Billing Code: 6750-01S

FEDERAL TRADE COMMISSION

16 CFR Part 305

[RIN 3084-AB15]

ENERGY LABELING RULE

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

ACTION: Final rule.

SUMMARY: The Commission issues final amendments to improve access to energy labels online and improve labels for refrigerators, ceiling fans, central air conditioners, and water heaters.

DATES: The amendments to 16 CFR 305.3(x), 305.13, and Sample Label 17 of Appendix L are effective on [INSERT DATE 2 YEARS AFTER PUBLICATION OF THE FEDERAL REGISTER NOTICE]. All other amendments published in this document are effective on [INSERT DATE 270 DAYS AFTER PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: 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, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Background

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

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

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[1] 44 FR 66466 (Nov. 19, 1979).
[2] 42 U.S.C. 6294. EPCA also requires the Department of Energy (DOE) to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy.
[3] 16 CFR 305.10.

II. Final Amendments to the Energy Labeling Rule

In a November 2, 2015 Notice of Proposed Rulemaking ("2015 NPRM" or "NPRM"), the Commission sought comment on several proposed changes to the Energy Labeling Rule.[4] The Commission received 17 comments in response.[5] Pursuant to the NPRM and these comments, this final rule contains amendments for an online label database (label image reporting), revised ceiling fan labels, new refrigerator comparability range information, dual-mode refrigerator labeling, revised central air conditioner labels, and revised water heater labels.[6] In a separate notice, the Commission will seek comments on issues that involve recent DOE regulatory actions or new issues raised by commenters in this proceeding, including portable air conditioner labeling, plumbing disclosures changes, large ceiling fan labels, and electric instantaneous water heater labeling.

A. Online Label Database

Background: In the NPRM, the Commission sought comments on the development of a centralized label database to provide retailers and consumers with convenient access to energy

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[4] 80 FR 67351 (Nov. 2, 2015).

[5] The comments received in response to the 2015 NPRM are here: *https://www.ftc.gov/policy/public-comments/initiative-601*. The comments included: A. O. Smith Corporation (#00008); American Lighting Association (ALA) (#00013); Association of Home Appliance Manufacturers (AHAM) (#00016); Air Conditioning, Heating and Refrigeration Institute (AHRI) (#00015); Amazon (#00017); Bradford White Corporation (BWC) (#00010); CSA Group (#00007); California Investor Owned Utilities (California IOUs) (#00019); Earthjustice ("Joint Commenters") (#00018); GE Appliances (GEA) (#00012); Goodman Global, Inc. (#00020); International Association of Plumbing and Mechanical Officials (IAPMO) (#00022); Lochinvar, LLC (#00009); NSF International (#00005); Plumbing Manufacturers International (PMI) (#00006); Rheem Manufacturing Company (#00014); Tyler Prough (#00003); and Whirlpool Corporation (#00011).

[6] The Commission also sought comment on a few of these issues during its review of the Energy Labeling Rule. *See* 77 FR 15298 (Mar. 15, 2012); and 79 FR 34642 (June 18, 2014).

labels.[7] To create such a comprehensive database, the Commission specifically proposed requiring manufacturers to submit links to their EnergyGuide and Lighting Facts labels through their routine report to the DOE's Compliance Certification Management System (CCMS) pursuant to section 305.8.[8] The NPRM explained that this proposal would give online retailers access to digital labels for advertising or label replacement, obviating the need to obtain labels from individual manufacturers. The Commission explained that access to a single comprehensive database containing all the covered labels would benefit both consumers and retailers. Retailers could use the data for advertising and replacing missing labels for their display models, and consumers could use it to easily research comparative efficiency.[9]

In the NPRM, the Commission predicted this proposal was unlikely to create undue burdens on manufacturers. The current Rule already requires manufacturers to post product labels on their own sites.[10] It also requires manufacturers of most covered products to submit annual reports, although such reporting requirements are largely harmonized with DOE's. The proposed FTC requirements would allow manufacturers to submit their label links through

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[7] The Commission also sought comments on this issue in a June 18, 2014 Supplemental Notice of Proposed Rulemaking (SNPRM) (79 FR 34642). As explained in an earlier final rule, this requirement would not apply to private labelers, but manufacturers would be allowed to arrange with third parties, including private labelers, to display the labels and to submit the required links to CCMS. *See* 78 FR 2200, 2205 (Jan. 10, 2013).

[8] *See* 10 CFR 429.12. The proposed requirement stems from EPCA's mandate that manufacturers "provide" a label, the Commission's general authority to require manufacturers to submit information, and the Commission's authority to specify the manner in which labels are displayed. 42 U.S.C. 6296(a) and (b); 42 U.S.C. 6294(c)(3).

[9] In January 2013, the Commission amended section 305.6 of the Rule to require manufacturers to make copies of their EnergyGuide and Lighting Facts labels available on a publicly accessible website. *See* 78 FR 2200, 2205 (Jan. 10, 2013). In doing so, the Commission aimed to improve the availability of online labels for retailers that sell covered products online.

[10] 16 CFR 305.6.

DOE's CCMS. Under the proposal, manufacturers would submit the label links prior to distributing their products in commerce, consistent with current labeling requirements. The Commission also explained that it planned to give industry members ample time to make any necessary changes to their websites to facilitate compliance.

Comments: The commenters split in their support of the proposed reporting requirements. Appliance and ceiling fan manufacturers objected, asserting it would create burdens, questioning its utility, and raising several legal concerns. Conversely, energy efficiency and consumer groups, retail sellers, and heating and cooling equipment manufacturers generally supported the proposal, while providing a few suggestions discussed below.

Critics argued that the proposal's costs outweigh its benefits. AHAM, representing appliance manufacturers, asserted that the label link submissions would increase manufacturer burdens while providing little benefit to consumers and retailers. Similarly, ALA, which represents ceiling fan manufacturers, added that the proposal would complicate existing requirements and pose significant added burdens. ALA also questioned the need for the change, arguing that ceiling fan customers are already comfortable with using existing websites to comparison shop. AHAM, as well as GEA, further explained the requirement would create difficult coordination issues between various manufacture-related teams (*e.g.*, engineering, design, website, etc.) and would delay product deployment.[11] According to AHAM and

[11] Whirlpool explained that the proposal would require it to reverse its current process, whereby it holds off on creating webpages for individual models and uploading labels to its website until after it receives DOE certification. According to Whirlpool, any delay in this process would slow certification and disrupt business. Whirlpool also explained that the proposal would require significant coordination with private labelers, particularly when manufacturers certify models for private labelers.

Whirlpool, even short delays could cause manufacturers to miss deadlines and significantly disrupt business, jeopardizing a manufacturer's market position and causing financial loss. In addition, AHAM argued that the proposal could lead to the premature disclosure of competitive information, such as capacity and energy efficiency, several weeks before such information is normally available to competitors.[12] Finally, these commenters indicated that frequent website changes would pose additional compliance burdens, particularly if manufacturers had to change their certification reports every time they change labels on their website.

In addition to these concerns about the proposal's burdens, AHAM raised two legal objections. First, it questioned whether EPCA grants the Commission authority to determine the content of DOE's reports. AHAM noted that the Commission streamlined the data reporting requirements in 2013 by permitting manufacturers to file their FTC-required annual reports on DOE's CCMS. However, in AHAM's view, that rulemaking differed from the present proposal because it "did not merge the DOE and FTC reporting requirements themselves." According to AHAM, DOE is the agency with authority to require reporting on CCMS and, thus, DOE must effect changes to those reporting requirements through its own rulemaking. Second, AHAM argued the proposal would force manufacturers to violate DOE rules requiring manufacturers to certify that their covered products comply with applicable energy conservation standards. AHAM explained that, before distributing any basic model in commerce, manufacturers must submit a certification report to DOE.[13] In determining whether a model has been "distributed in commerce," DOE considers several factors, including whether the units have appeared in public

[12] AHAM also indicated that, under current requirements, DOE requires manufacturers to report discontinued models for a slightly longer period of time than does the FTC.
[13] *See* 10 CFR 429.12(a).

marketing material (*e.g.*, on websites or in catalogs), whether such marketing material includes energy efficiency information, and whether the manufacturer has shown the unit at a trade show.[14] Therefore, to avoid distributing a product in commerce prior to certification, manufacturers typically do not publicly release energy labels until a basic model has been certified to DOE. AHAM warned that the FTC proposal could force manufacturers to violate DOE requirements by forcing them to upload their energy labels prior to DOE certification.[15]

In contrast, many commenters supported the proposal. The Joint Commenters argued that the benefits of a centralized label database greatly exceed the burden imposed on manufacturers. Amazon, an online retailer that sells covered products, explained that the "database would allow consumers to easily research the comparative efficiency of covered products" and will help increase Rule compliance and decrease mislabeling. According to Amazon, the proposal would not impose undue burdens on manufacturers because the Rule already directs them to have the labels available on a website.

However, these commenters qualified their support with several recommendations. First, Amazon urged the Commission to require manufacturers to submit labels "as a stand-alone image in a standardized format." It also recommended that the Rule require a UPC (universal product code) and label date information. Second, the Joint Commenters urged the Commission to extend the Rule to cover products not presently subject to reporting requirements, such as specialty consumer lamps and LED general service lamps. They asserted this extension would

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[14] *See, e.g.*, 76 FR 12422, 12426-27 (Mar. 7, 2011). EPCA defines "distribute in commerce" as "to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce." 42 U.S.C. 6291(16).

[15] Whirlpool added that the proposal could lead to similar problems with ENERGY STAR program requirements.

help consumers compare products through DOE's database. The Joint Commenters further suggested that, even if the FTC does not require label reporting for those products, it should provide manufacturers the option to submit such information. Finally, the Joint Commenters argued that DOE enforcement guidance can easily address any potential enforcement problems. In addition, to avoid any conflicts with DOE's requirements, they suggested that FTC allow manufacturers to delay activation of the website address submitted to CCMS for a certain time period after submittal (*e.g.*, seven days after certification) so that manufacturers would not need to post labels prior to DOE certification.

Other industry commenters offered qualified support for the proposal. For instance, though backing the proposal generally, AHRI and Goodman recommended the Rule allow manufacturers to submit links to a PDF download of the labels, in addition to a URL. AHRI already maintains an online database as part of its own directory, which generates label PDFs for public users but not a URL link. According to AHRI, given this current arrangement, a mandatory URL link requirement would be costly and burdensome. Therefore, AHRI recommended the amendments allow manufacturers to submit a link to a PDF download to CCMS. AHRI explained that this would provide the same information as a URL, without significant additional costs and maintenance.[16]

Some commenters suggested that the Commission allow manufacturers to provide a link to a general website containing their labels, instead of submitting links to individual labels.

[16] AHRI also requested that section 305.6, which requires manufacturers to maintain labels on a publicly accessible Web site "for six months after production of that model ceases," be revised to clarify that manufacturers may maintain labels online more than six months after production for a particular model ceases.

Lochinvar, a water heater manufacturer, argued this would give manufacturers flexibility in generating and maintaining the online EnergyGuide labels. Although Whirlpool opposed the proposal, it suggested the FTC give manufacturers more flexibility should it finalize the proposed reporting requirements. Specifically, it suggested the Rule allow manufacturers to submit a link to the manufacturer's online public database housing all EnergyGuide labels, searchable by model number. According to Whirlpool, consumers and retailers could then access the label by copying the model number from the CCMS into the manufacturer's site. This approach would also provide consumers and retailers access to additional information, such as installation instructions, use and care guides, and product dimensions. Whirlpool also recommended that FTC grandfather existing models currently in the CCMS to avoid the many hours necessary for manufacturers to retrieve EnergyGuide labels for thousands of models already in commerce.

Discussion: The final amendments require manufacturers to provide links to their online labels as part of the Rule's reporting requirements. Consistent with the other reporting provisions, the final amendment allows manufacturers to submit the links to DOE's CCMS as part of their normal FTC reporting. The new requirement will become effective in one year. After that date, manufacturers must begin submitting the required label links as part of all new model and annual reports required under section 305.8.

The final Rule contains several changes and clarifications to address commenters' concerns. First, the amendments allow manufacturers to submit their links when they certify their models to DOE <u>or</u> at the next subsequent annual report date. This eliminates concerns about posting labels prior to DOE certification and will ensure that labels are available online

within a reasonable time period.[17] Second, the final Rule provides manufacturers three options for submitting label information: 1) through direct URL links to the labels themselves; 2) through links to a PDF download; or 3) through a link to a website from which users can obtain labels by searching through model number. If manufacturers use the third approach, the link must take the user directly to the search function on the manufacturer's website. These three options strike a balance between ensuring the labels are available from a central location and giving manufacturers flexibility in managing their own websites.

Contrary to one suggestion, the final Rule does not grandfather existing labels. Because some models remain in production for many years, the requested exemption would permanently exclude long-lived models from the database. However, to ensure manufacturers have ample time to comply, the final Rule will not become effective for one year after publication. Accordingly, manufacturers must begin submitting label links for existing models at the first applicable annual reporting date (see section 305.8) following this one-year period.

The final amendments do not include lighting products in the reporting requirements. Current law prohibits DOE from spending funds for the enforcement of DOE efficiency standards related to several types of light bulbs, including many currently subject to FTC labeling requirements.[18] Therefore, to avoid potential DOE issues related to this prohibition, the Commission has not included lighting products in the new reporting requirement. It may revisit this issue at a later date should circumstances warrant.

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[17] For models no longer in production, manufacturers may maintain labels online for longer than the six-month period identified in the Rule.

[18] *See* Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 (Div. D, Title III, Sec. 312).

Finally, the commenters questioned DOE and FTC authority to collect information on DOE's website without a separate DOE rulemaking. The Commission has identified no legal impediment to such an arrangement. As previously noted, the FTC is issuing the label image reporting requirements pursuant to its authority under EPCA. The final Rule does not impose separate DOE requirements and, therefore, DOE need not issue its own rule. In addition, these new FTC requirements are consistent with existing FTC reporting provisions, which apply both to products also covered by DOE's reporting requirements, as well as products DOE does not cover (*i.e.*, televisions and ceiling fans). In issuing its own reporting requirements under section 305.8, the FTC has allowed manufacturers to submit data through DOE's existing online database to avoid duplication and complication.[19] The final language clarifies that the amendments do not "merge" the two agencies' reporting requirements. Specifically, the final Rule language appears in section 305.8 ("Submission of Data") rather than section 305.6 ("Duty to provide labels on Websites"), and states that manufacturers may submit the information to DOE via CCMS in lieu of submitting it to the Commission.

B. Improved Ceiling Fan Labels

Background: In the 2015 NPRM, the Commission proposed revising the ceiling fan label to include estimated annual energy cost information as the label's primary disclosure and to otherwise ensure the label is consistent with other EnergyGuide labels. The current label, which

[19] Prior to 2013, FTC collected energy data on covered products separate from DOE through paper and email submissions to the Commission itself. This arrangement required manufacturers to submit nearly duplicative reports to DOE and FTC. However, in 2013 (78 FR 2200), the Commission streamlined and harmonized the reporting requirements by giving manufacturers the option to report FTC-required data through DOE's CCMS, in lieu of the traditional practice of submitting directly to FTC. The present amendments follow the same approach.

appears on product boxes and bears the title "Energy Information," discloses airflow (cubic feet per minute), energy use (watts), and energy efficiency (cubic feet per minute per watt) at high speed. However, as the Commission previously stated, consumer research suggests energy cost information is the most useful metric because it "provides a clear, understandable tool to allow consumers to compare the energy performance of different models."[20] The label proposed in the 2015 NPRM follows the EnergyGuide label format, consistent with other products displayed in showrooms, such as refrigerators and clothes washers.[21]

In seeking comments on the label change, the Commission noted that DOE is in the process of changing test procedures and developing new efficiency standards for ceiling fans.[22] As part of the test procedure proceeding, DOE is revising various factors essential to the label, including the representative hours of operation, a representative or average testing speed, and a revised product scope covered by the test procedure.[23] In the 2015 NPRM, the Commission announced it would wait for DOE to complete its test procedure changes before finalizing the label. To ensure consistency with the DOE testing requirements, the Commission proposed to adopt final DOE use and operating assumptions for the amended label, including the hours of

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[20] 72 FR 49948, 49951, 49953 (Aug. 29, 2007) (appliance labels) ("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."); *see also* 75 FR 41696 (July 19, 2010) (light bulb labels); 76 FR 1038 (Jan. 6, 2011) (television labels).

[21] 80 FR 67351.

[22] *See* 79 FR 62522 (Oct. 17, 2014) (proposed test procedure); 79 FR 58290 (Sept. 29, 2014) (proposed standards).

[23] DOE issued a supplemental notice for the test procedure on June 3, 2015 (80 FR 31487).

operation, the representative or average speed, and the revised product coverage.[24] The Commission indicated it would allow a two-year compliance period for the new label, once DOE issues its final Rule.[25]

Comments: Commenters generally supported the proposal. For example, the Joint Commenters noted that the two-year compliance period was consistent with the compliance period afforded to manufacturers for the original ceiling fan label issued in 2007 and that ceiling fan packaging already allocates space to FTC labels. However, some commenters raised logistical and implementation issues with the proposal. First, industry commenters urged the Commission to coordinate the timing of new labels with DOE efforts to revise the test procedure and set efficiency standards. ALA emphasized that manufacturers will need time to review the new requirements, develop and test products, and prepare new packaging with the revised labels. It agreed that a two-year compliance period is reasonable but encouraged the Commission to consider delaying enforcement action for an additional 18 months to allow for the resolution of unforeseen problems. Second, ALA raised concerns with the label's color because some manufacturers do not use color in printing their packages. It warned that a mandatory yellow background would significantly increase costs in some cases. To address this concern, ALA recommended the Rule allow a white background when a product package does not contain

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[24] *See, e.g.*, 79 FR 62521.

[25] In its test procedure Notice (79 FR at 62524 (Oct. 17, 2014)), DOE proposed a special testing approach for "multi-mount" fan models under the Rule's coverage. Such models can be installed in two configurations: extended from the ceiling or flush with the ceiling (*i.e.*, a "hugger" configuration). DOE proposed to require testing for these models at two separate configurations. Should DOE adopt such an approach, the Commission, in its 2015 Notice, proposed that the EnergyGuide label for these models would reflect the lowest efficiency (cubic feet per watt) configuration, with the option of providing a second label depicting the performance at the other configuration.

color. Also, given the small sizes of some fan packaging, it urged the Commission to ensure that the new label is no larger than the existing label.

Discussion: The Commission has revised the ceiling fan label consistent with its proposal. The final label's content includes new information to reflect the content of DOE's new test procedure published July 25, 2016.[26] Such updates include DOE's new definition of "ceiling fan," energy information based on the new DOE-mandated average fan speed, as well as the DOE-established hours of operation per day (6.4). The new label also contains comparability information based on DOE data for the products covered by the test procedure.[27]

In response to some commenter concerns, the final Rule does not mandate a yellow background. Specifically, it indicates that the label must be printed on a yellow or other neutral contrasting background. This approach, also used for the Lighting Facts label, avoids imposing increased compliance costs.

Additionally, the final Rule requires manufacturers to begin labeling their packaging with the new label within two years of the final Rule's publication. Manufacturers may begin using the new label earlier, as soon as they complete testing under the new DOE test procedure.

Finally, the final label does not apply to large-diameter fans (*i.e.*, fans with diameters of

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[26] See 81 FR 48620.

[27] Specifically, consistent with the current label, the label amendments maintain two basic size categories for labeling purposes. The amendments adjust these two bins to reflect new size categories established by DOE: 1) fans less than 19 inches in diameter; and 2) fans from 19 or more inches and less than 84 inches in diameter. The Rule does not create separate comparability categories for niche product types recognized by DOE such as "highly-decorative," belt-driven, and hugger fans, as such separate bins do not appear necessary to aid consumers in comparing products. The final amendments also contain conforming changes to the reporting requirements in section 305.8, removing the term "at high speed" to ensure consistency with the new DOE test procedure.

84 inches or greater) and high-speed small diameter fans, new fan categories added by DOE's test proceeding. The DOE test procedure mandates unique operating assumptions (hours per day) for these particular models. As a result, labels for these two groups of fans may not offer accurate comparisons to more conventional fans. The Commission will seek comment on the need for, and content of, fan labels for those two product categories in a separate notice.

C. Consolidated Refrigerator Ranges

Background: Based on comments suggesting that a substantial number of consumers consider several different configurations when shopping, the 2015 NPRM proposed requiring disclosure of two cost ranges on the refrigerator label: one range for the existing applicable refrigerator configuration (*e.g.*, side-by-side door configuration) and the other range covering all refrigerators. The Commission previously explained that providing cost information for all refrigerators consolidated into a single range would facilitate comparison shopping and alert consumers to the relative energy efficiency of various refrigerator types.[28] Consistent with the current Rule, both range groups under the 2015 proposal would include separate ranges organized by capacity.

The current Rule organizes refrigerator comparability ranges by configuration (*e.g.*, models with top-mounted freezers), designating eight separate categories for refrigerators and three for freezers.[29] Five of those categories (or styles) apply to automatic-defrost refrigerator-freezers, which populate the bulk of showroom floors: side-by-side door models with and without through-the-door ice service; top-mounted freezer models with and without through-the-

[28] 79 FR at 34651.

[29] The Rule further divides each model category into several size classes (*e.g.*, 19.5 to 21.4 cubic feet), each with its own comparability range.

door ice service; and bottom-mounted freezer models.[30] The comparability ranges, which disclose the energy costs of the most and least efficient model in each category, allow consumers to easily compare the energy use of similarly configured units.

In the 2015 NPRM, the Commission explained that information submitted in earlier comments suggested that a substantial number of consumers consider models with different features when shopping.[31] However, as explained in previous comments, not all shoppers do so. The proposal addressed both contingencies by allowing consumers to compare the labeled product to similar models as well as to all other refrigerators. The proposal also maintained the three freezer categories: upright manual defrost models (Appendix B1), upright automatic defrost models (Appendix B2), and chest freezers (Appendix B3) because there is no evidence that consumers typically shop for models across these categories.

Additionally, the Commission proposed updated ranges based on new model data from the DOE database, including a new range reflecting consolidated range data for all refrigerators. Before issuing final refrigerator ranges, the Commission indicated that it would consider updating the numbers based on the most recent data. It also proposed to amend the range tables to cover bottom-mounted freezers with through-the-door ice, a popular product subcategory currently not covered by the various tables. To accomplish this, the proposed amendments redesignate Appendix A7, which currently covers an obsolete category (top-mounted freezer with through-the-door ice models). In addition, the proposal modifies the size categories in each

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[30] *See* 16 CFR Part 305, Appendices A and B. The Rule also has other range categories for less common models, including those with manual and partial defrost, and refrigerator-only models. In addition, the freezer categories include upright models with automatic defrost, upright models with manual defrost, and chest freezers.

[31] 80 FR at 67354-5.

table to ensure consistency in all the ranges across all sizes.[32]

Comments: The commenters sharply split on the proposed refrigerator label. The Joint Commenters and the California IOUs supported the proposal, while AHAM, representing appliance manufacturers, opposed it. The supporters argued the Commission's proposal represents a reasonable compromise between the various available options. They explained that, while some shoppers are committed to models with particular features, others are more flexible and willing to trade off those features for reduced utility bills. The Joint Commenters also asserted the two comparison ranges on the proposed label were unlikely to confuse consumers. They noted that the EnergyGuide labels for heat pumps already feature two comparability ranges and have done so for nearly 30 years and that the label "clearly indicates what each range bar depicts." The California IOUs argued the proposed label would continue to help customers understand a unit's energy cost relative to similarly configured products, particularly since many customers continue to shop for configurations matching their current model. These commenters further indicated that the second range displaying the unit's energy cost relative to a broader array of models serves to educate consumers about their potential buying choices, and contributes to a more informed decision-making process.

While they supported the overall proposal, the Joint Commenters urged the FTC to break the "All Models" range into three separate categories: automatic defrost refrigerator-freezers, manual or partial automatic defrost refrigerators and refrigerator-freezers, and refrigerators with automatic defrost but no freezer. They noted that consumers do not frequently shop for

[32] The Commission also proposed to eliminate an obsolete reference to adjusted volume for refrigerators and freezers in the Rule's capacity section (section 305.7(a)(b)).

refrigerator-only models (*i.e.*, refrigerators with no freezer). In their view, some consumers may be disappointed to discover some of the high efficiency models reflected on the range have no freezer. According to the commenters, such a result could undermine consumer trust in EnergyGuide's comparison ranges for other products.

In contrast, AHAM opposed a consolidated range for the refrigerator label. Specifically, AHAM questioned the data supporting such a change. In particular, it argued that a study of EarthJustice members submitted in earlier comments surveyed biased respondents who may better understand energy consumption than the average consumer. In addition, AHAM stated that FTC has not demonstrated that consumers will understand the proposed label or that the consolidated range will assist their purchasing decisions. However, should FTC decide to move forward with changes, AHAM expressed a preference for the hybrid approach in the 2015 NPRM that includes two groups of ranges organized by both model subcategory and the consolidated range. AHAM stated this approach would preserve the opportunity for consumers to compare products of similar configuration and features. AHAM also suggested that FTC change the term "All Models" to indicate that the range depicts "all models of similar capacity" to avoid misleading consumers. It also asked the FTC to consider altering the current label to reduce the black ink required. According to AHAM, the ink required for this label increases drying times and printer jams. Finally, AHAM and Whirlpool urged the Commission to give manufacturers between six months and a year to implement the refrigerator changes to complete the many necessary activities for this change, including designing and contracting for the new labels, updating websites and certification reports, and coordinating between OEMs and private labelers.

Discussion: The Commission has amended the refrigerator labels as proposed and updated the comparability ranges. The revised label will likely help consumers shop among models by providing two types of comparative information, allowing consumers to compare the labeled product to similar models as well as to all other refrigerators. This hybrid approach reflects the likelihood that, while not all shoppers consider different configurations, a significant number do. The final Rule gives manufacturers nine months to implement the revised label. In response to commenter concerns over the black ink required for the label, the FTC staff will update the online label template for refrigerators and clothes washers to modify the black background to reduce the amount of ink consumed in printing the labels.[33]

The new label should aid consumers in their shopping decisions. Information provided by commenters strongly suggests that a substantial number of consumers consider models with different features when shopping. The Commission agrees with AHAM that the email survey submitted by the Joint Commenters does not offer compelling evidence because it involved a self-selected population of respondents. However, other information in the record suggests that a significant number of consumers consider different model configurations when shopping. For example, according to earlier comments, 40% of the visitors to Consumer Reports' online refrigerator ratings in 2012 reviewed multiple refrigerator-freezer configurations.[34] In addition,

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[33] See *https://www.ftc.gov/tips-advice/business-center/guidance/energyguide-labels-templates-manufacturers*. In addition, manufacturers that do not use the FTC-provided templates may alter the black ink mix for their printers to reduce potential malfunctions.

[34] 79 FR at 34651. The Joint Commenters also reasoned that those who examined only one configuration probably considered models with, and without, through-the-door ice dispensers, and may have looked at an additional configuration on a subsequent visit. In addition, the Joint Commenters pointed to AHAM information demonstrating that more than half of side-by-side refrigerator-freezer owners buy replacement units with a different configuration. The

AHAM offered data indicating that only 46% of side-by-side refrigerator-freezer owners and 85% of top mount refrigerator-freezer owners replaced their units with the same configuration.[35] These numbers strongly suggest that a substantial proportion of consumers, though not all, consider different configurations. Other indicia of consumer shopping habits corroborate this conclusion. Specifically, online refrigerator buying guides routinely advise consumers about considering different configurations. The content of such sites confirm that consumer preferences for configuration are not pre-determined.[36] The new label will help both consumers who consider different configurations, and those who do not.

The Commission agrees with the Joint Commenters that the label change is unlikely to confuse consumers. The modification represents a relatively small addition to an existing element of the label's content; the primary focus of the label continues to be the cost of energy measured in dollars. In addition, the new label clearly identifies the two comparability ranges, as noted by the Joint Commenters, and provides additional information about those ranges in explanatory text. Accordingly, the Commission expects the two ranges will help improve consumer understanding of the trade-offs involved choosing a refrigerator. Although the Commission recognizes AHAM's concern about consumer understanding of the label, commenters did not provide evidence of confusion or of a more effective means of presenting

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commenters contended that this was probably a conservative estimate because it does not include owners who bought similarly configured replacement units with different features.

[35] AHAM comments (July 16, 2012) (# 560957–00023).

[36] *See, e.g.*, CNET *(http://www.cnet.com/topics/refrigerators/buying-guide/,*), Consumer Reports *(http://www.consumerreports.org/cro/magazine-archive/2011/july/appliances/refrigerators/types/index.htm*), Consumersearch *(http://www.consumersearch.com/refrigerators/how-to-buy-a-refrigerator)*; and Good Housekeeping *(http://www.goodhousekeeping.com/appliances/refrigerator-reviews/a18621/refrigerator-buyers-guide/).*

this information. Nevertheless, to minimize potential concerns, the staff plans to prepare educational material about the label change.

The final Rule does not exclude certain refrigerators (*i.e.*, refrigerator-freezer models without automatic defrost and refrigerator-only models covered by Appendices A1 through A3) from the "All Models" range, as suggested by some commenters. The new range tables, which have been updated in the final rule based on more recent DOE data, do not reveal large differences between these models and the more common automatic defrost models covered by Appendices A4 through A7.[37] In addition, excluding these models from the comparability categories would require additional explanatory text and clutter the label with only a marginal benefit. Similarly, the revised label does not disclose on the range itself that the range applies to similarly sized models. Consistent with past versions of the label, such language appears on the lower part of the label.[38] Including additional information about "similarly-sized models" would add text and crowd the label potentially affecting usability.[39]

D. Dual Mode Refrigerator-Freezers

The final Rule contains an amendment related to dual mode refrigerator-freezers. In the

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[37] The DOE data indicate that models from Appendices A1, A2, and A3 are available in seven of the eleven size categories. There are few models from Appendix A1 through A3 at the higher capacity categories. In addition, for those seven size categories that do contain models from A1, A2, and A3, the estimated annual energy cost difference between the highest efficiency models in A1-A3 and those in A4-A8 is about $7 on average.

[38] In the past, the range has simply stated "Cost Range of Similar Models."

[39] Finally, GEA requested that the FTC update the capacity disclosure on the sample refrigerator label so that it conveys capacity to the nearest tenth, consistent with the Rule at section 305.7. GEA also request a clarification that the product attributes (*e.g.*, bottom-mount freezer) included on labels match those described in the Rule at Appendix L. According to GEA, some manufacturers place additional product descriptors on their labels not identified in the Rule. The amendments address these two issues.

NPRM, the Commission proposed adding a new provision addressing covered refrigerator models that can operate either as a refrigerator or a freezer under the DOE rules, depending on user settings. In 2014, DOE announced that these convertible models must be tested and certified to meet efficiency standards applicable to both refrigerators and freezers.[40] AHAM sought clarification on labeling these products, suggesting that, consistent with manufacturers' labeling practices, convertible products be labeled with the most energy intensive configuration. In the 2015 NPRM, the Commission agreed with this approach because it ensured that labels for these products do not underestimate a product's energy cost. Therefore, the proposed Rule stated that these products should be labeled with the most energy intensive configuration.[41] In response to the 2015 NPRM, AHAM supported the Commission's proposal, and no other commenters addressed the issue. Accordingly, the final Rule includes the proposed amendments for the dual mode refrigerator-freezers.

E. Heating and Cooling Equipment Label Requirements

Background: In the 2015 NPRM, the Commission proposed several amendments to the heating and cooling equipment label requirements, including label changes related to upcoming DOE enforcement requirements for regional standards, labels for rooftop furnace-air conditioner systems, manufacturer name disclosures, multiple model number disclosures, and a clarification to retailer disclosure requirements. The Commission discusses each of these issues below.

Revised Central Air Conditioner Labels Regarding Regional Standards: The Commission proposed several changes to the central air conditioner label in response to changes

[40] 79 FR 22320 (Apr. 21, 2014). The amendments also contain a minor correction to the metric conversions for label sizes in section 305.11(a).
[41] 80 FR at 67356.

in DOE enforcement requirements regarding regional standards. The current EnergyGuide labels for these products provide industry members and consumers with information about regional efficiency standards issued by DOE in 2011.[42] These DOE requirements impose regional efficiency standards for split-system air conditioners and single-package air conditioners. For all other covered heating and cooling equipment (*e.g.*, furnaces and boilers), the updated standards remain nationally uniform. Since publication of the regional standards related-labels in 2013, the Commission has issued several notices updating ranges and labels to reflect a court-approved settlement that vacated DOE's regional standards for furnaces.[43]

During the fall of 2014, DOE conducted a negotiated rulemaking to establish enforcement rules for current regional standards applicable to central air conditioners.[44] The current standards set a minimum 14.0 Seasonal Energy Efficiency Ratio (SEER) for the southern and southwestern regions, a 13.0 SEER for all other areas, and separate Energy Efficiency Rating (EER) levels for the southwest region. For a particular condenser model, efficiency ratings vary (*e.g.*, 13.0 to 14.2 SEER) depending on the condenser-coil combination installed in the consumer's home. Because such variability complicates efforts to enforce the regional standards, the consensus recommendation from the negotiated rulemaking advised DOE to determine regional compliance based on the condenser's lowest certified rating alone, not on the

[42] 78 FR 8362 (Feb. 6, 2013).
[43] *See* 79 FR 46985 (Aug. 12, 2014); 79 FR 52549 (Sept. 4, 2014); 79 FR 77868 (Dec. 29, 2014). On April 24, 2014, the Court of Appeals for the D.C. Circuit approved a settlement in the DOE litigation, which vacates and remands DOE's regional standards for non-weatherized natural gas and mobile home furnaces and sets a two-year timetable for DOE to propose new standards. *American Public Gas Ass'n v. DOE*, No. 11–1485 (D.C. Cir. filed Dec. 23, 2011) (DE.#1433580, May 1, 2013).
[44] *See, e.g.*, 79 FR 45731 (Aug. 6, 2014).

system rating (*i.e.*, the specific condenser-coil combination) installed in a consumer's home.[45] For instance, if a condenser's efficiency rating ranges from 13.0 to 14.2 SEER (depending on the coil ultimately matched with it), the rating will be 13.0 SEER for regional standards compliance, regardless of the coil with which it is ultimately installed. This recommended approach to DOE's enforcement would require revising the EnergyGuide label for central air conditioners because the current label advises installers to ensure the rating for the system they install in a consumer's home meets the DOE regional standards.

To conform the FTC label to this proposed DOE enforcement framework, the Commission proposed new labels for split-system central air conditioners that simply identify the states in which the labeled model may be installed.[46] Specifically, the FTC proposed three types of labels for split systems. First, labels for models that may be installed anywhere (*i.e.*, those that meet all applicable SEER and EER thresholds) would contain the statement: "Notice: Federal law allows this unit to be installed in all U.S. states and territories." Second, labels for models that do not meet the 14.0 SEER threshold for southern states and southwestern states would contain a map identifying the states in which the unit may be legally installed. For instance, a model with a minimum rated efficiency of 13.8 SEER would contain a map indicating that that model can be legally installed only in northern states along with a statement that "Federal law prohibits installation of this unit in other states." Finally, labels for a model with a minimum 14.0 SEER rating that does not meet EER minimum ratings for the southwest region

[45] *See* "2014-10-24 Presentation Hand Out: Regional Standards Enforcement Working Group, Enforcement Plan," Oct. 24, 2014, Energy Efficiency and Renewable Energy Office, Department of Energy, *http://www.regulations.gov/#!documentDetail;D=EERE-2011-BT-CE-0077-0070*.
[46] Such an approach is consistent with the current regional standards labels for single package units. *See, e.g.*, 78 FR at 8384 (sample label).

would contain a map indicating that it can be legally installed only in northern and southern states (excluding southwestern states), as well as a statement that installation elsewhere is prohibited. These new label disclosures would simplify compliance by eliminating the need for installers to compare specific system ratings against the DOE standards.

In addition, consistent with the approach recommended by the DOE working group, the proposed label disclosed only the efficiency rating for lowest rated coil-condenser combination (*e.g.*, 14.4 SEER) in lieu of the current label's approach, which depicts a "mini-range" of the high and low values associated with the labeled model's various certified condenser-coil combinations (*e.g.*, 13.9-15.0 SEER). The range of ratings on the current label alerts installers and consumers that a model's compliance with regional standards could vary depending on the installed coil-condenser combination. However, given the enforcement approach developed during DOE's negotiated rulemaking, such information is no longer necessary. A single, minimum efficiency rating will provide a simpler, more direct way to communicate the model's performance. If a system, as actually installed, has a higher efficiency rating than the minimum rating displayed on the label, that installer may communicate that fact to consumers.

Rooftop Systems: The Commission also proposed amending section 305.12 to allow a single label for packaged rooftop systems, a relatively new product consisting of a combination gas furnace and air conditioner (or heat pump). The proposed label would reflect the ratings for furnace and air conditioner (or heat pump) combinations as long as the unit meets all applicable air conditioner regional standards. For models that do not meet these standards, manufacturers would have to use two labels because a single label would not have space to accommodate all

necessary disclosures (*e.g.*, the annual fuel utilization efficiency (AFUE), SEER, and regional standards map).

Manufacturer Name: In the NPRM, the Commission sought comments on the label's disclosure of the manufacturer (or private labeler) name. In 2013, the FTC amended the heating and cooling equipment labels to require the manufacturer or private labeler's name. This change occurred as part of the larger effort to create new labels consistent with new DOE regional efficiency standards.[47] However, the Rule's current requirements for labels on refrigerators, clothes washers, and other appliances (section 305.11) continue to give manufacturers or private labelers the option to put their names on labels. To ensure the heating and cooling labels are consistent with other EnergyGuide labels, the Commission proposed to restore the option of including the manufacturer or private labeler name on the label. The Commission stated that making the manufacturer's name optional should not negatively impact consumers. For instance, consumers do not need a manufacturer or private labeler name to use the DOE database, including the cost calculator, because the model number is adequate for that purpose. In addition, because the labels are generally affixed to the products themselves or appear on websites describing the product, consumers are likely to already know the identity of the equipment's manufacturer or private labeler.

[47] *See* 78 FR 8362 (Feb. 6, 2013). Though the proposed Rule language in 2012 contained this change (77 FR 33337 (June 6, 2012)), the Notice did not discuss this issue. In issuing the original labeling rule in the 1970's, the Commission noted that the manufacturer and private labeler name was optional on EnergyGuide labels to "minimize the printing burden on manufacturers who produce covered products for private labelers . . . ." 44 FR 66466, 66470, 66479 (November 19, 1979).

Model Numbers: The Commission also proposed clarifying in sections 305.12(f)(3) and (g)(3) that manufacturers or private labelers may print multiple model numbers on a single label as long as the models share the same efficiency ratings and capacities. In the original 1979 rulemaking notice, the Commission explained that manufacturers and private labelers could do so; however, associated language did not appear in the Rule itself.[48] By ensuring that all model numbers listed in a single label share the same capacity, as well as efficiency rating, the proposed clarification would ensure all model numbers listed on a single label generate the same cost calculations when entered into the DOE online database.

Updating Retailer Disclosure Requirements (§ 305.14): The Commission also announced that it would revise the effective date for section 305.14's disclosure requirements relating to efficiency information that furnace and air conditioner installers must provide to customers.[49] In 2013, the Commission tied the effective date for the new provision to the compliance date for DOE regional furnace standards. However, because those DOE standards were subsequently vacated,[50] the Commission must set a new effective date. Accordingly, the Commission proposed to update that provision to clarify that the 2013 amendment now applies.

Comments: Regional Standards Information: The commenters generally supported the

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[48] *See* 44 FR at 66470 ("a manufacturer or private labeler may include multiple model numbers on the label if the models have the same capacity and consume the same amount of energy").

[49] In 2013, as part of the regional standards label rulemaking (78 FR 8362), the Commission updated disclosure requirements in section 305.14 for manufacturers and retailers, including installers. The 2013 changes required sellers to ensure that consumers have pre-purchase access to the EnergyGuide labels for heating and cooling equipment. Previously, the Rule required sellers to disclose a list of information contained on the labels. The updated Rule simplified the disclosure by requiring retailers to provide access to the labels themselves.

[50] *See* 77 FR at 77868. *American Public Gas Ass'n v. DOE*, No. 11–1485 (D.C. Cir. filed Dec. 23, 2011) (DE.#1433580, May 1, 2013); (DE.# 1489805, Apr. 24, 2014).

proposed revisions to the central air conditioner labels. AHRI explained that the state-specific information on the bottom of the proposed label is needed to clarify where a specific model may be sold. The Joint Commenters and the California IOUs emphasized that the label provides an important regional standards compliance tool. They also explained that the proposed changes accurately reflect the consensus recommendations of the DOE working group (Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC)) convened to negotiate compliance and enforcement implementation for those standards.[51] However, in addition to generally supporting the proposed label, the commenters raised several specific issues related to the proposal, including concerns about the SEER ratings for models, comparability ranges for the label, and the timing of the revised label. We discuss these comments below.

While the commenters generally supported the proposal, they disagreed on how the label should present a model's specific SEER rating. Industry members opposed the proposal to eliminate the model-specific SEER and EER ranges ("mini-ranges") for split-system air conditioners. For example, Goodman explained that this current information, which the Commission only recently added to the label, is essential to fully inform consumers about the range of available efficiencies. In Goodman and AHRI's view, the proposed single rating approach, which depicts the lowest efficiency rating of all certified coil-condenser combinations for the unit, would mislead some consumers who purchase systems with much higher ratings. AHRI further contended that the model-specific range information is helpful because it clearly

[51] In addition, the California IOUs urged the FTC to continue to include the EER rating, along with SEER, on the label for central air conditioners because, in their view, EER is a more beneficial annual energy use metric for consumers, especially as utilities move towards peak day pricing.

displays comparable efficiencies and its removal would unnecessarily burden manufacturers.

The California IOUs noted that the ASRAC working group, which included industry representation, advised DOE to determine the "regional compliance based on the condenser's lowest certified rating alone, not on the system rating as installed in the home." Thus, according to the California IOUs, the working group consensus was to disclose "only the efficiency rating for the lowest rated coil-condenser combination" and eliminate the current model-specific range.[52]

Some commenters also suggested changing the label's comparability range for similar models on the market. AHRI, for example, requested that, for split system units covered by the range table in Appendix H, the low end of the range should be 13 SEER on labels for models allowed in northern states only, and 14 SEER for the two other label types described in the proposal. The current table has a low SEER of 13 for all units. By removing the 13 SEER from the range's lower end for products sold in southern states, the recommended change would eliminate confusion regarding the regional standards.

Finally, the commenters addressed the timing of the labeling changes for central air conditioners. Goodman urged the Commission to give manufacturers the maximum lead time possible to make the proposed changes. In its view, a longer lead time will allow industry to make the necessary changes while simultaneously conducting product redesigns to meet many

[52] The Joint Commenters recommended that outdoor units be marked with a "ruggedized label" on or near the nameplate, indicating in what regions of the country, if any, installation of the unit is prohibited. The Joint Commenters argued this approach, agreed upon by the DOE working group, would aid in detecting non-compliant units. Because not all manufacturers certify their products through AHRI, the Joint Commenters asserted that a separate FTC requirement would ensure a level playing field.

new federal energy conservation standards. Specifically, Goodman asked for six months and the issuance of a pre-publication final rule to allow manufacturers to make the necessary changes.

Roof-Top Systems, Manufacturer Names on Labels, Model Numbers, and Retailer Disclosures: The commenters also addressed the Commission's proposals related to manufacturer names on the labels, model numbers, combined roof-top systems, and retailer disclosures.

First, the commenters disagreed on the proposal to give manufacturers flexibility in whether to place their name on the label. Industry members supported this proposal. The Joint Commenters, however, argued the Rule should require the label to bear the manufacturer name. In their view, the name aids consumers in their purchases because many do not see the heating and cooling equipment (and thus the unit's nameplate) until it is installed in their home. In addition, they argued that, though many retailers, installers, and assemblers deal exclusively with a single manufacturer or private labeler, that is not always the case.

Second, the commenters, such as AHRI, generally supported the proposal to allow central air conditioner manufacturers to print multiple model numbers on a single label as long as the models share the same efficiency ratings and capacities. However, the Joint Commenters urged the FTC to consider establishing a maximum limit, either on the number of different model numbers or the amount of space consumed by such numbers, to ensure the label's legibility.

Third, commenters (*e.g.*, Goodman and AHRI) supported the proposal to allow a single label on rooftop units to reflect energy usage for furnace and ACs or HPs for single-packaged air conditioners less than 65,000 Btu/h with gas heat. No commenters opposed the proposal.

Finally, no commenters opposed the proposal to clarify the retailer disclosure provisions in § 305.14.

Discussion: Regional Standards Label for Central Air Conditioners. The Commission issues the final labels as proposed, including the three proposed label categories related to regional standards, but without the "mini-range" for split-system units.[53] In addition, as suggested by AHRI, the final central air conditioner label has a different SEER range for products that qualify for different regions. Specifically, for products that can be sold only in northern states, the low end of the range is 13 SEER. For other products, the low end is 14 SEER. This change will minimize confusion by eliminating comparative information related to models that may not be available for sale in certain regions due to the DOE standards. The Rule requires manufacturers to begin using the revised label nine months after the Commission publishes the amendments.

Consistent with the proposal and contrary to AHRI's recommendation, the final label includes the lowest SEER rating associated with the labeled model but not the model-specific range of ratings. As noted by some commenters, this simplified disclosure is consistent with the ASRAC discussions and recommendations. In addition, in initially issuing labels related to regional standards several years ago, the Commission included the installed range for individual systems to help installers and consumers determine whether an installed system met applicable regional standards. The Commission predicated the disclosure on the assumption that the regional standards would apply to the system's installed efficiency rating. However, that assumption no longer applies because DOE plans to enforce the regional standards based on the

[53] DOE issued final enforcement rules for regional standards on July 14, 2016 (81 FR 45387).

lowest rated efficiency rating, rather than the rating of the systems as installed. Accordingly, the "mini-range" on the current label is no longer necessary. The single number will make it easier for installers to determine regional compliance.[54] Also, with the single number, there is no risk that the label will mislead consumers into believing their installed system's efficiency is higher than it actually is. Finally, installers will have a clear incentive to inform consumers about higher efficiency combinations.

Roof-Top Systems, Manufacturer Names on Labels, Model Numbers, and Updates to Retailer Disclosures: Finally, the final amendments contain provisions related to combined roof-top systems, manufacturer names on the labels, model numbers, and retailer disclosures.

First, the final amendments allow a single label to reflect energy usage for "rooftop systems" (*i.e.*, furnace and ACs or HPs for single-packaged air conditioners less than 65,000 Btu/h with gas heat) to reduce the burden and clutter associated with using two separate labels for these products.

Second, the amendments allow manufacturers to include their name on the label at their discretion, which is, as discussed above, consistent with labels for most other covered products. For the reasons detailed in the proposed Rule, these products are routinely sold through contractors in consumers' homes. Therefore, the absence of the manufacturer's name on the label should not confuse consumers.

Third, the final Rule allows multiple model numbers to appear on labels for models that share the same capacity and efficiency ratings. To reduce the likelihood that labels will become

[54] The 2015 NPRM did not discuss conforming changes to the heat pump labels. Since these products are not subject to DOE's regional standards, the final amendments do not change those labels.

crowded with model numbers, the final Rule advises that numbers must be clear and prominent. The Rule has allowed multiple model numbers on appliance labels for decades with no apparent problem.[55] Should the inclusion of multiple model numbers on labels become an issue, the Commission will consider more prescriptive requirements in the future.[56]

Finally, the Commission has updated the retailer disclosure provisions in § 305.14 to clarify that the 2013 amendments now apply.[57]

F. Water Heater Labels

Background: In the 2015 NPRM, the Commission sought comment on modifications to water heater labels in response to a new DOE test procedure (79 FR 40542 (July 11, 2014)).[58] Among other things, the new DOE test creates four categories or "bins," which group models by their "first hour rating," DOE's standard measure of hot water output for these products. The first hour rating, which appears on current EnergyGuide labels, displays the number of gallons of hot water the heater can supply in the first hour. The four new DOE first hour rating bins are: very small (first hour rating less than 18 gallons), low (first hour rating between 18 and 51 gallons), medium (first hour rating between 51 and 75 gallons), and high (first hour rating greater

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[55] *See* 44 FR 66466 (Nov. 19, 1979).

[56] Contrary to commenter suggestions, the final Rule does not include a requirement for an all-weather disclosure on the nameplate. Without additional information and comment, the Commission lacks sufficient information to do so. It may consider such requirements at a later date.

[57] 78 FR 8362.

[58] DOE also published a proposed rule in April 2015 related to a "conversion factor" for use under the new test procedure (80 FR 20116 (April 14, 2015)). In that Notice, DOE proposed to continue to allow manufacturers to determine costs under existing testing requirements and thus create "a transition period for FTC to pursue a rulemaking to determine whether changes are needed to the water heater EnergyGuide label due to changes in the water heater test procedure." 80 FR at 20138.

than 75 gallons). In contrast, the Rule currently groups water heater ranges by the first hour rating in roughly five-gallon increments (*e.g.*, 25-29, 30-34, 35-39 gallons, etc.). The new test procedure also establishes a new energy efficiency metric (uniform energy factor or "UEF").

In anticipation of these changes, the Commission proposed amendments to the water heater label ranges to provide both: 1) tank capacity information and 2) first hour rating information consistent with the four new DOE categories. Because water heaters are commonly marketed by tank size (*i.e.*, storage volume) and not first hour rating, the Notice asked commenters whether the Rule should group the ranges by tank size, and then further by first hour rating, placing the four DOE water usage bins within such tank size categories. In addition, the Commission proposed to use the term "hourly hot water output" instead of the more technical term "first hour rating." The proposal also contains text explaining the term "hourly hot water output." Under the proposal, the label would continue to display annual energy cost as the primary disclosure, with energy use appearing in the label's secondary information. The Commission did not propose to add an energy efficiency rating (*i.e.*, energy factor) to the label.

Additionally, the Commission announced plans to update the comparability range for water heaters to reflect the new test procedure results and significant efficiency increases driven by the new DOE standards.[59] As a result of the new DOE standards, most, if not all, electric water heaters will include heat pump technology. The Commission, therefore, proposed revising the existing water heater categories to eliminate the separate category for heat pump water heaters, and combining such models into a general category for all electric water heaters. The

[59] Given the absence of model energy data from the new test procedure, the proposed amendatory language did not include proposed tables for revised cost ranges.

Commissioned expected this change would simplify the tables and help consumers compare all electric water heaters.[60]

Comments: In general, the commenters agreed that the FTC should amend the water heater label based on significant changes to the DOE test procedure. Despite their general support for changing the label, industry members, as discussed in detail below, raised several concerns with the proposed label, including the "first hour rating" terminology, annual energy use and energy efficiency disclosures, tank size disclosures, the comparability categories, energy factor information, and timing of revised labels. In urging FTC to consider these various issues, industry members asked that the FTC reconsider the sample labels AHRI submitted with its previous comments. In their view, these labels provide clear, concise consumer information while not adversely affecting competition among water heater manufacturers. Specifically, AHRI asserted that its suggested labels clearly identify the new DOE size bins and inform consumers that the labels' comparative information applies only to water heaters within the same bin.[61] Finally, in addition to concerns regarding the proposed label designs, the commenters raised issues about labels for electric instantaneous models and grid-enabled water heaters.

First hour rating. Several industry commenters (*e.g.*, A.O. Smith, AHRI, and BWC) objected to the proposed label's use of the term "hourly hot water output" instead of "first hour rating." In their opinion, this undefined term incorrectly implies that a model will deliver the

[60] The Commission also proposed to update the definition of "water heater" so that it is consistent with clarifying changes to that term recently proposed by DOE. 79 FR 40541 (July 11, 2014).

[61] AHRI noted two minor errors on the proposed label related to the names of the DOE first hour rating categories and the description of the term "hourly hot water output." The Commission addresses both of these issues in the final Rule.

indicated hot water volume on an hour-to-hour basis. The commenters explained that the first hour rating only measures the first hour's water delivery and does not necessarily apply to subsequent operating hours.[62] Instead of creating a new term, most industry commenters recommended the Commission retain the "first hour rating" because it is a commonly accepted term employed for decades in DOE standards, on FTC labels, and in building codes and sizing guides.[63] Some commenters offered specific alternatives. For instance, GEA suggested the term "Hot Water Output" rather than "Hourly Hot Water Output" along with a clarification that the term refers to "How much hot water you get in 1st hour." Rheem suggested terms such as "usage category" or "hot water usage capability." Finally, Rheem and AHRI recommended the usage category scale include not only the first hour rating category (*e.g.*, very small, low), but also the actual rating number (*e.g.*, 70 gallons) to provide more detailed information to help consumers pick a model that meets their hot water demands.

Annual Energy Use in Therms and Energy Factor: The commenters offered different views on including annual energy use and energy factor ratings on the label. Several industry commenters (*e.g.*, AHRI, A.O. Smith, Rheem and BWC) recommended excluding the estimated annual energy use in therms from the label because, in their view, most consumers do not find that information useful.[64] AHRI explained that annual energy cost and therms are proportional

[62] A.O. Smith also argued that the "Hourly Hot Water Output" term may conflict with applicable DOE test procedures. *See* 42 U.S.C. § 6293(b).

[63] Rheem noted that in DOE regulations "first hour rating" is defined as "an estimate of the maximum volume of hot water that a storage-type water heater can supply within an hour that begins with the water heater fully heated (*i.e.*, with all thermostats satisfied). It is a function of both the storage volume and the recovery rate." 10 CFR 430, Subpart B, Appendix E.

[64] AHRI and Rheem agreed that the "Estimated Yearly Energy Cost" range chart on the label be larger and more prominent than the first hour rating category segmented bar figure, as depicted

and that users who need such information can easily calculate "annual therms" from the annual energy cost. These commenters suggested that other disclosures would be more useful, though they did not provide examples. GEA disagreed, arguing that the label should retain the estimated annual energy use disclosure because it provides energy use information to consumers without forcing them to convert those figures from the cost disclosure.

The California IOUs, which did not address the annual energy use issue, suggested that the label display the model's efficiency rating (*i.e.*, energy factor), in addition to its energy consumption, because it is the best indicator of a water heater's efficiency. They explained that energy factor helps consumers determine whether a model qualifies for utility rebates and serves as the applicable metric for gauging compliance with DOE standards and state building codes.[65]

Tank Size: The commenters also took issue with including information about tank size on the proposed label. First, several commenters (*e.g.*, AHRI and A.O. Smith) objected to the term "tank size" and urged the Commission to use the standard industry term, "storage vessel capacity," which nationally-recognized safety standards already require on the product's rating plate.[66] Rheem agreed that the term "tank size" should not appear on the label but, should the Commission decide to include it, suggested alternative terms such as "rated storage volume" or

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in the proposed FTC EnergyGuide label.

[65] In addition, for water heaters that exceed the minimum federally required energy factor, the California IOUs recommended FTC include the following language: "This water heater's energy factor is [insert percentage] percent better than the federal minimum standard. Contact your local utility to find out if this product qualifies for a rebate."

[66] *See* ANSI Z21.10.1-2014/CSA 4.1-2014, "Gas water heaters, volume I, storage water heaters with input ratings of 75,000 Btu per hour or less." AHRI and A.O. Smith stressed that, if the Commission decides to require such information on the label, the term and number displayed should match the water heater's rating plate to ensure consistency between the labels on the water heater.

"rated storage capacity" to better reflect the terms used by DOE and the water heater industry.[67]

Comparability Categories and Tank Size: Similarly, industry commenters (including A.O. Smith, AHRI, and BWC) argued the label should not divide comparability categories by storage vessel capacity. Rheem explained that first hour rating, which is a function of both volume and output, better describes the amount of hot water consumers can expect. In addition, Rheem noted that the four DOE first hour rating categories (*i.e.*, very small, low, medium, or high) provide appropriate comparative information regardless of storage tank capacity. Accordingly, industry commenters asserted that the proposed division of categories by storage capacity is unnecessary, overly complicated, and confusing to consumers. Instead, they recommended that the comparability ranges reflect first hour rating categories only.

Combining range information for electric water heaters and heat pump water heaters: The commenters (including A.O. Smith, BWC, Rheem, AHRI, and the Joint Commenters) supported the proposal to combine the comparability range information for electric and heat pump water heaters. Rheem explained that this will allow consumers to gauge operating cost differences between the two technologies and weigh them against initial purchase prices. The Joint Commenters noted that this proposal reflects the reality that these products compete with each other for the same applications.[68] Finally, AHRI urged the Commission to clarify that the

[67] Rheem explained that the "actual storage water heater tank size is comprised of dimensional measurements as well as tank volume, so a volume measurement in gallons should not be the only measurement describing 'Tank Size.'"

[68] AHRI noted that electric resistance models will cluster at the high end of the energy cost range while most heat pump water heaters will appear at the lower end, with few, if any models, in between.

Rule's combination of existing categories for electric water heaters and heat pumps applies only to storage water heaters.

Need For a Transitional Label: The commenters offered different views about the need for additional label information about the DOE test procedure change. GEA argued that the FTC should highlight the transition to aid consumers in their comparison shopping. It suggested using a modified label similar to the transitional labels employed for refrigerators and clothes washers during the recent DOE test procedure change for those products. AHRI and A.O. Smith disagreed, explaining that the proposed AHRI label provides adequate information regarding the transition by defining the new first hour categories ("bins") and clearly explaining how consumers should use that information. A.O. Smith cautioned that transitional advisory language would be overly confusing and soon become unnecessary. Instead, AHRI and A.O. Smith recommended the Commission separately educate consumers on the transition between test procedures, using sources such as the FTC website.

Gallons per hour for instantaneous water heaters: The current instantaneous water heater label provides capacity in gallons per minute (gpm). The California IOUs recommended the instantaneous water heater label include the model's hourly hot water output, as well as the same ranges for hourly hot water output as the storage water heaters (very low, small, medium, and high) for consistency. The California IOUs argued that such a change would allow consumers to better compare the two technologies.

Timing: AHRI asserted that the information necessary to develop amended water heater labels is not yet available. In particular, AHRI explained that there is no industry data from the new test procedure to generate new comparability ranges. In addition, AHRI urged the

Commission to coordinate, to the fullest extent possible, the timing of new labeling requirements with DOE's implementation of its revised test procedure. Specifically, industry members (Rheem and AHRI) urged FTC to coordinate with DOE to ensure the new label requirements coincide with the new DOE ratings. AHRI noted that industry members are not yet using the new UEF metrics from the revised test procedure to determine compliance with the minimum efficiency standards because DOE has not issued a conversion factor. The commenters suggested the Commission use the new data to determine new comparability ranges once it becomes available. AHRI indicated that the UEF implementation date has yet to be determined and will be decided with DOE's publication of the final UEF conversion factor rule.

Grid-Enabled Residential Electric Water Heaters: Commenters also requested that the Commission consider labeling for thermal storage grid-enabled residential electric water heaters. Utilities can operate these models remotely to manage overall electricity load. Rheem explained that these models, which have storage volumes greater than 75 gallons, have several unique aspects such as an activation lock and key and communications modules. In addition, Rheem explained that these models are not limited to residential use, and electronic utility companies use these models as thermal storage batteries. Given these unusual characteristics, Rheem argued that the EnergyGuide labels will not adequately compare these models to conventional models. Accordingly, it urged the Commission to exempt grid enabled water heaters from EnergyGuide labeling requirements. AHRI disagreed. It explained that DOE regulations already require a specific disclosure addressing the appropriate use of these water heaters (*see* 10 CFR 430.2), which could appear on the FTC EnergyGuide label, or as a separate label.

Electric instantaneous water heaters: AHRI also recommended the Commission propose

labels for residential electric instantaneous water heaters, which have been excluded from the DOE test procedure in the past. The revised DOE water heater efficiency test procedure now includes a method to measure these models' energy use.

Discussion: In the final amendments, the Commission has revised the water heater label to include new information consistent with the revised DOE test procedure. Manufacturers will have nine months to begin using the label and must base the information on the new DOE test procedure. Consistent with the proposed label, the new label depicts storage water heater capacity using DOE's new output categories (or bins). The final Rule also includes new ranges for these bins derived from DOE data developed as part of its regulatory proceeding. As proposed and supported in the comments, the final Rule combines the electric water heaters and heat pump water heaters for comparison purposes.[69]

In response to the comments, the Commission has made several revisions to the proposed label. First, the final label uses the conventional term "first hour rating" instead of "hourly hot water output." We agree with commenters that the latter term may suggest that the rating applies on an hour-to-hour basis, when, in reality, it only measures output in the first hour. To address this issue, the final label states that "first hour rating" decribes "How much hot water you get in the first hour." Consistent with AHRI's suggestions, the model's first hour rating in gallons appears on the scale next to the model's first hour rating bin (*i.e.*, very small, low, medium, and high) to allow for better product comparisons. Second, the label does not sort comparability ranges by tank size (*i.e.*, storage capacity) as proposed, but instead limits those

[69] Heat pump water heaters now fall under the comparability range information for electric water heaters in Appendix D2.

ranges to the four DOE water output bins (very small, low, medium, and high). As explained by the commenters, "first hour rating" best describes the hot water amount consumers can expect the product to deliver. Therefore, including tank size in the comparability ranges is unnecessary and potentially confusing. However, the final label includes a storage capacity disclosure near the top of the label. In response to commenters' concerns about terminology, the final label uses the term "tank size (storage capacity)," to ensure consistency with commonly used wording. Finally, the label continues to include annual energy use to provide consumers with this additional comparative information.[70]

The final label, however, does not include several items proposed by commenters. First, it does not include text regarding the new DOE test procedure. The Commission agrees with other commenters that the final label appropriately conveys information related to the test procedure transition. Specifically, the label clearly defines the new categories ("bins") and explains how consumers should use that information, making additional explanatory text unnecessary. Second, the label does not contain a statement explaining how the labeled model compares to the applicable DOE standard. Such information would clutter the label and be potentially confusing. Finally, the labels for instantaneous water heaters continue to convey capacity in gallons per minute. As commenters suggest, a "gallons per hour" rating on an instantaneous model may confuse or mislead consumers. Such a disclosure is not equivalent to the "first hour rating" for storage models. "Gallons per hour" represents a continuous flow rate

[70] The revised label does not include an energy factor disclosure, as suggested by some commenters. As the Commission explained in a 2015 Notice, it is unclear whether consumers are familiar with the term. In addition, such information is available from DOE's Compliance Certification Management System (CCMS). 80 FR 67285, 67293 (Nov. 2, 2015).

that the model will continuously deliver, whereas "first hour rating" reflects hot water volume delivered in the first hour.[71]

Finally, the Commission will consider seeking comment on special labeling for grid-enabled residential electric water heaters in the future. In the meantime, since grid-enabled water heaters meet existing definitions for water heaters, and the Rule contains applicable comparison ranges, manufacturers should label these models as they do any other storage water heater. The Commission will also formally propose labels for instantaneous electric-water heaters in a later notice. These products cannot be labeled under the current Rule because they do not fall into an existing labeling category, and no range of comparability exists.

III. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through May 31, 2017 (OMB Control No. 3084-0069). The amendments make changes in the Rule's labeling requirements that will increase the PRA burden as detailed below.[72] Accordingly, the Commission is seeking OMB clearance specific to the Rule amendments.

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[71] The FTC staff will provide a sample label template for instantaneous water heaters on the FTC website for use by manufacturers.

[72] As indicated in the NPRM (80 FR 67363, n. 54), several proposed labeling changes, including changes to dual mode refrigerators, heating and cooling equipment, consolidated comparability ranges for refrigerators, ceiling fan labels, and water heaters should impose no additional burden beyond existing estimates because such changes either impose no or *de minimis* additional

Reporting Requirements (label images): The amendments require manufacturers to furnish (as part of their normal FTC reporting) links to images of their EnergyGuide labels. Given approximately 15,000 total models at an estimated 1 minute per model, this requirement will entail a burden of 250 hours. Assuming further that these reporting requirements will be implemented by data entry workers at an hourly wage rate of $15.79 per hour,[73] the associated labor cost for reporting would be approximately $3,948 per year. Any non-labor costs associated with the reporting amendments are likely to be minimal.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule, and a Final Regulatory Flexibility Analysis (FRFA) with the final Rule, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.[74]

The Commission does not anticipate that the final amendments will have a significant

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burdens, or manufacturers should be able to incorporate the proposed changes into their normally scheduled package or label revisions without incurring additional burdens beyond those already accounted for. The PRA analysis for this rulemaking focuses strictly on the information collection requirements created by and/or otherwise affected by the amendments. Unaffected information collection provisions have previously been accounted for in past FTC analyses under the Rule and are covered by the current PRA clearance from OMB.

[73] This is an increase from the labor cost estimate in the NPRM, attributable to an intervening annual release from the Bureau of Labor Statistics. Within it, the mean hourly wage for "Data entry and information processing workers" rose from the previously shown amount of $15.48 to $15.79. *See http://www.bls.gov/news.release/ocwage.t01.htm* "Occupational Employment and Wages–May 2015," Bureau of Labor Statistics, U.S. Department of Labor, released March 30, 2016, Table 1 ("National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2015").

[74] 5 U.S.C. 603-605.

economic impact on a substantial number of small entities. The Commission recognizes that many affected entities may qualify as small businesses under the relevant thresholds. The Commission does not expect, however, that the economic impact of implementing the amendments will be significant. The Commission plans to provide businesses with ample time to implement the requirements. In addition, the Commission does not expect that the requirements specified in the final amendments will have a significant impact on affected entities.

Although the Commission certified under the RFA that the amendments would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an FRFA in order to explain the impact of the amendments on small entities as follows:

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

The Commission initiated this rulemaking to reduce the Rule's reporting burdens, increase the availability of energy labels to consumers while minimizing burdens on industry, and generally improve existing requirements.

B. Issues Raised by Comments in Response to the IRFA

The Commission did not receive any comments specifically related to the impact of the final amendments on small businesses. Comments that involve impacts on all entities are discussed above.

C. Estimate of Number of Small Entities to Which the Amendments Will Apply

Under the Small Business Size Standards issued by the Small Business Administration,

the standards for various affected entities are as follows: refrigerator manufacturers - up to 1,000 employees; other appliance manufacturers - up to 500 employees. Based on general knowledge of the this market, the FTC staff estimates that fewer than 50 entities subject to the Rule's requirements qualify as small businesses.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Commission recognizes that the changes will involve some burdens on affected entities. However, the amendments should not have a significant impact on a substantial number of small entities. Manufacturers will have to make changes to their reporting process. However, the Commission has provided them with ample time to incorporate the changes into their normal website updates. In addition, as detailed in the Paperwork Reduction Act analysis, the changes will not be significant. There should be no capital costs associated with the amendments. As estimated above, the Rule imposes new requirements on fewer than 50 small businesses (appliance and electronics manufacturers. The changes are likely to be made by data entry specialists.

E. Description of Steps Taken To Minimize Significant Economic Impact, If Any, on Small Entities, Including Alternatives

The Commission sought comment and information on the need, if any, for alternative compliance methods that would reduce the economic impact of the Rule on such small entities. In particular, the Commission sought comments on whether it should delay the Rule's effective date to provide additional time for small business compliance and whether to reduce the amount of information catalog sellers must provide. However, to minimize the

impacts on manufacturers, the Commission has set the effective date for most of the new requirements at one year after publication of this notice in the FEDERAL REGISTER and has also modified its proposal to reduce the burden associated with that reporting by providing manufacturers with different options for reporting their label images (*e.g.*, links to pdf files, websites, etc.).

VI. Final Rule

List of Subjects in 16 CFR part 305

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

For the reasons discussed above, the Commission amends part 305 of title 16, Code of Federal Regulations, as follows:

PART 305--ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT ("ENERGY LABELING RULE")

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

AUTHORITY: 42 U.S.C. 6294.

2. In § 305.3, revise paragraph (x) to read as follows:

§ 305.3 Description of Covered Products.

(x) Ceiling fan means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades, excluding large-diameter and high-speed small diameter fans as defined in appendix U of subpart B of this 10 CFR Part 430. The requirements of this part are

otherwise limited to those ceiling fans for which the Department of Energy has adopted and published test procedures for measuring energy usage.

* * * * *

3. Amend § 305.7 by revising paragraphs (a), (b), and (d) to read as follows:

§ 305.7 Determinations of capacity.

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

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

* * * * *

(d) Water heaters. The capacity shall be the rated storage volume and first hour rating (for storage-type models), and gallons per minute (for instantaneous-type models), as determined according to appendix E to 10 CFR part 430, subpart B.

* * * * *

4. In § 305.8, remove the term “at high speed” wherever it appears.

5. In § 305.8, add paragraph (a)(5) to read as follows:

§305.8 Submission of data.

(a) * * *

(5) After [INSERT DATE ONE YEAR AFTER PUBLICATION], manufacturers must begin submitting a Web site address for the online EnergyGuide labels covered by § 305.6(a) in new

model and annual reports required by this section. Manufacturers may accomplish this by either submitting a specific link to a URL for each label, a link to a PDF download for each label, or a link to a website that takes users directly to a searchable database of the covered labels from which the label image or download may be accessed using the model number as certified to DOE pursuant to 10 CFR part 429 and the model number advertised in product literature. Such label information must be submitted either at the time the model is certified to DOE pursuant to 10 CFR part 429 or at some time on or before the annual report date immediately following such certification. In lieu of submitting the required information to the Commission, manufacturers may submit such information to the Department of Energy via the CCMS at https://regulations.doe.gov/ccms as provided by 10 CFR 429.12. The requirements in this paragraph do not apply to Lighting Facts labels.

6. Amend § 305.11 by revising paragraphs (a) and (f) to read as follows:

§ 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 ¼ inches and 5 ½ inches (13.34 cm. and 13.97 cm.); length must be between 7 3/8 inches (18.73 cm.) and 7 5/8 (19.37 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.

* * * * *

(f) Label content. (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part, are standard for all labels.

(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 with § 305.7 and the model description must be consistent with the categories described in Appendices A and B. Capacity for storage water heaters shall be presented in both rated storage volume ("tank size (storage capacity)") and first hour rating as indicated on the sample label in Appendix L.

(5) Unless otherwise indicated in this paragraph, 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 305.10 of 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. Labels for dual-mode refrigerator-freezers that can operate as either a refrigerator or a freezer must reflect the estimated energy cost of the model's most energy intensive configuration.

(6) Unless otherwise indicated in this paragraph, 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 as illustrated in the prototype labels in appendix L and specified as follows by product type:

(i) Labels for refrigerators and refrigerator-freezers must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate year and energy cost figures):

Your cost will depend on your utility rates and use.

Both cost ranges based on models of similar size capacity.

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

Estimated energy cost is based on a national average electricity cost of __ cents per kWh.

ftc.gov/energy

(ii) For refrigerators, refrigerator-freezers, and freezers and clothes washers the label shall contain the text and graphics illustrated in sample labels 1 and 2 of appendix L, including the statement:

Compare ONLY to other labels with yellow numbers.

Labels with yellow numbers are based on the same test procedures.

(iii) For refrigerators and refrigerator-freezers, the following sentence shall be included as part of the statement required by § 305.11(f)(9)(i):

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

Models with similar features have automatic defrost and no freezer.

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

Models with similar features have manual defrost.

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

Models with similar features have partial automatic defrost.

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

Models with similar features have automatic defrost, top-mounted freezer, and no through-the-door ice.

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

Models with similar features have automatic defrost, side-mounted freezer, and no through-the-door ice.

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

Models with similar features have automatic defrost, bottom-mounted freezer, and no through-the-door ice.

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

Models with similar features have automatic defrost, bottom-mounted freezer and through-the-door ice.

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

Models with similar features have automatic defrost, side-mounted freezer, and through-the-door ice.

(iv) Labels for freezers must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate year and energy cost figures):

Your cost will depend on your utility rates and use.

[Insert statement required by § 305.11(f)(10)(v).]

Estimated energy cost is based on a national average electricity cost of __ cents per kWh.

ftc.gov/energy

(v) For freezers, the following sentence shall be included as part of the statement required by § 305.11(f)(9)(iv):

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

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

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

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

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

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

(vi) For room air conditioners covered under appendix E, 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 annual energy cost is based on a national average electricity cost of __ cents per kWh and a seasonal use of 8 hours use per day over a 3 month period.

For more information, visit *www.ftc.gov/energy*.

(vii) 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 fueled by [natural gas, oil, propane, or electricity] with a [very small, low, medium, or large] first hour rating ([fewer than 18 gallons, 18-50.9 gallons, 51-74.9 gallons, or greater than 75 gallons]).

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

Estimated yearly energy use: ____ [kWh or therms].

ftc.gov/energy

(viii) For instantaneous water heaters (Appendix D4), 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 models fueled by natural gas with a [very small, low, medium, or large] gallons per minute rating ([0 to 1.6, 1.7 to 2.7, 2.8 to 4.0, or greater than 4.0]).

Estimated energy cost is based on a national average [natural gas, or propane] cost of [__ cents per kWh or $__ per therm or gallon].

Estimated yearly energy use: ____ [kWh or therms].

ftc.gov/energy

(ix) For dishwashers covered by appendices C1 and C2, the statement will read as follows (fill in the blanks with the appropriate appliance type, the energy 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 energy cost is based on 4 washloads a week, and a national average electricity cost of __ cents per kWh and natural gas cost of $__ per therm.

ftc.gov/energy

(x) For clothes washers covered by appendices F1 and F2, the statement will read as follows (fill in the blanks with the appropriate appliance type, the energy 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 energy cost is based on six wash loads a week and a national average electricity cost of __ cents per kWh and natural gas cost of $__ per therm.

ftc.gov/energy

(xi) For pool heaters covered under appendices J1 and J2, 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/energy*.

(10) * * *

(11) * * *

* * * * *

7. Amend § 305.12 by revising paragraphs (f)(2), (f)(3), (f)(14), and (g) to read as follows:

§ 305.12 Labeling for central air conditioners, heat pumps, and furnaces.

* * * * *

(f) * * *

(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 model's basic model number. The label may include multiple model numbers on a single label for models as long as the models share the same efficiency ratings and capacities and the presentation of such information is clear and prominent.

* * * * *

(14) Manufacturers of models that qualify as both furnaces and central air conditioners or heat pumps under DOE requirements may combine the disclosures required by this section on one label for models that meet all applicable DOE regional efficiency standards.

(g) Content of central air conditioner labels: 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 model's basic model number. The label may include multiple model numbers on a single label for models as long as the models share the same efficiency ratings and capacities and the presentation of such information is clear and prominent.

(4) The model's capacity. Inclusion of capacity is optional at the discretion of the manufacturer or private labeler for all models except split-system labels, which may not disclose capacity.

(5) The seasonal energy efficiency ratio (SEER) for the cooling function of central air conditioners as determined in accordance with § 305.5. For the heating function, the heating seasonal performance factor (HSPF) 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, as illustrated in the sample labels in appendix L to this part, the ratings for any split-system air conditioner condenser evaporator coil combinations shall be the minimum rating of all condenser-evaporator coil combinations certified to the Department of Energy pursuant to 10 CFR part 430. The ratings for any split-system heat pump condenser-evaporator coil combinations shall include the low and high ratings of all condenser-evaporator coil combinations certified to the Department of Energy pursuant to 10 CFR part 430.

(6)(i) Each cooling-only central air conditioner label shall contain a range of comparability consisting of the lowest and highest SEER for all cooling-only central air conditioners consistent with sample label 7A in appendix L to this part.

(ii) Each heat pump label, except as noted in paragraph (g)(6)(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 consistent with sample label 8 in appendix L to this part. The second range shall consist of the lowest and highest heating seasonal performance factors for the heating side of all heat pumps consistent with sample label 8 in appendix L to this part.

(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 following the format of sample label 8 in appendix L to this part.

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

(8) The following statement shall appear on the label in bold print as indicated in the sample labels in appendix L to this part.

For energy cost info, visit productinfo.energy.gov.

(9) All labels on split-system condenser units must contain one of the following three statements:

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

* Your air conditioner's efficiency rating may be better depending on the coil your contractor installs.

(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 system's efficiency ratings depend on the coil your contractor installs with this unit. The heating efficiency rating varies slightly in different geographic regions. Ask your contractor for details.

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

This system's efficiency rating depends on the coil your contractor installs with this unit. The efficiency rating varies slightly in different geographic regions. Ask your contractor for details.

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

Federal law prohibits removal of this label before consumer purchase.

(11) For any single-package air conditioner with a minimum Energy Efficiency Ratio (EER) of at least 11.0, any split system central air conditioner with a rated cooling capacity of at least 45,000 Btu/h and minimum efficiency ratings of at least 14 SEER and 11.7 EER, and any split-system central air conditioners with a rated cooling capacity less than 45,000 Btu/h and minimum efficiency ratings of at least 14 SEER and 12.2 EER, the label must contain the following regional standards information:

(i) A statement that reads: Notice Federal law allows this unit to be installed in all U.S. states and territories.

(ii) For split systems, a statement that reads:

Energy Efficiency Ratio (EER): The installed system's minimum EER is __.

(iii) For single-package air conditioners, a statement that reads:

Energy Efficiency Ratio (EER): This model's EER is [_].

(12) For any split system central air conditioner with a rated cooling capacity of at least 45,000 Btu/h and minimum efficiency ratings of at least 14 SEER but lower than 11.7 EER, and any split-system central air conditioners with a rated cooling capacity less than 45,000 Btu/h and minimum efficiency ratings of at least 14 SEER but lower than 12.2 EER, the label must contain the following regional standards information.

(i) A statement that reads:

Notice Federal law allows this unit to be installed only in: AK, AL, AR, CO, CT, DC, DE, FL, GA, HI, ID, IL, IA, IN, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WI, WY and U.S. territories. Federal law prohibits installation of this unit in other states.

(ii) A map and accompanying text as illustrated in the sample label 7A in appendix L.

(iii) A statement that reads Energy Efficiency Ratio (EER): The installed system's minimum EER is __.

(13) For any split system central air conditioner with a minimum rated efficiency rating less than 14 SEER, the label must contain the following regional standards information:

(i) A statement that reads:

Notice Federal law allows this unit to be installed only in: AK, CO, CT, ID, IL, IA, IN, KS, MA, ME, MI, MN, MO, MT, ND, NE, NH, NJ, NY, OH, OR, PA, RI, SD, UT, VT, WA, WV, WI, WY, and U.S. Territories. Federal law prohibits installation of this unit in other states.

(ii) A map and accompanying text as illustrated in the sample label 8 in appendix L.

(iii) A statement that reads:

Energy Efficiency Ratio (EER): The installed system's minimum EER is __.

(14) For any single-package air conditioner with a minimum EER below 11.0, the label must contain the following regional standards information consistent with sample label 7A in appendix L to this part:

(i) A statement that reads:

Notice Federal law allows this unit to be installed only in: AK, AL, AR, CO, CT, DC, DE, FL, GA, HI, ID, IL, IA, IN, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WI, WY and U.S. territories. Federal law prohibits installation of this unit in other states.

(ii) A map and accompanying text as illustrated in the sample label 7A in appendix L.

(15) 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 label for certified products in a location consistent with the sample labels in appendix L to this part. The logo must be no larger than 1 inch by 3 inches 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.

8. Revise **§** 305.13(a) to read as follows:

§ 305.13 Labeling for ceiling fans.

(a) Ceiling fans.

(1) Content. Any covered product that is a ceiling fan, except for models 84 inches or greater in diameter and high-speed small diameter fans as defined in 10 CFR 430, shall be labeled clearly and conspicuously on the package's principal display panel with the following information on the label consistent with the sample label in Appendix L to this part:

(i) Headlines, including the title “EnergyGuide,” and text as illustrated in the sample label in Appendix L to this part;

(ii) The product’s estimated yearly energy cost based on 6.4 hours use per day and 12 cents per kWh;

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

(iv) The product’s energy use expressed in watts and determined pursuant to § 305.5 of this part as indicated in the sample label in appendix L of this part;

(v) the statement “Based on 12 cents per kWh and 6.4 hours use per day”;

(vi) the statement “Your cost depends on rates and use”;

(vii) the statement “All estimates based on typical use, excluding lights”;

(viii) the statement “The higher the airflow, the more air the fan will move”;

(ix) the statement “Airflow Efficiency: ___Cubic Feet Per Minute Per Watt”;

(x) the address ftc.gov/energy;

(xi) For fans less than 19 inches in diameter, the label shall display a cost range of $10 to $50 along with the statement underneath the range “Cost Range of Similar Models (18” or smaller)”;

(xii) For fans from 19 or more inches and less than 84 inches in diameter, the label shall display a cost range of $3 to $34 along with the statement underneath the range “Cost Range of Similar Models (19”- 83)”.

(xiii) Placement of the labeled product on the scale proportionate to the lowest and highest estimated annual energy costs as illustrated in the Sample Labels in appendix L. When the estimated annual energy cost of a given model falls outside the limits of the current range for that

product, the manufacturer shall place the product at the end of the range closest to the model's energy cost.

(xiv) The ENERGY STAR logo as illustrated on the ceiling fan label illustration in Appendix L for qualified products, if desired by the manufacturer. 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 products that are covered by the Memorandum of Understanding;

(2) Label size, color, and text font. The label shall be four inches wide and three inches high. The label colors shall be black text on a process yellow or other neutral contrasting background. The text font shall be Arial or another equivalent font. The label's text size, format, content, and the order of the required disclosures shall be consistent with the ceiling fan label illustration of appendix L of this part.

(3) Placement. The ceiling fan label shall be printed on or affixed to the principal display panel of the product's packaging.

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

(5) Labeling for "multi-mount" fans. For "multi-mount" fan models that can be installed either extended from the ceiling or flush with the ceiling, the label content must reflect the lowest efficiency (cubic feet per watt) configuration. Manufacturers may provide a second label depicting the efficiency at the other configuration.

9. Revise **§** 305.14 to read as follows:

§ 305.14 Energy information disclosures for heating and cooling equipment.

(a) The following provisions apply to any covered central air conditioner, heat pump, or furnace.

(1) *Manufacturer duty to provide labels*. For any covered central air conditioner, heat pump, or furnace model that a manufacturer distributes in commerce, the manufacturer must make a copy of the EnergyGuide label available on a publicly accessible Web site in a manner that allows catalog sellers and consumers to hyperlink to the label or download it for their use. The labels must remain on the Web site for six months after the manufacturer ceases the model's production.

(2) *Distribution*. (i) Manufacturers and private labelers must provide to distributors and retailers, including assemblers, EnergyGuide labels for covered central air conditioners, heat pumps, and furnaces (including boilers) they sell to them. The label may be provided in paper or electronic form (including Internet-based access). Distributors must give this information to retailers, including assemblers, they supply.

(ii) Retailers, including assemblers, who sell covered central air conditioners, heat pumps, and furnaces (including boilers) to consumers must show the labels for the products they offer to customers and let them read the labels before the customers agree to purchase the product. For example, the retailer may display labeled units in their store or direct consumers to the labels in a binder or computer at a counter or service desk.

(iii) Retailers, including installers and assemblers, who negotiate or make sales at a place other than their regular places of business, including sales over the telephone or through electronic communications, must show the labels for the products they offer to customers and let them read the labels before the customers agree to purchase the product. If the labels are on a Web site,

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 labels in lieu of showing them a paper version of the information. Retailers who choose to use the Internet for the required label disclosures must provide customers the opportunity to read such information prior to sale of the product.

(3) *Oil furnace labels*. If an installer installs an oil furnace with an input capacity different from that set by the manufacturer and the manufacturer identifies alternative capacities on the label, the installer must permanently mark the appropriate box on the EnergyGuide label displaying the installed input capacity and the associated AFUE as illustrated in Sample Labels in Appendix L.

10. Revise Appendix A1 through A8 to Part 305 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 10.5.....	$18	$39
10.5 to 12.4.....	$30	$34
12.5 to 14.4.....	$34	$36
14.5 to 16.4.....	(*)	(*)
16.5 to 18.4.....	$34	$40
18.5 to 20.4.....	$40	$41
20.5 to 22.4.....	$37	$48
22.5 to 24.4.....	$45	$50
24.5 to 26.4.....	(*)	(*)
26.5 to 28.4.....	(*)	(*)
28.5 and over.....	(*)	(*)

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 10.5.....	$24	$41
10.5 to 12.4.....	(*)	(*)
12.5 to 14.4.....	$30	$30
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.....	(*)	(*)

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.....	$25	$44
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.....	(*)	(*)
20.5 to 22.4.....	(*)	(*)
22.5 to 24.4.....	(*)	(*)
24.5 to 26.4.....	(*)	(*)
26.5 to 28.4.....	(*)	(*)
28.5 and over.....	(*)	(*)

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.....	$36	$53
10.5 to 12.4.....	$37	$51
12.5 to 14.4.....	$40	$55
14.5 to 16.4.....	$40	$57
16.5 to 18.4.....	$43	$59
18.5 to 20.4.....	$45	$62
20.5 to 22.4.....	$46	$63
22.5 to 24.4.....	$56	$66
24.5 to 26.4.....	(*)	(*)
26.5 to 28.4.....	(*)	(*)
28.5 and over.....	(*)	(*)

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.....	$25	$70
10.5 to 12.4.....	(*)	(*)
12.5 to 14.4.....	(*)	(*)
14.5 to 16.4.....	$37	$37
16.5 to 18.4.....	(*)	(*)
18.5 to 20.4.....	(*)	(*)
20.5 to 22.4.....	$63	$86
22.5 to 24.4.....	$67	$90
24.5 to 26.4.....	$69	$93
26.5 to 28.4.....	$85	$96
28.5 and over.....	$86	$101

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.....	$19	$62
10.5 to 12.4.....	$38	$63
12.5 to 14.4.....	$49	$65
14.5 to 16.4.....	$52	$72
16.5 to 18.4.....	$54	$73
18.5 to 20.4.....	$54	$75
20.5 to 22.4.....	$58	$79
22.5 to 24.4.....	$71	$83
24.5 to 26.4.....	$64	$81
26.5 to 28.4.....	$77	$84
28.5 and over.....	$78	$86

APPENDIX A7 TO PART 305 – REFRIGERATOR-FREEZERS WITH AUTOMATIC DEFROST WITH BOTTOM-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.....	$77	$83
20.5 to 22.4.....	$79	$87
22.5 to 24.4.....	$80	$91
24.5 to 26.4.....	$76	$93
26.5 to 28.4.....	$74	$95
28.5 and over.....	$78	$103

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.....	$78	$78
20.5 to 22.4.....	$72	$94
22.5 to 24.4.....	$81	$98
24.5 to 26.4.....	$73	$99
26.5 to 28.4.....	$89	$104
28.5 and over.....	$82	$107

APPENDIX A9 TO PART 305 – ALL REFRIGERATORS AND REFRIGERATOR-FREEZERS

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.....	$18	$70
10.5 to 12.4.....	$30	$63
12.5 to 14.4.....	$30	$65
14.5 to 16.4.....	$37	$72
16.5 to 18.4.....	$34	$73
18.5 to 20.4.....	$40	$83
20.5 to 22.4.....	$37	$94
22.5 to 24.4.....	$45	$98
24.5 to 26.4.....	$64	$99
26.5 to 28.4.....	$74	$104
28.5 and over.....	$78	$107

10. Revise Appendix B1 through B3 to Part 305 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.....	$26	$36
5.5 to 7.4	$37	$38
7.5 to 9.4	$30	$30
9.5 to 11.4.....	$31	$31
11.5 to 13.4.....	$38	$38
13.5 to 15.4.....	$40	$40
15.5 to 17.4.....	$43	$43
17.5 to 19.4.....	(*)	(*)
19.5 to 21.4.....	$48	$48
21.5 to 23.4.....	(*)	(*)
23.5 to 25.4.....	(*)	(*)
25.5 to 27.4.....	(*)	(*)
27.5 to 29.4.....	(*)	(*)
29.5 and over.....	(*)	(*)

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.....	$32	$32
5.5 to 7.4	(*)	(*)
7.5 to 9.4	$53	$59
9.5 to 11.4.....	$59	$59
11.5 to 13.4.....	$57	$67
13.5 to 15.4.....	$47	$73
15.5 to 17.4.....	$52	$74
17.5 to 19.4.....	$54	$71
19.5 to 21.4.....	$57	$76
21.5 to 23.4.....	$81	$87
23.5 to 25.4.....	(*)	(*)
25.5 to 27.4.....	(*)	(*)
27.5 to 29.4.....	(*)	(*)
29.5 and over.....	(*)	(*)

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.....	$16	$27
5.5 to 7.4	$24	$30
7.5 to 9.4	$23	$31
9.5 to 11.4.....	$25	$30
11.5 to 13.4.....	(*)	(*)
13.5 to 15.4.....	$35	$36
15.5 to 17.4.....	$33	$37
17.5 to 19.4.....	$40	$40
19.5 to 21.4.....	(*)	(*)
21.5 to 23.4.....	$46	$46
23.5 to 25.4.....	(*)	(*)
25.5 to 27.4.....	(*)	(*)
27.5 to 29.4.....	(*)	(*)
29.5 and over.....	(*)	(*)

11. Appendices D1 through D4 are revised, and Appendix D5 is removed to read as follows:

APPENDIX D1 TO PART 305--WATER HEATERS - GAS

Range Information

CAPACITY (First Hour Rating in gallons)	Range of Estimated Annual Energy Costs (Dollars/Year)			
FIRST HOUR RATING	Natural Gas ($/year)		Propane ($/year)	
	Low	High	Low	High
"Very Small" - less than 18 ...	*	*	*	*
"Low" - 18 to 50.9 …….	$154	$155	*	*
"Medium" - 51 to 74.9 ……	$177	$206	$437	$506
"High" - over 75 …….....	$225	$297	$560	$732

APPENDIX D2 TO PART 305--WATER HEATERS ELECTRIC

Range Information

CAPACITY (First Hour Rating in gallons)	Range of Estimated Annual Energy Costs (Dollars/Year)	
FIRST HOUR RATING	**LOW**	**HIGH**
"Very Small" - less than 18 ...	*	*
"Low" - 18 to 50.9 …….	$93	$295
"Medium" - 51 to 74.9 ……	$120	$423
"High" - over 75 …….....	$191	$252

APPENDIX D3 TO PART 305--WATER HEATERS - OIL

Range Information

CAPACITY (First Hour Rating in gallons)	Range of Estimated Annual Energy Costs (Dollars/Year)	
FIRST HOUR RATING	**LOW**	**HIGH**
"Very Small" - less than 18 ...	*	*
"Low" - 18 to 50.9 …….	*	*
"Medium" - 51 to 74.9 ……	*	*
"High" - over 75 …….....	$649	$730

APPENDIX D4 TO PART 305--WATER HEATERS- INSTANTANEOUS-GAS

Range Information

CAPACITY	Range of Estimated Annual Energy Costs (Dollars/Year)			
Capacity (maximum flow rate); gallons per minute (gpm)	Natural Gas ($/year)		Propane ($/year)	
	LOW	HIGH	LOW	HIGH
"Very Small" - less than 1.6 ……	*	*	*	*
"Low" - 1.7 to 2.7 …….....	*	*	*	*
"Medium" – 2.8 to 3.9 ……	$130	$151	$321	$372
"High" - over 4.0 ……	$195	$230	$485	$567

* * *

12. Revise Appendix H to Part 305 to read as follows:

Appendix H to Part 305 – Cooling Performance for Central Air Conditioners

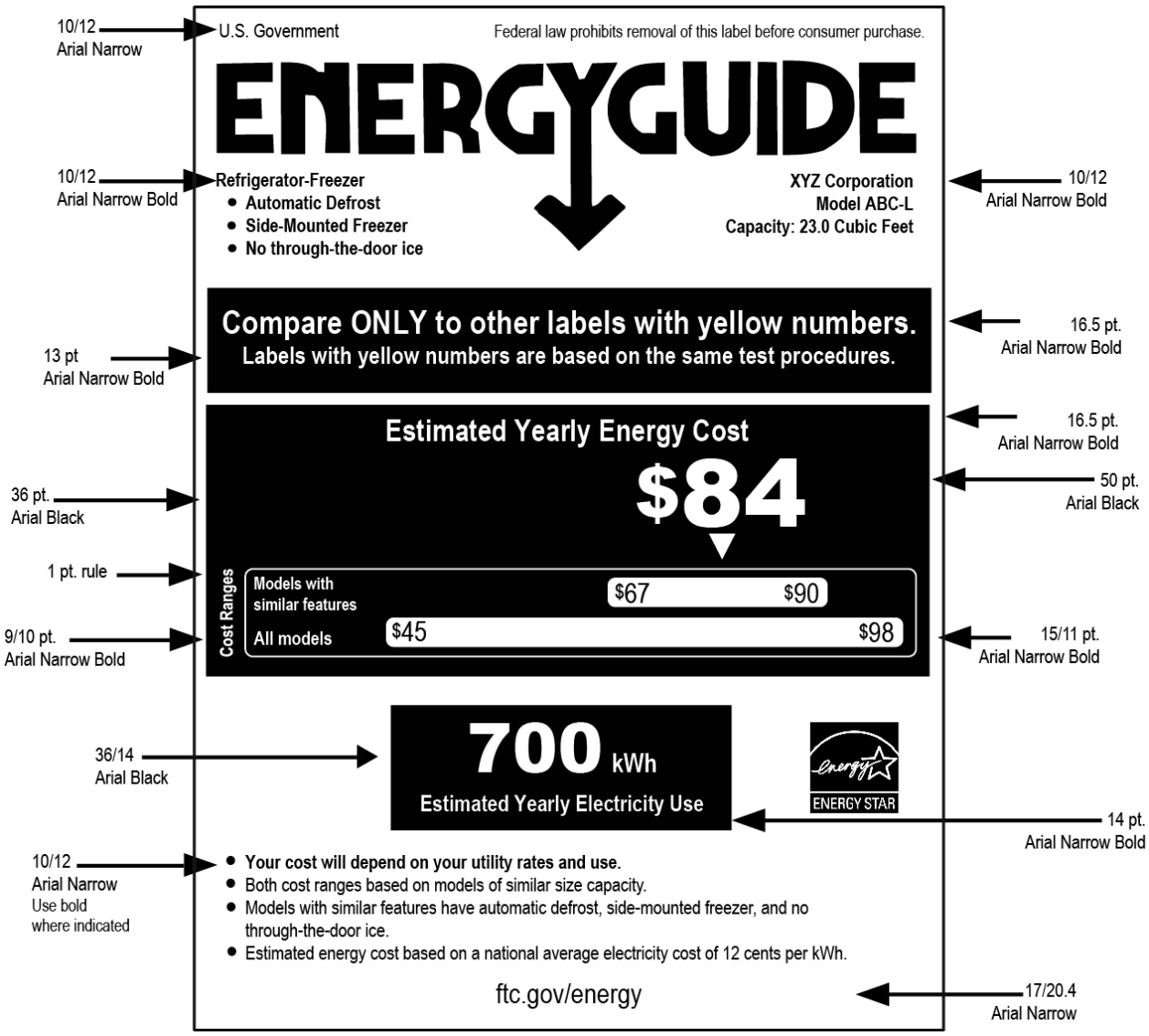
Manufacturer's rated cooling capacity (Btu's/hr.)	Range of SEER's	
	Low	High
Single Package Units		
Central Air Conditioners (Cooling Only): All capacities	14	20
Heat Pumps (Cooling Function): All capacities	14	18.1
Split System Units		
Central Air Conditioner models allowed only in northern states (listed in 305.12(g)(13)) (Cooling Only): All capacities	13	26

Central Air Conditioner models allowed in all states (Cooling Only):		
All capacities	14	26
Heat Pumps (Cooling Function): All capacities	14	30.5
Small-duct, high-velocity Systems	12	12.5
Space-constrained Products		
Central Air Conditioners (Cooling Only): All capacities	12	14
Heat Pumps (Cooling Function): All capacities	12	14

13. Amend Appendix L by revising Prototype Label 1, revising Sample Label 1, removing Sample Label 1A, and Revising Sample Labels 5, 7 and 17 to read as follows:

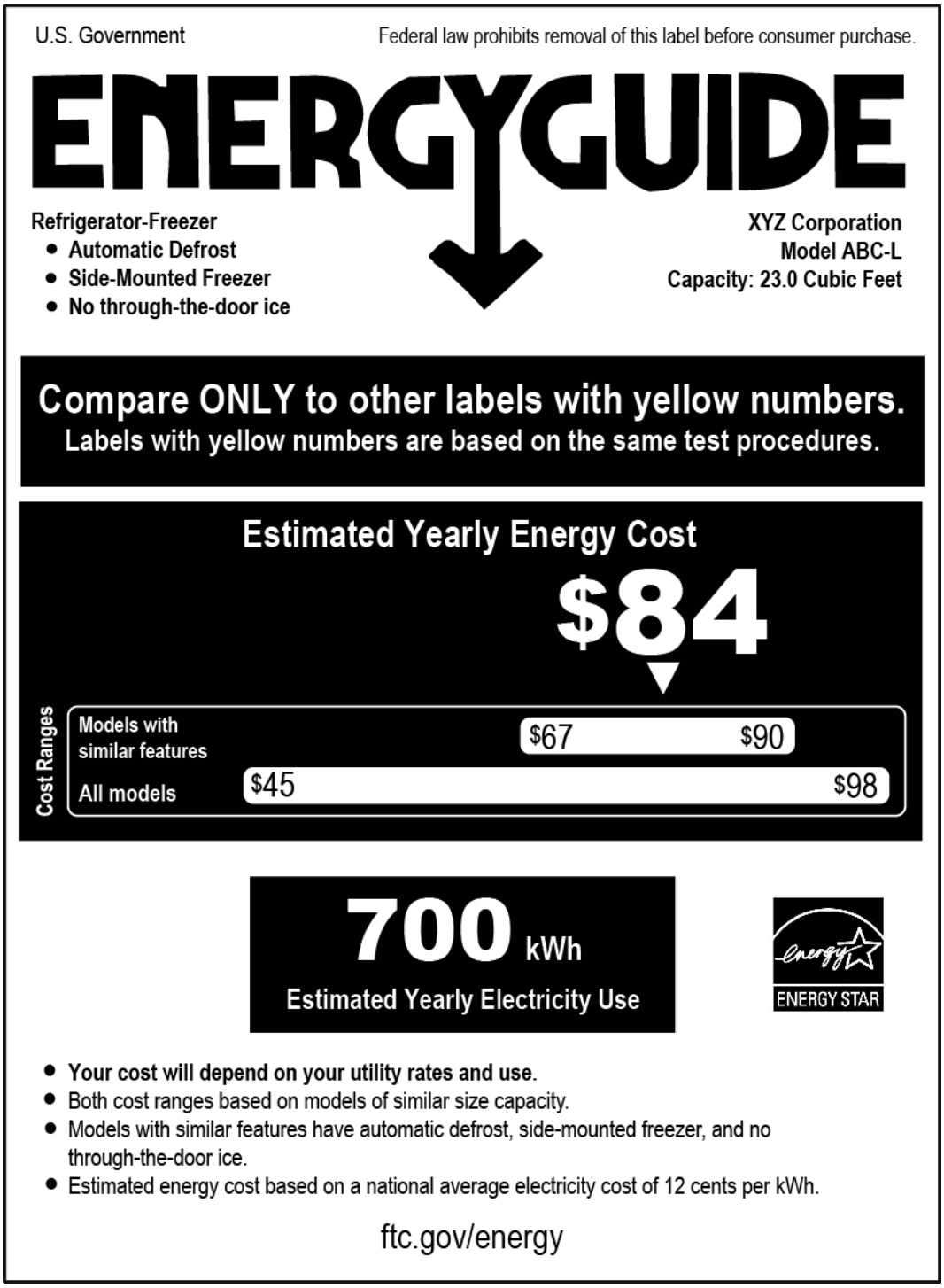
Appendix L to Part 305—Sample Labels

* * * * *



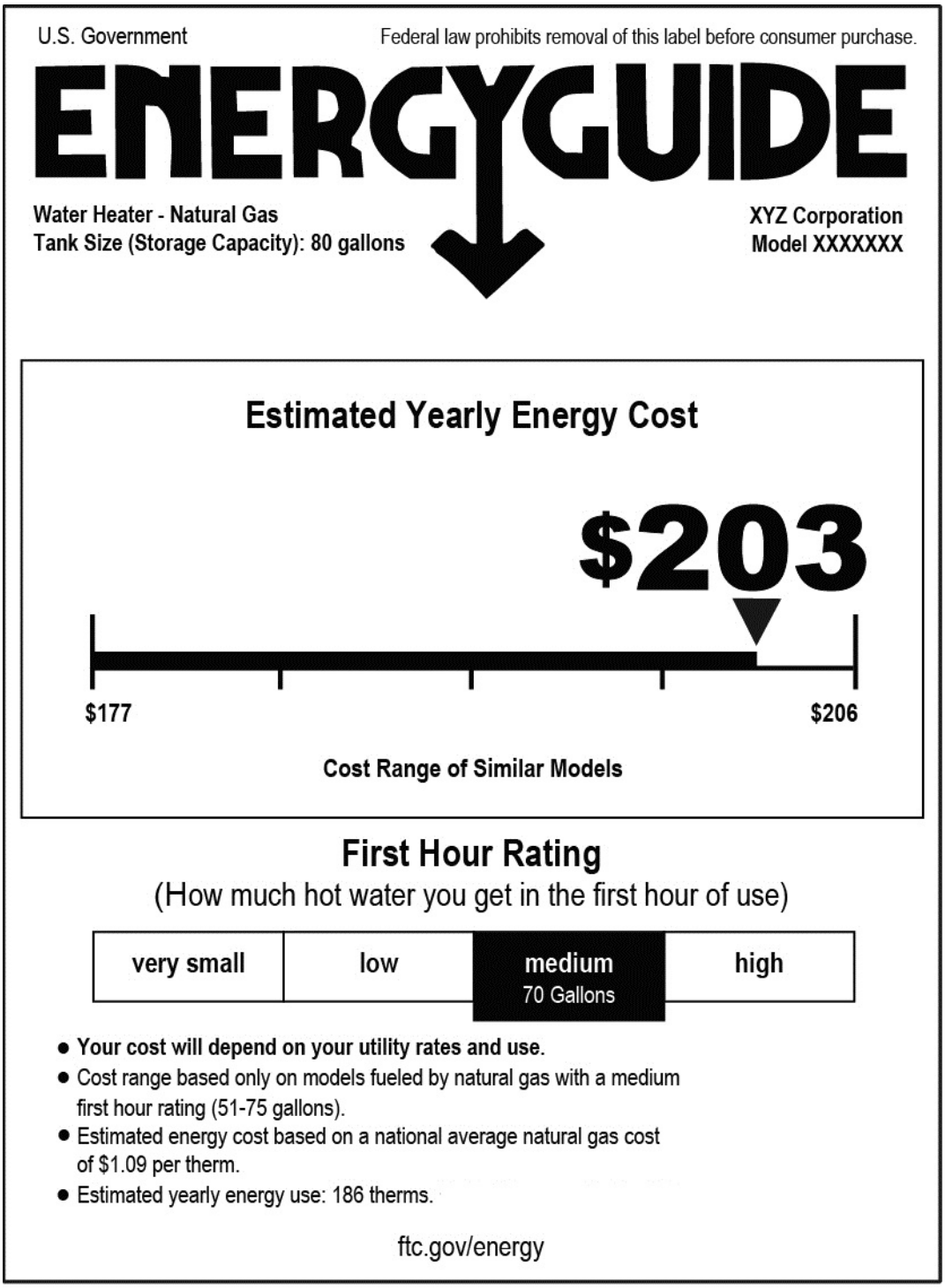
Prototype Label 1 – Refrigerator-Freezer

* * * * *



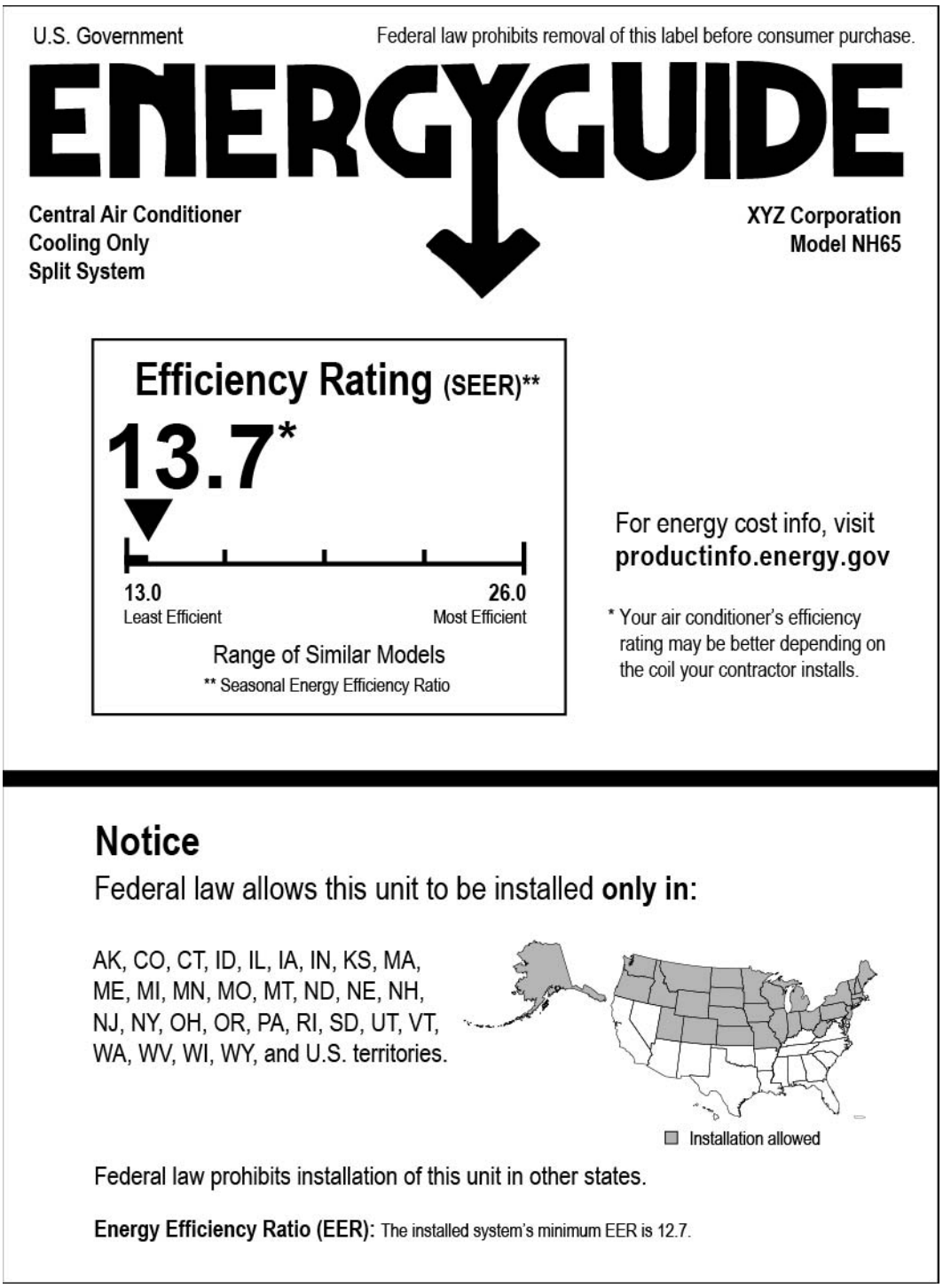
Sample Label 1 – Refrigerator-Freezer

* * * * *



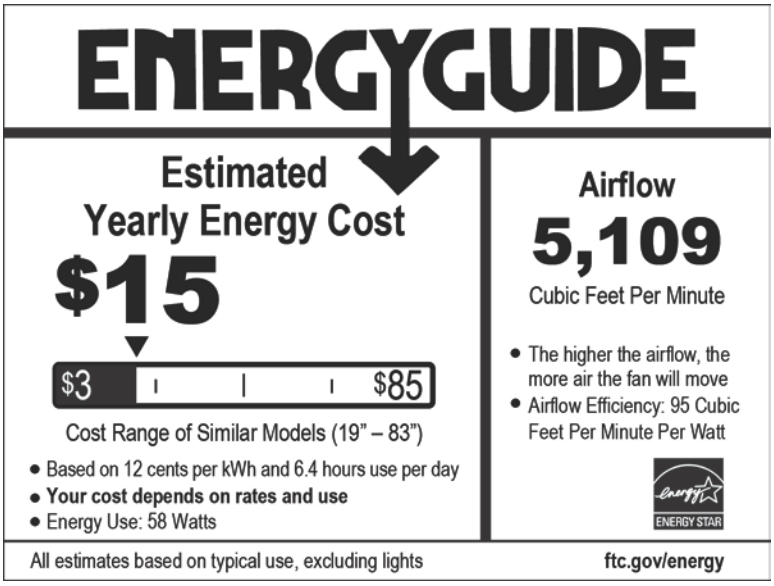
Sample Label 5 – Water Heater

* * * * *



Sample Label 7 – Split-system Central Air Conditioner

* * * * *



Sample Label 17 – Ceiling Fan

* * * * *

By direction of the Commission.

Donald S. Clark
Secretary.