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

FEDERAL TRADE COMMISSION**16 CFR Part 305****Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")****AGENCY:** Federal Trade Commission.**ACTION:** Final rule.

SUMMARY: The Federal Trade Commission ("the Commission") grants manufacturers of residential appliances covered by its Appliance Labeling Rule ("the Rule") a conditional exemption from the Rule's prohibition against the inclusion of non-required information on the EnergyGuide labels required by the Rule. The exemption enables appliance manufacturers to place the logo of the Department of Energy's ("DOE") and Environmental Protection Agency's ("EPA") joint "ENERGY STAR" Program on required EnergyGuides on some appliances under certain conditions. The Commission also announces a non-substantive amendment to the Rule to include "Federal Trade Commission" on all EnergyGuide labels so consumers and others will be clear as to the identity of the agency with the authority to enforce the Rule.

DATES: Effective: February 25, 2000. Manufacturers may avail themselves of the conditional exemption as of February 25, 2000. Manufacturers must begin to include the new language identifying the Federal Trade Commission on labels as soon as they print new labels.

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SUPPLEMENTARY INFORMATION:**I. Background***A. The Commission's Appliance Labeling Rule*

The Commission issued the Appliance Labeling Rule, 44 FR 66466 (Nov. 19, 1979), pursuant to a directive in section 324 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6294 ("EPCA")). The Rule requires manufacturers to disclose energy information about certain major household appliances ("covered appliances") to enable consumers purchasing appliances to compare the energy use or efficiency of competing models. The Rule initially applied to

eight appliance categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Subsequently, the Commission expanded the Rule's coverage five times: In 1987 (central air conditioners, heat pumps, and certain new types of furnaces); 1989 (fluorescent lamp ballasts); 1993 (certain plumbing products); and twice in 1994 (certain lighting products, and pool heaters and certain other types of water heaters).

Manufacturers of all covered appliances must disclose specific energy consumption or efficiency information at the point of sale in the form of an EnergyGuide label that is affixed to the covered product.¹ Manufacturers must derive this information from standardized tests that EPCA directs DOE to develop.² Required labels for appliances and required fact sheets for heating and cooling equipment must include an energy consumption or efficiency disclosure and a "range of comparability" bar that shows the highest and lowest energy consumption or efficiencies for all similar appliance models. Labels for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners also must contain a secondary disclosure of estimated annual operating cost based on a specified national average cost for the fuel the appliances use. The Rule prescribes specifications for the size and colors of the EnergyGuides and for the size and style of the type to be used in the required disclosures. Sample labels appear as appendices to the Rule. The Rule also prohibits the inclusion of non-required information on the EnergyGuide to ensure that such information does not detract from the required information:

No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada

¹ The information on the EnergyGuide also must appear in catalogs from which covered products can be ordered. Manufacturers of furnaces, central air conditioners, and heat pumps also must either provide fact sheets showing additional cost information or be listed in an industry directory that shows the cost information for their products.

² Section 323 of EPCA (42 U.S.C. 6293) directs DOE to develop test procedures to be used by appliance manufacturers to determine their products' compliance with DOE's standards. Section 324(c)(1)(A) of EPCA (42 U.S.C. 6294(c)(1)(A)) states that the Commission's Rule must require disclosure on labels of energy use information derived from the DOE test procedures.

or Mexico may appear directly adjoining this label, as desired by the manufacturer. * * *³

16 CFR 305.11(a)(5)(i)(K).

DOE and EPA staff and an appliance manufacturer⁴ have requested that the Commission grant a conditional exemption from this prohibition against non-required information that would allow the placement of the DOE/EPA ENERGY STAR logo on the EnergyGuides on qualifying appliances.

*B. The ENERGY STAR Program***1. Description of the Program**

Section 127 of the Energy Policy Act of 1992⁵ directed DOE, in conjunction with EPA, utilities, and appliance manufacturers, to submit a report to Congress assessing the potential for the development and commercialization of appliances that are substantially more efficient than required by state or federal law,⁶ and that are likely to be cost-effective for consumers. The appliances contemplated in the directive include those covered by the Commission's Appliance Labeling Rule. The report, which DOE submitted to Congress in April, 1995, concluded in part that the involvement of the federal government in "market transformation" programs could have a positive effect on consumer purchasing decisions regarding higher efficiency products.

Following the report, DOE began to develop a program—originally called the ENERGY SAVER Program—to promote high efficiency household appliances and water heaters in the U.S. marketplace. Concurrently, EPA was developing a similar program—the ENERGY STAR Program—in response to

³ The language in this section pertains to labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. Identical language appears in two other sections relating to labels for furnaces and pool heaters, 16 CFR 305.11(a)(5)(ii)(I), and central air conditioners and heat pumps, 16 CFR 305.11(a)(5)(iii)(H)(1). The statute itself (EPCA) does not prohibit the inclusion of non-Rule-required information on the EnergyGuide.

⁴ The Maytag Company, by petition dated July 25, 1997.

⁵ Pub. L. 102-486, 106 Stat. 2776, 2835 (Oct. 24, 1992).

⁶ In this context, "federal law" includes DOE's minimum efficiency standards for appliances, which Congress directed DOE to issue in section 325 of EPCA (42 U.S.C. 6295). As amended, the statute itself set the initial national energy efficiency standards for appliances and established a schedule for regular DOE review of the standards for each product category. The statute directed DOE to design these standards to achieve the maximum improvement in energy efficiency for residential appliances that is technologically feasible and economically justified. 42 U.S.C. 6265(o)(2). In accordance with the statutory directive, DOE regularly reviews the established standards and publishes new standards where appropriate. DOE's rules relating to standards, like its test procedure rules, are codified at 10 CFR part 430 (1999).

a directive in section 103(g) of the Clean Air Act, 42 U.S.C. 7403(g), that encompassed home heating and cooling equipment ("HVAC equipment"). EPA also developed ENERGY STAR Programs for lighting products, consumer electronics, office equipment, and home insulation products. Ultimately, the two programs for appliances and HVAC equipment were merged into a single program under the ENERGY STAR name. An ENERGY STAR logo can be used by Program participants in connection with qualifying products directly on the product itself or on an ENERGY STAR label or fact sheet associated with or attached to the product or used in promotional materials or advertising. The logo indicates significantly better energy performance than some specified norm (DOE's minimum efficiency standards, in the case of appliances and HVAC equipment), or indicates the incorporation of a specific energy saving feature on the product.

The Program is a partnership among DOE, EPA, product manufacturers, major national, regional, and local retailers, utilities, state energy offices, industry trade associations and the financial community. The Program's intent is to increase consumer interest in purchasing highly efficient appliances and heating and cooling equipment (as well as other building products) through promotional programs (including national and regional advertising), lower interest financing, product labeling, sales training, and consumer education.

The appliance products that are (or will be) included in DOE's component of the Program are: refrigerator-freezers, dishwashers, clothes washers, room air conditioners, and water heaters. HVAC equipment has been included since 1995 in EPA's earlier version of the ENERGY STAR Program, and there is already a mechanism in place for designating qualifying HVAC products by means of separate labels, as well as in advertising and promotional materials. EPA staff joined in the instant request for Commission permission for the HVAC equipment manufacturers participating in the Program to include the ENERGY STAR logo on the EnergyGuides on their qualifying products.

DOE and EPA have established qualifying energy consumption criteria that specific appliance and HVAC equipment categories must meet to be included in the ENERGY STAR Program.⁷ To establish its criteria, DOE

held public workshops in several cities, and solicited comments from all segments of the public. DOE received comments from appliance manufacturers and retailers, utilities, state energy agencies, public interest groups, and representatives of the Canadian government.

EPA held approximately 30 public meetings, primarily at EPA Headquarters in Washington, DC, mostly in late 1995 and early 1996. Attending stakeholders included manufacturers, public interest groups, industry trade associations, and utility groups.

The results of these processes as they apply to specific appliance categories are summarized below. Currently, to be included in the Program:

A refrigerator-freezer must have an annual electrical consumption (as determined by the DOE test for that category of products) that is at least 20 percent less than the maximum energy consumption permitted by DOE's standard for refrigerator-freezers;

A dishwasher must have an Energy Factor ("EF") of 0.52 or greater.⁸ An EF of 0.52 represents a 13% improvement in efficiency over DOE's minimum EF of 0.46;

A standard clothes washer (top or front loading) must have an EF of 2.5 or greater.⁹ An EF of 2.5 is an approximately 112% efficiency improvement over DOE's minimum EF of 1.18. The relatively high percentage of improvement over the standard is due to the existence of a new technology in the clothes washer industry;

A room air conditioner must be rated with an Energy Efficiency Ratio ("EER") that is 15% greater than the DOE minimum EER for the type and size of that unit.¹⁰

A gas- or oil-fueled furnace must be rated with an Annual Fuel Utilization Efficiency ("AFUE") that is 90 or better; a gas- or oil-fueled boiler must be rated with an AFUE that is 85 or better.¹¹

A central air conditioner or the cooling function of an air-source heat pump must be rated with a Seasonal Energy Efficiency Ratio ("SEER") of 12 or better; the heating function of an air-source heat pump must be rated

ENERGY STAR website, at <www.energystar.gov>. EPA maintains a similar website at <www.epa.gov/energystar.html>, which is hyperlinked to DOE's site.

⁸ Under the DOE tests, an appliance's EF is a measure of the useful output of its services divided by the energy input.

⁹ To date, DOE has included only "standard" clothes washers in the Program because most of the models sold fall within that subcategory. For purposes of its minimum efficiency standards program, DOE's clothes washer category also includes a "compact" subcategory. The criterion for the distinction is tub capacity.

¹⁰ The EER is the efficiency measurement for room air conditioners specified in the DOE test procedure for these products. Only units without reverse cycle (heating function) and with louvered sides can currently qualify for the Program.

¹¹ The AFUE is the efficiency measurement for forced air furnaces and for boilers that is specified in the DOE test procedure for these products.

with a Heating Seasonal Performance Factor ("HSPF") of 7 or higher.¹²

To date, DOE has not finished developing the water heater component of the Program.

As discussed in section II., below, the conditional exemption from the Rule's non-required information prohibition is being made available to Program participants only for those appliances that meet DOE's and EPA's criteria.

2. The ENERGY STAR Logo

EPA owns the ENERGY STAR logo and name and has licensed them to DOE. As a result of this joint partnership, the initials of both agencies appear on the logo. DOE and EPA allow the use of the ENERGY STAR logo by retailers, utilities, manufacturers and other organizations participating in their respective programs under clearly established guidelines that are set out in a memorandum of understanding ("MOU") that each participant must sign. Participants that have signed an MOU are then "partners." Under these MOUs, partners may associate the ENERGY STAR logo and name with specific products that DOE and EPA have determined meet the Program's requirements.¹³

Program partners may use the logo as a product label and in catalogs and advertising to designate specific products that are ENERGY STAR qualifying products. A sample EnergyGuide with an ENERGY STAR logo placed in accordance with the conditions the Commission announces today appears at the end of Section II., below. Partners also may display the logo when describing one or more of the ENERGY STAR labeling programs, such as in special educational brochures, newsletters, or annual reports. Retailer and utility partners are allowed to include the logo in general educational or promotional materials, such as utility bill stuffers, newsletters, or annual reports.

¹² The SEER is the efficiency measurements for central air conditioners and the cooling function of air-source heat pumps specified in the DOE test procedure for these products; the HSPF is the DOE test efficiency measurement for the heating function of air-source heat pumps.

¹³ The MOUs provide that each partner is responsible for using the logo in accordance with the MOU's terms. Partners must make the logo use guidelines available to other entities, such as advertising agencies, that prepare materials on the partner's behalf. Non-partners must seek specific approval from either EPA or DOE for each specific use of the logo. Under no circumstances may the logo or name be used in a manner that would imply EPA or DOE endorsement. DOE and EPA are responsible for overseeing proper use of the logo and name.

⁷ A discussion of DOE's criteria, together with lists of qualifying products, can be found on DOE's

3. Current Use of the Logo and the Proposal To Include It on the EnergyGuide

Currently, retailers apply separate ENERGY STAR labels on qualifying appliances at each store site. The extent and accuracy of label placement is then monitored by participating utilities and DOE contractors. From its public workshops and the comments they generated, DOE learned that many manufacturers, retailers and consumers wanted a single, "augmented" EnergyGuide label, which would be preferable to separate EnergyGuide and ENERGY STAR labels.

Some manufacturers favored an augmented label because it would reduce their costs and allow them to assure proper identification of qualifying models, which is harder to control at the retailer level. Retailers believed that the augmented label would be less confusing to consumers than multiple labels relating to energy use, that an augmented EnergyGuide label could build upon the broad "brand recognition" achieved by the Commission's label, and that an augmented label would make it easier for consumers to distinguish efficient products. DOE staff believed that the efforts of the Commission, EPA, and DOE to provide consumer educational materials explaining a new augmented label, coupled with training for appliance salespeople, would lead to broader overall consumer awareness of the differences in energy consumption among competing appliances, and thus would result in more informed consumer decision-making. Finally, the augmented label could be used by utilities in connection with their efforts to support demand-side load reduction objectives through the use of incentives to consumers.

C. The Notice of Proposed Rulemaking

On November 24, 1998, the Commission published a Notice of Proposed Rulemaking proposing a conditional exemption to allow manufacturers to place the ENERGY STAR logo on EnergyGuides affixed to qualified products (63 FR 64921). The Commission noted that, although the ENERGY STAR logo is already appearing as a separate label on some qualifying appliances and most qualifying HVAC equipment covered by the Rule, an augmented label would be likely to lower manufacturers' labeling and monitoring costs and reduce the likelihood of mislabeling. The logo's highlighting of efficient appliances also could complement the Rule's objective of providing consumers with energy

efficiency and consumption information. Finally, in conjunction with the descriptive information already on the EnergyGuide label, the logo could provide a context that would better ensure consumer understanding of the logo than if it were on a separate label.

1. The Terms of the Proposed Conditional Exemption

The Commission proposed adding a new section to the Rule—305.19 Exemptions—to codify the terms of the conditional exemption for those who wished to avail themselves of it. The Commission based the proposed exemption on several conditions. First, the ENERGY STAR logo would be permitted on the EnergyGuides of only those covered appliances and HVAC equipment that meet the ENERGY STAR Program qualification criteria that are current at the time the products are labeled. Second, only manufacturers that have signed a MOU with DOE or EPA would be permitted to affix the augmented labels to qualifying appliances. Third, to ensure that the ENERGY STAR logo is permanently placed in the proper position on the augmented EnergyGuide label, manufacturers that choose to avail themselves of the conditional exemption would be required to print the ENERGY STAR logo on EnergyGuides for qualified products as part of the usual label printing process; that is, manufacturers (or distributors or retailers) would not be permitted to apply a separate logo onto already finished labels subsequent to the time a product is labeled. Fourth, manufacturers would have to draft the logo in conformance with certain technical specifications relating to its appearance, placement on the EnergyGuide, and size. Specifically, the logo would have to appear above the comparability bar in the box that contains the applicable range of comparability. The precise location of the logo would vary depending on where the caret indicating the position of the labeled model on the scale appears (the NPR included a sample label that illustrated an EnergyGuide with the logo printed in conformity with the proposed conditions). The required dimensions of the logo would be no more than one and one-eighth inches (3 cm.) in width and no more than three-quarters of an inch (2 cm.) in height. Manufacturers would be prohibited from placing the logo in a way that would obscure, detract from, alter the dimensions of, or touch any element of the label, which in all other respects would have to conform to the

requirements of the Commission's Rule. The ENERGY STAR logo would be in process black ink to match the print specifications for the EnergyGuide. The background would remain in process yellow to match the rest of the label.

As a last condition, the Commission proposed requiring that manufacturers availing themselves of the conditional exemption add a sentence to explain the significance of the ENERGY STAR logo, citing its concern that the addition of the logo to the EnergyGuide without some explanation of its meaning on the face of the label itself might not be meaningful to consumers. The Commission proposed that manufacturers include a brief explanatory sentence below the comparability bar between the "least" and "most" numbers (the exact wording would depend on the product category.): "ENERGY STAR [product type(s)] use at least % less energy annually than the Federal Maximum." or: "ENERGY STAR [product type(s)] are at least % more efficient than the Federal Minimum." or: "ENERGY STAR [product type(s)] must be rated with a [type of efficiency rating] of [rating] or higher."¹⁴

2. Non-Substantive Amendment To Add the Commission's Name to the EnergyGuide

The Commission also proposed amending the Rule so the Federal Trade Commission would be clearly identified as the government entity that requires manufacturers to affix the EnergyGuide label to their appliances, and to eliminate confusion if the Commission grants the proposed conditional exemption and the identifying initials of DOE and EPA appear on the labels of appliances that qualify for the ENERGY STAR Program. The proposal was to change the sentence at the bottom of the EnergyGuide to read:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).¹⁵

The Commission noted that, because of the non-substantive nature of this proposal, manufacturers would not have to make the change until their supply of current labels is exhausted in the ordinary course of business or they draft new labels for other reasons, such as a change in the ranges of comparability.

¹⁴ See 63 FR 64924 for the proposed wording of this statement on labels for the different types of products that would be covered by the proposed conditional exemption.

¹⁵ Currently, this disclosure reads, "Important: Removal of this label before consumer purchase is a violation of Federal law (42 U.S.C. 6302)."

The proposed language was included on the sample EnergyGuide in the NPR.¹⁶

3. Specific Issues and Questions for Comment

In addition to asking for comment on any issues or concerns the public believed were relevant or appropriate to the Commission's consideration of the proposed exemption, the Commission also asked for comment on several specific questions: Whether the Commission should grant the proposed conditional exemption only to partners in the ENERGY STAR Program; whether the specific conditions under which the Commission was proposing the conditional exemption were appropriate (and if not, what conditions would be appropriate); whether the proposed explanatory statement was effectively worded and would be helpful to consumers; the benefits and economic impact of the proposed conditional exemption (especially on small businesses); and whether the ENERGY STAR logo and promotional materials convey accurate information to consumers (especially regarding overall operating cost over time).¹⁷

II. Discussion of the Comments and Final Amendments

A. The Proposed Conditional Exemption Generally

The Commission received fifteen comments in response to the NPR.¹⁸ The comments were from four manufacturers,¹⁹ three non-profit public interest groups,²⁰ two utilities,²¹ two appliance manufacturer trade associations,²² two state energy

offices,²³ one utility association,²⁴ and one federal agency.²⁵ Generally speaking, all the commenters but two supported the Commission's proposal to make the conditional exemption available to those manufacturers who want to use it.²⁶

1. Comments in Support

Thirteen comments expressed general support for the Commission's proposal.²⁷ DOE's comment included information on the current status of the appliance manufacturing and marketing industry's participation in the Program, indicating that participation now includes two thousand retail stores, including Sears, Circuit City and Montgomery Ward as national retail chain partners, as well as many small retailers, and five major appliance manufacturers—Amana, Frigidaire, General Electric, Maytag, and Whirlpool.²⁸

a. Impact on Consumers and Others

Twelve comments addressed the effect the proposed conditional exemption would have on consumers and entities other than appliance manufacturers, such as retailers and utilities.²⁹ Ten of these mentioned benefits that the exemption would provide consumers.³⁰ These commenters agreed that the conditional exemption would make it easier for consumers easily to identify the highly efficient products that qualify for the Program. Five commenters noted in particular that the conditional exemption would result in an enhanced EnergyGuide label that would give consumers better, more easily understood information.³¹ CEC stated:

We strongly believe that the proposed conditional exemption will benefit the public. The ENERGY STAR logo on the

EnergyGuide label will clearly and consistently identify qualifying highly efficient products. This conditional exemption will help to foster the growing public awareness of the value of energy efficiency in the home and the demand for new products that can help us conserve resources while enjoying the convenience and luxury of technology.³²

Some commenters said that the exemption would result in a higher degree of assurance that the logo is applied only to qualifying products,³³ or would make it easier for retail sales staff to identify efficient products³⁴ or to promote qualified appliances.³⁵ OOE noted that "Retailers, especially, may appreciate the fact that they will no longer have to police which appliances on their sales floor have the ENERGY STAR logo affixed from day to day."³⁶

Eight commenters stated that the ENERGY STAR logo and promotional materials convey accurate information to consumers, especially respecting the cost over time of purchasing and operating qualifying appliances.³⁷ ACEEE pointed out that the ENERGY STAR logo works in concert with the EnergyGuide to provide information on operating cost.³⁸ NEEA and CEC stated that, with regard to consumer information and promotional materials, and the issue of overall cost over time of purchasing and operating qualifying appliances versus non-qualifying appliances, ENERGY STAR attempts to give consumers the tools to make educated purchasing decisions, taking into account possible utility bill savings.³⁹ NRDC said that "Much of the supporting materials developed by EPA/DOE and their contractors do indeed try to educate consumers about the overall product cost (purchase cost plus operating costs). * * *"⁴⁰ Finally, commenting on the promotional materials it developed for the Program, DOE stated:

All of the promotional materials developed by DOE convey accurate information about the ENERGY STAR label, its meaning, and the benefits that can be expected by

¹⁶ See 63 FR 64924–25.

¹⁷ *Id.* at 64926.

¹⁸ PG&E & Electric Company ("PG&E") (1); Gas Appliance Manufacturers Association ("GAMA") (2); Northwest Energy Efficiency Alliance ("NEEA") (3); American Council for an Energy Efficient Economy ("ACEEE") (4); Maytag Corporation ("Maytag") (5); Air-Conditioning & Refrigeration Institute ("ARI") (6); Natural Resources Defense Council ("NRDC") (7); American Gas Association ("AGA") (8); General Electric Appliances ("GE") (9); Sacramento Municipal Utility District ("SMUD") (10); Oregon Office of Energy ("OOE") (11); Whirlpool Corporation ("Whirlpool") (12); Alliance Laundry Systems ("Alliance") (13); California Energy Commission ("CEC") (14); Department of Energy ("DOE") (15). The comments are on the public record and are available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and the Commission's rules of practice, 16 CFR 4.11, at the Consumer Response Center, Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC. The comments are organized under the Appliance Labeling Rule, R611004, Energy Star Rulemaking.

¹⁹ Maytag (5); GE (9); Whirlpool (12); and Alliance (13).

²⁰ NEEA (3); ACEEE (4); and NRDC (7).

²¹ PG&E (1); and SMUD (10).

²² GAMA (2); and ARI (6).

²³ OOE (11); and CEC (14).

²⁴ AGA (8).

²⁵ DOE (15).

²⁶ AGA (8) and GE (9) opposed the proposal.

²⁷ PG&E (1) p. 1; GAMA (2) p. 1; NEEA (3) pp. 1, 3; ACEEE (4) pp. 1–2; Maytag (5) p. 1; ARI (6) p. 1 (provided participation in the program remains optional); NRDC (7) pp. 1–2, 3, 8; SMUD (10) pp. 1–2; OOE (11) pp. 1, 5; Whirlpool (12) p. 2; Alliance (13) p. 2 (provided use of the ENERGY STAR logo does not require financial or other support for retail marketing efforts; does not sell its products at retail); CEC (14) p. 1; DOE (15) pp. 1–2.

²⁸ DOE (15) pp. 1–2.

²⁹ PG&E (1) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; Maytag (5) p. 3; ARI (6) p. 2; NRDC (7) p. 5; AGA (8) p. 2; GE (9) pp. 3–5; OOE (11) pp. 3–4; Whirlpool (12) p. 1; CEC (14) p. 2; DOE (15) p. 4.

³⁰ PG&E (1) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; Maytag (5) p. 3; ARI (6) p. 2; NRDC (7) p. 5; OOE (11) pp. 3–4; Whirlpool (12) p. 1; CEC (14) pp. 2, 4; DOE (15) p. 4. The comments in opposition from AGA and GE are discussed in IIA.2, below.

³¹ NEEA (3) p. 1; ACEEE (4) p. 1; NRDC (7) p. 2; SMUD (10) pp. 1–2; CEC (14) p. 1.

³² CEC (14) p. 2.

³³ PG&E (1) p. 1; OOE (11) p. 1; Whirlpool (12) p. 1.

³⁴ NEEA (3) p. 2; NRDC (7) p. 5; CEC (14) p. 4 (would help manufacturers, retailers, and utilities to explain the benefit of these products).

³⁵ CEC (14) p. 2; DOE (15) p. 4.

³⁶ OOE (11) p. 4.

³⁷ NEEA (3) pp. 2–3; ACEEE (4) p. 2; Maytag (5) p. 4; ARI (6) p. 2; NRDC (7) p. 6; OOE (11) p. 4; CEC (14) pp. 2, 5; DOE (15) p. 4. See section IIA.2 for a discussion of the contrary position of AGA and GE.

³⁸ ACEEE (4) p. 2.

³⁹ NEEA (3) p. 3; CEC (14) pp. 2, 5.

⁴⁰ NRDC (7) p. 6. NRDC hoped that a future, redesigned EnergyGuide would fulfill this function, and pledged its assistance and support to this end.

consumers. The Department has commissioned hundreds of hours of technical and economic analyses concerning the product mixes, expected market penetrations, and consumer payback. The Department has worked very closely with EPA to ensure that our consumer education materials accurately convey the message that the ENERGY STAR differentiates products that use less energy and as such, can save consumers money on their utility bills.⁴¹

Five commenters observed that the conditional exemption would likely benefit those public utilities that have developed incentive programs that provide rebates to consumers who purchase energy efficient appliances and heating and cooling equipment.⁴² These commenters stated that the ENERGY STAR logo on the EnergyGuide would make it easier for utility staff to recognize products that qualify for their programs:

Appliance manufacturers, major retailers and many utilities have signed partnership agreements to use the symbol to promote efficient products. The conditional exemption will establish consistency in product labeling, making it easier for utilities and retailers to promote qualified products, and most importantly, making it easier for consumers to recognize them in stores.⁴³

b. Impact on Manufacturers

Eleven commenters addressed the impact of the proposed conditional exemption on manufacturers.⁴⁴ Nine of these thought that the proposal would benefit manufacturers economically.⁴⁵ Almost all of these comments contended that the conditional exemption would reduce printing costs to manufacturers over time⁴⁶ because they would be able to use one combined label for the required EnergyGuide and voluntary ENERGY STAR disclosures, rather than two, as before. Five commenters believed that the proposal

would result in an increase in the sale of energy efficient products or increased sales revenues for manufacturers, with two of these, ACEEE and OOE, suggesting that increased sales of higher efficiency units would result in higher revenues because such units tend to cost more and produce more profit per unit sold.⁴⁷

2. Comments in Opposition

Two commenters opposed the proposed conditional exemption. AGA contended that the EnergyGuide label should disclose energy use and efficiency descriptors derived using source-based data, rather than end-use data.⁴⁸

The Commission is currently limited in its EnergyGuide labeling program to use energy descriptors, provided by the Department of Energy (DOE), that provide narrow and misleading views of energy efficiency. In some cases, particularly when the appliances have different fuel sources, these descriptors distort how consumers view the overall cost and environmental impacts of operating appliances. For appliances that use competing fuels, this exemption may exacerbate the problem. * * * For appliances that use competing fuels, consumers would not benefit from the addition of the ENERGY STAR on the EnergyGuide label.

The Commission should disclose source-based information on EnergyGuides in order to allow consumers to translate a concern for the environment and a finite supply of fossil fuels into positive action when making purchasing decisions. In addition to promoting sound public policy, using source-based data provides Congress, the Commission, DOE and the public with a more accurate measurement of (1) energy consumption, (2) associated emissions, and (3) conservation potential.⁴⁹

GE also opposed the proposed conditional exemption. Noting that it is "proud to be an Energy Star partner," GE stated that it believed the Program is working in its present form (with the ENERGY STAR logo applied as a separate label) and that it saw no reason for a change such as the one requested in Maytag's petition. GE maintained that the Commission should conduct an evaluation of each aspect of the ENERGY STAR Program, from the logo to the partnership, and provide the

public with an opportunity for comment.⁵⁰ GE contended:

Petitioners have failed to demonstrate the need to exempt the Energy Star logo from the general prohibition against placing additional information on the EnergyGuide label. The Energy Star logo is a strictly voluntary program and elements of the program should not appear on the mandatory EnergyGuide label. * * * The current labeling scheme is sufficient to meet consumers' needs for energy consumption information.⁵¹

GE asserted that the proposed conditional exemption would penalize manufacturers of products that do not qualify for inclusion in the ENERGY STAR Program, and argued that the impact on these manufacturers, as well as the validity of the criteria for inclusion in the Program, should be subject to careful analysis under the standards of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*:

[N]either the Commission nor any other agency has developed record evidence to support the minimum qualifications established for Energy Star products. As an example, refrigerators must be ~20% more efficient than the DOE standards. Why? What national objective does a 20% level better achieve than 10%, 5% or 25%? What is the impact on competition of the selected level? Information on these issues, if it exists, has never been provided to interested parties. The Commission must remedy this oversight.⁵²

GE also contended that the ENERGY STAR Program's use, with the logo and in Program materials, of the slogan "Saving the Earth," without qualification as to how the Program actually helps the environment, may violate the Commission's Guides for the Use of Environmental Marketing Claims, 16 CFR part 260 (1999), which require that such claims be substantiated.⁵³

Finally, GE argued that the conditional exemption would mislead consumers into thinking that they are purchasing superior products when they are not because the Energy Star label does not distinguish between refrigerators that are 20% and 40% better than the standard. It contended that putting both products on an apparent equal footing misleads the consumer, who focuses on the logo, thinking that the less efficient product is just as efficient as the 40% model.⁵⁴

3. Final Amendments

After careful consideration of the comments, the Commission is amending the Rule to permit (but not require)

⁴¹ DOE (15) p. 4.

⁴² NEEA (3) p. 2; Maytag (5) p. 3; NRDC (7) p. 5; CEC (14) p. 2; DOE (15) p. 4.

⁴³ CEC (14) p. 2.

⁴⁴ GAMA (2) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; Maytag (5) p. 3; ARI (6) p. 2; NRDC (7) p. 5; GE (9) p. 2; OOE (11) p. 3; Alliance (13) p. 2; CEC (14) p. 4; DOE (15) p. 4. Some of these commenters also addressed the impact of the proposed conditional exemption on retailers, as discussed in II.A.1.a, above.

⁴⁵ GAMA (2) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; ARI (6) p. 2; NRDC (7) p. 5; OOE (11) p. 3; Alliance (13) p. 2; CEC (14) p. 4; DOE (15) p. 4. Maytag stated that there would be no economic impact on manufacturers. Maytag (5) p. 3. GE contended that the conditional exemption would have a negative impact on manufacturers. GE (9) p. 2. See the discussion of GE's comments in section II.A.2, below.

⁴⁶ Three commenters noted that the initial cost of the labeling change, for those who avail themselves of the conditional exemption, would be inconsequential, but that combining the labels would reduce labeling costs in the long run. ARI (6) p. 2; NRDC (7) p. 5; OOE (11) p. 3.

⁴⁷ ACEEE (4) p. 2 (ACEEE also pointed out that the conditional exemption would not injure individual manufacturers because it would be voluntary and manufacturers perceiving no benefits could continue with their current labeling programs.); NRDC (7) p. 5; SMUD (10) p. 2; OOE (11) p. 3; Whirlpool (12) p. 1.

⁴⁸ Source-based data includes the cost of producing the energy to fuel the appliance, as well as the energy production's impact on the environment; end-use data considers only the amount of energy used to fuel the appliance.

⁴⁹ AGA (8) pp. 2, 5.

⁵⁰ GE (9) pp.1-2.

⁵¹ *Id.* pp.5-6.

⁵² *Id.* p.2.

⁵³ *Id.*, p.3-4.

⁵⁴ *Id.*, p.4.

appliance manufacturers that are members of the EPA/DOE ENERGY STAR Program to place the ENERGY STAR logo on the EnergyGuides they affix to those of their products that qualify for inclusion in the ENERGY STAR Program. The Commission agrees with the comments that maintained that inclusion of the logo on labels for qualified products would help consumers identify and purchase more energy-efficient products, and that manufacturers electing to print the logo on their EnergyGuides, rather than to attach it by means of a separate label, would be able to save labeling costs. The Commission is modifying the wording and some substantive aspects of the proposal, however, in response to comments offering suggestions regarding placement of the logo on the EnergyGuide and the Explanatory Statement, as discussed in sections II.B.2., below.

Based on the comments received, the Commission has concluded that the ENERGY STAR logo and Program convey accurate, useful information to consumers. The Commission recognizes, as DOE pointed out in its comment, that this Program was carefully developed and that extensive public participation was sought and considered in finalizing the Program. The comments describing the ENERGY STAR Program's benefits to consumers, appliance manufacturers and retailers, and public utilities that maintain incentive rebate programs for consumers who purchase energy efficient appliances, strongly support implementation of the conditional exemption.

The Commission disagrees with GE's contention that it must conduct an evaluation—either through administrative rulemaking or otherwise—of every aspect of the ENERGY STAR Program before permitting manufacturers to print the logo on EnergyGuides on their qualifying products. The Commission is not required by statute to exclude non-required information from the EnergyGuide. Rather, the Commission included this prohibition in the Rule on its own initiative. Therefore, the Commission has the authority to repeal this prohibition entirely, or to specify the conditions under which clearly identified non-required information would be permitted. In this instance, the Commission is deciding to permit the addition of information that is truthful and accurate under a program established and monitored by two sister agencies. As discussed in section I.B. above, DOE and EPA both subjected their initially separate versions of the ENERGY STAR Program to extensive

public scrutiny and participation during the development of their Programs, and the Commission is satisfied with that aspect of the current Program.

Further, the Commission is not persuaded by GE's argument that the ENERGY STAR logo on EnergyGuides will mislead consumers because the ENERGY STAR label will not distinguish among products that are more efficient than the DOE standard. Because the specific energy use information of the labeled model will appear on the EnergyGuide, the actual difference in energy use among competing models will be readily apparent. Currently, consumers can see both the EnergyGuide and ENERGY STAR labels on products and can use the information together to make purchasing decisions if they wish. Allowing the logo on the EnergyGuide makes it easier for consumers to use the information together, while reducing labeling costs and the possibility of mislabeling.

Nor does the Commission agree with GE that the appearance of the logo on EnergyGuides will create an inappropriate impression of federal government endorsement. The current practice of using separate ENERGY STAR stickers containing DOE's and EPA's names does not appear to raise this concern and it is unlikely that consolidation of the labels will do so.⁵⁵

GE has expressed its concern more than once during this proceeding that promotional materials produced by DOE for the ENERGY STAR Program contain unqualified claims of environmental benefit. DOE has undertaken a review of the claims in its promotional materials. DOE intends to republish its materials with whatever changes may be necessary so that they are in compliance with the Commission's Guides for the Use of Environmental Marketing Claims.

Finally, the Commission does not have the authority to require the inclusion of source-based energy use data on the EnergyGuide, as AGA

⁵⁵ GE apparently believes that, because the EnergyGuide is a mandatory label, consumers would perceive the ENERGY STAR on the Energy Guide as a government endorsement, but would not perceive the separate ENERGY STAR label in the same way. The ENERGY STAR label, which often contains the identifying letters of EPA and/or DOE, is already widely seen on appliances and other products (e.g., computers and televisions) where there are no EnergyGuides. To the extent that consumers perceive such labeled products as "government endorsed" they very likely correctly understand that the "endorsement" is limited to energy efficiency or energy saving features, and not as a government suggestion that ENERGY STAR labeled products are superior to others in all respects. Accordingly, the Commission does not share GE's concerns regarding an inappropriate impression of Federal Government endorsement.

suggested. As noted in AGA's comment, the directive in section 324(c)(1)(A) of EPCA⁵⁶ is that the Commission require a label that discloses energy use information derived from DOE's test procedures, which determine end-use energy use data only.

B. Specific Aspects of the Proposed Conditional Exemption

1. Limitation of the Conditional Exemption to Energy Star Partners

a. Comments

Ten commenters addressed the Commission's proposal to permit only manufacturers who have signed an MOU with DOE or EPA to place the ENERGY STAR logo on EnergyGuides affixed to their qualifying products. Seven of these agreed that the proposed conditional exemption should be limited to partners in the ENERGY STAR Program.⁵⁷ ACEEE pointed out that "ENERGY STAR" is a trademark that can only be used with EPA's and DOE's permission, and that it is the prerogative of only those agencies (and not of the FTC) to permit non-partners to use the logo.⁵⁸ Three other commenters stated that to permit the use of the logo on EnergyGuides by non-partners would negate the value and credibility of the Program and violate EPA's and DOE's guidelines.⁵⁹ OOE stated that EPA and DOE need control over the use of the logo, and that the MOU should pose no problems for manufacturers,⁶⁰ and DOE said that the licensing agreement provides the federal government with needed control over the logo's use.⁶¹ Whirlpool agreed that participation in the conditional exemption should be limited to partners that have signed an MOU with DOE or EPA. Whirlpool also recommended that the Commission clarify that partners who sign MOUs that are limited to specific product categories can only put the ENERGY STAR logo on qualifying products within the scope of the MOU. For example, if a full-line manufacturer participates in the ENERGY STAR program only with respect to its refrigerators, that manufacturer would be permitted to use the ENERGY STAR logo only on EnergyGuides affixed to qualifying refrigerators, and not to other

⁵⁶ 42 U.S.C. 6294(c)(i)(A).

⁵⁷ NEEA (3) p.2; ACEEE (4) p.1; NRDC (7) pp.3-4; OOE (11) p.2; Whirlpool (12) p.1; CEC (14) p.3; DOE (15) p.3.

⁵⁸ ACEEE (4) p.1.

⁵⁹ NEEA (3) p.2; NRDC (7) pp.3-4; CEC (14) p.3.

⁶⁰ OOE (11) p.2.

⁶¹ DOE (15) p.3.

products, such as clothes washers or dishwashers.⁶²

Three commenters did not agree with the limitation proposed in the NPR. All of these recommended that the exemption should not be limited only to partners, but should be available to all manufacturers whose products meet the Program's criteria.⁶³

b. Final Amendments

The ENERGY STAR logo and name belong to EPA, which has licensed their use to DOE, and use of the name and logo by manufacturers is carefully controlled by the specific guidelines contained in the MOUs that participating manufacturers sign with each agency. Because EPA and DOE use the MOUs to maintain the Program's integrity, the Commission will not permit use of the ENERGY STAR name or logo on EnergyGuides by a manufacturer that has not signed an MOU with EPA or DOE.

To address Whirlpool's concern that a full-line manufacturer that has signed an MOU only with respect to one line of products might use the ENERGY STAR logo on another line, the conditional exemption is drafted to apply only to those products that are the subject of the MOU the manufacturer has signed.

Accordingly, § 305.19(a)(2) of the amended Rule limits the conditional exemption only to partners in the ENERGY STAR Program that have signed an MOU with EPA or DOE, and only to those products that are covered by the MOU.

2. Other Conditions for Use of the EnergyGuide

a. Generally

In response to a general question in the NPR about the appropriateness of the conditions under which the conditional exemption would be granted, four commenters stated without elaboration that the conditions were reasonable or appropriate.⁶⁴ Two others agreed that the conditions were appropriate with the exception of the requirement, discussed below, that the logo appear with the Explanatory Statement proposed in the NPR.⁶⁵

⁶² Whirlpool (12) p.1.

⁶³ Maytag (5) p.2; ARI (6) p.1 (ARI supported requiring manufacturers to have approval from either EPA or DOE to use the logo, but apparently did not believe formal partnership should be required.); Alliance (13) p. 1 (Alliance sells its products only in the multi-housing and Federal Government contract markets, and not at retail).

⁶⁴ ACEEE (4) p.1; ARI (6) p.1; Alliance (13) p.1; DOE (15) p.3.

⁶⁵ NRDC (7) p.3; OOE (11) p.2.

b. Placement of the Logo on the EnergyGuide

i. Comments

Ten commenters addressed the question in the NPR regarding the most cost-effective method for placing the ENERGY STAR logo on the EnergyGuide. Six of these said that the best method was for manufacturers to print the logo on the EnergyGuide at the factory.⁶⁶ Of these, ACEEE, Alliance, and DOE pointed out that printing at the factory is the most cost-effective method, and PG&E and NRDC stated that the approach would reduce or avoid mislabeling (intentional or unintentional). Two commenters thought that the decision as to the most cost-effective way of placing the ENERGY STAR logo on EnergyGuides should be left to the manufacturers,⁶⁷ and two others recommended that the Commission indicate that putting the logo on EnergyGuides would be optional.⁶⁸

ii. Final Amendments

The Commission believes that manufacturers should bear the responsibility for assuring that the ENERGY STAR logo appears properly and consistently on qualifying products. Moreover, manufacturers would be able to ensure consistent and proper placement of the logo more efficiently and at a lower cost if the logo were permitted on the EnergyGuide itself. While the Commission recognizes that the most efficient way for manufacturers to fulfill this responsibility would probably be to print the ENERGY STAR logo on EnergyGuides during the printing process, the Commission nevertheless wishes to afford manufacturers the latitude to place the logo on EnergyGuides by whatever means is most efficient for them, provided the placement complies with the requirements for location and size. They should then affix those EnergyGuides on their ENERGY STAR-qualified covered products in the same manner they use to affix EnergyGuides without the ENERGY STAR logo to their other covered products.

The Commission also notes that the requirement to place the logo on EnergyGuides applies only to those

⁶⁶ PG&E (1) p.1; ACEEE (4) p.1; NRDC (7) p.4; OOE (11) p.2; Alliance (13) p.1; DOE (15) p.3.

⁶⁷ Maytag (5) p.2; CEC (14) pp.2, 3.

⁶⁸ ARI wanted the Commission to make clear that the ENERGY STAR Program was voluntary. ARI (6) p.1. Whirlpool wanted an indication that participating manufacturers would not be required to label qualifying products, in case, for some reason, they inadvertently failed to print the logo on EnergyGuides attached to qualifying products. Whirlpool (12) p.2.

manufacturers who participate in the ENERGY STAR Program and elect to avail themselves of the conditional exemption. The extent to which participating manufacturers wish to use the ENERGY STAR logo on labels attached to qualifying products is up to them.

Accordingly, § 305.19(a)(3) of the amended Rule provides that manufacturers that choose to use the conditional exemption may print the ENERGY STAR logo on EnergyGuides for qualified products as part of the usual label printing process or may place the logo on EnergyGuides by whatever means is most efficient for them, provided the placement complies with the applicable size, location, and appearance requirements specified in § 305.19(a)(4).

c. The Explanatory Statement

i. Comments

Eleven commenters addressed the Explanatory Statement that the Commission proposed for inclusion on the EnergyGuides of qualifying products along with the ENERGY STAR logo.⁶⁹ Seven of these contended that consumers needed either the proposed statement or some other language explaining the logo to understand the significance of the logo's presence on the EnergyGuide.⁷⁰ NEEA, Maytag, ARI, Whirlpool, and Alliance thought that the Explanatory Statements proposed in the NPR were "appropriate," would help provide consumers with more purchase decision information, or would reinforce consumer understanding.⁷¹ CEC agreed that the proposed Explanatory Statement was appropriate, and suggested that the Commission also include the additional tagline, "The symbol for energy efficiency."⁷² NEEA and NRDC agreed with CEC's recommended language.⁷³ ACEEE contended that explanatory statements are not essential, but, if properly done, could offer some marginal benefits by explaining why

⁶⁹ NEEA (3) p.2; ACEEE (4) p.1; Maytag (5) pp.2, 3; ARI (6) pp.1, 2; NRDC (7) pp.3, 5; SMUD (10) p.2; OOE (11) pp.2-3; Whirlpool (12) p.2; Alliance (13) pp.1, 2; CEC (14) pp.3, 4; DOE (15) p.3.

⁷⁰ NEEA (3) p.2; ACEEE (4) p.1; Maytag (5) p.2; ARI (6) p.1; Whirlpool (12) p.2; Alliance (13) p.1; CEC (14) p.3.

⁷¹ NEEA (3) p.2; (4) p.1; Maytag (5) p.2 (Maytag noted that "The explanatory statement containing the term 'x% less energy annually that the Federal maximum' is clearer than expressing the same concept as 'x% more efficient than the Federal minimum.'"); ARI (6) p.1; Whirlpool (12) p.2; Alliance (13) p.1.

⁷² CEC (14) p.3.

⁷³ NEEA (3) p.2 (in addition to the proposed explanatory statement); NRDC (7) pp.3, 4 (as an alternative to the proposed explanatory statement).

some products get an ENERGY STAR and others do not, provided the statements are easy to understand and do not contain terms that are unfamiliar to consumers (such as "SEER" and "Federal Maximum"). ACEEE suggested that the statement read, "The ENERGY STAR is awarded to the most efficient products on the market."⁷⁴ OOE suggested, "Energy Star is an EPA/DOE program that helps consumers identify the most efficient appliances available today."⁷⁵ DOE suggested, "The ENERGY STAR logo identifies the most energy efficient products."⁷⁶

In connection with their suggestions of alternative language for the Explanatory Statement, OOE and NRDC contended that the proposed language in the Explanatory Statements for the different product categories was too complex and technical.⁷⁷ OOE also noted that the criteria for qualifying for the ENERGY STAR Program are likely to change over time, which would necessitate corresponding adjustments to labels.⁷⁸ Without suggesting specific language, SMUD also recommended against technical product-by-product qualifiers, and urged simplicity.⁷⁹

Seven commenters addressed whether the ENERGY STAR logo or the Explanatory Statement would affect consumers' understanding of the information on the EnergyGuide.⁸⁰ Alliance and DOE did not believe that the Explanatory Statement would affect consumers' understanding of the other parts of the EnergyGuide.⁸¹ Maytag, ARI and CEC stated that the Statement would be complementary to or would clarify the other information on the label and would assist consumers in understanding the EnergyGuide's overall content.⁸² OOE did not think that the addition of the logo would adversely affect consumer understanding of the other information on the EnergyGuide, primarily because of the amount of promotion of the program done by EPA and DOE.⁸³ NRDC and CEC contended that the addition of the logo to the EnergyGuide could help overcome what these commenters

referred to as the common consumer misconception that the EnergyGuide label itself denotes energy efficiency.⁸⁴

Six commenters addressed whether the Commission should require that the ENERGY STAR logo and Explanatory Statement appear in a color of ink different from the black ink on the rest of the EnergyGuide.⁸⁵ Most concluded that the additional expense to manufacturers would not be justified by a sufficiently significant increase in communication effectiveness. Maytag and ARI stated that the ENERGY STAR logo itself is the primary visual attraction, and that the additional cost would be unjustified.⁸⁶ OOE thought that a separate color of ink might be helpful, but was not sure that the additional expense would be justified by a commensurate increase in effectiveness.⁸⁷ CEC stated:

Adding the ENERGY STAR logo in a different color might be more visible for consumers, although it would be more expensive for manufacturers. Manufacturers could be given the option of using a "line art" (one color) version of the logo in a different color (such as blue or green), or manufacturers could use the 4-color version of the ENERGY STAR logo.⁸⁸

DOE recommended that black ink be used for all explanatory language concerning ENERGY STAR.⁸⁹

ii. Final Amendments

The record indicates that consumer understanding would be increased with a brief explanation of the ENERGY STAR logo on the EnergyGuide, and that an Explanatory Statement would not adversely affect consumers' understanding of the rest of the information on the EnergyGuide. The majority of the commenters, however, believed that the explanatory language proposed in the NPR is more specific and detailed than necessary. The Commission is persuaded that a simpler, less technical, more generic approach would be more helpful to consumers and more likely to communicate clearly the significance of the ENERGY STAR logo on the label. In addition, a simpler, non-specific Explanatory Statement would have the advantage of not needing to be changed whenever the criteria for ENERGY STAR qualification are modified.

In considering possible alternative language for the Explanatory Statement, the Commission has reviewed the

"taglines" suggested by the commenters, and has decided to use a simple statement that draws from these suggestions. In choosing a tagline, the Commission recognizes that, although models labeled with the ENERGY STAR logo are more efficient as a group than most of those not so labeled, some products made by manufacturers not in the ENERGY STAR Program may be as efficient or more efficient. To accommodate this situation, the Commission has adopted a tagline that states that the ENERGY STAR is "A symbol of energy efficiency," instead of "The symbol for energy efficiency," as the tagline currently most often used by DOE and EPA reads. Thus, the Commission has determined to use the phrase "ENERGY STAR A Symbol of Energy Efficiency" as a tagline to replace the Explanatory Statement proposed in the NPR. Accordingly, § 305.19(a)(5) requires that the Explanatory Statement, "ENERGY STAR A Symbol of Energy Efficiency" appear on all EnergyGuides on which the ENERGY STAR logo appears.

Further, in keeping with the comments suggesting the importance of simplicity regarding the explanatory statement and how it functions to inform consumers of the meaning of the logo, the Commission has changed the location of the statement from the location proposed in the NPR. The Commission is concerned that the distance and visual material that separate the tagline from the logo when they are above and below the bar, as proposed in the NPR, are visually confusing and could interfere with the ability of consumers to associate the two together at a glance. Accordingly, § 305.19(a)(5) of the amendments now requires that the tagline be located directly next to the logo above the bar, rather than below the bar.

Virtually all of the commenters that addressed whether the Commission should require that the ENERGY STAR logo and the Explanatory Statement appear in a different color of ink agreed that, although the requirement might somewhat increase the communication effectiveness of the logo and statement, the increase would not justify the additional cost to manufacturers. Accordingly, the Commission is not requiring the logo and statement to appear in ink of a color different from that of the other information on the EnergyGuide. Moreover, to avoid potential consumer confusion if some, but not all, manufacturers were to use a different colored ink, the Commission is requiring specifically that the logo and Explanatory Statement appear in process black ink.

⁷⁴ ACEEE (4) pp.1-2.

⁷⁵ OOE (11) p.2.

⁷⁶ DOE (15) p.3.

⁷⁷ OOE (1) pp.2-3; NRDC (7) p.3 (recommending that the explanatory statement be simple).

⁷⁸ OOE (1) pp.2-3.

⁷⁹ SMUD (10) p.2 (also noting that technical terms detract from the abilities of consumers and sales staff to use the label. NRDC made this same point. NRDC (7) p.3.).

⁸⁰ Maytag (5) p.3; ARI (6) p.2; NRDC (7) p.5; OOE (11) p.3; Alliance (13) p.2; CEC (14) p.4; DOE (15) p.3.

⁸¹ Alliance (13) p.2; DOE (15) p.3.

⁸² Maytag (5) p.3; ARI (6) p.2; CEC (14) p.4.

⁸³ OOE (1) p.3.

⁸⁴ NRDC (7) p.5; CEC (14) p.4.

⁸⁵ Maytag (5) p.2; ARI (6) p.2; OOE (11) p.3; Alliance (13) p.1; CEC (14) p.4; DOE (15) p.3.

⁸⁶ Maytag (5) p.2; ARI (6) p.2.

⁸⁷ OOE (11) p.3.

⁸⁸ CEC (14) p.4.

⁸⁹ DOE (15) p.3.

C. Proposed Amendment To Add the Commission's Name to the EnergyGuide

1. Comments

Whirlpool and GE addressed the Commission's proposal to add the identity of the Federal Trade Commission on the label as the agency responsible for enforcing the Appliance Labeling Rule. Whirlpool stated:

This can be easily accomplished as part of a natural transition to new EnergyGuide labels with new model introductions, normal changes emanating from changes in comparability and as inventories of old label stock are consumed.⁹⁰

GE expressed concern about the proposal tangentially in connection with its opposition to the overall proposal to add the ENERGY STAR logo to the EnergyGuide:

Allowing the Energy Star logo to be placed on the mandatory EnergyGuide label has the potential to mislead consumers to believe that the Federal Government actually endorses the product. Consider the impact of having the names of FTC, DOE and EPA on a product label. The potential is substantial that consumers will conclude that these government agencies together have determined that this product is superior to those that do not contain the label.⁹¹

2. Final Amendments

The Commission has concluded that the addition of the Federal Trade Commission's name on the EnergyGuide is desirable to clarify the identity of the agency with the authority for enforcing the Appliance Labeling Rule, especially on those labels bearing the ENERGY STAR logo, on which EPA and DOE also will be identified. The Commission does not agree with GE's assertion that the appearance of the Commission's name (along with EPA's and DOE's) will mislead consumers into thinking that the labeled product is superior to those products with labels without the ENERGY STAR logo. Rather, the Commission believes that consumers will see that there is a label on the product, required by the Federal Trade Commission, that contains energy use information and an indication that the product is more energy efficient than many other similar products in the marketplace.⁹²

Consequently, §§ 305.11(a)(5)(i)(I), 305.11(a)(5)(ii)(H), and 305.11(a)(5)(iii)(H) of the amended Rule replace the language at the bottom of the

current EnergyGuide with the following statement:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR part 305).

D. Initiative of the American Council for an Energy Efficient Economy

The Commission is aware that a group of stakeholders organized by the American Council for an Energy Efficient Economy ("ACEEE"), a public interest group concerned with promoting energy efficiency, has recently undertaken an initiative to study alternative designs for the EnergyGuide. The Commission's staff is involved in an advisory capacity in this project. The Commission understands that ACEEE is not likely to finish its research and prepare a petition for the Commission before the end of a year's time. The Commission will continue to follow this initiative, and will consider ACEEE's recommendations, if appropriate, when, and if, it files a petition at the completion of the project. In the meantime, the Commission believes that it should act now on the present recommendation so the public can realize its intended benefits as soon as possible.

II. Regulatory Flexibility Act

This notice does not contain a regulatory analysis under the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 603–604, because the Commission believes that the conditional exemption will not have "a significant economic impact on a substantial number of small entities," 5 U.S.C. 605.

In the NPR, the Commission noted that the Rule prohibits the inclusion of non-required information on the EnergyGuide in order to ensure that such information does not detract from the required information. The Commission concluded tentatively that the conditional exemption would not impose any new requirements on manufacturers of appliances and HVAC equipment and that, instead, it would allow them the option, under certain conditions, of voluntarily including the DOE/EPA ENERGY STAR logo on EnergyGuides affixed to products that qualify for inclusion in the ENERGY STAR Program. The Commission stated that it therefore believed the impact of the conditional exemption on all entities within the affected industry, if any, would be de minimis.

The Commission also stated in the NPR that, similarly, manufacturers would not have to comply with the proposed amendment to require

different language on the EnergyGuide that identifies the Commission as the agency with enforcement authority for the Rule until they were required to print new labels for other reasons, so the Commission believed that the impact of the proposed amendment on all entities within the affected industry, if any, also would be de minimis.

In light of the above, the Commission certified in the NPR, pursuant to section 605 of the RFA, 5 U.S.C. 605, that the proposed conditional exemption would not, if granted, have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact was overlooked, however, the Commission solicited comments concerning the effects of the proposed conditional exemption, including any benefits and burdens on manufacturers or consumers and the extent of those benefits and burdens, beyond those imposed or conferred by the current Rule, that the conditional exemption would have on manufacturers, retailers, or other sellers. The Commission expressed particular interest in comments regarding the effects of the conditional exemption on small businesses. The Commission stated that, after reviewing any comments received, it would determine whether it would be necessary to prepare a final regulatory flexibility analysis if it determined to grant the conditional exemption.

Eight comments responded to the Commission's solicitation in this regard.⁹³ Maytag said that the proposed conditional exemption would probably produce no economic impact on, or benefits to, small businesses.⁹⁴ ARI stated that the impact of the proposal would not differ from small businesses to large, but that the proposal could potentially reduce labeling costs for both.⁹⁵ ACEEE believed that the proposal would result in reduced costs to small retailers in the Program because they would no longer have to prepare and affix ENERGY STAR labels at their own expense if manufacturers were to add the ENERGY STAR logo at the factory.⁹⁶ Alliance said that the proposal would result in cost savings for manufacturers that are small businesses by permitting them to display the ENERGY STAR logo on their products by means of only one label instead of

⁹⁰ Whirlpool (12) p.2.

⁹¹ GE (9) p.5.

⁹² Adding the Federal Trade Commission's name also will help consumers who have questions about the EnergyGuide or who observe products without labels to know where to go for additional information or to complain.

⁹³ ACEEE (4) p.2; Maytag (5) p.3; ARI (6) p.2; NRDC (7) p.5; OOE (11) p.4; Alliance (13) p.2; CEC (14) p.4; DOE (15) p.4.

⁹⁴ Maytag (5) p.3.

⁹⁵ ARI (6) p.2.

⁹⁶ ACEEE (4) p.2.

two.⁹⁷ Finally, four commenters⁹⁸ shared the following view, as expressed by DOE:

The proposed conditional exemption will be especially beneficial to small businesses which do not necessarily have a budget for specific promotions to correspond with the ENERGY STAR Program (especially in the future when the government stops creating point-of-purchase materials). These retailers will be able to undertake promotions of energy efficient products at virtually no cost or effort.⁹⁹

While most of the comments on this issue suggest that the conditional exemption may have beneficial results for some small businesses, the Commission believes that the impact of the results will be *de minimis*, because the potential savings in labeling and promotional costs, while helpful, will be small in comparison to the overall budgets of the businesses affected, and thus will not be "significant."

The Commission received no comments regarding the costs of the proposed amendment to include the agency's name on EnergyGuide labels. Thus, the Commission's conclusion in the NPR that the impact of the proposed amendment would be *de minimis* remains unchanged.

In light of the forgoing, the Commission certifies, pursuant to section 605 of the RFA, that the conditional exemption and amendments published today will not have a significant economic effect on a substantial number of small entities.

IV. Paperwork Reduction Act

The Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.*, requires government agencies, before promulgating rules or other regulations that require "collections of information" (*i.e.*, recordkeeping, reporting, or third-party disclosure requirements), to obtain approval from the Office of Management and Budget ("OMB"), 44 U.S.C. 3502. The Commission currently has OMB clearance for the Rule's information collection requirements (OMB No. 3084-0069).

In the NPR, the Commission concluded that the conditional exemption would not impose any new information collection requirements. To ensure that no additional burden was overlooked, however, the Commission sought public comment on what, if any, additional information collection burden the proposed conditional exemption would impose.

No comments addressed this issue. The Commission maintains its position, therefore, that the conditional exemption will not impose any new information collection requirements.

List of Subjects in 16 CFR Part 305

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

V. Final Amendments

In consideration of the foregoing, the Commission amends title 16, chapter I, subchapter C of the Code of Federal Regulations, as follows:

PART 305—RULE CONCERNING DISCLOSURES REGARDING ENERGY CONSUMPTION AND WATER USE OF CERTAIN HOME APPLIANCE AND OTHER PRODUCTS REQUIRED UNDER THE ENERGY POLICY AND CONSERVATION ACT ("APPLIANCE LABELING RULE")

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

Authority: 42 U.S.C. 6294.

2. In § 305.11, paragraphs (a)(5)(i)(I), (a)(5)(ii)(H), and (a)(5)(iii)(H) are revised to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *
(5) * * *
(i) * * *

(I) The following statement shall appear at the bottom of the label:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).

* * * * *
(ii) * * *

(H) The following statement shall appear at the bottom of the label:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).

* * * * *
(iii) * * *

(H) The following statement shall appear at the bottom of the label:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).

* * * * *

3. Part 305 is amended by adding a new § 305.19 to read as follows:

§ 305.19 Exemptions.

The Commission has exempted manufacturers, private labelers, distributors, and/or retailers in some

instances from specific requirements of this part. These exemptions are listed in this section. In some circumstances, use of the exemptions is conditioned on alternative performance by manufacturers, private labelers, distributors, and/or retailers.

(a) Limited conditional exemption for manufacturers from the prohibition against the inclusion of non-required information on the label of covered products that qualify for inclusion in the ENERGY STAR Program maintained by the Department of Energy ("DOE") and the Environmental Protection Agency ("EPA"). Those manufacturers participating in the DOE/EPA ENERGY STAR Program who wish to place the ENERGY STAR logo on EnergyGuides affixed to covered products they manufacture that qualify for inclusion in the ENERGY STAR Program are granted a conditional exemption from the prohibition against placing "information other than that specified" by the Rule on the EnergyGuides they attach to their qualifying products. This exemption is based on several conditions:

(1) The ENERGY STAR logo is permitted on the EnergyGuides of only those covered products that meet the ENERGY STAR Program qualification criteria that are current at the time the products are labeled.

(2) Only manufacturers that have signed a Memorandum of Understanding with DOE or EPA 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) Manufacturers that choose to avail themselves of the conditional exemption may print the ENERGY STAR logo on EnergyGuides for qualified products as part of the usual label printing process or may place the logo on EnergyGuides for qualified products by whatever means is most efficient for them, provided such placement complies with the requirements of paragraph (a)(4), of this section.

(4) Manufacturers must place the logo on the EnergyGuide above the comparability bar in the box that contains the applicable range of comparability. The precise location of the logo will vary depending on where the caret indicating the position of the labeled model on the scale appears (see the sample label). The required dimensions of the logo must be one and one-eighth inches (3 cm.) in width and three-quarters of an inch (2 cm.) in height. Manufacturers are prohibited

⁹⁷ Alliance (13) p.2.

⁹⁸ NRDC (7) p.5; OOE (11) p.4; CEC (14) p.4; DOE (15) p.4.

⁹⁹ DOE (15) p.4.

from placing the logo in a way that would obscure, detract from, alter the dimensions of, or touch any element of the EnergyGuide, which in all other respects must conform to the requirements of this part. The ENERGY STAR logo must be in process black ink to match the print specifications for the EnergyGuide. The background must remain in process yellow to match the rest of the label.

(5) Manufacturers must add a sentence in process black ink that explains the significance of the ENERGY STAR logo in ten-point Helvetica Condensed Black typeface. The sentence must be next to the logo, above the comparability bar that shows the "least" and "most" numbers. The sentence must read:

ENERGY STAR A symbol of energy efficiency.

(b) [Reserved]

4. Appendix L is amended by revising Prototype Labels 1-5 and Sample Labels 1-10 and by adding Sample Label 11 to read as follows:

BILLING CODE 6750-01-P

Appendix L to Part 305—Sample Labels

All copy Arial Narrow Regular or Bold as below.
Helvetica Condensed series typeface or other equivalent also acceptable.

All copy x 28 pt.

10/12 Arial Narrow → Based on standard U.S. Government tests

12/14 Arial Narrow Bold → **ENERGYGUIDE**

12/14 Arial Narrow Bold → Refrigerator-Freezer
With Automatic Defrost
With Side-Mounted Freezer
With Through-the-Door-Ice Service

12/14 Arial Narrow Bold → XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet

20/22 Arial Narrow Bold → **Compare the Energy Use of this Refrigerator with Others Before You Buy.**

14/14 Arial Narrow → This Model Uses
800 kWh/year

1 pt. rule →

24 pt. rule → **Energy use (kWh/year) range of all similar models**

10/12 Arial Narrow Use bold where indicated → Uses Least Energy 685

14/14 Arial Narrow Bold → Uses Most Energy 1000

1 pt. rule → kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only models with 22.5 and 24.4 cubic feet and the above features are used in this scale.

14/14 Arial Narrow Bold → **Refrigerators using more energy cost more to operate. This model's estimated yearly operating cost is:**

18 Arial Narrow Bold → **\$65**

10/12 Arial Narrow → Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

6/8 Arial Narrow → Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Prototype Label 1

All copy Arial Narrow Regular or Bold as below.
Helvetica Condensed series typeface or other equivalent also acceptable.

All copy x 28 pt.

10/12 Arial Narrow → Based on standard U.S. Government tests

ENERGYGUIDE

12/14 Arial Narrow Bold → Clothes Washer
Capacity: Standard

XYZ Corporation
Model(s) MR328, XL12, NAA83

12/14 Arial Narrow Bold →

20/22 Arial Narrow Bold → Compare the Energy Use of this Clothes Washer
with Others Before You Buy.

14/14 Arial Narrow → This Model Uses
873kWh/year

10 Arial Narrow →

1 pt. rule →

24 pt. rule → **Energy use (kWh/year) range of all similar models**

16 Arial Narrow Bold →

14/14 Arial Narrow Bold → Uses Least Energy
156

14/14 Arial Narrow Bold → Uses Most Energy
1154

10/12 Arial Narrow Use bold where indicated → kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use.
Your utility company uses it to compute your bill. Only standard size clothes washers
are used in this scale.

1 pt. rule →

14/14 Arial Narrow Bold → Clothes washers using more energy cost more to operate.
This model's estimated yearly operating cost is:

18 Arial Narrow Bold → **\$70**

Box: 24 pt. tall → **\$33**

10/12 Arial Narrow → when used with an electric water heater

when used with a natural gas water heater

10/12 Arial Narrow → Based on eight loads of clothes a week and a 2000 U.S. Government national average cost of
8.03¢ per kWh for electricity and 68.8¢ per therm for natural gas. Your actual operating cost will
vary depending on your local utility rates and your use of the product.

6/8 Arial Narrow → Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Prototype Label 2

All copy Arial Narrow Regular or Bold as below.
Helvetica Condensed series typeface or other equivalent also acceptable.

All copy x 28 pt.

10/12 Arial Narrow → Based on standard U.S. Government tests

12/14 Arial Narrow Bold → **ENERGYGUIDE**

12/14 Arial Narrow Bold → **Water Heater — Natural Gas**

Capacity (first hour rating): 60 gallons

XYZ Corporation
Model(s) RP23
RP38

12/14 Arial Narrow Bold → **Compare the Energy Use of this Water Heater with Others Before You Buy.**

14/14 Arial Narrow → **This Model Uses**

240 Therms/year

24 pt. rule → **Energy use (Therms/year) range of all similar models**

1 pt. rule → **Uses Least Energy** 245

Uses Most Energy 295

14/14 Arial Narrow Bold → **The Estimated Annual Energy Consumption of this model was not available at the time the range was published.**

10/12 Arial Narrow Use bold where indicated → **Therms/year** is a measure of energy use. Your utility company uses it to compute your bill. Only models with first hour ratings of 56 to 64 gallons are used in this scale.

1 pt. rule → **Natural gas water heaters that use fewer therms/year cost less to operate. This model's estimated yearly operating cost is:**

18 Arial Narrow Bold → **\$165**

10/12 Arial Narrow → Based on a 2000 U.S. Government national average cost of 68.8¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

6/8 Arial Narrow → Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

20/22 Arial Narrow Bold → **Compare the Energy Use of this Water Heater with Others Before You Buy.**

10 Arial Narrow → 240 Therms/year

16 Arial Narrow Bold → **Uses Most Energy** 295

14/14 Arial Narrow Bold → **The Estimated Annual Energy Consumption of this model was not available at the time the range was published.**

14/14 Arial Narrow Bold → **Natural gas water heaters that use fewer therms/year cost less to operate. This model's estimated yearly operating cost is:**

Box: 24 pt. tall → **\$165**

Prototype Label 3

All copy Arial Narrow Regular or Bold as below.
Helvetica Condensed series typeface or other equivalent also acceptable.

All copy x 28 pt.

10/12 Arial Narrow → Based on standard U.S. Government tests

ENERGYGUIDE

12/14 Arial Narrow Bold → Central Air Conditioner Cooling Only Split System

XYZ Corporation Model 12345

20/22 Arial Narrow Bold → Compare the Energy Efficiency of this Air Conditioner with Others Before You Buy.

14/14 Arial Narrow → This Model's Efficiency

11.5SEER

10 Arial Narrow →

24 pt. rule →

16 Arial Narrow Bold → Energy efficiency range of all similar models

Least Efficient 10.0

Most Efficient 16.9

14/14 Arial Narrow Bold →

10/12 Arial Narrow Use bold where indicated → SEER, the Seasonal Energy Efficiency Ratio, is a measure of energy efficiency for central air conditioners.

1 pt. rule →

14/14 Arial Narrow Bold → Central air conditioners with higher SEERs are more energy efficient.

Bullets 10 pt. →

- 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.
- Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment. Ask for this information.

6/8 Arial Narrow → Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Prototype Label 4

All copy Arial Narrow Regular or Bold as below.
Helvetica Condensed series typeface or other equivalent also acceptable.

All copy x 28 pt.

10/12 Arial Narrow → Based on standard U.S. Government tests

ENERGYGUIDE

12/14 Arial Narrow → Heat Pump Cooling and Heating Split System

XYZ Corporation Model 12345

20/22 Arial Narrow Bold → Compare the Energy Efficiency of this Heat Pump with Others Before You Buy.

14/14 Arial Narrow → This Model (Cooling) 12.0SEER

24 pt. rule → **Energy efficiency range of all similar models**

1 pt. rule → Least Efficient 10.0 Most Efficient 16.4

SEER, the Seasonal Energy Efficiency Ratio, is a measure of energy efficiency for central air conditioners.

1 pt. rule → This Model (Cooling) 7.5HSPF

1 pt. rule → **Energy efficiency range of all similar models**

10/12 Arial Narrow Use bold where indicated → Least Efficient 6.8 Most Efficient 10.2

10/12 Arial Narrow Use bold where indicated → HSPF, the Heating Seasonal Performance Factor, is a measure of energy efficiency for heat pumps when heating.

- These energy ratings are based on U.S. Government standard tests of this condenser model combined with the most common coil. The ratings will vary slightly with different coils
- Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment. Ask for this information.

6/8 Arial Narrow → Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Prototype Label 5

Based on standard U.S. Government tests

ENERGYGUIDE

Refrigerator-Freezer
With Automatic Defrost
With Side-Mounted Freezer
With Through-the-Door-Ice Service

XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet

**Compare the Energy Use of this Refrigerator
with Others Before You Buy.**

This Model Uses
800kWh/year

▼

Energy use (kWh/year) range of all similar models

Uses Least Energy 685	Uses Most Energy 1000
--------------------------------------	--------------------------------------

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only models with 22.5 and 24.4 cubic feet and the above features are used in this scale.

**Refrigerators using more energy cost more to operate.
This model's estimated yearly operating cost is:**

\$65

Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 1

Based on standard U.S. Government tests

ENERGYGUIDE

Freezer
Upright Type
With Manual Defrost

XYZ Corporation
Model(s) MR328, XL12, NA83
Capacity: 21.2 Cubic Feet

**Compare the Energy Use of this Freezer
with Others Before You Buy.**

This Model Uses
764kWh/year

▼

Energy use (kWh/year) range of all similar models

Uses Least Energy 630	Uses Most Energy 1079
-------------------------------------	-------------------------------------

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only models with 19.5 to 21.4 cubic feet with the above features are used in this scale.

**Freezers using more energy cost more to operate.
This model's estimated yearly operating cost is:**

\$61

Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 2

Based on standard U.S. Government tests

ENERGYGUIDE

Clothes Washer
Capacity: Standard

XYZ Corporation
Model(s) MR328, XL12, NAA83



**Compare the Energy Use of this Clothes Washer
with Others Before You Buy.**

This Model Uses
873kWh/year



Energy use (kWh/year) range of all similar models

Uses Least Energy 156	Uses Most Energy 1154
-----------------------------	-----------------------------

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only standard size clothes washers are used in this scale.

**Clothes washers using more energy cost more to operate.
This model's estimated yearly operating cost is:**

\$70	\$33
when used with an electric water heater	when used with a natural gas water heater

Based on eight loads of clothes a week and a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity and 68.8¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 3

Based on standard U.S. Government tests

ENERGYGUIDE

Dishwasher
Capacity: Standard

XYZ Corporation
Model(s) MR328, XL12, NAA83

**Compare the Energy Use of this Dishwasher
with Others Before You Buy.**

This Model Uses
860kWh/year

▼

Energy use (kWh/year) range of all similar models

Uses Least Energy 558	Uses Most Energy 994
-------------------------------------	------------------------------------

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only standard size dishwashers are used in this scale.

**Dishwashers using more energy cost more to operate.
This model's estimated yearly operating cost is:**

\$69	\$46
when used with an electric water heater	when used with a natural gas water heater

Based on six wash loads a week and a 20009 U.S. Government national average cost of 8.03¢ per kWh for electricity and 68.8¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 4

Based on standard U.S. Government tests

ENERGYGUIDE

Water Heater – Natural Gas
Capacity (first hour rating):
60 gallons

XYZ Corporation
Model(s) RP23
RP38

**Compare the Energy Use of this Water Heater
with Others Before You Buy.**

This Model Uses
240 Therms/year

Energy use (Therms/year) range of all similar models

Uses Least Energy 245	Uses Most Energy 295
-------------------------------------	------------------------------------

The Estimated Annual Energy Consumption of this model was not available at the time the range was published.

Therms/year is a measure of energy use. Your utility company uses it to compute your bill. Only models with first hour ratings of 56 to 64 gallons are used in this scale.

Natural gas water heaters that use fewer therms/year cost less to operate. This model's estimated yearly operating cost is:

\$165

Based on a 2000 U.S. Government national average cost of 68.8¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 5

Based on standard U.S. Government tests

ENERGYGUIDE

Room Air Conditioner
Without Reverse Cycle
With Louvered Sides

XYZ Corporation
Model 122345
Capacity: 13,000 BTUs

**Compare the Energy Use of this
Air Conditioner with Others Before You Buy.**

This Model Efficiency
10.0 EER

Energy efficiency range of all similar models

<p>Least Efficient 9.0</p>	<p>Most Efficient 11.0</p>
---	---

EER, the Energy Efficiency Ratio, is a measure of energy efficiency for room air conditioners. Only models between 8,000 and 13,000 BTUs with the above features are used in this scale.

More efficient air conditioners cost less to operate. This model's estimated yearly operating cost is:

\$78

Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 6

Based on standard U.S. Government tests

ENERGYGUIDE

Furnace – Natural Gas

XYZ Corporation
Model 2345X

↓

**Compare the Energy Efficiency of this
Furnace with Others Before You Buy.**

This Model's Efficiency
80.7^{AFUE}

▼

Energy efficiency range of all similar models

Least Efficient 78.0	Most Efficient 97.0
-------------------------------------	------------------------------------

The AFUE, Annual Fuel Utilization Efficiency, is a measure of energy efficiency for furnaces and boilers. Only furnaces fueled by natural gas are used in this scale.

Natural gas furnaces that have higher AFUEs are more energy efficient.

Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment.

Ask for this information.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 7

Based on standard U.S. Government tests

ENERGYGUIDE

Central Air Conditioner
Cooling Only
Split System

XYZ Corporation
Model 12345

**Compare the Energy Efficiency of this
Air Conditioner with Others Before You Buy.**

This Model's Efficiency
11.5^{SEER}



Energy efficiency range of all similar models

Least Efficient		Most Efficient
10.0		16.9

SEER, the **Seasonal Energy Efficiency Ratio**, is a measure of energy efficiency for central air conditioners.

Central air conditioners with higher SEERs are more energy efficient.

- 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.
- Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment. Ask for this information.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 8

Based on standard U.S. Government tests

ENERGYGUIDE

Heat Pump
Cooling and Heating
Split System

XYZ Corporation
Model 12345

**Compare the Energy Efficiency of this
Heat Pump with Others Before You Buy.**

This Model (Cooling)
12.0SEER

Energy efficiency range of all similar models

Least Efficient 10.0	Most Efficient 16.4
-------------------------	------------------------

SEER, the **Seasonal Energy Efficiency Ratio**, is a measure of energy efficiency for central air conditioners.

This Model (Cooling)
7.5HSPF

Energy efficiency range of all similar models

Least Efficient 6.8	Most Efficient 10.2
------------------------	------------------------

HSPF, the **Heating Seasonal Performance Factor**, is a measure of energy efficiency for heat pumps when heating.

- These energy ratings are based on U.S. Government standard tests of this condenser model combined with the most common coil. The ratings will vary slightly with different coils
- Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment. Ask for this information.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 9

Based on standard U.S. Government tests

ENERGYGUIDE

Pool Heater
Natural Gas

ABC Corporation
Model 1428

Compare the Energy Efficiency of this Pool Heater with Others Before You Buy.

This Model's Efficiency
80^{Thermal Efficiency}

▼

Energy efficiency range of all similar models

Least Efficient 78	Most Efficient 97
------------------------------	-----------------------------

The **Thermal Efficiency** (expressed as a percent) is the measure of energy efficiency for pool heaters. Only pool heaters fueled by natural gas are used in this scale.

Natural gas pool heaters that have higher Thermal Efficiencies are more energy efficient.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 10

Based on standard U.S. Government tests

ENERGYGUIDE

Refrigerator-Freezer
 With Automatic Defrost
 With Side-Mounted Freezer
 With Through-the-Door-Ice Service

XYZ Corporation
 Model ABC-W
 Capacity: 23 Cubic Feet

**Compare the Energy Use of this Refrigerator
 with Others Before You Buy.**

This Model Uses
800 kWh/year



ENERGY STAR
 A symbol of
 energy efficiency

Energy use (kWh/year) range of all similar models

Uses Least Energy 685	Uses Most Energy 1000
--------------------------------------	--------------------------------------

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only models with 22.5 and 24.4 cubic feet and the above features are used in this scale.

**Refrigerators using more energy cost more to operate.
 This model's estimated yearly operating cost is:**

\$65

Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 11

* * * * *

By direction of the Commission.
Donald S. Clark,
 Secretary.

[FR Doc. 00-7970 Filed 3-31-00; 8:45 am]
 BILLING CODE 6750-01-C