national average energy cost information for use on EnergyGuide labels.¹⁸

VI. Effectiveness and Benefits of the Current Label

In our ANPR, the Commission asked a series of questions related to the effectiveness of the current EnergyGuide label. As discussed in more detail in the NPRM (72 FR 6840-6841 (Feb. 13, 2007)), most comments indicated that

the current label provides consumer benefits. At the same time, many commenters thought that there was room for improvement in the label's design. A few commenters urged the Commission to consider changes to increase the label's effectiveness, such as improving its readability. Others identified specific concerns such as the "directionality" of the label's comparison graphic and the division of some products into multiple categories.

Several comments on the ANPR suggested the Commission consider changes to the label in light of the policy goals of the EnergyGuide program. The nature of those policy goals, however, was a point of disagreement among commenters. According to some industry members, the FTC's labeling program should provide useful information about the energy usage of home appliance products. (*See, e.g.*, Association of Home Appliance Manufacturers (AHAM) (#522148-00007)). They questioned, however, the role the label should play in promoting energy savings and in creating incentives for market transformation. Whirlpool (#522148-00005), for example, pointed to DOE's efficiency standards program and the ENERGY STAR program as the appropriate entities for energy efficiency promotion. It urged the FTC to focus instead on providing "meaningful, helpful information to consumers to assist them in the purchase decision" through "clear, fair, and unbiased" disclosures.

Other commenters believed that the label's effectiveness should be judged in part by its effectiveness in encouraging consumers to purchase high-efficiency products and manufacturers to bring more high efficiency products to the marketplace. (*See, e.g.*, American Council for an Energy-Efficient Economy (ACEEE) #519870-00021 and Payne #519870-00024). As ACEEE (#519870-00021) observed, amendments to EPCA set forth in the Energy Policy Act of 2005 direct the FTC to initiate a rulemaking to consider the effectiveness of the appliance labeling program "in assisting consumers in making purchasing decisions and improving energy efficiency."

In our NPRM (72 FR 6841 (Feb. 13, 2007)), the Commission responded to these various comments by noting the following Commission statement when we first promulgated the Rule (44 FR 66466 (Nov. 19, 1979)): "The primary purpose of the Commission's Rule is to encourage consumers to comparison-shop for energy-efficient household appliances. By mandating a uniform disclosure scheme for energy

¹⁵The Rule will continue to require only the disclosure of total refrigerated volume for the EnergyGuide label.

¹⁶We note that the Final Rule eliminates existing section 305.12 ("Additional information relating to energy consumption"). This provision was unnecessary because it contained no substantive requirements and was simply a placeholder for future disclosure requirements.

¹⁷The Final Rule also removes an incorrect reference to "energy cost" in section 305.14(a)(8) of the Proposed Rule.

¹⁸The Final Rule also removes an incorrect cross-reference to section 305.14 in the cost table at Appendix K.

consumption information, the Rule will permit consumers to compare the energy efficiency of competing appliances and to weigh this attribute against other product features in making their purchasing decisions. If the labeling program works as expected, the availability of this new information should enhance consumer demand for appliances that save energy. In turn, competition should be generated among manufacturers to meet this demand by producing more energy-efficient appliances." In the NPRM, the Commission stated that we continue to believe this 1979 statement accurately describes the role of the FTC's energy labeling program. The Commission further explained that the label serves two important purposes. First, the detailed operating cost and energy consumption information on the label allows consumers to compare the total cost of competing models. Second, the label aids consumers who are seeking to buy high-efficiency products that reduce energy use and thus help the environment. (72 FR 6841). No comments have altered our views on this issue.

In addition to providing this general guidance, the Commission, in our NPRM, also discussed some of the results of the FTC's 2006 consumer research related to the label's effectiveness. In brief, the research indicated that consumers find the label much more useful than has been suggested by past research. More than 85% of recent appliance purchasers who visited a retail showroom recalled seeing a label with energy characteristics. Of those respondents, 58% correctly recalled that the label was yellow with black letters. Fifty-nine percent of respondents who recalled seeing a label scored the usefulness of the label at a seven or higher on a scale of zero to ten.

In the NPRM, the Commission also proposed several changes to improve the effectiveness of the label. Section VII. of this Notice contains a discussion of comments received in response to these proposals and the final amendments to the Rule.

VII. Discussion of Comments and Final Amendments

A. New Label Design

Background: In our NPRM, the Commission proposed a new design for the EnergyGuide label, prominently featuring yearly operating cost. The proposed label's comparison range disclosed energy cost information in dollars per year. The draft label also provided consumers with information

about the product's energy use (*e.g.*, kWh/year) as a secondary disclosure.

Energy-related labels generally fall into one of two categories: "continuous" bar graph and "categorical" designs. Labels using a continuous design, such as the current EnergyGuide label, graphically display information without discrete ranks or categories. Labels under a categorical approach employ discrete categories, using a step ranking system such as stars or letters to indicate relative energy use.

The Commission's 2006 consumer research, therefore, tested four label designs: the existing continuous label, a modified version of the existing label, a categorical (star-based) label, and a continuous label that used yearly operating cost as the main descriptor. The results yielded several general conclusions. First, all four designs performed well in the objective tasks of identifying and ranking operating costs (in dollars) and energy use (in kilowatt-hours), suggesting that any of the designs should help consumers compare operating costs and energy use. The categorical label, however, was somewhat more effective for some objective tasks, particularly when compared to the modified version of the current energy use label. Second, the categorical label, which was the only label to include the term "energy efficient," was generally more effective at aiding respondents in ranking products by energy efficiency than the labels more prominently featuring operating costs or energy use. Third, respondents viewing the categorical design were much more likely to identify models as ENERGY STAR-qualified when none of those viewed contained ENERGY STAR logos. Fourth, the results suggest that respondents viewing the categorical labels were somewhat more likely to misidentify quality differences between models. Fifth, the research indicated that the categorical label had a substantially greater impact on respondents' reported willingness to pay for differences in energy performance between models. Finally, the study suggested that the respondents under all label conditions have a preference for the communication of energy characteristics in the form of operating costs over either electricity usage or a five-star categorical scale.¹⁹

After considering ANPR and Workshop comments, as well as the results of both previous consumer research (*see* 72 FR 6838-6839) and the FTC's own study, the Commission

¹⁹*See* 72 FR 6841-6851 for a detailed discussion of the consumer research results and conclusions.

proposed changing the label design to require operating costs as the primary disclosure. Section 324(a) of EPCA directs the Commission to require annual operating costs on the label, unless the Commission determines that such disclosures are not likely to assist consumers in making purchasing decisions. (42 U.S.C. § 6294(c)). The FTC's consumer research clearly indicates that cost information is likely to assist consumers in making purchasing decisions. While each of the designs considered has strengths and weaknesses, on balance, the Commission believed that the adoption of a design that presents cost as the primary disclosure would best serve consumers. In addition, the research indicated that respondents clearly identified operating costs as the preferred method for communicating energy performance in the marketplace. The NPRM, therefore, proposed requiring the operating cost design for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, pool heaters,²⁰ and water heaters.

The Commission also explained why it was not proposing a categorical label. Although the research identified some benefits associated with the categorical label, the results strongly suggested that the five-star categorical label design would confuse a significant number of consumers with regard to the well-established ENERGY STAR program and tended to convey inaccurate product quality messages more often than other tested designs. The Commission explained that, in its view, the EnergyGuide label should complement, not detract from, the ENERGY STAR program. (72 FR 6844-6845).

In our NPRM, we also requested comment on the conclusions derived from the consumer research, including the operating cost label proposal and the Commission's concerns with the categorical label. Additionally, we sought comment on questions related to the proposed operating cost label. In particular, we asked whether frequent changes to average energy cost figures could lead to inconsistent labels for models displayed in the showroom. In addition, we asked whether the regional variability of energy costs is a

²⁰When the Commission first issued pool heater label requirements in 1994, the DOE test procedure did not contain a final procedure for measuring annual operating costs for these products. (*See* 10 CFR Part 430, Appendix P; and 59 FR 49556, 49558 (Sept. 28, 1994)). DOE amended the procedure to allow manufacturers to calculate annual energy use and operating cost for pool heaters. (62 FR 26140 (May 12, 1997)). Accordingly, in the NPRM, the Commission proposed to require the disclosure of estimated annual operating costs on pool heaters.

significant issue for implementing the energy cost label. The NPRM also sought comments on a variation of the operating cost label that would display energy costs over a five-year period as the primary disclosure.

Comments: Several commenters supported the FTC's proposal to require annual operating cost as the primary disclosure on the label.²¹ For example, Consumers Union (#527896-00012) stated that it "strongly supported" the proposed label. Whirlpool (#527896-00004) explained that "estimated annual operating cost is the factor that consumers are most interested in when comparing models." In its view, it is unrealistic to expect consumers "to understand some other 'alphabet soup' (kWh, AFUE, MEF, EF, etc.) and to know if a higher value or a lower value is better." AHAM (#527896-00006) added that an "average national energy cost estimate will permit consumers to easily compare products by using one specific measurement."

Some commenters, however, argued that the use of operating cost as the primary disclosure would not be helpful for many consumers.²² ACEEE (#527896-00015) explained that energy costs vary widely across the country and that many "consumers may find the range of operating costs displayed on the label to be unrealistic and unreasonable based on their experience and discount the label altogether." ACEEE (#527896-00015) also indicated that the results of FTC's research did not provide information on the ability of consumers "to relate the reported cost values to the specific circumstances of their own appliance purchase or how relevant and believable they would find the information when shopping for appliances." According to ACEEE (#527896-00015), research on vehicle labeling has demonstrated that consumers' stated preferences for label information do not often correspond to information that exhibits the highest levels of comprehension in practice. ACEEE (#527896-00015) recommended that the FTC retain the current label format which provides energy consumption as the primary disclosure. CEE (#527896-00016) echoed ACEEE's concerns, adding that wide fluctuations in energy prices across the country could lead to consumer confusion and

create the potential for "misrepresentations" on the label.

Other commenters did not believe that regional variability in energy prices created a decisive obstacle to the proposed label. According to Whirlpool (#527896-00004), shoppers are primarily concerned about "the relative, not the absolute, operating cost." In its view, consumers understand that the energy costs on the EnergyGuide label are "estimates and national averages" and "that their own experience will vary." AHAM (#527896-00006) indicated that employing national average energy cost information allows consumers to compare products according to energy usage despite the fact that actual costs for individual consumers may vary across the country. Similarly, Consumers Union (#527896-00012) argued that "the value of the EnergyGuide to consumers stems from the fact that it is for comparative purposes" and "not necessarily to reflect the product's actual cost to the consumer." At the same time, Consumers Union (#527896-00012) suggested that the label should provide a better explanation that the displayed cost may not reflect a consumer's actual cost.

Several commenters supported the Commission's decision to discontinue its consideration of a categorical design in light of the FTC's consumer research. EPA (#527896-00018) concurred with the FTC's conclusion regarding the significant concerns the categorical design raises for the ENERGY STAR program, including the confusion such a design could cause consumers in identifying ENERGY STAR products. EPA (#527896-00018) also agreed with the FTC's concerns about the tendency of the categorical label to convey inaccurate product quality messages. Whirlpool (#527896-00004) echoed EPA comments, indicating that the FTC's study clearly demonstrated that the categorical label frequently conveys messages to the consumer about product quality and that the "opportunity for confusion with the ENERGY STAR program is significant." CEE (#527896-00016) expressed appreciation for the FTC's efforts to research and analyze the interaction between the ENERGY STAR and EnergyGuide labels.

Other comments raised concerns with the Commission's decision not to pursue a categorical label. ACEEE (#527896-00015) concluded that the FTC's research confirmed earlier work indicating that "categorical labels rate well in terms of consumer comprehension, appeal, and motivating ability." In its view, "the categorical label outperformed other label designs."

At the same time, ACEEE (#527896-00015) acknowledged that more effort is necessary to develop and implement a categorical labeling program. It suggested that the FTC "work together [with stakeholders] to develop a categorical EnergyGuide label that coordinates well with the ENERGY STAR label." Christopher Payne (#527896-00014) argued that the analysis in the NPRM understated the performance of the categorical label on key questions related to consumer understanding. He noted that small increments of consumer comprehension improvement can have significant effects on total energy use. In his view, "even a 1% difference in comprehension among consumers can have substantial energy and cost savings nationwide." He estimated that, for refrigerators alone, such a difference in comprehension could lead to a cumulative impact of \$100,000 annually in energy use. Payne urged the Commission to continue consideration of the categorical label.

Though comments varied on the adoption of annual operating cost as the primary disclosure, almost all commenters opposed disclosing operating costs over a multi-year period. Brand Source (#527896-00003), an appliance buying group, warned that any type of life expectancy figure on the label will be unrealistic and undesirable for manufacturers and retailers. Whirlpool (#527896-00004) indicated that the "use of a five or 10 year time frame may imply a product lifetime or even a warranty commitment-items which are not within the scope of this label (in addition to being inaccurate in this case)."²³ AHAM (#527896-00006) suggested that a change to a five-year operating cost may confuse consumers, making them think that costs have risen abruptly. Christopher Payne (#527896-00014) concluded that more research would be necessary to adopt a multi-year label. ACEEE (#527896-00015) commented that a multi-year label would require "yet another set of assumptions, thereby introducing additional opportunities for consumer confusion and skepticism about the label." It also indicated that a multi-year label would require more explanatory language, and noted that "[r]esearch conducted by ACEEE and many others show that consumers are less likely to read and/or believe labels with extensive text, too many technical details, or multiple levels of assumptions." CEE (#527896-00016) raised similar concerns and also urged the Commission not to use a five-year

²¹See Consumers Union (#527896-00012), AHAM (#527896-00006), Whirlpool (#527896-00004), EEI (#527896-00005), and EPA (#527896-00018) ("EPA is supportive of FTC's decision to develop a modified version of the current Energy Guide label ...").

²²See ACEEE (#527896-00015), CEE (#527896-00016), and Brand Source (#527896-00003).

²³See also EEI (#527896-00005).

operating cost and a single year energy use figure on the same label.²⁴

Finally, we note that several commenters²⁵ expressed support for the Commission's efforts to change the general appearance of the label by clearly grouping information and changing the font size of some of the disclosures. AHAM (#527896-00006), for example, indicated that the "changes to the *EnergyGuide* label make it easier for consumers to identify the information most important to them and provide a better presentation of relevant information in an easier to read format." One commenter (Deumling (#527896-00002)), however, asked why the statement "Compare the Energy Use of this [product] with Others Before You Buy?" had been eliminated from the proposed label.

Discussion: In response to commenters' concerns, the final version of the label contains a number of wording and format changes, but retains operating cost as the primary descriptor for most labeled products. The research suggests that the operating cost disclosure provides a clear, understandable tool to allow consumers to compare the energy performance of different models. The operating cost design not only performed well on objective tasks in the research but research participants identified the design as the most useful method for communicating energy information. The disclosure also provides a clear context from which consumers can compare the energy efficiency of various appliances, and allows them to assess trade-offs between energy efficiency and other expenditures. An operating cost range also provides an energy efficiency descriptor that is consistent across appliance types appearing together in showrooms (e.g., refrigerators, dishwashers, clothes washers, and room air conditioners), and addresses the "directionality" problem identified by comments (i.e., more efficient models are always lower on the range across appliance types).²⁶

For all of these reasons, the Commission continues to believe that consumers are best served with operating cost as the primary descriptor on the *EnergyGuide* label. We recognize commenter concerns about the variability of energy costs, but we agree

with Consumers Union (#527896-00012) and other commenters that "the value of the *EnergyGuide* to consumers stems from the fact that it is for comparative purposes." The *EnergyGuide* label's ability to predict an individual's actual energy use is limited. Regardless of its design, the label only can provide consumers with a general idea of the energy they will consume. Any model-specific energy use disclosure, whether in dollars, kilowatt-hours, or a star rating, is merely an estimate based on assumptions regarding use conditions and patterns.²⁷ The lack of uniformity in energy prices across the country is another factor added to this set of existing variables. On balance, we believe that the benefits of having a prominent, simple operating cost to allow consumers to compare the relative energy use of various product models outweigh concerns raised by the variability in regional energy prices.

Although we have decided to use operating cost as the primary disclosure, we agree with commenters that the label provide a more prominent explanation that consumers' actual operating costs will vary. Accordingly, in the final version of the label, we increased the size and prominence of the statement informing consumers that their own operating cost will depend on their utility rates and product use. This change should help consumers understand that the operating cost figure on the label is simply an estimate based on national averages.²⁸

Given our decision to adopt operating cost as the label's primary disclosure, the Commission does not plan to pursue the categorical label further at this time. Our consumer research suggests that there are significant benefits to the categorical label design, and we recognize, as Christopher Payne (#527896-00014) explained, that even small differences in comprehension may affect consumer buying behavior. The magnitude of such effects, however, is extremely difficult to quantify because rates of label comprehension do not necessarily translate directly into

buying behavior. Most important, however, the FTC's study identified substantial problems with the categorical design, particularly as it may impact consumer comprehension of the ENERGY STAR program. As explained in the NPRM, this problematic interaction with the ENERGY STAR program and the quality-related results for the categorical design convinced us not to adopt the categorical label at this time.²⁹

Although we have adopted operating cost as the primary descriptor, the Commission does not plan to pursue a multi-year cost disclosure on the label. We agree with the commenters that such a design raises a host of unresolved questions. The final label, therefore, mandates a one year cost figure.

The Final Rule requires an operating cost label for most appliances including refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, and water heaters. The appendices to the Final Rule contain updated range information based on the most recent annual reports submitted by manufacturers to the Commission.³⁰ In drafting the new labels, manufacturers must use the range information and the 2007 national average energy cost information at Appendix K.

We note that the NPRM also proposed to require an operating cost disclosure for pool heaters (see 72 FR 6846, n. 54). The current DOE test procedure (10 CFR Part 430, Appendix P) contains a method for calculating annual energy consumption for pool heaters. This method, however, does not take into account a model's energy performance (i.e., thermal efficiency), but instead provides annual energy consumption information based on a model's capacity. As a result, the annual energy

²⁹Other concerns also exist with the categorical label. For example, the FTC's study did not test conditions in which categorical labels had the same number of stars but different energy use and operating cost figures. We expect such a scenario would be quite common under a categorical labeling scheme. The inclusion of such a scenario in any future research may provide additional information about the performance of a categorical design on the types of objective tasks involved in the study. In addition, the FTC's study did not address the feasibility (i.e., the technical and administrative considerations) of implementing a categorical label, including the alignment of FTC energy rating categories with ENERGY STAR criteria, a concern raised by commenters earlier in the proceeding (see, e.g., EPA (#519870-00007)).

³⁰The range data in the appendices excludes models identified as "discontinued" in manufacturer reports. In addition, given the staggered annual reporting dates set out in the Rule section 305.8, the new range data for clothes washers and refrigerators is based on the annual reports submitted in 2006 and new model reports submitted since that time.

²⁴Consumers Union (#527896-00012) did not object to a multi-year label but noted that most appliances have an average life of about ten years.

²⁵ACEEE (#527896-00015), EEI (#527896-00005), and AHAM (#527896-00006).

²⁶As explained in Section VII.C. of this Notice, the Rule will continue to require the disclosure of efficiency ratings on labels for heating and cooling equipment.

²⁷Manufacturers must derive the energy information provided on the label from standard DOE test procedures which mandate specific test conditions (e.g., air temperature, water temperature) and usage assumptions (e.g., number of washloads per week) that will not necessarily apply to all consumers.

²⁸Based on recommendations by ACEEE, we have sought to minimize the amount of text on the label (see, e.g., Thorne, Jennifer and Egan, Christine, "An Evaluation of the Federal Trade Commission's *EnergyGuide* Label: Final Report and Recommendations," ACEEE, August 2002). As proposed in the NPRM, we have eliminated phrases such as "Compare the Energy Use of this . . ." because such language is either redundant or unnecessary to the label's effectiveness.

consumption derived from the test procedure does not reflect relative energy efficiency differences among models. Without information about the relative energy performance of similar capacity models, it is unclear whether such disclosures would be helpful to consumers. Accordingly, the pool heater label will continue to disclose the thermal efficiency of each model as required under the current rule.

B. ENERGY STAR Logo Placement

Background: In the NPRM, the Commission proposed directing manufacturers to place the ENERGY STAR logo in the lower right-hand corner of the label for qualified products, instead of above the range of comparability bar as currently required. Under the proposal, the logo would be up to one inch by one inch in size.

Comments: Comments were generally supportive of a change to the ENERGY STAR logo placement. For example, EEI (#527896-00005) indicated that placement of the logo in the bottom corner of the label will “help customers who are looking for more energy efficient appliances.” Some commenters, however, suggested changes in the placement and prominence of the ENERGY STAR logo. AHAM (#527896-00006), for instance, asked the Commission to consider allowing placement of the logo in the top third of the label. EPA supported any changes that would “improve the prominence and visibility of the ENERGY STAR logo without undermining the general purpose of the EnergyGuide label.”

A few commenters believed the Commission should allow a larger ENERGY STAR logo than the one inch by one inch size proposed in the NPRM. Whirlpool (#527896-00004) supported the placement of the logo in the lower right corner, but commented that the proposed size would be “fairly small” and suggested that the FTC allow a larger logo (e.g., 1.25 to 1.5-inches square). AHAM (#527896-00006) also suggested an increase in the logo’s allowable size. EPA (#527896-00018) indicated that the proposed logo size of “one inch by one inch is the minimum effective size for use of the ENERGY STAR logo for qualifying products on the EnergyGuide label.”

Discussion: Under the final amendments, manufacturers using the ENERGY STAR logo on their labels must place it in the lower right-hand corner. The Commission has decided to retain this proposed placement requirement because it will ensure that the ENERGY STAR logo is presented consistently across all labels in a

location away from other energy performance measures. The Final Rule also requires a uniform one inch size for the logo on all applicable labels. This will provide the ENERGY STAR logo with a consistent size and location across all EnergyGuide labels. We do not believe that the label can reasonably accommodate a larger logo and still clearly provide all the information necessary to serve its purpose. We note that although the Proposed Rule indicated the logo could be “up to” one inch in size, the logo appearing on Sample Label 2 of the NPRM was approximately 1/2 inch in size (on an actual size label).

C. Requirements for Heating and Cooling Equipment

Background: The current labeling requirements for furnaces, boilers, central air conditioners, and heat pumps provide little value to consumers prior to purchase because these products generally do not appear in showrooms. At the same time, the record indicated that the information on the label provides benefits to consumers and energy auditors in the use of existing, installed units and in the purchase of replacement products. The labels may also provide information allowing consumers to confirm that the model they ordered is the model that has been installed by the contractor. The Commission, therefore, proposed requiring manufacturers to mark their units permanently with certain energy information in lieu of labeling. The Commission expected that marking requirements would be a more durable and less expensive means of making information available to consumers. Under the proposal, the Rule would have continued to require EnergyGuide labeling for water heaters because these products appear in showrooms.

In addition to the marking proposal, the Commission sought to streamline and improve the Rule’s fact sheet and directory provisions (i.e., pre-purchase disclosure requirements) by removing complicated equations and charts from fact sheets, eliminating operating cost calculation information, and providing manufacturers and contractors with new options, such as online sources, for providing energy information. The Proposed Rule would have required manufacturers to provide the following pre-purchase disclosures in fact sheets, directories, or another medium: (1) the name of manufacturer or private labeler; (2) the trade (brand) name; (3) model number(s); (4) capacity determined in accordance with section 305.7; (5) energy efficiency rating as determined in accordance with section 305.5; (6) a

statement that the energy efficiency ratings are based on U.S. Government standard tests; and (7) in the case of, information about efficiency ratings of split system central air conditioners for specific condenser/coil combinations or, alternatively, for the “most common” condenser-evaporator coil combinations, as currently required by the Rule. The Commission also asked whether the Rule should require manufacturers to provide an estimated national average operating cost for their models.

Comments: The comments addressed both the permanent marking and pre-purchase information requirements proposed in the NPRM.

Marking

The comments contained mixed views on the proposed permanent marking requirements. Several supported the proposal.³¹ For example, EEI (#527896-00005) indicated that paper labels can be lost or discarded and that permanent marking will “allow consumers and entities offering incentive programs to be sure that they are ‘getting what they paid for.’” First Company (#527896-00008), a manufacturer of air handling systems and evaporator coils, supported the marking proposal, but suggested the Rule clarify that marking should be placed on the condenser (or outdoor heating pump) as currently required for EnergyGuide labeling. Burnham (#527896-00001), a boiler manufacturer, agreed with the proposal, but requested that the Commission provide manufacturers with at least six months to implement the change.

GAMA (#527896-00007) did not oppose marking for boilers, but raised concerns with such a requirement for furnaces. It explained that current multi-position furnaces allow installers to select particular airflow configurations that affect the product’s actual Annual Fuel Utilization Efficiency (AFUE). Because manufacturers cannot determine the configuration of the equipment installed in the field, GAMA (#527896-00011) contended that a single rating on the product would be “problematic.” As GAMA has explained in the past, the disclosure of more than one rating for multi-positions provides more precise information to consumers about the expected efficiency of the product under different airflow configurations.³² As GAMA (#527896-00011) noted in its

³¹See Consumers Union (#527896-00012), EEI (#527896-00005), and First Company (#527896-00008).

³²See FTC Staff Opinion Letter from James G. Mills, FTC, to Joseph M. Mattingly, GAMA, April 13, 1999.

comments, the FTC staff has interpreted the Appliance Labeling Rule to permit the disclosure of multiple ratings for multi-position furnaces on the current EnergyGuide label.³³ GAMA (#527896-00011) implied that space constraints on the nameplate may make it difficult to provide such multiple ratings. GAMA (#527896-00011) also raised concerns about the efficacy of placing the efficiency information on the furnace nameplate because the nameplates generally appear on the product's interior.

ARI (#527896-00010), which concluded that a marking requirement would not be more effective than the current label, also raised a series of concerns.³⁴ First, it stated that, because energy ratings only reflect the performance of the most common condenser/coil combination, the rated information on a permanent mark may be different from the actual system purchased by the consumer. Moreover, ARI (#527896-00010) asserts this information is best provided through fact sheets or industry directories. Second, ARI (#527896-00010) indicated that a permanent mark is not necessary to allow consumers to confirm that the model ordered is the one that has been installed. ARI (#527896-00010) argued that this "can easily be verified today by checking the model number on the product nameplate against the manufacturer's fact sheet or the information in the ARI directory of certified products." Third, ARI (#527896-00010) argued that the Commission should not consider the needs of energy auditors because, in its view, the intent of EPCA is to aid consumers in their purchasing decisions, not energy auditors in conducting audits. Moreover, ARI (#527896-00010) believes the needs of auditors are best met by industry fact sheets and directories. Fourth, ARI (#527896-00010) stated that a permanent marking requirement would be more expensive to implement than the current EnergyGuide label. It noted that California's marking requirements do not apply to residential heating and cooling products. Therefore, manufacturers are not currently marking these products, contrary to the discussion in the NPRM.³⁵ Finally, ARI (#527896-00010) indicated that it would support maintaining the current EnergyGuide label "if FTC strongly

believes that a label of some sort is necessary."

No commenter opposed the proposal to retain EnergyGuide labels for water heaters. GAMA (#527896-00011) supported the Commission's decision to maintain separate range categories for storage and tankless water heaters.

Pre-Purchase Information Disclosures

The comments presented a variety of opinions regarding the Commission's proposal to simplify the requirements for the disclosure of efficiency information. Several commenters generally supported the Commission's proposal to simplify the fact sheet requirements and provide more flexibility to manufacturers.³⁶ For example, First Company (#527896-00008) explained that it supports "giving manufacturers the flexibility to provide energy information to distributors and retailers through fact sheets, directories or product brochures and to make the information available electronically via websites or e-mails."

While no commenters opposed the Commission's proposal in its entirety, some urged the Commission to require the disclosure of additional information. For example, ACEEE (#527896-00015) suggested capacity should be added to the labeling or marking requirements and that, for furnaces and boilers, capacity should be based on "output," not "input" as required by current regulations.

ACEEE (#527896-00015) also raised concerns about disclosures for split system central air conditioners. Such systems contain two components: a condenser (usually installed outdoors) and a coil (installed indoors). Different combinations of condensers and coils usually yield different efficiency ratings. Manufacturers under the FTC's current Rule must label only the condenser. In addition, the Rule requires that the rating for a particular condenser be either: 1) the system efficiency rating using the most common coil sold with that condenser; or 2) the system efficiency ratings of each separate coil/condenser combination sold by the manufacturer. To help consumers and installers with matching condensers and coils at the time of purchase, ACEEE (#527896-00015) urged the Commission to require a table of information designating the capacity or other performance parameters required so that the system will provide the certified performance promised by the condenser label. Similarly, Consumers Union (#527896-00012) urged the Commission

to require comparative energy information online noting that most consumers do not go to showrooms to compare these products. CEE (#527896-00016) also recommended that the FTC require equipment manufacturers to disclose the energy efficiency range of ratings of a given condenser when combined with various matching coils (and furnaces, if applicable). It also urged the Commission to require a statement about the importance of matched systems in achieving energy efficiency. In addition, CEE (#527896-00016) urged the Commission to work with ARI and GAMA to ensure that efficiency information (e.g., the Seasonal Energy Efficiency Ratio (the "SEER" rating)) is available online.

Some comments addressed whether operating cost information disclosures should be required for central air conditioners and furnaces. In particular, Rheem (#527896-00013) supported the FTC's proposal to eliminate required cost disclosures and noted that "the determination of operating costs is complicated by regional climate and energy costs." First Company (#527896-00008) also indicated that operating cost information for these particular products is "of little value to consumers because these costs are highly dependent on a number of variables . . ." ARI (#527896-00010) agreed that average cost information for heating and cooling equipment would be of limited use to consumers on labels. ARI (#527896-00010), however, plans to provide average operating cost information as part of its online directory. Neither ARI nor other entities provided any detailed comments on whether the FTC should require some sort of national average cost information (and what methodology should be used for such calculations).

Several commenters addressed how sellers should provide the required information. Some supported the Commission's proposal to provide sellers with more flexibility in the dissemination of this information, including electronic distribution.³⁷ Fujitsu (#527896-00007) supported allowing the provision of information over the Internet. CEE (#527896-00016), however, raised concerns with the proposal. It suggested that the FTC require contractors to present energy information at the time of sale to consumers because not all consumers have access to the Internet.

Discussion: The comments addressed the two primary issues raised in the NPRM: the proposed marking

³³*Id.*

³⁴See GAMA (#527896-00011), Fujitsu (#527896-00007), and CEE (#527896-00016).

³⁵See also Fujitsu (#527896-00007) and GAMA (#527896-00007).

³⁶Fujitsu (#527896-00007), GAMA (#527896-00011), Rheem (#527896-00013), EEI (#527896-00005), and First Company (#527896-00008).

³⁷See GAMA (#527896-00011), Fujitsu (#527896-00007), and Burnham (#527896-00001).

requirements and the proposed pre-purchase information requirements. With regard to the marking requirements, the Final Rule continues to require manufacturers of central air conditioners and furnaces to place EnergyGuide labels on their products. The Rule also will continue to require EnergyGuide labeling for water heaters. With regard to pre-purchase energy information, the Final Rule contains the simplified point of sale information requirements contained in the Proposed Rule. The Final Rule does not require the dissemination of operating costs information for these products because it is unlikely that such information can be presented in a manner that provides benefit to consumers.

Marking

The Commission has considered the comments submitted on the proposed marking requirement and has determined to retain the existing labeling requirements for these products. Under EPCA, the Commission may require additional energy information on the product, such as the proposed marking requirements, if such information would "assist consumers in making purchasing decisions or in using the product and such requirements would not be unduly burdensome to manufacturers." (42 U.S.C. 6294(c)(5)). As discussed above, the comments raised significant concerns about the feasibility and cost of the proposed marking requirements. At the same time, some industry members indicated the continued labeling would not pose such problems.

As discussed in the NPRM, the record demonstrates that the information on labels provides a benefit to consumers in both their use of existing equipment and their purchasing decisions for replacement products. The Commission also suggested that the label may help consumers confirm that the model they have purchased is the one that has been installed. The record developed since the NPRM does not alter these findings. We, therefore, continue to believe that some form of disclosure is necessary to help consumers with purchasing decisions and with their use of the product. We recognize that permanent marking may achieve these benefits. However, given the comments we cannot rule out the possibility that such marking would be unduly burdensome. The Final Rule, therefore, continues to require EnergyGuide labels for this products. We note that nothing in the Rule prohibits manufacturers from providing energy information on their product nameplates or elsewhere on the product.

Under the Final Rule, the EnergyGuide labels will continue to provide efficiency ratings and efficiency range information as the only energy-related disclosures. However, we have changed the appearance and content of the label to make it consistent with the new label format for other products. In addition, we have amended the format and placement requirements to require that the label be affixed to the product in the form of an adhesive label. Such labels will increase the likelihood that the label will remain on the product after purchase, and be available to aid consumers in their equipment purchasing decisions and use of the product.

Pre-Purchase Information Disclosures

The Final Rule eliminates the detailed, prescriptive requirements currently applicable to fact sheets for these products and replaces them with a requirement to provide consumers with basic energy performance information.³⁸ The new, simplified requirements should make it easier for manufacturers and installers to ensure consumers have the energy information they need while reducing the burden on manufacturers. The Commission also has considered four additional issues raised by the commenters: comparability range information, ratings for split system central air conditioner combinations, cost disclosures, and Internet availability. Each of these issues is discussed in turn as follows.

Contrary to the proposal in our NPRM, the Rule will continue to require ranges of comparability for heating and cooling equipment in fact sheets, directories, and online databases covered under section 305.14 of the Final Rule. Our NPRM suggested that such information may have a reduced value in directories and online databases where data for comparative models is readily available. However, both CEE (#527896-00016) and Consumers Union (#527896-00012), two commenters with significant expertise on these issues, argued that such information is important for consumers before purchase. Consumers Union (#527896-00012) noted that most consumers do not visit showrooms where they can compare different models of these products. Because many consumers may not have access to the EnergyGuide label prior to purchase, this range information should be useful to them in their buying decisions.

³⁸As explained earlier, several commenters supported this overall change. No commenter challenged our assertion that the equations and charts on the current fact sheets are not particularly helpful to the average consumer.

The current Rule (§ 305.11(a)(5)(iii)) requires that manufacturers disclose the actual ratings of the various combinations sold by the manufacturer or disclose the rating for the most common combination.³⁹ Several commenters suggested that the Commission require manufacturers to provide efficiency ratings for all condenser/coil combinations of split system central air conditioners. Such a proposal raises two concerns. First, a requirement to disclose the ratings for all possible combinations may not be practical for labeling or fact sheet-type disclosures where space is limited. Second, such matching information for split system units is already available through the ARI directory.⁴⁰ Accordingly, the Commission is not amending the disclosure rules to require disclosure of ratings for all condenser/coil combinations for split systems. The Final Rule clarifies that manufacturers may provide either the ratings for specific condenser/coil combinations or the rating for the most common combination. We note that nothing in the Final Rule prohibits the manufacturers from providing the ratings for multiple combinations, if such disclosures are feasible for them.

As proposed in the NPRM, the Final Rule does not require the disclosure of cost information for these products in labels or in fact sheets. As the comments suggested, operating costs for this type of equipment are highly dependent on regional weather conditions. This would add a layer of variability to the operating costs estimates beyond individual use and utility rates already applicable to most of the other labeled products like refrigerators.⁴¹ In addition, consumers generally purchase heating and cooling equipment through a knowledgeable professional (such as a contractor) and do not select the models themselves in showrooms or online. As a result, consumers may have less need for operating cost information to help them compare products. Accordingly, the Final Rule does not require disclosure of operating cost information. At the same time, we recognize that operating cost may be beneficial to some consumers. The Final Rule does not

³⁹The current Rule does not require the publication of such information in fact sheets or directories.

⁴⁰Under DOE regulations (10 CFR § 430.24(m)), split system manufacturers must certify the various condenser/coil combinations through testing and/or the use of an alternative rating method. Accordingly, the ratings for various condenser/coil combinations sold by the manufacturers are available to the public through the ARI directory (see <http://www.aridirectory.org>).

⁴¹No comments supported a required disclosure of national average cost information.

prohibit the dissemination of cost information for such products. Manufacturers and associations that choose to provide operating cost information should continue to follow section 323(c) of EPCA (42 U.S.C. § 6293(c)), which requires that any representation regarding the energy use of a covered product must “fairly disclose” the results of the DOE test procedure.

Finally, the Final Rule allows heating and cooling equipment retailers to use a variety of means, such as fact sheets, directories, and Internet-based data, to provide customers with access to required energy information prior to purchase. We recognize that some purchasers of residential heating and cooling equipment may not have immediate access to the Internet. Under the amended Rule, sellers who negotiate contracts in customers’ homes and who rely on Internet-based data to fulfill the disclosure obligations in section 305.14 must provide customers with instructions to access such information and let them read the information before they agree to purchase the product. The Final Rule provides sellers with flexibility in complying with the requirements to meet the needs of individual customers, including those who do not have Internet access. For example, some retailers may choose to have paper versions of the required information available to provide to customers who do not have immediate Internet access. Others may decide to bring an electronic version of the Internet-based information (*e.g.*, a downloaded directory or fact sheet) themselves using a laptop computer or other device. In limited cases where the retailer does not bring printed material (or a laptop computer) to the customer’s home, customers should have ample time to access the information online at a local library or other public access site due to the nature of heating and cooling equipment sales, which often involve more than one visit to the customer’s home.⁴² As Internet penetration increases in U.S. households, we believe that this matter will become less and less of an issue.⁴³

⁴²See, *e.g.*, Workshop Transcript, 164.

⁴³One commenter suggested that the FTC require the disclosure of product capacity on the product itself. Though the current rule does not require the disclosure of capacities on labels, it does require the disclosure of such information on fact sheets and in directories. In addition, manufacturers must report capacity information to the FTC under existing reporting requirements. Under section 305.14 of the Final Rule, manufacturers must continue to provide capacity as part of the pre-purchase energy disclosures made to consumers. The disclosed capacity under the Rule must be that

D. Refrigerator Categories

Background: During this proceeding, the Commission explored whether the range categories for refrigerators (used to determine the range of comparability on the EnergyGuide label) should be combined to include models with different door configurations and features. The current labeling requirements designate separate comparability ranges for various refrigerator sub-categories (or styles) such as side-by-side door configurations, models with top-mounted freezers, or those with through-the-door ice service. This allows consumers easily to compare the energy use of similarly configured refrigerators and at a glance to determine a product’s energy use in comparison to the entire market for similar models. The current system, however, does not allow for such comparisons across categories. Consumers, however, can employ the energy use and operating cost information on the current labels to compare the product’s energy performance to other refrigerators in the showroom regardless of configuration.

This problem is complicated by the fact that some refrigerator configurations are generally less efficient than others. For example, top-mounted freezer models generally use less electricity than comparably sized side-by-side models. As a result, the range information on a particular side-by-side refrigerator label may compare favorably to other side-by-sides, but fail to show that the model uses significantly more energy than an average refrigerator with a top-mounted freezer. As part of its Workshop, the FTC, therefore, sought comments on whether the refrigerator labels should present comparability information for all refrigerators regardless of configurations (*see* 72 FR 6853-6854). The comments varied. Some suggested that the combination of the range information would make it easier for consumers to compare across categories. Others indicated that most consumers do not shop across configurations and, therefore, combining ranges would not be desirable.

In our NPRM, the Commission explained that it was not proposing to alter current range categories for refrigerators because doing so runs counter to the system used by the DOE and the ENERGY STAR programs. For example, ENERGY STAR-qualified side-by-side door models are highly efficient compared to other side-by-side models

yielded by the DOE test procedure (*see* 10 CFR section 305.7).

but not necessarily compared to all other refrigerator-freezers. Therefore, if the comparison range on the EnergyGuide label included all configurations, some ENERGY STAR designated models would appear as less efficient on the range than some non-ENERGY STAR models. This could cause consumer confusion in the showroom and may cause confusion about the ENERGY STAR designation. Accordingly, the Commission indicated that a change in the current range system would not provide significant benefits for consumers.

Although our NPRM did not propose changes to the refrigerator categories, the Commission recognized the need to clarify label information related to product categories. Accordingly, the Commission proposed amending the Rule to require the following explanatory statement on refrigerator labels: “Size, door attributes, and ice features affect energy use—so other refrigerators may have lower or higher operating costs.” In addition, the NPRM contained a proposal to require more explicit language on the refrigerator-freezer label to clarify that the range only applies to the specific subcategories of products. For instance, the range for a side-by-side through-the-door ice label would have stated: “Range for models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice.” The Commission sought comments on these proposals. The NPRM also asked whether the Commission should amend the categories to include refrigerator-freezers with bottom-mounted freezers and through-the-door ice service (a configuration that has recently appeared on the market).

Comments: Some commenters supported the Commission’s decision to maintain the existing range categories for refrigerators. AHAM (#527896-00006) stated that consumers rank configuration as a top priority when choosing a refrigerator and, therefore, would not benefit from combined range information on the label. Whirlpool (#527896-00004) similarly explained that consumers identify their model size needs and consider which configuration they want before they begin the shopping process. In AHAM’s (#527896-00006) view, the prominent disclosure of operating costs on the label will permit consumers to compare models across all categories using a uniform measurement.

Other commenters, however, urged the Commission to reconsider its decision. ACEEE (#527896-00015) noted that the FTC’s label research underscores consumers’ lack of

knowledge on this issue, and thus, the need to eliminate separate categories. By eliminating subcategories, ACEEE (#527896-00015) contends the FTC could improve the effectiveness of the label and better meet the original intent of the labeling program. Consumers Union (#527896-00012) suggested that the Commission include ranges for all refrigerator categories on all refrigerator labels to allow consumers to understand the variability in energy use among configurations. CEE (#527896-00016) also urged the Commission to reconsider and argued that “while the inclusion of some text on the refrigerator label to explain the different operating cost and energy use ranges for the different types of refrigerators might help consumers’ understanding of the label, it still does not allow consumers to compare efficiency across different types of refrigerators.”

Several commenters raised concerns with the new statements proposed for the EnergyGuide label related to refrigerator categories. Whirlpool (#527896-00004) indicated that, while it may be appropriate to inform consumers that product features affect energy costs, it is unnecessary to insert a statement identifying the model’s configuration category (e.g., “Range for models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice”). AHAM (#527896-00006) argued that neither of these disclosures is desirable. It urged the Commission to rely on the prominence of the operating cost disclosure as the most effective way to allow consumers to compare energy performance across different designs. Regarding the statement identifying the model’s category, AHAM (#527896-00006) concluded that the “the need to address certain variables [such as the range category] is outweighed by the benefit of having a simple universal measurement.” AHAM (#527896-00006) asserted that both proposed statements on the label are potentially confusing to consumers, redundant, and would create unwanted clutter. On the other hand, Consumers Union (#527896-00012) suggested the statement is not adequate because it may fail to alert consumers to the fact that the range of refrigerator comparisons is “very narrowly defined.”

In response to questions about labeling refrigerator-freezers with a bottom-mounted freezer and through the door ice, Consumers Union (#527896-00012) stated that the introduction of these models is increasing and should accelerate in the future. It, therefore, urged the Commission to create a separate category. In contrast, AHAM (#527896-00006) and Whirlpool

(#527896-00004) argued that these models represent a small portion of total refrigerator sales and the number of models currently available do not warrant the creation of a new category.

Discussion: The Commission has decided to maintain the current refrigerator categories.

As comments from ACEEE (#527896-00006) and Consumers Union (#527896-00012) indicate, combined range information for all refrigerators may provide a benefit by alerting consumers to the fact that the energy use of refrigerators can vary by configuration.⁴⁴ As discussed in detail in the NPRM though, we continue to believe that the combination of refrigerator classes would negatively impact the ENERGY STAR program which uses the current refrigerator categories in setting its qualification criteria. Because the ENERGY STAR logo appears on the EnergyGuide label itself, we believe it is very important to align the FTC refrigerator categories with those used by the ENERGY STAR program. Without such alignment, some ENERGY STAR models may fall on the high end of the operating cost range, creating possible confusion and potentially reducing consumer confidence in both the ENERGY STAR program and the EnergyGuide label. This factor alone is dispositive in our decision.

We have also considered the comments in response to our proposal to include more information about the range on the label, as well as the other suggested additions (e.g., identifying the ranges for all configurations on every label and providing the make and model number of the products at the high and low end of the range). We are concerned that the inclusion of such additional information will clutter the label and create confusion without significant benefit to consumers. Likewise, we are concerned that the language proposed in the NPRM, which would have included the complete category description directly under the range, would crowd

⁴⁴We note that the current magnitude of the benefit from combined range information is uncertain. At some model sizes, there are simply no (or very few) models of certain configurations available on the market. For example, there are few side-by-side door models (for automatic defrost refrigerator-freezers) available at sizes under twenty cubic feet. This means, for example, that combining the ranges would provide little benefit to a consumer shopping for an 18 cubic foot refrigerator-freezer. Likewise, there are few top-mount and bottom-mount refrigerator-freezer models available over twenty-three cubic feet in size. In addition, the FTC’s consumer research (Q.805) suggested that over half of recent refrigerator purchasers did not consider different model configurations when shopping.

the label unnecessarily, thereby reducing its overall effectiveness.

At the same time, the comments and the FTC research results (see 72 FR 6852) suggest that it is important to provide a complete, accurate description of the model types covered by the displayed range. Accordingly, the Final Rule requires such information at the bottom of the label not only for refrigerators, refrigerator-freezers, and freezers, but for most other covered products bearing an EnergyGuide label. Under the Final Rule, the range itself would bear the simple statement: “Cost range of similar models.”

With regard to bottom-mount models with through the door ice, the Commission has decided not to amend the Rule to create another refrigerator category because it is unclear whether there will be a large increase in the number of these models available in the future. Without a clear indication that this configuration will be widely available in a large number of different models, we are reluctant to add to the already long list of refrigerator categories. The Commission may consider changes in the future if a significant number of such models appear on the market and we determine that the creation of another category would be beneficial to consumers.

E. Revisions to Ranges of Comparability and Energy Price Information

Background: Under the current Rule, the EnergyGuide label must contain a range of comparability that shows the highest and lowest energy consumption or efficiencies for all similar appliance models.⁴⁵ EPCA does not specify when the Commission must change the ranges but states it cannot do so “more often than annually.” (42 U.S.C. 6296(c)). Under the Commission’s existing regulations, the FTC examines the ranges once a year and revises them on a product by product basis if the upper or lower limit on the applicable range has changed by 15% or more. (16 CFR § 305.10). For some products, the Commission has amended ranges several times over the last few years, for others less frequently. When the Commission makes these changes, manufacturers must change their labels to reflect the new ranges and update the estimated annual operating costs on the labels using new national average fuel costs, published annually by DOE. Accordingly, under the existing approach, the average fuel costs used on the label are tied to the year in which the ranges were last amended. This

⁴⁵42 U.S.C. 6294(c)(1)(B).

creates inconsistent cost information on labels across different appliances.

Unfortunately, range changes also can cause the labels on different models of the same appliance, in the same showroom to display inconsistent information,⁴⁶ particularly when the models on display have been manufactured at different times. This confusion is exacerbated by frequent range changes. Frequent revisions also impose burdens on manufacturers who must change their product labels with each new revision. The ANPR contained a series of questions about these issues, including whether the FTC should change the frequency with which it examines ranges.

In our NPRM, the Commission proposed amending section 305.10 to change the frequency with which we alter range and national average energy price information to once every five years. We suggested that this approach would minimize problems associated with inconsistent cost and range information on showroom models, and make energy cost information uniform across appliance categories. The Commission also indicated that it would consider changes to range and cost information if substantial fluctuations occurred in the interim period. The NPRM sought comments on this proposal.

Comments: In general, commenters supported the Commission's proposal to establish a multi-year cycle for amending cost and range information. There was some disagreement, however, regarding the appropriate interval. Several commenters supported the proposed five-year schedule.⁴⁷ GAMA (#527896-00011), for example, explained that the five-year period will provide consistent cost and range information for products in retail showrooms and, at the same time, will reduce the burdens on manufacturers. CEE (#527896-00016), which indicated that five years was a reasonable span, noted that such an approach should lower compliance costs and decrease uncertainty. In addition, EEI (#527896-00005) suggested that the Commission consider updating the national average cost estimate with a "rolling average" using, for example, past and projected

fuel price averages based on DOE figures.

Consumers Union (#527896-00012) strongly supported a five-year schedule for changes to national average energy cost information but urged the Commission to shorten the time period for changes to ranges of comparability. It argued that the proposed five-year period is too long because products will drop outside the range over time, leading to consumer confusion and the "dismissal of the EnergyGuide as a useful tool." It suggested that the range should start at 25% below the most efficient product on the market to leave enough room for efficiency improvements.

AHAM (#519870-00006) and Whirlpool (#527896-00004) supported the Commission's proposal to set a regular time period for range and cost updates but believed the interval should be shorter than five years. Whirlpool (#527896-00004), which suggested an interval of three years, argued that a five year period may lead to very large changes in energy costs at the time of updates. AHAM (#527896-00006), which proposed a "two to three year" interval, argued that a large number of new products would fall outside of the range of comparability during the five-year period. AHAM (#527896-00006) suggested that such problems would be exacerbated by less frequent reporting requirements. AHAM (#527896-00006) also asked the Commission to explain the process for labeling products that fall outside of the range of comparability.

Several commenters asked the Commission to provide more detail regarding interim amendments to range and cost information as a result of "dramatic market changes" within the proposed five year cycle. For example, ACEEE (#527896-00015) urged the Commission to monitor federal efficiency standards, the introduction of new technologies, sustained changes in energy costs, and large increases in energy prices. Consumers Union (#527896-00012) asked for a more specific statement regarding future changes, suggesting that the Commission commit to changing the cost and range information before the end of the five year period if "energy costs change by more than 25% during the interim." CEE (#527896-00016) also asked for more specific guidance on this issue.

Discussion: The Commission amends the Rule as proposed to set a five-year schedule for range of comparability information and annual cost

information.⁴⁸ Although we recognize the potential benefit of more frequent changes, particularly to range of comparability information, we believe that the need for consistent label information is paramount and, on balance, deserves greater weight than the need for more frequent updates. Our primary concern is the appearance of inconsistent cost and range information on labels in showrooms and catalogs. Such inconsistency could lead to consumer confusion and a lack of confidence in the label. To minimize such concerns, we believe that the five-year schedule strikes the correct balance between maintaining consistent disclosures and providing updates to cost and range information. The five year interval approximates the frequency of changes to the ranges in the past few years. For example, over the last several years, the Commission amended refrigerator ranges in 2001 (Nov. 19, 2001 (66 FR 57867)), and then again in 2006 (Jan. 31, 2006 (71 FR 4983)). Ranges for standard clothes washers changed in 2000 (May 11, 2000 (65 FR 30351), and then 2005 (Jan. 27, 2005 (70 FR 3875)). The Commission has amended ranges for other products at intervals greater than five years (*e.g.*, room air conditioners, central air conditioners, furnaces, and water heaters). Only two product categories, dishwashers and compact clothes washers, have changed at less than a five-year interval in the recent past.⁴⁹

As discussed in our NPRM, the Commission will consider changes to cost and range information between the five year updates. We are reluctant to identify a specific threshold for such changes. In fact, the use of such a threshold simply would retain the current Rule's approach, which triggers changes to the ranges using a specific percentage. Under the Final Rule, we believe that any interim changes to range and cost information should be made on a case-by-case basis, and only when such information has changed substantially. Parties who identify the need for such interim changes in the future may petition the Commission.

⁴⁸The Final Rule amends section 305.10(b) as proposed to insert the phrase "annual operating cost" in lieu of "annual energy consumption."

⁴⁹The new amendments do not alter the longstanding process detailed in section 305.10(c) for labeling new products that fall outside of existing ranges. That provision directs manufacturers to provide the product's annual energy consumption (now estimated operating cost) on the label, but omit placement of that figure on the comparability range. The manufacturers must also add a sentence below the scale indicating that the model's estimated energy cost was not available at the time the range was published.

⁴⁶Inconsistent range information on similar models in the same showroom may confuse consumers as they seek to compare products.

⁴⁷See GAMA (#527896-00011), CEE (#527896-00016), ACEEE (#527896-00015), and EEI (#527896-00005) (As discussed further in this section, CEE indicated that the five-year period was reasonable "provided that the FTC allows exceptions for any dramatic market changes for a given appliance.")

We also note that the Final Rule does not adopt the suggestion to start the range at 25% below the most efficient product on the market. Although such an approach could provide a cushion for energy efficiency improvements, we are concerned that such information would be difficult to communicate to consumers and could lead to significant confusion. We also are not adopting a "rolling average" cost approach at this time. Given the difficulty in predicting future prices, it is unclear whether the use of future projections for the cost information on the label would be helpful for consumers. We are not, however, ruling out consideration of this concept in the future.

Although the Final Rule amends the frequency of changes for the cost and range information on the label, it does not change the frequency of the Rule's reporting requirements. Section 326(b)(4) of EPCA (42 U.S.C. § 6296(b)(4)) requires annual reporting from manufacturers, regardless of the frequency of range changes. Continued annual reporting will be useful to the Commission in reviewing whether the ranges for certain product categories should be changed within the five year cycle and in addressing compliance issues. The submissions, which are placed on the public record pursuant to 16 CFR § 4.9, also provide consumers and other interested parties with information about the energy use of models currently on the market.

F. MEF Descriptor for Clothes Washers

Background: In our ANPR (70 FR 66307, 66310), we asked whether the clothes washer label should disclose the model's efficiency rating using the measure currently required by DOE (the "Modified Energy Factor" or "MEF")⁵⁰ instead of the product's annual energy consumption. Several commenters responded that the Commission should not change current descriptors.⁵¹ In the NPRM, the Commission noted that a recent news report questioned the consistency between the MEF information used for ENERGY STAR ratings and the electricity use information on the EnergyGuide label.⁵² Accordingly, the Commission again asked whether MEF information should be provided on the label and whether,

⁵⁰MEF is an efficiency rating for clothes washers that takes into account the energy required for the removal of moisture remaining in the wash load after the washer cycle is complete.

⁵¹Alliance Laundry Systems (#519870-00008), Whirlpool (#519870-00013), AHAM (#519870-00016), NRCAN (#519870-00020), and GE (#519870-00027).

⁵²See "Washers & Dryers, Cycles of Change," Consumer Reports, Vol. 72, No. 1, Jan. 2007, at 39.

under current test procedures, manufacturers can derive annual operating cost information from MEF ratings.

Comments: Several commenters recommended that the Commission continue to provide annual electricity and cost information on the label and recommended that the Commission not include MEF information. Whirlpool (#527896-00004) argued that the inclusion of MEF ratings would not provide any value to the consumer and explained that the MEF could not be used to derive an annual operating cost for the clothes washer alone. Both EEI (#527896-00005) and AHAM (#527896-00007) suggested the inclusion of the MEF information on the label would create consumer confusion. CEE (#527896-00016) suggested that the use of MEF by the ENERGY STAR program is irrelevant because consumers do not need to be familiar with MEF to understand that a product is ENERGY STAR qualified. In contrast, on the EnergyGuide label consumer understanding of an MEF rating would be paramount.

Consumers Union (#527896-00012) disagreed and urged the Commission to include information related to energy needed to dry clothes, a measure which is accounted for in the MEF rating. According to Consumers Union (#527896-00012), such information "can be readily ascertained . . . simply by assigning 0.5 kW-hours to every pound of moisture that remains at the end of the rinse cycle."

Discussion: The Commission has decided to retain the annual electricity and cost information for clothes washers. First, we note that no commenters suggested that the current energy use and annual operating cost disclosures on the EnergyGuide label are unreliable or inconsistent with MEF ratings. No one indicated, for example, that some products with relatively high efficiency MEF ratings use large amounts of energy (and thus cost more to operate) compared to similar models. We, however, understand that by taking into account energy performance measures not captured by a washer's energy use alone, an MEF rating can produce a more complete picture of total energy use. Despite this potential benefit, disclosure of the MEF rating on labels poses two potential problems. First, we share the concerns raised by AHAM and EEI that inclusion of MEF information on the label may be confusing to consumers. MEF is unusual in that it takes into account the energy use of a separate appliance category (*i.e.*, dryers). We are concerned that the complexity of describing MEF

accurately could render the label too confusing for some consumers and too cluttered to provide any benefit to others. Second, using MEF (instead of electricity use) could cause complications with the calculation and disclosure of the product's annual operating cost. Whirlpool explained that manufacturers cannot derive operating cost from the MEF under current DOE procedures. Therefore, even if MEF appeared on the label, washer energy use would continue to provide the basis for the estimated yearly operating cost disclosure, leaving the incorrect impression that the operating cost estimate stems from the MEF rating. Given these concerns, the Commission is reluctant to provide MEF information in the absence of compelling data that MEF provides more useful information than annual electricity use and operating cost. Accordingly, the Commission has not changed the energy descriptors for clothes washers.

We recognize that the ENERGY STAR and DOE standards programs use MEF as the primary measure of washer energy performance. During this proceeding, we have sought to ensure that the FTC's labeling requirements are compatible with the ENERGY STAR program (*e.g.*, concerns over categorical labeling and combining refrigerator categories). In this case though, there is nothing to indicate that continued disclosure of energy use (and not MEF) on the EnergyGuide label would have negative impacts for the ENERGY STAR program.

G. Placement of the EnergyGuide Label on Covered Products

Background: In our NPRM, the Commission proposed to modify and clarify the requirements for posting labels. The current requirements describe various methods for posting labels (adhesive labels, flap tags, etc.) and various methods for placing the labels on the products themselves. Under the Proposed Rule, manufacturers would have had to affix labels on their products in one of two ways: an adhesive label or hang tag. In either case, the label would have to be attached to the product so that the label was "prominent to a consumer examining the product." In our NPRM, the Commission proposed allowing manufacturers to place the label on the exterior or interior of the product, if it were prominent to consumers examining the appliance and as long as it would not become dislodged during normal handling throughout the chain of distribution. The Commission explained that this directive would set a clear performance-based standard that

allowed manufacturers to adjust the location of the label depending on the product type and configuration. The Commission invited comment on this proposal.

Comments: The comments generally supported the proposal regarding label placement. For example, Whirlpool (#527896-00004) indicated that the performance criteria suggested by the Commission “are superior to detailed placement specifications.” AHAM (#527896-00006) mostly supported the changes but suggested that the Commission prohibit the placement of hang tags on the outside of the product. “Such tags can be damaged or accidentally removed during distribution,” explained AHAM (#527896-00006), “and therefore may be absent when products reach retail.”

Discussion: In response to concerns raised by AHAM (#527896-00006), we have modified the proposal to prohibit the use of hang tags on the exterior surface of covered products. AHAM’s comment (#527896-00006) suggests that the use of hang tags on the outside of appliances may cause EnergyGuide labels to become misplaced or damaged easily. The effectiveness of the entire labeling program is compromised if products in showrooms do not have the required labels. Accordingly, we believe it is important that the Rule contain placement requirements that minimize the chance that labels will become dislodged from products. In all other respects, we are amending the placement requirements in the Rule as proposed. We also note that the Final Rule also applies these new placement requirements to heating and cooling equipment labels.

H. Catalog Requirements

Background: The Rule requires any manufacturer, distributor, retailer, or private labeler who advertises a covered product in a catalog, including a website that qualifies as a catalog, to disclose the product’s capacity, energy use (or efficiency), and range of comparability information. In the NPRM, the Commission proposed amending the catalog section to require disclosures of estimated annual operating costs for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, and water heaters. This change would make the catalog requirements consistent with the changes proposed for the EnergyGuide label. The Proposed Rule would have continued to require the disclosure of energy efficiency rating information for central air conditioners and furnaces.

The Proposed Rule also would have eliminated the requirement for catalog

sellers to include range information along with their disclosures in the catalogs.⁵³ Consumers viewing catalogs are likely to see information for a much larger number of models than consumers in a showroom. Thus, catalog shoppers do not have the same need for comparability ranges. In addition, because the range information in the paper catalogs cannot always be presented in the same form as they appear on the label, the display of range information in a catalog may cause confusion or fail to provide significant benefit to consumers. While the benefits of range disclosures in catalogs may be small, the burdens of providing this information can be significant. The burdens often fall on retailers who are not producing and labeling the products themselves. For these reasons, the Commission proposed eliminating the range information from the catalog requirements.

Finally, the NPRM contained several proposed changes to the catalog disclosure requirements in section 305.2(m) and newly-designated section 305.20 to clarify that Internet-based catalogs must also provide “catalog” disclosures. The Commission sought comment on these proposed changes.

Comments: The Commission received only two comments in response. Both expressed support for the proposed changes. Whirlpool (#527896-00004) agreed that elimination of the “range information” requirement for catalogs will reduce consumer confusion. AHAM (#527896-00006) indicated that “these changes will allow manufacturers to more clearly present the relevant information needed to consumers when comparison shopping through a catalog or on the internet.”

Discussion: For the reasons explained above and in the NPRM, the Commission has amended the Rule for catalog requirements as proposed. We note that several Internet catalog sellers provide hyperlinks to EnergyGuide label images generated by manufacturers in lieu of creating their own disclosures to meet the Rule’s catalog requirements. The Final Rule clarifies that such a practice is acceptable.

I. Fuel Cycle Energy Consumption

Background: In our NPRM, the Commission indicated that earlier comments from the American Gas Association (AGA) (#519870-00014) urged the Commission to include information on the label about “energy

consumption over the full fuel cycle (*i.e.*, total energy efficiency) and externalities such as emissions of criteria air pollutants and carbon dioxide over the full fuel cycle.” AGA argued that without this information, the label does not allow consumers to “make truly informed choices” and provides information that is incomplete and misleading.

In our NPRM, the Commission explained that, under section 324(c)(1)(A) of EPCA (42 U.S.C. 6294(c)(1)(A)), the energy consumption information required on the Energy Guide label must be derived from DOE’s test procedures. The current procedures measure end-use energy only and not the type of energy consumption described in AGA’s comment. Accordingly, the Commission indicated that it was not proposing to add the information suggested by AGA.

Comments: In response, AGA (#527896-00009) continued to urge the Commission to consider the disclosure of fuel cycle energy information. AGA stated that there “is no restriction upon the Commission using energy consumption calculations derived from the [DOE] test procedures, such as Energy Factor (EF) for water heaters, to developing full fuel cycle combustion and emissions estimates for subsequent use on the EnergyGuide labels.” It suggested that the “mechanics of translating site energy descriptors into full fuel cycle consumption and emissions can be easily developed using available federal government data sources and calculation methods.” AGA urged the Commission to pursue actively approaches that explore full fuel cycle efficiency and emissions, particularly carbon dioxide emissions. AGA concluded that “[a]t a time when public policy has begun to grapple with potential restriction of carbon dioxide emissions and possible unintended consequences of regulation, the Commission has an opportunity to address this societal need by providing consumers with better information so that they can make informed, socially-responsible purchase decisions.” EEI (#527896-00005) disagreed, stating that “extraneous information that has no relation to appliance energy efficiency, such as source energy estimates, should not be included on any revised FTC label.”

Discussion: The Final Rule does not require disclosures of fuel cycle energy information. Though it may be possible to derive fuel cycle emissions information from the DOE test procedures, those procedures do not specify the means (*e.g.*, necessary assumptions, equations, etc.) for

⁵³EPCA indicates that catalogs must “contain all information required to be displayed on the label, except as otherwise provided by the rule of the Commission.” (42 U.S.C. 6296(a)).

calculating fuel cycle impacts, including carbon dioxide emissions. In addition, although the labeling provision in EPCA (42 U.S.C. 6294) does not prohibit specifically the possibility of full fuel cycle disclosures, it clearly contemplates the disclosure of site energy use (e.g., “estimated annual operating cost”) and not broader impacts such as the carbon emissions of covered products. It is likely that such a significant change to the FTC’s labeling requirements would require substantial changes to DOE test procedures to allow for offsite energy use calculations as well as additional research and discussion regarding whether such information would be a useful measure of energy consumption for consumers.

J. Clothes Washer Labels

Background: In 2003, the Commission published amendments requiring a special headline on clothes washer labels indicating that the product had been tested under the 2004 DOE test procedure (68 FR 35458 (June 18, 2003)). The FTC added this headline at the request of industry members because the results of the 2004 DOE test differed significantly from the previous test. Although the explanatory language served a useful purpose at the time, we suggested in the NPRM that its continued presence on the label will gradually lose value and could even confuse consumers as the years pass. As the 2004 date becomes more distant, the headline may lead consumers to believe that the label or the product itself is old, or even obsolete. Accordingly, the Commission proposed to amend 305.11 by discontinuing this explanatory language on the clothes washer label.

Comments and Discussion: Both Whirlpool (#527896-00004) and AHAM (#527896-00006) indicated that the language is now redundant and potentially confusing to consumers. No comments opposed the change. Therefore, for the reasons discussed above, the Commission amends the Rule as proposed to eliminate language related to the 2004 DOE test procedure.

L. Television Labeling

Background: Section 324(a) of EPCA requires labels for televisions unless the Commission determines that labeling is not technologically or economically feasible. (42 U.S.C. 6294(a)). In 1979, the Commission determined that television labeling was not economically feasible. At that time, the evidence suggested that there was little variation in the annual energy costs of competing television models, and such costs were a small fraction of the purchase price. The

Commission, therefore, indicated it was unlikely that television labels would promote efforts to increase energy efficiency or provide benefits to consumers. (44 FR 66466, 66468 (Nov. 19, 1979)).

As part of the May 2006 Workshop, the FTC sought comment on whether the Rule now should require television labeling in light of technological developments. In response, several commenters urged that the Commission revisit its 1979 decision. According to the Natural Resources Defense Council (NRDC) (#519870-00025), there are now many “large-screen” digital televisions on the market that use 500 or more kilowatt-hours per year, as much energy as many new refrigerators.⁵⁴ NRDC (#519870-00025) asserted that, in some cases, consumers will pay several hundred dollars in electricity costs for their televisions over the lifetime of the product. NRDC (#519870-00025) also indicated that there is now a large variation in active mode power use among similarly-sized televisions. In its view, there is no reliable, model-specific, source of energy-use information for new televisions. Some comments (e.g., CEE (#522148-00006)) supported NRDC’s (#519870-00025) suggestion. Others (e.g., Consumer Electronics Association (#522148-00009)), however, questioned the need and feasibility of television labeling.

In our NPRM, the Commission explained that the information provided by commenters suggests that the energy consumption characteristics of televisions are significantly different than when the Commission decided to forgo labeling in the 1970’s and that energy labeling for televisions may assist consumers in making purchasing decisions. At the same time, the record suggested that current DOE procedures are inadequate to test most televisions currently on the market. Because the energy information disclosed on an FTC-required television label must stem from test procedures prescribed by DOE (see 42 U.S.C. 6294(c)), the Commission indicated that it cannot proceed until the DOE test is revised. Once DOE develops a revised test procedure, the Commission indicated it could consider whether the attributes of televisions on the market warrant energy labeling. The Commission sought further comment on this issue.

Comments: Several comments acknowledged that the outdated DOE test procedure poses a barrier for

television labeling but suggested that DOE soon would have an opportunity to update their test procedure.⁵⁵ Both CEE (#527896-00016) and ACEEE (#527896-00015) indicated that the international test procedure currently under development should be finished soon. EPA (#527896-00018) reported that it has been working closely with the International Electrotechnical Commission (IEC) to develop the test procedure that will measure the active power mode power of televisions. ACEEE (#527896-00015) expects that a revised DOE procedure would follow as soon as the IEC standard is finalized. ACEEE (#527896-00015) also urged the Commission to “establish a definite time frame” for television labeling. CEE (#527896-00016) asked the Commission to commit to promulgating such requirements once the revised DOE procedure becomes available. No other comments were received on this issue.

Discussion: The Commission is not proposing labeling for televisions at this time. Absent a DOE test procedure applicable to today’s products, we cannot require labeling that would benefit consumers. The Commission will continue to monitor this issue and may seek further comment on television labeling once DOE issues revised test procedures.

M. Miscellaneous Amendments and Issues

In our NPRM, the Commission proposed several minor substantive and formatting amendments. These include the reorganization of several sections, the inclusion of a new requirement related to refrigerator reporting, and the elimination of obsolete or incorrect references.

Alphabetize Definitions and Update Definition of Refrigerators and Refrigerator Freezers: To make the Rule more user friendly, the Commission proposed to alphabetize the list of definitions in section 305.3 and the descriptions of covered products in section 305.4. We also proposed to amend the definition of “refrigerators and refrigerator freezers” at section 305.3(a) so that it is consistent with DOE’s current definition (10 CFR § 430.2). We received no comments on this issue. The Rule is, therefore, amended as proposed.

Adjusted Volume Information for Refrigerators: In our NPRM, the Commission proposed amending the Rule to require refrigerator, refrigerator-freezer, and freezer manufacturers to report the adjusted volume of their

⁵⁴At the Workshop, one participant suggested that the average 42-inch plasma televisions draws 334 watts, with a minimum draw of 201 watts and a maximum draw of 520 watts. Workshop Tr. at 198.

⁵⁵See EEI (#527896-00005), CEE (#527896-00016), and ACEEE (#527896-00015).

models. Adjusted volume data is essential for determining whether a refrigerator or freezer model meets DOE minimum efficiency standards, and thus whether it should be considered in updating range information for refrigerator labels. Both Whirlpool (#527896-00004) and AHAM (#527896-00006) indicated that they had no issue with this proposal. Whirlpool (#527896-00004) also explained that this provision does not create additional burden for manufacturers. No other comments addressed this issue. Section 305.8 of the Rule is therefore amended as proposed.

Brand Name Reporting: In our NPRM, the Commission proposed amending section 305.8 to clarify that manufacturers report both the manufacturer name and the brand name (if different from the manufacturer) of their models. Both Whirlpool (#527896-00004) and AHAM (#527896-00006) raised concerns about this proposal. In particular, Whirlpool (#527896-00004) explained that some manufacturers sell products to other manufacturers under an original equipment manufacturer arrangement or to retailers under a private label arrangement. Disclosure of brand names in conjunction with manufacturers' names, therefore, is not desirable from a marketing perspective.

The purpose of the proposed amendment was to clarify that manufacturers identify the brand names of their models in data submitted to the FTC, so that data could be posted by model name, not to link particular brands to specific manufacturers.⁵⁶ Beginning in 2003, the Commission began posting appliance data on the our website for use by consumers and others interested in the energy efficiency of appliances. This data presents information by brand name, not manufacturer, because brand name is more relevant to consumers. The Commission does not plan to change this practice.

The Commission therefore has amended the Rule to indicate that manufacturers submitting data under 305.8 of the Rule provide the brand name of the models included in their reports. The Final Rule does not require the inclusion of the manufacturer name for each individual model in the report.⁵⁷

⁵⁶All reports submitted to the Commission under section 305.8 the Appliance Labeling Rule become public record information pursuant to the Commission's Rules (16 CFR 4.9(a)(10)(xii)).

⁵⁷ Because the identity of manufacturers is readily apparent from the reports submitted to the FTC, it is not necessary to include such information for each model on each line of the data.

Reorganization of Section 305.11: In our NPRM, the Commission proposed splitting section 305.11 into several sections organized by product category to make it easier for manufacturers to identify the requirements applicable to their products. We did not receive comments on this issue. The Rule is, therefore, amended to create the following new sections: § 305.11 Labeling for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters; § 305.12 Labeling for Central Air Conditioners, Heat Pumps, and Furnaces; § 305.14 Energy Information Disclosures for Heating and Cooling Equipment; § 305.15 Labeling for Lighting Products; and § 305.16 Labeling and Marking for Plumbing Products. The Final Rule also contains various amendments throughout to update cross-references.

Applicability of DOE Test Procedures: In our NPRM, the Commission proposed amending section 305.5 to clarify that the Rule does not apply to covered appliance products for which DOE does not have a test procedure. No comments addressed this issue. The Commission, therefore, amends the Final Rule as proposed.

Elimination of Appendix K: In our NPRM, the Commission proposed eliminating the suggested reporting format in Appendix K. Most manufacturers submit data via email using spreadsheet templates provided on the FTC website. In addition, the reporting format in Appendix K does not apply to products that have been added since the Rule was first promulgated in 1979. Accordingly, we believe that Appendix K is no longer needed. No comments addressed this issue, and the Commission, therefore, amends the Final Rule as proposed.

Review of Technological Changes: In our NPRM, the Commission addressed CEE's (#519870-00018) recommendation that the Commission institute a semi-annual process to review technological advancements and modify the scope of labeling accordingly. In our NPRM, we explained that the Commission conducts periodic reviews of all its regulations on a rotating schedule, as it is conducting now for the Appliance Labeling Rule. During these reviews, the Commission seeks comments on the effectiveness of the rule in question, the burden it imposes, and possible improvements. Between such reviews, individuals and organizations may contact the Commission about problems or possible amendments to rules that may be needed. Therefore, the Commission explained that it did not

plan to institute formal semi-annual reviews.

In response, Consumers Union (#527896-00012) indicated that many of DOE's test procedures are out-of-date, forcing manufacturers to extrapolate from existing requirements in determining energy performance for appliances, particularly those that contain new features not accounted for by the applicable DOE test. To address this concern, Consumers Union (#527896-00012) urged a mandatory review and update cycle for all DOE appliance test procedures.

We note that questions regarding DOE test procedures should be addressed to DOE. The Commission continues to believe that additional, periodic reviews are not necessary for FTC's rules. We, therefore, decline to adopt semi-annual reviews of technological advancements.

Effective Date of Amendments: Two comments addressed the timing of the Commission's Final Rule. Burnham (#527896-00001), a boiler manufacturer, suggested that the Commission provide manufacturers with at least six months to comply with the new requirements. CEE (#527896-00016) recommended that "new EnergyGuide label rules be implemented as soon as possible, given the various constraints faced by the FTC and manufacturers." CEE (#527896-00016) also urged that the window for the transition from current to new label design be selected so as to minimize the amount of time in which the new and old EnergyGuide labels are present in the market. No other comments addressed this issue.

In the past, the Commission has generally provided industry members three months to implement routine range changes to the labels (see, e.g., 66 FR 57867 (Nov. 19, 2001)). Because the amendments announced here involve a change in the label design for most products, we believe additional time for compliance is warranted. We therefore have set the effective date six months after publication of this Notice.

Consumer Education: CEE (#527896-00016) and ACEEE (#527896-00015) emphasized the importance of consumer education to support the labeling program. ACEEE (#527896-00015) stated that consumer education "has been a critical component of other public information programs and can help leverage the time and resources invested in program design and implementation to maximize program effectiveness." The Commission places a high value, on consumer education and is considering what consumer education efforts are called for to implement effectively the new label design.

VIII. 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).⁵⁸ OMB has approved the Rule's information collection requirements through August 31, 2009 (OMB Control No. 3084-0069). The Commission has made minor changes in the current Rule's existing recordkeeping, labeling, and reporting requirements. Accordingly, the Commission has submitted the Rule and a Supporting Statement to OMB for review under the PRA.

The Commission's burden estimates for the final amendments are based on data submitted by manufacturers to the FTC under current requirements and the staff's general knowledge of manufacturing practices.

The Final Rule requires manufacturers to change the EnergyGuide labels to the new design. Under the current Rule, manufacturers routinely change labels to reflect new range and cost data. The new label design will require a one-time drafting change for the manufacturers. The Commission estimates that this one time change will take 40 hours per manufacturer. The Commission further estimates that there are approximately 450 manufacturers of affected covered products.⁵⁹ Therefore, the label design change will result in a one-time burden of 18,000 hours (450 manufacturers x 40 hours). In calculating the associated labor cost estimate, the Commission assumes that the label design change will be implemented by clerical workers at an hourly wage rate of \$14.59 per hour based on Bureau of Labor Statistics information. Thus, the Commission estimates that the new label design change will result in a one-time labor cost of approximately \$262,620 (18,000 hours x \$14.59 per hour).

As discussed above, the Commission anticipates that the provision of adjusted volume information for refrigerator manufacturers will not result in a significant burden increase. This information should be readily available to manufacturers because it is necessary to determine compliance with DOE conservation standards. Accordingly, the Commission has not made an adjustment to its previous

burden estimate due to this *de minimis* increase in reporting of the data already required by the Rule.

The Final Rule also requires retailers who sell through catalogs to disclose information about annual operating cost instead of the annual energy consumption for certain products and provide an explanatory statement in the catalog similar to that which appears on the label. The Rule also eliminates the requirement for catalog sellers to list the range of comparability information. The Commission's previous estimate of the Rule's burden on catalog sellers (including Internet sellers) has assumed conservatively that catalog sellers must enter their data for each product into the catalog each year (*see* 71 FR 78057, 78062 (Dec. 28, 2006)). The rule change does not alter that assumption because the amendments require a one-time change of all products in affected catalogs. This one-time change is consistent with previous burden estimates. Accordingly, the Commission does not believe any change is required to the existing burden estimates for catalog sellers.

IX. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, requires that the Commission provide 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 Final 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. The Commission estimates that these new requirements will apply to about 450 product manufacturers and an additional 150 online and paper catalog sellers of covered products. Out of these companies, the Commission expects that approximately 350 qualify as small businesses. In addition, the Commission does not expect that the Final Rule will have a significant impact on these entities.

We do not expect that the economic impact of implementing the design change will be significant. The Commission has provided industry members with ample time (six months) to implement this new design. Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. Although the

Commission certifies under the RFA that the amendments in this notice will not have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an FRFA. Therefore, the Commission has prepared the following analysis:

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

Section 137 of the Energy Policy Act of 2005 (EPACT 2005) (Pub. L. 109-58) requires the Commission to conduct a rulemaking to consider the effectiveness of the consumer products labeling program.

B. Statement of the Objectives of, and Legal Basis for, the Amendments

The objective of the amendments is to improve the effectiveness of the current appliance labeling program. Section 137 of EPACT 2005 amends section 324 of EPCA to require the Commission to examine "the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency."

C. Small Entities to Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, refrigerator and laundry equipment manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees). Appliance retailers qualify as small businesses if their sales are less than \$8.0 million annually. The Commission estimates that fewer than 300 entities subject to the Final Rule qualify as small businesses.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

We recognize that the Final Rule will involve some modest increase in compliance costs. Such costs will include some small, one-time drafting costs and reporting requirements for appliance manufacturers. As discussed in this notice, the increase in reporting burden should be *de minimis*. The transition to the use of a new label design should represent a one-time cost that will not be substantial. The Commission does not expect that the labeling requirements will impose significant additional costs on catalog sellers. All of these burdens, including the classes of affected entities and professional skills, if any, needed to comply, are discussed in the Paperwork Reduction Act section of this notice and

⁵⁸44 U.S.C. 3501-3520.

⁵⁹We have increased this estimate to account for the continued labeling requirements for heating and cooling equipment. The burden for the routine labeling of these products has already been accounted for in the clearance for the underlying Rule (OMB Control No. 3084-0069).

there should be no difference in that burden as applied to small businesses.

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 Final Rule.

F. Significant Alternatives to the Final Amendments

As indicated in the NPRM, the Commission has considered delaying the effectiveness of the rule to provide additional time for small business compliance. At least one comment suggested that businesses be given six months to comply with the new requirements. (Burnham (#527896-00001)). Accordingly, the Commission has set the effectiveness date for the new requirements at six months after the publication of this notice.

X. Final Rule Language

List of Subjects in 16 CFR Part 305

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

By direction of the Commission.

Richard C. Donohue,
Acting Secretary.

■ For the reasons set out above, the Commission is amending 16 CFR Part 305 as follows:

PART 305—[AMENDED]

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

Authority: 42 U.S.C. 6294.

■ 2. Section 305.2 is revised to read as follows:

§ 305.2 Definitions.

(a) *Act* means the Energy Policy and Conservation Act (Pub. L. 94–163), and amendments thereto.

(b) *ANSI* means the American National Standards Institute and, as used herein, is the prefix for national standards and codes adopted by ANSI.

(c) *ASME* means the American Society of Mechanical Engineers and, as used herein, is the prefix for national standards and codes adopted by ASME.

(d) *Average lamp efficacy* means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

(e) *Ballast efficacy factor* means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in American

National Standards Institute (ANSI) standard C82.2–1984, or as may be prescribed by the Secretary of Energy. Copies of ANSI standard C82.2–1984 may be obtained from the American National Standards Institute, 11 West 42nd St., New York, NY 10036.

(f) *Base* for lamps means the portion of the lamp which screws into the socket.

(g) *Bulb shape* means the shape of the lamp, especially the glass portion.

(h) *Catalog* means printed material, including material disseminated over the Internet, which contains the terms of sale, retail price, and instructions for ordering, from which a retail consumer can order a covered product.

(i) *Color rendering index* or *CRI* for lamps means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

(j) *Commission* means the Federal Trade Commission.

(k) *Consumer product* means any article (other than an automobile, as “automobile” is defined in 15 U.S.C. 2001(1) [sec. 501(1) of the Motor Vehicle Information and Cost Savings Act]) of a type—

(1) Which in operation consumes, or is designed to consume, energy or, with respect to showerheads, faucets, water closets, and urinals, water; and

(2) Which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article or such type is in fact distributed in commerce for personal use or consumption by an individual, except that such term includes fluorescent lamp ballasts, general service fluorescent lamps, medium base compact fluorescent lamps, general service incandescent lamps (including incandescent reflector lamps), showerheads, faucets, water closets, and urinals distributed in commerce for personal or commercial use or consumption.

(l) *Consumer appliance product* means any of the following consumer products, excluding those products designed solely for use in recreational vehicles and other mobile equipment:

(1) Refrigerators, refrigerator-freezers, and freezers that can be operated by alternating current electricity, excluding—

(i) Any type designed to be used without doors; and

(ii) Any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(2) Dishwashers.

(3) Water heaters.
(4) Room air conditioners.
(5) Clothes washers.
(6) Clothes dryers.
(7) Central air conditioners and central air conditioning heat pumps.

(8) Furnaces.
(9) Direct heating equipment.
(10) Pool heaters.
(11) Kitchen ranges and ovens.
(12) Television sets.

(13) Fluorescent lamp ballasts.
(14) General service fluorescent lamps.

(15) Medium base compact fluorescent lamps.

(16) General service incandescent lamps, including incandescent reflector lamps.

(17) Showerheads.

(18) Faucets.

(19) Water closets.

(20) Urinals.

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

(m) *Correlated color temperature* for lamps means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

(n) *Covered product* means any consumer product or consumer appliance product described in §305.3 of this part.

(o) *Distributor* means a person (other than a manufacturer or retailer) to whom a consumer appliance product is delivered or sold for purposes of distribution in commerce.

(p) *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; 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.

(q) *Estimated annual energy consumption and estimated annual operating cost*—

(1) *Estimated annual energy consumption* means the energy or (for products described in sections 305.3(n)–(q)) water that is likely to be consumed annually in representative use of a consumer product, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(i) *Kilowatt-hour use per year*, or *kWh/yr.*, means estimated annual energy consumption expressed in kilowatt-hours of electricity.

(ii) *Therm use per year*, or *therms/yr.*, means estimated annual energy consumption expressed in therms of natural gas.

(iii) *Gallon use per year*, or *gallons/yr.*, means estimated annual energy consumption expressed in gallons of propane or No. 2 heating oil.

(2) *Estimated annual operating cost* means the aggregate retail cost of the energy that is likely to be consumed annually in representative use of a consumer product, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(r) *Flow restricting or controlling spout end device* means an aerator used in a faucet.

(s) *Flushometer valve* means a valve attached to a pressured water supply pipe and so designed that, when actuated, it opens the line for direct flow into the fixture at a rate and quantity to operate properly the fixture, and then gradually closes to provide trap reseal in the fixture in order to avoid water hammer. The pipe to which this device is connected is in itself of sufficient size that, when opened, will allow the device to deliver water at a sufficient rate of flow for flushing purposes.

(t) *IES* means the Illuminating Engineering Society of North America and, as used herein, is the prefix for test procedures adopted by IES.

(u) *Lamp efficacy* means the light output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

(v) *Lamp type* means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

(w) *Life and lifetime* for lamps mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group.

(x) *Light output* for lamps means the total luminous flux (power) of a lamp in lumens.

(y) *Luminaire* means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(z) *Manufacturer* means any person who manufactures, produces, assembles, or imports a consumer appliance product. Assembly operations which are solely decorative are not included.

(aa) *New covered product*, as used in § 305.4, means a covered product the

title of which has not passed to a purchaser who buys the product for purposes other than resale or leasing for a period in excess of one year.

(bb) *Private labeler* means an owner of a brand or trademark on the label of a consumer appliance product which bears a private label.

(cc) *Range of comparability* means a group of models within a class of covered products, each model of which satisfies approximately the same consumer needs.

(dd) *Range of energy efficiency ratings* means the range of energy efficiency ratings for all models within a designated range of comparability.

(ee) *Range of estimated annual energy cost* means the range of estimated annual energy cost per year of all models within a designated range of comparability.

(ff) *Retailer* means a person to whom a consumer appliance product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale. The term *retailer* includes purchasers of appliances who install such appliances in newly constructed or newly rehabilitated housing, or mobile homes, with the intent to sell the covered appliances as part of the sale of such housing or mobile homes.

(gg) *Water use* means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323 of the Act, 42 U.S.C. 6293.

(hh) *Wattage* for lamps means the total electrical power consumed by a lamp in watts, after an initial seasoning period and including, for fluorescent lamps, arc watts plus cathode watts.

■ 3. In § 305.3, paragraphs (a)(1), (d), and (r) are revised to read as follows:

§ 305.3 Description of covered products.

(a) * * *

(1) *Electric refrigerator* means a cabinet designed for the refrigerated storage of food at temperatures above 32° F and below 39° F, configured for general refrigerated food storage, and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32° F, but does not provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8 °F.

* * * * *

(d) *Water heater* means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(1) Storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(2) Instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(3) Heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

* * * * *

(r) *Pool heater* means an appliance designed for heating nonpotable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs and similar applications.

■ 4. In § 305.4, paragraphs (a)(1), (b)(5), and (c) are revised to read as follows:

§ 305.4 Prohibited acts.

(a) * * *

(1) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product unless such covered product is marked and/or labeled in accordance with this part with a marking, label, hang tag, or energy fact sheet which conforms to the provisions of the Act and this part.

* * * * *

(b) * * *

(5) Distribute in commerce any catalog containing a listing for a covered product without the information required by § 305.20 of this part. This subsection shall also apply to distributors and retailers.

(c) Pursuant to section 333(c) of the Act, it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer, or

private labeler in or affecting commerce to display or distribute at point of sale any printed material applicable to a covered product under this rule if such printed material does not contain the information required by § 305.19. This requirement does not apply to any broadcast advertisement or to any advertisement in a newspaper, magazine, or other periodical.

* * * * *

■ 5. In § 305.5, paragraph (a) is revised to read as follows:

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

(a) Procedures for determining the estimated annual energy consumption, the estimated annual operating costs, the energy efficiency ratings, and the efficacy factors of the following covered products are those located in 10 CFR part 430, subpart B. For the following list of covered products, the requirements of this part apply only to products for which the Department of Energy has adopted and published test procedures for measuring energy usage or efficiency.

(1) Refrigerators and refrigerator-freezers—§ 430.23(a).

(2) Freezers—§ 430.23(b).

(3) Dishwashers—§ 430.23(c).

(4) Water heaters—§ 430.23(e).

(5) Room air conditioners—

§ 430.23(f).

(6) Clothes washers—§ 430.23(j).

(7) Central air conditioners and heat pumps—§ 430.23(m).

(8) Furnaces—§ 430.23(n).

(9) Pool Heaters—§ 430.23(p)

(10) Fluorescent lamp ballasts—§ 430.23(q).

* * * * *

■ 6. Section 305.7 (a) and (b) are revised to read as follows:

§ 305.7 Determinations of capacity.

* * * * *

(a) *Refrigerators and refrigerator-freezers.* The capacity shall be the total refrigerated volume (VT) and the adjusted total volume (AV) in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix A1 to 10 CFR part 430, subpart B.

(b) *Freezers.* The capacity shall be the total refrigerated volume (VT) and the adjusted total volume (AV) in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix B1 to 10 CFR part 430, subpart B.

* * * * *

■ 7. In § 305.8, paragraph (a)(1) is revised 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, 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 brand name; 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, measured in accordance with § 305.5, shall be listed in the report. 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.

* * * * *

§ 305.9 [Removed]

■ 8. Section 305.9 is removed and reserved.

■ 9. Section 305.10 is revised to read as follows:

§ 305.10 Ranges of comparability on the required labels.

(a) *Range of Estimated Annual Operating Costs or Energy Efficiency Ratings.* The range of estimated annual operating costs or energy efficiency ratings for each covered product (except fluorescent lamp ballasts, lamps, showerheads, faucets, water closets and urinals) shall be taken from the appropriate appendix to this part in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges every five years beginning in 2012 in the Federal Register. When the ranges are revised, all information disseminated after 90 days following the publication of the revision shall conform to the revised

ranges. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) *Representative average unit energy cost.* The Representative Average Unit Energy Cost to be used on labels as required by § 305.11 and disclosures as required by § 305.20 are listed in appendix K to this part. The Commission shall publish revised Representative Average Unit Energy Cost figures every five years beginning in 2012 in the Federal Register. When the cost figures are revised, all information disseminated after 90 days following the publication of the revision shall conform to the new cost figure.

(c) *Operating Costs or Efficiency Ratings Outside Current Range.* When the estimated annual operating cost or energy efficiency rating of a given model of a covered product falls outside the limits of the current range for that product, which could result from the introduction of a new or changed model, the manufacturer shall:

(1) Omit placement of such product on the scale that appears as required by §§ 305.11 and 305.12 of this part, and

(2) Add one of the two sentences below, as appropriate, in the space just below the scale on the label, as follows:

The estimated yearly operating cost of this model was not available at the time the range was published.

The energy efficiency rating of this model was not available at the time the range was published.

§ 305.11 Labeling for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters.

(a) *Layout.* All energy labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, pool heaters, and room air conditioners 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 between 7 3/8 inches (18.78 cm.) and 7 5/8 (19.34 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 and sample labels in appendix L.

(b) *Type style and setting.* The Arial series typeface or equivalent shall be used exclusively on the label. Specific sizes and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. Generally, text must be set flush left with two points leading except where otherwise indicated. See the prototype labels for specific directions.

(c) *Colors.* The basic colors of all labels covered by this section shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow. All type and graphics shall be print process black.

(d) *Label Types*—The labels must be affixed to the product in the form of an adhesive label or a hang tag as follows:

(1) *Adhesive labels.* All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25"x38") or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard.

(2) *Hang tags.* Labels may be affixed to the product in the form of a hang tag using string or similar material. The paper stock for hang tags shall have a basic weight of not less than 110 pounds per 500 sheets (25 1/2"x30 1/2"; index). When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to insure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(e) *Placement.*

(1) *Adhesive labels:* Manufacturers shall affix adhesive labels to the covered products in such a position that it is easily read by a consumer examining the product. The label should be generally located on the upper-right-front corner of the product's front exterior. However, some other prominent location may be used as long as the label will not become dislodged during normal handling throughout the

chain of distribution to the retailer or consumer. The top of the label should not exceed 74 inches from the base of taller products. The label can be displayed in the form of a flap tag adhered to the top of the appliance and bent (folded at 90°) to hang over the front, as long as this can be done with assurance that it will be readily visible.

(2) *Hang tags.* A hang tag shall be affixed to the interior of the product in such a position that it can be easily read by a consumer examining the product. A hang tag can be affixed in any position that meets this requirement as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer.

(f) *Label Content*—(1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) Model number(s) will be the designation given by the manufacturer or private labeler.

(4) Capacity or size is that determined in accordance with § 305.7. For refrigerators, refrigerator-freezers, and freezers, the capacity provided on the label shall be the model's total refrigerated volume (VT) as determined in accordance § 305.7.

(5) Estimated annual operating costs for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, and water heaters are as determined in accordance with § 305.5 and appendix K to this part. Thermal efficiencies for pool heaters are as determined in accordance with § 305.5. Labels for clothes washers and dishwashers must disclose estimated annual operating cost for both electricity and natural gas as illustrated in the sample labels in appendix L.

(6) Ranges of comparability for estimated annual operating costs or thermal efficiencies, as applicable, are found in the appropriate appendices accompanying this part.

(7) Placement of the labeled product on the scale shall be proportionate to the lowest and highest estimated annual operating costs or thermal efficiencies, as applicable.

(8) Labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, and water heaters must contain the model's estimated annual energy consumption as determined in accordance with § 305.5 and as indicated on the sample labels in appendix L. Labels for room air conditioners and pool heaters must contain the model's energy efficiency rating or thermal efficiency, as applicable, as determined in accordance with § 305.5 and as indicated on the sample labels in appendix L.

(9) Labels must contain a statement explaining information on the label as illustrated in the prototype labels in appendix L and specified as follows by product type:

(i) For refrigerators, refrigerator-freezers, and freezers, the statement will read as follows (fill in the blanks with the appropriate year and energy cost figures):

Your costs will depend on your utility rates and use.

[Insert statement required by § 305.11(f)(9)((ii)).

Estimated operating cost is based on a [Year] national average electricity cost of ___ cents per kWh.

For more information, visit www.ftc.gov/appliances.

(ii) For refrigerators, refrigerator-freezers, and freezers, the following sentence shall be included as part of the statement required by § 305.11(f)(10)(i):

(A) For models covered under appendix A1, the sentence shall read:

Cost range based only on refrigerator models of similar capacity with automatic defrost.

(B) For models covered under appendix A2, the sentence shall read:

Cost range based only on models of similar capacity with manual defrost.

(C) For models covered under appendix A3, the sentence shall read:

Cost range based only on models of similar capacity with partial automatic defrost.

(D) For models covered under appendix A4, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, top-mounted freezer, and without through-the-door ice.

(E) For models covered under appendix A5, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, side-mounted freezer, and without through-the-door ice.

(F) For models covered under appendix A6, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, bottom-mounted freezer, and without through-the-door ice.

(G) For models covered under appendix A7, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, top-mounted freezer, and through-the-door ice.

(H) For models covered under appendix A8, the sentence shall read:

Cost range based only on models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice.

(I) For models covered under appendix B1, the sentence shall read:

Cost range based only on upright freezer models of similar capacity with manual defrost.

(J) For models covered under appendix B2, the sentence shall read:

Cost range based only on upright freezer models of similar capacity with automatic defrost.

(K) For models covered under appendix B3, the sentence shall read:

Cost range based only on chest and other freezer models of similar capacity.

(iii) For room air conditioners, the statement will read as follows (fill in the blanks with the appropriate model type, year, energy type, and energy cost figure):

Your costs will depend on your utility rates and use.

Cost range based only on models [of similar capacity without reverse cycle and with louvered sides; of similar capacity without reverse cycle and without louvered sides; with reverse cycle and with louvered sides; or with reverse cycle and without louvered sides].

Estimated operating cost is based on a [Year] national average electricity cost of ___ cents per kWh.

For more information, visit www.ftc.gov/appliances.

(iv) For water heaters covered by Appendices D1, D2, and D3, the statement will read as follows (fill in the blanks with the appropriate fuel type, year, and energy cost figures):

Your costs will depend on your utility rates and use.

Cost range based only on models of similar capacity fueled by [natural gas, oil, propane, or electricity].

Estimated operating cost is based on a [Year] national average [electricity, natural gas, propane, or oil] cost of [___ cents per kWh or \$___ per therm or gallon].

For more information, visit www.ftc.gov/appliances.

(v) For instantaneous gas water heaters (appendix D4) and heat pump water heaters (appendix D5), the statement will read as follows (fill in the blanks with the appropriate model type, the operating cost, the year, and the energy cost figures):

Your costs will depend on your utility rates and use.

Cost range based only on [instantaneous gas water heater or heat pump water heater] models of similar capacity. Estimated operating cost is based on a [Year] national average [electricity, natural gas, or propane] cost of [___ cents per kWh or \$___ per therm or gallon].

For more information, visit www.ftc.gov/appliances.

(vi) For clothes washers and dishwashers, the statement will read as

follows (fill in the blanks with the appropriate appliance type, the operating cost, the number of loads per week, the year, and the energy cost figures):

Your costs will depend on your utility rates and use.

Cost range based only on [compact/standard] capacity models.

Estimated operating cost is based on [4 washloads a week for dishwashers, or 8 washloads a week for clothes washers] and a [Year] national average electricity cost of ___ cents per kWh and natural gas cost of \$___ per therm.

For more information, visit www.ftc.gov/appliances.

(vii) For pool heaters, the statement will read as follows:

Efficiency range based only on models fueled by [natural gas or oil].

For more information, visit www.ftc.gov/appliances.

(11) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L:

Federal law prohibits removal of this label before consumer purchase.

(12) No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(i) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(ii) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(iii) The manufacturer may include the ENERGY STAR logo on the bottom right corner of the label for qualified products. The logo must be 1 inch by 1 inch in size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on qualifying covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

■ 11. Section 305.12 is revised to read as follows:

§ 305.12 Labeling for Central Air Conditioners, Heat Pumps, and Furnaces.

(a) *Layout.* All energy labels for central air conditioners, heat pumps, and furnaces (including boilers) 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 between 7 3/8 inches (18.78 cm.) and 7 5/8 (19.34 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 basic layout. All positioning, spacing, type sizes, and line widths should be similar to and consistent with the prototype and sample labels in appendix L.

(b) *Type style and setting.* The Arial series typeface or equivalent shall be used exclusively on the label. Specific sizes and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. Generally, text must be set flush left with two points leading except where otherwise indicated. See the prototype labels for specific directions.

(c) *Colors.* The basic colors of all labels covered by this section shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow. All type and graphics shall be print process black.

(d) *Label Type.* The labels must be affixed to the product in the form of an adhesive label.

All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25"x38") or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard.

(e) *Placement.* Manufacturers shall affix adhesive labels to the covered products in such a position that it is easily read by a consumer examining the product. The label should be generally located on the upper-right-front corner of the product's front exterior. However, some other prominent location may be used as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or

consumer. The top of the label should not exceed 74 inches from the base of taller products. The label can be displayed in the form of a flap tag adhered to the top of the appliance and bent (folded at 90°) to hang over the front, as long as this can be done with assurance that it will be readily visible. Labels for split system central air conditioners shall be affixed to the condensing unit.

(f) *Content of Labels for furnaces.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) The annual fuel utilization efficiency for furnaces is determined in accordance with §305.5.

(4) Ranges of comparability consisting of the lowest and highest annual fuel utilization efficiencies (AFUE) (for furnaces) for all furnaces that utilize the same energy source as indicated in the appendices to this part.

(5) Placement of the labeled product on the scale shall be proportionate to the lowest and highest annual fuel utilization efficiency ratings forming the scale.

(6) The following statement shall appear on furnace labels beneath the range(s) as illustrated in the sample labels in appendix L. Fill in the blanks with the appropriate product subcategory listed in brackets:

Efficiency range based only on [natural gas furnaces; electric furnaces; oil furnaces; mobile home furnaces; gas (except steam) boilers; gas (steam) boilers; oil boilers; or electric boilers].

For more information, visit www.ftc.gov/appliances.

(7) The following statement shall appear at the top of the label as illustrated as illustrated in the sample labels in appendix L:

Federal law prohibits removal of this label before consumer purchase.

(8) No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(i) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in

the lower right-hand corner of the label and be set in 6-point type or smaller.

(ii) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(iii) The manufacturer may include the ENERGY STAR logo on the bottom right corner of the label for qualified products. The logo must be 1 inch by 1 inch in size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on qualifying covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

(9) Manufacturers of boilers shipped with more than one input nozzle to be installed in the field must label such boilers with the AFUE of the system when it is set up with the nozzle that results in the lowest annual fuel utilization efficiency rating.

(10) Manufacturers that ship out boilers that may be set up as either steam or hot water units must label the boilers with the AFUE rating derived by conducting the required test on the boiler as a hot water unit.

(g) *Content of Labels for central air conditioners and heat pumps.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) The seasonal energy efficiency ratio for the cooling function of central air conditioners is determined in accordance with §305.5. For the heating function, the heating seasonal performance factor shall be calculated for heating Region IV for the standardized design heating requirement nearest the capacity measured in the High Temperature Test in accordance with §305.5. In addition, the energy efficiency rating(s) for split system condenser-evaporator coil combinations shall be either:

(i) The energy efficiency rating of the condenser-evaporator coil combination

that is the particular manufacturer's most commonly sold combination for that condenser model; or

(ii) The energy efficiency rating of the actual condenser-evaporator coil combination comprising the system to which the label is to be attached.

(4)(i) Each cooling only central air conditioner label shall contain a range of comparability consisting of the lowest and highest seasonal energy efficiency ratios for all cooling only central air conditioners.

(ii) Each heat pump label, except as noted in paragraph (g)(4)(iii) of this section, shall contain two ranges of comparability. The first range shall consist of the lowest and highest seasonal energy efficiency ratios for the cooling side of all heat pumps. The second range shall consist of the lowest and highest heating seasonal performance factors for the heating side of all heat pumps.

(iii) Each heating only heat pump label shall contain a range of comparability consisting of the lowest and highest heating seasonal performance factors for all heating only heat pumps.

(5) Placement of the labeled product on the scale shall be proportionate to the lowest and highest efficiency ratings forming the scale.

(6) The following statement shall appear on the label beneath the range(s) in bold print (fill in the blank the appropriate unit type):

Efficiency range based only on [single package units or split system units].

[Insert statement required by 305.12(g)(7) if applicable].

For more information, visit www.ftc.gov/appliances.

(7) All labels on split system condenser units disclosing energy efficiency ratings for the "most common" condenser-evaporator coil combinations must contain one of the following three statements:

(i) For labels disclosing the seasonal energy efficiency ratio for cooling, the statement should read:

This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.

(ii) For labels disclosing both the seasonal energy efficiency ratio for cooling and the heating seasonal performance factor for heating, the statement should read:

This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

(iii) For labels disclosing the heating seasonal performance factor for heating, the statement should read:

This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

Central air conditioner labels disclosing the efficiency ratings for specific condenser/coil combinations do not have to contain any of the above three statements.

(8) The following statement shall appear at the top of the label as illustrated in the sample labels in appendix L:

Federal law prohibits removal of this label before consumer purchase.

(9) No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(i) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(ii) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(iii) The manufacturer may include the ENERGY STAR logo on the bottom right corner of the label for qualified products. The logo must be 1 inch by 1 inch in size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on qualifying covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

§§ 305.13, 305.14, 305.15, 305.16, 305.17, 305.18, and 305.19 [Redesignated as §§ 305.19, 305.20, 305.21, 305.22, 305.23, 305.24, and 305.25]

■ 12. Sections 305.13, 305.14, 305.15, 305.16, 305.17, 305.18, and 305.19 are redesignated as sections 305.19, 305.20, 305.21, 305.22, 305.23, 305.24, and 305.25 respectively.

§ 305.13 [Reserved]

■ 13. Section 305.13 is reserved.

■ 14. Section 305.14 is added to read as follows:

§ 305.14 Energy Information Disclosures for Heating and Cooling Equipment.

(a) *Required Information:*

Manufacturers and private labelers of central air conditioners, heat pumps, and furnaces (including boilers) must provide energy information about the equipment they sell to distributors and retailers, including contractors. This information can be provided through means such as fact sheets, product brochures, and directories. All required information must be disclosed clearly and conspicuously. The information must include:

(1) Name of manufacturer or private labeler which, in the case of a corporation, shall be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used;

(2) Trade name (if different from manufacturer);

(3) Model number(s) given by the manufacturer or private labeler;

(4) Capacity or size as determined in accordance with § 305.7;

(5) Energy efficiency rating as determined in accordance with § 305.5. The energy efficiency rating(s) for split system condenser-evaporator coil combinations shall be either:

(i) The energy efficiency rating of the actual condenser-evaporator coil combination comprising the listed split system; or

(ii) The energy efficiency rating of the condenser-evaporator coil combination that is the particular manufacturer's most commonly sold combination for that condenser model.

(6) Ranges of comparability and of energy efficiency ratings found in the appropriate appendices accompanying this part.

(7) A statement that the energy efficiency ratings are based on U.S. Government standard tests.

(8) If the "most common" condenser-evaporator coil combinations are given for central air conditioners and heat pump efficiency ratings pursuant to § 305.14(a)(5)(ii), the statement required by § 305.14(a)(7) as follows:

(i) For information disclosing the seasonal energy efficiency ratio for cooling, the statement should read:

This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.

(ii) For information disclosing both the seasonal energy efficiency ratio for cooling and the heating seasonal

performance factor for heating, the statement should read:

This energy rating is based on U.S.

Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

(iii) For information disclosing the heating seasonal performance factor for heating, the statement should read:

This energy rating is based on U.S.

Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

(9) For central air conditioners disclosing the efficiency ratings for specific condenser/coil combinations pursuant to § 305.14(a)(5)(i), a general disclosure that the efficiency ratings are based on U.S. Government tests.

(b) *Distribution.* (1) Manufacturers and private labelers must give distributors and retailers, including assemblers, the information specified under § 305.14(a) for the central air conditioners, heat pumps, and furnaces (including boilers) they sell to them. This information may be provided in paper or electronic form (including Internet-based access). Distributors must give this information to retailers, including assemblers, they supply.

(2) Retailers, including assemblers, who sell central air conditioners, heat pumps, and furnaces (including boilers) to consumers must make the information specified under § 305.14(a) available to customers in any manner, as long as customers are likely to notice it. For example, it may be available in a display, where customers can take copies of them. It may be kept in a binder or made available electronically at a counter or service desk, with a sign telling customers where the required information is.

(3) Retailers, including assemblers, who negotiate or make sales at a place other than their regular places of business must show the required information to their customers and let them read the information before they agree to purchase the product. If the information is Internet-based, retailers, including assemblers, who negotiate or make sales at a place other than their regular places of business, may choose to provide customers with instructions to access such information in lieu of showing them a paper version of the information. Retailers who choose to use the Internet for the required information, must let customers read such information before the customers agree to purchase the product.

■ 15. Section 305.15 is added to read as follows:

§ 305.15 Labeling for Lighting Products.

(a) *Fluorescent Lamp Ballasts and Luminaires*—(1) *Contents*. Fluorescent lamp ballasts that are “covered products,” as defined in §305.2(n), and to which standards are applicable under section 325 of the Act, shall be marked conspicuously, in color-contrasting ink, with a capital letter “E” printed within a circle. Packaging for such fluorescent lamp ballasts, as well as packaging for luminaires into which they are incorporated, shall also be marked conspicuously with a capital letter “E” printed within a circle. For purposes of this section, the encircled capital letter “E” will be deemed “conspicuous,” in terms of size, if it is as large as either the manufacturer’s name or another logo, such as the “UL,” “CBM” or “ETL” logos, whichever is larger, that appears on the fluorescent lamp ballast, the packaging for such ballast or the packaging for the luminaire into which the covered ballast is incorporated, whichever is applicable for purpose of labeling.

(2) *Product Labeling*. The encircled capital letter “E” on fluorescent lamp ballasts must appear conspicuously, in color-contrasting ink, (*i.e.*, in a color that contrasts with the background on which the encircled capital letter “E” is placed) on the surface that is normally labeled. It may be printed on the label that normally appears on the fluorescent lamp ballast, printed on a separate label, or stamped indelibly on the surface of the fluorescent lamp ballast.

(3) *Package Labeling*. For purposes of labeling under this section, packaging for such fluorescent lamp ballasts and the luminaires into which they are incorporated consists of the plastic sheeting, or “shrink-wrap,” covering pallet loads of fluorescent lamp ballasts or luminaires as well as any containers in which such fluorescent lamp ballasts or the luminaires into which they are incorporated are marketed individually or in small numbers. The encircled capital letter “E” on packages containing fluorescent lamp ballasts or the luminaires into which they are incorporated must appear conspicuously, in color-contrasting ink, on the surface of the package on which printing or a label normally appears. If the package contains printing on more than one surface, the label must appear on the surface on which the product inside the package is described. The encircled capital letter “E” may be printed on the surface of the package, printed on a label containing other information, printed on a separate label, or indelibly stamped on the surface of the package. In the case of pallet loads

containing fluorescent lamp ballasts or the luminaires into which they are incorporated, the encircled capital letter “E” must appear conspicuously, in color-contrasting ink, on the plastic sheeting, unless clear plastic sheeting is used and the encircled capital letter “E” is legible underneath this packaging. The encircled capital letter “E” must also appear conspicuously on any documentation that would normally accompany such a pallet load. The encircled capital letter “E” may appear on a label affixed to the sheeting or may be indelibly stamped on the sheeting. It may be printed on the documentation, printed on a separate label that is affixed to the documentation or indelibly stamped on the documentation.

(b) *Lamps*—(1)(i) Any covered product that is a compact fluorescent lamp or general service incandescent lamp (including an incandescent reflector lamp) shall be labeled clearly and conspicuously on the product’s principal display panel with the following information:

(A) The number of lamps included in the package, if more than one;

(B) The design voltage of each lamp included in the package, if other than 120 volts;

(C) The light output of each lamp included in the package, expressed in average initial lumens;

(D) The electrical power consumed (energy used) by each lamp included in the package, expressed in average initial wattage;

(E) The life of each lamp included in the package, expressed in hours.

(ii) The light output, energy usage and life ratings of any covered product that is a medium base compact fluorescent lamp or general service incandescent lamp (including an incandescent reflector lamp), shall appear in that order and with equal clarity and conspicuousness on the product’s principal display panel. The light output, energy usage and life ratings shall be disclosed in terms of “lumens,” “watts” and “hours” respectively, with the lumens, watts and hours rating numbers each appearing in the same type style and size and with the words “lumens,” “watts” and “hours” each appearing in the same type style and size. The words “light output,” “energy used” and “life” shall precede and have the same conspicuousness as both the rating numbers and the words “lumens,” “watts” and “hours,” except that the letters of the words “lumens,” “watts” and “hours” shall be approximately 50% of the sizes of those used for the words “light output,” “energy used” and “life” respectively.

(iii) The light output, energy usage and life ratings of any covered product that is a medium base compact fluorescent lamp or general service incandescent lamp (including an incandescent reflector lamp), shall be measured at 120 volts, regardless of the lamp’s design voltage. If a lamp’s design voltage is 125 volts or 130 volts, the disclosures of the wattage, light output and life ratings shall in each instance be:

(A) At 120 volts and followed by the phrase “at 120 volts.” In such case, the labels for such lamps also may disclose the lamp’s wattage, light output and life at the design voltage (*e.g.*, “Light Output 1710 Lumens at 125 volts”); or

(B) At the design voltage and followed by the phrase “at (125 volts/130 volts)” if the ratings at 120 volts are disclosed clearly and conspicuously on another panel of the package, and if all panels of the package that contain a claimed light output, wattage or life clearly and conspicuously identify the lamp as “(125 volt/130 volt),” and if the principal display panel clearly and conspicuously discloses the following statement:

This product is designed for (125/130) volts. When used on the normal line voltage of 120 volts, the light output and energy efficiency are noticeably reduced. See (side/back) panel for 120 volt ratings.

(iv) For any covered product that is an incandescent reflector lamp, the required disclosure of light output shall be given for the lamp’s total forward lumens.

(v) For any covered product that is a compact fluorescent lamp, the required light output disclosure shall be measured at a base-up position; but, if the manufacturer or private labeler has reason to believe that the light output at a base-down position would be more than 5% different, the label also shall disclose the light output at the base-down position or, if no test data for the base-down position exist, the fact that at a base-down position the light output might be more than 5% less.

(vi) For any covered product that is a compact fluorescent lamp or a general service incandescent lamp (including an incandescent reflector lamp), there shall be clearly and conspicuously disclosed on the principal display panel the following statement:

To save energy costs, find the bulbs with the (beam spread and) light output you need, then choose the one with the lowest watts.”

(vii) For any covered product that is a general service incandescent lamp and operates with multiple filaments, the principal display panel shall disclose clearly and conspicuously, in the manner required by paragraph (b)(1)(i)—

(iii) and (vi) of this section, the lamp's wattage and light output at each of the lamp's levels of light output and the lamp's life measured on the basis of the filament that fails first.

(2) Any covered product that is a general service fluorescent lamp or an incandescent reflector lamp shall be labeled clearly and conspicuously with a capital letter "E" printed within a circle and followed by an asterisk. The label shall also clearly and conspicuously disclose, either in close proximity to that asterisk or elsewhere on the label, the following statement:

*[The encircled "E"] means this bulb meets Federal minimum efficiency standards.

(i) If the statement is not disclosed on the principal display panel, the asterisk shall be followed by the following statement:

See [Back, Top, Side] panel for details.

(ii) For purposes of this paragraph (b), the encircled capital letter "E" shall be clearly and conspicuously disclosed in color-contrasting ink on the label of any covered product that is a general service fluorescent lamp and will be deemed "conspicuous," in terms of size, if it appears in typeface at least as large as either the manufacturer's name or logo or another logo disclosed on the label, such as the "UL" or "ETL" logos, whichever is larger.

(3)(i) A manufacturer or private labeler who distributes general service fluorescent lamps, compact fluorescent lamps, or general service incandescent lamps (including incandescent reflector lamps) without labels attached to the lamps or without labels on individual retail-sale packaging for one or more lamps may meet the disclosure requirements of paragraphs (b)(1) and (b)(2) of this section by making the required disclosures, in the manner and form required by those paragraphs, on the bulk shipping cartons that are to be used to display the lamps for retail sale.

(ii) Instead of labeling any covered product that is a general service fluorescent lamp with the encircled "E" and with the statement described in paragraph (b)(2) of this section, a manufacturer or private labeler who would not otherwise put a label on such a lamp may meet the disclosure requirements of that paragraph by permanently marking the lamp clearly and conspicuously with the encircled "E".

(4) Any manufacturer or private labeler who makes any representation on a label of any covered product that is a general service fluorescent lamp, medium base compact fluorescent lamp, or general service incandescent lamp (including an incandescent reflector lamp), regarding the cost of operation of

such lamp shall clearly and conspicuously disclose in close proximity to such representation the assumptions upon which it is based, including, e.g., purchase price, unit cost of electricity, hours of use, patterns of use.

(5) Any cartons in which any covered products that are general service fluorescent lamps, medium base compact fluorescent lamps, or general service incandescent lamps (including incandescent reflector lamps), are shipped within the United States or imported into the United States shall disclose clearly and conspicuously the following statement:

These lamps comply with Federal energy efficiency labeling requirements.

■ 16. Section 305.16 is added to read as follows:

§ 305.16 Labeling and Marking for Plumbing Products.

(a) *Showerheads and Faucets.* Showerheads and faucets shall be marked and labeled as follows:

(1) Each showerhead and flow restricting or controlling spout end device shall bear a permanent legible marking indicating 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). Except where impractical due to the size of the fitting, each flow rate disclosure shall also be given in liters per minute (L/min) or liters per cycle (L/cycle). For purposes of this section, the marking indicating the flow rate will be deemed "legible," in terms of placement, if it is located in close proximity to the manufacturer's identification marking.

(2) Each showerhead and faucet shall bear a permanent legible marking to identify the manufacturer. This marking shall be the trade name, trademark, or other mark known to identify the manufacturer. Such marking shall be located where it can be seen after installation.

(3) Each showerhead and faucet shall be marked "A112.18.1M" to demonstrate compliance with the applicable ASME standard. The marking shall be by means of either a permanent mark on the product, a label on the product, or a tag attached to the product.

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

(5) The package or any label attached to the package for each showerhead or

faucet shall contain at least the following: "A112.18.1M" and 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) *Water Closets and Urinals.* Water closets and urinals shall be marked and labeled as follows:

(1) Each such fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating 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). Except where impractical due to the size of the fixture, each flow rate disclosure shall also be given in liters per flush (Lpf). For purposes of this section, the marking indicating the flow rate will be deemed "legible," in terms of placement, if it is located in close proximity to the manufacturer's identification marking.

(2) Each water closet (and each component of the water closet if the fixture is comprised of two or more components) and urinal shall be marked with the manufacturer's name or trademark or, in the case of private labeling, the name or registered trademark of the customer for whom the unit was manufactured. This mark shall be legible, readily identified, and applied so as to be permanent. The mark shall be located so as to be visible after the fixture is installed, except for fixtures built into or for a counter or cabinet.

(3) Each water closet (and each component of the water closet if the fixture is comprised of two or more components) and urinal shall be marked at a location determined by the manufacturer with the designation "ASME A112.19.2M" to signify compliance with the applicable standard. This mark need not be permanent, but shall be visible after installation.

(4) 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).

(5) With respect to any gravity tank-type 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."

(c) *Annual Operating Cost Claims for Covered Plumbing Products.* Until such time as the Commission has prescribed a format and manner of display for labels conveying estimated annual operating costs of covered showerheads, faucets, water closets, and urinals or ranges of estimated annual operating costs for the types or classes of such plumbing products, the Act prohibits manufacturers from making such representations on the labels of such covered products. 42 U.S.C. 6294(c)(8). If, before the Commission has prescribed such a format and manner of display for labels of such products, a manufacturer elects to provide for any such product a label conveying such a claim, it shall submit the proposed claim to the Commission so that a format and manner of display for a label may be prescribed.

■ 17. In newly designated § 305.19, paragraph (a)(1) is revised to read as follows:

§ 305.19 Promotional material displayed or distributed at point of sale.

(a)(1) Any manufacturer, distributor, retailer or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product (except fluorescent lamp ballasts, general service fluorescent lamps, medium base compact fluorescent lamps, or general service incandescent lamps including incandescent reflector lamps, showerheads, faucets, water closets or urinals) shall clearly and conspicuously include in such printed material the following required disclosure:

Before purchasing this appliance, read important information about its estimated annual energy consumption, yearly operating cost, or energy efficiency rating that is available from your retailer.

* * * * *

■ 18. Newly designated § 305.20 is amended as follows:

A. Revise the section heading and paragraph (a).

B. In paragraph (b), remove the reference to "§ 305.2(o)" and replace it with "§ 305.2(l)."

C. In paragraph (c)(1)(i), remove the reference to "§ 305.11(e)(1)" and replace it with "§ 305.15(b)(1)."

D. In paragraph (c)(1)(i), remove the reference to "§ 305.11(e)(1)(ii)" and replace it with "§ 305.15(b)(1)(ii)."

E. In paragraph (c)(1)(ii) introductory text, remove the reference "§ 305.11(e)(2)" and replace it with "§ 305.15(b)(2)."

F. In paragraph (d), remove the reference "§ 305.11(f)" and replace it with "§ 305.16."

The revisions read as follows:

§ 305.20 Paper catalogs and websites.

(a) Any manufacturer, distributor, retailer, or private labeler who advertises in a catalog, a covered product (except fluorescent lamp ballasts, general service fluorescent lamps, medium base compact fluorescent lamps, general service incandescent lamps including incandescent reflector lamps, showerheads, faucets, water closets, or urinals) shall include in such catalog either the EnergyGuide labels prepared in accordance with §§ 305.11 and 305.12 for products they offer or the following information:

(1) The capacity of the model on each page that lists the covered product.

(2) The estimated annual operating costs for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, and water heaters as determined in accordance with § 305.5 and appendix K of this part on each page that lists the covered product.

(3) A statement conspicuously placed in the catalog:

(i) For refrigerators, refrigerator-freezers, and freezers (fill in the blanks with the appropriate year and energy cost figures):

Your operating costs will depend on your utility rates and use. The estimated operating cost is based on a [Year] national average electricity cost of [___ cents per kWh].

For more information, visit www.ftc.gov/appliances.

(ii) For room air conditioners and water heaters, (fill in the blanks with the appropriate year and energy cost figures):

Your operating costs will depend on your utility rates and use. The estimated operating cost is based on a [Year] national average [electricity, natural gas, propane, or oil] cost of [\$ ___ per kWh, therm, or gallon].

For more information, visit www.ftc.gov/appliances.

(iii) For clothes washers and dishwashers, (fill in the blanks with the appropriate information such as the year, and the energy cost figures):

Your operating costs will depend on your utility rates and use. The estimated operating cost is based on [4 washloads a week for dishwashers, or 8 washloads a week for clothes washers] and a [Year] national average cost of ___ cents per kWh for electricity and \$ ___ per therm for natural gas.

For more information, visit www.ftc.gov/appliances.

(4) The energy efficiency or thermal efficiency ratings for pool heaters, central air conditioners, heat pumps, and furnaces (including boilers) as determined in accordance with § 305.5 on each page that lists the covered product.

* * * * *

§ 305.22 [Amended]

■ 19. In newly designated § 305.22, remove the reference to "§ 305.15(b)" and replace it with "§ 305.21(b)."

§ 305.25 [Removed]

■ 20. Newly redesignated § 305.25 is removed and reserved.

■ 21. Appendix A1 to Part 305 is revised to read as follows:

APPENDIX A1 TO PART 305—REFRIGERATORS WITH AUTOMATIC DEFROST

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 2.5	\$32	\$35
2.5 to 4.4	\$33	\$42
4.5 to 6.4	\$32	\$58
6.5 to 8.4	\$48	\$48
8.5 to 10.4	\$37	\$37
10.5 to 12.4	\$35	\$35

APPENDIX A1 TO PART 305—REFRIGERATORS WITH AUTOMATIC DEFROST—Continued

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
12.5 to 14.4	\$33	\$33
14.5 to 16.4	\$46	\$46
16.5 and over	\$36	\$50

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

- 22. Appendix A2 to Part 305 is revised to read as follows:

APPENDIX A2 TO PART 305—REFRIGERATORS AND REFRIGERATOR-FREEZERS WITH MANUAL DEFROST

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 2.5	\$29	\$36
2.5 to 4.4	\$29	\$37
4.5 to 6.4	\$29	\$39
6.5 to 8.4	\$39	\$39
8.5 to 10.4	\$24	\$36
10.5 to 12.4	\$35	\$35
12.5 to 14.4	(*)	(*)
14.5 to 16.4	(*)	(*)
16.5 to 18.4	\$36	\$43
18.5 to 20.4	(*)	(*)
20.5 to 22.4	(*)	(*)
22.5 to 24.4	\$48	\$48
24.5 to 26.4	(*)	(*)
26.5 to 28.4	(*)	(*)
28.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

- 23. Appendix A3 to Part 305 is revised to read as follows:

APPENDIX A3 TO PART 305—REFRIGERATOR-FREEZERS WITH PARTIAL AUTOMATIC DEFROST

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 10.5	\$27	\$46
10.5 to 12.4	\$33	\$33
12.5 to 14.4	(*)	(*)
14.5 to 16.4	(*)	(*)
16.5 to 18.4	(*)	(*)
18.5 to 20.4	(*)	(*)
20.5 to 22.4	(*)	(*)
22.5 to 24.4	(*)	(*)
24.5 to 26.4	(*)	(*)
26.5 to 28.4	(*)	(*)
28.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

- 24. Appendix A4 to Part 305 is revised to read as follows:

APPENDIX A4 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH TOP-MOUNTED FREEZER WITHOUT THROUGH-THE-DOOR ICE SERVICE

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 10.5	\$35	\$49
10.5 to 12.4	\$41	\$44
12.5 to 14.4	\$40	\$47
14.5 to 16.4	\$40	\$48
16.5 to 18.4	\$42	\$52
18.5 to 20.4	\$41	\$53
20.5 to 22.4	\$44	\$56
22.5 to 24.4	(*)	(*)
24.5 to 26.4	\$51	\$51
26.5 to 28.4	(*)	(*)
28.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 25. Appendix A5 to Part 305 is revised to read as follows:

APPENDIX A5 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH SIDE-MOUNTED FREEZER WITHOUT THROUGH-THE-DOOR ICE SERVICE

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 10.5	\$56	\$56
10.5 to 12.4	(*)	(*)
12.5 to 14.4	(*)	(*)
14.5 to 16.4	(*)	(*)
16.5 to 18.4	(*)	(*)
18.5 to 20.4	\$66	\$66
20.5 to 22.4	\$46	\$68
22.5 to 24.4	\$59	\$73
24.5 to 26.4	\$58	\$78
26.5 to 28.4	\$71	\$71
28.5 and over	\$62	\$73

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 26. Appendix A6 to Part 305 is revised to read as follows:

APPENDIX A6 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH BOTTOM-MOUNTED FREEZER WITHOUT THROUGH-THE-DOOR ICE SERVICE

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 10.5	\$46	\$54
10.5 to 12.4	\$47	\$47
12.5 to 14.4	(*)	(*)
14.5 to 16.4	\$48	\$58
16.5 to 18.4	\$50	\$59
18.5 to 20.4	\$47	\$61
20.5 to 22.4	\$49	\$61
22.5 to 24.4	\$62	\$62
24.5 to 26.4	\$51	\$63
26.5 to 28.4	(*)	(*)

APPENDIX A6 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH BOTTOM-MOUNTED FREEZER WITHOUT THROUGH-THE-DOOR ICE SERVICE—Continued

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
28.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 27. Appendix A7 to Part 305 is revised to read as follows:

APPENDIX A7 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH TOP-MOUNTED FREEZER WITH THROUGH-THE-DOOR ICE SERVICE

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 10.5	(*)	(*)
10.5 to 12.4	(*)	(*)
12.5 to 14.4	(*)	(*)
14.5 to 16.4	(*)	(*)
16.5 to 18.4	\$43	\$43
18.5 to 20.4	(*)	(*)
20.5 to 22.4	\$56	\$56
22.5 to 24.4	(*)	(*)
24.5 to 26.4	(*)	(*)
26.5 to 28.4	(*)	(*)
28.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 28. Appendix A8 to Part 305 is revised to read as follows:

APPENDIX A8 TO PART 305—REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH SIDE-MOUNTED FREEZER WITH THROUGH-THE-DOOR ICE SERVICE

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 10.5	(*)	(*)
10.5 to 12.4	(*)	(*)
12.5 to 14.4	(*)	(*)
14.5 to 16.4	(*)	(*)
16.5 to 18.4	(*)	(*)
18.5 to 20.4	\$59	\$69
20.5 to 22.4	\$57	\$72
22.5 to 24.4	\$57	\$74
24.5 to 26.4	\$60	\$78
26.5 to 28.4	\$65	\$80
28.5 and over	\$70	\$84

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 29. Appendix B1 to Part 305 is revised to read as follows:

APPENDIX B1 TO PART 305—UPRIGHT FREEZERS WITH MANUAL DEFROST

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 5.5	\$29	\$35
5.5 to 7.4	\$32	\$38
7.5 to 9.4	\$36	\$40
9.5 to 11.4	(*)	(*)
11.5 to 13.4	\$44	\$44
13.5 to 15.4	\$42	\$48
15.5 to 17.4	\$44	\$51
17.5 to 19.4	\$46	\$51
19.5 to 21.4	\$55	\$56
21.5 to 23.4	(*)	(*)
23.5 to 25.4	\$62	\$62
25.5 to 27.4	(*)	(*)
27.5 to 29.4	(*)	(*)
29.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 30. Appendix B2 to Part 305 is revised to read as follows:

APPENDIX B2 TO PART 305—UPRIGHT FREEZERS WITH AUTOMATIC DEFROST

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 5.5	\$51	\$52
5.5 to 7.4	(*)	(*)
7.5 to 9.4	(*)	(*)
9.5 to 11.4	\$60	\$60
11.5 to 13.4	\$61	\$61
13.5 to 15.4	\$60	\$70
15.5 to 17.4	\$62	\$73
17.5 to 19.4	\$68	\$79
19.5 to 21.4	\$71	\$82
21.5 to 23.4	\$85	\$85
23.5 to 25.4	\$91	\$91
25.5 to 27.4	(*)	(*)
27.5 to 29.4	(*)	(*)
29.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 31. Appendix B3 to Part 305 is revised to read as follows:

APPENDIX B3 TO PART 305—CHEST FREEZERS AND ALL OTHER FREEZERS

Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 5.5	\$20	\$26
5.5 to 7.4	\$25	\$37
7.5 to 9.4	\$31	\$38
9.5 to 11.4	\$30	\$33
11.5 to 13.4	\$35	\$39
13.5 to 15.4	\$38	\$57
15.5 to 17.4	\$38	\$38
17.5 to 19.4	(*)	(*)
19.5 to 21.4	\$46	\$51
21.5 to 23.4	\$49	\$55

APPENDIX B3 TO PART 305—CHEST FREEZERS AND ALL OTHER FREEZERS—Continued
Range Information

Manufacturer's Rated Total Refrigerated Volume in Cubic feet	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
23.5 to 25.4	\$55	\$61
25.5 to 27.4	(*)	(*)
27.5 to 29.4	(*)	(*)
29.5 and over	(*)	(*)

(*) No data submitted for units meeting the Department of Energy's Energy Conservation Standards effective July 1, 2001.

■ 32. Appendix C1 to Part 305 is revised to read as follows:

APPENDIX C1 TO PART 305—COMPACT DISHWASHERS
Range Information

"Compact" includes countertop dishwasher models with a capacity of fewer than eight (8) place settings. Place settings shall be in accordance with appendix C to 10 CFR part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

Capacity	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Compact	\$19	\$34

■ 33. Appendix C2 to Part 305 is revised to read as follows:

APPENDIX C2 TO PART 305—STANDARD DISHWASHERS
Range Information

"Standard" includes dishwasher models with a capacity of fewer than eight (8) or more place settings. Place settings shall be in accordance with appendix C to 10 CFR part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

Capacity	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Standard	\$20	\$50

■ 34. Appendices D1 through D5 to Part 305 are revised to read as follows:

APPENDIX D1 TO PART 305—WATER HEATERS—GAS
Range Information

CAPACITY FIRST HOUR RATING	Range of Estimated Annual Operating Costs (Dollars/Year)			
	Natural Gas (\$/year)		Propane (\$/year)	
	Low	High	Low	High
Less than 21	*	*	*	*
21 to 24	*	*	*	*
25 to 29	*	*	*	*
30 to 34	*	*	*	*
35 to 40	*	*	*	*
41 to 47	*	*	*	*
48 to 55	\$285	\$309	\$479	\$520
56 to 64	\$295	\$309	\$496	\$520
65 to 74	\$273	\$314	\$458	\$529
75 to 86	\$273	\$331	\$458	\$529
87 to 99	\$285	\$331	\$471	\$557
100 to 114	\$276	\$345	\$466	\$557
115 to 131	\$276	\$380	\$466	\$578

APPENDIX D1 TO PART 305—WATER HEATERS—GAS—Continued
Range Information

CAPACITY	Range of Estimated Annual Operating Costs (Dollars/Year)			
	Natural Gas (\$/year)		Propane (\$/year)	
	Low	High	Low	High
Over 131	\$309	\$380	\$520	\$640

* No data submitted.

APPENDIX D2 TO PART 305—WATER HEATERS—ELECTRIC
Range Information

CAPACITY	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 21	\$503	\$503
21 to 24	*	*
25 to 29	\$503	\$503
30 to 34	\$503	\$508
35 to 40	\$497	\$508
41 to 47	\$492	\$531
48 to 55	\$492	\$531
56 to 64	\$492	\$520
65 to 74	\$492	\$531
75 to 86	\$492	\$544
87 to 99	\$503	\$550
100 to 114	\$514	\$577
115 to 131	\$544	\$563
Over 131	*	*

* No data submitted.

APPENDIX D3 TO PART 305—WATER HEATERS—OIL
Range Information

CAPACITY	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 65	*	*
65 to 74	*	*
75 to 86	*	*
87 to 99	*	*
100 to 114	\$386	\$444
115 to 131	\$364	\$471
Over 131	\$353	\$471

* No data submitted.

APPENDIX D4 TO PART 305—WATER HEATERS—INSTANTANEOUS—GAS
Range Information

CAPACITY	Range of Estimated Annual Operating Costs (Dollars/Year)			
	Natural Gas (\$/year)		Propane (\$/year)	
	Low	High	Low	High
Under 1.00	\$285	\$285	\$479	\$479
1.00 to 2.00	\$280	\$285	\$456	\$471
2.01 to 3.00	\$174	\$268	\$346	\$445
Over 3.00	\$199	\$290	\$301	\$486

* No data submitted.

APPENDIX D5 TO PART 305—WATER HEATERS—HEAT PUMP
Range Information

CAPACITY FIRST HOUR RATING	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Less than 21	*	*
21 to 24	*	*
25 to 29	*	*
30 to 34	*	*
35 to 40	*	*
41 to 47	*	*
48 to 55	*	*
56 to 64	*	*
65 to 74	*	*
75 to 86	*	*
87 to 99	*	*
100 to 114	*	*
115 to 131	*	*
Over 131	*	*

* No data submitted.

■ 35. Appendix E to Part 305 is revised to read as follows:

APPENDIX E TO PART 305—ROOM AIR CONDITIONERS
Range Information

Manufacturer's rated cooling capacity in Btu's/yr	Range of Estimated Annual Operating Costs (Dollars/Year)	
	LOW	HIGH
Without Reverse Cycle and with Louvered Sides:		
Less than 6,000 Btu	\$37	\$48
6,000 to 7,999 Btu	\$44	\$64
8,000 to 13,999 Btu	\$59	\$112
14,000 to 19,999 Btu	\$105	\$176
20,000 and more Btu	\$166	\$338
Without Reverse Cycle and without Louvered Sides:		
Less than 6,000 Btu	*	*
6,000 to 7,999 Btu	\$48	\$48
8,000 to 13,999 Btu	\$61	\$127
14,000 to 19,999 Btu	\$124	\$140
20,000 and more Btu	*	*
With Reverse Cycle and with Louvered Sides	\$61	\$192
With Reverse Cycle, without Louvered Sides	\$67	\$111

* No data submitted for units meeting Federal Minimum Efficiency Standards effective October 1, 2000.

■ 36. Appendix F1 to Part 305 is revised to read as follows:

APPENDIX F1 TO PART 305—STANDARD CLOTHES WASHERS
Range Information
"Standard" includes all household clothes washers with a tub capacity of 1.6 cu. ft. or more.

Capacity	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Standard	\$10	\$71

■ 37. Appendix F2 to Part 305 is revised to read as follows:

APPENDIX F2 TO PART 305—COMPACT CLOTHES WASHERS

Range Information

“Compact” includes all household clothes washers with a tub capacity of less than 1.6 cu. ft.

Capacity	Range of Estimated Annual Operating Costs (Dollars/Year)	
	Low	High
Compact	\$19	\$49

■ 38. Appendices G1, G2, G3, G4, G5, G6, G7, and G8 are revised to read as follows:

APPENDIX G1 TO PART 305—FURNACES—GAS

Manufacturer’s rated heating capacities (Btu’s/hr.)	Range of annual fuel utilization efficiencies (AFUE’s)	
	Low	High
All Capacities	78.0	96.6

APPENDIX G2 TO PART 305—FURNACES—ELECTRIC

Manufacturer’s rated heating capacities (Btu’s/hr.)	Range of annual fuel utilization efficiencies (AFUE’s)	
	Low	High
All Capacities	100	100

APPENDIX G3 TO PART 305—FURNACES—OIL

Manufacturer’s rated heating capacities (Btu’s/hr.)	Range of annual fuel utilization efficiencies (AFUE’s)	
	Low	High
All Capacities	78.0	86.1

APPENDIX G4 TO PART 305—MOBIL HOME FURNACES

Manufacturer’s rated heating capacities (Btu’s/hr.)	Range of annual fuel utilization efficiencies (AFUE’s)	
	Low	High
All Capacities	75.0	92.1

APPENDIX G5 TO PART 305—BOILERS—GAS (EXCEPT STEAM)

Manufacturer’s rated heating capacities (Btu’s/hr.)	Range of annual fuel utilization efficiencies (AFUE’s)	
	Low	High
All Capacities	80	95.5

APPENDIX G6 TO PART 305—BOILERS—GAS (STEAM)

Manufacturer’s rated heating capacities (Btu’s/hr.)	Range of annual fuel utilization efficiencies (AFUE’s)	
	Low	High
All Capacities	75.8	84.0

APPENDIX G7 TO PART 305—BOILERS (OIL)

Manufacturer's rated heating capacities (Btu's/hr.)	Range of annual fuel utilization efficiencies (AFUE's)	
	Low	High
All Capacities	80.0	92.0

APPENDIX G8 TO PART 305—BOILERS (ELECTRIC)

Manufacturer's rated heating capacities (Btu's/hr.)	Range of annual fuel utilization efficiencies (AFUE's)	
	Low	High
All Capacities	100	100

■ 39. Appendix H is revised to read as follows:

APPENDIX H TO PART 305—COOLING PERFORMANCE FOR CENTRAL AIR CONDITIONERS

Manufacturer's rated cooling capacities (Btu's/hr.)	Range of SEER's	
	Low	High
Single Package Units.		
Central Air Conditioners (Cooling Only): All capacities	10.6	16.5
Heat Pumps (Cooling Function): All capacities	10.6	16.0
Split System Units.		
Central Air Conditioners (Cooling Only): All capacities	10.9	23.0
Heat Pumps (Cooling Function): All capacities	10.9	21.0

■ 40. Appendix I is revised to read as follows:

APPENDIX I TO PART 305—HEATING PERFORMANCE FOR CENTRAL AIR CONDITIONERS

Manufacturer's rated heating capacity (Btu's/hr.)	Range of HSPF's	
	Low	High
Single Package Units.		
Heat Pumps (Heating Function): All capacities	7.0	8.2
Split System Units.		
Heat Pumps (Heating Function): All capacities	7.1	10.2

■ 41. Appendices J1 and J2 are revised to read as follows:

APPENDIX J1 TO PART 305—POOL HEATERS—GAS

Range Information

Manufacturer's rated heating capacity	Range of Thermal Efficiencies (percent)			
	Natural Gas		Propane	
	Low	High	Low	High
All capacities	79.0	95.0	79.0	95.0

APPENDIX J2 TO PART 305—POOL HEATERS—OIL
Range Information

Manufacturer's rated heating capacities	Range of Thermal Efficiencies (percent)	
	Low	High
All capacities	79.0	79.0

■ 42. Appendix K to Part 305 is revised to read as follows:

APPENDIX K TO PART 305—REPRESENTATIVE AVERAGE UNIT ENERGY COSTS

This Table contains the representative unit energy costs that must be utilized to calculate estimated annual operating cost disclosures required under sections 305.11 and 305.20. This Table is based on information published by the U.S. Department of Energy in 2007. Unless otherwise indicated by the Commission, this table will be revised in 2012.

Representative Average Unit Costs of Energy for Five Residential Energy Sources (2007)

Type of Energy	In Commonly Used Terms	As required by DOE test procedure	Dollars per million Btu ¹
Electricity	10.65¢/kWh ^{2,3}	\$.1065/kWh	\$31.21
Natural Gas	\$1.218/therm ⁴ \$12.53/MCF ^{5,6}	\$0.00001218/Btu	\$12.18
No. 2 heating oil	\$2.22/gallon ⁷	\$0.00001601/Btu	\$16.01
Propane	\$1.87/gallon ⁸	\$0.00002047/Btu	\$20.47
Kerosene	\$2.63/gallon ⁹	\$0.00001948/Btu	\$19.48

¹ Btu stands for British thermal unit.

² kWh stands for kilo Watt hour.

³ 1 kWh = 3,412 Btu.

⁴ 1 therm = 100,000 Btu. Natural gas prices include taxes.

⁵ MCF stands for 1,000 cubic feet.

⁶ For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,029 Btu.

⁷ For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.

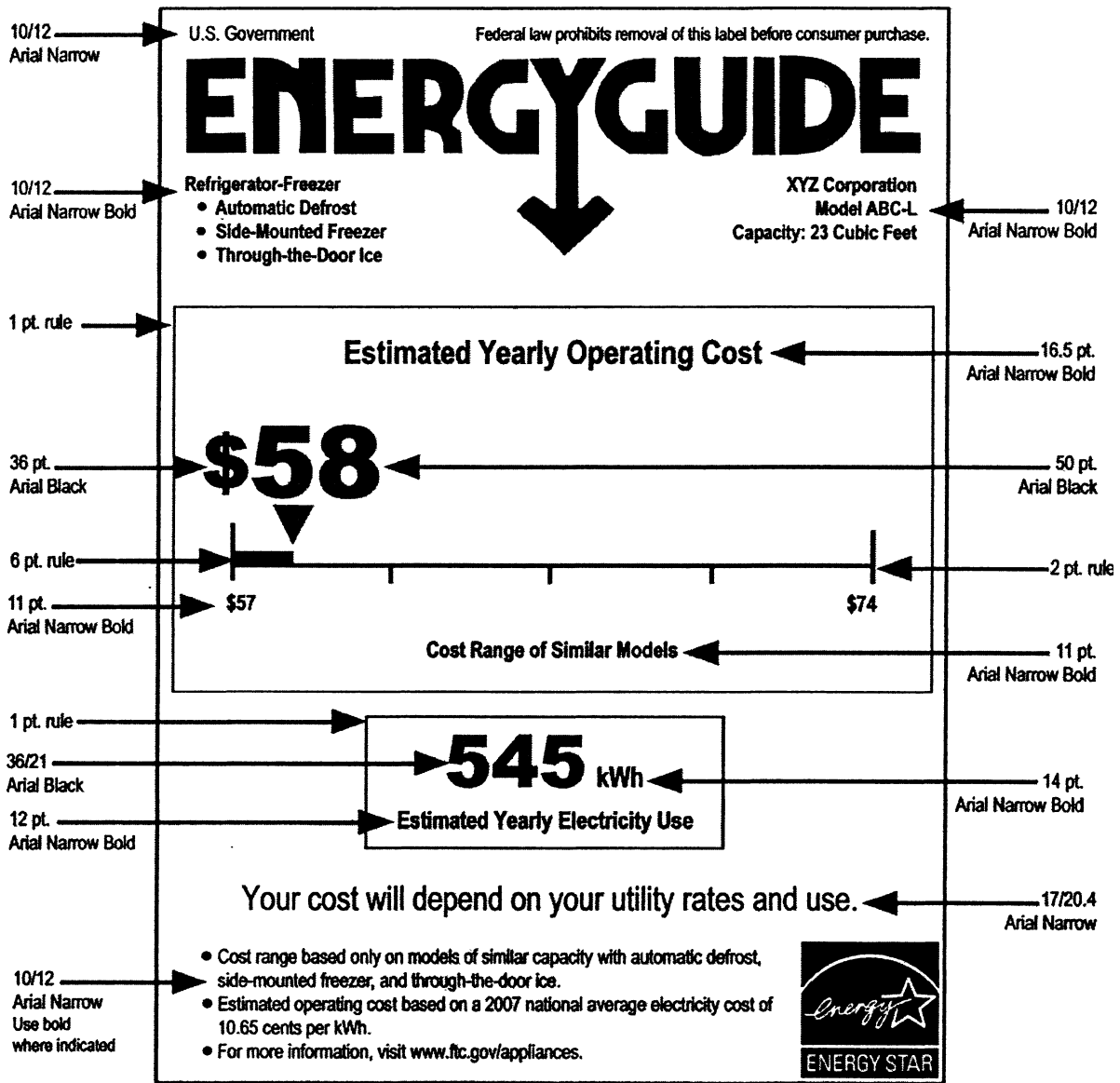
⁸ For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.

⁹ For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

■ 43. In Appendix L, Prototype labels 1 through 4 and Sample labels 1 through 9 are revised to read as follows and Prototype label 5 and Sample labels 10 and 11 are removed:

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APPENDIX L TO PART 305—SAMPLE LABELS



PROTOTYPE LABEL 1

10/12 Arial Narrow → U.S. Government Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

10/12 Arial Narrow Bold → Clothes Washer Capacity: Standard

XYZ Corporation Models G39, X88, Z33 ← 10/12 Arial Narrow Bold

1 pt. rule → Estimated Yearly Operating Cost ← 16.5 pt. Arial Narrow Bold

11 pt. Arial Narrow Bold → (when used with an electric water heater)

\$43

36 pt. Arial Black →

6 pt. rule → \$10 ← 2 pt. rule

11 pt. Arial Narrow Bold → \$71 ←

Cost Range of Similar Models ← 11 pt. Arial Narrow

1 pt. rule →

400 kWh

36/21 Arial Black →

12 pt. Arial Narrow Bold → Estimated Yearly Electricity Use

50 pt. Arial Black →

\$21

14 pt. Arial Narrow Bold →

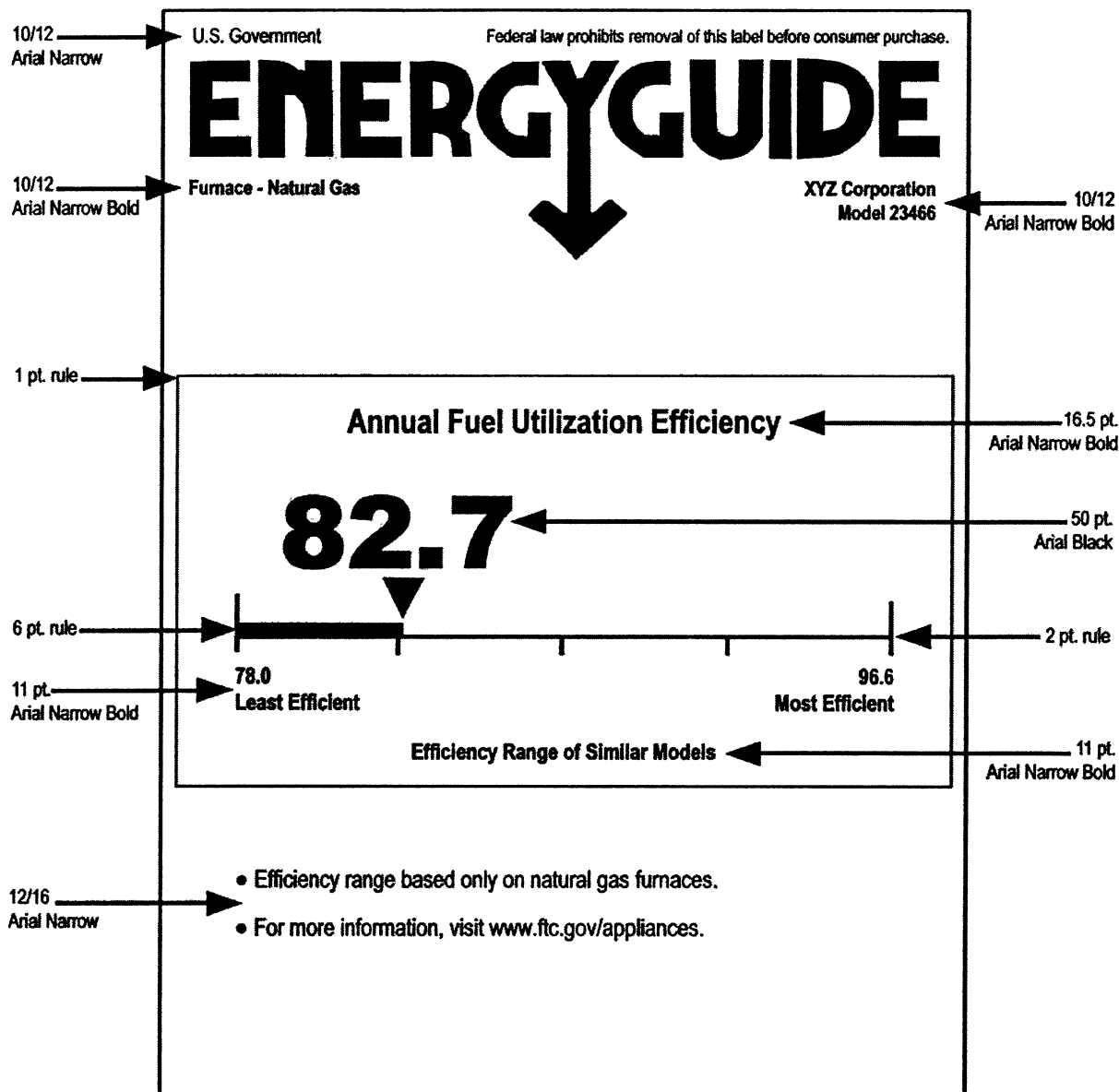
11 pt. Arial Narrow → Estimated Yearly Operating Cost (when used with a natural gas water heater)

17 pt. Arial Narrow → Your cost will depend on your utility rates and use.

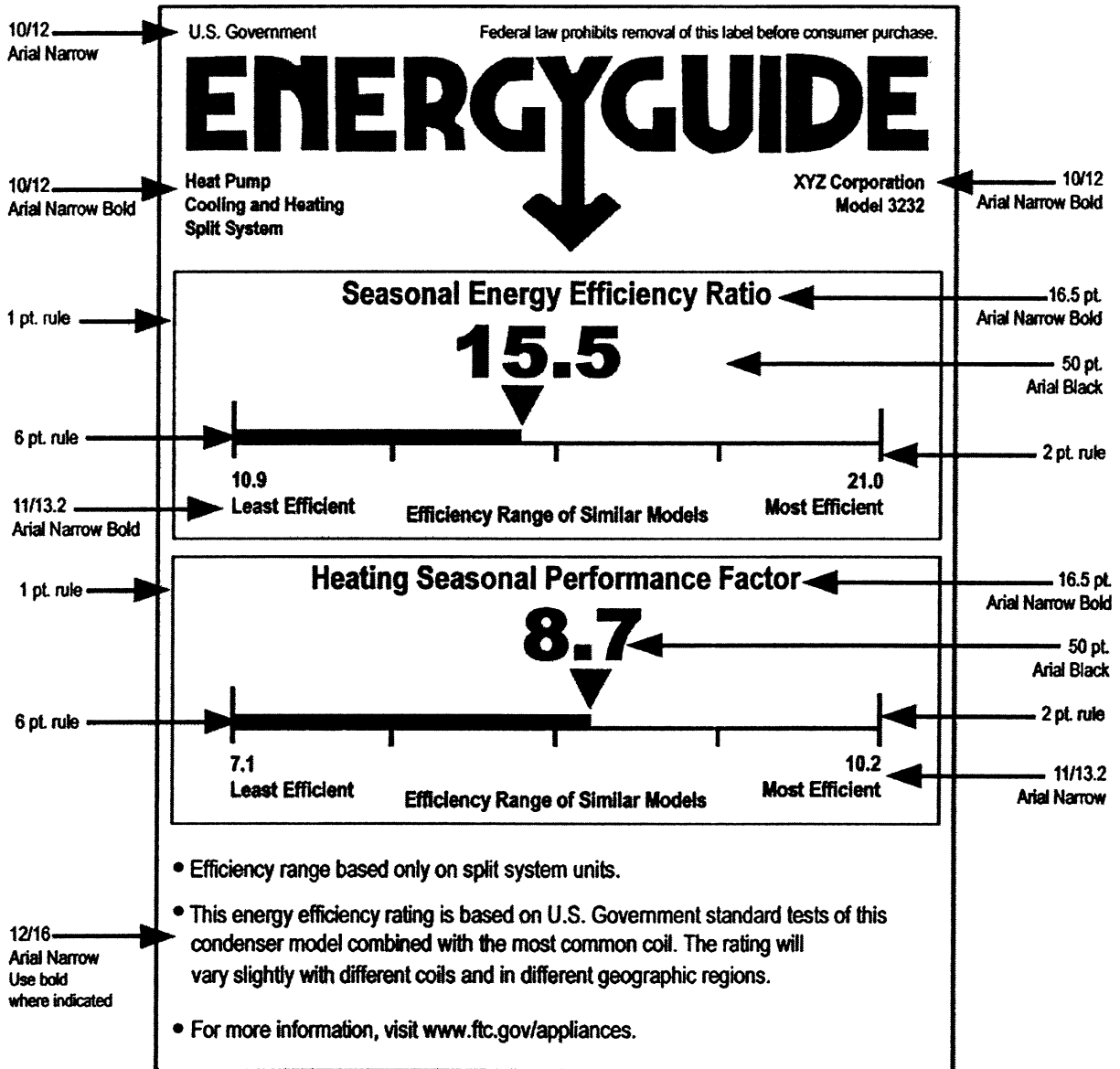
- Cost range based only on standard capacity models.
- Estimated operating cost based on eight wash loads a week and a 2007 national average electricity cost of 10.65 cents per kWh and natural gas cost of \$1.218 per therm.
- For more information, visit www.ftc.gov/appliances.

10/12 Arial Narrow Use bold where indicated →

PROTOTYPE LABEL 2



PROTOTYPE LABEL 3



PROTOTYPE LABEL 4

U.S. Government Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Refrigerator-Freezer

- Automatic Defrost
- Side-Mounted Freezer
- Through-the-Door Ice

XYZ Corporation
Model ABC-L
Capacity: 23 Cubic Feet

Estimated Yearly Operating Cost

\$58

\$57 \$74

Cost Range of Similar Models

545 kWh
Estimated Yearly Electricity Use

Your cost will depend on your utility rates and use.

- Cost range based only on models of similar capacity with automatic defrost, side-mounted freezer, and through-the-door ice.
- Estimated operating cost based on a 2007 national average electricity cost of 10.65 cents per kWh.
- For more information, visit www.ftc.gov/appliances.

SAMPLE LABEL 1

U.S. Government Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Clothes Washer Capacity: Standard XYZ Corporation Models G39, X88, Z33

Estimated Yearly Operating Cost
(when used with an electric water heater)

\$43

\$10 \$71

Cost Range of Similar Models

400 kWh
Estimated Yearly Electricity Use

\$21
Estimated Yearly Operating Cost
(when used with a natural gas water heater)

Your cost will depend on your utility rates and use.


- Cost range based only on standard capacity models.
- Estimated operating cost based on eight wash loads a week and a 2007 national average electricity cost of 10.65 cents per kWh and natural gas cost of \$1.218 per therm.
- For more information, visit www.ftc.gov/appliances.

SAMPLE LABEL 2

U.S. Government Federal law prohibits removal of this label before consumer purchase.

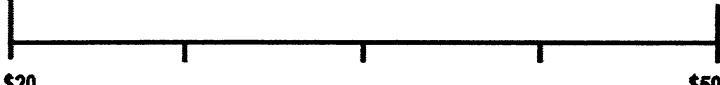
ENERGYGUIDE

Dishwasher XYZ Corporation
 Capacity: Standard Models G39, X88, Z33



Estimated Yearly Operating Cost
(when used with an electric water heater)

\$19



\$20 \$30 \$40 \$50

Cost Range of Similar Models

The estimated yearly operating cost of this model was not available at the time the range was published.

175^{kWh}


Estimated Yearly Electricity Use

\$13

Estimated Yearly Operating Cost
(when used with a natural gas water heater)

Your cost will depend on your utility rates and use.

- Cost range based only on standard capacity models.
- Estimated operating cost based on four wash loads a week and a 2007 national average electricity cost of 10.65 cents per kWh and natural gas cost of \$1.218 per therm.
- For more information, visit www.ftc.gov/appliances.



SAMPLE LABEL 3

U.S. Government Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Room Air Conditioner
Without Reverse Cycle
With Louvered Sides

XYZ Corporation
Model 12X4
Capacity: 13,000 BTUs

Estimated Yearly Operating Cost

\$103

\$59 \$112

Cost Range of Similar Models

10.1
Energy Efficiency Ratio

Your cost will depend on your utility rates and use.

- Cost range based only on models of similar capacity without reverse cycle and with louvered sides.
- Estimated operating cost based on a 2007 national average electricity cost of 10.65 cents per kWh.
- For more information, visit www.ftc.gov/appliances.


SAMPLE LABEL 4

U.S. Government Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE


Water Heater - Natural Gas
Capacity (first hour rating): 105 gallons

XYZ Corporation
Model RP23XY27



Estimated Yearly Operating Cost

\$328



\$276 \$345

Cost Range of Similar Models

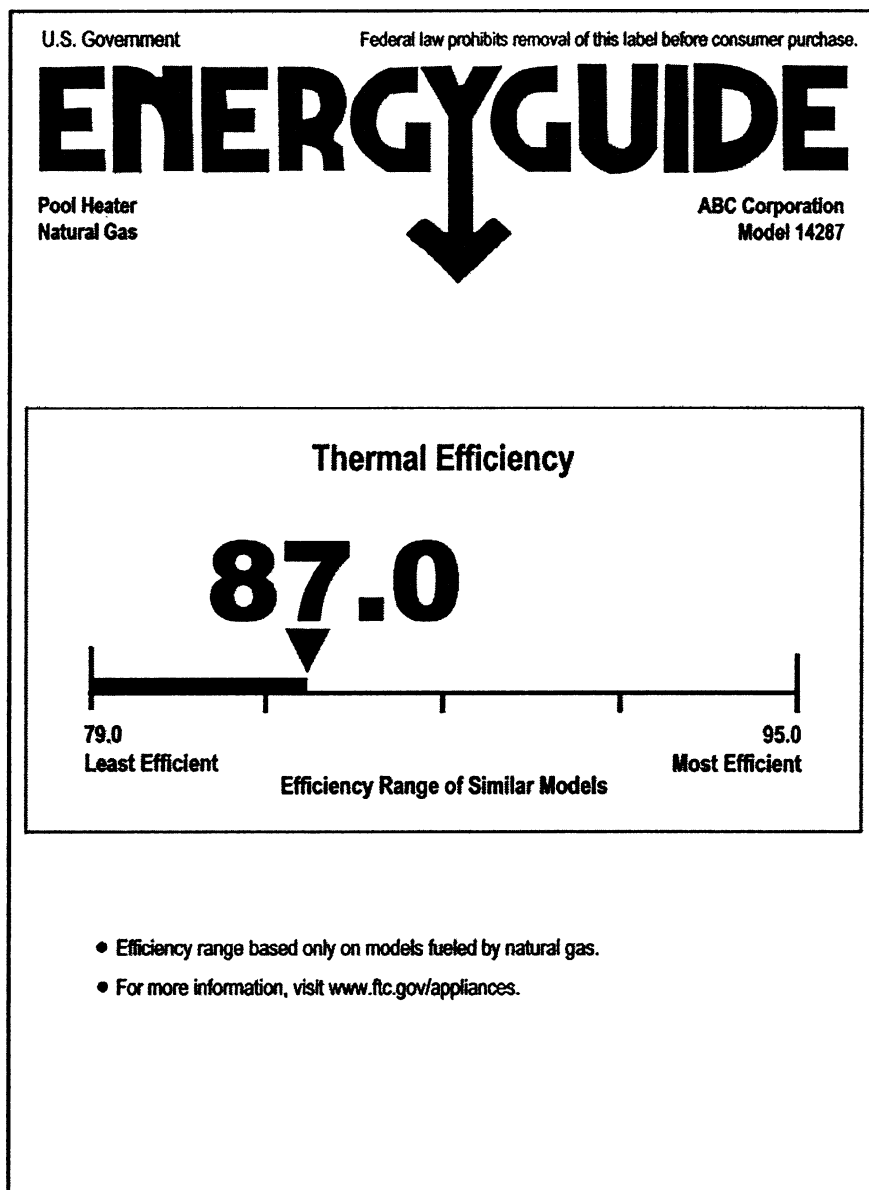
269 therms

Estimated Yearly Energy Use

Your cost will depend on your utility rates and use.

- Cost range based only on models of similar capacity fueled by natural gas.
- Estimated operating cost based on a 2007 national average natural gas cost of \$1.218 per therm.
- For more information, visit www.ftc.gov/appliances.

SAMPLE LABEL 5




SAMPLE LABEL 6

U.S. Government Federal law prohibits removal of this label before consumer purchase.


ENERGYGUIDE

Central Air Conditioner
Cooling Only
Split System XYZ Corporation
Model 6645



Seasonal Energy Efficiency Ratio

13.3



10.9 23.0
Least Efficient **Efficiency Range of Similar Models** **Most Efficient**


- Efficiency range based only on split system units.
- This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.
- For more information, visit www.ftc.gov/appliances.

SAMPLE LABEL 7

U.S. Government Federal law prohibits removal of this label before consumer purchase.

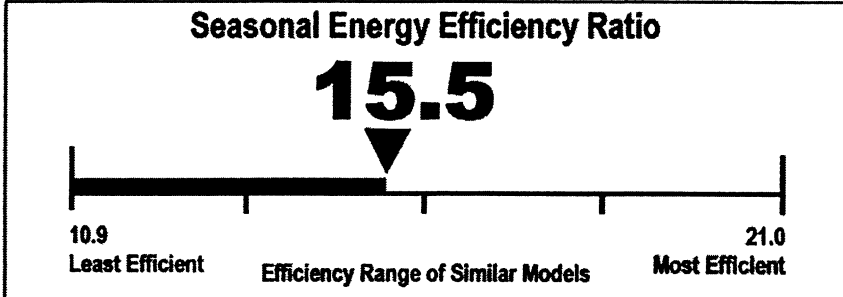
ENERGYGUIDE

Heat Pump Cooling and Heating Split System XYZ Corporation Model 3232



Seasonal Energy Efficiency Ratio

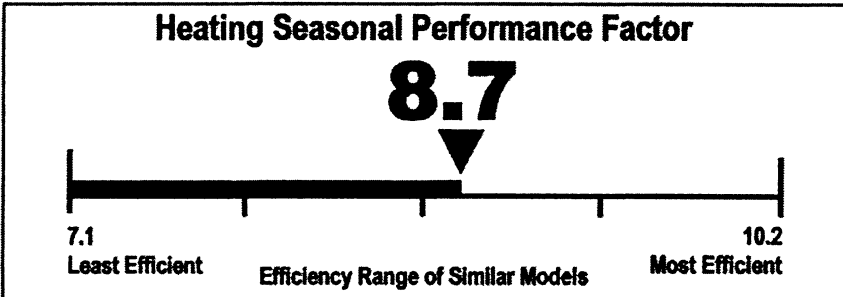
15.5



10.9 Least Efficient Efficiency Range of Similar Models Most Efficient 21.0

Heating Seasonal Performance Factor

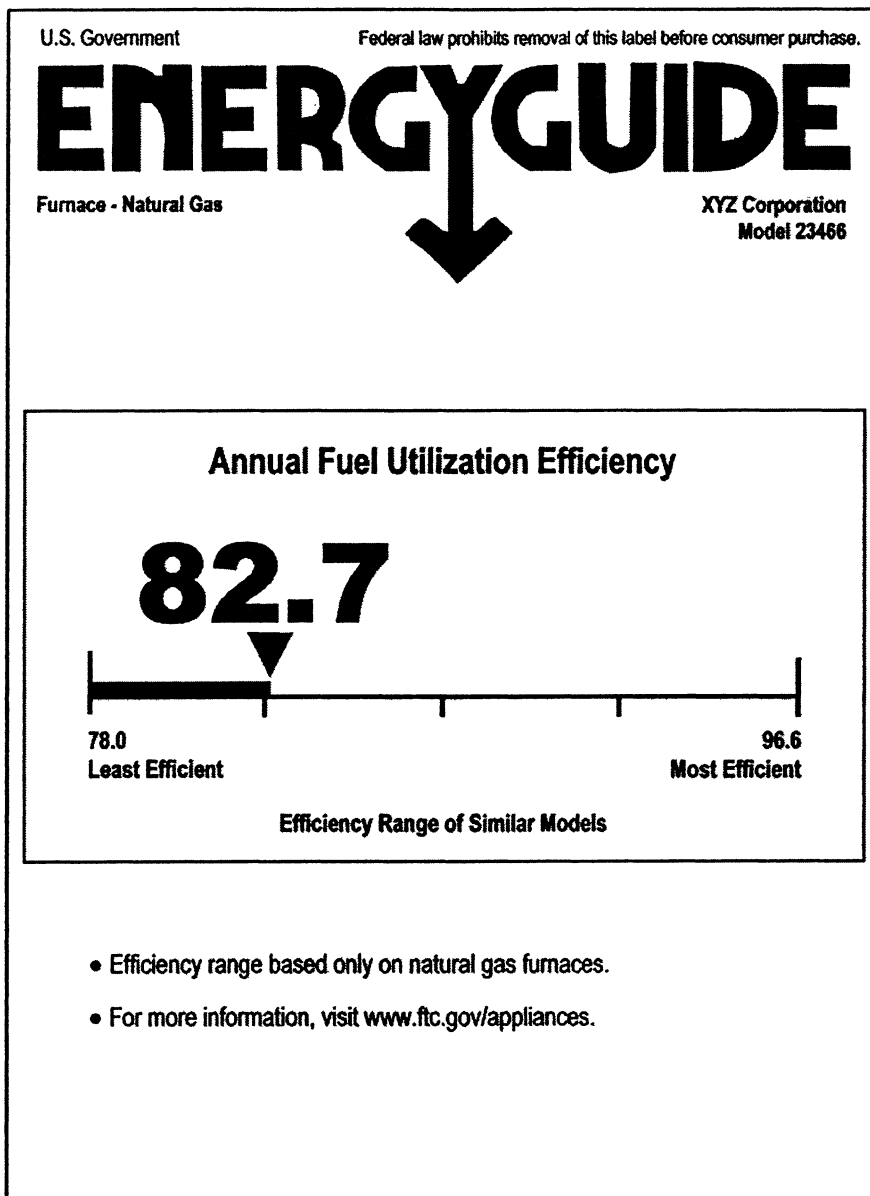
8.7



7.1 Least Efficient Efficiency Range of Similar Models Most Efficient 10.2

- Efficiency range based only on split system units.
- This energy efficiency rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.
- For more information, visit www.ftc.gov/appliances.

SAMPLE LABEL 8



SAMPLE LABEL 9

* * * * *

[FR Doc. 07-4193 Filed 8-28-07; 8:45 am]

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