text of the rule. These issues, and the corresponding technical corrections, are as follows.

Technical Corrections

1. Reporting a Flight Time Extension

Subsections 117.11(c)(2) and (d) contain requirements that are triggered if the certificate holder uses a flight-time extension for circumstances that are within the certificate holder's control. However, pursuant to § 117.11(b), a flight-time extension can only be taken for unforeseen operational circumstances that are ''beyond the certificate holder's control.'' Because a flight time extension cannot be taken for circumstances that are within the control of the certificate holder, the provisions of § 117.11(c)(2) and (d) are unnecessary and have been removed.

2. Applying § 117.19 Extensions to Short-Call Reserve Limits

The regulatory text of § 117.19 in the final rule permits extensions to flight duty periods but does not permit extensions to the short-call reserve limits specified in § 117.21(c)(3) and (4). Because these short-call-reserve limits were not intended to be more stringent than flight-duty-period limits, § 117.19 has been corrected to provide an extension for the short-call-reserve limits specified in § 117.21(c)(3) and (4).

3. Requirements for the 56-Hour Rest Period

The regulatory text of § 117.25(d) has been corrected to clarify that the rest requirements of that subsection are triggered if a flightcrew member: (1) Travels more than 60 degrees longitude during a flight duty period or series of flight duty periods; and (2) is away from home base for over 168 consecutive hours during this travel.

4. Applying § 117.29 Extensions to Short-Call Reserve Limits

Similar to the § 117.19 discussion above, § 117.29(b) also allows for an extension of flight-duty-period limits but does not allow for an extension of short-call-reserve limits. As such, § 117.29(b) has been corrected to allow short-call reserve to have the same extension as a flight duty period.

Accordingly, in the final rule, FR Doc. 2011–33078, published on January 4, 2012 (77 FR 330), make the following corrections:

§ 117.11 [Corrected]

■ 1. On pages 399 and 400, in the third column on page 399 and the first column of page 400, in § 117.11, revise paragraph (c) and remove paragraph (d).

The revision reads as follows:

''(c) Each certificate holder must report to the Administrator within 10 days any flight time that exceeded the maximum flight time limits permitted by this section. The report must contain a description of the extended flight time limitation and the circumstances surrounding the need for the extension.

§ 117.19 [Corrected]

■ 2. On page 400, in the second column, in § 117.19, paragraph (a)(1) is revised to read as follows:

''(1) The pilot in command and the certificate holder may extend the maximum flight duty period permitted in Tables B or C of this part up to 2 hours. The pilot in command and the certificate holder may also extend the maximum combined flight duty period and reserve availability period limits specified in § 117.21(c)(3) and (4) of this part up to 2 hours.''

§ 117.25 [Corrected]

■ 3. On page 401, in the second column, in § 117.25, paragraph (d) is revised to read as follows:

''(d) A flightcrew member must be given a minimum of 56 consecutive hours rest upon return to home base if the flightcrew member: (1) Travels more than 60° longitude during a flight duty period or a series of flight duty period, and (2) is away from home base for more than 168 consecutive hours during this travel. The 56 hours of rest specified in this section must encompass three physiological nights' rest based on local time.''

§ 117.29 [Corrected]

■ 4. On page 401, in the third column, in § 117.29, paragraph (b) is revised to read as follows:

''(b) The pilot-in-command may determine that the maximum applicable flight duty period, flight time, and/or combined flight duty period and reserve availability period limits must be exceeded to the extent necessary to allow the flightcrew to fly to the closest destination where they can safely be relieved from duty by another flightcrew or can receive the requisite amount of rest prior to commencing their next flight duty period.''

Issued in Washington, DC on January 31, 2013.

Mark W. Bury,

Acting Assistant Chief Counsel for International Law, Legislation, and Regulations Division, AGC–200.

[FR Doc. 2013–02504 Filed 2–5–13; 8:45 am]

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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 for disclosures to help consumers, distributors, contractors, and installers easily determine whether a specific furnace or central air conditioner meets applicable Department of Energy regional efficiency standards.

DATES: The amendments published in this document are effective on March 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, Bureau of Consumer Protection, Federal Trade Commission, Room M–8102B, 600 Pennsylvania Avenue NW., Washington, DC, 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's Energy Labeling Rule (''Rule'') (16 CFR Part 305), issued pursuant to the Energy Policy and Conservation Act (EPCA),[1] requires energy labeling for major household appliances and other consumer products to help consumers compare competing models.[2] When first published in 1979,[3] the Rule applied to eight product categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. The Commission has since expanded the Rule's coverage to include central air conditioners, heat pumps, plumbing products, lighting products,

[1] 42 U.S.C. 6291 *et seq.*

[2] More information about the Rule can be found at: *http://www.ftc.gov/energy.*

[3] 44 FR 66466 (Nov. 19, 1979). The Commission currently has two open proceedings related to other proposed amendments of the Rule in addition to the present one. *See* 77 FR 15298 (Mar. 15, 2012) (regulatory review of the Rule); 76 FR 45715 (Aug. 1, 2011) (proposed expanded light bulb coverage).

ceiling fans, certain types of water heaters, and televisions.[4]

The Rule requires manufacturers to attach yellow EnergyGuide labels to all covered appliances and televisions, as well as furnaces, central air conditioners, and heat pumps.[5] It also prohibits retailers from removing these labels or rendering them illegible.[6] In addition, retailers must post label information on Web sites and in paper catalogs from which consumers can order these products.[7]

Manufacturers must provide retailers, including distributors, contractors, and installers, with energy information concerning furnaces, central air conditioners, and heat pumps in paper or electronic form (including internet-based access). In turn, retailers, including installers, must show this information to their customers and let them read the information before purchase.[8]

The EnergyGuide labels for heating and cooling equipment contain two key disclosures: (1) The product's efficiency rating derived from Department of Energy (DOE) test procedures, and (2) a comparability range showing the highest and lowest ratings for all similar models.[9] The Rule also specifies the label's format. For example, the label must be yellow and feature the EnergyGuide headline in a specific format and type. Additionally, manufacturers cannot place any information on the label other than that specifically allowed by the Rule.

II. DOE Regional Standards for Heating and Cooling Equipment

In 2011, DOE established new efficiency standards for residential furnaces, central air conditioners, and heat pumps [10] as directed by the Energy Independence and Security Act of 2007 (EISA).[11] Unlike existing DOE standards, which impose uniform, national efficiency levels, the new standards vary by region for certain products.[12] As detailed in Tables 1 and 2 of this Notice, new DOE requirements impose regional efficiency standards for four product categories: split-system air conditioners, single-package air conditioners, non-weatherized gas furnaces, and mobile home gas furnaces. For all other covered heating and cooling equipment, the new standards are nationally uniform. In addition, DOE has not changed existing standards for boilers and electric furnaces. DOE has scheduled two compliance dates for the new standards: May 1, 2013, for non-weatherized gas furnaces, mobile home gas furnaces, and non-weatherized oil furnaces; and January 1, 2015, for weatherized gas furnaces and all central air conditioners and heat pumps. To promote compliance with these new standards, EISA directs DOE to develop an enforcement plan to specify the responsibilities of installers, distributors, and manufacturers in meeting the new standards and making required disclosures.[13]

III. EISA's Mandate for New FTC Disclosures Related to Regional Standards

In addition to requiring DOE to develop new efficiency standards, EISA directs the FTC to develop new disclosures for heating and cooling equipment. Specifically, the law requires the Commission to ''determine the appropriate 1 or more methods for disclosing information so that consumers, distributors, contractors, and installers can easily determine whether a specific piece of equipment that is installed in a specific building is in conformance with the regional standard that applies to the building.'' [14] The statute authorizes the Commission to modify the EnergyGuide label or develop other disclosure ''methods that make it easy for consumers and installers to use and understand at the point of installation.'' [15] Consistent with the timing for DOE's enforcement plan, EISA directs the Commission to complete this effort within 15 months after DOE establishes the regional standards.

IV. Advance Notice of Proposed Rulemaking

In response to EISA's mandate, the Commission published an Advance Notice of Proposed Rulemaking (ANPR) on November 28, 2011, seeking comments on the development of new disclosures related to the regional standards.[16] Specifically, the ANPR solicited suggestions for disclosures to help consumers, distributors, contractors, and installers easily determine whether a specific furnace, central air conditioner, or heat pump meets the applicable standard for their region. The Notice also sought input on the content, location, and format of such disclosures. To facilitate this process, FTC and DOE staff held a joint public meeting on December 16, 2011.[17]

V. Notice of Proposed Rulemaking

The Commission followed the ANPR with a Notice of Proposed Rulemaking (NPRM) on June 6, 2012, requesting comments on proposed, new EnergyGuide label content for heating and cooling equipment.[18] For products subject to regional standards, the proposed label contained two parts: an upper portion to educate consumers about the product's efficiency rating and a lower portion to help industry members comply with the new DOE standards. The proposal also expanded the label's availability by requiring it on manufacturer Web sites, on product packaging, and at the point-of-sale. In addition, the Commission proposed to direct contractors to make the labels available to consumers prior to purchase. The NPRM also sought comments on a change to the oil furnace labels to disclose efficiency ratings at multiple input capacities. Finally, the Commission stated that the compliance dates for the new labels would coincide with the DOE compliance dates for the various product categories.

The Commission received 11 written comments in response, each of which generally supported the proposed

[4] *See* 52 FR 46888 (Dec. 10, 1987) (central air conditioners and heat pumps); 54 FR 28031 (July 5, 1989) (fluorescent lamp ballasts); 58 FR 54955 (Oct. 25, 1993) (certain plumbing products); 59 FR 25176 (May 13, 1994) (lighting products); 59 FR 49556 (Sep. 28, 1994) (pool heaters); 71 FR 78057 (Dec. 26, 2006) (ceiling fans); 76 FR 1038 (Jan. 6, 2011) (televisions).

[5] *See* 42 U.S.C. 6302(a)(1), 16 CFR 305.4(a)(1).

[6] *See* 42 U.S.C. 6302(a)(2), 16 CFR 305.4(a)(2).

[7] *See* 42 U.S.C. 6296(a), 16 CFR 305.20.

[8] 16 CFR 305.14.

[9] 16 CFR 305.12.

[10] 76 FR 67037 (Oct. 31, 2011). DOE set October 25, 2012 as the effective date for the establishment of the regional standards regulations. *See also,* 76 FR 37408 (June 27, 2011) (DOE's initial publication of regional standards).

[11] Public Law 110–140; 42 U.S.C. 6295(o)(6). EISA amended EPCA to authorize separate regional standards for these products.

[12] 42 U.S.C. 6295(o)(6)(B). The DOE standards apply to three regions: the North, Southeast, and Southwest. For furnaces, the standards are the same for the Southeastern and Southwestern regions. The Northern region encompasses Alaska, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. The Southeastern region encompasses Alabama, Arkansas, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, the District of Columbia, and U.S. territories. The Southwest includes Arizona, California, New Mexico, and Nevada. 76 FR 37422.

[13] 10 CFR 430.32 (DOE standards). EISA requires DOE to complete this plan within 15 months after issuance of the final efficiency standards. To augment DOE's enforcement efforts, EISA gives states authority to enforce the regional standards in Federal court. 42 U.S.C. 6295(o)(6)(G).

[14] 42 U.S.C. 6295(o)(6)(H).

[15] *Id.*

[16] 76 FR 72872 (Nov. 28, 2011).

[17] Transcript available at *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/furncacregstnd_enforceramework_pmtranscript.pdf.*

[18] 77 FR 33337 (June 6, 2012).

changes to the EnergyGuide label.[19] For example, ACCA stated that the new labels will facilitate compliance with the DOE standards and prevent unscrupulous contractors from undercutting competitors by selling cheaper, non-compliant products.[20] In addition, NRDC stated that the proposed label ''is logical and will be informative'' to consumers, installers, distributors, and other stakeholders. However, as discussed below, commenters raised concerns with some specifics of the proposal and suggested changes.

VI. Final Rule

After considering the comments, the Commission adopts the proposed amendments, with only minor revisions. The new label content discloses efficiency ratings in a simple format and provides regional information to help installers comply with the law.[21] The final provisions also expand the label's availability by requiring it on product packaging (§ 305.12(e)(2)), at the point of sale (§ 305.14) and, as already required by the Rule, on Web sites and the products themselves (§§ 305.20 and 305.12). These new requirements should help industry members comply with the regional standards and aid consumers in their purchasing decisions. As discussed below, the Commission made several changes to the proposed label's content, location, and timing in response to comments. Finally, the rule does not require implementation of the new disclosures until the final compliance dates for the DOE regional standards. Thus, if the DOE standards are postponed or vacated for any reason, the applicable labeling rules will not apply until DOE reissues a final compliance date.

A. Label Content

To inform industry members and consumers about regional standards, the Commission proposed a label with two sections. The upper portion, which resembles the current EnergyGuide, provides consumers with valuable energy efficiency information on labels for all heating and cooling products, whether or not they are subject to different regional standards. The lower portion contains maps, tables, and other information to help installers comply with regional standards and is required only on products subject to those standards (*i.e.,* split-system air conditioners, single-package air conditioners, and non-weatherized and mobile home gas furnaces). As detailed below, the final rule follows this two-section format (see Samples in Appendix L), which was proposed in the NPRM.

1. Upper Portion Content

Background: The proposed upper label portion in the NPRM contained three primary disclosures. First, it included the simple title, ''Efficiency Rating,'' with the technical term for the product's efficiency rating elsewhere in a smaller font (*e.g.,* ''Seasonal Energy Efficiency Ratio (SEER)''). Second, the proposed upper portion displayed a range of ratings for similar models to help consumers compare competing products.[22] This range information also contained ratings for the various condenser-coil combinations of split-system air conditioners and heat pumps. Finally, the proposed upper label portion included a prominent link to a DOE online energy cost calculator, as well as the product's capacity and model number.

Comments on Upper Portion Content: In response to the proposed rule, commenters raised concerns about the proposed wording for efficiency rating terms, the label's comparability range bar design, and the label's inclusion of capacity and model numbers.

First, some commenters objected to the Commission's proposal to prominently display the term ''Efficiency Rating,'' and relegate technical terms such as, ''SEER,'' ''Energy Efficiency Ratio (EER),'' ''Heating Seasonal Performance Factor (HSPF),'' and ''Annual Fuel Utilization Efficiency (AFUE),'' to a less noticeable portion of the label. The comments argued that this approach could incorrectly suggest to some consumers that all product types use the same rating system.[23] To address this concern, the commenters recommended that the label clearly display the applicable efficiency rating (*e.g.,* HSPF or SEER) to prevent consumers from making incorrect comparisons.[24]

Second, commenters raised concerns about the proposed comparability range design. In the NPRM, the Commission proposed to replace the line graph on the current label with a horizontal thermometer-style scale found on the new, smaller television EnergyGuide label. For split-system models (*i.e.,* models with a condenser and coil), the proposed label also included a secondary range, comprised of a line graph marked with downward arrows, depicting the high and low efficiency ratings associated with the system's different possible condenser-coil combinations. Both ACCA and NRDC commented that the proposed range design was unnecessarily complicated and potentially confusing to consumers, in part due to overlapping information on the range. These commenters recommended that the FTC return to the current range design, consistent with a draft label AHRI recommended earlier in this proceeding.[25]

Finally, one manufacturer, Goodman, opposed the proposal to require the basic model number and the model's capacity on the EnergyGuide label. Under current requirements, which do not mandate model number and capacity, Goodman uses a single label for multiple models that have the same energy efficiency rating, but different capacities. Accordingly, it argues the proposed capacity and model number disclosures would require the creation of many new labels. Goodman also questioned the benefit of including

[19] *See* Air Conditioning Contractors of America (ACCA) (# 560904–00011); Air-Conditioning, Heating, and Refrigeration Institute (AHRI) (# 560904–00008); American Gas Association (AGA) (# 560904–00005); American Public Gas Association (APGA) (# 560904–00004); Earthjustice (# 560904–00009); Goodman Manufacturing (# 560904–00010); Heating, Air-Conditioning and Refrigeration Distributors International (HARDI) (# 560904–00012); Ingersoll Rand Residential Solutions (# 560904–00007); Natural Resources Defense Council (NRDC) (including Alliance to Save Energy, American Council for an Energy-Efficient Economy, Appliance Standards Awareness Project, Consumer Federation of America, National Consumer Law Center, Natural Resources Defense Council, Northeast Energy Efficiency Partnerships, and Northwest Energy Efficiency Alliance) (# 560904–00003); Rae, Audra (# 560904–00002); Rheem Manufacturing Company (# 560904–00006). The comments are available at *http://www.ftc.gov/os/comments/regionaldisclosurenprm/index.shtm.*

[20] ACCA also supported the proposed split label format. *See also* HARDI comments.

[21] Tables 1 and 2 summarize the content of the final labels by product category. Consistent with current practice, the FTC staff will create new label templates for each heating and cooling product that manufacturers may download from *www.ftc.gov/energy.*

[22] In the NPRM, the Commission also proposed to update existing comparability ranges for all heating and cooling equipment. The Commission proposed to require new ranges beginning May 1, 2013, to coincide with the new efficiency standards applicable to most products. However, for products subject to standards effective on January 1, 2015 (*i.e.,* central air conditioners, heat pumps, and weatherized furnaces), the Commission proposed to wait to apply ranges until that date.

[23] *See* ACCA and NRDC comments. For example, NRDC explained that a consumer comparing a heat pump and a furnace might assume both products use the same rating system even though different rating systems apply (HSPF for the heat pump and SEER for the furnace).

[24] To reduce potential confusion, Goodman recommended changing the term ''condensing unit'' in the Rule to ''outdoor section'' and the term ''coil'' to ''indoor product.'' The Commission does not plan to change the current terms because they are consistent with the terms used in DOE regulations (10 CFR Part 430) and have appeared in FTC rules for decades with no apparent confusion.

[25] *See* AHRI Comments on ANPR (Feb. 3, 2012) *http://www.ftc.gov/os/comments/regionaldisclosuresanpr/00003.html.*

capacity on the label, especially for split systems, because a system's capacity will vary depending on the condenser-coil combination. It also noted that the AHRI Web site and manufacturer literature already provides a product's actual rated capacities.[26]

Response to Comments on Upper Portion Content: In response to these comments, the Commission has increased the prominence of the efficiency rating terms and changed the graphical presentation of the label's comparability range. However, consistent with the NPRM, the final rule requires capacity and model numbers on the labels.

The Commission agrees with commenters that the label's technical efficiency rating terms (*e.g.,* SEER) should appear in a more prominent fashion. In some situations, consumers may compare heating and cooling products that fall into different categories (*e.g.,* heat pumps and furnaces). Without clear information identifying various efficiency ratings across labels (*e.g.,* HSPF and AFUE), consumers may incorrectly compare different rating systems. Accordingly, the final rule requires the acronym for the model's rating type immediately adjacent to the term ''Efficiency Rating'' (*e.g.,* ''Efficiency Rating (SEER*)''). The full term for the applicable efficiency rating (*e.g.,* ''*Seasonal Energy Efficiency Rating'') will appear beneath the range information. *See, e.g.,* Sample Label 7A, below.

The Commission also agrees with commenters that the use of the horizontal thermometer scale may cause confusion. In particular, as noted by commenters, the high and low efficiency numbers associated with split systems complicate the disclosure and may make the thermometer-style range appear cluttered. Accordingly, the final rule retains the simpler design from the current label and augments it with the high and low ratings for split systems, similar to that suggested by AHRI in its earlier comments. *See, e.g.,* Sample Label 7A, below.

Finally, consistent with the proposal, the amendments require model number and capacity disclosures on the label. Without this information, consumers cannot use the DOE-generated cost calculator referenced on the label. In addition, for split systems, the model number and capacity allows consumers to obtain efficiency rating and energy cost information of various condenser-coil combinations. Although some manufacturers may have to change their labeling practices, the benefits of the energy cost estimates for consumers outweigh this incremental cost increase.[27]

Summary of Final Upper Portion Content: The final rule for the label's upper portion requires disclosure of the product's efficiency rating, a range of efficiency ratings for similar products, and a link to an online energy cost calculator. The new, updated upper portion design applies to all heating and cooling equipment, even product types not subject to the new regional standards such as electric furnaces, boilers, and weatherized furnaces. The new label bears the simple title ''Efficiency Rating,'' followed by a technical acronym for the rating applicable to that product (*e.g.,* SEER or AFUE). It also includes the term ''efficiency rating'' because most consumers will not recognize the technical terms alone (*e.g.,* SEER). However, the full name of the efficiency rating (*e.g.,* ''Seasonal Energy Efficiency Rating'') also appears on the label's upper portion.

In addition to the model's efficiency rating, the upper portion continues to display a range of ratings for similar models to help consumers compare competing products. The final rule updates the existing comparability ranges for most heating and cooling equipment.[28] Specifically, it updates ranges for non-weatherized, mobile home, and electric furnaces and boilers based on recent data and the DOE efficiency standards currently scheduled to become effective on May 1, 2013.[29] The Commission will issue new ranges for products subject to new standards currently scheduled to become effective on January 1, 2015 (*i.e.,* central air conditioners, heat pumps, and weatherized furnaces) in 2014.[30] The final rule also specifies separate ranges for each system type, including weatherized and non-weatherized furnaces, split-system air conditioner systems, small duct, high-velocity systems, and space-constrained air conditioners. The final label contains a prominent link to an online energy cost calculator provided by a DOE Web site (*productinfo.energy.gov*). This calculator will provide a clear, understandable tool to compare energy performance. To allow consumers to use the calculator, the labels must display the model's capacity in addition to its efficiency rating.[31]

Finally, consistent with the proposed label, the final label's upper portion contains specific information for split-system air conditioners and heat pumps. These systems consist of two separate pieces of equipment: an outdoor condenser and an indoor coil. During the installation process, installers match a condenser with a coil to form the entire air conditioning system. The final efficiency rating for these systems varies depending on the installed condenser-coil combination. Under the current Rule, EnergyGuide labels appear on the condenser unit and disclose the efficiency rating of that unit when matched with a typical coil (*i.e.,* the condenser-coil combination with the highest sales volume). The final label changes this approach by disclosing the lowest and highest SEER (and HSPF for some models) ratings for all the condenser's certified coil combinations to ensure the consumer and installers understand that the final rating of their system will depend on the coil installed with the condenser.[32] This disclosure provides the minimum and maximum efficiency yielded by a particular split-system. The upper label portion also states that an installed system's efficiency will vary depending on the coil matched with the condenser.

[26] In the NPRM, the Commission also sought comment on the incorporation of a QR (''Quick Response'') code on the label. Industry comments (*e.g.,* AHRI and Goodman) opposed the idea arguing that such a code would take up too much space on the label, confuse consumers, and provide only marginal benefit. In its separate regulatory review of the Rule, the Commission also sought comments on the use of a QR code. The Commission will consider the comments received in that proceeding before considering whether to propose any specific requirements related to QR codes.

[27] Because the FTC staff has assumed that manufacturers create a single label for each basic model, this change does not alter the Commission's Paperwork Reduction Act burden estimates for the Rule. *See* section VIII of this Notice.

[28] See Appendices G1–G6.

[29] The new ranges currently scheduled to become effective on May 1, 2013 apply to some equipment that is not subject to any change in the standards (*e.g.,* electric furnaces and boilers). The new ranges will ensure the labels provide consumers the most recent model data. The final rule adjusts the lower end of the boiler ranges to reflect new DOE efficiency standards that became effective Sept. 1, 2012. 73 FR 43611 (July 28, 2008).

[30] The Commission will publish new ranges for central air conditioners, heat pumps, and weatherized furnaces before the January 1, 2015 date. Under the current Rule, the Commission amends range information for labels on a five-year schedule. The ranges on the new sample heat pump and air conditioner labels in this Notice stem from current industry data and have been included only for illustrative purposes.

[31] Energy cost information already appears on EnergyGuide labels for other covered products, including dishwashers and televisions. Unlike those products, however, heating and cooling costs can vary significantly depending on whether the consumer lives in a hot or cold climate. For example, the annual operating cost of a furnace is likely to be much higher in Minnesota than Florida. Therefore, national average cost information on the label may not be helpful to many consumers. The online cost calculator will give consumers better information based on their location.

[32] *See, e.g.,* Sample 7A, Appendix L.

2. Lower Portion Content

Background: In the NPRM, the lower portion of the proposed label contained regional standards information, where applicable, to help installers and consumers understand those requirements. The proposed lower portion communicated this information through text, a map, and a Web site link. The text included general information for installers about regional efficiency standards, including a list of applicable states. In addition, a color U.S. map illustrating regional standards information appeared on the label for products that do not meet standards in one or more regions (*i.e.,* certain split air conditioner systems, single-package air conditioners lower than 11.0 EER, and non-weatherized and mobile gas furnaces lower than 90 AFUE). The Commission also designed the proposed labels to ensure that the FTC EnergyGuide map would not appear on any labels displaying the Energy Star logo, which also contains a map, to eliminate any confusion from the appearance of two different maps on the same label.

For central air-conditioner models that do not meet the regional standards in one or more regions, the proposed label displayed a generic map and a table illustrating the three regions covered by the new DOE standards. It also contained EER ratings (including high and low ratings for split-system combinations) to help installers determine regional standards compliance.[33] For split systems, the proposed label also contained a link to a DOE Web site listing various condenser-coil combinations. Finally, the proposed label for single-package air conditioners (*i.e.,* units with consolidated components) rated below 11.0 EER displayed a product-specific map, instead of the generic map on split-system labels, to illustrate that such models can only be installed in the northern and southeastern regions. On furnace labels, the Commission also proposed specific regional information. For non-weatherized gas and mobile home gas furnaces rated below 90 AFUE, the draft label contained a map and a list identifying those states where the product may be installed. For non-weatherized gas furnaces, mobile home furnaces, and air conditioners that meet standards in all regions, the proposed label contained the statement: ''Federal law allows this unit to be installed in all U.S. states and territories.''

Comments on Lower Portion Content: Commenters generally supported the content of the proposed lower label. However, several raised specific concerns about the proposed map's colors, the presentation of the ENERGY STAR logo, the prominence of EER disclosures, and the potential inclusion of a link to the AHRI directory.

First, three industry members urged the Commission to require a black and yellow label, instead of the proposed color map.[34] AHRI, which recommended a color map in earlier comments,[35] changed its recommendation, stating that multi-color labels would impose a substantial burden. Two other commenters argued that a color map would force some manufacturers to purchase new printers.[36] These comments urged the FTC to abandon the proposed color label and return to the yellow and black format. In doing so, they suggested single-color display patterns, such as solid and cross-hatch fills, to depict multiple map regions. However, one commenter, ACCA, opposed this change, arguing that the color label is critical to enable distributors, contractors, and consumers to determine whether equipment can be legally installed.

Second, commenters raised concerns about the content and placement of the ENERGY STAR logo, which includes a U.S. map identifying the states where the product qualifies for the ENERGY STAR program. ACCA noted that the proposed rule contained an older version of the ENERGY STAR logo, which did not identify Kentucky as part of the southern region. In addition, two comments raised concerns about the interaction of the ENERGY STAR logo with other label information. ACCA and NRDC argued that some labels may confuse consumers—specifically where the ENERGY STAR logo, which illustrates that some products only qualify for that program in certain states, appears with the statement ''Federal Law allows this unit to be installed in all U.S. States and territories.'' NRDC urged the Commission to avoid such problems by placing the ENERGY STAR logo in a separate section. Other commenters asked the Commission to clarify that the inclusion of the ENERGY STAR logo on the label is optional.[37]

Third, commenters recommended that the Commission increase the prominence of the label's EER information. ACCA and NRDC recommended that EER information appear side-by-side or close to the SEER ratings on the label's upper portion to provide informed consumers with this information and help educate others about different efficiency measures. One manufacturer recommended a larger font for the EER values on split and packaged central air conditioner labels.[38] In addition, NRDC encouraged the FTC to include a brief definition for both SEER and EER on the label as recommended in its comments on the ANPR.[39]

Finally, some industry members urged the Commission to allow manufacturers that participate in AHRI's certification programs to include a link to AHRI's Web site on the label. ACCA explained that contractors use this directory to determine the ratings of potential condenser-coil combinations and to print certificates for tax credit or utility incentive programs. AHRI argued that its directory is easier to use than the DOE Web site. AHRI also recommended that a database link appear on all EnergyGuide labels for all heating and cooling equipment, not just those for split-system central air conditioners.[40]

Response to Comments on Lower Portion Content: In response to comments, the Commission has changed the final label to yellow and black and updated the ENERGY STAR logo and changed its location. However, the Commission has not changed the location of the EER disclosures for split-system labels or included a link to the AHRI directory on the labels.

The Commission agrees with commenter concerns about the burden associated with multi-color labels. According to the comments, a multi-

[33] The applicable DOE standards for split-system air-conditioner products involve three different geographic regions and two different efficiency ratings (SEER and Energy Efficiency Ratio (EER)). As noted in the NPRM, EER is ''a measure of energy efficiency for central air conditioners at specific operating conditions,'' while SEER is ''a measure of energy efficiency for central air conditioners that estimates energy performance over a typical cooling season.'' 77 FR at 33339, n.19 (June 6, 2012).

[34] AHRI, Ingersoll Rand, and Rheem comments.

[35] AHRI comments (Feb. 3, 2012) available at *http://www.ftc.gov/os/comments/regionaldisclosuresanpr/00003-82667.pdf.*

[36] *See* Ingersoll Rand and Rheem comments.

[37] AHRI; and Ingersoll Rand comments. They explained that frequent changes to the ENERGY STAR program may make it difficult for manufacturers to update their labels to stay current with ENERGY STAR requirements.

[38] Ingersoll Rand comments.

[39] NRDC also suggested changing ''Notice'' to ''Notice of Minimum Regional Standards'' in the label's lower portion. It contended that this modification would provide clarity and further educate installers, distributors and other stakeholders who may be new to the idea of regional efficiency standards. The Commission has not included NRDC's suggested language because it would add additional text to an already crowded label. In addition, it is unclear whether the reference to ''regional standards'' in the heading will be helpful to the average consumer.

[40] Ingersoll Rand also urged the Commission to allow a link to the AHRI database on the label.

color label would require some manufacturers to purchase new printers and others to pay higher printing costs. The traditional yellow and black content can adequately communicate information to installers and consumers without the significant cost of multi-color printing. Accordingly, the final rule requires a yellow label with black text, consistent with the current one. The final label denotes different regions through gray-scale shading and conveys the same information provided by the proposed multi-color version.

The final rule also includes two changes related to the ENERGY STAR logo. To ensure the Rule includes the most current information, the final labels include an updated version of the ENERGY STAR logo. In addition, to minimize any confusion associated with the ENERGY STAR logo and the regional standards map, the final labels separate the ENERGY STAR logo from the regional standards information with a thick black line. Finally, the Commission notes that, under the Rule, the inclusion of the ENERGY STAR logo is optional.

The final rule continues to require EER ratings on the label for split and single-package air conditioners because such information is necessary to determine regional standards compliance for some products.[41] The Commission has increased the size of the EER disclosure. However, contrary to some comments, the ratings continue to appear on the lower portion of the labels. Because consumers are likely to be unfamiliar with EER ratings, their prominent inclusion on the label's upper portion could lead to confusion. Likewise, the Commission has not defined the complicated terms ''SEER'' and ''EER'' on the label because it is unclear whether their inclusion would significantly aid consumers. In addition, given the technical nature of the differences between EER and SEER, any explanation might create more confusion than clarity for consumers.

Contrary to some comments, the final label links consumers to the DOE Web site rather than AHRI's directory. DOE's Web site provides a U.S. government source of information from both AHRI and non-AHRI members. In addition, some manufacturers are not members of AHRI, and the link's inclusion on a government-mandated label is not appropriate. Finally, all the labels will have a link to DOE's certification database through the separate cost calculator link in the label's upper portion (*productinfo.energy.gov*).

Summary of Final Lower Portion Content: Consistent with the proposed rule, the final label's lower portion contains information to help installers and consumers ensure that installed equipment complies with DOE's regional standards. The label's text provides general information to installers about regional efficiency standards, including a list of states where the model may be legally installed.[42] A U.S. map illustrating regional standards information appears on labels for products that do not meet standards in one or more regions (*i.e.,* certain split air conditioner systems, single-package air conditioners rated at lower than 11.0 EER, and non-weatherized and mobile gas furnaces rated at lower than 90 AFUE). The map provides a simple, graphical means to inform distributors, contractors, and consumers about where installation of the particular equipment is prohibited. Finally, the label contains a link to DOE's database of certified equipment to allow installers and consumers to determine the ratings of specific condenser-coil combinations for split systems (*productinfo.energy.gov*).

As proposed in the NPRM, the final label's lower portion also contains specific content for central air conditioners and furnaces subject to regional standards. In particular, for models not meeting the standards in at least one region, the label displays a U.S. map and a table displaying information about the three regions covered by the new DOE standards. The labels for split-system and single-package air conditioners also contain EER ratings, which are necessary to help installers determine regional standards compliance (see Tables 1 and 2). For split systems, the EER information includes the high and low certified ratings. Consistent with DOE's standards, the label for single-package air conditioners rated below 11.0 EER displays a product-specific map to illustrate that such models can only be installed in the northern and southeastern regions. For non-weatherized and mobile gas furnaces rated below 90 AFUE, the label contains a map and a list identifying those states where the product may be installed. Conversely, for non-weatherized furnaces, mobile home furnaces, and central air conditioners that meet standards in all regions, the proposed label contains the statement: ''Federal law allows this unit to be installed in all U.S. states and territories.''

B. Location and Format of Label

Background: In the NPRM, the Commission explained that the label would serve as the primary tool for communicating efficiency and standards information. Under the proposed rule, the label would appear on packaging (for product categories subject to regional standards) and manufacturer Web sites, as well as on the product itself and retailer Web sites as already mandated. The proposal also required retail Web sites selling any product subject to regional standards to display the statement ''Federal law prohibits the installation of some [central air conditioners or furnaces] in certain states. Look to the EnergyGuide label to determine whether this product can be legally installed in your location.'' Finally, the proposed rule required certain retail sellers (*e.g.,* contractors, installers, and assemblers) to make the EnergyGuide label available to consumers before purchase and specifically directed contractors to give consumers the opportunity to review the EnergyGuide label prior to purchase as currently required.

Comments on Label Location and Format: Commenters generally supported the proposed label placement requirements. For example, ACCA asserted that the label's appearance on packaging will help prevent improper installations and its presence on manufacturer Web sites will aid contractors in providing the labels to consumers. Earthjustice predicted that the requirements will help ensure all consumers receive energy information about these products.

However, some commenters raised concerns about three specific aspects of the proposal. First, Earthjustice argued that the Rule should require all retailers, not just contractors, to ensure consumers have label information early in the sales process. Specifically, it urged the Commission to direct brick-and-mortar retailers to ''affirmatively provide consumers with a copy of the label or directions for viewing the label online prior to the sale of the product.'' It also argued that, at the very least, the Commission should clarify how retail sellers who negotiate or make sales over the telephone or online (*e.g.,* via email

[41] The Commission has corrected the text of the final amendments to clarify that the EER information must appear on all split-system and single-package model labels, not just those that do not meet the regional standards.

[42] In addition to the comments outlined above, ACCA recommended that the state names on the label appear in full and not as postal abbreviations. ACCA noted that the use of postal abbreviations changes the order the states appear in some cases. In the Commission's view, it is unlikely that these subtle changes will lead to serious confusion. Even in the few instances where the order of the abbreviations may differ from those of the full name, the abbreviations are in close enough proximity that the reader is not likely to miss them. In addition, the full spelling of states would consume significant space on the label.

or web forms) should make the required disclosure. Finally, Earthjustice recommended that the Rule require retail sellers to have customers confirm in writing that they have read and understood the label and that they are aware of any regional standards applicable to the product.

Second, NRDC and Earthjustice urged the Commission to ensure that labels remain attached for the product's lifetime to help homeowners with replacement purchases and prospective homebuyers who examine installed equipment. In particular, NRDC urged the Commission to eliminate language requiring adhesive labels that can be easily removed ''without the use of tools or liquids, other than water.'' NRDC noted that, because heating and cooling products are usually installed in out-of-the-way locations (*i.e.,* in utility closets, basements, rooftops, or outdoors), a more durable label is unlikely to create aesthetic concerns. In contrast, Goodman argued that the label may not be legible on units stored outdoors for months or years. It recommended specific adhesive specifications, to replace the current requirements which simply call for sufficient strength to prevent dislodgment during normal handling.[43]

Finally, several manufacturers objected to the proposal to require the label on product packaging. AHRI argued that this requirement is unnecessary because current label requirements adequately communicate product information to installers and consumers. Some commenters also argued that current labeling practices already allow installers to view the label before opening packages. For example, some manufacturers use transparent shrink-wrap as packaging, making the EnergyGuide label clearly visible to anyone examining the packaging. Other manufacturers create open pockets on their product packaging to ensure the label can be seen.[44] Given these examples, AHRI argued that the proposed mandatory package labels will increase costs without adding value to the disclosure process. Other commenters recommended that the Commission allow manufacturers to comply with the package label requirement by ensuring that the label affixed to the product is visible.[45] Furthermore, Goodman explained that mandatory package labels may not be feasible because many manufacturers ship their single package HVAC products in corrugated, wax-coated boxes, which do not hold adhesive labels well.

Response to Comments: Consistent with the NPRM, the final rule requires labels on products, packages, and Web sites to ensure the availability of regional standards information for consumers and installers. Additionally, the Commission, in response to commenters, has modified its proposal by updating the disclosure rules applicable to retailers, slightly changing the label's adhesive requirements, and clarifying that manufacturers need not affix a label to packaging if the label is legible through the packaging.

By focusing on the EnergyGuide labels as the primary vehicle for conveying energy efficiency, the final requirements provide a single, familiar tool for communicating efficiency and standards information. The Rule also avoids multiple formats that could cause confusion and increase compliance burdens. For distributors, installers, and other retailers, the comprehensive label eliminates the need to create their own disclosures. In addition, by requiring the label on products and packaging, the final rule should help consumers and installers with their purchasing and installation decisions, regardless of where those decisions occur. The label's continued presence on products provides consumers with efficiency information for their purchases. It will also help provide installers with regional standards information to ensure they install the correct equipment under the law.[46] For products subject to the regional standards, labels on packages will aid distributors and installers to determine whether a model meets applicable standards before they ship or open boxes, avoiding costly mistakes.

After considering the comments, the Commission has modified some requirements for point of purchase disclosures and package labeling as follows. First, in response to Earthjustice's concerns, the final rule (§ 305.14(b)(2)) states that brick-and-mortar retailers must show the label to their customers before they agree to purchase the product to ensure customers will have access to the labels for the products they are considering even if they do not specifically request to see them. Though it is unclear whether many consumers purchase heating and cooling equipment in brick-and-mortar stores, the revision will ensure that such consumers have the same label access as those purchasing equipment in their homes. Retailers may comply with the Rule by informing consumers of the labels and providing a way for them to access the information electronically. They may also display the labels on the products themselves (if the products are clearly visible to shoppers) or display them elsewhere in full view of the consumers. In addition, the final rule (§ 305.14(b)(3)) clarifies that retailer sellers who conduct their transactions solely over the telephone or internet (*e.g.,* email or web forms) must tell consumers where they can view the labels online and give them an opportunity to review labels before purchase. This will ensure that consumers have an opportunity to review the labels regardless of which purchase method they use. The final rule does not require contractors and other sellers to obtain a signed acknowledgment confirming that they have provided label information to consumers because it is unclear whether the benefits of such a requirement outweigh its substantial costs to small businesses.

The final rule eliminates the specific adhesive provisions requiring manufacturers to use labels that easily can be removed with water. As NRDC notes, labels on installed equipment can benefit consumers by helping homeowners in their future purchasing decisions or by informing homebuyers about the efficiency ratings of installed units. To encourage more durable labels, the final rule allows manufacturers to use stronger adhesives. At the same time, the Rule does not mandate a permanent label given uncertainties about the cost and feasibility of such a requirement. In the label's absence, the unit's model number will provide the information necessary to determine compliance, particularly with the availability of online databases from DOE and AHRI. The final rule does not impose a prescriptive adhesive requirement because there is no evidence that the current performance-based requirements, which have been in place for decades, do not work.

[43] Specifically, Goodman questioned the requirement that labels have ''an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer,'' arguing that manufacturers cannot control how products are handled once they leave their control. Thus, Goodman recommended that the Rule simply require a peel-adhesion (as noted in the last sentence of the same paragraph), but with a reference to an appropriate industry standard test method for peel-adhesion developed by ASTM International.

[44] Rheem also argued that the label on the packaging would provide little value because consumers rarely see the packaging.

[45] Ingersoll Rand and Goodman comments.

[46] The proposed rule does not require a permanent EnergyGuide label on these products as suggested by comments, since the unit's model number provides the information necessary to determine compliance, particularly given the availability of online databases from DOE and AHRI.

Finally, in response to industry concerns, the final rule does not require a separate label on the packaging of products subject to regional standards if the label affixed to the product is visible from the package's exterior. There is no reason to require the manufacturer to place another label on the product packaging if the product label is clearly visible to someone examining the package. In addition, to ensure the label remains affixed to different packaging (*e.g.,* wax-coated boxes), manufacturers may affix the labels through means other than adhesives (*e.g.,* staples, tape, etc.) as long as the method prevents the label's dislodgment during normal handling throughout the distribution chain to the retailer or consumer and ensures the label is clearly visible.

Summary of Final Label Location and Format: The final rule requires that the label be visible on packaging for product categories subject to regional standards (§ 305.12) as well as on retailer and manufacturer Web sites (§§ 305.20 and 305.14).[47] For online disclosures, the final rule (§ 305.20) also directs retail Web sites selling any product subject to regional standards to display the statement, ''Federal law prohibits the installation of some [central air conditioners or furnaces] in certain states. Look to the EnergyGuide label to determine whether this product can be legally installed in your location.'' As discussed above, the final requirements (§ 305.14) direct retail sellers (*e.g.,* contractors, installers, assemblers, and retail stores) to make the EnergyGuide label available to consumers and provide them the opportunity to review the EnergyGuide label prior to purchase. Contractors can comply with this requirement by, for example, showing the labels to consumers or providing them instructions to view the labels online.[48]

C. Additional Labeling Requirements for Oil Furnaces

Background: In the NPRM, the Commission proposed to amend the oil furnace label to give manufacturers the option of including the efficiency ratings associated with different input rates, which allow different levels of fuel usage. The proposed label contained a chart displaying four efficiency ratings associated with four different input rates. Under the proposal, installers who use an input rate different from the manufacturer's default would mark the chart on the EnergyGuide label.

Comments: The commenters offered mixed views on this proposal. AHRI, which originally proposed the label modification, supported the proposal. However, it urged the Commission to change the term ''input rate'' to ''input capacity,'' consistent with the terminology used in DOE's regulations. It also noted that the proposed input capacities in the NPRM (*i.e.,* 84,000, 105,000, 119,000 and 140,000 Btu/h) do not represent an exhaustive list of capacities for typical models. Accordingly, AHRI urged the Commission to allow manufacturers to include up to four capacities of their own choosing. AHRI also urged the Commission to clarify the requirements for ENERGY STAR logo placement, noting that some oil furnace models may meet ENERGY STAR criteria at one input capacity, but not at another.

In contrast, Goodman opposed the proposed oil furnace label, raising concerns that the label would not be durable and, any requirement to make it so would be overly burdensome. Goodman also argued that a specific input capacity rating is not necessary because the labels adequately disclose relative performance from one product to the next.

Final Rule and Response to Comments: Consistent with the NPRM, the final rule (305.12(h)(15)) allows, but does not require, manufacturers to include multiple input capacities on their EnergyGuide labels for oil furnaces. However, the final rule contains several changes and clarifications in response to the comments. First, the Rule does not dictate which input capacities must appear on the label because, as noted by the comments, manufacturers do not offer a uniform set of input capacities. Instead, the final rule allows manufacturers to include up to four input capacities compatible with their model. Second, the label uses the term ''input capacity'' instead of ''input rate'' in response to commenter suggestions. Finally, the final rule only allows the ENERGY STAR logo on models certified by that program at all input capacities listed on the label. To avoid consumer confusion, the Rule does not allow the logo on models qualifying for ENERGY STAR at some capacities and not others.[49]

D. Compliance Date for New Labels

Background: In the NPRM, the Commission proposed to roll out the proposed label in two phases coinciding with the compliance dates of DOE's regional standards. Under the first phase, manufacturers would begin using the new label no later than May 1, 2013 for equipment subject to new standards effective on that date (*i.e.,* non-weatherized and mobile home furnaces) as well as equipment not subject to any change in the regional standards (*e.g.,* boilers, oil-fired and electric furnaces). Under the second phase, manufacturers would begin using the new labels no later than January 1, 2015 for any heating and cooling equipment subject to new standards effective on that date (*i.e.,* weatherized furnaces and central air conditioners and heat pumps).

Comments: Commenters raised several concerns with the proposed compliance dates, warning that three factors could delay implementation of the DOE rules and impact the labels' timing.[50] First, APGA has challenged DOE's new regional standards for furnaces in the U.S. Court of Appeals for the D.C. Circuit.[51] Second, AHRI has petitioned DOE to grant an 18-month extension for regional furnace efficiency standards from the current compliance date of May 1, 2013, to give manufacturers more time to comply with the standards and labels. Finally, AGA noted that DOE has not completed its rulemaking to develop a statutorily-required enforcement plan for regional standards. In the commenters' views, these three considerations cast doubt on the new labels' timing. AGA explained that resolution of these matters could render the Commission's final label requirements inaccurate or misleading and called on the Commission to wait and coordinate with DOE to ensure consistency between the final labels and DOE's standards and enforcement requirements. Earthjustice disagreed, arguing that the FTC cannot ignore its duty to meet the statutory deadline for labeling rules merely because of the ongoing litigation. To address these various uncertainties, Ingersoll Rand suggested the Commission tie the Rule's

[47] The Commission recently issued amendments to the Rule requiring manufacturer Web sites to provide consumers, distributors, and installers access to their product labels online for all products bearing an EnergyGuide label by July 15, 2013. The amendments also require all online retailers to include the EnergyGuide label for the products they sell by January 15, 2014. 78 FR 2200 (Jan. 10, 2013). These requirements are consistent with those issued by the Commission for television labels in 2011. *See* 76 FR 1038 (Jan. 11, 2011) (television requirements).

[48] The Rule already contains similar disclosure requirements. 16 CFR 305.14.

[49] In response to Goodman's comment, the Commission notes that the label, which is not designed to be permanent, will inform consumers after purchase of their system's efficiency as installed at a specific input capacity. Among other things, this information may be important for tax credits or utility rebates.

[50] APGA, AGA, Goodman, and AHRI comments.

[51] *American Public Gas Association* v. *U.S. Department of Energy,* No. 11–1485 (D.C. Cir. 2012).

compliance date to the DOE standard compliance date generally, without specifying a date.

In addition to concerns with these ongoing developments, some commenters expressed reservations about the timing of the labeling requirements. AHRI urged the Commission to recognize that some models bearing the old label may remain in the distribution chain after the Rule's compliance date. HARDI echoed these concerns, noting that some inventory may continue to appear on the market after the compliance date of the new standards. To reduce confusion associated with this transition, Goodman recommended that the label itself display DOE's compliance date. In addition, AHRI asked the Commission to clarify whether manufacturers could begin affixing the label to products before the compliance dates to ensure a reasonable transition period, and, presumably, avoid requiring all label changes on a single day.[52] Finally, NRDC recommended that the Commission require the label on products manufactured before the compliance date to begin educating installers early and to ensure that products in circulation have the new label when the standards go into effect. However, NRDC noted that, to avoid confusion, the label would have to explain that the regional standards do not apply until the compliance date.

Final Rule and Response to Comments: After considering the comments, the Commission has modified the Rule's language to account for possible changes in the DOE compliance dates. As a result, the final rule does not require that the labels themselves contain a particular mandatory compliance date. Instead, it ties the labeling requirements to DOE's compliance dates, whatever they may be. Accordingly, if the DOE standards are postponed or vacated, the new labeling rules will not apply until a new DOE compliance date is set. Nevertheless, the Commission has not delayed publication of the final labeling rules because EPCA imposes a clear completion deadline and, at this time, DOE has not changed its compliance dates.[53]

Recognizing that the DOE compliance dates for the standards could shift, the Commission has modified the final rule to remove specific compliance dates (*e.g.,* May 1, 2013), instead tying new label compliance to the compliance date for DOE's regional standards. This change eliminates the need to amend the labeling Rule should a delay occur in the implementation of DOE's requirements. Thus, consistent with the proposal, the final rule requires compliance with the new label content (305.12) in two phases.[54] Under the first phase, manufacturers must begin using the new label for weatherized gas and mobile home gas furnaces on the compliance date set by DOE for the standards applicable to those products (currently scheduled for May 1, 2013). That date also applies to revised labels for equipment not subject to the regional standards (*e.g.,* boilers, non-weatherized oil-fired furnaces, and electric furnaces). Likewise, under the second phase, manufacturers must begin using the new label for weatherized furnaces, central air conditioners, and heat pumps on the compliance date set by DOE for those products (currently January 1, 2015).[55]

On January 11, 2013, DOE and APGA filed a settlement agreement with the Court of Appeals for the D.C. Circuit to vacate the regional standards for non-weatherized gas and mobile home gas furnaces.[56] A final decision from the court on the settlement is still pending. If a final decision vacates the standards for those products, the Commission's labeling rules for products tied to that compliance date will not become effective because, as discussed above, the rule language ties the label requirements to the DOE compliance date. In short, without a DOE compliance date or DOE standards for that matter, the Commission will not require the new labeling provisions. When DOE revisits the standards, the Commission will amend the labeling rules if necessary to conform to the new requirements. The proposed settlement does not address the DOE regional standards scheduled for January 1, 2015 applicable to central air conditioners. Thus, absent further developments, the Commission does not plan to alter the final labeling requirements for those products or for weatherized furnaces.

In addition, the final label does not include a compliance date disclosure, as suggested by some comments. Given the uncertainties associated with the ongoing litigation and the extension request before DOE, the Commission is reluctant to place a specific date on the label that may become obsolete and cause consumer confusion.[57]

In response to AHRI's concerns, the Commission clarifies that manufacturers may begin implementing the new label format prior to the DOE compliance date to facilitate a reasonable transition to the new labels. The Commission has followed the same approach for similar changes in the past.[58] Early labeling will also increase the number of units displaying the new label format on the compliance date of the DOE standards. However, in weighing whether to begin labeling early, manufacturers should consider the status of the ongoing issues related to the timing of DOE's standards discussed above.

E. Possible DOE Waiver for Furnaces

Background and Comments: Commenters also urged the Commission to require information on the label alerting installers and consumers to a potential DOE waiver for furnace installations.[59] On February 6, 2012, several organizations petitioned DOE to waive the new regional standards where a higher-efficiency furnace installation would be infeasible or prohibitively expensive (*e.g.,* in some narrow row houses). Anticipating such waivers, the commenters urged the Commission to include special language on the label. For example, AGA recommended that the label's lower portion include a notice that reads, ''Federal law allows this unit to be installed in: [listed

[52] *See also* Goodman comments.

[53] 42 U.S.C. 6295(o)(6)(H). In addition, the Commission has not delayed the labeling rules pending completion of the DOE enforcement plan. Given the possibility that the DOE standards will become applicable before the issuance of that plan, the final labeling rule ensures the new disclosures will be available, as Congress intended, to inform industry members about the standards, regardless of the plan's status. However, if any conflicts should arise between DOE's final enforcement plan and the labels, the Commission will provide guidance to industry members and amend the labeling rules as necessary.

[54] Similarly, the final rule ties the new disclosure provisions in section 305.14 (*i.e.,* manufacturers' duty to post labels online and contractors' duty to make the labels available to consumers) to the DOE compliance date. Unlike the two-stage approach for label content in 305.12, the section 305.14 changes will take effect at a single time (*i.e.,* on the compliance date for regional standards applicable to non-weatherized furnaces) to minimize confusion and ensure uniformity in the contractor disclosures to consumers. Finally, as discussed earlier, recent amendments already require all manufacturers to post EnergyGuide labels online beginning July 15, 2013, whether or not a delay occurs for the DOE regional standards. 78 FR 2200.

[55] The Commission will update ranges for weatherized furnaces and central air conditioners and heat pumps before the January 1, 2015 transition to the new labels. DOE has clarified that the compliance date for the regional standards applies to the installation of products on or after that date. *See* Department of Energy, ''Regional Standards Enforcement Framework Document,'' *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/furncac_regstnd_enforceframework.pdf.*

[56] Joint Motion of Petitioner and Respondent to Vacate in Part and Remand for Further Rulemaking (Jan. 11, 2013), *American Public Gas Ass'n* v. *DOE,* No. 11–1485 (D.C. Cir. filed Dec. 23, 2011).

[57] Similarly, the final rule does not require such labels on products earlier than DOE's compliance dates given the uncertainty associated with the implementation of DOE's standards.

[58] *See, e.g.,* 75 FR 41710, 41696 (July 19, 2010) (light bulb labels).

[59] See NRDC, AGA, and ACCA comments.

states]'' and further provides that ''Federal law prohibits installation of this unit in other states, except in the case of an eligible waiver. See [DOE Web site] for information on eligibility requirements for a waiver.'' [60] HARDI, which expressed concerns with such a DOE waiver, cautioned that it is unclear whether DOE has the legal authority to issue such waivers.[61]

Final Rule and Response to Comments: Consistent with the comments, the final rule includes label waiver language that manufacturers must use if DOE issues waivers for furnace installations (§ 305.12(h)). Specifically, the required language states, ''Federal law prohibits installation of this unit in other states, unless a waiver from the Department of Energy allows such installation.'' This disclosure will alert installers and consumers to the existence of waivers should DOE issue such measures. The disclosure's absence could lead to significant confusion and disruption in the sale and installation of these models. As stated in the final rule, this language will only appear on the labels if DOE issues the requested waivers. If DOE does not issue such waivers, manufacturers cannot include it.

F. Full Fuel Cycle Disclosures

Both the AGA and APGA urged the Commission to work with DOE to develop consumer information about the full-fuel cycle energy consumption and greenhouse gas emissions associated with consumer products. In a 2011 policy statement issued in response to recommendations from the National Academy of Sciences (NAS), DOE announced plans to use full-fuel cycle measures of energy use and emissions in estimating the likely impacts of energy conservation standards.[62] DOE also committed to working with the Commission to generate information to help consumers make cross-class comparisons of the energy use and emissions of appliances. In their comments, AGA and APGA explained that both DOE and the Commission must begin to take the steps necessary to resolve such issues and provide consumers with better information about the energy use and environmental impacts of their appliance choices. AGA recommended that the Commission consider obtaining energy use and emissions information on a regional basis, to correspond with the regional standards. It also recommended that the Commission consider providing this type of information for both individual products as well as the range of competing products. Additionally, AGA noted that NAS identified the EnergyGuide label information as the most effective means to convey the environmental impact of energy consumption to the public. However, AGA acknowledged that unresolved issues remain before such information will be meaningful and accurate.

The Commission will continue to work with DOE to consider NAS's recommendations. As part of the Commission's ongoing review of the Rule, it sought comments on this issue.[63] The Commission will continue to consider this issue as part of the regulatory review.

TABLE 1—FURNACES

System type	Regional standards information on final label	Date for label change *	Efficiency standard-north	Efficiency standard-southeast	Efficiency standard-southwest
Non-weatherized gas	Models below 90 AFUE: U.S. map and explanatory text indicating product can only be installed in southeast/southwest (see Sample Label 9). All other models: a statement that unit can be installed in any state (see Sample Label 9A).	May 1, 2013	90% AFUE [64]	80% AFUE	80% AFUE
Mobile home gas	Models below 90 AFUE: U.S. map and explanatory text indicating product can only be installed in southeast/southwest. All other models: a statement that unit can be installed in any state.	May 1, 2013	90% AFUE	80% AFUE	80% AFUE
Non-weatherized oil-fired	No regional standards information (see Sample Label 9B).	May 1, 2013	83% AFUE	83% AFUE	83% AFUE
Weatherized gas	No regional standards information	Jan. 1, 2015	81% AFUE	81% AFUE	81% AFUE
Mobile home oil-fired	No regional standards information	May 1, 2013	75% AFUE	75% AFUE	75% AFUE
Weatherized oil-fired	No regional standards information	Jan. 1, 2015	78% AFUE	78% AFUE	78% AFUE
Electric	No regional standards information	May 1, 2013	78% AFUE	78% AFUE	78% AFUE

* The Rule indicates that the label must be changed on or before the compliance date of the DOE efficiency standards. The dates on this table reflect the dates currently scheduled by DOE.

[60] Similarly, NRDC recommended label text stating, ''Federal law prohibits installation of this unit in other states, except in the case of an eligible waiver.''

[61] AHRI noted that DOE has granted a waiver for small-duct, high velocity air conditioner systems and urged the FTC to develop an EnergyGuide label for products that have efficiencies outside the ranges in the proposed EnergyGuide labels and are sold based on waivers granted by DOE. The Commission does not plan to alter current requirements because the Rule already has a procedure that manufacturers can follow when their ratings fall outside of existing ranges. *See* 16 CFR 305.10(b).

[62] 76 FR 51281 (Aug. 18, 2011) (''Statement of Policy for Adopting Full-Fuel-Cycle Analyses Into Energy Conservation Standards Program'').

[63] 77 FR 15298 (Mar. 15, 2012) (NPRM).

[64] Annual Fuel Utilization Efficiency.

TABLE 2—CENTRAL AIR CONDITIONERS AND HEAT PUMPS

System type	Regional standards information on proposed label	Date for label change *	Efficiency standard-north	Efficiency standard-southeast	Efficiency standard-southwest
Split-system air conditioners	All models regardless of efficiency rating: low and high SEER and EER for certified compressor-coil combinations.	Jan. 1, 2015 ..	13 SEER [65]	14 SEER	14 SEER/12.2 EER [66] if model <45,000 Btu/h.
	Models below 14 SEER (any size model), below 12.2 EER (for models smaller than 45,000 Btu/h), or below 11.7 EER (for models larger than 45,000 Btu/h): General U.S. map & standards chart (see Sample Label 7A).	.....	.....	.....	14 SEER/11.7 EER if model >45,000 Btu/h.
	All other models: a statement that unit can be installed in any state.				
Split-system heat pumps	No regional standards information (see Sample Label 8A).	Jan. 1, 2015 ..	14 SEER/8.2 HSPF [67].	14 SEER/8.2 HSPF.	14 SEER/8.2 HSPF.
	All Models: low and high SEER and HSPF for certified compressor-coil combinations.				
Single-package air conditioners.	Models below 11 EER: U.S. Map and explanatory text indicating product can only be installed in northern and southeastern states (not southwestern) (see Sample Label 7B) & EER rating.	Jan. 1, 2015 ..	14 SEER	14 SEER	14 SEER/11.0 EER.
	All other models: a statement that unit can be installed in any state & EER rating.				
Single-Package Heat Pumps	No regional standards information	Jan. 1, 2015 ..	14 SEER/8.0 HSPF.	14 SEER/8.0 HSPF.	14 SEER/8.0 HSPF.
Small-duct, high-velocity systems.	No regional standards information	Jan. 1, 2015 ..	13 SEER/7.7 HSPF.	13 SEER/7.7 HSPF.	13 SEER/7.7 HSPF.
	All split-system models: low and high SEER and HSPF for certified compressor-coil combinations.				
Space-constrained products—air conditioners.	No regional standards information	Jan. 1, 2015 ..	12 SEER	12 SEER	12 SEER.
	All split-systems models: low and high SEER and HSPF for certified compressor-coil combinations.				
Space-constrained products—heat pumps.	No regional standards information	Jan. 1, 2015 ..	12 SEER/7.4 HSPF.	12 SEER/7.4 HSPF.	12 SEER/7.4 HSPF.
	All split-system models: low and high SEER and HSPF for certified compressor-coil combinations.				

* The Rule language states that the label must be changed on or before the compliance date of the DOE efficiency standards. The dates on this table reflect those currently scheduled by DOE.

VIII. 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. OMB has approved the Rule's existing information collection requirements through Jan. 31, 2014 (OMB Control No. 3084 0069). As described below, the final amendments modify existing EnergyGuide label design and require its presence on packaging for some products. Accordingly, the Commission is submitting these amendments to OMB for review.

Manufacturer EnergyGuide Images Online: The final amendments require manufacturers to post images of their EnergyGuide labels on their Web sites. Given approximately 6,000 total models[68] at an estimated five minutes per model,[69] this requirement will entail a burden of 500 hours.[70] Assuming that the additional disclosure requirement will be implemented by graphic designers at a mean hourly wage of $23.41 per hour,[71] the associated labor cost would approximate $11,705 per year (500 hours x $23.41).

Updating EnergyGuide Labels: The amendments also require heating and cooling equipment manufacturers to change the EnergyGuide labels to the new design. These changes constitute more than routine, minor conforming changes such as those required to update existing labels. The Commission estimates that new label design will require a one-time drafting change for the manufacturers. Consistent with similar label changes in the past, the Commission estimates that this one-time change will take 40 hours per manufacturer.[72] As with other recent

[65] Seasonal Energy Efficiency Rating.

[66] Energy Efficiency Rating.

[67] Heating Seasonal Performance Factor.

[68] This estimate is based on information from industry sources (*e.g., www.ahrinet.org*).

[69] In comments, Goodman argued that the five-minute estimate did not account for time spent by designers and engineers creating the label. However, this particular estimate simply reflects the time spent by Web site personnel loading the image onto the manufacturer's Web site.

[70] Unlike retail Web sites that already have established Web pages for the products they offer, some manufacturers may have to create new Web pages for posting these required labels. Accordingly, the burden estimate for manufacturers is higher (five minutes per model) than that for catalog sellers (one minute per model).

[71] *See* U.S. Department of Labor, Occupational Employment and Wages—May 2011, Table 1, released March 27, 2012, available at *http://www.bls.gov/news.release/archives/ocwage_03272012.pdf.*

[72] 72 FR 49948, 49964 (Aug. 27, 2007) (general amendments to the EnergyGuide label design).

labeling changes, the FTC staff plans to provide template labels on the Commission's Web site to minimize the burden associated with such labels changes. The Commission estimates that there are approximately 100 manufacturers of affected covered products. Therefore, the label design change will result in a one-time burden of 4,000 hours (100 manufacturers x 40 hours). In calculating the associated labor cost estimate, the Commission assumes that the label design change will be implemented by engineers at an hourly wage rate of $44.36 per hour based on Bureau of Labor Statistics information.[73] Thus, the Commission estimates that the new label design change will result in a one-time labor cost of approximately $177,440 (4,000 hours x $44.36 per hour).

EnergyGuide Labels on Packaging: The amendments require manufacturers to affix a copy of the EnergyGuide on packaging for split-system and single-package air conditioners, and non-weatherized and mobile home gas furnaces. DOE has estimated past annual shipments of these units at about 5,500,000.[74] The Commission estimates the burden for package labeling at 12,222 hours [8 seconds × 5,500,000 units].[75] In calculating the associated labor cost estimate, the Commission assumes that the label design change will be implemented by packaging and filling machine operators at an hourly wage rate of $13.44 per hour based on Bureau of Labor Statistics information. Thus, the Commission estimates that label placement on packaging will result in an annual labor cost of approximately $164,264 (12,222 hours x $13.44 per hour).

Catalog and Installer Disclosures: The Rule already requires retailers to post energy information in catalogs (including Web sites) and installers and other retailers, including brick-and-mortar stores, to make information available to consumers at the point of sale. Therefore, the new requirements should not significantly alter the current burden estimate.

Estimated Annual Non-Labor Cost Burden: The Commission expects the amendments will impose additional labeling cost of $385,000, based on a conservative estimate of 5,500,000 units shipped, at an average cost of seven cents for each label.[76]

IX. 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.

The Commission does not anticipate that the Rule will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds. However, the Commission does not expect that the requirements specified in the final rule will have a significant impact on these entities because, as discussed in the previous section, the amendments involve formatting changes to labels, additional labels on some packaging, and Web site changes.

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. Statement of the Need for, and Objectives of, the Amendments

As directed by Congress, the Commission is issuing new disclosures to help consumers and industry members understand new DOE regional efficiency standards for heating and cooling equipment. The objective of the final rule is to develop new labels to help communicate regional standards requirements for heating and cooling equipment. The legal basis for this Rule is the EPCA (42 U.S.C. 6291 *et seq.*).

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. The Commission received comments on the burdens associated with the amendments, which are addressed in the Paperwork Reduction Act section of this notice.

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 equipment manufacturers is 750 employees.[77] The Commission estimates that fewer than 50 such entities subject to the proposed Rule's requirements qualify as small businesses.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The Commission recognizes that the proposed labeling changes will involve some burdens on affected entities. However, the amendments should not have a significant impact on small entities. The amendments would increase existing burdens by requiring manufacturers to change their EnergyGuide labels for products and place labels on packages for certain furnaces and central air conditioners. Graphic designers and packaging operators will implement the new requirements. There should be no capital costs associated with the amendments.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the Rule. While the labels are related to DOE efficiency standards, the proposed requirements do not overlap with DOE rules.

F. Alternatives

The Commission has considered alternatives to the proposed rule and changed the final rule to reduce regulatory burden. As discussed in this Notice, the Commission has eliminated the proposed multi-color label and, instead, required a black and yellow label to reduce costs associated with full-color printing. In addition, the

Comments from Goodman argued that the estimate should reflect time spent creating work requests, making the drawings, drawing review process, quality checks, and other activities.

[73] Goodman also indicated that engineers are generally involved in these activities, working at hourly rates higher than that of graphic designers. In response, the Commission has changed the estimate to assume all work is conducted by engineers. However, the Commission has not changed the time estimate because the FTC staff, consistent with current practice, plans to provide files containing label templates, largely eliminating the need for manufacturers to design the labels themselves.

[74] *See http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/hvac_ch_09_shipments_2011–04–25.pdf.*

[75] The Commission has increased this estimate from 6 to 8 seconds based on comments from Goodman explaining that the proposed time did not take into consideration restocking labels and ''potential decrease in line rates due to quantity of work at a given work station.''

[76] The Commission has added this estimate in response to Goodman's comments. The units shipped for this revised calculation excludes products that will not require a label on packaging (*e.g.,* products not subject to regional standards such as heat pumps).

[77] *See* Table of Small Business Size Standards, U. S. Small Business Administration (October 24, 2012) available at *http://www.sba.gov/content/table-small-business-size-standards.*

Commission has clarified that manufacturers do not have to include a separate label on packaging, if the label affixed to the product is visible to someone examining the package.

XII. Final Rule Language

List of Subjects in 16 CFR Part 305

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

For the reasons set out above, the Commission issues the following amendments to 16 CFR part 305:

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. Amend § 305.12, by revising paragraphs (d), (e), (f) introductory text, and (g) introductory text, and adding paragraphs (h) and (i) to read as follows:

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

* * * * *

(d) *Label type.* The labels must be affixed in the form of an adhesive label, unless otherwise indicated by this section. All adhesive labels should be applied with an adhesive with an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25''x38'') or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard.

(e) *Placement.* (1) Manufacturers shall affix adhesive labels to the covered products in such a position that they are easily read by persons examining the products. The labels should be generally located on the upper-right-front corner of each product's front exterior. However, other prominent locations may be used as long as labels will not become dislodged during normal handling throughout the chain of distribution to retailers or consumers. Tops of the labels should not exceed 74 inches from the base of taller products. Labels can be displayed in the form of a flap tag adhered to the top of the appliance and bent (folded at 90°) to hang over the front, as long as this can be done with assurance that it will be readily visible. Labels for split-system central air conditioners should be affixed to the condensing unit.

(2) In addition to the requirements of paragraph (e)(1), for split-system and single-package central air conditioners, and all non-weatherized and mobile home furnaces manufactured on or after the compliance date of regional efficiency standards issued by the Department of Energy for those products in 10 CFR part 430, manufacturers shall affix labels to covered product packages or the products themselves in positions that allow persons examining the packaged products to read the labels easily. Labels on packaging must be affixed via adhesive or another means sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. Labels for split-system central air conditioners should be affixed to condensing units' packages or condensing units consistent with this paragraph.

(f) *Content of labels for furnaces.* Content of labels for non-weatherized furnaces, mobile home furnaces, electric furnaces, and boilers manufactured before the compliance date of regional efficiency standards issued by the Department of Energy in 10 CFR part 430 for non-weatherized, and mobile home furnaces and content of labels for weatherized furnaces manufactured before the compliance date of regional efficiency standards for split-system air conditioners issued by the Department of Energy in 10 CFR part 430.

* * * * *

(g) *Content of labels for air conditioners and heat pumps.* Content of labels for central air conditioners and heat pumps manufactured before the compliance date of regional efficiency standards issued by the Department of Energy for central air conditioners in 10 CFR part 430.

* * * * *

(h) *Subject heading.* Content of labels for non-weatherized furnaces, mobile home furnaces, and electric furnaces, and boilers manufactured on or after the compliance date of regional efficiency standards issued by the Department of Energy in 10 CFR part 430 for non-weatherized, and mobile home furnaces and content of labels for weatherized gas and oil-fired furnaces manufactured on or after the compliance date of regional efficiency standards issued by the Department of Energy in 10 CFR part 430 for split-system air conditioners.

(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.

(3) The model's basic model number.

(4) The model's capacity as illustrated in the prototype and sample labels in appendix L to this part.

(5) The annual fuel utilization efficiency (AFUE) for furnace models as determined in accordance with § 305.5.

(6) Ranges of comparability consisting of the lowest and highest annual fuel utilization efficiency (AFUE) ratings for all furnaces of the model's type consistent with sample label 9A in appendix L.

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

(8) The following statement shall appear in bold print on furnace labels adjacent to the range(s) as illustrated in the sample labels in appendix L:

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

(9) For non-weatherized gas furnaces and mobile home gas furnaces with an AFUE of 90 or greater, the label must contain the following regional standards information consistent with sample label 9A in appendix L to this part:

Notice Federal law allows this unit to be installed in all U.S. states and territories.

(10) For non-weatherized gas furnaces and mobile home gas furnaces with an AFUE lower than 90, the label shall contain the following regional standards information consistent with sample label 9 in appendix L to this part:

(i) A statement that reads either:

(A) ''Notice Federal law allows this unit to be installed only in: AL, AZ, AR, CA, DC, DE, FL, GA, HI, KY, LA, MD, MS, NC, NM, NV, OK, SC, TN, TX, VA, and U.S. territories. Federal law prohibits installation of this unit in other states,'' if the Department of Energy has not issued waivers applicable to these products, or

(B) ''Notice Federal law allows this unit to be installed only in: AL, AZ, AR, CA, DC, DE, FL, GA, HI, KY, LA, MD, MS, NC, NM, NV, OK, SC, TN, TX, VA, and U.S. territories. Federal law prohibits installation of this unit in other states, unless a waiver from the

Department of Energy allows such installation,'' if the Department of Energy has issued waivers applicable to these products.

(ii) A map and accompanying text as illustrated in sample label 9 in appendix L.

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

Federal law prohibits removal of this label before consumer purchase.

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

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

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

(iii) The manufacturer may include the ENERGY STAR logo on the label for certified products in a location consistent with the sample labels in appendix L. 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.

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

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

(15) Manufacturers of oil furnaces must label their products with the AFUE rating associated with the furnace's input capacity set by the manufacturer at shipment. The oil furnace label may also contain a chart, as illustrated in sample label 9B in appendix L, indicating the efficiency rating at up to three additional input capacities offered by the manufacturer. Consistent with paragraph (f)(12)(iii) of this section, labels for oil furnaces may include the ENERGY STAR logo only if the model qualifies for that program on all input capacities displayed on the label.

(i) *Subject heading.* Content of labels for central air conditioners and heat pumps manufactured on or after the compliance date of regional efficiency standards issued by the Department of Energy for central air conditioners in 10 CFR part 430.

(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.

(3) The model's basic model number.

(4) The model's capacity as illustrated in the prototype and sample labels in appendix L to this part.

(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 7A and 8A in appendix L, the ratings for any split-system 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 7B 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 8A 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 8A 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 8A 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:

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

(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 will vary 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 will vary 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 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 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 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 EER could range from [__] to [__], depending on the coil installed with this unit.

(iii) A statement that reads:

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

(12) For any split-system central air conditioners with a rated cooling capacity of at least 45,000 Btu/h and minimum efficiency ratings below 14 SEER or 11.7 EER, and any split-system central air conditioner with a rated cooling capacity less than 45,000 Btu/h and a minimum efficiency rating below 14 SEER or 12.2 EER, 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:

The installed system must meet the minimum Federal regional efficiency standards.

See productinfo.energy.gov for certified combinations.

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

(iii) For single-package 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, 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.

(i) A statement that reads:

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

(14) 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.

■ 3. 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 furnaces distributed in commerce before the compliance date of regional efficiency standards issued by the Department of Energy in 10 CFR part 430 for non-weatherized, and mobile home furnaces.

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

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

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

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

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

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

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

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

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

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

(viii) If the ''most common'' condenser-evaporator coil combinations are given for central air conditioners and heat pump efficiency ratings pursuant to § 305.14(a)(1)(v)(B), the statement required by § 305.14(a)(1)(vii) as follows:

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

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

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

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

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

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

(ix) For central air conditioners disclosing the efficiency ratings for specific condenser/coil combinations pursuant to § 305.14(a)(1)(v)(B), a general disclosure that the efficiency ratings are based on U.S. Government tests.

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

Internet-based access). Distributors must give this information to retailers, including assemblers, they supply.

(ii) Retailers, including assemblers, who sell central air conditioners, heat pumps, and furnaces (including boilers) to consumers must make the information specified under § 305.14(a)(1) available to customers in any manner, as long as customers are likely to notice it. For example, it may be available in a display, where customers can take copies of them. It may be kept in a binder or made available electronically at a counter or service desk, with a sign telling customers where the required information is.

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

(b) The following provisions apply to any covered central air conditioner, heat pump, or furnaces distributed in commerce on or after the compliance date of regional efficiency standards issued by the Department of Energy in 10 CFR part 430 for non-weatherized and mobile home furnaces.

(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 Label 9B.

■ 4. Amend § 305.20, by adding paragraphs (a)(5) and (i) to read as follows:

§ 305.20 Paper catalogs and Web sites.

(a) * * *

(5) For Furnaces, central air conditioners, and heat pumps offered for sale on or after the compliance date of regional efficiency standards issued by the Department of Energy in 10 CFR part 430 for non-weatherized furnaces: The model's efficiency rating or ratings as disclosed on the label and a disclosure stating ''For more information, visit *www.ftc.gov/energy.*'' For split-system units, a disclosure stating ''This system's efficiency rating depends on the coil installed with this unit.'' For central air conditioners manufactured on or after the compliance date of regional efficiency standards issued by the Department of Energy for those products in 10 CFR part 430 and subject to such regional standards, the catalog must provide, in at least one location, the disclosures and graphics required by § 305.12(i)(11) and (12). For non-weatherized gas and mobile home gas furnaces manufactured after the compliance date of regional efficiency standards issued by the Department of Energy for those products in 10 CFR part 430, and all furnaces manufactured after the compliance date of regional efficiency standards issued by the Department of Energy in 10 CFR part 430 and subject to such standards, the catalog must disclose, in a clear and conspicuous fashion, the states in which specific models may be installed as indicated on the product's label prepared by the manufacturer pursuant to § 305.12.

* * * * *

(i) For split-system and single-package central air conditioners and non-weatherized or mobile home furnaces offered for sale on or after the compliance date of regional efficiency standards issued by the Department of Energy for those products in 10 CFR part 430, the catalog (Web site or paper catalog) must contain the following statement conspicuously placed on the product page in close proximity to the link to the product's EnergyGuide label:

Federal law prohibits the installation of some [central air conditioners or furnaces] in certain states. Look to the EnergyGuide label to determine whether this product can be installed in your location.

■ 5. Revise Appendices G1, G2, G3, G4, G5, G6, G7, and G8 to read as follows:

Appendix G1 to Part 305—Furnaces—Gas

Furnace type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Gas Furnaces Manufactured Before the Compliance Date of DOE Regional Standards—All Capacities	78.0	96.6

Furnace type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Non-Weatherized Gas Furnaces Manufactured After the Compliance Date of DOE Regional Standards—All Capacities	80.0	98.5
Weatherized Gas Furnaces Manufactured After the Compliance Date of DOE Regional Standards—All Capacities	.....	.....

Appendix G2 to Part 305—Furnaces—Electric

Furnace type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Electric Furnaces—All Capacities	100.0	100.0

Appendix G3 to Part 305—Furnaces—Oil

Type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Oil Furnaces Manufactured Before the Compliance Date of DOE Regional Standards—All Capacities	78.0	86.1
Non-Weatherized Oil Furnaces Manufactured After the Compliance Date of DOE Regional Standards—All Capacities	83.0	95.4
Weatherized Oil Furnaces Manufactured After the Compliance Date of DOE Regional Standards—All Capacities	.....	.....

Appendix G4 to Part 305—Mobile Home Furnaces—Gas

Type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Mobile Home Gas Furnaces Manufactured Before the Compliance Date of DOE Regional Standards—All Capacities	75.0	92.1
Mobile Home Gas Furnaces Manufactured After the Compliance Date of DOE Regional Standards—All Capacities	80.0	96.5

Appendix G5 to Part 305—Mobile Home Furnaces—Oil

Type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Mobile Home Oil Furnaces Manufactured Before the Compliance Date of DOE Regional Standards—All Capacities	75.0	92.1
Mobile Home Oil Furnaces Manufactured After the Compliance Date of DOE Regional Standards—All Capacities	75.0	86.6

Appendix G6 to Part 305—Boilers (Gas)

Type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Gas (Except Steam) Boilers Manufactured Before the Compliance Date of DOE Regional Standards for Non-Weatherized Furnaces *—All Capacities	80.0	95.5
Gas (Steam) Boilers Manufactured Before the Compliance Date of DOE Regional Standards for Non-Weatherized Furnaces *—All Capacities	75.8	84.0
All Gas Boilers Manufactured After the Compliance Date of DOE Regional Standards *—All Capacities	80.0	98.0

* Timing for boiler range revisions is tied to the compliance date for non-weatherized furnace regional standards.

Appendix G7 to Part 305—Boilers (Oil)

Type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Oil Boilers Manufactured Before the Compliance Date of DOE Regional Standards for Non-Weatherized Furnaces *—All Capacities	80.0	92.0
Oil Boilers Manufactured After the Compliance Date of DOE Regional Standards *—All Capacities	82.0	96.0

Appendix G8 to Part 305—Boilers (Electric)

Type	Range of annual fuel utilization efficiencies (AFUEs)	
	Low	High
Electric Boilers	100	100

■ 6. In Appendix L, Prototype Labels 3 and 4 are revised, Sample Label 7 is revised, Sample Labels 7A and 7B are added, Sample Label 8 is revised, Sample Label 8A is added, Sample Label 9 is revised, and Sample Labels 9A and 9B are added to read as follows:

Appendix L to Part 305—Sample Labels

* * * * *

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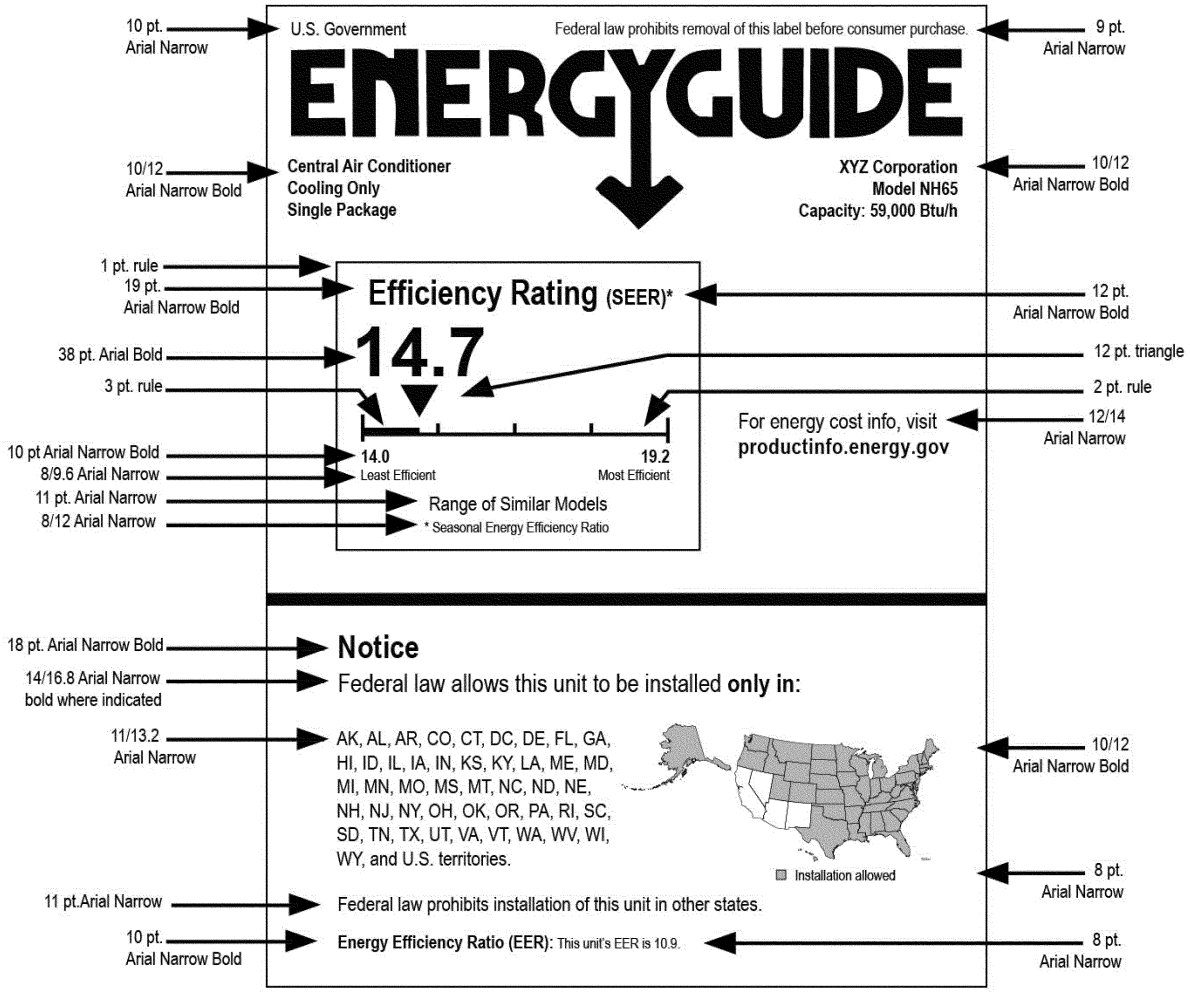
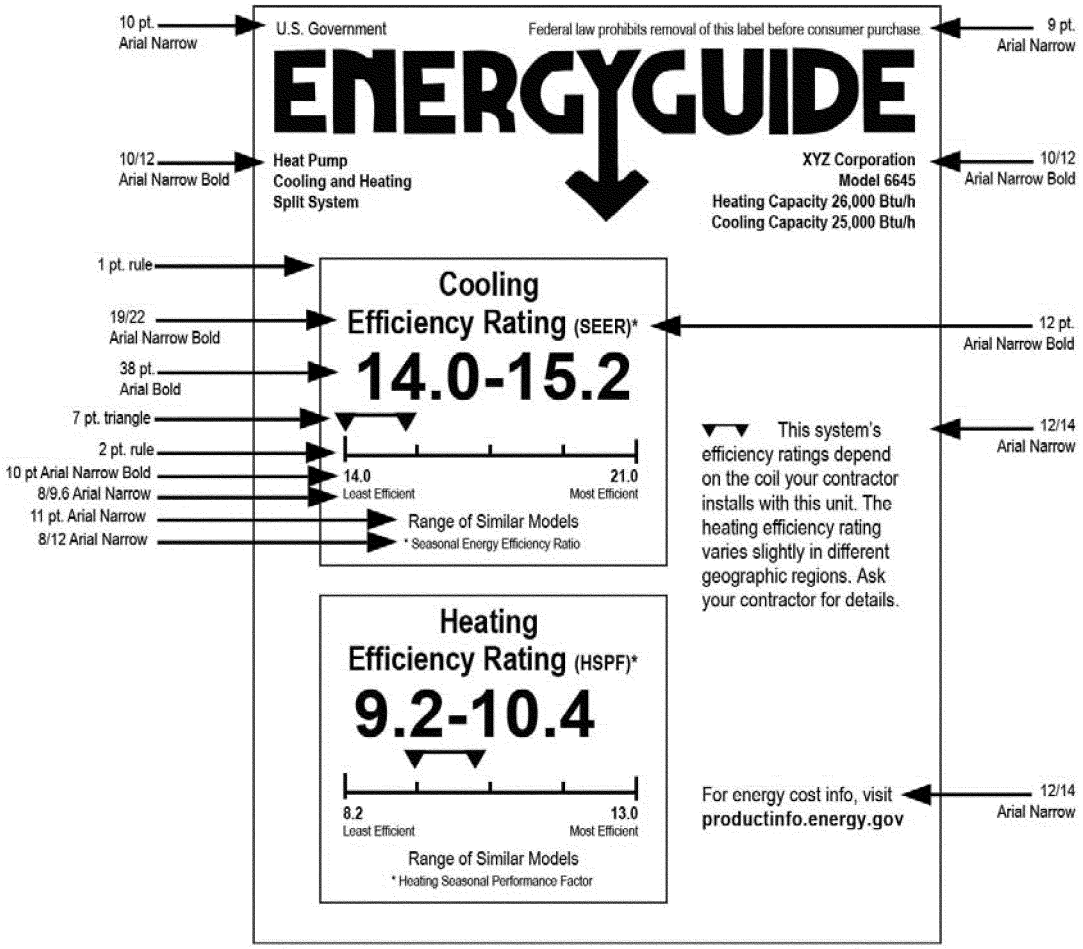
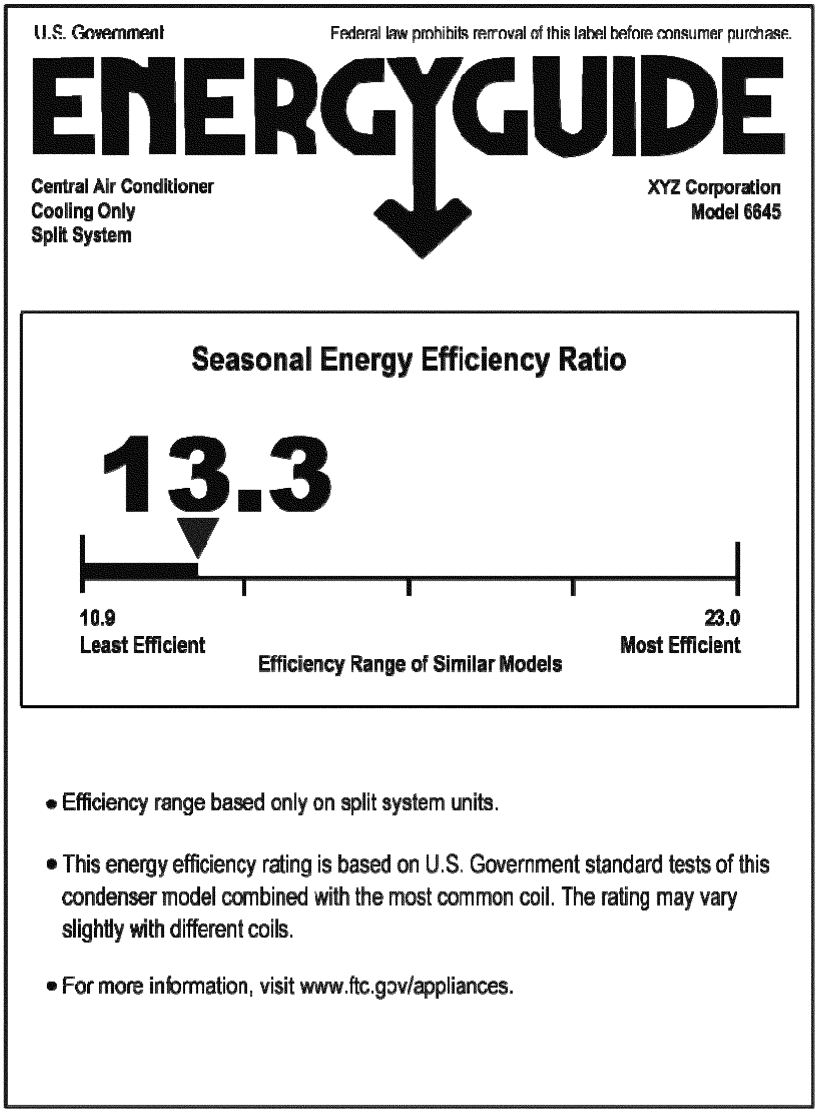
* Timing of boiler range revisions is tied to the compliance date for non-weatherized furnace regional standards.



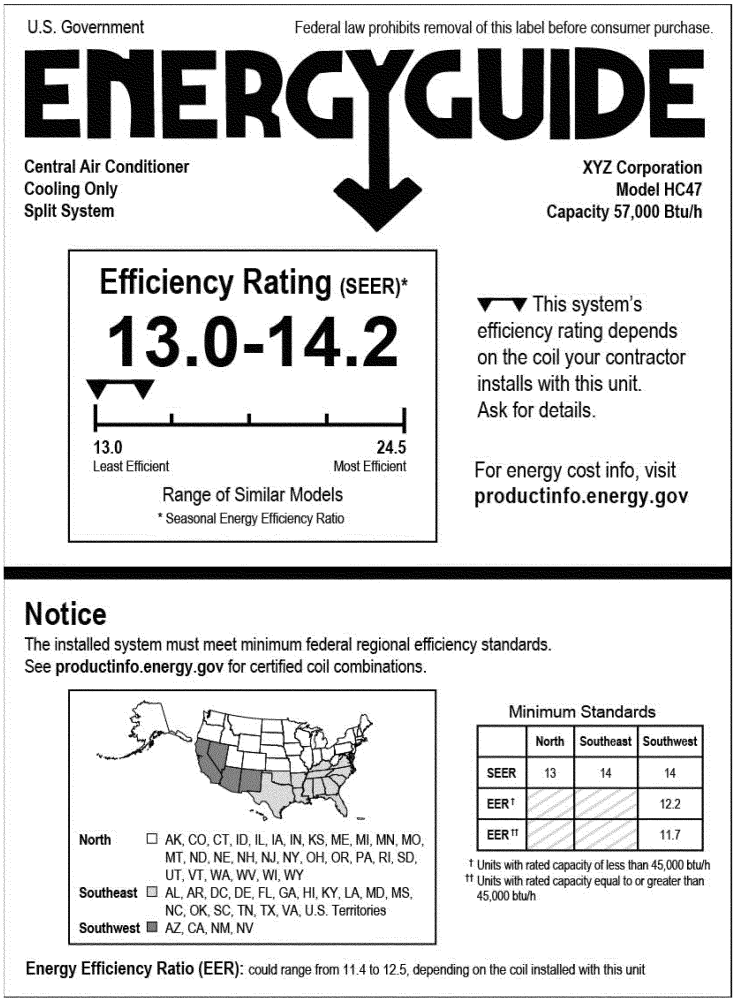
Prototype Label 3 - Single-Package Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



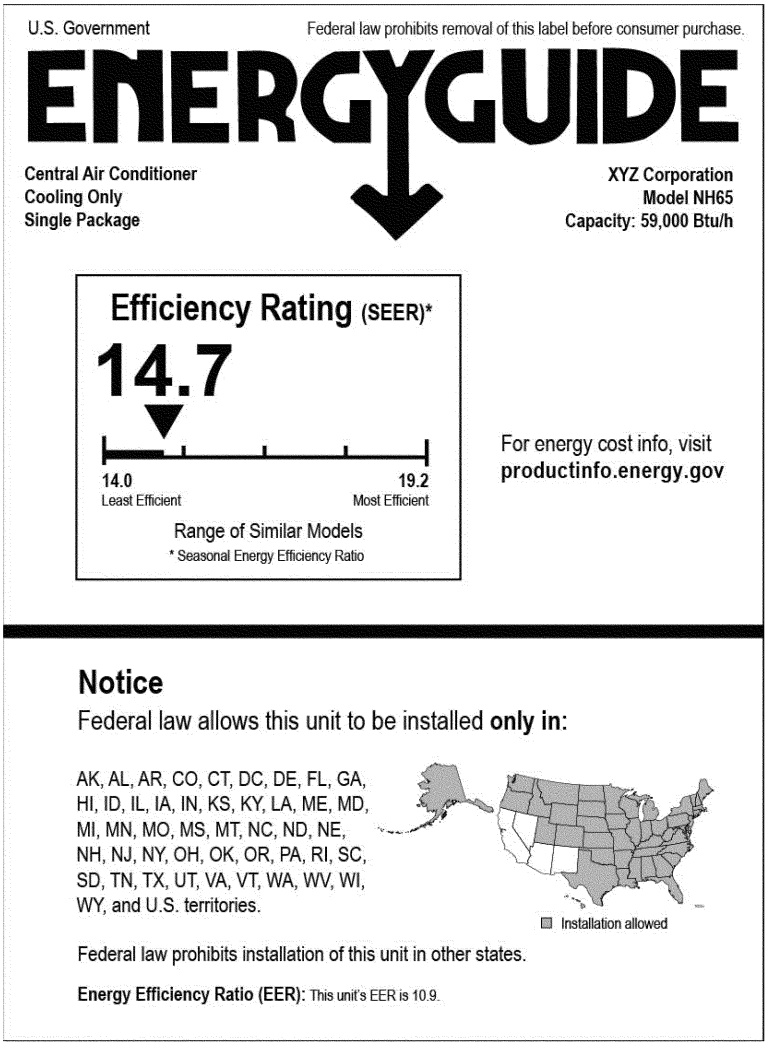
Prototype Label 4 - Split-system Heat Pump (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



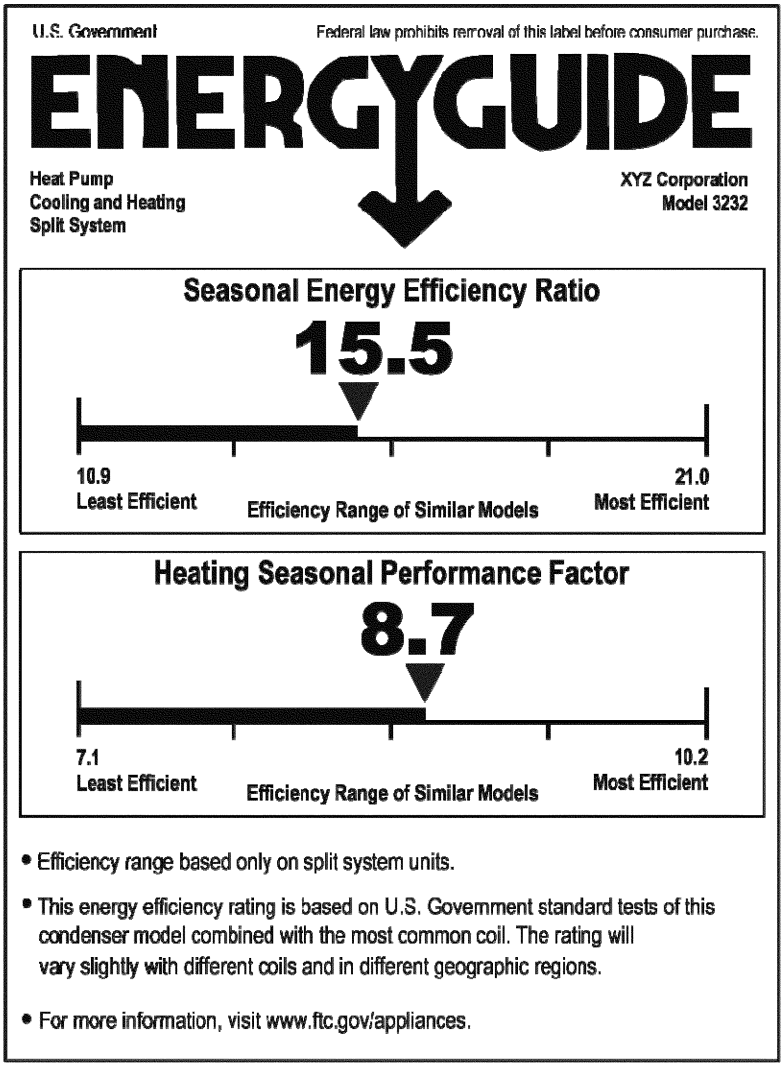
Sample Label 7 – Split-system Central Air Conditioner (models manufactured before the compliance date of DOE regional efficiency standards in 10 CFR part 430)



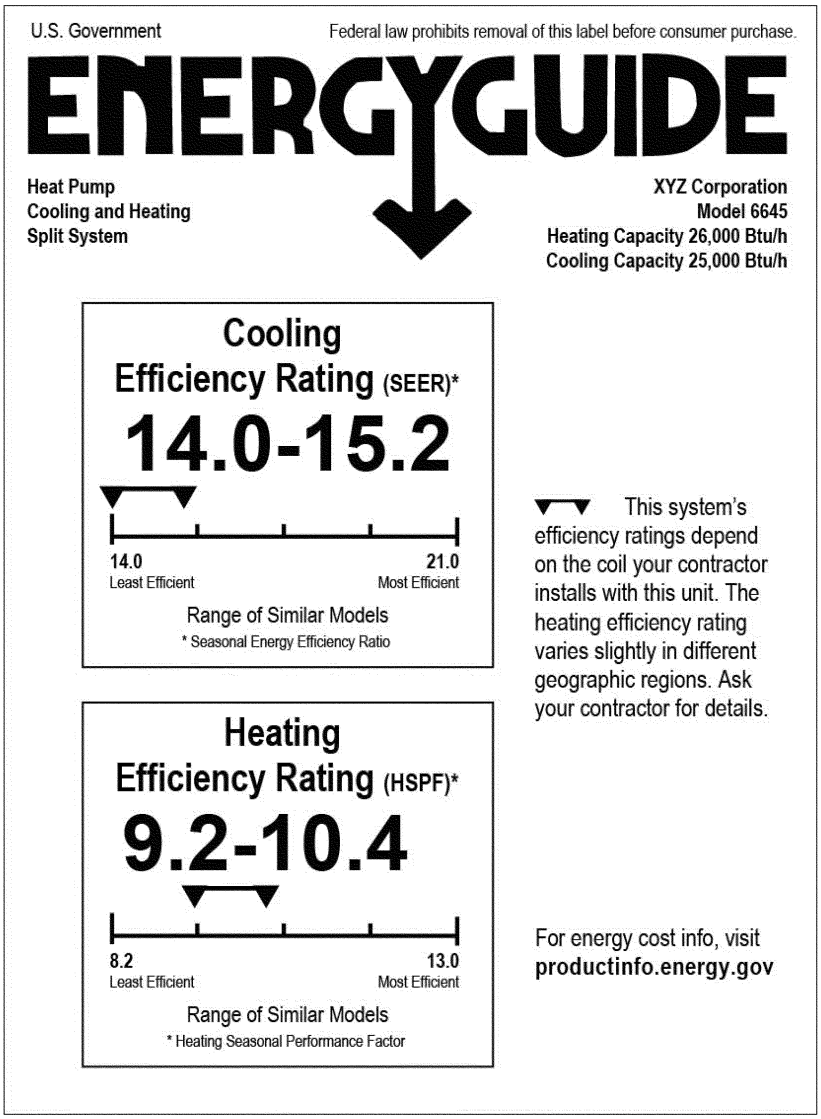
Sample Label 7A Split-system Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



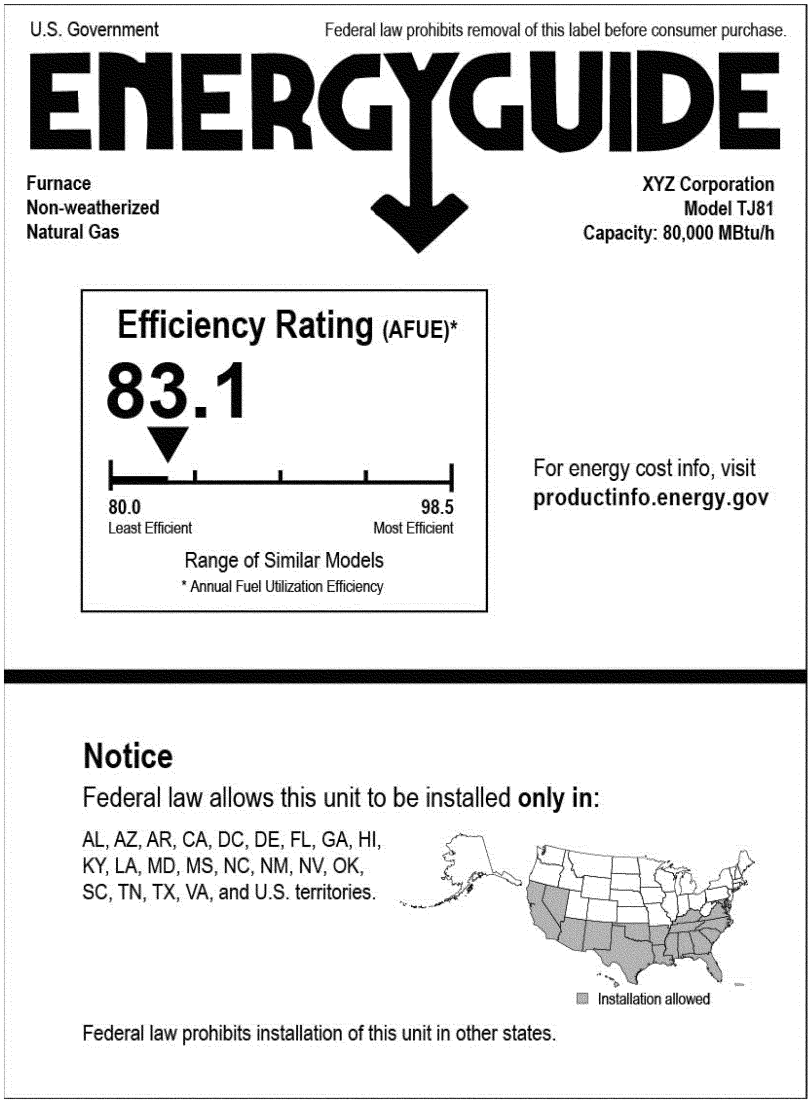
Sample Label 7B Single-Package Central Air Conditioner (models manufactured after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



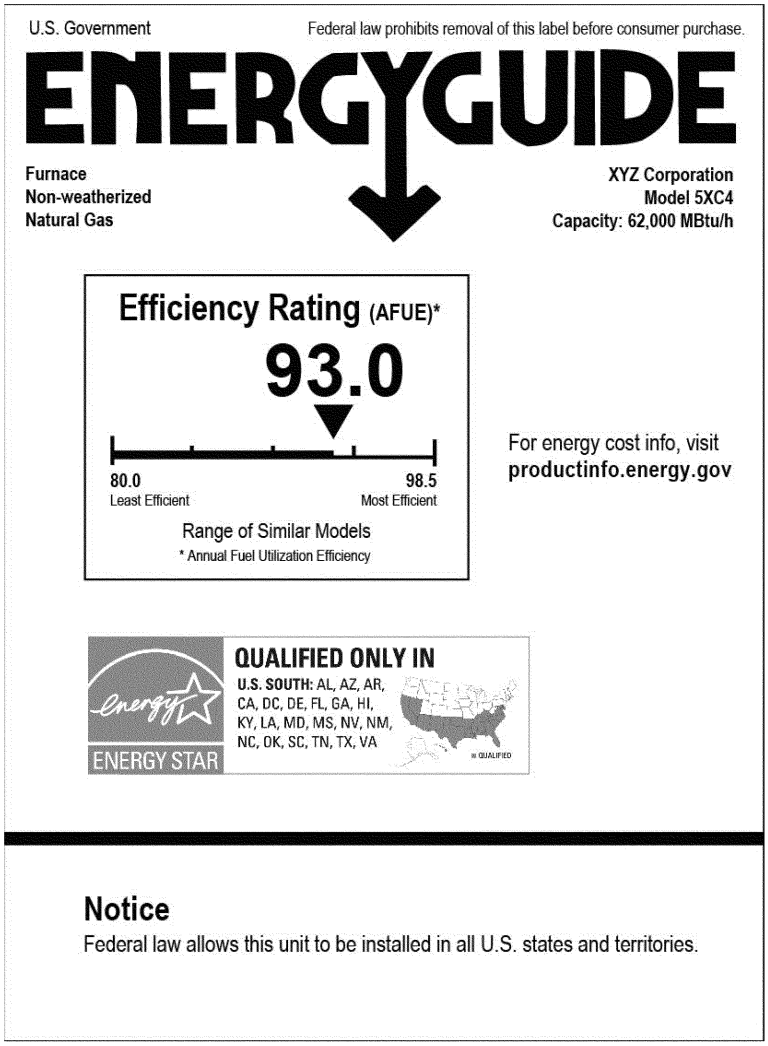
Sample Label 8 – Split-system Heat Pump (only for units manufactured before the compliance date of DOE regional efficiency standards in 10 CFR part 430)



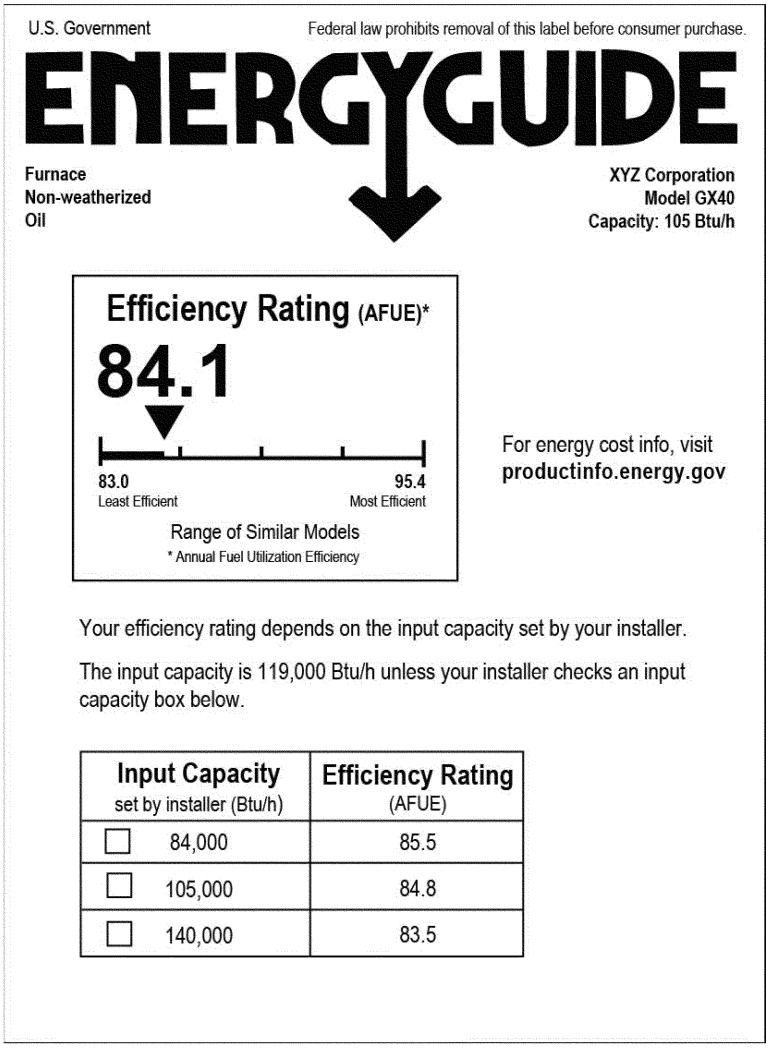
Sample Label 8A – Split-system Heat Pump (only for units manufactured on or after the compliance date of DOE regional efficiency standards in 10 CFR part 430)



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)



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)

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By direction of the Commission, Commissioner Wright not participating.

Donald S. Clark

Secretary.

[FR Doc. 2013–02225 Filed 2–5–13; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Natural Gas Pipelines; Project Cost and Annual Limits

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.308(x)(1), the Director of the Office of Energy Projects (OEP) computes and publishes the project cost and annual limits for natural gas pipelines blanket construction certificates for each calendar year.

DATES: This final rule is effective February 6, 2013 and establishes cost limits applicable from January 1, 2013 through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Richard Foley, Chief, Certificates Branch 1, Division of Pipeline Certificates, (202) 502–8955.

SUPPLEMENTARY INFORMATION: