Dated: July 17, 2013.

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Assistant Secretary for Export Administration.

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FEDERAL TRADE COMMISSION

16 CFR Part 305

[3084–AB15]

Energy and Water Use Labeling for Consumer Products Under the Energy Policy and Conservation Act (Energy Labeling Rule)

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

ACTION: Final rule.

SUMMARY: The Commission amends the Energy Labeling Rule (''Rule'') by updating comparability ranges and unit energy costs for many EnergyGuide labels. The Commission also issues a conditional exemption and amendments for modified refrigerator and clothes washer labels to help consumers compare the labels for these products after the implementation of upcoming changes to the Department of Energy (''DOE'') test procedures.

DATES: The amendments published in this document will become effective on November 15, 2013.

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

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

SUPPLEMENTARY INFORMATION:

I. Background

The Commission issued the Energy Labeling Rule (''Rule'') in 1979,[1] pursuant to the Energy Policy and Conservation Act of 1975 (EPCA).[2] The Rule requires energy labeling for major home appliances and other consumer products, to help consumers compare competing models. When first published, the Rule applied to eight categories: Refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. The Commission subsequently expanded the Rule's coverage to include central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions. The Commission is currently conducting a regulatory review of the Rule.[3]

The Rule requires manufacturers to attach yellow EnergyGuide labels for many of the covered products, and prohibits retailers from removing the labels or rendering them illegible. In addition, the Rule directs sellers, including retailers, to post label information on Web sites and in paper catalogs from which consumers can order products. EnergyGuide labels for covered products contain three key disclosures: Estimated annual energy cost (for most products); 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 energy cost calculations, the Rule specifies national average costs for applicable energy sources (*e.g.,* electricity, natural gas, oil) as calculated by DOE. The Rule sets a five-year schedule for updating comparability range and annual energy cost information.[4] The Commission updates the range information based on manufacturer data submitted pursuant to the Rule's reporting requirements.

II. Notice of Proposed Rulemaking

In a Notice of Proposed Rulemaking (NPRM) announced December 31, 2012,[5] the Commission, consistent with its five-year schedule, proposed to update the comparability ranges (Appendices A–J to Part 305) and national average energy costs (Appendix K to Part 305) for many EnergyGuide labels. The NPRM also contained several minor, proposed revisions and updates to the label's content, some suggested by commenters as part of the ongoing regulatory review. Finally, the Commission proposed to grant a request from the Association of Home Appliance Manufacturers (AHAM) for an exemption related to labeling requirements for refrigerators, refrigerator-freezers, and freezers (hereinafter referred to as ''refrigerators''), and clothes washers to address recent DOE test procedures.

In response to the NPRM, the Commission received 10 comments from organizations and individuals as well as 2,915 nearly identical letters from individual consumers as part of a mass mailing.[6] As discussed in detail below, the comments generally supported the Commission's proposals.

The Commission now publishes final amendments on these issues, with some minor changes detailed below.[7] Although the present amendments, along with an earlier final rule notice published on January 10, 2013 (78 FR 2200), address several issues raised during the regulatory review, the Commission plans to consider additional issues in a future notice.[8]

A. Comparability Range and Energy Cost Revisions

Background: The NPRM contained proposed revisions to the comparability range and energy cost information for many products bearing EnergyGuide labels.[9] In addition, the Commission proposed to update the average energy cost (*e.g.,* 12 cents per kWh) manufacturers must use to calculate a model's estimated energy cost for the label based on updated national

[1] 44 FR 66466 (Nov. 19, 1979) (Rule's initial promulgation).

[2] 42 U.S.C. 6294. EPCA also requires the 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] 77 FR 15298 (Mar. 15, 2012) (regulatory review). The Commission currently has another open proceeding related to light bulb coverage. *See* 76 FR 45715 (Aug. 1, 2011) (proposed expanded light bulb coverage).

[4] 16 CFR 305.10.

[5] See *http://www.ftc.gov/opa/2012/12/energylabel.shtm.* 78 FR 1779 (Jan. 9, 2013).

[6] *See http://ftc.gov/os/comments/energylabelrangers/index.shtm.* The organizational comments included: Alliance Laundry Systems LLC (# 563707–00002 and # 563707–00012), Association of Home Appliance Manufacturers (AHAM) (#563707–00003 and #563707–00013), Air-Conditioning, Heating, and Refrigeration Institute (AHRI) (#563707–00004 and #563707–00010), joint comments from several energy, environmental and consumer organizations (including Alliance to Save Energy, Appliance Standards Awareness Project, Consumer Federation of America, Consumers Union, Earthjustice, Natural Resources Defense Council, Public Citizen, and the Sierra Club) (''Joint Commenters'') (#563707–00005 and #563707–00011), and the California Independently Owned Utilities Codes & Standards Team (CA IOU) (#563707–00009), VanBrocklin (#563707–00008), and individual consumer letters (2,915 letters from individual consumers) (#563707–00006). All the consumer letters, which were gathered and submitted by Earthjustice, addressed the issue of label categories for refrigerator configurations.

[7] The amendments also contain several corrections to the numbering for the Rule's sample labels (section 305.17 and Appendix L), the list of states and capacity references on heating and cooling equipment labels in Appendix L, references to heating and cooling products in 305.12, and a Web site address in 305.20.

[8] 77 FR 15298.

[9] 16 CFR 305.10. In addition to revising existing comparability ranges, the Commission proposed to include a new range for instantaneous electric water heaters based on data submitted by industry.

averages published by DOE.[10] To effect these changes, the NPRM proposed amendments to the applicable tables in the Rule's appendices. The Commission proposed to require manufacturers to begin using this new information within 90 days after publication of a final notice.

The Commission did not propose to alter range and cost information for EnergyGuide labels for four product categories (refrigerators, clothes washers, furnaces and central air conditioners, and televisions) given upcoming DOE regulatory changes applicable to those products.[11] Instead, it proposed to wait and synchronize changes with the impending DOE regulations. By doing so, the Commission sought to avoid several label changes in a short time period, which could confuse consumers and burden manufacturers.

Comments: Comments (*e.g.,* AHAM, AHRI, and Alliance Laundry Systems) generally supported the proposal to update the label ranges. However, the Joint Commenters, who argued generally for more frequent range and cost updates, criticized the timing of the new range updates, including the proposed delay for refrigerator and clothes washer ranges pending upcoming DOE standards and test procedure changes. In addition, AHRI and AHAM offered several small corrections and suggestions. First, AHRI submitted corrected data for the range numbers for its members, fixing its inadvertent errors in its earlier submission. AHRI also explained that the ranges should not include information for instantaneous electric water heaters because no DOE test procedure exists for these products and the labeling requirements have never applied to them. In addition, AHRI recommended revisions for the gas pool heater ranges to reflect a revised minimum efficiency standard (82% thermal efficiency), which goes into effect on April 16, 2013. Lastly, AHAM suggested a 180-day compliance period for the new ranges, instead of the proposed 90-day period. AHAM reasoned that additional time will facilitate compliance and reduce the waste of discarding previously printed labels.

Discussion: The Commission issues the final ranges as proposed, using the updated data provided by AHRI and implementing the following four, minor changes.[12] First, the final ranges do not contain numbers for instantaneous electric water heaters because these products are not currently subject to DOE test procedures. If DOE finalizes testing and certification requirements for these products in the future, the Commission will consider conforming amendments. Second, the Commission amends the ranges for gas pool heaters to reflect DOE standards that go into effect on April 16, 2013. Third, the Commission updates the average energy costs for certain product labels based on recently published DOE 2013 data.[13] In addition, the amendments maintain the proposed 90-day compliance period consistent with the Rule's current provision for such changes (16 CFR 305.10). The Commission has consistently applied this interval in the past with no apparent, undue burden and does not wish to delay the range updates further.

Finally, the Commission has sought to synchronize the new range and cost updates with other ongoing regulatory changes to avoid multiple label changes in a short time period. For example, the Commission has coupled new ranges for dishwashers, room air conditioners, and water heaters in this Notice with several label content changes (discussed in section II.B. of this Notice), which required an opportunity for comment and thus additional time to promulgate.[14] In addition, as discussed in section III, the Commission plans to issue new ranges for refrigerators and clothes washers when the new DOE standards and test procedures become effective. The Commission, therefore, is not updating ranges for those products because such revised ranges would be short-lived and based on many models that are likely to become obsolete with the arrival of the new DOE standards.[15]

B. Proposed Revisions and Updates to Label Content

In addition to the proposed range and cost updates, the NPRM proposed five minor label changes to simplify and improve the disclosures. The Commission also sought comment on the possible elimination of range information on television labels and increasing the frequency of changes to range and cost information on all EnergyGuide labels.

1. Label Content Changes

Background: Consistent with recently implemented FTC labeling requirements for light bulb and television labels,[16] the Commission proposed to round the national average electricity (*e.g.,* 12 cents per kWh) and natural gas (*e.g.,* $1.09 per therm) rates to the nearest cent to calculate the label's estimated annual operating (energy) cost. In the past, the Rule has expressed these figures as a fraction of a cent (*e.g.,* 11.85 cents per kWh). A cost figure rounded to whole cents should be more familiar to consumers and not have any negative impact on the label's utility because any differences in cost from such rounding will be very small and apply to all models.[17]

Second, also consistent with the recent television and light bulb labeling requirements, the NPRM proposed to further simplify the label's cost disclosure by eliminating reference to the year of the underlying energy cost rate (*e.g.,* ''based on a 2007 national average electricity cost of 10 cents per kWh'') (section 305.11(f)). Under the

[10] 77 FR 29940 (Apr. 26, 2012) (DOE notice for ''Representative Average Unit Costs of Energy'').

[11] For refrigerators and clothes washers, as discussed below, the Commission will update range and cost information after the upcoming implementation of revised DOE standards and test procedures, which will significantly change energy use data for those products. *See infra.* Similarly, the Commission has addressed range updates for furnace and central air conditioner labels in a separate proceeding. 78 FR 8362 (Feb. 6, 2013) (regional standards labels). Finally, for televisions, the Commission will issue revisions to the television ranges in 16 CFR 305.17 after DOE adopts a test procedure. 77 FR 2830 (Jan. 19, 2012) (proposed DOE test procedure). The Commission will also establish an annual reporting schedule for television manufacturers at that time. Since EPCA requires annual reporting based on DOE test procedures and no DOE television test procedure currently exists, the Rule currently contains no reporting requirements. *See* 42 U.S.C. 6296(b)(4) (FTC annual reporting requirements tied to DOE test procedure); 16 CFR 305.8 (FTC reporting requirements). In addition, these amendments do not affect recently revised labeling requirements for lighting products. 75 FR 41696 (July 19, 2010). The Rule has separate provisions in section 305.15 for energy cost disclosures on lighting products, which are not included in the update schedule for products labeled with the EnergyGuide under section 305.11.

[12] To aid manufacturers in transitioning to the new ranges, FTC staff plans to provide sample label template files on its Web site. *See http://business.ftc.gov/documents/energyguide-labels-template.*

[13] 78 FR 17648 (Mar. 22, 2013). The relevant DOE 2013 energy costs for labeling include 12.01 cents for electricity (rounded to 12 cents for the purposes of the FTC label); $1.087 per therm for natural gas (rounded to $1.09 per therm); $3.80 per gallon for oil; and $2.41 per gallon for propane.

[14] In the past, the Commission has issued routine range updates without seeking comments. *See, e.g.,* 70 FR 60716 (Oct. 24, 2005).

[15] 78 FR 8362 (Feb. 6, 2012). The Commission plans to address the Joint Commenters' general concerns with the current range and cost update schedule in a future notice as part of the overall regulatory review.

[16] 75 FR 41696 (July 19, 2010) (light bulbs); 76 FR 1038 (Jan. 6, 2011) (televisions).

[17] DOE's 2012 national average energy cost data lists electricity at 11.84 cents/kWh. 77 FR 24940 (Apr. 26, 2012) (DOE fuel cost update). Accordingly, the FTC proposal would require manufacturers to use 12 cents/kWh in calculating energy cost for affected labels. The 2013 DOE figure is 12.10 cents/kWh. Thus, the final rule continues to use the rounded 12 cents/kWh.

current rule, this date remains on the label for five years. For example, labels for a product introduced in 2011 state that the cost figure derives from a 2007 national average. However, because energy rates can increase or decrease from year to year, the benefit of disclosing this detail on the label does not appear significant. More importantly, this disclosure could cause confusion. For instance, the ''2007'' reference in the example above may incorrectly suggest to some consumers that the product itself was produced in 2007. To avoid these problems, the Commission proposed to eliminate the reference to the year. The label would simply read ''based on a national average electricity cost of . . . .''

Third, based on comments in the ongoing regulatory review for the Rule, the Commission proposed to include a new disclosure on room air conditioners (section 305.11(f)) explaining that the label's cost estimate stems from an assumed 750 hours of operation per year.[18] Similar estimates already appear on other labels (*e.g.,* four loads per week for dishwashers and five hours per day for televisions). This change should help consumers gauge the product's estimated energy cost in the context of their own use.

Fourth, the Commission proposed amendments to replace the term ''operating cost'' with ''energy cost'' (section 305.11(f)). Some consumers may understand the term ''operating cost'' to include factors such as detergent supplies or the product's depreciation. The inclusion of ''energy cost,'' which already appears on the labels for televisions and light bulbs, should eliminate such problems. The term also appears on new labels for televisions and light bulbs. Finally, the NPRM contained a proposed conforming change to the Web site address on the label, from *www.ftc.gov/appliances* to *www.ftc.gov/energy.*

Comments: The comments generally supported, or at least did not oppose, these changes. For room air conditioners, however, the Joint Commenters and CA IOU comments offered language different from that proposed in the NPRM. The Joint Commenters argued that the language should express usage on a weekly or monthly basis (*e.g.,* ''8 hours of use per day for 3 months'') instead of a yearly basis (*i.e.,* ''750 hours per year''). In their view, the hours-per-year disclosure covers ''too large an amount and too long a time horizon'' to help consumers determine their own costs. They also argued that it is inconsistent with usage assumptions on other energy labels that provide weekly or daily figures (*e.g.,* four loads per week for dishwashers, eight loads per week for clothes washers, five hours per day for televisions, and three hours per day for light bulbs). CA IOU further suggested that the room air conditioner label communicate usage through a table illustrating estimated operating costs at various annual time-periods (*e.g.,* 750 hours per year) as well as electricity rates. Finally, AHAM noted that, beginning June 1, 2014, DOE will require a new energy efficiency metric called ''combined energy efficiency ratio (CEER)'' for room air conditioners.[19] This metric will replace ''energy efficiency ratio (EER)'' that currently appears on the label. The CEER takes into account energy consumption in standby and off mode. Though the new metric will lead to only small changes in annual energy estimates for room air conditioners, AHAM recommended that the Commission amend the label to replace EER with CEER.

Discussion: The final amendments implement the five label content changes as generally proposed. In response to the comments, the Commission has modified the proposed room air conditioner disclosure to communicate the daily usage hours for room air conditioners during a single season rather than the total hours over the course of the year (*i.e.,* 750 hours per year). The Commission agrees that this disclosure will make it easier for consumers to gauge the model's estimated energy cost against their own use of the product. To simplify the disclosure and avoid possible confusion, the final language states that the estimated annual energy cost is based on ''a seasonal use of 8 hours use per day over a 3 month period.'' Contrary to other suggestions, however, the Commission has not included a table with multiple cost estimates at different usage rates because it would significantly complicate the label's message, likely discouraging consumer use.[20]

2. Television Range Information and Range Updates

In addition, the Commission sought comment on whether to retain range information on television labels[21] and whether to update range and cost information more frequently than every five years. The Commission will address these issues in a later notice as part of the ongoing regulatory review for this Rule.

C. Proposed Conditional Exemption for Refrigerators and Clothes Washers

Background: In response to a request from the AHAM,[22] the Commission proposed a conditional exemption and rule amendments for refrigerators and clothes washers. New DOE testing procedures for these products, issued in conjunction with new efficiency standards, will change the methods for calculating a model's energy use and, as a result, trigger substantial changes to the energy information disclosed on EnergyGuide labels. To aid consumers in their comparison-shopping during the transition period, the Commission proposed a distinct label for models tested under the new DOE procedures. To ease the burden associated with the transition to the new test procedures, the Commission also proposed to allow manufacturers to begin labeling new models using the new DOE test procedures several months before the DOE compliance dates.[23]

The DOE regulatory changes necessitating these label revisions become effective on September 15, 2014 for refrigerators and March 7, 2015 for clothes washers.[24] The new, more stringent conservation standards will render a substantial portion of existing refrigerator and clothes washer models obsolete, and the updated test procedures will yield substantially different results than the current ones. According to AHAM, the new refrigerator test procedure will increase the measured energy use of refrigerators by approximately 14%, though the increase will vary among product classes, manufacturers, and individual

[18] Joint Comments from Energy-Efficiency and Consumer Organizations (May 16, 2012) (#560957–00015) available at *http://www.ftc.gov/os/comments/energylabelamend/00015-83010.pdf.*

[19] 77 FR 22454 (April 21, 2011).

[20] Finally, the Commission notes AHAM's suggestion to change EER to CEER on the room air conditioner label, consistent with upcoming DOE changes, and will seek comments on such a modification in a future notice.

[21] 16 CFR 305.17(f).

[22] AHAM comments (July 17, 2012) (# 560957–00023) at *http://www.ftc.gov/os/comments/energylabelamend/00023-83190.pdf* and (Sept. 11, 2012) (#560957–00025) at *http://www.ftc.gov/os/comments/energylabelamend/560957-00025-84112.pdf.*

[23] The Commission issued similar modifications in 2003 for clothes washer labels in response to changes in the DOE test procedure. 68 FR 23584 (May 5, 2003).

[24] 76 FR 57516 (Sept. 15, 2011) (refrigerator standards); 77 FR 3559 (Jan. 25, 2012) (refrigerator test procedure); 77 FR 32308 (May 31, 2012) (clothes washer standards); 77 FR 13888 (Mar. 7, 2012) (clothes washer test procedure). DOE rules require compliance with the new test procedures for all refrigerators by September 15, 2014 and for all clothes washers by March 7, 2015.

models.[25] In addition, the new clothes washer test procedure bases annual energy use estimates on 295 cycles per year (approximately six per week), instead of the current 392 cycles (approximately eight per week), thus reducing stated energy costs on the EnergyGuide labels by about 25%.[26]

After manufacturers begin to test their products using the new procedures, showrooms and Web sites will contain some models tested under the old procedure and others tested under the new one. This mix of EnergyGuide labels could severely hamper product comparisons.

To help facilitate the transition to the new efficiency standards and to aid shoppers who compare products during this period, AHAM proposed two measures. First, it sought permission to use the new DOE tests for labeling models introduced prior to DOE's compliance dates. AHAM sought to begin using the new test procedures and transitional labels for models introduced after January 1, 2014 for refrigerators, and June 1, 2014 for clothes washers. Second, it recommended different, transitional EnergyGuide labels for these models, to help consumers distinguish products tested under the new procedure from those tested under the old test regime. AHAM asked that the Commission require this modified label for products tested under the new procedure until DOE makes another substantial change to the test procedure for those products.

In response, the Commission proposed to exempt manufacturers from certain EnergyGuide testing and labeling requirements for refrigerator and clothes washer models, subject to several conditions. Specifically, the Commission proposed to grant a conditional exemption from the Rule's requirement that, for purposes of the EnergyGuide label, manufacturers use the estimated annual energy consumption derived from the test procedures presently required by DOE.[27] The Commission proposed to grant this exception only to the extent necessary to allow manufacturers[28] to use the new test procedures on refrigerator (including refrigerators, refrigerator-freezers, and freezers) and clothes washer models manufactured after January 1, 2014 (for refrigerators) and June 1, 2014 (for clothes washers). The Commission also proposed several conditions for the exemption, including the version of the DOE test that must be used, label disclosures about ranges, electricity rates, usage assumptions, and a special disclosure on the label reading: ''Compare to other labels with yellow numbers. Appliances that have labels with black numbers were tested differently to estimate cost and electricity used.''

To ensure label consistency following the exemption period, the Commission also proposed to require the new labels after the new DOE test procedures become effective, by amending sections 305.5(a) and 305.11 of the Rule. Thus, the new labels would apply to all refrigerators and clothes washers distributed on, or after, the new DOE test procedure compliance dates (September 15, 2014 for refrigerators and March 7, 2015 for clothes washers). The Commission proposed to maintain this new label until DOE further amends the test procedures for these products. In addition, the Commission stated that it would issue new comparability ranges for those products once it receives product data reflecting new and existing models tested under the new DOE procedures.

Comments: The comments generally supported the creation of distinct labels for refrigerators and clothes washers tested under the new test procedure. For example, AHAM explained that, without these proposed modifications, consumers will be confused given the significant changes resulting from the test procedure modifications. In its view, the proposed labels will effectively communicate to consumers that they should not compare the old and new labels. No comments opposed the proposal.

In supporting the proposal, AHAM offered two minor recommendations. First, it suggested slightly different wording for the new label's disclosure: ''Compare only to other labels with yellow numbers. These appliances were tested according to new U.S. Government requirements.''[29] AHAM raised concerns that the proposed phrase, ''tested differently,'' is ambiguous and might leave consumers ''wondering how and why the appliances were tested differently.'' AHAM argued its proposed language will give consumers enough information to understand the label without providing too much detail, which could be confusing. AHAM also urged the Commission to provide additional information about the upcoming transition on the Commission's Web site. Finally, AHAM recommended the inclusion of a reference to Appendix B in DOE's regulations, which is the revised test procedure for freezers because these products are also covered by the exemption.

Discussion: The Commission issues the proposed conditional exemption and amends the Rule to create a distinct label for refrigerators and clothes washers tested under the new DOE procedures. The transitional labels will avoid the display of a misleading mix of test results on EnergyGuide labels. In addition, the changes will reduce burdens by allowing refrigerator and clothes washer manufacturers to roll out new high-efficiency models well before the DOE compliance date and thus avoid the logistical complications associated with designing, producing, and testing many models at the same time.[30] Early compliance will also provide an incentive for manufacturers to introduce models that meet the more stringent energy standards sooner, thus providing consumers with more high-efficiency choices.[31] The Commission will provide information on its Web site to ensure information about the new label is available to consumers. Finally, the Commission agrees that AHAM's suggested language is less confusing and adopts it with a minor modification. The final language reads: ''Compare ONLY to other labels with yellow numbers. Labels with yellow numbers are based on the same test procedures.'' The Commission has substituted the phrase ''the same test procedures'' for AHAM's suggested ''new U.S. Government requirements'' to simplify the message and because the word ''new'' may mislead or confuse consumers in the future when the

[25] AHAM comments (May 16, 2012) (#560957–0013) at *http://www.ftc.gov/os/comments/energylabelamend/00013-83038.pdf.*

[26] *See* 77 FR 13888, 13933 (Mar. 7, 2012) (DOE clothes washer test procedure). The new DOE test procedure also includes the cost of energy consumed in non-active wash modes.

[27] 16 CFR 305.5(a) and 305.11(a) (FTC testing and labeling); *see also* 10 CFR Part 430 (DOE test procedures).

[28] Consistent with the Rule's requirements, the proposed exemption applies to both manufacturers and private labelers.

[29] Alliance Laundry also supported AHAM's proposed language modifications.

[30] To facilitate the early introduction of these higher-efficiency models, DOE has announced that manufacturers may certify these models with DOE using the new test procedures, thus relieving them from having to test new models under both the old and new test procedures during the transition period. On June 29, 2012, DOE issued guidance permitting early compliance with new or amended test procedures and standards. *See http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/tp_faq_2012-06-29.pdf.* Thus, in DOE's view, manufacturers may begin using the new test procedures before the dates specified for compliance by DOE.

[31] AHAM also requested guidance on whether manufacturers must change model numbers for products during the DOE transition period. Unless the manufacturer modifies the model in a way that affects its energy performance, the Commission does not recommend changing model numbers during the transition.

revised test procedures will no longer be new.

The Commission grants manufacturers an exemption allowing them to use the results of DOE's new procedures and provide those results on EnergyGuide labels several months before the DOE compliance date for the new procedures.[32] The Commission grants this exemption only to the extent necessary to allow manufacturers [33] to use the new test procedures on new or existing refrigerator models (including refrigerators, refrigerator-freezers, and freezers) manufactured after January 1, 2014 and clothes washer models manufactured after June 1, 2014. If a manufacturer continues to use the current (*i.e.,* older) test results for a particular model until the new test procedures become mandatory on September 15, 2014 (for refrigerators) and March 7, 2015 (for clothes washers), the manufacturer must use the current label for that model. Manufacturers remain obligated to comply with all other Rule requirements. The Commission grants this exemption on the following additional conditions:

(1) For models manufacturers choose to test and label under the exemption, manufacturers must follow the new DOE test procedures in 10 CFR Part 430, Subpart B, Appendix A (refrigerators), Appendix B (freezers), and Appendix J2 (clothes washers) to determine the energy use figures printed on EnergyGuide labels; [34]

(2) For all such models, manufacturers must use EnergyGuide labels, as illustrated in Sample Labels 1A and 2A in Appendix L, with the energy cost and electricity use figures in yellow text framed by block boxes and containing the statement ''Compare ONLY to other labels with yellow numbers. Labels with yellow numbers are based on the same test procedures.''

(3) For all such models, manufacturers must print the estimated energy cost on the label above the center of the comparability range, and the following statement must appear directly below the range: ''Cost Range Not Available,'' as illustrated in Sample Labels 1A and 2A of this Notice; [35]

(4) For all such models, the label must state that the estimated energy cost is based on a national average electricity cost of 12 cents per kWh and, for clothes washers, $1.09 per therm; [36] and

(5) For all such clothes washer models, the label must state that the estimated energy cost is based on six wash loads per week and, as discussed below, must provide capacity in cubic feet.[37]

To ensure consistency following the exemption period, the Commission also amends the Rule at sections 305.5(a) and 305.11 to require these new labels after the test procedure transition. Thus, the new labels apply to all refrigerators and clothes washers manufactured on, or after, the DOE new test procedure compliance dates (September 15, 2014 for refrigerators and March 7, 2015 for clothes washers). These new labels, which clearly differentiate the procedures used to test each product, will prevent the consumer confusion that would result if a single label included information derived from different test procedures. The Commission plans to maintain this new label until DOE further amends the test procedures. In addition, after the Commission receives product data reflecting new and existing models tested under the new DOE procedures, it intends to issue new comparability ranges for those products.

D. Additional Refrigerator and Clothes Washer Issues

In its NPRM, the Commission also discussed three issues related to refrigerators and clothes washers raised in response to the regulatory review notice: (1) Changes to refrigerator range categories; (2) disclosures for refrigerator models with optional icemakers; and (3) capacity information for clothes washers.

1. Refrigerator Comparability Range Categories

Background: The current rule organizes refrigerator comparability ranges by product configuration (*e.g.,* models with top-mounted freezers) in Appendices A1–A8. These categories allow consumers to compare the energy use of similarly configured products. The requirements designate eight separate range categories for refrigerators and three for freezers. Similarly, the current rule contains three separate range categories for stand-alone freezer configurations in Appendices B1–B3.[38] These ranges disclose the energy costs associated with the most and least efficient models in a particular category. Specifically, for automatic-defrost refrigerator freezers, which typically populate the bulk of showroom floors, the Rule contains five categories (or styles): side-by-side door models with and without through-the-door ice service (Appendices A5 and A8); top-mounted freezer models with and without through-the-door ice service (A4 and A7); and bottom-mounted freezer models (A6). The Rule also has ranges for less common models, including those with manual and partial defrost models (A1 and A2), and refrigerator-only models (A1).[39]

In response to last year's regulatory review notice, several energy-efficiency and consumer groups urged the Commission to consolidate the comparability ranges into a single range covering all configurations.[40] They reasoned one range would allow consumers to compare a product's energy performance against all other models. AHAM opposed this approach, arguing that consolidation would cast fully-featured products that use more energy in an unfavorable light. AHAM also pointed to data suggesting that consumers usually replace their existing refrigerators with similarly configured models. AHAM acknowledged, however, that it had no detailed information directly addressing whether consumers shop with a specific configuration in mind. It concluded that, without clear data on consumer shopping habits, the Commission should refrain from changing the current ranges.[41]

In the January 9, 2013 NPRM,[42] the Commission did not propose to alter the refrigerator ranges, stating a reluctance to alter existing requirements without

[32] The Rule directs manufacturers to use the results of current DOE test procedures on their labels. 16 CFR 305.5(a) and 305.11(a) (FTC testing and labeling); *see also* 10 CFR Part 430 (DOE test procedures).

[33] Consistent with the Rule's requirements, the proposed exemption applies to both manufacturers and private labelers.

[34] Manufacturers also may use the new test procedures for labeling existing products during this period, but must follow all conditions of this exemption in doing so.

[35] The Commission will publish range information for the new labels once energy data becomes available for refrigerators and clothes washers tested under the new procedure, most likely in 2015.

[36] New range and cost updates, as well as minor label changes discussed in section II.B. (*i.e.,* fuel rates to the nearest cent and the use of ''energy cost'' instead of ''operating cost''), are not required for refrigerator and clothes washer labels until the new DOE test procedure compliance dates (September 15, 2014 for refrigerators and March 7, 2015 for clothes washers).

[37] The new DOE test procedure changes the estimated weekly clothes washer cycles from eight to six. 77 FR 13888 (DOE clothes washer test procedure). Manufacturers must disclose the new usage assumption (six cycles per week) on labels for models tested under the new procedure.

[38] 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.

[39] *See* 16 CFR Part 305, Appendices A and B.

[40] Joint Comments from Energy-Efficiency and Consumer Organizations (May 16, 2012) (#560957–00015) available at *http://www.ftc.gov/os/comments/energylabelamend/00015-83010.pdf.*

[41] AHAM comments (Sept. 11, 2012) (# 560957–00025) available at *http://www.ftc.gov/os/comments/energylabelamend/560957-00025-84112.pdf.*

[42] 78 FR 1785.

providing further opportunity for comment and in the absence of information about consumer buying habits. After DOE's new standards for refrigerators become effective in late 2014, the Commission indicated it would examine new range data and consider whether to propose changes to the range categories.

Comments: In response to the January 2013 NPRM, several commenters provided views about the organization of refrigerator range categories. AHAM maintained that the Commission should not change the current requirements without supporting data on consumer shopping habits. In contrast, the Joint Commenters urged the Commission to consolidate the ranges, citing data from Consumer Reports and AHAM suggesting that consumers do not limit their shopping comparisons to similarly-configured models. The Joint Commenters also submitted the results of an email survey to Earthjustice members demonstrating a strong preference for the consolidation of the comparison categories. The Joint Commenters also submitted more than 2,000 letters from Earthjustice members urging the Commission to consolidate these ranges. CA IOU also called on the Commission to change the label, but suggested the inclusion of two comparison ranges, one to compare similarly configured models and another to compare all models, regardless of configuration.

Discussion: The final rule does not change the refrigerator ranges. The Commission plans to update the ranges after DOE standards and test procedure become effective in 2014. Until that time, there will be no range information for the models tested under the new procedure, regardless of which category or subcategory apply. Once it receives new data, the Commission will examine the new data to determine whether the elimination of subcategories makes a practical difference in the ranges. In the meantime, the Commission will also consider the commenter views and, if appropriate, propose changes to the refrigerator range structure in a future notice.

2. ''Icemaker Ready'' Refrigerator-Freezer Models

Background: Currently, refrigerator labels do not reflect icemaker energy consumption because the current DOE test procedure does not measure a model's icemaker operation. The new DOE procedures, however, will account for icemakers. Therefore, the new labels will include icemaker energy consumption.[43] The new DOE testing rules divide relevant products into two categories (*i.e.,* units with pre-installed icemakers and units without). Each category will have its own EnergyGuide labels reflecting different tests. In light of this change, AHAM has raised concerns about so-called ''kitable'' models (*i.e.,* models that can be fitted with an icemaker before or after purchase).[44] In earlier comments, AHAM suggested that all ''kitable'' refrigerator labels should disclose the energy use of the model shipped without the optional icemaker to avoid overstating energy costs for models that may never have an icemaker. In addition, AHAM suggested additional label language to inform retailers and consumers that the addition of an icemaker will increase the model's energy costs.

In the NPRM, the Commission agreed that AHAM's proposal merited consideration, but noted that DOE plans to reexamine the treatment of these models under its test procedure, a reexamination that might provide guidance that addresses AHAM's concerns.[45] Accordingly, the Commission announced it would not impose additional testing-related disclosures for these products until DOE completed its deliberations.

Comments: In response to the NPRM, AHAM continued to urge the Commission to provide guidance on labeling ''icemaker ready'' models given impending DOE test procedure changes impacting these products. Clarifying its earlier comments, AHAM explained that manufacturers only consider a model ''kitable'' or ''icemaker ready'' if it leaves the factory without the icemaker. In addition, once the model leaves the manufacturer's control, distributors, retailers, or other entities may add an icemaker, which, in some cases, might be made by a third party. According to AHAM, manufacturers assign ''kitable'' models with one model number.

AHAM explained that the new 2014 refrigerator-freezer DOE test procedure will account for icemaker energy via a uniform ''adder'' of 84 kWh per year for all models with icemakers.[46] According to AHAM, DOE is considering changes to the test procedure to include specific measurements for icemaker energy use, an effort which may lead to further changes to the standards in a few years.[47]

Pending further modifications to the DOE test procedure, AHAM asked the Commission to provide labeling requirements to address the icemaker energy of these products. In particular, AHAM recommended that the Commission require a single label on ''kitable'' models disclosing the product's energy use without the icemaker. AHAM reasoned that, because such models do not include icemakers when they leave the factory, and may never receive one, the inclusion of icemaker energy would be inaccurate in many cases. To address the possibility that these units may later receive an icemaker, AHAM also proposed the following label statement: ''With an icemaker, estimated yearly electricity use is estimated to increase by 84 kWh/year, which adds $9 to the estimated yearly operating cost.'' Such an approach, in AHAM's view, will provide an easily applied and enforceable bright line rule. It also provides consumers with clear and accurate information about the refrigerator, whether it eventually includes an icemaker, or not.

Discussion: The Commission will consider ways to address icemaker energy use after DOE provides additional guidance on this issue or changes its testing rules. As indicated in an attachment to its comments, AHAM has requested additional guidance from DOE on its testing and certification requirements for ''kitable'' models in anticipation of the new testing rules scheduled for 2014. Although it may be possible for the Commission to impose labeling requirements before such guidance is issued, it is reluctant to do so, given the evolving understanding of these issues by AHAM, DOE, and the FTC. The Commission will continue to monitor guidance from DOE and, if necessary, address this issue either through rulemaking or staff guidance.[48]

At this time, the Commission agrees with AHAM that a generic label statement disclosing icemaker energy costs for ''kitable'' models may be appropriate. However, the Commission

[43] 16 CFR 305.5 (FTC testing rules); 10 CFR Part 430, Subpart B, Appendix A (DOE refrigerator tests).

[44] AHAM comments (May 16, 2012, and October 31, 2012) at *http://www.ftc.gov/os/comments/energylabelamend/00013-83038.pdf.*

[45] 77 FR 3559, 3569 (DOE notice on refrigerator testing requirements effective Sept. 15, 2014).

[46] The 2014 testing rules, according to AHAM, also require manufacturers to certify icemaker-ready refrigerator-freezers as two separate models (*i.e.,* with an icemaker and without an icemaker) because a consumer may purchase either version. *See* 76 FR 57516.

[47] AHAM predicted that these future DOE test and standards changes will provide an opportunity for FTC to return to the current EnergyGuide label design for these products.

[48] If DOE does not issue additional information on this issue in the near future, the Commission understands that some manufacturers may need guidance to label some models manufactured as early as January 2014.

does not necessarily agree that the label's primary disclosure (i.e., estimated yearly energy cost) should exclude icemaker energy, as AHAM recommends. This exclusion could underestimate energy cost for many consumers, particularly if many units will eventually include an icemaker. Therefore, absent data demonstrating that most units never include an icemaker, the better approach arguably may be to include icemaker energy in the primary disclosure and explain elsewhere on the label that an icemaker-free unit will reduce the unit's energy cost.

3. Clothes Washer Capacity

Background: Last year, the Commission proposed to require specific capacity information in cubic feet on EnergyGuide labels for clothes washers.[49] AHAM opposed the proposal, citing potential burdens to manufacturers in specifying capacity for each individual model. In the NPRM, the Commission sought additional comments, but also noted that DOE data for clothes washers suggests that the proposed change would only require new labels for a small fraction of models.[50]

Current EnergyGuide labels indicate whether the model is ''standard'' or ''compact,'' but do not specify volume (*e.g.,* 3.5 cubic feet). In the current market, most models fall into the broad ''standard'' size class (*i.e.,* models with tub capacities greater than 1.6 cubic feet), but actual capacity varies significantly. Thus, the general capacity disclosure provides little assistance to consumers in distinguishing washer size. A specific capacity disclosure should help consumers make product comparisons, and complement recent DOE and industry efforts to ensure uniformity in capacity disclosures.[51]

Comments: In response to the NPRM, AHAM continued to oppose the inclusion of specific capacity information on EnergyGuide labels for clothes washer labels, including those subject to the proposed conditional exemption.[52] AHAM argued that the Commission has failed to point to any data showing that consumers find existing capacity information insufficient. It also noted that capacity information is available from other sources.[53] Accordingly, AHAM argued that the Commission should not add this new requirement.

Other commenters disagreed. One industry member, Alliance Laundry Systems, supported the inclusion of specific capacity information explaining the disclosure is consistent with DOE requirements, and avoids possible confusion by retailers or consumers.[54] Similarly, the Joint Commenters continued to support the FTC's proposal to require specific capacity rather than just ''standard'' or ''compact,'' noting that capacity may be helpful to consumers comparing the operating costs of different models because capacity is directly proportional to estimated annual operating costs.[55]

Discussion: The final rule requires the inclusion of capacity on clothes washer labels. In response to AHAM's comment, the final amendments use the term ''tub volume'' in addition to ''capacity.'' [56] This disclosure must appear on units labeled under the conditional exemption in 2014 and on all clothes washer labels for units manufactured on or after March 7, 2015. Specific capacity (*i.e.,* volume) information, which also appears on EnergyGuide labels for several other product types, will allow consumers to easily to compare the size and energy cost of competing models. Industry members have used different methods for capacity disclosures in the past.[57] A consistent disclosure based on a consistent DOE-mandated procedure will help avoid such problems in the future and thus will benefit consumers. In addition, because manufacturers already generate volume information from the DOE test procedure, the disclosure should impose little burden when manufacturers update the clothes washer labels. Accordingly, these considerations provide a reasonable basis to conclude that capacity information on the clothes washer labels is appropriate for the EnergyGuide label.

IV. 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 February 29, 2016 (OMB Control No. 3084 0069). The amendments do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

V. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Energy Labeling Rule. As explained in detail elsewhere in this document, the proposed exemption and amendments do not significantly change the substance or frequency of the recordkeeping, disclosure, or reporting requirements. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

Rule Language

List of Subjects in 16 CFR Part 305

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

[49] 77 FR 15302 (proposing to amend 16 CFR 305.7(g) to include clothes washer capacity on the label).

[50] *See* DOE clothes washer data at *https://www.regulations.doe.gov/ccms/.*

[51] *See* 75 FR 57556, 57575 (Sept. 21, 2010) (DOE clothes washer notice) and *http://www.aham.org/ht/a/GetDocumentAction/i/51727.*

[52] AHAM objected to the original proposal, arguing that it will greatly increase the number of labels manufacturers have to produce because some manufacturers use a single label for multiple, differently-sized models that have the same energy use rating. In the NPRM, the Commission noted that, based on existing DOE data for clothes washer models, the number of these models would likely be small. *See* 78 FR 1784–85.

[53] AHAM noted that, although FTC and DOE regulations used the term ''capacity,'' ''volume'' provides a better description of the washer drum's cubic foot measurement. The term ''capacity,'' as AHAM typically uses it, refers to the quantity of clothes that can be effectively washed and rinsed in a single load.

[54] Alliance also noted that its own cost for including this information on labels is ''minimal to non-existent.'' However, Alliance noted that some manufacturers may need to create unique labels for models that had been grouped together in the past for labeling purposes.

[55] In earlier comments, PG&E supported the specific capacity disclosure proposed in the regulatory review notice, suggesting it might ''prompt consumers to think more critically about the utility of different sized washers, and also [their] associated energy and water requirements.'' Pacific Gas and Electric Company (PG&E) comments (May 15, 2012) (#00009) at *http://www.ftc.gov/os/comments/energylabelamend/00009-82974.pdf.*

[56] The final label also clarifies that the terms ''standard'' and ''compact'' refer to the product's capacity class, not its specific capacity (*e.g.,* 2.8 cubic feet).

[57] *See* 75 FR 15298, 15302 (Mar. 15, 2012) (discussing industry efforts to harmonize capacity disclosures).

For the reasons set out above, the Commission amends 16 CFR Part 305 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 § 305.7, revise paragraph (g) to read as follows:

§ 305.7 Determinations of capacity.

* * * * *

(g) *Clothes washers.* The capacity shall be the tub capacity as determined according to Department of Energy test procedures in 10 CFR Part 430, subpart B, in the terms ''standard'' or ''compact'' as defined in appendix J1 to 10 CFR Part 430. For models manufactured after March 7, 2015, the capacity shall be the tub capacity as determined according to Department of Energy test procedures in 10 CFR Part 430, subpart B, expressed in terms of ''Capacity (tub volume)'' in cubic feet, rounded to the nearest one-tenth of a cubic foot, and the capacity class designations ''standard'' or ''compact.''

* * * * *

■ 3. In § 305.10, revise paragraphs (a) and (b) to read as follows:

§ 305.10 Ranges of comparability on the required labels.

(a) *Range of estimated annual energy costs or energy efficiency ratings.* The range of estimated annual operating costs or energy efficiency ratings for each covered product (except fluorescent lamp ballasts, metal halide lamp fixtures, lamps, showerheads, faucets, water closets, urinals, ceiling fans, or televisions) shall be taken from the appropriate appendix to this part in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges in the **Federal Register** in 2017. When the ranges are revised, all information disseminated after 90 days following the publication of the revision shall conform to the revised ranges. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) *Representative average unit energy cost.* The Representative Average Unit Energy Cost figures to be used on labels as required by § 305.11 are listed in appendix K to this part, except the electricity and gas cost to be used on labels for refrigerators, refrigerator-freezers, and freezers distributed before September 15, 2014, and labels for clothes washers distributed before March 7, 2015, shall be 10.65 cents per kWh and 1.218 dollars per therm. The Commission shall publish revised Representative Average Unit Energy Cost figures in the **Federal Register** in 2017. When the cost figures are revised, all information disseminated after 90 days following the publication of the revision shall conform to the new cost figure.

* * * * *

■ 4. In § 305.11, revise paragraphs (f)(5) through (9) and redesignate paragraphs (f)(11) and (12) as paragraphs (f)(10) and (11) respectively.

The revisions read as follows:

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

* * * * *

(f) * * *

(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. For refrigerators, refrigerator freezers, and freezers manufactured before September 15, 2014, and clothes washers manufactured before March 7, 2015, annual operating costs shall be determined using the energy cost figures of 10.65 cents for electricity and $1.218 for natural gas.

(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. For refrigerators, refrigerator-freezers, and freezers manufactured on or after September 15, 2014, and clothes washers manufactured on or after March 7, 2015, the range information shall match the text and graphics in sample labels 1A and 2A of Appendix L.

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

Your costs will depend on your utility rates and use.

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

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

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

(ii) For refrigerators, refrigerator-freezers, and freezers manufactured on or after September 15, 2014 and clothes washers manufactured after March 7, 2015, the label shall contain the text and graphics illustrated in sample labels 1A and 2A 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, refrigerator-freezers, and 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) 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.*

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

Your costs will depend on your utility rates and use.

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

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

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

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

Your costs will depend on your utility rates and use.

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

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

(vii) 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.

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

(viii) For clothes washers manufactured before March 7, 2015 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 8 washloads a week and a national average electricity cost of ____ cents per kWh and natural gas cost of $____ per therm.

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

(ix) For clothes washers manufactured after March 7, 2015, the label shall contain the text and graphics illustrated in sample labels 1A and 2A 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.

(x) 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.*

* * * * *

■ 5. In § 305.12, revise paragraphs (i)(11)(iii), (i)(12)(iii), and (i)(13) to read as follows:

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

* * * * *

(i) * * *

(11) * * *

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

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

(12) * * *

(iii) For split-system air conditioner systems, a statement that reads:

Energy Efficiency Ratio (EER): could range from [__] to [__], depending on the coil installed with this unit.

(13) For any single-package air conditioner with an EER below 11.0, the label must contain the following regional standards information consistent with sample label 7B 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 in appendix L.

(iii) A statement that reads:

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

* * * * *

■ 6. In § 305.17, revise paragraphs (a), (b), (f)(6), and (f)(8)(ii) to read as follows:

§ 305.17 Television labeling.

(a) *Layout.* All energy labels for televisions shall use one of three shapes: a vertical rectangle, a horizontal rectangle, and a triangle as detailed in Prototype Labels in appendix L. All label size, positioning, spacing, type sizes, positioning of headline, copy, and line widths must be consistent with the prototype and sample labels in appendix L. The minimum label size for the vertical rectangle label is 1.5″×5.5″. The minimum size for the horizontal rectangle label is 1.5″×5.23″. The minimum size for the triangle label is 4.5″×4.5″ (right angle sides).

(b) *Type style and setting.* The Arial series typeface or equivalent shall be

used exclusively on the label. Prototype Labels in appendix L contain specific directions for type style and setting and indicate the specific sizes, leading, faces, positioning, and spacing to be used. No hyphenations should be used in setting headline or copy text.

* * * * *

(f) * * *

(6) Placement of the labeled product on the scale proportionate to the lowest and highest estimated annual energy costs as illustrated in Prototype and Sample Labels in appendix L. When the estimated annual energy cost of a given television 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.

* * * * *

(8) * * *

(ii) The manufacturer may include the ENERGY STAR logo on the label as illustrated in Sample Labels in appendix L. The logo must be 0.375″ wide. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency covering the televisions to be labeled may add the ENERGY STAR logo to those labels.

* * * * *

§ 305.20 [Amended]

■ 7. Amend § 305.20 as follows:

A. In paragraph (a)(5), remove the phrase ''For more information, visit *www.ftc.gov/energy.*'' and add in its place ''For more information, visit *productinfo.energy.gov.*''

B. In paragraph (g)(1), remove the phrase ''Sample Icon 13'' and add in its place ''the sample icon''.

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

Appendix C1 to Part 305—Compact Dishwashers

Range Information

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

Capacity	Range of estimated annual energy costs (dollars/year)	
	Low	High
Compact	$18	$27

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

Appendix C2 to Part 305—Standard Dishwashers

Range Information

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

Capacity	Range of estimated annual energy costs (dollars/year)	
	Low	High
Standard	$21	$41

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

Appendix D1 to Part 305—Water Heaters—Gas

RANGE INFORMATION

Capacity	Range of estimated annual energy costs (dollars/year)			
First hour rating	Natural gas ($/year)		Propane ($/year)	
	Low	High	Low	High
Less than 21	*	*	*	*
21 to 24	*	*	*	*
25 to 29	*	*	*	*
30 to 34	*	*	*	*
35 to 40	*	*	*	*
41 to 47	*	*	*	*
48 to 55	$253	$271	$628	$673
56 to 64	257	271	637	670
65 to 74	228	275	565	696
75 to 86	228	275	565	682
87 to 99	228	275	565	746
100 to 114	228	302	565	746
115 to 131	228	332	590	824
Over 131	235	332	582	824

* No data submitted.

Appendix D2 to Part 305—Water Heaters—Electric

RANGE INFORMATION

Capacity: First hour rating	Range of estimated annual energy (dollars/year): Low	High
Less than 21	$567	$567
21 to 24	*	*
25 to 29	567	567
30 to 34	567	573
35 to 40	560	573
41 to 47	554	599
48 to 55	554	599
56 to 64	554	586
65 to 74	554	599
75 to 86	554	613
87 to 99	567	620
100 to 114	579	651
115 to 131	613	635
Over 131	*	*

RANGE INFORMATION—Continued

* No data submitted.

Appendix D3 to Part 305—Water Heaters—Oil

RANGE INFORMATION

Capacity: First hour rating	Range of estimated annual energy costs (dollars/year): Low	High
Less than 65	*	*
65 to 74	*	*
75 to 86	*	*
87 to 99	*	*
100 to 114	$684	$760
115 to 131	760	804
Over 131	604	746

* No data submitted.

Appendix D4 to Part 305—Water Heaters—Instantaneous—Gas

RANGE INFORMATION

Capacity: Capacity (maximum flow rate); gallons per minute (gpm)	Range of estimated annual energy costs (dollars/year): Natural Gas ($/year): Low	Natural Gas ($/year): High	Propane ($/year): Low	Propane ($/year): High
Under 1.00	*	*	*	*
1.00 to 2.00	*	*	*	*
2.01 to 3.00	$192	$237	$465	$574
Over 3.00	170	204	408	494

* No data submitted.

Appendix D5 to Part 305—Water Heaters—Heat Pump

RANGE INFORMATION

Capacity: First hour rating	Range of estimated annual energy costs (dollars/year): Low	High
Less than 21	*	*
21 to 24	*	*
25 to 29	*	*
30 to 34	*	*
35 to 40	*	*
41 to 47	$268	$268
48 to 55	*	*
56 to 64	224	275
65 to 74	220	264
75 to 86	226	226
87 to 99	*	*
100 to 114	*	*
115 to 131	*	*
Over 131	*	*

* No data submitted.

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

Appendix E to Part 305—Room Air Conditioners

RANGE INFORMATION

Manufacturer's rated cooling capacity in Btu's/hr	Range of estimated annual energy costs (dollars/year): Low	High
Without Reverse Cycle and with Louvered Sides:		
Less than 6,000 Btu	$42	$48
6,000 to 7,999 Btu	50	72
8,000 to 13,999 Btu	66	115
14,000 to 19,999 Btu	117	195
20,000 and more Btu	169	382
Without Reverse Cycle and without Louvered Sides:		
Less than 6,000 Btu	*	*
6,000 to 7,999 Btu	56	72
8,000 to 13,999 Btu	73	138
14,000 to 19,999 Btu	140	166
20,000 and more Btu	*	*
With Reverse Cycle and with Louvered Sides	71	225
With Reverse Cycle, without Louvered Sides	89	126

RANGE INFORMATION—Continued

* No data submitted.

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

Appendix J1 to Part 305—Pool Heaters—Gas

RANGE INFORMATION

Manufacturer's rated heating capacity	Range of thermal efficiencies (percent)			
	Natural gas		Propane	
	Low	High	Low	High
All capacities	82.0	95.0	82.0	95.0

Appendix J2 to Part 305—Pool Heaters—Oil

RANGE INFORMATION

Manufacturer's rated heating capacity	Range of thermal efficiencies (percent)	
	Low	High
All capacities	*	*

* No data submitted.

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

Appendix K to Part 305—Representative Average Unit Energy Costs

This Table contains the representative unit energy costs that must be utilized to calculate estimated annual energy cost disclosures required under sections 305.11 and 305.20. This Table is based on information published by the U.S. Department of Energy in 2013. Unless otherwise indicated by the Commission, this table will be revised in 2017.

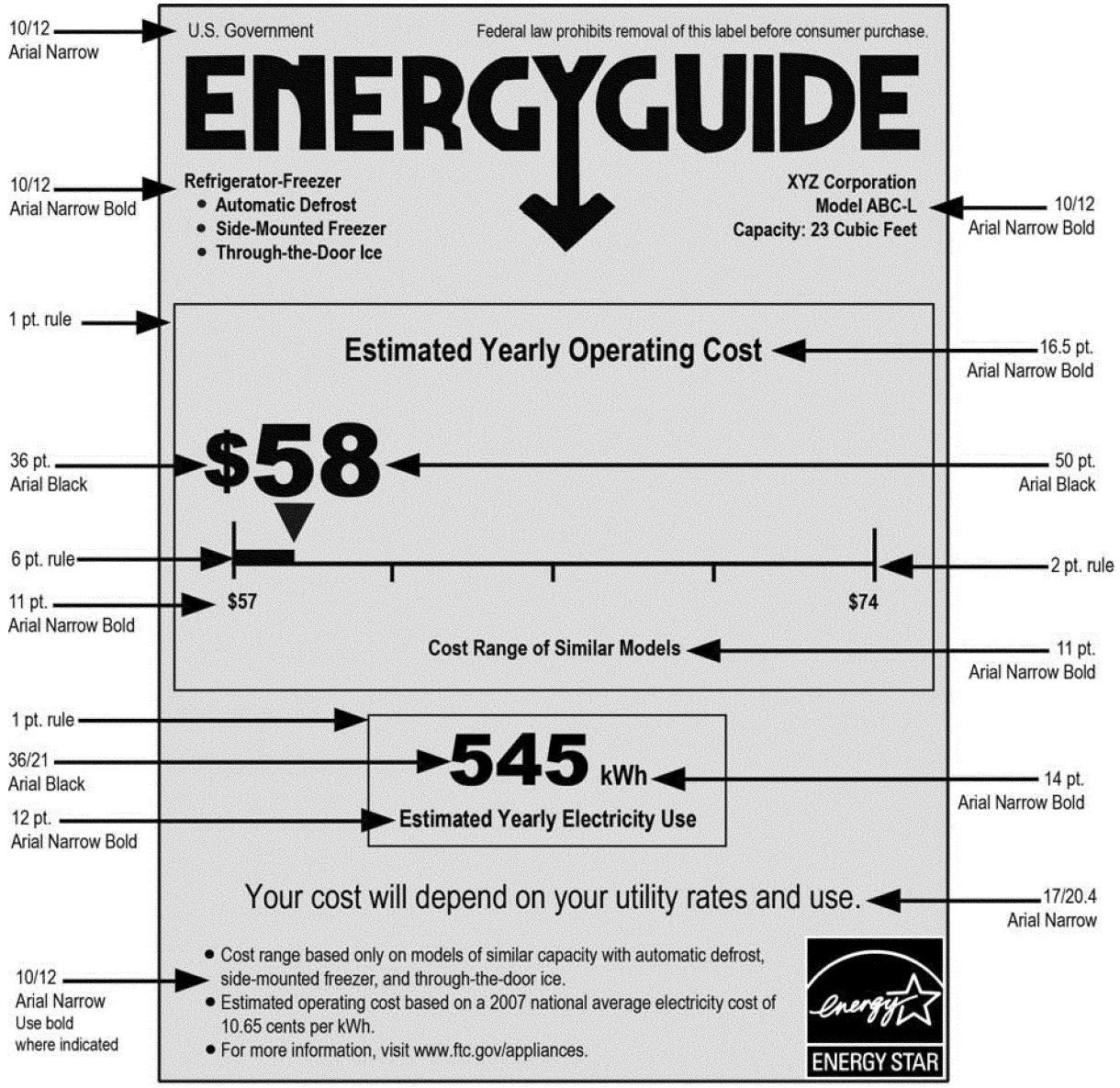
UNIT COSTS OF ENERGY FOR USE ON ENERGYGUIDE LABELS REQUIRED BY SECTION 305.11

Type of energy	In commonly used terms (used for EnergyGuide label)	As required by DOE test procedure	Dollars per million Btu [1]
Electricity	12.00¢/kWh [2, 3]	$.12/kWh	$35.46
Natural Gas	$1.09/therm [4]	0.0000109/Btu	10.87
	$11.12/MCF [5, 6].		
No. 2 heating oil	$3.80/gallon [7]	0.00002740/Btu	27.40
Propane	$2.41/gallon [8]	0.00002639/Btu	26.39
Kerosene	$4.21/gallon [9]	0.00003119/Btu	31.19

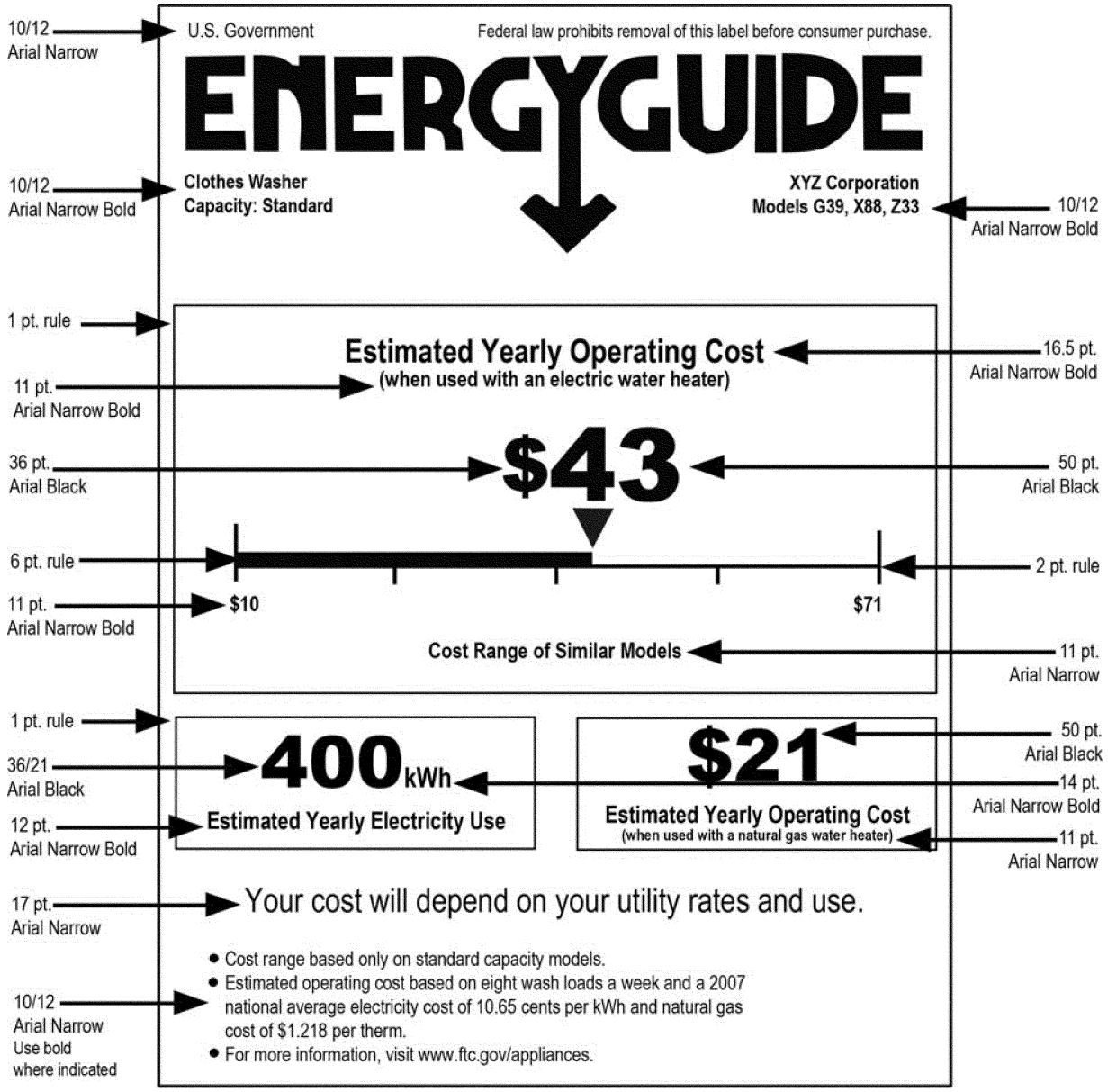
[1] Btu stands for British thermal unit.
[2] kWh stands for kiloWatt hour.
[3] 1 kWh = 3,412 Btu.
[4] 1 therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,023 Btu.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

■ 14. In Appendix L, revise Prototype Labels 1, 2, and 3, and revise all Sample Labels to read as follows:

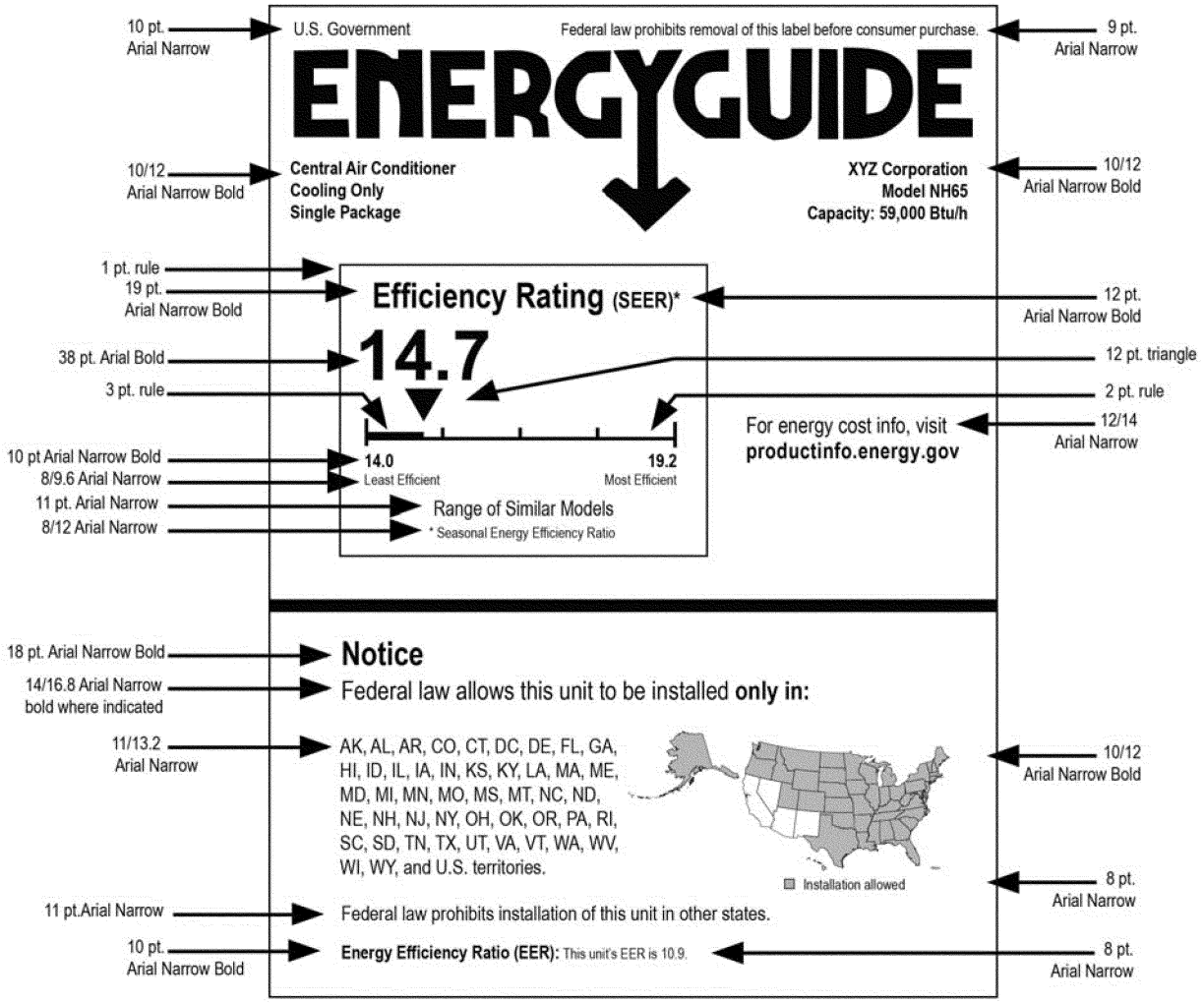
BILLING CODE 6750–01–P



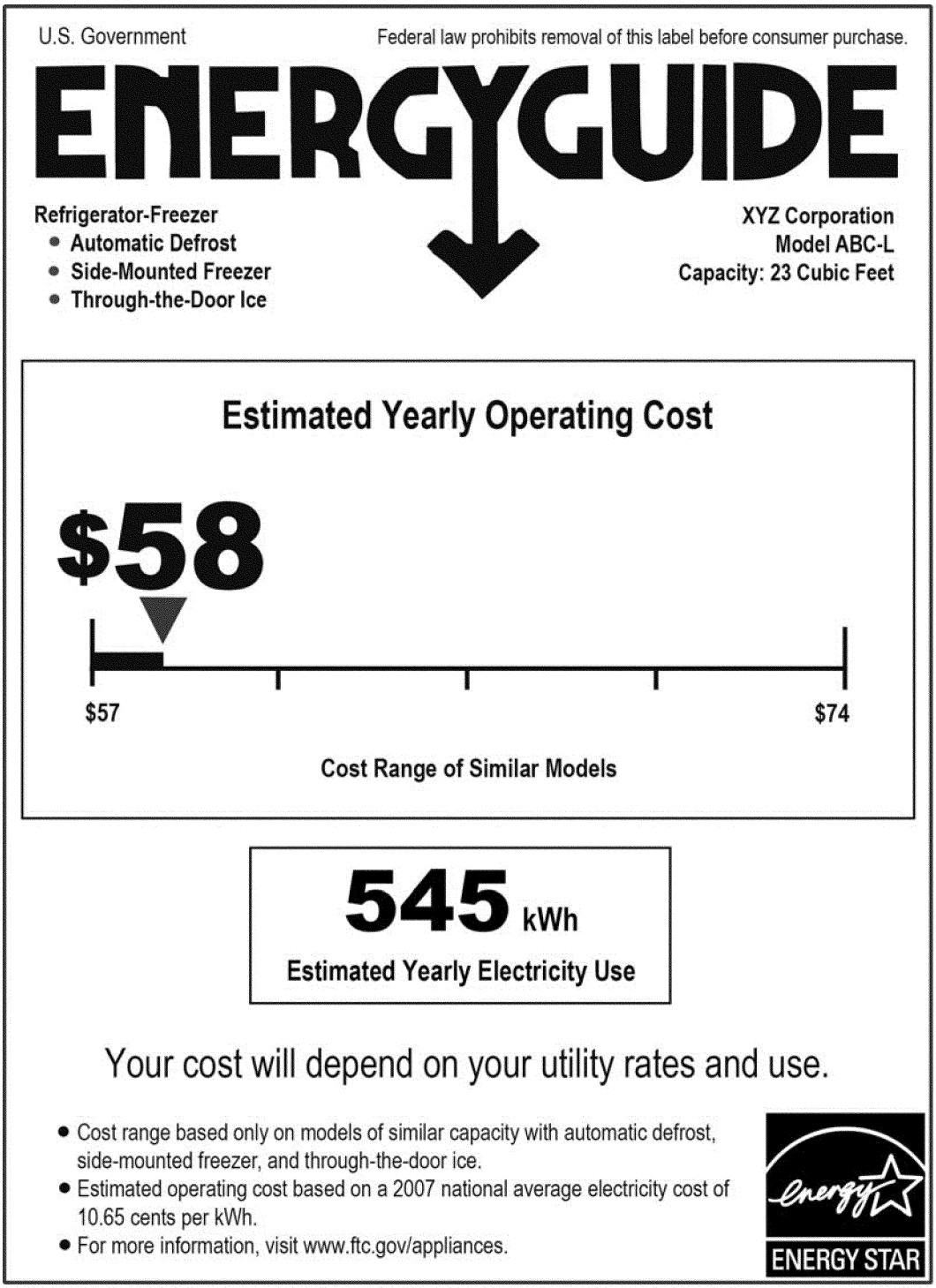
Prototype Label 1 – For Refrigerator-Freezers Manufactured before September 15, 2014



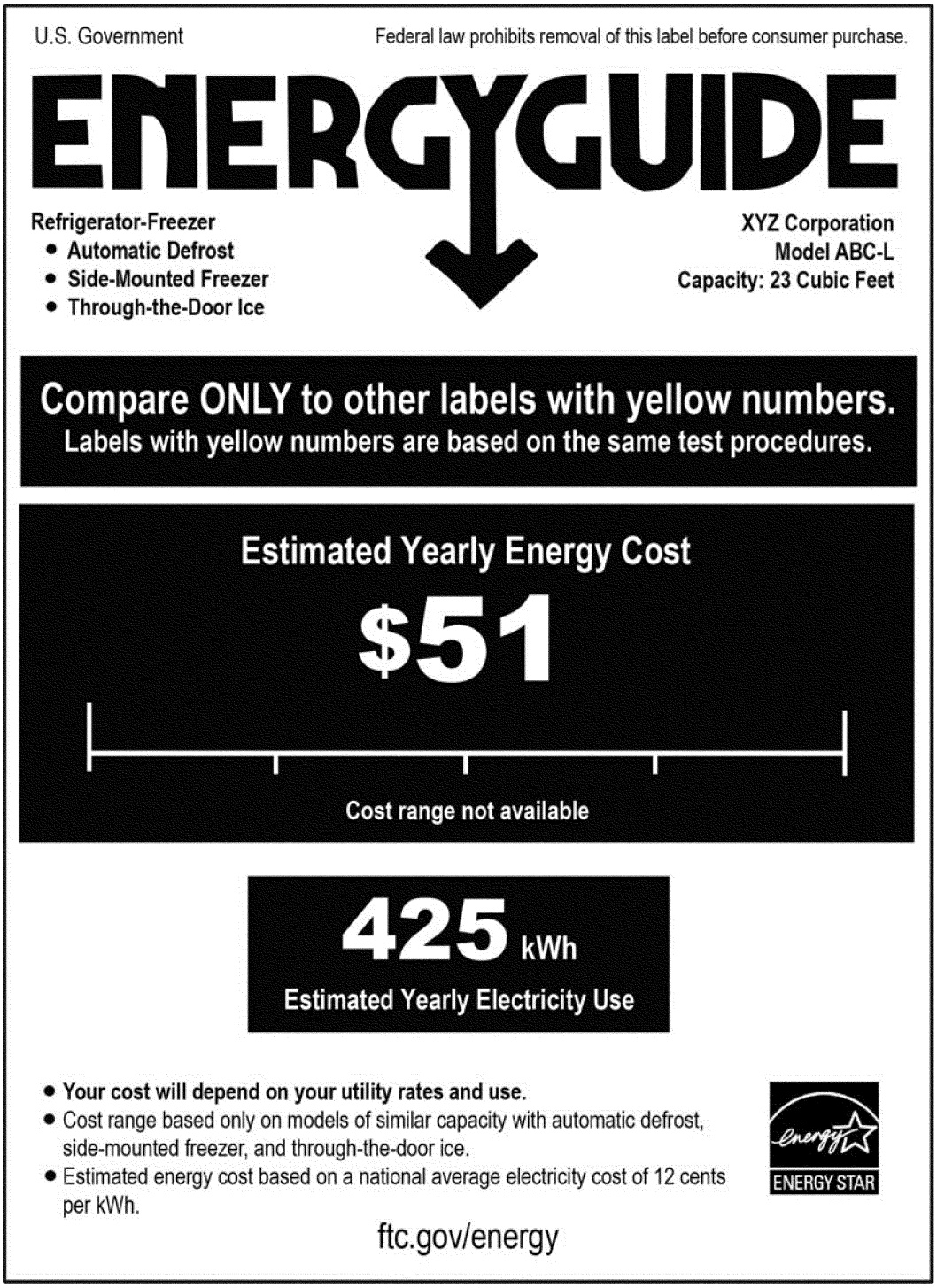
Prototype Label 2 – For Clothes Washers Manufactured before March 7, 2015



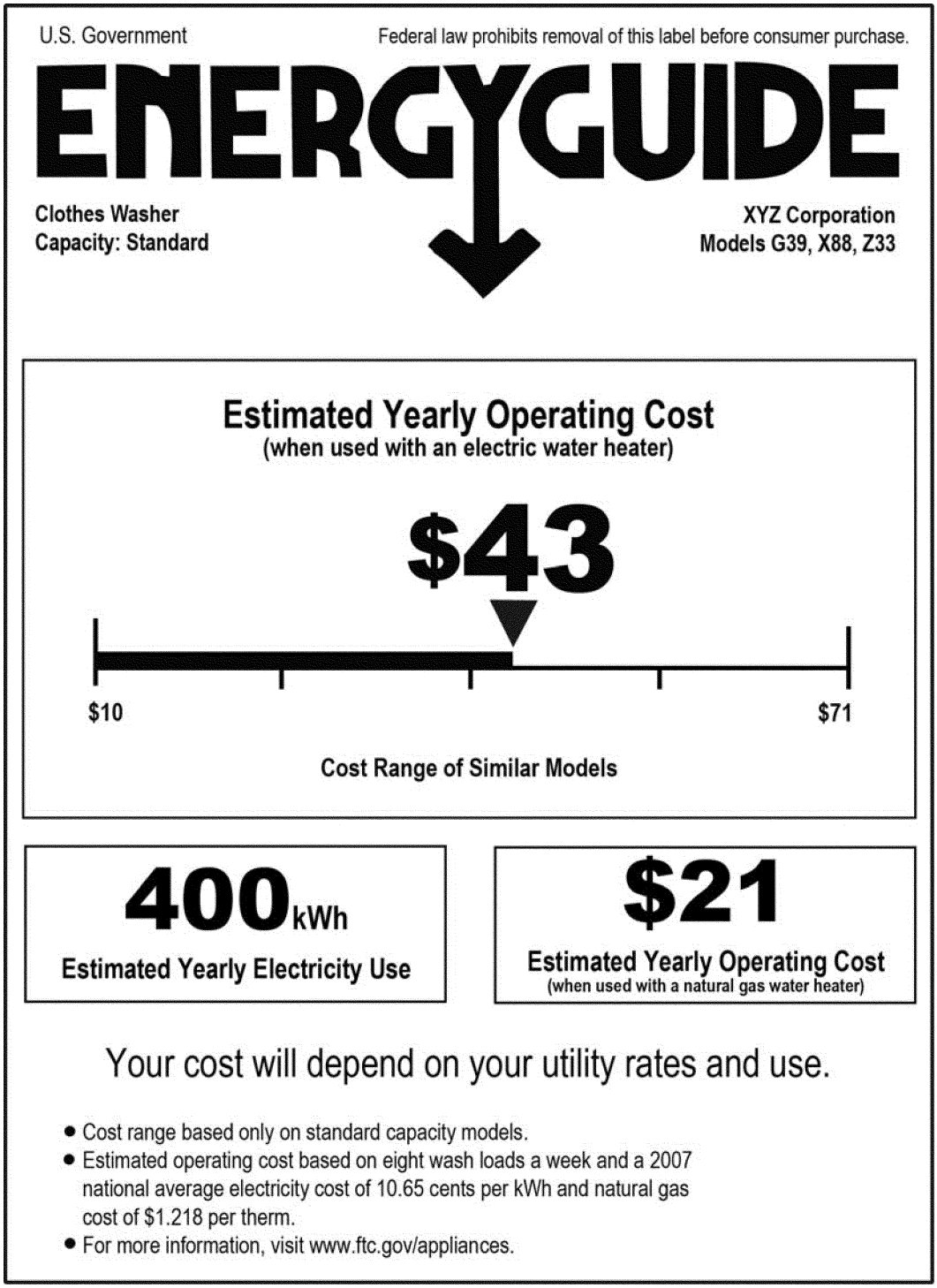
Prototype Label 3 - Single-Package Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



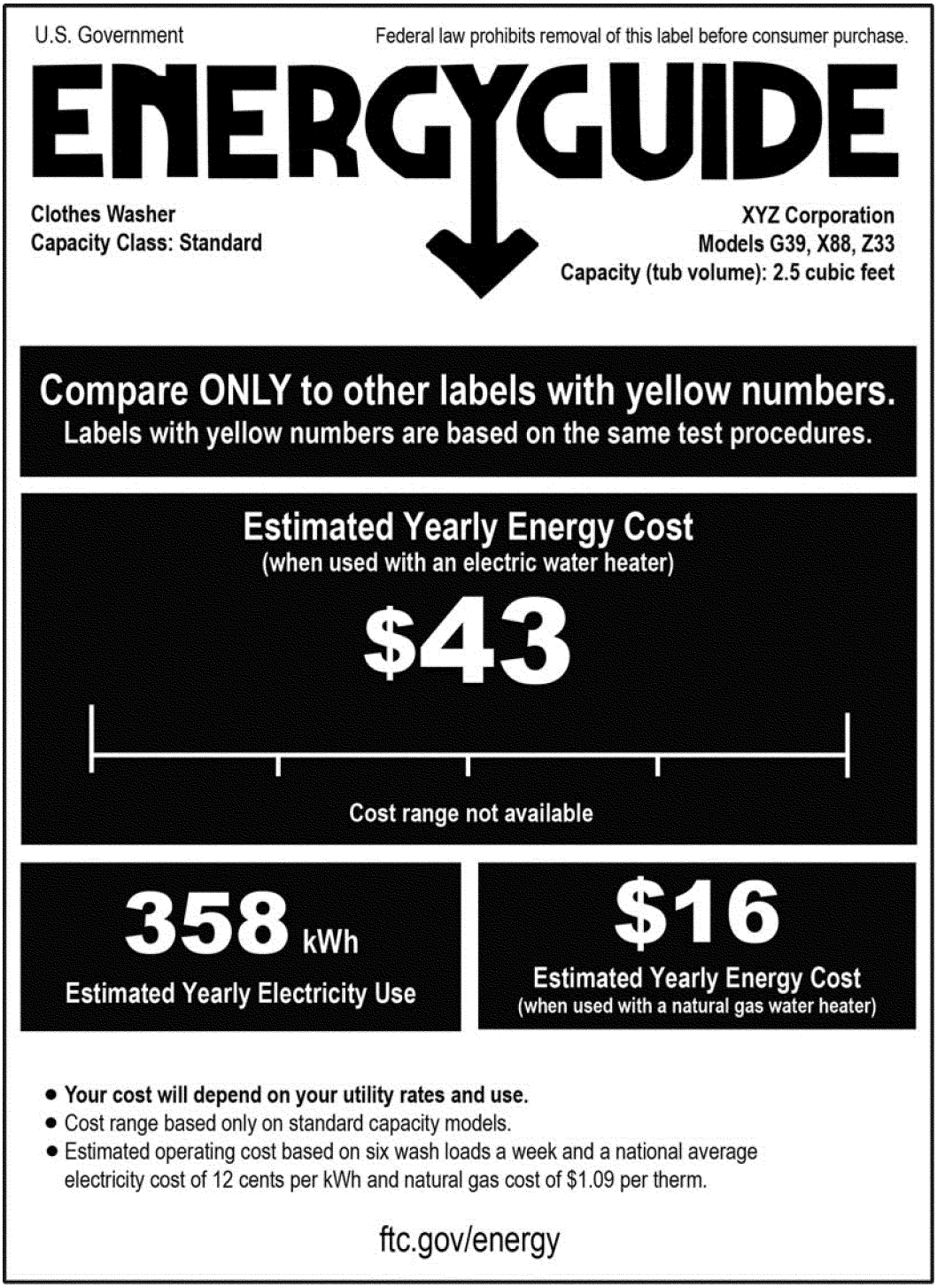
Sample Label 1 – For Refrigerator-Freezers Manufactured before September 15, 2014



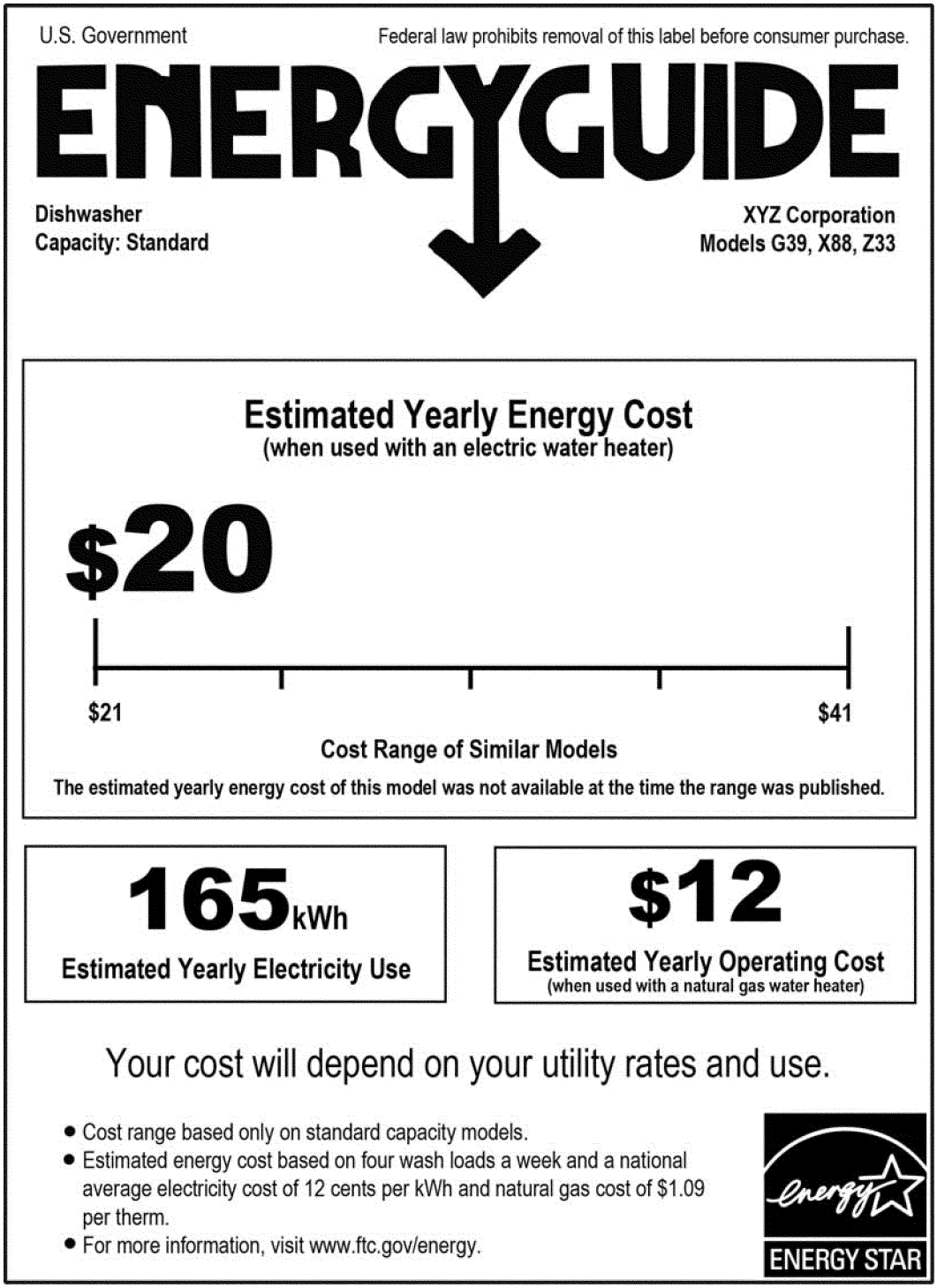
Sample Label 1A – For Refrigerator-Freezers Manufactured on or after September 15, 2014



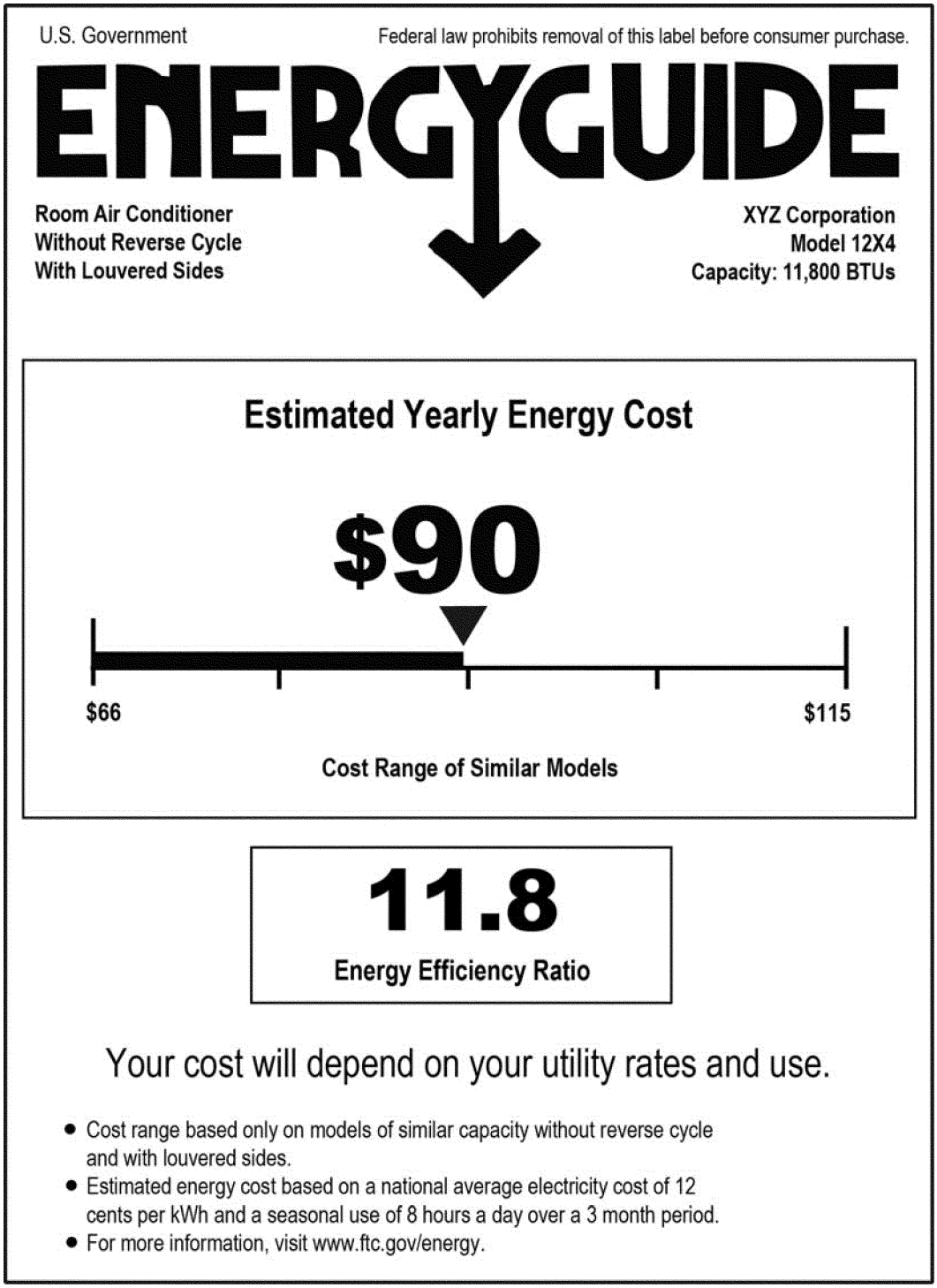
Sample Label 2 – For Clothes Washers Manufactured before March 7, 2015



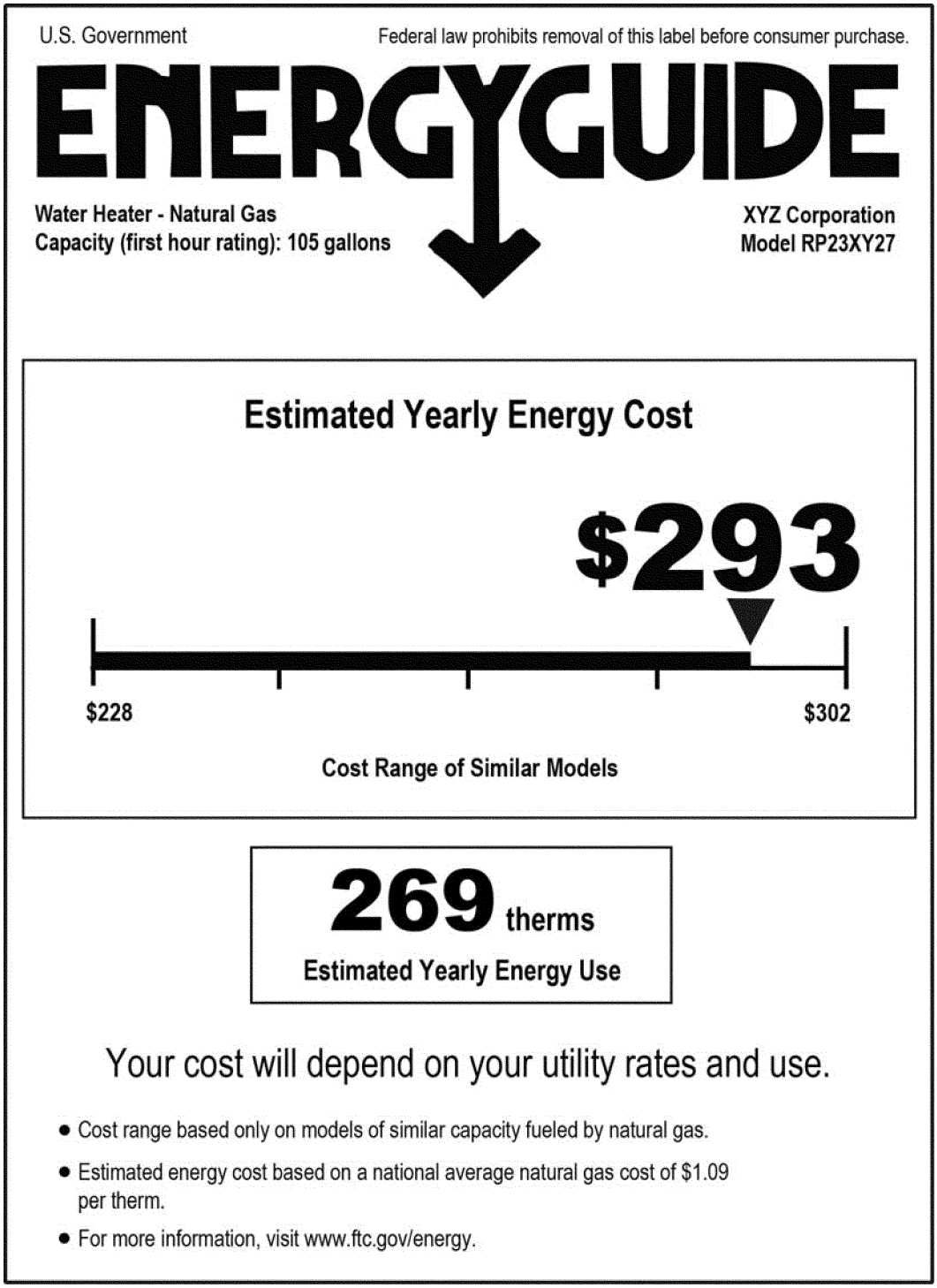
Sample Label 2A – For Clothes Washers Manufactured on or after March 7, 2015



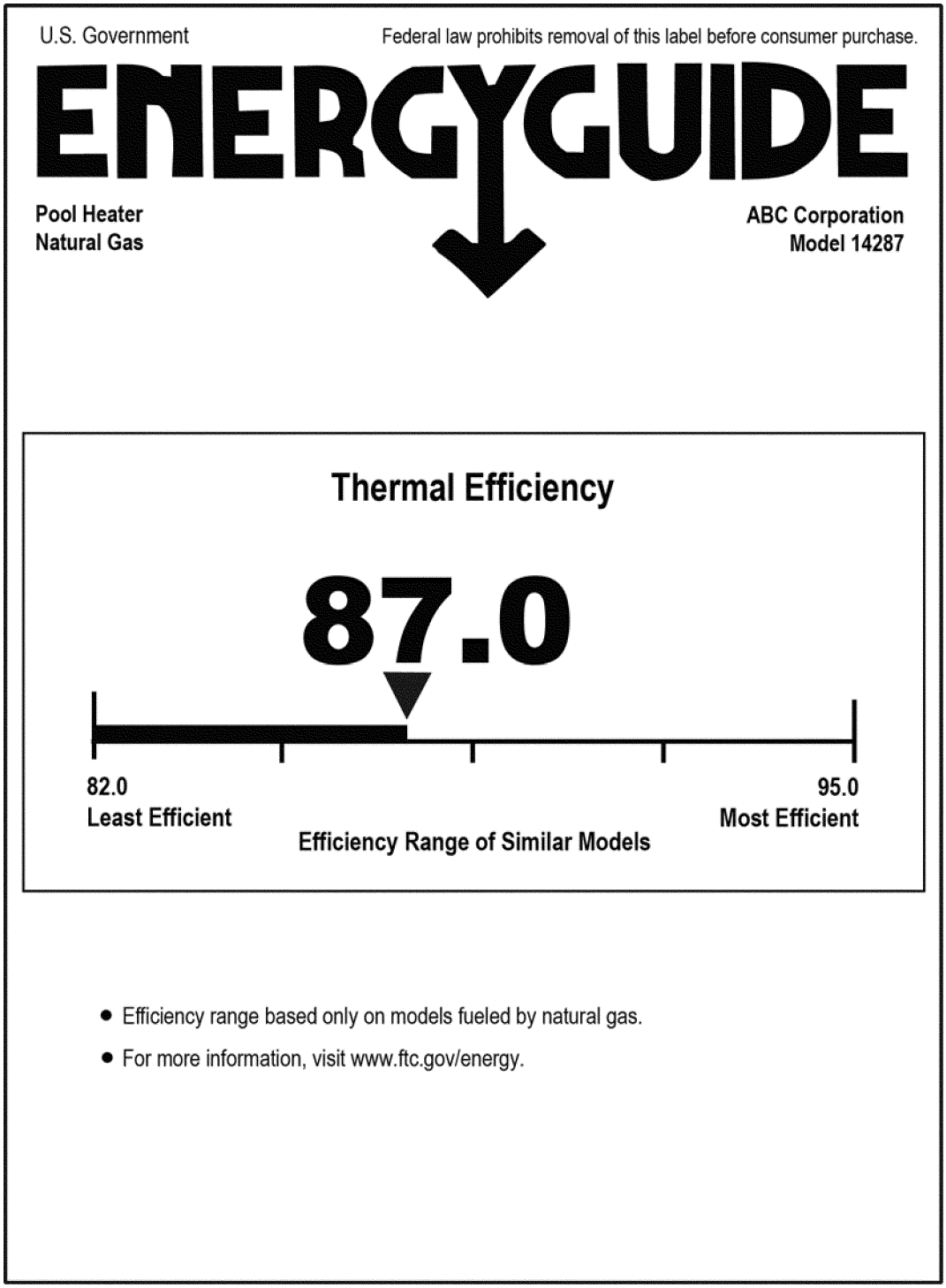
Sample Label 3 - Dishwasher



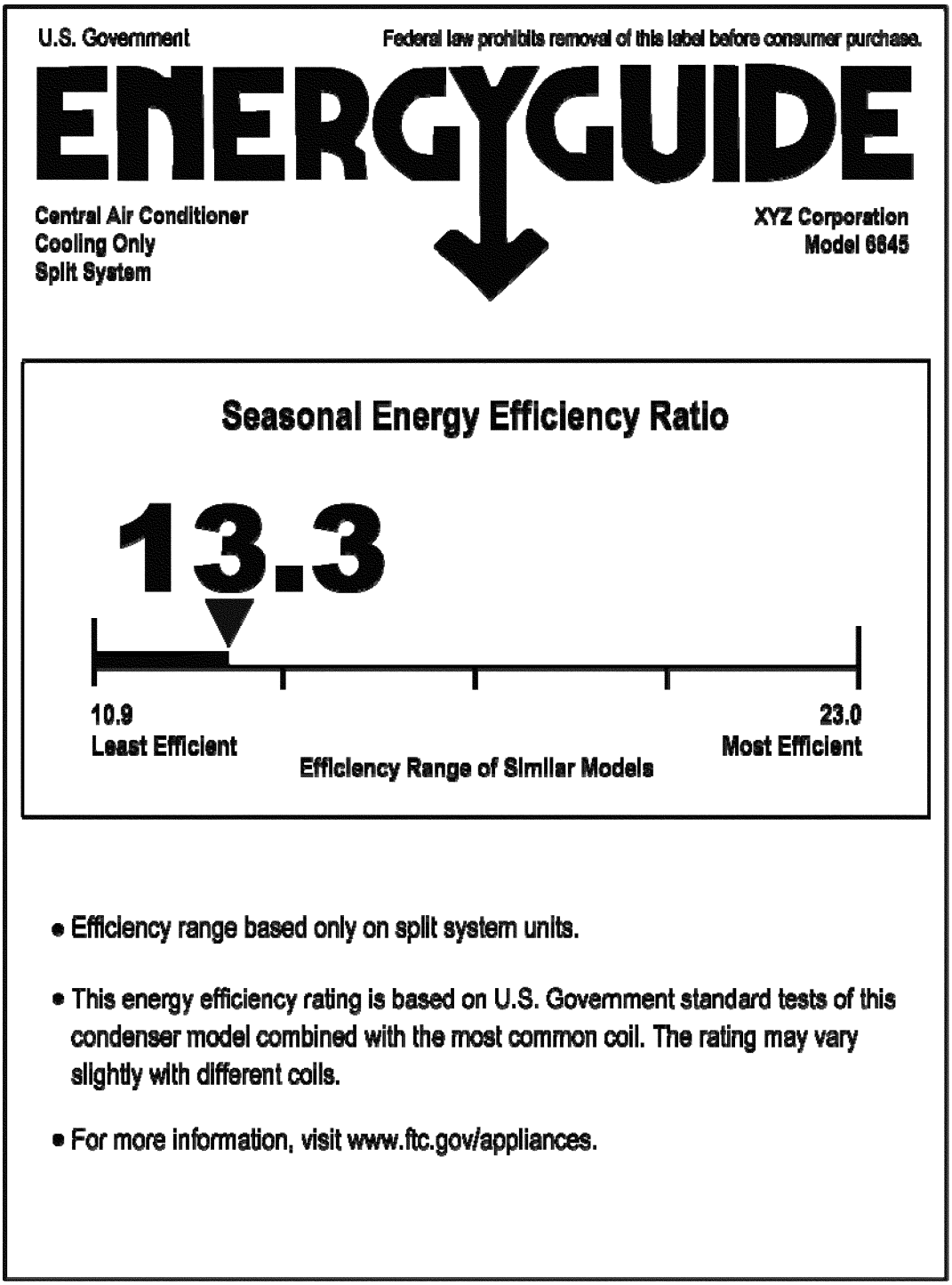
Sample Label 4 - Room Air Conditioner



Sample Label 5 - Water Heater



Sample Label 6 - Pool Heater



Sample Label 7 - Split-system Central Air Conditioner (models manufactured before the compliance date of DOE regional efficiency standards in 10 CFR part 430)

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Central Air Conditioner
Cooling Only
Split System

XYZ Corporation
Model HC47
Capacity 57,000 Btu/h

Efficiency Rating (SEER)*

13.0-14.2

13.0 Least Efficient — **24.5** Most Efficient

Range of Similar Models

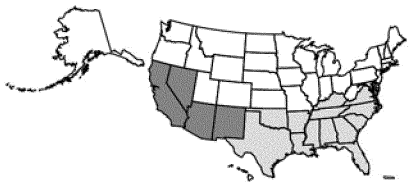
* Seasonal Energy Efficiency Ratio

This system's efficiency rating depends on the coil your contractor installs with this unit. Ask for details.

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

Notice

The installed system must meet minimum federal regional efficiency standards.
See **productinfo.energy.gov** for certified coil combinations.



North 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

Southeast AL, AR, DC, DE, FL, GA, HI, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA, U.S. Territories

Southwest AZ, CA, NM, NV

Minimum Standards

	North	Southeast	Southwest
SEER	13	14	14
EER†			12.2
EER††			11.7

† Units with rated capacity of less than 45,000 btu/h
†† Units with rated capacity equal to or greater than 45,000 btu/h

Energy Efficiency Ratio (EER): could range from 11.4 to 12.5, depending on the coil installed with this unit

Sample Label 7A - Split-system Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Central Air Conditioner
Cooling Only
Single Package

XYZ Corporation
Model NH65
Capacity: 59,000 Btu/h

Efficiency Rating (SEER)*

14.7

14.0 Least Efficient

19.2 Most Efficient

Range of Similar Models

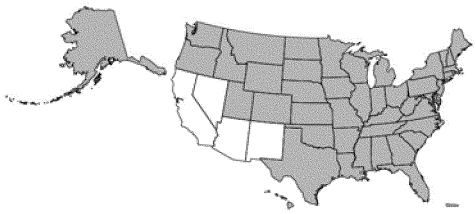
* Seasonal Energy Efficiency Ratio

For energy cost info, visit
productinfo.energy.gov

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.

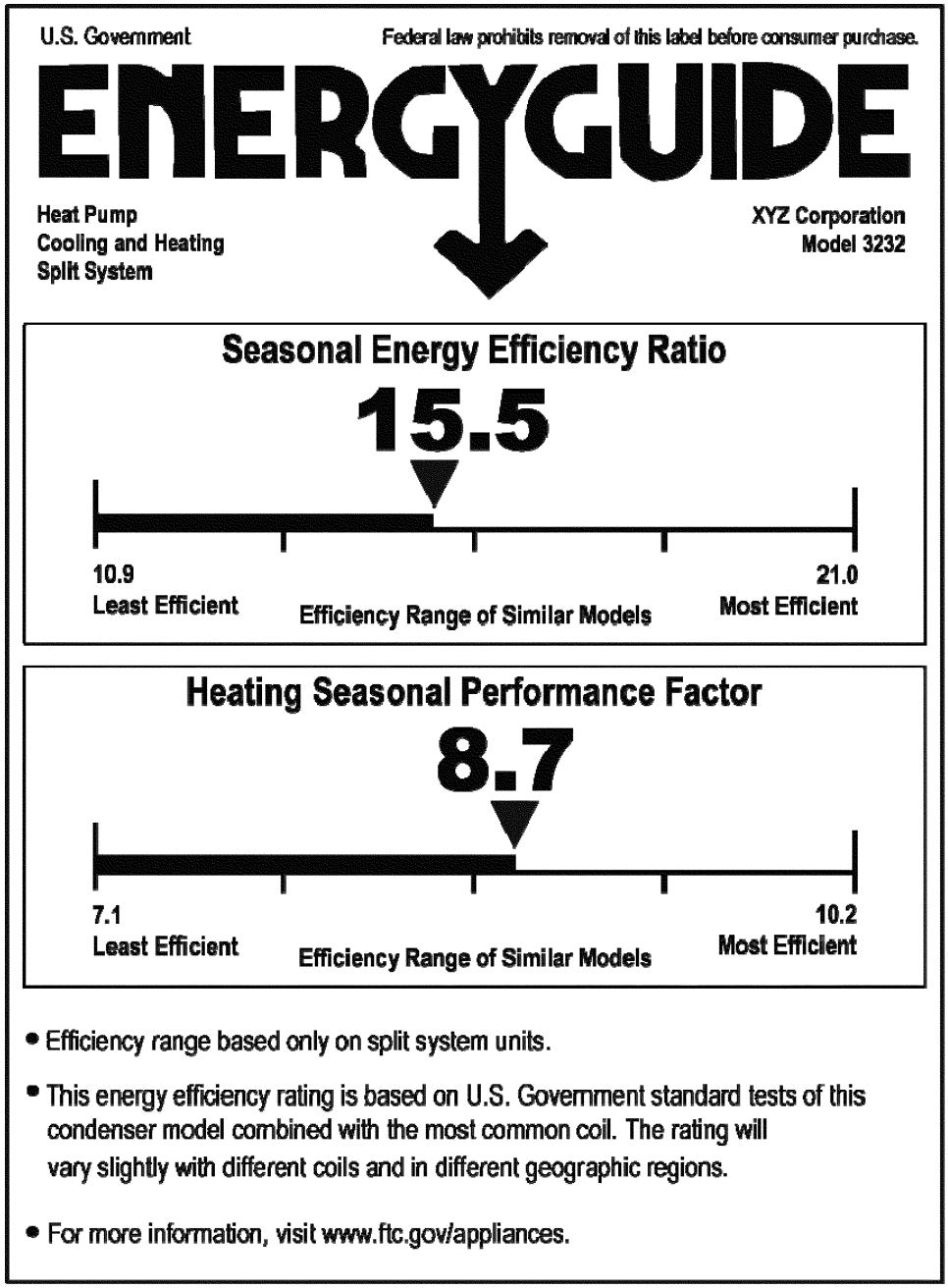


Installation allowed

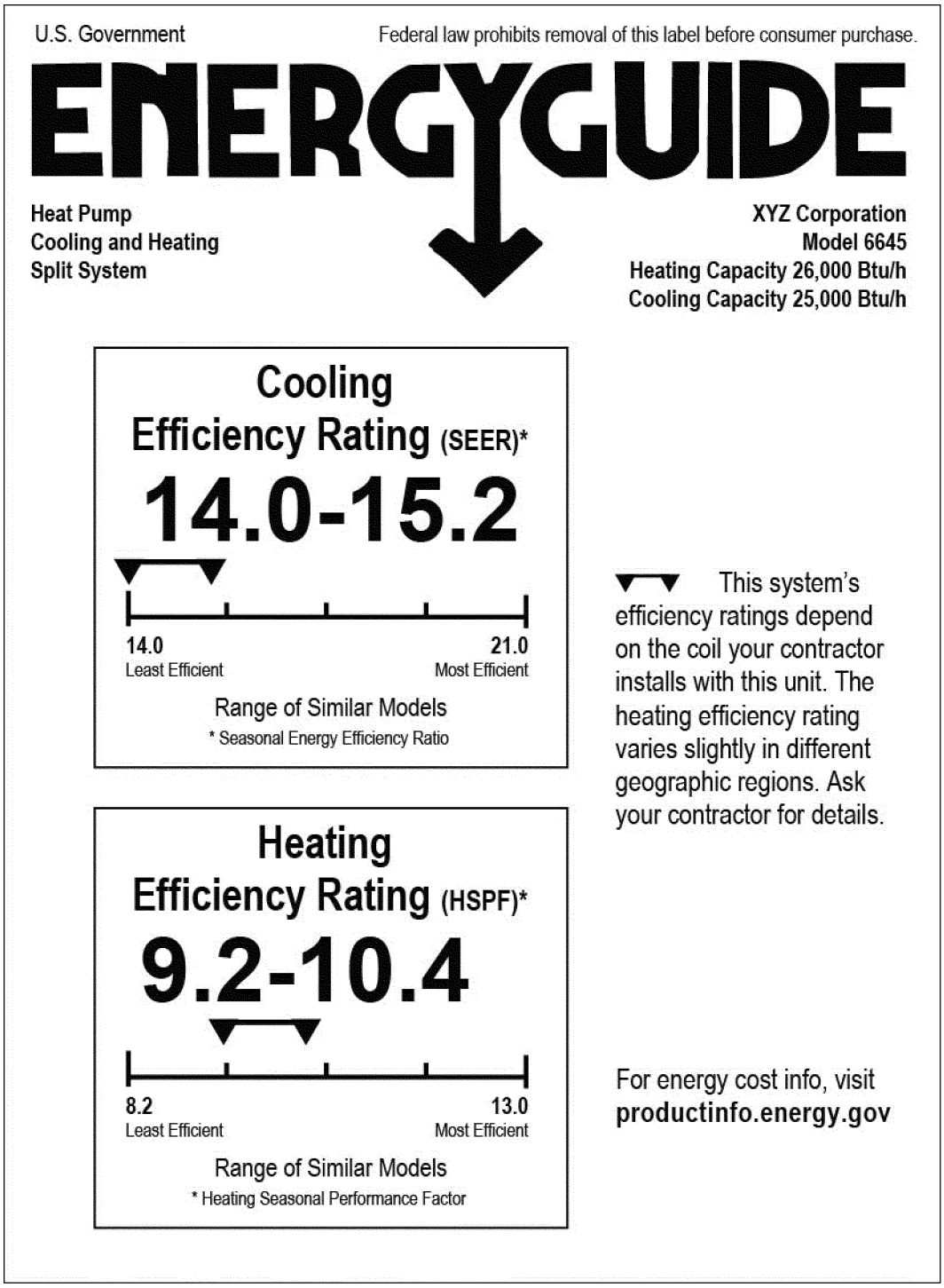
Federal law prohibits installation of this unit in other states.

Energy Efficiency Ratio (EER): This unit's EER is 10.9.

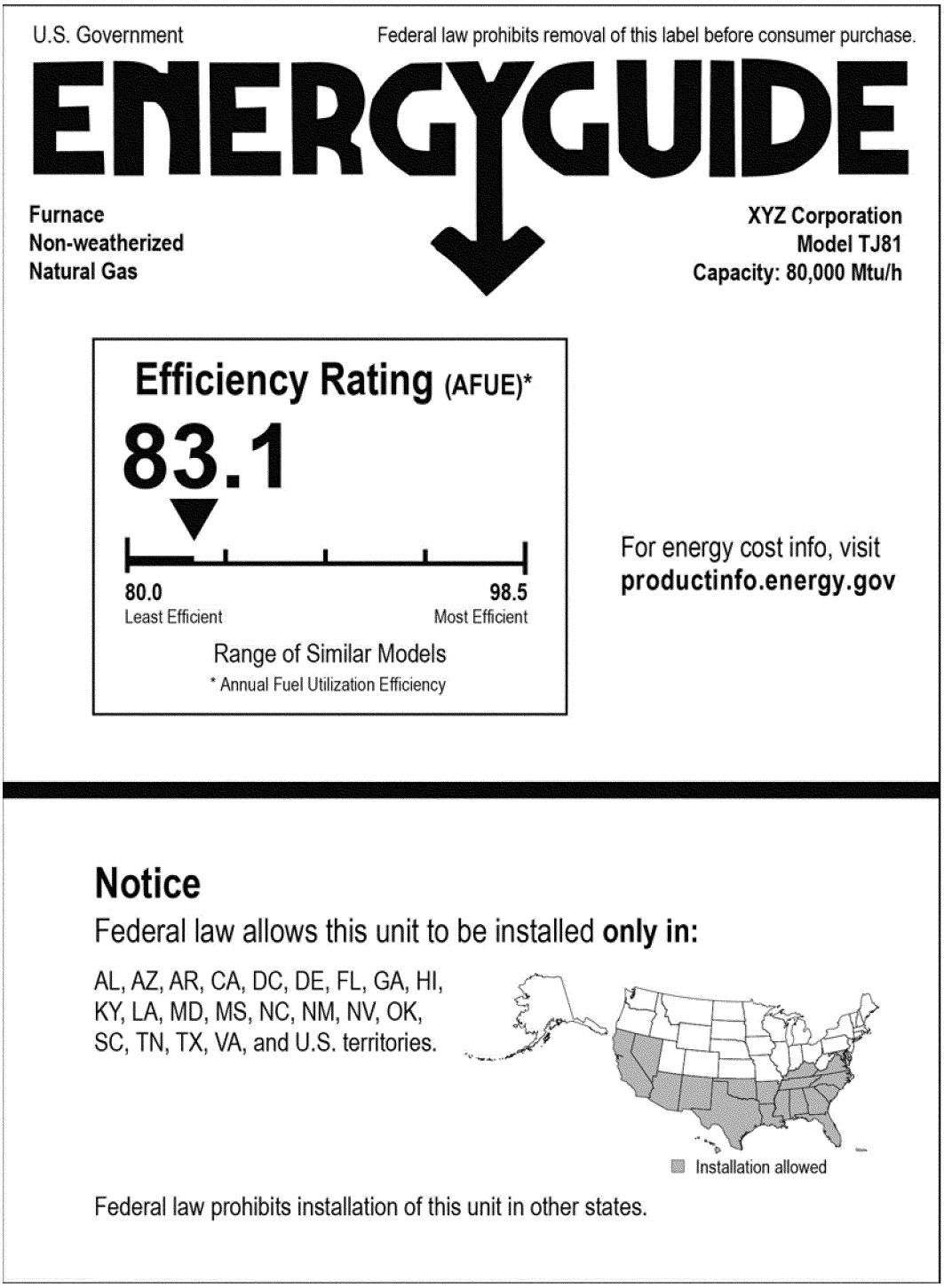
Sample Label 7B - Single-Package Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



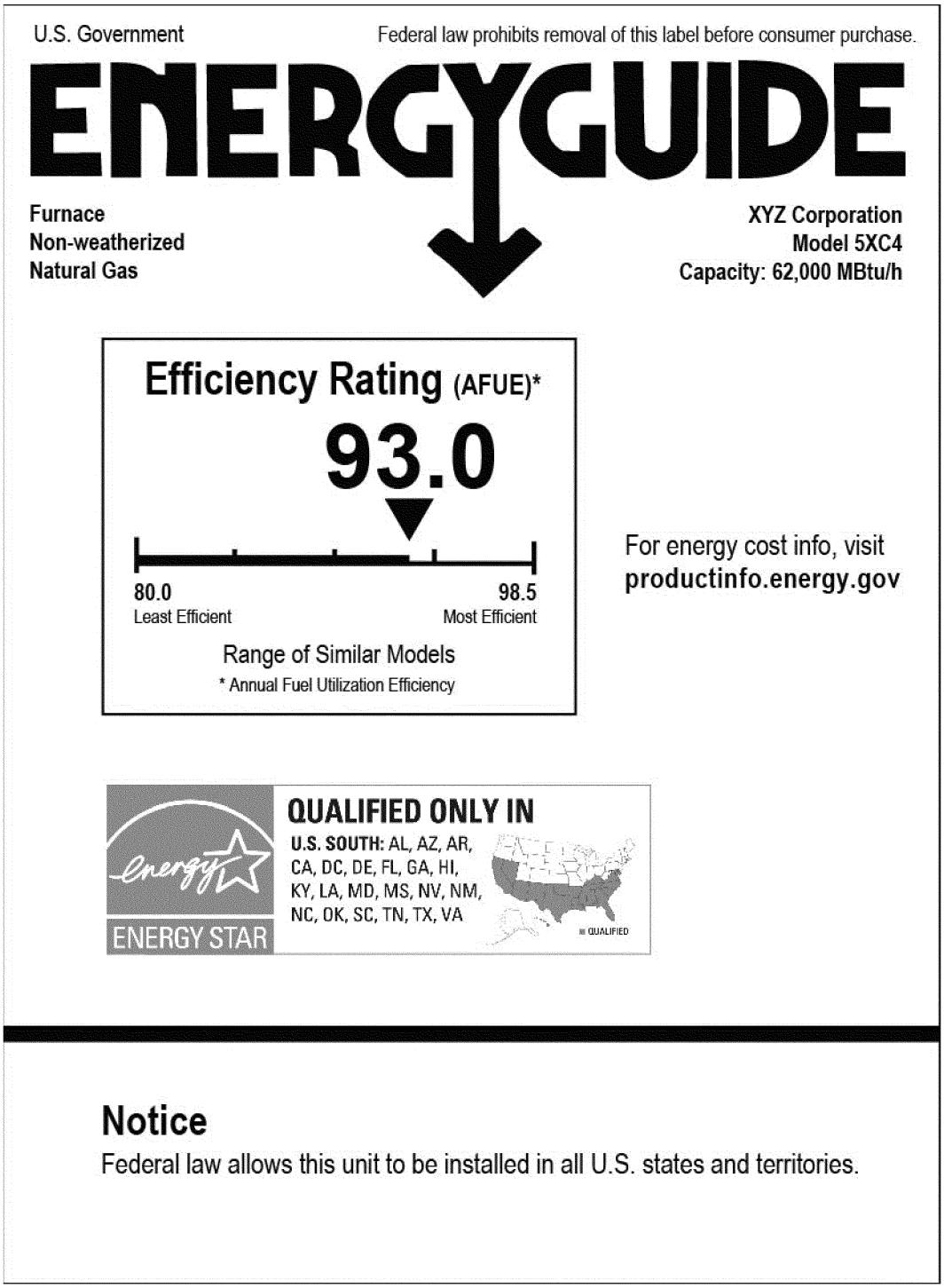
Sample Label 8 - Split-system Heat Pump (only for units manufactured before the compliance date of DOE regional efficiency standards in 10 CFR part 430)



Sample Label 8A - Split-system Heat Pump (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



Sample Label 9 - Non-weatherized Gas Furnace (below 90 AFUE) (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



Sample Label 9A - Non-weatherized Gas Furnace (ENERGY STAR) (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR Part 430)

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Furnace
Non-weatherized
Oil

XYZ Corporation
Model GX40
Capacity: 105,000 Btu/h

Efficiency Rating (AFUE)*

84.1

83.0 Least Efficient

95.4 Most Efficient

Range of Similar Models

* Annual Fuel Utilization Efficiency

For energy cost info, visit
productinfo.energy.gov

Your efficiency rating depends on the input capacity set by your installer.

The input capacity is 119,000 Btu/h unless your installer checks an input capacity box below.

Input Capacity set by installer (Btu/h)	**Efficiency Rating** (AFUE)
☐ 84,000	85.5
☐ 105,000	84.8
☐ 140,000	83.5

Sample Label 9B – Non-weatherized Oil Furnaces (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR part 430)

Lighting Facts Per Bulb

Brightness	**820 lumens**
Estimated Yearly Energy Cost	**$7.23**
Based on 3 hrs/day, 11¢/kWh	
Cost depends on rates and use	
Life	
Based on 3 hrs/day	**1.4 years**
Light Appearance	
Warm — Cool	
2700 K	
Energy Used	**60 watts**

Sample Label 10

Lighting Facts Label for General Service Lamp Not Containing Mercury

Lighting Facts Per Bulb

Brightness	**870 lumens**
Estimated Yearly Energy Cost	**$1.57**
Based on 3 hrs/day, 11¢/kWh	
Cost depends on rates and use	
Life Based on 3 hrs/day	**5.5 years**
Energy Used	**13 watts**

Light Appearance

Warm — Cool

2700 K

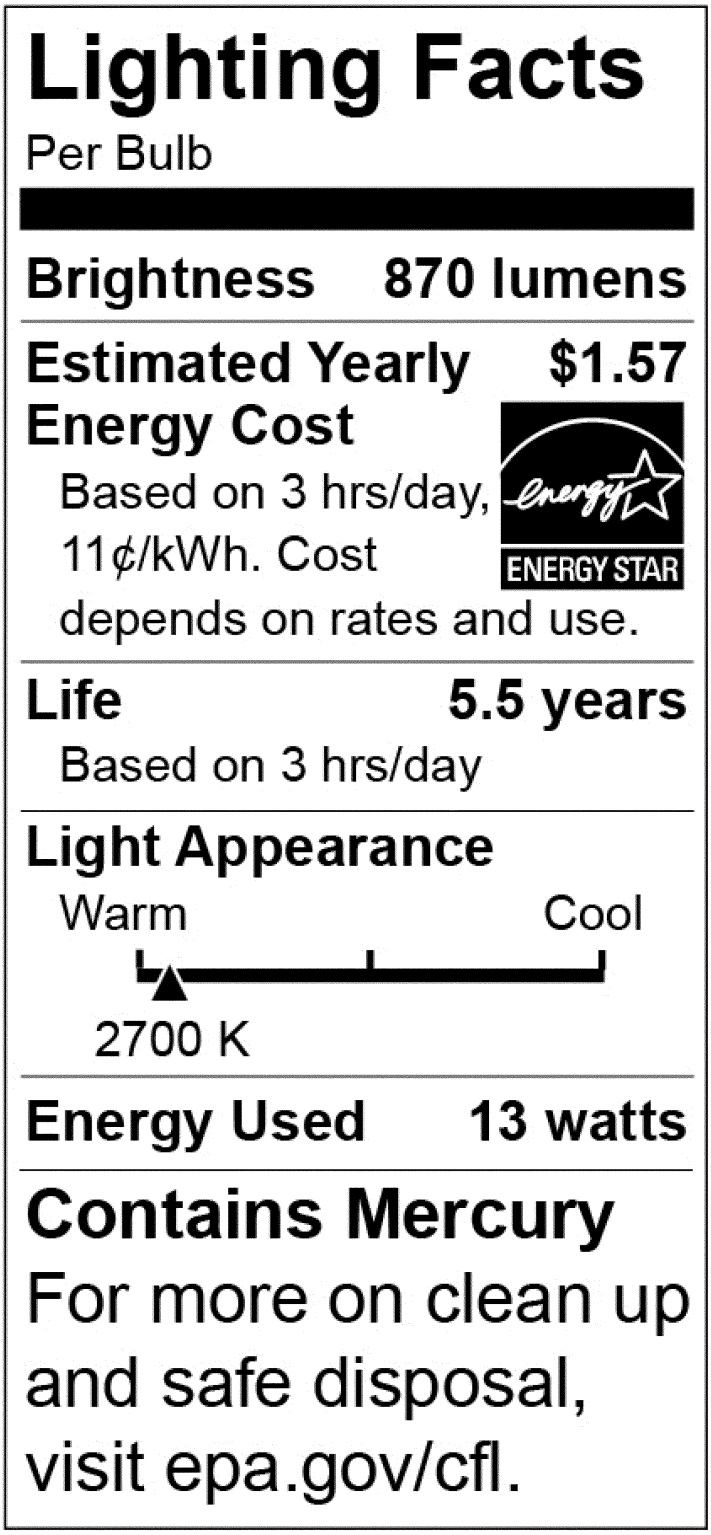
ENERGY STAR

Contains Mercury

For more on clean up and safe disposal, visit epa.gov/cfl.

Sample Label 11

Lighting Facts Label For General Service Lamp Containing Mercury (Wide Orientation)

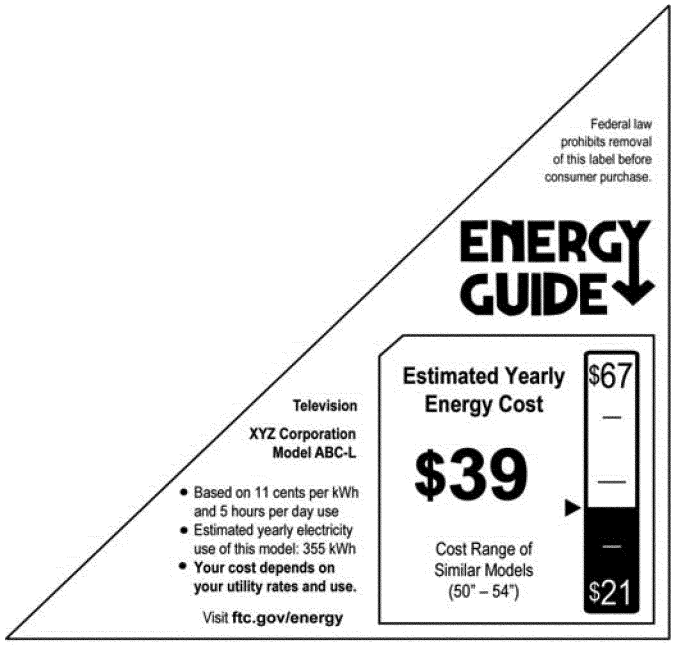


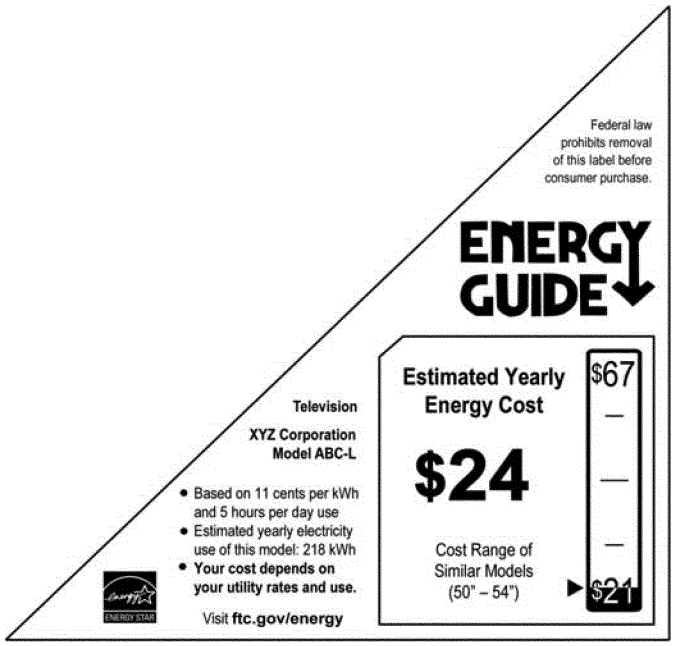
Sample Label 12

Lighting Facts Label For General Service Lamp Containing Mercury (Tall Orientation)

Sample Label 13

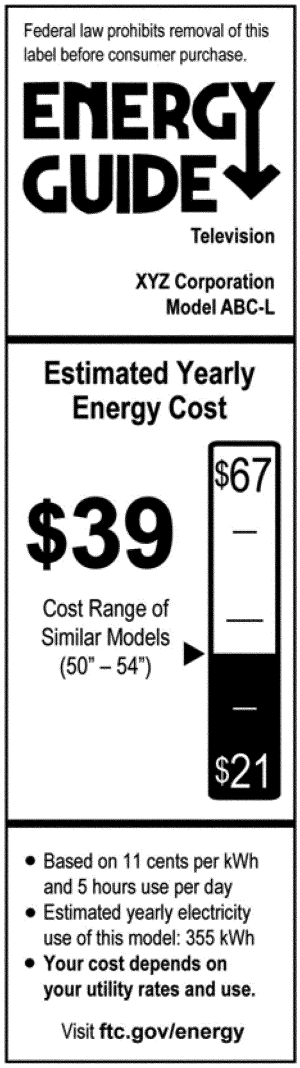
Lighting Facts Label For General Service Lamp Containing Mercury (Bilingual Example)

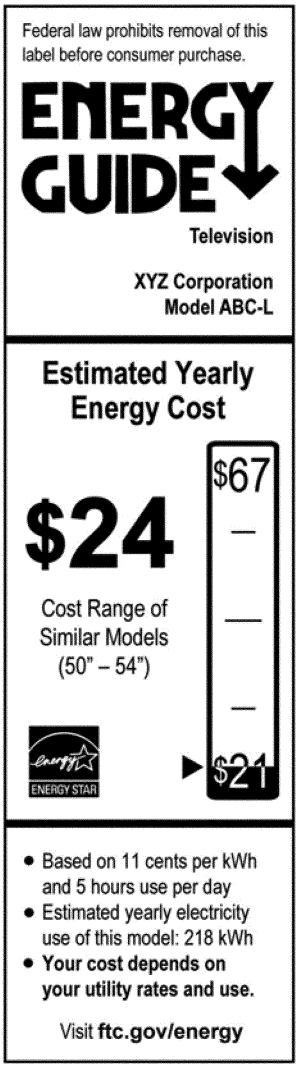




Sample Label 14

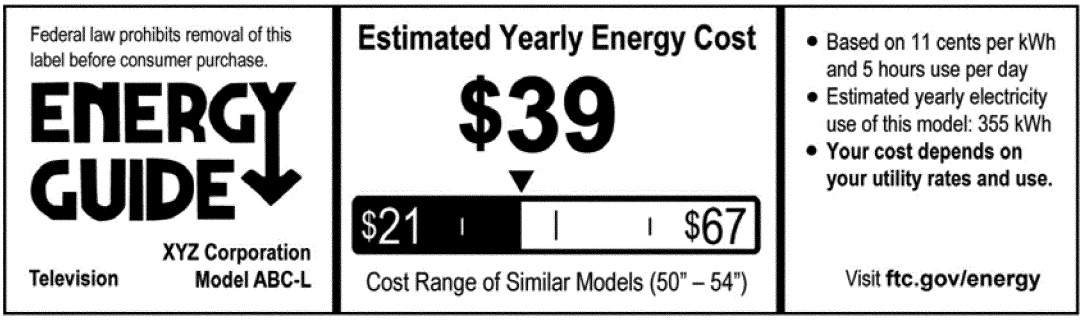
Triangular Television Labels

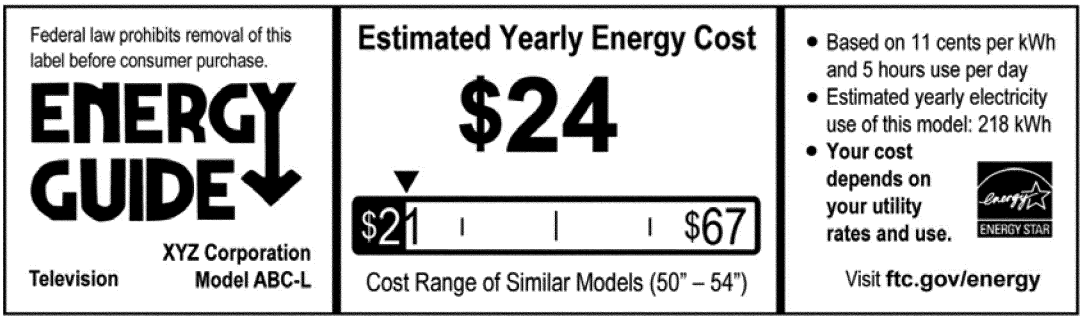




Sample Label 15

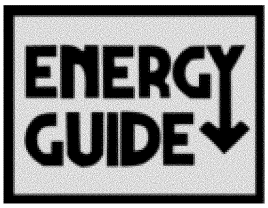
Vertical Television Labels



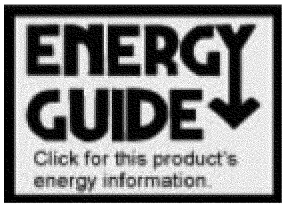


Sample Label 16

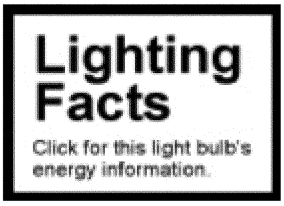
Horizontal Television Labels



Sample Label Icon (for use on television retail websites before January 1, 2014)



Sample Label Icon (for use on all retail websites after January 1, 2014)



Sample Label Icon (for use on all retail websites after January 1, 2014)

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2013–17553 Filed 7–22–13; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0260]

RIN 1625–AA00

Safety Zone; Bullhead City Regatta; Bullhead City, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Colorado River in Bullhead City, Arizona for the Bullhead City Regatta on August 10, 2013. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 6 a.m. to 6 p.m. on August 10, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0260]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant John Bannon, Waterways Management, U.S. Coast Guard Sector San Diego; telephone (619) 278–7656, email *d11marineeventssd@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: