FEDERAL TRADE COMMISSION

16 CFR Part 305

[3084–AB15]

Energy Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') proposes amendments to improve the Energy Labeling Rule (''Rule''), including energy labels for several new consumer product categories and changes to label display requirements. Specifically, the Notice seeks comment on labels for air cleaners, clothes dryers, miscellaneous refrigeration products, and portable electric spas; modifications to existing labels for clothes washers, televisions, and several heating products; revisions to the current requirements for affixing labels on showroom models; and several minor amendments to improve the Rule as discussed below.

DATES: Comments must be received by April 2, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Energy Labeling Rule Improvements (16 CFR part 305) (Matter No. R611004)'' on your comment, and file your comment online at *https://www.regulations.gov/,* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex L), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome (202–326–2889), or Hong Park (202–326–2158), Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Overview

The Commission seeks comment on several proposed changes to the Energy Labeling Rule including: (1) labels for air cleaners, clothes dryers, miscellaneous refrigeration products, and portable electric spas; (2) modifications to existing labels for clothes washers, televisions, and several heating products; (3) revisions to the current requirements for affixing labels on showroom models; and (4) several minor amendments to improve the Rule as discussed below.

II. Background

The Commission issued the Energy Labeling Rule in 1979,[1] pursuant to the Energy Policy and Conservation Act of 1975 (''EPCA'').[2] The Rule [3] requires energy labeling for major home appliances and other consumer products to help consumers compare competing models. Specifically, it contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room and portable air conditioners, furnaces, central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions. Under EPCA, the FTC has broad authority to ''require that each covered product in the type or class of covered products to which the rule applies bear a label'' disclosing energy use information. 42 U.S.C. 6294(c)(1). In addition to products named in the statute or designated by DOE, FTC may require labels for any consumer product provided the label ''is likely to assist consumers in making purchasing decisions.'' [4] To achieve this goal, the FTC has discretion to determine both the manner in which the label is displayed as well as the energy-related content of the label.[5] Additionally, the statute gives FTC authority to require retailers to provide labels and other disclosures for consumers, both on websites and in stores.[6]

The Rule requires manufacturers to attach yellow EnergyGuide labels to many covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on websites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three key disclosures: (1) estimated annual energy cost, (2) a product's energy consumption or energy efficiency rating as determined by DOE test procedures, (3) and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. For cost calculations, the Rule specifies national average costs for applicable energy sources (*e.g.,* electricity, natural gas, oil) based on DOE estimates. The Rule sets a 2027 date, based on a five-year schedule, for updating comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule's reporting requirements.[7]

III. Advance Notice of Proposed Rulemaking

In 2022, the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') seeking comment on potential improvements to the Energy Labeling Rule, including whether the Commission should add new consumer product categories to the labeling program, change label location to match consumer shopping patterns, and streamline existing requirements.[8] In addition, the ANPR sought comment on several specific issues including whether the Commission should amend the Rule to: (1) modify label content and format, (2) require links to online Lighting Facts labels consistent with current EnergyGuide requirements, (3) update the electricity cost figure on the Lighting Facts and ceiling fan labels, (4) update the refrigerator and clothes washer labels to remove dated information about test procedures, and (5) ensure the Rule's consistency with DOE requirements. Finally, the ANPR sought comment on potential requirements related to repair

[1] 44 FR 66466 (Nov. 19, 1979).

[2] 42 U.S.C. 6294. EPCA also requires the Department of Energy (''DOE'') to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy. *See* 10 CFR parts 429 and 430.

[3] 16 CFR part 305.

[4] 42 U.S.C. 6294(a)(6); *see* 42 U.S.C. 6291(1) (defining ''consumer product''). For additional FTC labeling authority, see 42 U.S.C. 6294(a)(1)–(5). For new product categories that DOE classifies as ''covered'' pursuant to 42 U.S.C. 6292(b), the FTC may prescribe labeling under 42 U.S.C. 6294(a)(3) if (1) the Commission determines labeling will assist purchasers in making purchasing decisions, (2) DOE has prescribed test procedures for the product class, and (3) the Commission concludes labeling for the class is economically and technologically feasible.

[5] 42 U.S.C. 6294(c).

[6] EPCA authorizes the Commission to prescribe labeling rules under this section applicable to all covered products, including rules governing label disclosures at the point of sale. *See* 42 U.S.C. 6294(c)(3) and (c)(4) (''A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product.''); *see also* 42 U.S.C. 6298 (authorizing the Commission to issue rules it ''deems necessary to carry out'' the law's provisions). Since its initial promulgation in 1979 (44 FR 66466 (Nov. 19, 1979)), the Rule has contained obligations for retailers to display labels to customers for particular product categories. *See, e.g.,* 16 CFR 305.22(b)(2) (requiring retailers to show consumers the labels for covered central air conditioners, heat pumps, or furnaces prior to purchase); 16 CFR 305.26 (requiring retailers to make written disclosures at the point of sale). In 2014, the Commission sought comment on whether it should require retailers to affix labels on units they display in their appliance showrooms. 79 FR 34642, 34658 (June 18, 2014).

[7] 16 CFR 305.12.

[8] 87 FR 64399 (Oct. 25, 2022).

instructions.[9] The Commission is not seeking further comment on those repair issues at this time. While the Commission is not seeking additional comment at this time, we remain interested and engaged with stakeholders on this issue. As expressed in the *Nixing the Fix* report, we remain concerned about the repairability of products. We continue to review comments, research, legislative initiatives and industry practices as we evaluate next steps.

In response, the Commission received 48 comments, covering the following four areas: (1) potential new product categories; (2) existing product categories; (3) label placement requirements; and (4) miscellaneous issues. The following section summarizes these comments and provides the Commission's analysis.[10]

IV. Labeling for New Product Categories

The ANPR invited comments on whether to add several new product categories to the energy labeling program. In response, commenters provided a range of opinions and information. As discussed below, two expressed support for expanding labeling to all the proposed products, while others focused on specific products. For each specific product, we provide relevant background information, summarize the comments, and analyze the record.

A. Support for Labeling All New Products

Two commenters supported labeling on all new products for which the Commission sought comments in the ANPR but did not discuss individual product categories in detail.[11] Specifically, Earthjustice asserted all these products ''use a substantial amount of energy and exhibit a range of annual energy costs across competing similar models.'' Additionally, the New York State Energy Research and Development Authority (''NYSERDA'') ''strongly support[ed] FTC expanding labeling'' across all the new product categories identified. It noted the importance of consumer energy labeling for the State of New York to meet the State's climate mandates. The NYSERDA further explained that labeling encourages energy-efficiency technology by providing consumers with information to choose efficient products and by encouraging manufacturers to develop higher-efficiency models. It noted that energy efficiency benefits not only homeowners but tenants who pay utility bills but do not choose installed equipment.

B. Air Cleaners (''Air Purifiers'')

Background: Air cleaners (or ''air purifiers'') use significant amounts of energy and exhibit a substantial range of energy use and annual energy costs among similar models. For example, as discussed in the ANPR, recent ENERGY STAR data shows models rated for room sizes between 150 and 299 square feet range in annual energy use from about 50 kWh/yr to 360 kWh/yr, resulting in an estimated annual difference of more than $30 per year in energy costs (assuming $0.14/kWh),[12] a range similar to many refrigerators subject to labeling. Additionally, DOE recently completed proceedings that establish test procedures[13] and final conservation standards[14] for these products.

Comments: As discussed below, commenters addressing air cleaners generally supported energy label requirements once DOE resolved questions regarding its test procedure—which it has done.

While all commenters addressing this issue supported a label, some urged the Commission to set a compliance date that takes into account DOE's rulemaking. For instance, the Joint Commenters, a collection of industry and energy-efficiency organizations, along with the California Investor Owned Utilities (''IOUs''), recommended a December 31, 2025 label compliance date (or three years after final DOE action, whichever is later) to coincide with their recommended compliance date for the second tier of DOE standards and test procedures.[15] The Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') also recommended FTC wait until DOE publishes a final energy conservation standard before conducting a labeling rulemaking, and then require labeling by the Joint Commenter's recommended compliance date, or no sooner than 2025. In addition, P.R. China, which urged the FTC to refrain from issuing labeling rules until DOE clarifies its test procedure, noted inconsistencies between DOE's proposed test for measuring the Integrated Energy Factor[16] (''IEF'') and the annual energy use (kWh/year) in the ENERGY STAR certification. P.R. China also observed consumers can ''easily check the annual energy usage (kWh/year) of different manufacturers and air purifiers models on the ENERGY STAR website.''[17]

Commenters additionally urged the FTC to include a room size estimate on the label using a single, consistent test method. For instance, the California IOUs explained the lack of a consistent room size metric has led to multiple, inconsistent representations affecting consumers' ability to make informed decisions, even among top-rated products. These utilities also recommended the label disclose the parameters used to calculate recommended room size (*e.g.,* ceiling height, air changes per hour, and air change frequency). The Joint Commenters, which also supported a room size disclosure, urged FTC to communicate a model's recommended room size to consumers using a specific test method (ANSI/AHAM AC–1–2020). Under the recommended procedure, manufacturers would calculate room size in square feet based on the removal of at least 80 percent of smoke particles

[9] Under EPCA the Commission has authority to require manufacturers to provide consumers with ''additional information relating to energy consumption, including instructions for the maintenance, use, or repair of the covered product'' if the Commission finds such information would assist with purchase decisions or in the use of the product, and would not be unduly burdensome to manufacturers. 42 U.S.C. 6294(c)(5).

[10] The comments are available at *www.regulations.gov.*

[11] A third commenter, Merriam, suggested the FTC also consider labeling for electric vehicles. However, the Commission cannot require labels for such products because EPCA specifically excludes automobiles from its definition of consumer products. *See* 42 U.S.C. 6291(1). In addition, the FTC already addresses alternative fuels and alternative fuel vehicles in its Alternative Fuels Rule (16 CFR part 309) and Fuel Economy Guides (16 CFR part 259).

[12] *See, e.g., https://www.energystar.gov/productfinder/product/certified-room-air-cleaners/results.* EPCA does not include air cleaners in its list of covered products, 42 U.S.C. 6292, but the Commission has authority under 42 U.S.C. 6294(a)(3) to require labeling if DOE designates them as ''covered products'' and the Commission finds labeling will assist purchasers in making purchasing decisions and economically and technologically feasible. Additionally, the Commission has independent authority to require labels for room air cleaners pursuant to its general labeling authority under 42 U.S.C. 6294(a)(6) if it determines that labeling ''is likely to assist consumers in making purchasing decisions.''

[13] 88 FR 14014 (Mar. 6, 2023).

[14] 88 FR 21752 (Apr. 11, 2023).

[15] In response to DOE's reopening for comment its Request for Information relating to air cleaner, *see* 87 FR 11326 (Mar. 1, 2022), the Joint Commenters submitted a negotiated joint proposal separating implementation of the relevant standards and test conditions into two tiers and setting December 31, 2023, and December 31, 2025, as the respective compliance deadlines. In the event DOE rejects their proposal, the Joint Commenters requested the FTC set a compliance date that aligns with DOE's compliance date.

[16] The Integrated Energy Factor measures the energy efficiency of air cleaners. It is expressed in the smoke Clean Air Delivery Rate (''CADR'') per watts and accounts for the energy used in both standby mode and operation. *See* 10 CFR Pt. 430, Subpt. B, App. FF at Sec. 7; 88 FR 14014, 14023 (Mar. 6, 2023).

[17] P.R. China, however, recommended that the FTC not require labeling for products without clear test procedures.

in a steady-state room environment (assuming the room experiences incoming pollutants at the rate of one air change per hour) and with complete mixing in the room. The Joint Commenters also urged the use of the CADR value from the AHAM test method to determine the recommended room size, as opposed to an alternative such as ''PM 2.5.'' They explained engineering tobacco smoke used in the test is a surrogate for many of the fine particles found in a home, and thus generates a useful performance metric even for consumers who do not smoke.[18]

Several commenters also urged the Commission to include a CADR disclosure on the label. CADR measures the number of cleaned air exchanges for a given square footage of space and thus describes more than the system's filter efficiency or fan strength. For example, Blueair recommended this disclosure because it is widely accepted within the industry and can highlight ''energy efficiency and power consumption, while also providing information about air filtration.'' According to Blueair, models with a high CADR rating optimize both the filtration efficiency of the air purifier and its airflow to clean the air quickly and effectively from pollutants. Blueair further explained many products on the market offer a high filtration percentage (*i.e.,* ''a single pass filtration efficiency''), but only produce a small volume of clean air and thus are slow to cycle through a room's air.

Blueair, however, opposed including energy costs on labels unless ''accuracy could be assured.'' It explained the test conditions behind such an estimate may involve unrealistic conditions (*e.g.,* ''running products at their highest levels for a period of time'') and may produce ''elevated cost estimates'' inconsistent with actual operation.

Finally, one commenter addressed the label's location and content. Specifically, the Association of Home Appliance Manufacturers (''AHAM'') recommended the Commission require manufacturers to display a new air cleaner label on boxes via a QR code and provided a sample label containing disclosures for annual energy cost, room size, and Integrated Energy Factor.[19]

Discussion: The Commission proposes requiring EnergyGuide labeling for air cleaners. Recent DOE analysis demonstrates significant variability in the energy use of various air cleaner models.[20] Therefore, as discussed above, labeling should assist consumers in their purchasing decisions by allowing them to choose among competing models with a range of energy costs. In addition, such labeling does not appear to raise unique or difficult implementation issues compared to other products already labeled under the Rule, and, therefore, should be economically and technologically feasible.

The proposed amendments require manufactures to affix an EnergyGuide label on air cleaner packages because retailers typically display these products in boxes. The proposed label displays yearly energy costs as the primary disclosure. The label also includes secondary disclosures, which the Commission has determined will assist consumers in making purchasing decisions or in using such products, and will not be unduly burdensome to manufacturers.[21] Specifically, the label includes a yearly energy cost range for the recommended room size, CADR, and IEF. The recommended room size is based on categories DOE applies in their regulations: small (15–154 sq. ft.), medium (155–235 sq. ft.), and large (236 and greater sq. ft.) room sizes.[22] The proposed label also includes the following explanatory text: ''The Clean Air Delivery Rate is based on the removal of particulate matter that is 2.5 micrometers wide or smaller ($PM_{2.5}$ CADR).'' Additionally, the label includes a tertiary disclosure, the model's efficiency rating (the IEF), which should help consumers understand the product's energy use. These secondary and tertiary disclosures help consumers identify models with the appropriate capacity for their needs and facilitates an apples-to-apples comparison of the energy costs of relevant models. Manufacturers should not face any undue burden in disclosing this additional information because this type of information (*e.g.,* efficiency ratings) is readily available from DOE-mandated test results, and manufacturers already include such information on most EnergyGuide labels for other products.

Under this proposed Rule and consistent with EPCA's requirements, manufacturers must use the new DOE test procedure to generate information on the label. In issuing its test procedure, DOE has resolved or addressed the various commenter issues concerning testing.[23] Given DOE's expertise in setting such procedures, the Commission defers to its conclusions. In addition, the Commission will set a labeling compliance date consistent with DOE's Tier 2 standards requirements (Dec. 31, 2025), as suggested by the Joint Commenters. This date will provide the FTC an opportunity to gather and publish range information for the new label based on reporting to DOE or other available sources prior to the compliance date, and otherwise provide the time necessary for manufacturers to create and incorporate the new labels on packaging. Consistent with DOE requirements, the proposed reporting date for these products is December 1 of each year. The Commission seeks comment on all aspects of this proposal. Among other things, commenters should address the content, placement, and timing for the new label, as well as any other relevant issues.

C. Clothes Dryers

Background: EPCA designates clothes dryers as covered products in 42 U.S.C. 6292. In 1979, however, the Commission declined to require labels for these products after finding competing models on the market had a limited range of energy use.[24] In 2014, the Commission reconsidered that decision, and again concluded

[18] The Joint Commenters stated that a standard first-order differential equation that includes these contributions is utilized for the calculation, and that is summarized as: Room Size (square feet – ft^2) = cigarette smoke CADR × 1.55; Room Size (square meters – m^2) = Room Size (ft^2) × 0.093. They also explained that the maximum allowable CADR that can be measured by the ANSI/AHAM AC–1–2020 method in the chamber is 600, so the maximum room size that the standard can confidently predict performance would be a room of 930 ft^2 (86.4 m^2). For modeling of suggested room size, AHAM assumes a room height of 8 feet and the air cleaner producing 4.8 air changes per hour of cleaned air.

[19] Madison IAQ argued the label should not apply to Incidental Air Cleaning products, which include products that meet DOE's ''air cleaner'' definition but provide an additional function unrelated to air purification, such as a vacuum cleaner, fresh air ventilators, range hood (ducted or non-ducted), refrigerator, or desiccant dehumidifier, and whose air purification function is incidental to its other functions. The Commission notes that DOE has stated '' 'incidental air cleaning products' do not meet the definition of an air cleaner as defined in 10 CFR 430.2.'' 88 FR 14014, 14018 (Mar. 6, 2023).

[20] *See* ''2023–03 Technical Support Document: Energy Efficiency Program for Commercial and Industrial Equipment: Air Cleaners, March 2023,'' Chapter 3, *https://www.regulations.gov/document/EERE-2021-BT-STD-0035-0024.*

[21] 42 U.S.C. 6294(c)(5).

[22] 88 FR 21752, 21766 (April 11, 2023) (conservation standards); 88 FR 14014, 14036–14037 (Mar. 6, 2023) (test procedure); 10 CFR parts 429 and 430.

[23] *See* 88 FR 14014 (Mar. 6, 2023).

[24] 44 FR at 66469. Under EPCA, the Commission must prescribe labels for dryers unless it finds labeling would not be technologically or economically feasible. 42 U.S.C. 6294(a)(1). When it promulgated the Rule in 1979, the Commission, after examining the statute and statutory history, concluded ''that Congress['s] intent was to permit the exclusion of any product category, if the Commission found that the costs of the labeling program would substantially outweigh any potential benefits to consumers.'' 44 FR at 66467–68.

efficiency varied little across available models.[25] Although the Commission recognized emerging heat pump models used less energy than conventional dryers, few, if any, such models were available in the U.S. at the time. Now, however, heat pump models appear to be more prevalent in the U.S. market. The ANPR, for example, noted the U.S. Environmental Protection Agency (''EPA'') ENERGY STAR website (*www.energy.gov*) lists about two dozen heat pump models as qualifying under that program.

Comments: Commenters split on whether consumers would benefit from an EnergyGuide label for clothes dryers. Some opponents of a label asserted it would provide limited benefit to consumers because there is little variation in energy use among models. Specifically, AHAM and Whirlpool contended available DOE data suggests most models largely cluster into three groups: (1) those just meeting current DOE standard levels, (2) those meeting the ENERGY STAR Clothes Dryer Version 1.1 specification levels, and (3) those qualified for ENERGY STAR 2023 ''Most Efficient'' designation. According to AHAM data, only three percent of shipments and nine percent of electric standard dryer models fall between the DOE energy conservation standard (group 1) and the ENERGY STAR level (group 2). Further, only two percent of shipments outperform the ENERGY STAR (group 3). In short, AHAM asserts available models largely fall into ''two clumps—either ENERGY STAR or not.'' Thus, ENERGY STAR designations already provide the information needed to make informed purchasing decisions. Whirlpool added the FTC cannot demonstrate this variation is great enough to assist consumers in their purchase decisions, and that labeling benefits outweigh the burden associated with manufacturers developing and applying labels.

Other commenters disagreed. The California IOUs, for example, supported ''a label that can easily differentiate the annual operating costs between products.'' It recommended the label include energy costs as the primary disclosure, and a list of the underlying assumptions used to calculate such information, including clothes drying cycles (per week), utility prices, and test load sizes. In addition, Earthjustice asserted, dryer labels ''may deliver the greatest aggregate consumer benefits.'' Citing EPCA's labeling provisions and past FTC consideration of the issue, it argued, because ''FTC has not found—nor could it find—that labeling clothes dryers would not be technologically or economically feasible, labels are required.'' Moreover, Earthjustice argued the past FTC concerns over multiple DOE test procedures are no longer a barrier to labeling.[26] Finally, according to Earthjustice, energy efficiency advances have led to significant energy use variation among current clothes dryer models since the FTC last examined the issue.

Electrolux, a manufacturer of clothes dryers, also expressed support for a dryer label, provided manufacturers have at least a year to comply. The company noted that, while vented dryers still account for about ninety percent of models, other options are steadily increasing. According to Electrolux, these newer products, which use emerging technologies found in heat pump and condensing models, use less energy, though with some increase in drying time. Further, even for traditional vented dryers, the variation between the least and most efficient models continues to widen. In the absence of an EnergyGuide label for these products, Electrolux explained, consumers have difficulty making informed decisions about the true costs and benefits of the new technology. Electrolux additionally explained manufacturers typically represent the DOE minimum or ENERGY STAR minimum dryer energy levels in marketing because without a requirement to disclose detailed, point-of-sale energy information, little incentive exists to do otherwise. In Electrolux's opinion, an energy label would encourage more accurate disclosures. Electrolux provided sample labels featuring the Combined Energy Factor (''CEF'')[27] as the primary display because it ''is the standard metric of the official energy test procedure and used by the DOE to regulate the dryer energy.'' Finally, Electrolux stated labeling will add ''significant cost burden,'' which could be mitigated by using paperless labeling.

The California IOUs recommended the dryer label include information about clothing samples used in the test in addition to the test load size to ensure consumers understand the testing conditions. They also urged that the label include the dryer cycle time from a reputable source such as the ENERGY STAR program because that information is important to some consumers. Additionally, they recommended the label contain two ranges, one for the model class (*e.g.,* vented or ventless) based on similar features, and another combining all model classes.

Finally, the California IOUs explained the DOE test procedure for automatic termination control dryers requires re-running the test using the highest dryness level setting if the final moisture content (''FMC'') from the first test cycle using a default, ''normal,'' or ''medium'' dryness level setting is greater than two percent. These commenters noted that identifying which dryness setting the test employed would provide consumers useful information.

Discussion: The Commission proposes requiring an EnergyGuide label for dryers. Previously, a lack of variation in energy use among similar dryers limited a label's benefit. However, as commenters indicated, the market has changed and will likely continue to change as the number of high-efficiency models steadily increases. For example, recent ENERGY STAR data lists about 500 standard-size models qualifying for ENERGY STAR. These models ranged in energy cost from about $30 to $96/year with multiple variations within that band.[28] As noted by the commenters, many models currently clump into three categories of energy use. However, in the absence of an EnergyGuide label with specific energy cost estimates, consumers cannot easily gauge the different energy savings yielded by models falling within the same category. Moreover, given the progress of energy efficient technology, the utility of a label will likely increase more in the near future. Finally, the costs associated with labeling these products should be similar to those associated with labeling other showroom products such as refrigerators. The Commission has already determined those costs are not overly burdensome. Accordingly, consistent with the Commission's interpretation of the applicable EPCA threshold, no evidence demonstrates the costs of labeling dryers would ''substantially outweigh any potential

[25] 79 FR 34642, 34659 (June 18, 2014); 80 FR 67285, 67296 (Nov. 2, 2015).

[26] *See* 80 FR at 67296.

[27] CEF is the metric adopted by DOE to measure the energy efficiency of clothes dryers. 76 FR 972–01, 976 (Jan. 6, 2011). CEF is calculated by dividing the weight of the test load (lbs.) by the sum of the electric energy used by the dryer during both standby and drying cycles (kWh). *See* 10 CFR Pt. 430, Subpt. B, App. D1 at Sec. 4.7 and App. D2 at Sec. 4.7; *see also Clothes Dryers Key Product Criteria,* Energy Star, *https://www.energystar.gov/products/appliances/clothes_dryers/key_product_criteria* (last visited July 14, 2023).

[28] Calculated at $0.14/kWh. Out of these ENERGY STAR models, approximately 150 have an estimated yearly cost of approximately $95,300 are at approximately $85, 10 at approximately $75, 3 at $64, and 7 between about $30 and $40. For the most current ENERGY STAR data, see *https://www.energystar.gov/productfinder/product/certified-clothes-dryers/results.*

benefits to consumers.'' 44 FR at 66467–68.

Consistent with labels for similar appliances, the proposed dryer label features annual energy costs as the primary disclosure derived from the DOE test procedure, with a secondary CEF disclosure. The CEF metric provides consumers with a second way to understand energy use by disclosing a rating derived from measuring the energy needed to dry a specific test load, thus augmenting the label's primary yearly energy cost disclosure. The proposal also divides ranges into standard (4.4 cu. ft. or greater) and compact (smaller than 4.4 cu. ft.) size categories, reflecting the DOE size categories for these products. Consistent with similarly-fueled products such as water heaters, the proposed Rule also contains separate ranges for gas dryers and electric dryers because most consumers are likely to be in the market for one or the other and do not comparison shop between those model types.

Finally, consistent with labels for other products and to provide consumers with the basic assumptions behind the label's estimate, the proposed label includes a statement explaining the duty cycle (*i.e.,* the typical yearly usage) underlying the label calculations (*i.e.,* ''approximately 5 loads per week'' based on the DOE requirement of 236 per year).[29]

The Commission also proposes to begin requiring the label when DOE's new test procedure (''Appendix D2'') becomes applicable to all dryers, to ensure consistency across all labeled products.[30] DOE requirements currently allow manufacturers to use one of two different test procedures—Appendix D1 or Appendix D2. By waiting until the test in Appendix D2 applies to all units, the FTC will ensure consistent information on the label from a single test. Once applicable data is available, the Commission proposes to publish ranges and provide manufacturers six months to begin labeling their products.

The Commission, however, does not propose adding additional information to the label regarding clothing samples, cycle time, and models that require two cycles under the DOE test procedure. Such information will crowd the label and may confuse consumers. In addition, the results of the DOE test already reflect the significant costs associated with those models requiring two cycles under the DOE test procedure.

The Commission seeks comment on whether it should have separate range categories for vented and ventless models. Specifically, commenters should address whether consumers are likely to compare models with such features when shopping. Commenters should also address whether an annual energy use number as the secondary disclosure would be more useful to consumers in lieu of the CEF.

D. Miscellaneous Refrigerator Products

Background: DOE has designated miscellaneous refrigerators (''MREFs'') as covered products under EPCA. This category includes coolers (*e.g.,* wine chillers) and combination cooler refrigeration products (*i.e.,* products with warm and cool compartments). Within the category, some similarly-sized models exhibit a significant range of energy use. For example, recent DOE data shows freestanding compact cooler models (those between 3 and 7 cubic feet) use between 100 to 205 kWh/yr.[31] Moreover, DOE currently has test procedures and standards for these products.[32]

Comments: Commenters addressing MREFs generally supported or did not oppose labeling these products. For example, Earthjustice noted DOE has found significant variation in the performance of currently available models. Specifically, models for the most common type—freestanding compact coolers with similar capacities—range from ''200 kilowatt hours per year down to half that amount.'' AHAM, which did not oppose labeling, agreed MREF labels would assist consumers in making purchasing decisions.

Discussion: The Commission proposes requiring labels for miscellaneous refrigerators. As discussed above, evidence suggests labeling will aid consumers in their purchasing decisions. In addition, no evidence suggests MREF labeling would be economically and technologically infeasible. The proposed label is consistent with the freezer label (*i.e.,* yearly energy costs, a single range, and a secondary disclosure of annual energy use). The Commission proposes a single table of ranges based on several capacity categories. The MREF proposal also adopts the placement requirements for refrigerators and freezers. Finally, the Commission seeks comment on an appropriate compliance date for the new labels.[33]

The Commission seeks information on whether a typical consumer shopping for such products is likely to consider both ''built-in'' and ''freestanding'' models, and if so whether the proposed categories should be combined.

E. Portable Electric Spas

Background: The Commission's ANPR sought comment on labeling for portable electric spas (*e.g.,* hot tubs). In February 2022, DOE published a tentative determination that portable electric spas qualify as a covered product under EPCA and followed with a final coverage determination in September 2022.[34] DOE estimated more than 3 million households in the U.S. operate portable electric spas regularly, using an estimated energy consumption of 1,699 kWh/yr per household (approximately $238 per year).

Comments: Commenters addressing portable electric spas generally supported labeling these products. The California IOUs, for example, noted that, unlike many showroom appliances, electric spas currently do not fall under the ENERGY STAR program, which makes identification of the most efficient spas ''more challenging when shopping online or on the showroom floor.''

Most commenters focused on the timing of potential labels in light of ongoing DOE regulatory efforts. For example, Rheem, the Pool & Hot Tub Alliance (''PHTA''), the International Hot Tub Association (''IHTA''), and the California IOUs recommended the Commission require labels after DOE finalizes its coverage determination, test procedures, and standards. According to PHTA and IHTA, industry members will need an opportunity to examine the final DOE test procedure before providing ''fully-informed'' comments on label content such as energy costs, consumption, and efficiency.

With regard to label placement, PHTA and IHTA recommended the Rule follow industry standard ''APSP–14 Section 7,'' which states: ''The spa shall be marked by the manufacturer . . .

[29] *See* 86 FR 56608, 56644 (Oct. 8, 2021).

[30] *See* 10 CFR part 430, subpart B, Appendix D2. DOE proposed the required use of Appendix D2 for any future amended energy conservation standards in a 2022 proposed rule. 87 FR 51734, 51809 (Aug. 23, 2022).

[31] *See* DOE Compliance Certification Management System, *https://www.regulations.doe.gov/ccms.*

[32] Pursuant 42 U.S.C. 6294(a)(3), the Commission has authority to require labels on MREFs that DOE designates as covered products pursuant to 42 U.S.C. 6292(b). DOE issued final test procedures and standards for MREFs in 2016. *See* 10 CFR parts 429 and 430; 81 FR 46768 (July 18, 2016) (test procedure); 81 FR 75194 (Oct. 28, 2016) (standards); *see also* 79 FR 78736, 78737 (Dec. 31, 2014) (FTC request for comments following proposed DOE test procedure).

[33] Commenter Wesolowski asked whether the label would cover the type of powered cooler meant to be plugged into a vehicle. The proposal only covers products included in DOE's standards program.

[34] 87 FR 8745 (Feb. 16, 2022); 87 FR 54123 (Sept. 2, 2022) codified at 10 CFR 430.2.

where readily visible on the shell or front skirt panel of a spa, or the container of the inflatable spa during the point of sale.'' [35]

The California IOUs provided several content suggestions. First, they recommended a five-star rating system. Noting FTC's past decision to reject such a system, based in part over potential confusion between a five-star rating system and ENERGY STAR disclosures, they argued such considerations would not apply to spas because of their absence from the ENERGY STAR program. They also recommended the FTC sort spas by volume to ensure the labels' ranges compare similarly-sized models. Finally, they suggested the label prominently feature the tested ambient temperature ''so consumers can easily discern the difference between the tested temperature and their climate conditions.''

Discussion: The Commission proposes requiring EnergyGuide labels for portable electric spas. Available information suggests labeling for these products would assist consumers in their purchasing decisions. For example, DOE has found that ratings of certified portable electric spas in data collected by the California Energy Commission ''demonstrate significant variation in the total power consumption among different models of standard, combination, and exercise spas that are currently available.'' [36] Additionally, no available information suggests labeling will pose burdens significantly outweighing the benefits.

As with most other labeled products, the proposed label's content reflects the information generated by the DOE test procedure.[37] DOE published its final rule establishing its test procedure on June 13, 2023.[38] As several commenters noted, this procedure only measures standby heating costs for spas, not other operating costs (*e.g.,* water circulation, lights, etc.). However, because standby heating costs account for the large majority of the product's energy use, the Commission finds the usage numbers produced by the DOE procedure will be beneficial to consumers. To ensure consumers understand this limitation, the bottom of the proposed label states: ''The cost estimate reflects only the heating cost of this model and does not include other aspects of operation such as water circulation, filtration, or lights.''

Additionally, consistent with the DOE test, a model's ''estimated yearly heating cost'' would serve as the label's primary disclosure and reflect the estimated cost associated with continuous standby heating throughout the year. Specifically, the standard cost information on the bottom of the proposed label states: ''This label's heating cost estimate is based on continuous heating throughout the year and a national average electricity cost of [__] cents per kWh.'' The proposed label also contains a smaller, secondary disclosure stating ''Energy Used'' in watts to assist consumers who are interested in comparing the respective watts used by the hot tub on standby and by other energy-consuming products in their home. Finally, the proposed Rule requires disclosures of ''fill volume'' to provide a key underlying metric behind the energy use disclosure.[39]

The Commission seeks comments on whether the Rule should require such a capacity disclosure and, if so, whether ''fill volume'' is an appropriate metric. In addition, given the marked difference in the size and functionality of spas, the Commission requests commenters to address whether the Rule should contain separate range categories for spas, separated by capacity and/or spa type (*e.g.,* standard and exercise spas). The Commission also seeks information on the appropriate placement for the label (*e.g.,* on the product itself, on packaging, or included inside the packaging, etc.), whether these products are typically displayed in retail brick-and-mortar stores, and, if so, whether they are displayed outside of packaging. Finally, commenters should address whether retailers should have a role in displaying the spa label, similar to the proposal in this document for appliances (*see* Section V *infra*).

F. Residential Ice Makers

Background: Consumers can purchase residential icemakers in various configurations, including portable, non-portable, and uncooled storage. DOE research has found residential ice makers consume a significant amount of energy, and that there are significant energy use differences both across and within these configurations.[40]

Comments: Commenters specifically addressing residential ice makers opposed labeling for these products.[41] According to AHAM and Whirlpool, the DOE commercial test procedure is not appropriate for residential models. According to these commenters, the residential models, in contrast to commercial models, generally have lower capacity, are stand-alone, and are used infrequently in low volumes. Further, according to Whirlpool, little data exists, either from DOE or manufacturers, to compare the energy efficiency of residential ice maker models, even using the automatic commercial ice maker test procedure.

Moreover, in the DOE proceeding, AHAM opposed DOE's four-pound-per-day usage metric, arguing reliance on the number would mislead consumers because no data supported the assumption behind it. Instead, AHAM urged DOE to study average daily ice use for the residential products and use those assumptions to determine whether standards are justified under EPCA.[42]

Discussion: The Commission does not propose a label for residential ice makers at this time. Given the uncertainties regarding energy use, the absence of a test procedure specifically tailored to residential (consumer) models, and ongoing concerns expressed by commenters about the applicability of the commercial test to residential models, the Commission will continue to monitor developments related to these products and revisit the issue if warranted.

G. Humidifiers

Background: Consumers use residential humidifiers either to increase or maintain the humidity levels in all or parts of the home or to ease illness symptoms.[43] There are currently no DOE or EPA ENERGY STAR

[35] According to the California IOUs, portable electric spas sold in California after June 2019 must bear a consumer-facing label displaying the spa's average standby power usage. Cal. Code Regs. tit. 20, Sec. 1602 and 1607. These commenters urge FTC to use it as the basis for a national spa label.

[36] 87 FR 8745, 8747 (Feb. 16, 2022).

[37] According to analysis cited by DOE, the mode of operation measured in the test procedure represents approximately 75 percent of the energy consumed by a portable electric spa and as high as 95 percent in some cases. 87 FR 63356, 63361 (Oct. 18, 2022).

[38] 88 FR 38600 (June 13, 2023).

[39] As the California IOUs indicated, the Commission considered and declined to adopt a five-star labeling system for reasons fully explained in an earlier proceeding. *See* 72 FR 49948 (Aug. 29, 2007). The Commission declines to revisit those issues here.

[40] *See* Preliminary Technical Support Document EERE–2011–BT–STD–0043–0024, Section 7.2.3 and Table 7.2.4, DOE, *https://www.regulations.gov/document/EERE-2011-BT-STD-0043-0024.*

[41] Some commenters (*e.g.,* California IOUs) generally supported labeling for new product categories, like residential ice makers, without further elaboration.

[42] AHAM further argued that, since DOE has designated all ice makers, including residential icemakers, producing less than 50 pounds per day as ''commercial'' products, such products fall outside of the FTC's authority to require labels only for ''consumer products'' under EPCA. *See* 87 FR 65856 (Nov. 1, 2022); 42 U.S.C. 6291(1); 42 U.S.C. 6294(a).

[43] *See* 42 U.S.C. 6294(a)(6) (general labeling authority). For dehumidifiers, EPCA contains a specific prohibition for an ''Energy Guide'' label requirement. 42 U.S.C. 6294(a)(5)(C).

standards or test procedures for these products. However, a 2012 ENERGY STAR report found there were differences in energy consumption among competing humidifiers, particularly for whole-house models.[44] The report also stated there was ''very little, if any, correlation between humidification capacity (in square feet) and watt rating.'' The report concluded consumers could collectively save an estimated 3.4 terawatts of electricity over the lifetime of these products by choosing energy-efficient humidifiers.

Comments: The two commenters addressing this product in detail opposed labeling. Specifically, AHRI and AHAM argued labeling was not appropriate due to the lack of DOE (or industry) test procedures or standards, and the lack of evidence labeling would aid consumers.[45]

AHRI disagreed with conclusions in the 2012 ENERGY STAR report. It attributed EPA's findings to ''a lack of understanding of adiabatic and steam product operation.'' In contrast to the report, AHRI argued that the energy input for the two primary types of systems—steam and adiabatic—are ''quite comparable,'' and observed little variability in the energy input between current brands/models.[46] Finally, no commenter identified a separate test procedure suitable for humidifier labeling or otherwise provided specific support for labeling these products.

Discussion: The Commission does not now propose requiring labeling for humidifiers. Doing so would be premature in the absence of a DOE test procedure or a suitable substitute. The Commission acknowledges the inconsistencies between the industry comments and the 2012 EPA report regarding relative energy use. However, in the absence of an applicable test procedure, there is no need to now address this issue further. The Commission will continue to monitor developments related to potential labeling for these products.

H. Miscellaneous Gas Products

Background: In February 2022, DOE tentatively determined miscellaneous gas products, such as decorative hearths and outdoor heaters, qualify as covered products under EPCA.[47] These products include fireplaces, fire pits, and similar products that have decorative purposes but can also provide heat. DOE proposed defining ''decorative hearth product'' as gas-fired appliances that simulate a solid-fueled fireplace or present a flame pattern. DOE's proposed definition includes products: (1) designed for indoor and/or outdoor use; (2) not designed to be operated with a thermostat; (3) not designed to provide space heating to the indoor space in which they are installed; and (4) not designed to provide heat proximate to the unit. DOE estimates suggest these products can generate substantial energy costs for consumers.[48]

Comments: Commenters specifically addressing miscellaneous gas products generally opposed labeling requirements, arguing any such requirements are premature given ongoing work related to defining categories, establishing test procedures, and setting standards. For example, AHRI stated the ''product class is vast, varied, and only recently covered by DOE.'' Further, the test procedure development process has not begun. AHRI also discussed the broad array of products in this category and identified industry test procedures, some of which do not contain provisions for efficiency metrics.[49] Similarly, several natural gas industry organizations (the ''Group'') argued because DOE has not completed its work on establishing efficiency levels and test procedures for several of these products, a labeling rule would be premature and could risk ''communicating incomplete or inaccurate information to a consumer.'' The Group also noted the DOE coverage determination for these products is currently undergoing a legal challenge, which could alter their status under EPCA.

In addition to these DOE-related concerns, TIC Council cautioned an EnergyGuide label may suggest these products are energy-efficient.[50] Finally, AHRI argued, given the variety and different uses of these products, ''it is very difficult to envision a label that would help inform consumers.'' Specifically, according to AHRI, some products are sold by contractors and many as part of new home construction, where consumers are unlikely to see the labels prior to purchase. AHRI also suggested the label would be obtrusive and detract from a product's decorative nature, particularly outdoor products such as patio heaters ''that are integral to the ambience.''

Discussion: The Commission does not now propose labeling requirements for miscellaneous gas products. Given the array of product types and the early stages of DOE test procedure promulgation, the Commission will continue to follow developments for this product category and, if appropriate, address potential labeling at a future date.

I. Cooking Tops

Background: EPCA lists ''kitchen ranges and ovens'' as covered products.[51] In 1979, the Commission decided not to require labels for cooking tops, as well as ranges and ovens, because of the small variability of energy use between models.[52] Recent DOE research, however, found energy consumption for gas cooking top models now may vary significantly depending on burner and grate design. DOE also noted energy consumption among similar electric cooking top models can vary depending on whether the product employs induction or resistance heating or has smooth or coil elements.[53] While DOE withdrew its test procedure for these products in August 2020,[54] in 2022, DOE reestablished a test procedure for conventional cooking tops.[55]

Comments: One commenter, the California IOUs, supported labeling.

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[44] ENERGY STAR Market & Industry Scoping Report: Residential Humidifiers (Oct. 2012), available at *https://www.energystar.gov/sites/default/files/asset/document/ENERGY_STAR_Scoping_Report_Residential_Humidifiers.pdf.*

[45] AHAM argued that 42 U.S.C. 6294(a)(3)(B) prohibits labeling for these products unless there is a DOE test procedure. However, that provision applies only to products DOE has designated as a covered product pursuant to 42 U.S.C. 6292(a)(20). DOE has made no such a designation for humidifiers. The Commission has separate authority under 42 U.S.C. 6294(a)(6) to ''require labeling or other disclosures in accordance with this subsection for any consumer product not specified in this subsection or section 6292 of this title if the Commission determines that labeling for the product is likely to assist consumers in making purchasing decisions.''

[46] AHAM's comment provided a detailed discussion of technical issues related to energy input for steam and adiabatic models. It explained the lack of variation among models stems from the fact that the energy required to change water to humidifying mist is comparable for both types of models and that this energy accounts for most of a humidifier's energy consumption.

[47] 87 FR 6786 (Feb. 7, 2022).

[48] *See* 87 FR at 6792. DOE also discussed these general issues in 2013. 78 FR 79638, 79640 (Dec. 31, 2013).

[49] In its comments, AHRI discussed vented decorative gas appliances, various gas fireplace appliances, outdoor decorative gas appliances, covering gas pits, fire tables, and gas-fired outdoor infrared patio heaters.

[50] Without further elaboration, commenter Merriam suggested adding space heaters in addition to the Miscellaneous gas products (''Hearth Products'').

[51] 42 U.S.C. 6292(a)(10).

[52] 44 FR 66466, 66469 (Nov. 19, 1979) (''Since the substantial costs of a labeling requirement would not produce corresponding consumer benefits, the Commission has determined that labeling of kitchen ranges and ovens would not be economically feasible.'').

[53] 81 FR 60784, 60800–02 (Sept. 2, 2016).

[54] 85 FR 50757 (Aug. 18, 2020).

[55] *See* 87 FR 51492 (Aug. 22, 2022)); 86 FR 60974 (Nov. 4, 2021) (results of round robin testing).

Specifically, this group urged the Commission to include on the label the cooktop's duty cycle using the DOE test procedure (418 kWh/yr at 31 minutes per cycle) in a way that helps consumers relate these use assumptions to their personal use.

Most commenters addressing this issue, however, opposed labeling, raising various questions about the viability of labeling these products.[56] For example, AHAM and Whirlpool argued EnergyGuide labels for gas cooking products are premature because stakeholders have identified several outstanding concerns with the recently finalized test procedures. Specifically, they asserted the DOE test procedure is ''highly variable'' (*i.e.,* raises repeatability and reproducibility concerns) and thus may not ''provide a 'good basis' for consumers to compare cooktops.'' In addition, AHAM and Whirlpool noted, because the DOE procedure is new, limited data is available from which to determine whether an adequate differentiation among products exists to warrant labeling. Based on its initial review, AHAM stated there may be little difference in energy use among the products but is working to collect data to further evaluate test results. Whirlpool added that DOE's testing does not provide information about the efficiency of a broad range of representative models in the market.

AHAM also asserted conducting DOE's current test is unduly burdensome, and thus labeling would not be economically feasible. Further, because there is no test procedure for ovens, AHAM suggested labels applied only to cooktops (which are often attached to ovens) will confuse consumers. Finally, AHAM asserts conflicts with Canadian test procedures could cause further confusion; and therefore, the FTC should wait ''until such time as the two countries harmonize their requirements.''

Discussion: At this time, the Commission has insufficient information to change its previous determination. Specifically, given the absence of data demonstrating variability of energy use among competing products, the Commission will continue to follow developments for this product category and, if appropriate, address labeling at a future date.

J. Additional Lamps (Light Bulbs)

Background: The Rule's Lighting Facts label currently covers an array of lamp (*i.e.,* light bulb) types and allows manufacturers to use the label on lamp products not covered by the Rule. The Rule specifically covers general purpose and specialty consumer lamps used in typical household applications, and excludes products where labeling is unlikely to provide substantial benefit. In the ANPR, the Commission sought comment on whether to cover lamp types not currently specified in the Rule, particularly 25-watt incandescent bulbs and full color ''tunable'' lamps with adjustable color.[57]

Comments: Commenters specifically addressing lamp labeling opposed expanding existing requirements. Specifically, the National Electrical Manufacturers Association (''NEMA'') asserted these lamp types (*e.g.,* 25-watt incandescent and lower) are often used in commercial applications where their use varies significantly from typical household lamps and are not typically purchased by consumers as direct replacements for ordinary light bulbs.[58] In addition, they contend that ''tunable'' adjustable-color lamps provide benefits beyond those of general service lamps, so their application and use are not comparable to that of labeled lamps.

Discussion: Commenters did not identify a compelling reason to expand the existing coverage of the lamp label. The label already covers most consumer lamps, and the Commission lacks evidence that expansion to include narrow categories would generate significant benefits. Moreover, using assumptions applicable to most residential bulbs to label commercial lamps could lead to consumer confusion and outright deception. Therefore, at this time, the Commission does not propose expanding the Rule's scope to cover additional types of lamps.

V. Issues Relating to Existing Products

Several comments raised issues about products already labeled under the Rule. These included proposals to (1) change the clothes washer label content, (2) include handwashing information on the dishwasher label, (3) eliminate range information on television labels, and (4) improve the Rule's provisions for water heaters, pool heaters, and boilers.

A. Clothes Washer Labels

Background and Comments: Two commenters recommended changing the clothes washer label to include information about a model's ability to reduce moisture (*e.g.,* the final moisture content (''FMC'') of the washed load) and thus ultimately use less energy. According to these commenters, the absence of this information misleads consumers regarding the true energy cost of washing clothes because more moisture at the end of the cycle means the dryer requires more energy. The California IOUs, which argued for incorporating drying energy costs into the current yearly energy cost estimate, provided data demonstrating significant differences in FMC among washers, ranging from about 31 to 51 percent. Their analysis showed these differences caused corresponding substantial variations in estimated yearly energy costs after factoring in drying energy.

Similarly, Electrolux commented the current label's annual energy consumption (''AEC''), *i.e.,* yearly energy use in kWh disclosure does not properly assist consumers because it is missing the ''largest component of energy efficiency for washers, the energy to dry the remaining moisture left in the washer load.'' According to Electrolux, the ability to remove moisture varies significantly among models for different classes, sizes, and brands.

To address these concerns, Electrolux proposed a modified label displaying the DOE standard for clothes washers using an Integrated Modified Energy Factor (''IMEF''), a metric which accounts for energy needed to remove remaining moisture.[59] It further recommended displaying an accompanying range showing the best and least efficient washer range for IMEF across all washers and classes. According to Electrolux, because the DOE standard accounts for drying energy, it provides a more accurate way to compare washer models than AEC, which only accounts for washer energy. Under its proposal, the label would display AEC as a secondary disclosure. Alternatively, Electrolux suggested including annual drying cost into the washer's energy cost disclosure, using a

[56] Natural gas industry organizations (the ''Group'') raised similar concerns.

[57] In the past, the Commission has looked beyond DOE's specific lamp definitions, which generally cover products subject to DOE's efficiency standards, to include products designated as ''specialty consumer lamps'' using its general labeling authority at 42 U.S.C. 6294(a)(6). 80 FR 67285 (Nov. 2, 2015).

[58] NEMA expressed support for the existing label's coverage, identifying the label as an example of ''how consistent labeling can support a market change'' and noting its widely recognizable format ''strikes an optimal balance of information provided and accommodations of the physical constraints.''

[59] The Integrated Modified Energy Factor measures the energy efficiency of a clothes washer as the quotient of the capacity of the clothes container divided by the total clothes washer energy consumption per cycle, which includes ''the energy required for removal of the remaining moisture in the wash load.'' 10 CFR Pt. 430, Subpt. B, App. J2.

different cost metric such as ''Effective Energy Cost'' to avoid confusion.[60]

Discussion: The inclusion of information reflecting a washer's ability to reduce moisture content could help consumers with their purchasing decisions. However, it is unclear whether consumers would understand the IMEF disclosure, including its relation to moisture content.[61] In addition, relegating the annual energy cost estimate to a secondary disclosure could undermine the effectiveness of that disclosure. Therefore, the Commission declines to include IMEF on the washer label at this time.

Nonetheless, given the issues raised by the comments, the Commission seeks further comment on whether the Rule should require a disclosure for the additional cost of removing moisture from clothes and other related information, and, if so, how manufacturers should calculate this information and how the EnergyGuide label should present such information in a helpful and not confusing way. For example, manufacturers could derive annual energy cost estimates for moisture removal by multiplying the number of wash cycles per year by the per cycle energy consumption for removal of moisture from the test load. Alternatively, DOE could consider amending its test procedure to specify the means for generating this information.

B. Dishwashers

Background and Comments: The California IOUs recommended including information about the costs of handwashing on the dishwasher label. Specifically, according to these commenters, handwashing dishes uses substantially more energy and water than an ENERGY STAR-rated dishwasher. They also recommended the label include a dishwasher's cycle time using DOE test results, given its importance to consumers.

Discussion: The Commission does not propose amending the dishwasher label to reflect handwashing costs. The California IOUs have not identified relevant data demonstrating that dishwasher shoppers want to compare the cost of handwashing to the machine's operating cost, and the FTC is unaware of any such data. In the absence of such data, the FTC concludes that the disclosure is unlikely to be helpful to most consumers. Further, the additional information would likely clutter the label, and thus, may detract from its effectiveness. The disclosure also could confuse consumers who may think the label's handwashing costs are associated with the model's operation. Balancing these considerations, a specific dishwasher disclosure is not warranted. However, sellers may present information about handwashing through consumer education materials separate from the label.

Similarly, the Commission does not propose including a dishwasher's cycle time on the label. Although this information, like many other metrics related to the product (*e.g.,* dimensions), may be useful for consumers, it is not clear it is needed to help consumers understand the energy label. Moreover, manufacturers can provide this information through technical specifications in manuals and marketing materials.

C. Television Ranges

Background and Comments: CTA, an association representing television manufacturers, urged the Commission to eliminate comparability ranges for television labels, ''in light of changing technology and online availability of information to consumers.'' Noting FTC's discretion under EPCA to exclude ranges from television labels, CTA argued the ranges are not helpful to consumers for three reasons. First, given rapid changes to available models driven in part by constantly evolving technology, attempts to estimate ranges are futile ''because the data becomes quickly outdated almost as soon as it is set.'' Second, CTA stated well-established resources exist for product comparisons, including consumer and trade publications and product reviews. Third, consumers can already make energy use comparisons based on the most significant element of the EnergyGuide label, the estimated yearly energy cost.

Discussion: Comparability ranges for televisions, while not mandatory under EPCA,[62] make it easier to compare a particular model's operating cost relative to others available in the market, and to see where that model falls in the whole market for similar products. Consumers could perform these tasks with the estimated yearly energy cost disclosure, but that would be significantly more difficult than reviewing ranges on a label because consumers would have to find the energy usage of all comparable models on their own. On the other hand, rapid market changes may quickly render disclosed ranges obsolete while imposing compliance burdens on manufacturers. Further, eliminating the ranges but maintaining the same font and text size for the other information would simplify the label, thus, making is easier to use. Accordingly, the Commission seeks comment on CTA's proposal (see sample label at Illustration 1). Commenters should address the costs and benefits of the proposal, including the timing for such a transition, should the Commission decide to eliminate the ranges.

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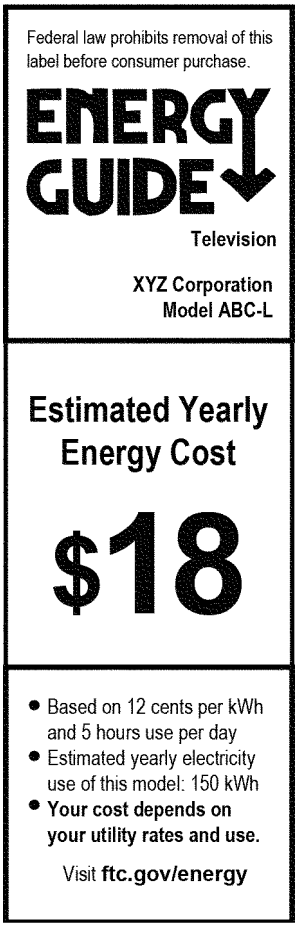

Illustration 1

BILLING CODE 6750–01–C

[60] The California IOUs also recommended the inclusion of a model's cycle time on the label ''when this data becomes available from a reputable source'' because it is an essential consideration for some consumers. According to the commenters, DOE's May 2022 test procedure provides this information.

[61] In addition to the IMEF, the DOE standard cited in Electrolux's proposal also measures the Integrated Water Factor (''IWF''), which represents the total weighted per-cycle water consumption for all wash cycles in gallons for each cubic foot (or liter) of clothes washer capacity. 10 CFR Pt. 430, Subpt. B, App. J2. Like Electrolux's proposed IMEF disclosure, it is unclear whether consumers would understand an IWF disclosure or use it when making purchasing decisions.

[62] *See* 42 U.S.C. 6294(c)(9) (giving the FTC discretion over labeling requirements for certain covered products, including televisions listed in subsection (a)(2)(I)).

D. Water Heaters

Background and Comments: Rheem, a water heater manufacturer, suggested several label changes for instantaneous (*i.e.,* ''on-demand'') water heaters. First, it recommended allowing manufacturers to affix the label to gas-fired instantaneous water heater packages (instead of the product itself).[63] According to Rheem, since these units frequently operate in visible living spaces, the label may be aesthetically undesirable on the product. Second, it recommended a smaller label for both gas-fired and electric instantaneous water heater packages because the packaging profile for many models is not much larger than the EnergyGuide label itself, leaving limited room for other important product information and advertising. To support its position, Rheem cited Rule provisions allowing smaller labels and different space-saving configurations in other contexts (*e.g.,* television labels and labels in paper catalogs).[64]

Rheem also raised a separate issue about boilers. It observed some boilers operate as combination space/water heaters. The current test procedure, however, does not address these combined functions. Therefore, Rheem recommended the Rule require text stating these products can be used for space and water heating.

Discussion: In response to the comments, the Commission proposes allowing the labels for instantaneous gas models to appear on packaging because of the difficulties in affixing the label to the product itself and the likelihood that few such models are displayed out of the box. Given the packaging size, the Commission also proposes decreasing the size of the labels for both instantaneous electric and gas-fired water heaters by one-third (see Illustration 2) to leave room on product boxes for other important information. This size reduction should not detract from the label's usefulness because the text and font size on the label will be identical to the existing label. Finally, the Commission does not propose changing the label to inform consumers particular water heater models can also be used for space heating. The Commission is concerned that adding this information to the label may cause confusion (*e.g.,* suggesting the label's water heating information applies to the product's space heating operation). However, manufacturers may instead inform consumers about the product's space heating capabilities in statements off the label, on packaging, and its advertising.

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[63] The Rule currently makes this allowance for electric instantaneous water heaters only. 16 CFR 305.13(e)(3).

[64] In addition, Rheem recommended against any label changes that would add information featured on European labels, such as decibel level, demand response capability, and a map indicating how a heat pump water heater will perform in different regions. The Commission has not proposed such changes. Rheem also urged the FTC to work with DOE to ensure labeling requirements are consistent with recent DOE proposals to apply the conservation standards to consumer water heaters. It also recommended a correction to size category references 16 CFR 305.17(a)(9) related to alignment with those in Appendix E. The Commission addressed this issue in a January 2023 Final Rule; correction and correcting amendment. *See* 88 FR 1135 (Jan. 9, 2023).

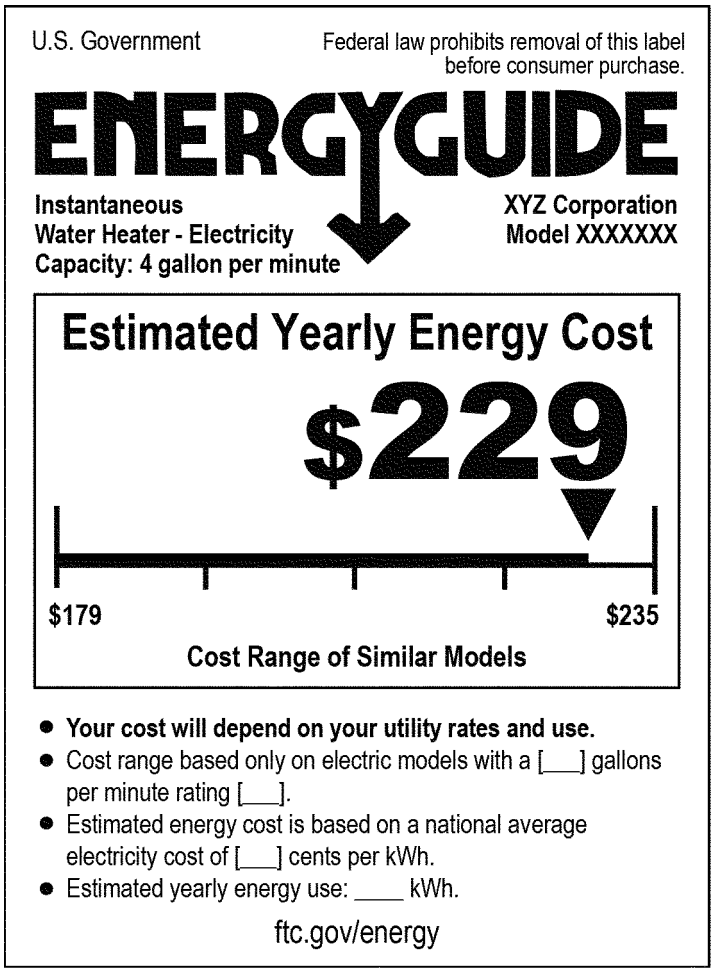


Illustration 2

BILLING CODE 6750–01–C

E. Pool Heaters

Background and Comments: The Rule currently requires manufacturers to label pool heaters using thermal efficiency as the primary disclosure. In Rheem's view, the current label does not provide consumers with the information necessary to make informed purchasing decisions because it does not include fuel type, capacity, and a comparability range of either efficiency or annual energy cost. Rheem noted in the past the FTC has refrained from requiring additional information due to limitations in the DOE's pool heater test procedure.[65] However, Rheem now explains DOE has updated its test procedure to include a new efficiency metric (integrated thermal efficiency) and to provide a method to derive other important information such as estimated annual energy costs. Rheem did note DOE's updated procedure lacks a clear delineation of capacity.[66] Therefore, Rheem urged the FTC to urge DOE to include appropriate capacity metrics in its final rule for consumer pool heaters.

Discussion: The Commission seeks comment on amending the pool heater label to include an annual operating cost disclosure and additional information (*e.g.,* fuel type, capacity, etc.) consistent with other EnergyGuide labels.[67] Commenters should also address any specific issues related to capacity disclosures for these products. Additionally, since DOE's changes to the pool heater standards will not become effective until 2028,[68] the Commission seeks comment on whether any label changes should coincide with this DOE compliance date.

F. Boilers

Background and Comments: As discussed below, several boiler manufacturers commented on labeling issues for their products. Four manufacturers recommended significant changes, and two others opposed any changes to the Rule's current approach.

Specifically, manufacturers WM Technologies and Marley Engineered Products (together, ''The Marley Company'') recommended allowing manufacturers to consolidate energy-related information for multiple models within a product family onto a single label, in order to minimize manufacturers' burden of maintaining multiple model-specific labels as required by the current Rule. Similarly, manufacturers Crown and Burnham (''Crown'') recommended replacing the current model-specific labels with a common QR code or similar feature directing consumers ''to an on-line source where the Energy Guide 'label'

[65] *See, e.g.,* 72 FR 49948, 49953–54 (Aug. 29, 2007).

[66] Rheem noted DOE regulations require manufacturers to certify the input capacity of each gas-fired pool heater model. 10 CFR 429.24(b)(2). However, DOE's ongoing energy conservation standards rulemaking proposal would effectively require heat pump technology on these products. Since heat pump pool heaters move heat instead of generating heat, DOE argued output capacity may be a better capacity metric than input capacity.

[67] Most EnergyGuide labels required by part 305 routinely display some sort of capacity figure.

[68] 88 FR 34624 (May 30, 2023).

for that model could be easily found (*e.g.,* the AHRI Directory).'' Crown observed consumers do not purchase boilers in showrooms because the choice of an appropriate boiler requires the expertise of a contractor. Boilers operate as part of a system that includes fuel, heating capacity, heating medium, operating water temperature range, and venting. In Crown's view, only trained professionals have the expertise to weigh these factors to determine which boilers can operate safely, reliably, and efficiently in a particular home. Thus, requiring manufacturers to include model-specific energy consumption data on the boilers themselves makes little sense. Faced with a choice provided by contractors, Crown explained consumers often research boiler models and brands prior to purchase, but do so using on-line resources and/or printed literature. Accordingly, Crown stated that replacing the current model-specific label with a feature directing consumers to an online resource would be more helpful to consumers.

Additionally, Crown recommended eliminating the requirement that labels be affixed to boilers. Instead, it suggested the Rule allow manufacturers to include the label as a paper insert or tag either hung on the boiler or inserted in an envelope with the manual and other documentation. Crown noted modern boilers are much smaller than past models and finding space for the label ''has been a growing challenge'' adding cost and assembly time. In its opinion, the EnergyGuide labels not only ''detract from appliance appearance'' but ''more importantly, compete for consumer attention with labels that convey important post purchase information, including safe installation and operation. Such a change would also address challenges with ensuring the appropriate materials and adhesives are employed to keep labels on products.

Other manufacturers did not support any changes to the current label. Bradford White (''BWC'') explained it has not received any feedback from customers, or product end-users, to indicate the current label fails to clearly communicate important information to consumers. In addition, BWC observed the current information on labels aligns with DOE's requirements. Rheem also did not recommend any changes to existing boiler labels.[69]

On a separate issue, the Marley Company and Crown recommended eliminating inconsistencies in the requirements for labeling boilers and furnaces. The Marley Company noted installers can configure both oil and gas boilers for capacities different from the one preset by the manufacturer, but the Rule currently allows only labels for oil boilers to list information for these alternative capacities. It recommended eliminating this inconsistency by allowing labels for both oil and gas boilers to include alternative capacities information. In addition, Crown noted § 305.20(f)(11) requires manufacturers to use the boiler's lowest attainable AFUE rating to label multiple-input boilers with more than one input nozzle to be installed in the field. In contrast, §§ 305.4(a) and 305.20(f)(13) require manufacturers to label the same boilers with the AFUE rating for input capacity set by the manufacturer. Crown also explained these sections could be read to set different labeling standards for multiple-input boilers and for furnaces when ''no logical reason'' justifies the difference. Crown proposed language for § 305.20(f)(11) and (13) to eliminate these apparent discrepancies.

Discussion: The Commission does not propose changing the general content of existing boiler labels.[70] Consistent with comments from BWC and Rheem, there is no clear evidence the current label fails to assist consumers in their purchasing decisions. In addition, allowing labels with information for multiple models within a product family would likely crowd the label and make it more difficult for consumers to use.[71] Similarly, moving to a QR-type label would likely erode the label's benefits because it would require consumers to take additional steps to access the information (see further discussion at Section VI *infra*).

The Commission, however, seeks further comment on whether it should amend the Rule's boiler label placement. Specifically, given the concerns discussed above, commenters should address whether the Rule should allow manufacturers to ship the label with the product in lieu of affixing the label to the unit (see also Section VI *infra*). The Commission is not proposing such a change at this time because it lacks sufficient information on whether shipping labels with the product would undermine the label's effectiveness.

Finally, the Commission proposes adopting the proposed language to § 305.20 offered by Crown and other clarifying language to address concerns raised by Crown and the Marley Company regarding discrepancies in labeling requirements for boilers and furnaces (*see* proposed §§ 305.10(h), 305.20(f)(11) and (13), and 305.22(c)). As suggested by the commenters, the proposed amendments adopt a consistent approach for labeling boilers with more than one input nozzle to be installed in the field, clarify that the same standard applies to both boilers and furnaces, and remove an inconsistency in labeling oil and gas boilers and furnaces.[72] Commenters should address whether this clarifying amendment is helpful and appropriate.

VI. Matching Label Format and Location to Consumer Shopping Patterns

In the ANPR, the Commission solicited comments on alternatives to the current ''showroom-ready'' approach. The Commission additionally requested any recent research or data demonstrating when and where consumers typically make purchasing decisions for the types of products covered by the Rule. In this section, the Commission discusses comments regarding current shopping trends and label placement, and proposes new label placement requirements for showroom appliances.

A. Comments on Shopping Trends

Several commenters (*e.g.,* AHAM, Whirlpool, and the California IOUs) highlighted the increasing tendency of consumers to research major appliances online before making a purchase, even when they make the purchase in-store. Moreover, the commenters noted consumers are increasingly comfortable with buying large consumer products without visiting a store. For example,

[69] Rheem also explained, consistent with past FTC positions, an annual energy cost would have limited value to consumers because it is based on national average heating load hours and thus will not adequately represent a consumer's actual operating cost. Therefore, Rheem recommended the Commission retain the efficiency comparability range. In addition, similar to its recommendation for pool heaters, Rheem recommended the FTC work with DOE to include the appropriate capacity metrics in the certification requirements in the energy conservation standard final Rule for consumer boilers. Finally, Rheem noted the cost information link on the label directs consumers to DOE's general database.

[70] In response to Rheem's comment, the proposed amendments also correct a typographical error in the DOE published number for the energy equivalence of No. 2 heating oil.

[71] The Marley Company appears to propose the optional use of labels with information for multiple models for not only boilers but all products covered by the Rule. Because the additional information would tend to crowd these labels as well, the Commission also declines to propose the use of such labels with respect to these other products.

[72] For multiple-input furnaces and boilers with no factory-installed nozzle, the proposed label discloses the lowest AFUE rating obtainable by the system. For those with at least one factory-installed nozzle, the proposed label discloses the AFUE rating associated with the input capacity set by the manufacturer. Regardless of whether the boiler or furnace is fueled by oil, the proposed label may include optional information regarding the product's alternative capacities.

the California IOUs pointed to a 2013 GE Capital study showing 81 percent of consumers research major appliances costing $500 or more online before purchasing, with 88 percent of respondents ultimately making their purchase in-store. They also cited a more recent 2021 study by Bain and Company finding 26 percent of global consumers were ''more willing to buy appliances online than they were prior to the pandemic.'' The California IOUs concluded online information is a ''critical driver for consumer purchases'' but acknowledged most consumers still make their final purchase decisions in physical stores. In their view, these trends highlight the continued need for labels on showroom floors while pointing to the additional utility of QR codes for online research and for providing multilingual information.

In addition, AHAM noted, in 2012, two-thirds of consumers researched models online prior to purchasing an appliance, whereas, in 2021, during the COVID–19 pandemic, ''close to 90 percent of consumers'' conducted such online research, and 80 percent planned to continue such online research after the pandemic.

AHAM and Whirlpool also observed once consumers visit a showroom after conducting preliminary research online, energy efficiency becomes less important to their final in-store decisions.[73] Moreover, according to AHAM, the ENERGY STAR logo, annual energy consumption, and annual operating cost information rank in the bottom half of ''identified characteristics'' by consumers. Instead, consumers focus on other purchase factors, primarily the product's purchase price.

Whirlpool also noted the decrease in the amount of printed information sellers use at the point of purchase and an increase in their use of online information, including information linked through QR codes. According to Whirlpool, many consumers never read point-of-purchase materials nor keep them for future reference. Instead, consumers often expect to access such material remotely through QR codes. Whirlpool further asserted that although some printed material or labels are helpful during product setup or to comply with regulatory requirements, product information is ''increasingly only found online, at no apparent detriment to the consumer.''

Whirlpool's own research found consumers ''noticed and liked QR codes used in retail stores to scan and locate more product information on their appliances.'' Consumers also liked QR codes as an alternative to paper literature and labels, which can be easily lost or not transferred from previous homeowners. Its research found a strong majority of consumers would find a QR code linking to more information online to ''be helpful to their in-store shopping experience.''

Commenter Merriam emphasized how energy-efficient appliances can help meet climate goals and ensure electricity system reliability. In doing so, it highlighted several key points from recent studies on consumers' purchasing decisions. For instance, one European study found annual energy expenditures communicated in the form of a monetary value increased the likelihood consumers would purchase an energy-efficient appliance.[74] Another found consumers tend to focus on a label's ''headline'' and were likely to purchase energy-efficient equipment, especially where the cost of operating the equipment is expensive.[75] Based on this research, Merriam recommended continued use of annual energy costs as the primary disclosure, which ''provide simple and consistent messaging about the range or rating of cost energy savings.''

B. Comments on Label Placement for Showroom Appliances

As discussed below, several commenters offered proposals to restructure the Rule's requirements for label placement and presentation. Generally, manufacturers urged a shift to a virtual or ''electronic label,'' which would provide consumers access to energy information through a QR code link or similar feature. Other commenters argued against any approach eliminating physical labels in stores. Finally, industry commenters urged the Commission to provide adequate lead-time to make any changes necessary to comply with Rule amendments.

Major Showroom Appliances: Commenters offered different opinions about the Commission's approach to labeling major showroom appliances.

Some, particularly Earthjustice and NYSERDA, urged the FTC to ensure labels are available to consumers in stores and to maximize label accessibility. Specifically, Earthjustice argued eliminating showroom labels is inconsistent with EPCA, which states the FTC ''shall require that each covered product in the type or class of covered products to which the [Rule] applies bear a label which discloses'' the information of the sort provided on an EnergyGuide or Lighting Facts label. 42 U.S.C. 6294(c)(1). Further, in Earthjustice's view, the label's ubiquitous presence on covered products ''helps to improve consumers' familiarity with the label.'' Even if a consumer does not see the label until after purchase, its presence increases the likelihood the consumer ''will later become aware of the label and the information it conveys.'' Such ''after-the-fact'' awareness, in Earthjustice's view, increases the likelihood consumers will use the label for future purchases. In addition, NYSERDA argued energy labels are ''most impactful when they can be readily accessed wherever a consumer may be looking for them, be that online, in stores, or in a showroom.'' [76]

In contrast, industry members recommended major changes to the label placement requirements. AHAM, which has long supported a shift from paper to electronic labels, argued the technology and infrastructure is now available to ''easily permit the electronic delivery of label information.'' AHAM noted manufacturers already provide label information online to comply with existing Rule provisions (*see, e.g.,* §§ 305.9, 305.11(a)(5), and 305.27). Therefore, it proposed a transition away from ''outdated'' physical labels to reliance on labels online, citing research indicating consumers examine product information online before going to brick-and-mortar stores for purchase. Specifically, it recommended ''flexible approaches to allow manufacturers and retailers to deliver the label content, in an electronic format to consumers.''

Whirlpool also recommended giving manufacturers flexibility, whether through a QR code printed in product literature (*e.g.,* in a quick start guide), on the packaging for some covered

[73] According to Whirlpool, consumers look for energy efficiency but generally do not want to pay more for it or compromise on product performance. Further, consumers generally do not notice large differences in efficiency once they shop in the stores.

[74] *See* Julia Blasch, Massimo Filippini, & Nilkanth Kumar, ''Boundedly Rational Consumers, Energy & Investment Literacy, & Display of Info. on Household Appliances,'' *Resource & Energy Econ., Recent Advances in Econ. Analysis of Energy Demand—Insights for Indus. & Households,* May 2019, Vol. 56, 39–58, available at *https://doi.org/10.1016/j.reseneeco.2017.06.001.*

[75] Lucas W. Davis & Gilbert E. Metcalf, ''Does Better Info. Lead to Better Choices? Evidence from Energy-Efficiency Labels.'' *J. of Ass'n of Envtl. & Resource Economists,* Sept. 2016, Vol. 3 No. 3, 589–625, available at *https://www.nber.org/papers/w20720.*

[76] Several commenters similarly recommended the Commission ensure labels are available in showrooms for consumers to examine (*see, e.g.,* DuSaint, Ring (also saying the label should be available in the product packaging or literature bag), Wesolowski, Davis).

products, and/or through a label permanently affixed to the product itself in a prominent location. Whirlpool further recommended adding explanatory text to the label directing consumers to a website with information about the product's energy efficiency and operating costs. AHAM emphasized the need for different approaches depending on the product categories (*e.g.,* products displayed in a box compared to unpackaged units displayed on showroom floors). For products displayed in boxes, such as air cleaners, it proposed requiring a QR code. For major appliances displayed on showrooms, AHAM stated its members would ''be open to QR codes on the product and/or on the owner's manual as an option so long as the requirements are flexible.''

AHAM also cited benefits from electronic labeling, arguing a label available online would be more impactful because a consumer's ''appliance purchase journey starts with online research.'' In AHAM's view, printed labels shipped inside appliance units (*e.g.,* clothes washers, dishwashers, and refrigerators) ultimately do not assist consumers because the purchase has already occurred when they see the label. AHAM contends consumers likely discard such labels immediately upon installation. Thus, it concluded a shift to purely electronic labeling would eliminate redundant paper labels, involve few regulatory changes, and ''dramatically reduce regulatory burden and cost'' related to printing, affixing, and shipping labels.[77] It also stressed this change would ''be more sustainable'' because it would dramatically decrease the paper and ink used to comply with the Rule. According to Whirlpool, who agreed that many labels are often discarded without helping consumers, the resources needed to print and ship these labels are a ''very non-sustainable practice.'' [78]

Further, AHAM argued a move to electronic labels would provide consumers ready access to the label content (through, for example, links, QR codes, or apps) in a form and manner that best suits them. In addition, such an approach would give retailers flexibility to present the label content either by printing the label or through an electronic device (*e.g.,* phone, tablet). According to AHAM, an electronic format would also allow manufacturers to easily update labels and make corrections to online content when, for example, the FTC updates comparability ranges. AHAM also urged the FTC to work with Canadian regulators to, for example, align data elements, reporting, and content of labels. It noted that because manufacturers often display the U.S. and Canadian labels back-to-back or side-by-side on the same piece of paper, environmental benefits, burden reduction, and cost savings will be largely lost if only one country shifts to electronic labeling.

Alternatively, should the Commission decline to adopt electronic labeling, AHAM and Whirlpool suggested the Rule require manufacturers to affix labels only to those units designated by manufacturers as showroom models. According to AHAM, manufacturers routinely ship designated ''floor units'' to retailers with special point-of-purchase labels and other material. While this special treatment does not cover 100% of units ultimately displayed by retailers, this process ensures most floor units will have the manufacturers' point-of-purchase information, including labels, applied in the factories. Given this practice, AHAM did not object to a Rule provision requiring physical labels ''for the limited number of major appliance units that are displayed on showroom floors on an as needed basis to reduce waste.'' Accordingly, AHAM stated ''it is possible, without a significant amount of burden, to ship floor units to retailers with labels.'' Whirlpool added that such an approach, while less preferable than a complete transition to electronic labeling, would impose less burden than the current requirements.

According to AHAM, manufacturers lack control over products once they leave the factory and thus cannot address missing labels on showroom floors whether removed intentionally or inadvertently. To ensure labels are present on showroom models, AHAM suggested the Rule affirmatively require retailers to place labels on any floor units that lack a physical label (*e.g.,* replacement floor units, units displayed after the initial production run, or units from which labels have been intentionally or inadvertently removed). Under such an approach, retailers could access all labels online to print and attach them themselves, or request manufacturers to ship (or a local manufacturer representative deliver) printed labels.

In discussing potential retailer requirements, AHAM suggested ways the Commission could minimize retailer burden, including providing flexibility for label materials and attachment methods, requiring manufacturers to ship labels in a ''showroom ready'' state for designated floor models, allowing retailers to use existing electronic labels accessed through DOE's website, and ensuring retailers have adequate time to comply with any new requirements. Similarly, Whirlpool recommended that the FTC reduce the Rule's format and attachment requirements for retailers since certain provisions aimed at ensuring label durability through the supply chain would not be applicable to retailer-applied labels. In addition, Whirlpool noted retailers may lack the resources to meet the label size, paper weight, and other requirements of the current Rule.

Other commenters cautioned against loosening the label attachment requirements. Citing past concerns about the absence of labels in showrooms, Earthjustice warned lack of regulatory specificity could lead to non-compliance. In 2015, the FTC added specificity to its regulations governing adhesives and hang tags to address missing labels.[79] Earthjustice argued reducing such specificity now ''would encourage a return to labelling practices that deprive consumers of access to the important information that EnergyGuide labels provide.'' Earthjustice also noted detailed, ''highly standardized'' format and content requirements help ensure EnergyGuide labels can be readily distinguished ''from a variety of other text and images that may be present on display models or product packaging.''

Televisions: CTA, an association which represents television manufacturers, recommended the Commission allow electronic labeling for covered products incorporating electronic displays. Similar to AHAM, CTA argued a physical label requirement is no longer necessary because energy cost information is widely available online and frequently used by consumers. Therefore, CTA urged the Commission to allow sellers to display information electronically. According to CTA, this ''may involve the presentation of the EnergyGuide disclosure on the product's display or screen retrievable on command.'' According to CTA, such electronic labels would allow consumers to both view the label at the time of purchase,

[77] According to Whirlpool, such an approach will make future label updates and transitions quicker, easier, and less confusing for manufacturers, retailers, and consumers.

[78] Whirlpool explained that labels printed and shipped with every unit involve ''tremendous cost'' and are an enormous waste of resources, including the paper for labels, the adhesive backing, printer ink, and other supplies (*e.g.,* zip ties, eyelets, and/or string). For example, one manufacturing location wasted about 43,000 pounds of wax paper every single year from the backing used for the label.

[79] *See* 80 FR 67285, 67291–92 (Nov. 2, 2015), codified at 16 CFR 305.

and ''retrieve a TV model's energy use information long after a product is sold.'' For businesses, the electronic label would support the industry's sustainability efforts by reducing ''printed and physical materials.'' In addition, citing recent FCC electronic labeling measures as well as e-labeling in Canada and Australia, CTA noted such an approach would also be consistent with U.S. and global approaches to electronic labeling, or e-labeling, in other contexts.

C. Comments on Labeling for Heating and Cooling Equipment

Commenters also addressed labeling for central air conditioners, heat pumps, and furnaces, products which consumers generally do not purchase directly in showrooms or online but instead buy through their contractors. AHRI, which represents manufacturers of these products, recommended continuing the requirement that labels be attached to products that are still occasionally displayed at a retail store, such as some water heaters. However, AHRI contended labels affixed to products that consumers generally buy through contractors, such as central air conditioners and furnaces, do not help consumers. In fact, it explained these products are generally not available from retail stores.[80] Further, consumers often buy replacement systems in emergency situations and usually purchase whatever the contractor has available, *e.g.,* when a water heater catastrophically fails. In each of these scenarios, the consumer does not view either the product or the label.[81]

Thus, AHRI recommended replacing the physical label with an electronic one. According to AHRI, a QR code link to an online label would reduce compliance costs for manufacturers while still providing key information to those consumers and retailers who want it. Specifically, AHRI recommended requiring smaller QR labels on central air conditioners and furnaces which link to the full EnergyGuide label on a publicly accessible website, such as the AHRI directory. For central air conditioners and heat pumps where appropriate, this smaller label should include regional identification information to easily communicate the DOE regional standards applicable to these products—thus helping contractors and consumers comply with the law.[82] Further, AHRI argued because efforts to comply with the new DOE requirements will result in an extended transition to new labels and potential market confusion, an electronic label, which manufacturers can readily update, would ease the shift to new metrics while reducing confusion.

Rheem, however, expressed a different view. Although Rheem acknowledged the utility of QR codes in helping consumers find current information, it did not support a transition to a QR code or fully electronic label. At the same time, Rheem argued the EnergyGuide label does not need to be attached to the unit itself, noting consumers may not want a visible label if the unit is installed in a living space. Finally, Rheem argued the Rule should not require a showroom label for water heaters, boilers, and pool heaters because only a small portion of the models available on the market are displayed in a showroom.[83] Instead, in its view, online sources of information, and consultation with professional installers offer the best ways to help consumers make informed decisions.

Two water heater industry commenters favored keeping the existing labels. AHRI asserted most manufacturers find value in a physical label and are opposed to transitioning solely to an electronic label. Similarly, BWC, a water heater and boiler manufacturer, opposed any changes to existing labeling requirements for its products. It observed the current labels clearly communicate annual energy cost and use savings information to consumers. It warned any revisions to the EnergyGuide label ''would require a significant undertaking.'' In addition, BWC stated QR codes would be ''largely unnecessary'' because the label information is currently available through other sources, such as AHRI's Directory.[84]

D. Proposed Changes to Label Placement Requirements

To ensure labels are available on showroom appliances and to decrease unnecessary labeling burdens, the Commission proposes several label placement amendments for products frequently displayed in showrooms such as refrigerators, clothes washers, and dishwashers. As discussed below, the Commission does not propose changes to television label placement but seeks comment on whether the proposed requirements for showroom appliances should apply to televisions. Finally, the Commission does not propose any changes for label placement for heating and cooling products but seeks comment on whether the Rule should allow manufacturers to include the label with the product shipment instead of affixing it to the unit itself.[85]

Under proposed § 305.13, manufacturers of refrigerators/freezers, clothes washers, and dishwashers must ship all units with a physical label.[86] However, the proposed requirements for affixing adhesive labels and hang tags to the product itself would only apply to units designated by the manufacturer for showroom display. For all other units, the Rule would require manufacturers to include a paper label with the unit in some fashion (*e.g.,* in the literature bag or another location consumers and retailers can easily see when opening the product's packaging). Additionally, the proposal requires retailers to ensure any refrigerator, dishwasher, clothes washer, or dryer unit they choose to display in a showroom has a label in a location visible to a consumer examining the product. Retailers are in the best position to ensure labels continue to be displayed on their showroom floors. The proposed Rule, however, does not impose any prescriptive label placement or attachment requirements for retailers both because the labels do not need to survive transportation and retailers, under the proposal, would have the obligation to replace any missing labels. In addition, to effectuate the proposed retailer requirements, the proposed Rule requires manufacturers to furnish labels for these appliances to retailers upon request to ease retailer burdens. Given this new responsibility, the proposal

[80] AHRI cited to discussions in earlier rulemakings where the FTC acknowledged the label has little benefit for the present purchase but likely provides benefit for subsequent purchases. *See* 72 FR 6836 (Feb. 13, 2007).

[81] With respect to split system central air conditioners, AHRI also questioned the label's utility even if the consumer were to see it prior to purchase. The label currently displays the efficiency rating for the least efficient outdoor unit-indoor unit combination. According to AHRI, however, the actual installed system may operate at a higher efficiency than the displayed rating. In contrast, contractors and the AHRI Directory can provide more accurate information accounting for a ''matched system rather than the lowest possible efficiency.''

[82] *See also* Daiken's and The Marley Company's comments. In addition to this electronic labeling approach, AHRI suggested the Commission allow a paper label option on the units themselves.

[83] For further discussion of boiler labeling, *see* Section V of this preamble.

[84] BWC also sought clarity regarding the term ''showroom ready'' as used in the ANPR. The Commission clarifies the reference was simply a shorthand to describe current Rule provisions requiring manufacturers to affix a label on every unit in a location that would be visible to consumers examining the product.

[85] In addition, the Commission does not propose changing the efficiency information for central air conditioners. While the label does not (and cannot) predict the efficiency of the specific installed system, it provides consumers with a general estimate of the installed unit's efficiency rating that can be used for comparative purposes.

[86] These changes would also apply to dryers and miscellaneous refrigerators if they are labeled following this proceeding.

provides a year for retailers to comply. The Commission seeks comments on all aspects of this proposal.

For consumers, the proposed § 305.13 helps ensure every appliance displayed in a showroom has an EnergyGuide label, including by requiring retailers to replace labels. However, the proposal does so without imposing unnecessary costs on manufacturers. Specifically, manufacturers would no longer have to affix adhesive or hang tag labels on millions of units that consumers will never see until after the unit is purchased. Instead, with the exception of a small number of showroom-designated units (a tiny fraction of units produced), manufacturers will simply include a paper label with the shipped product. This streamlining should greatly reduce the time involved in affixing individual labels and resources used in the form of adhesive materials, special paper, hang tag material, and other similar supplies without interfering with consumers' access to the label.

The proposal, however, does not allow sellers to substitute a virtual or electronic label (*e.g.,* a QR code) for the physical label.[87] Abandoning physical labels would likely degrade the label's effectiveness and reduce the program's benefits for consumers. Specifically, physical labels disclose all the required information for shoppers on showroom floors. QR codes, in contrast, allow only a self-selected portion of shoppers (*i.e.,* those that have mobile internet access and take the extra effort to retrieve the information online) access to the label. Although industry commenters suggest some consumers ignore in-store labels, eliminating them would deprive other consumers of valuable information they rely upon.[88]

In addition, the Commission does not propose allowing television labels to appear on screen in lieu of physical labels. As the Commission explained in an earlier proceeding, the method for implementing an effective electronic label is unclear.[89] Such a provision would require retailers to display an EnergyGuide label at all times, and the Commission has no evidence regarding the feasibility of doing so. Specifically, if retailers do not continuously power up all their showroom units, the image might appear only periodically. Further, retail staff or consumers may turn off the product's label-displaying mode to provide shoppers with an unobstructed image. Such intermittent display of the label would make it less likely the required information was available to consumers examining products in stores and therefore could significantly reduce the labels' ability to assist consumers in their purchasing decisions. However, given the lack of record evidence, the Commission seeks comment on this issue, including whether the Commission should follow the same approach for televisions it has proposed here for labeling appliances (*i.e.,* requiring manufacturers to place labels only on showroom-designated models and creating a new requirement for retailers to ensure labels on any model they choose to display).

For air conditioners, furnaces, and water heaters, the Commission seeks comment on whether the Rule should allow manufacturers to simply ship a paper label with the product. The Commission recognizes these products generally do not appear in showrooms. Thus, consumers are unlikely to see labels affixed to those products prior to purchase. The Commission does not, however, propose this change in this NPRM because, as the Commission has observed in the past, labels attached to these types of units can help consumers in future purchases.[90] Commenters should address whether this reasoning remains valid. For central air conditioners, commenters should also address whether labels shipped with the product (but not affixed to it) will adequately inform installers about DOE regional standards requirements.

Finally, commenters should address whether the Commission should follow the same approach for televisions it has proposed here for labeling appliances (*i.e.,* requiring manufacturers to place labels only on showroom-designated models and creating a new requirement for retailers to ensure labels on any model they choose to display).

VII. Proposals for New Label Content

Background and Comments: Several commenters recommended the Commission consider ways to provide consumers with climate-related information and other environmental impact data such as full fuel cycle data. For example, NYSERDA recommended including greenhouse gas emissions (''GHG'') information on the labels to help consumers understand the broader environmental impact of their purchases. To convey variability in emissions related to electricity use across the country, NYSERDA suggested displaying a range of emissions based on the average grid intensities collected by the EPA and the U.S. Energy Information Agency (''EIA'').[91]

The National Propane Gas Association (''NPGA''), the American Gas Association (''AGA''), and the American Public Gas Association (''APGA'') (collectively ''the Group'') recommended adopting a Full Fuel Cycle (''FFC'') energy label for household appliances. This label's disclosure would include estimates of the energy used in transportation, distribution, generation, production, and extraction. The Group argued such a label would be consistent with the agency's mission to providing consumers complete and accurate information under the law. They further argued including such information would promote fuel neutrality and advance policy priorities by helping to tackle climate change. Finally, the commenters contended this labeling is now feasible because the FFC test procedures necessary to adopt this new label are straightforward and already available to the FTC from DOE.[92]

The Group further recommended streamlining the existing label to consist of the headlines ''RESIDENTIAL ENERGY COST & EMISSIONS'' and ''ENERGYGUIDE'' above a QR code, which would link consumers to the energy efficiency and associated FFC cost of products where data is available.

Discussion: The Commission does not propose amending the label to convert it into a QR code linking consumers to FFC information as suggested by some commenters. As discussed elsewhere in this Notice, replacing the current label with a QR code is likely to decrease the label's utility for consumers (*see* Sections V.F and VI *supra*).

[87] Labels are already widely available through retail and manufacturer websites as well as DOE's website as required by the Rule.

[88] Earthjustice argued that replacing physical labels with QR codes would be inconsistent with EPCA. We do not see the need to address that issue at this time. However, to the extent manufacturers want to communicate additional information to consumers, they may do so by providing other point-of-sale material, including QR codes, separate from the physical label.

[89] 76 FR 1038, 1044–45 (Jan. 6, 2011).

[90] 72 FR 49948, 49956 (Aug. 29, 2007).

[91] In addition, an anonymous commenter (#0013), citing research about the use of ozone-depleting hydrochlorofluorocarbons (''HCFCs'') in some refrigeration products, suggested that any refrigeration products containing HCFCs should contain labels informing consumers of such, or at least how to appropriately dispose of these items. The Commission does not propose to include this information on the label as it pertains to issues related to the end of the product's life and would likely crowd the information already there, thus potentially reducing the label's effectiveness.

[92] The Group also argued the FTC has legal authority to adopt FFC labels, noting that pursuant to 42 U.S.C. 6294(c)(1)(A), the contents of the label are at the discretion of the FTC so long as it accords with test procedures set forth by DOE under 42 U.S.C. 6293.26. Furthermore, EPCA expressly grants the FTC the ability to disclose additional information about energy consumption on labels if such information would assist consumers in making purchasing decisions.

In addition, the Commission does not propose amending existing labels to add FFC or GHG emissions information about individual products.[93] It is not clear, for instance, whether such additional technical information is helpful or whether the information already on the label (*e.g.,* the annual fuel costs), provides an adequate proxy for relative comparisons of the FFC impacts of competing products. Additionally, as the electricity grid evolves toward renewables and away from sources such as coal, the difference in emissions between fuels may narrow; thus diluting the relevance of such fuel comparisons. Further, additional FFC or GHG emissions information would clutter the label, potentially confusing consumers, and otherwise detract from the central disclosures related to the energy cost or energy efficiency of the labeled product. Accordingly, weighing the uncertain benefits of such a disclosure against the likely reduction in the label's utility, the Commission declines to propose these changes.

As an alternative, the Commission could explore, with DOE, creating online consumer resources to provide FFC and/or GHG information for individual covered products, even if such information is not included on the EnergyGuide labels. However, before committing resources to such a combined agency effort, the Commission invites comment on such an approach.

VIII. Additional Issues

Commenters also raised proposals and questions about a range of additional issues including lamp reporting, potential lamp and ceiling fan labels, transitional label language, range updates, compliance dates for ranges, television data updates, a categorical ranking system, bilingual information, coordination with other agencies, prescriptive requirements, and online label requirements. The following section summarizes these comments and provides the Commission's analysis.

A. Lamp Reporting

Background and Comments: The Commission sought comment in the ANPR on whether the Rule should require lamp manufacturers to include information regarding their Lighting Facts labels with their DOE data reports. The Rule already requires manufacturers of other covered consumer products to provide a website address linking to their EnergyGuide labels as part of their required data reports, which manufacturers submit through the DOE reporting system.[94] The Commission did not extend this requirement to the Lighting Facts labels in 2016 given appropriation restrictions placed on DOE spending related to light bulbs at that time. Instead, the Commission stated it would revisit the issue at ''a later date should circumstances warrant.'' [95]

In response, NEMA urged the Commission to refrain from requiring links to Lighting Facts labels in reports submitted via the DOE data website (CCMS) because current realities of the consumer marketplace do not warrant it. According to NEMA, the ''logistical coordination of the digital location of online content over time is very complicated for lamp products.'' In addition, because the label already contains the product characteristics, additional DOE reporting would only provide duplicative information. NEMA also argued the proposal would increase the burden on the FTC to review this data, much of which has little relevance to consumers.

Discussion: The Commission does not propose requiring lamp manufacturers to include information regarding their Lighting Facts labels with their data reports. Commenters did not identify any specific need or benefit from requiring this information in DOE reports. The Commission can revisit this issue if developments suggest a need.

B. Transitional Label Language

Background: The Commission sought comment on whether to phase out language on refrigerator and clothes washer labels added in 2013 to help distinguish models tested with the current DOE procedure from those rated with an older version.[96] This language, which advises consumers to ''Compare ONLY to other labels with yellow numbers,'' appears to now be obsolete and crowds the label with irrelevant information.

Comments: Commenters supported an eventual shift to the original label but recommended the Commission wait to do so until DOE completes certain changes to its requirements for the affected products. Specifically, AHAM suggested delaying revisions to the ''transitional'' labels until a new DOE test procedure provides an appropriate time to allow a return to the ''normal'' label in a single step. In its view, removing the current transitional language before such a test change could confuse consumers, burden manufacturers, and create complications should any new test procedures warrant similar transitional language.

Whirlpool agreed, stating it was unaware of any consumer complaints or confusion about the current label. It added upcoming changes to the DOE clothes washer test procedure are likely to be significant and thus may provide a logical time to transition to the conventional label. However, since the expected changes to the refrigerator/freezer test procedures are not as complex, Whirlpool recommended any such transition coincide with the amended energy conservation standards to minimize additional manufacturer burden. Finally, Electrolux generally supported reverting to the original format if manufacturer burdens are minimized in doing so.

Discussion: To minimize confusion resulting from a label change, the Commission does not propose amending the ''transitional'' label language for refrigerators and clothes washers at this time. However, it will consider doing so when future DOE test procedures or standards amendments provide an appropriate time to revert to the original label language.

C. Range Updates

Range and Cost Updates: A few commenters recommended the Commission update range and cost information more frequently. For example, NYSERDA urged the FTC to update the cost as often as feasible to increase accuracy. It also argued labels conveying estimated yearly energy costs calculated with a national average price from a fixed point in time are unlikely to accurately reflect regional consumer experience. It explained New York consumers, for example, living in a higher cost energy market, would find such labels less accurate than consumers in other parts of the country. In addition, Earthjustice stated the FTC should not permit outdated range information to persist on labels.

Discussion: The Commission does not propose changing the frequency of range and cost updates to labels. Although updates provide consumers with a useful estimate of a product's annual energy costs, ranges continue to provide a useful ''apples-to-apples'' comparison across products even as rates change. Moreover, range changes come with a downside. Specifically, they can lead to consumer confusion because they often result in showrooms displaying similar

[93] Under EPCA, the Commission may include on the label additional information relating to energy consumption if it would assist consumers in purchasing decisions or product use, and would not be unduly burdensome to manufacturers. 42 U.S.C. 6294(c)(5).

[94] 81 FR 63634 (Sept. 15, 2016); 16 CFR 305.11 (FTC reporting requirements).

[95] 81 FR at 63636.

[96] 78 FR 43974 (July 23, 2013).

models with the updated labels on newer units and outdated labels on the older ones. Increasing the frequency of updates only exacerbates this confusion. The Rule's current approach (the five-year update schedule first established in 2007) [97] strikes a reasonable balance between providing consumers updated information and minimizing the problems associated with frequent changes.

Likewise, the Commission does not propose changing the national cost estimates on the label to provide more granular information. The label's annual cost disclosure provides an estimate to allow consumers to compare the energy consumption of competing products quickly and effectively. Adding information degrades the use and utility of the label by making it harder to use and understand. The label already addresses this issue by stating it only provides an estimate.

D. Compliance Dates for Ranges

Background and Comments: Commenters also discussed the compliance period for future label updates. The current Rule requires manufacturers to implement range and cost changes within 90 days after issuance of updates (see § 305.12).[98] Whirlpool recommended expanding this period to 180 days for minor updates, such as range changes, because the manufacturing process for updating EnergyGuide labels generally takes four months. Specifically, according to Whirlpool, such updates involve hundreds of different part numbers in production at multiple locations, and therefore, draw resources away from other regulatory compliance efforts (*e.g.,* retesting and recertification to a new DOE or ENERGY STAR requirement). In its view, an extension to 180 days provides the necessary time to ''appropriately transition labels, without pulling away resources from other critical energy compliance projects'' with no harm to consumers. Finally, for any mandatory label changes, BWC asked the FTC to ''be sensitive to the timing of ongoing DOE rulemakings to minimize burdens on manufacturers.''

Discussion: In response to comments, the Commission proposes extending the transition period for label range and cost updates under § 305.12 to 180 days. As Whirlpool explained, manufacturer and supply chain issues have become increasingly complex. For routine label updates implemented every five years, the additional transition time is short relative to this schedule and should have little impact on consumers. The Commission seeks comment on this proposal, including whether and how it would affect consumers.

E. Updating the Television Test Data Requirements

The Commission also proposes a minor, conforming update to the television reporting requirements to match the recent DOE test procedure for those products.[99] Specifically, the proposed Rule would amend § 305.11(a)(3) to require reporting the following data for televisions: brand name, model number, screen size, on-mode power consumption, standby mode power consumption, dynamic luminance, and annual energy consumption. This proposal would ensure manufacturers submit data that matches the metrics yielded by the new test procedure rather than obsolete data.

F. Light Bulb and Ceiling Fan Labels

Background and Discussion: In the ANPR, the Commission sought comment on updating the electricity cost disclosure on the Lighting Facts and ceiling fan labels to reflect recent DOE national estimates. Commenters provided differing views on such changes. Earthjustice, for example, generally recommended updates for these products to avoid misleading consumers with outdated information. In contrast, NEMA, an association representing lighting manufacturers, recommended against changing the electricity cost information underlying the Lighting Facts because of the potential confusion resulting from a change. In addition, NEMA noted that because of the nature of the sales process and supply chain for lighting products, it would be ''impossible to assure all comparable product packaging reflects an updated electricity cost disclosure.'' Thus, in NEMA's view, such a change would create misleading inconsistencies among competing products as the label transition occurs.

The American Lighting Association (''ALA'') also opposed a change, for lighting as well as ceiling fans, noting it would create significant burdens for manufacturers. If the FTC chooses to update the light bulb labels, ALA urged allowing a rolling change over 36-months, which would be consistent with other Federal agencies and would give manufacturers the lead time necessary to make package changes. Similarly, Madison IAQ did not recommend the Commission change the ceiling fan labels. Should the Commission make changes, BAF, without explanation, recommended ''replacing the weighted average airflow and power numbers with airflow at high speed and power at high speed.'' In addition, Madison IAQ recommended renaming Airflow Efficiency to Average Airflow Efficiency since it is an average value.

Discussion: As discussed below, the Commission does not propose changes to lighting labels at this time. On balance, the problems associated with changing the vast array of light bulb packages on the market, including potential consumer confusion during the transition and the burdens of such a change, likely outweigh the benefits associated with updated cost numbers. The Lighting Facts label primarily benefits consumers by helping them compare the relative energy costs of similar models, not by providing their actual energy costs. The current label will continue to provide this benefit without changes. In addition, given the relatively low energy cost of most light bulbs and small energy cost difference, the benefits to individual consumers from updating the cost figure are likely to be lower than with other products. However, the Commission will continue to monitor changes in average electricity costs and will consider whether to provide future updates to these labels. Should the Commission require a new cost figure, it will consider providing manufacturers an adequate compliance period given the burdens involved with changing the large number of different lighting packages.

The Commission, however, proposes to require updating the energy cost information, as well as the range information, for ceiling fans by including them in the regular five-year schedule for label costs and range updates in § 305.12. Unlike the Lighting Facts label, ceiling fan labels contain a range of comparability, thus making regular updates to the label information likely more useful to consumers. Further, there are generally fewer ceiling fan products on the market compared to lamps, making the burden for label changes likely lower. Although ceiling fan labels feature energy cost and comparability range information as required by EPCA, the Rule currently does not specify an update schedule for that information. Accordingly, the proposal would include ceiling fans in the Rule's routine 5-year update schedule for the range and cost information to ensure regular range updates for those products. Consistent with other products bearing labels on packages, the Commission will seek to

[97] 72 FR 49948, 49959 (Aug. 29, 2007).

[98] EPCA sets this period for implementing range and cost changes to 60 days, unless the Commission provides for a later date. 42 U.S.C. 6296(c).

[99] 88 FR 16082 (Mar. 5, 2023).

set compliance dates for the next scheduled update in 2027 to minimize disruption to manufacturers' normal production schedules. Finally, the Commission does not propose changing the content of the label because commenters have not provided evidence of the need for such changes.

G. Categorical Ranking System

NYSERDA suggested the Commission consider categorical rankings on the label (for example ''good,'' ''better,'' ''best'') to bring ''a more holistic energy efficiency perspective, especially for product categories that do not already have an ENERGY STAR marking.'' In 2007, the Commission considered such a rating system after conducting consumer research. That research demonstrated the operating cost design performs well on objective tasks (*e.g.,* ranking by energy use), and the research participants identified the design as the most useful method for communicating energy information. Thus, the Commission rejected a categorical disclosure.[100] The record provides no compelling reason to revisit this decision.

H. Bilingual Information

Background: Under the current Rule, manufacturers may provide bilingual information in the form of an additional label or in separate point-of-purchase materials. However, the Rule only provides guidance on providing bilingual information, including guidance on content and format of bilingual labels, to manufacturers of lighting products.[101] The ANPR sought input on whether the Rule should offer similar guidance for other products and whether other improvements are warranted to help non-English speaking consumers with their purchasing decisions.

Comments: A few commenters offered suggestions. For example, NYSERDA urged the FTC to provide bilingual guidance across product categories to help manufacturers prepare information in multiple languages to communicate with a broader set of consumers. It also suggested that the FTC help encourage multiple language labeling through guidance on the use of a QR code or similar mechanism to allow consumers faced with paper labels in English to access information in their preferred languages. In contrast, Rheem, which already prepares Spanish and French versions of product literature, expressed concerns that any bilingual requirements ''will become overly burdensome and misdirected.'' It recommended the FTC leave decisions about such literature to the manufacturer's discretion.

Discussion: The Commission does not propose changing existing Rule provisions related to bilingual labels because it lacks evidence specific label content amendments (*e.g.,* a dedicated QR code) are necessary to help manufacturers and retailers communicate information to non-English speakers. Commenters have not provided any evidence non-English speakers find it impractical to use the labels' key disclosures, which are primarily numeric (*e.g.,* annual energy cost in dollars), to compare products. However, consistent with the comments, the FTC staff will explore creating additional guidance to better convey the label's information to non-English speakers. The Commission invites commenters to address what guidance would be helpful to consumers, manufacturers, and retailers. Additionally, the Commission seeks comment on whether and how mobile translation applications may help consumers understand labels.

I. Coordination With Other Agencies

Background and Comments: Several commenters urged the Commission to coordinate future label changes with Canadian regulators and the FTC's sister agencies. NEMA, for example, raised concerns that a recent Natural Resources Canada (''NRCan'') proposal conflicted with the FTC's Lighting Facts labeling requirements, and therefore, could cause confusion in the North American marketplace.[102] NEMA suggested coordination between the FTC and NRCan might reduce consumer confusion and avoid prohibitive financial burdens and the potential environmental costs of changing packaging. AHAM and Whirlpool also urged the FTC to harmonize activities with NRCan because ''changes to one label impact[s] the other.'' According to Whirlpool, the need for cooperation with Canada is paramount because the U.S. and Canadian markets often comprise an integrated supply chain. In its view, misalignment in labeling location, format, content, and timing can pose significant burdens for manufacturers and cause confusion for retailers and consumers. Given these realities, Whirlpool noted manufacturers generally use a side-by-side U.S. and Canada energy label, or a front-to-back configuration.

Commenters also urged the FTC to increase its coordination with DOE and EPA. For example, Whirlpool recommended the FTC ''make every attempt to align the compliance dates of any EnergyGuide label amendments'' with changes to DOE test procedures and efficiency standards, and EPA ENERGY STAR program requirements. Specifically, Whirlpool urged the FTC to wait to implement significant changes to the EnergyGuide labels until the compliance dates for the amended energy conservation and ENERGY STAR requirements.

Discussion: The Commission agrees cooperation with other Federal, State, and international agencies is important for ensuring consistency in labeling requirements where appropriate. The FTC staff will continue to communicate and coordinate with DOE, NRCan, and other appropriate agencies on issues relevant to the FTC labeling rules. The Commission also encourages industry members and other interested parties to alert FTC staff to any relevant developments involving such agencies.

J. Prescriptive Requirements

Background: In the ANPR, the Commission sought comments on any prescriptive requirements (*e.g.,* type size and style, label size, number of picas, paper weight, and label attachment provisions) in the Rule that are unnecessarily burdensome.

Comments: Commenters provided several suggestions to eliminate unnecessarily prescriptive requirements. Daiken, for example, recommended several specific label changes. First, for trim size dimensions under § 305.20(a), it recommended the FTC specify only minimum dimensions rather than a range of widths and lengths, and specify whole number minimums (*e.g.,* 7 inches for the length as opposed to 7 ⅜ inches). Second, it recommended allowing smaller labels for some products. Third, it recommended eliminating provisions in § 305.20(a) related to picas, centering, and depth, as well as requirements about type style and setting in § 305.20(b) because, in its view, they do not benefit consumers. Finally, Daiken argued the Commission should eliminate the paper stock weight and adhesive application rates requirements in § 305.20(d) because they are unnecessarily prescriptive. Crown, a boiler manufacturer, agreed, stating that ''label weight and material are irrelevant

[100] 72 FR 49948 (Aug. 29, 2007).

[101] 16 CFR 305.23(b)(6) and 16 CFR 305.23(c)(4) (label information may be presented in a second language either by using separate labels for each language or in a bilingual label with the English text in the format required by this section immediately followed by the text in the second language).

[102] *https://www.nrcan.gc.ca/energy-efficiency/energy-efficiency-regulations/general-service-lamps/24407.*

as long as the existing durability requirements are met.'' [103]

Discussion: The Commission proposes eliminating several prescriptive requirements that likely serve little purpose because they are either obsolete or already addressed by other Rule provisions. Specifically, the proposed amendments eliminate requirements related to picas, depth, specific paper weights, and position (*see, e.g.,* § 305.13).

These requirements provide little benefit beyond those already provided by other provisions in the Rule. For example, under this proposal, the Rule would continue to require a uniform appearance (fonts, font sizes, text placement, etc.) to ensure consumers recognize the label and are able to easily use it to make comparisons. For labels affixed to products, the proposal continues to require the adhesion capacity and paper stock be sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. These provisions should continue to ensure labels are uniform and sufficiently durable to remain on covered products.

K. Online Label Requirements

Background and Comments: The California IOUs suggested the FTC consider providing additional guidance for retailers regarding the online placement of display labels, particularly regarding their proximity to other product information. The current Rule requires disclosures to ''appear clearly and conspicuously and in close proximity to the covered product's price.'' [104] California IOUs asserted the ''close proximity'' language is ambiguous. They observed online retailers display the EnergyGuide information in a way that requires consumers to manually expand the supplemental section to view the link to the label. Therefore, they recommended the FTC ''guide online retailers to display the EnergyGuide label as the second in the series of product images to increase its prominence.'' [105]

Discussion: In response to these comments, the Commission proposes to amend the online label requirements to state that manufacturers posting the label or label link online in ''close proximity'' to the price must ensure that label or link itself is readily and immediately visible to the consumer. Further, the Commission proposes adding language to § 305.27 clarifying that, if an online seller uses an expandable image of the label (*e.g.,* ''thumbnail'' photographs in a series of product-related images) or clickable icon to comply with the Rule, that image or icon must be visible to the consumer without any additional scrolling, clicking, or other similar actions. These requirements should ensure online sellers cannot hide the EnergyGuide label in a long series of product photographs without imposing prescriptive requirements that could stifle innovation as online sales platforms continue to evolve.

IX. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by the Paperwork Reduction Act (''PRA'').[106] Under the PRA, an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement, unless it displays a currently valid Office of Management and Budget (''OMB'') control number. OMB has approved the Rule's existing information collection requirements through February 29, 2024 (OMB Control No. 3084–0069).

The proposed amendments include new labeling requirements for air cleaners, clothes dryers, miscellaneous refrigerator products, and portable electric spas (collectively referred below as ''new labeled products'') that constitute information collections under the PRA. The proposed amendments also contain requirements which reduce the manufacturers' burden associated with labeling certain appliances and increase the burden for retailers by requiring them to ensure displayed products bear labels. Accordingly, the Commission is seeking OMB clearance specific to the Rule amendments.[107]

Burden estimates below are based on Census data, DOE figures and estimates, public comments, the agency's general knowledge of manufacturing practices, and trade association advice and figures. FTC staff estimates that there are 100 manufacturers producing 5,000 basic models (*i.e.,* units with essentially identical physical and electrical characteristics) of the proposed new products (air cleaners—700; clothes dryers—1,700; miscellaneous refrigeration products—1,100; portable electric spas—1,500).

Reporting: The Rule requires manufacturers of covered products to annually submit a report for each current model containing the same information that must be submitted to the DOE pursuant to 10 CFR part 429. In lieu of submitting the required information to the Commission, manufacturers may submit such information to DOE directly via the agency's Compliance Certification Management System, available at *https://regulations.doe.gov/ccms,* as provided by 10 CFR 429.12. Because manufacturers are already required to submit these reports to DOE, FTC staff estimates any additional burden associated with providing the information to the FTC is minimal. FTC staff estimates the average reporting burden for manufacturers of the proposed new products will be approximately 15 hours per manufacturer. Based on this estimate, the annual reporting burden for manufacturers of new labeled products is 1,500 hours (15 hours × 100 manufacturers). Staff estimates that information processing staff, at an hourly rate of $18.97,[108] will typically perform the required tasks, for an estimated annual labor cost of $28,455.

Manufacturer Labeling: The amendments require that manufacturers create labels for the four new labeled product categories. Since EPCA and the Rule specify the content and format for the required labels, and FTC staff provide online label templates, manufacturers need only input the energy consumption figures and other product-specific information derived from testing. FTC staff estimates the time to incorporate the required information into labels and label-covered products is five hours per basic model. Accordingly, staff estimates the approximate annual burden involved in creating labels for covered products is

[103] *See also* The Marley Company comments.

[104] 16 CFR 305.27.

[105] Other commenters shared experiences indicating they may benefit from clarifying the ''close proximity'' requirement for online labels. One commenter (Ring) stated they rely on online research to narrow their choices before visiting stores. Another (DuSaint) stated he found online comparison shopping for appliances to be generally helpful, other than in situations where appliances require immediate replacement through a visit to a physical store. Merriam also argued the energy labels ''should be clearly and consistently included in product pictures for online retailers'' but did not specify any changes to the existing online ''catalog'' requirements in the Rule.

[106] 44 U.S.C. 3501 *et seq.; see also* 5 CFR 1320.3(c).

[107] The PRA analysis for this rulemaking focuses strictly on the information collection requirements created by and/or otherwise affected by the amendments. Unaffected information collection provisions have previously been accounted for in past FTC analyses under the Rule and are covered by the current PRA clearance from OMB.

[108] These labor cost estimates are derived from the Bureau of Labor Statistics (''BLS'') figures in ''Table 1. National employment and wage data from the Occupational Employment and Wage Statistics survey by occupation, May 2022,'' available at: *https://www.bls.gov/news.release/ocwage.t01.htm.*

25,000 hours [5,000 basic models × 5 hours]. Staff estimates that information processing staff, at an hourly rate of $18.97,[109] will typically perform the required tasks, for an estimated annual labor cost of $474,250.

The proposed Rule would also require manufacturers to affix labels to shipped clothes dryers, miscellaneous refrigeration products (''MREFs''), and portable electric spas (estimates include MREFs at 3,000,000; dryers at 8,000,000).[110] For dryers and MREFs (11,000,000 units), the burden would only apply to units designated as showroom models, which FTC estimates will account for about 0.2% of shipped models. Consistent with past estimates, the FTC estimates it takes 4 seconds for a manufacturer to affix a label for showroom display. Accordingly, staff estimates the burden for affixing labels on these new products will be 24 hours (22,000 units × 4 seconds). Staff estimates that information processing staff, at an hourly rate of $18.97, will typically perform the required tasks, for an estimated annual labor cost of $455.

In addition, the proposal would relax label attachment requirements for refrigerators and freezers, dishwashers, and clothes washers by allowing manufacturers to ship an unaffixed label with most units (about 24 million units). The FTC estimates the reduction in burden from this proposed change to be 26,667 hours (24,000,000 × 4 seconds).

Thus, the estimated burden on manufacturers from the proposed amendments would be a net reduction of 143 hours ([1,500 (reporting) + 25,000 (labeling) + 24 (affixing labels)] − 26,667]).

Retailer Showroom Labeling: The proposed Rule would require retailers to ensure that refrigerator products, dishwashers, clothes washers, and clothes dryers displayed in showrooms bear a label. FTC staff estimates there are about 14,000 showroom appliance stores in the U.S. and that stores on average display about 50 labeled products per year. Out of these, the FTC estimates 20% of those showroom models will require retailers to locate the label in the box and affix it to a product, which will take about five minutes per display model. Most showroom units will already be labeled by manufacturers and thus require no action by the retailer. Accordingly, the estimated total burden is 11,667 hours (50 units × .20 × 14,000 × 5 minutes). Staff estimates that retail sales staff, at an hourly rate of $15.62,[111] will typically perform the required tasks, for an estimated annual labor cost of $182,239.

Testing: Manufacturers of the new labeled products must test each basic model they produce to determine energy usage, but the majority of tests conducted are required by DOE rules. As a result, it is likely only a small portion of the tests conducted are attributable to the Rule's requirements. In addition, manufacturers need not subject each basic model to testing annually; they must retest only if the product design changes in such a way as to affect energy consumption. FTC staff estimates that 25% of all basic models are tested annually because of the Rule's requirements. Accordingly, the estimated annual testing burden for new labeled products is 15,400 hours.[112] Staff estimates that engineering technicians, at an hourly rate of $30.95, will typically perform the required tasks, for an estimated annual labor cost of $476,630.

Online Label Posting: The proposal would require manufacturers to post images of their EnergyGuide labels online for the new labeled products. Staff estimates the burden associated with this requirement based on the number of models of covered products. Given approximately 5,000 total models at an estimated five minutes per model, staff estimates that this requirement entails a burden of 417 hours (5,000 basic models × 5 minutes). Staff estimates that information processing staff, at an hourly rate of $18.97,[113] will typically perform the required tasks, for an estimated annual labor cost of $7,910.

Recordkeeping: The Rule also requires manufacturers of covered products to retain records of test data generated in performing the tests to derive information included on labels.[114] The FTC estimates the annual recordkeeping burden for manufacturers of new labeled products will be approximately one minute per basic model to store relevant data. Accordingly, the estimated annual recordkeeping burden would be approximately 83 hours (5,000 basic models × one minute). Staff estimates that information processing staff, at an hourly rate of $18.97, will typically perform the required tasks, for an estimated annual labor cost of $1,575.

Online and Retail Catalog Disclosures: Staff estimates there are approximately 400 sellers of new labeled product categories who are subject to the Rule's catalog disclosure requirements. Staff has previously estimated covered online and catalog sellers spend approximately 17 hours per year to incorporate relevant product data for products that are currently covered by the Rule. Staff estimates the requirements for new labeled product categories will add an additional 4 hours per year in incremental burden per seller. Staff estimates these additions will result in an incremental burden of 1,600 hours (400 sellers × 4 hours annually). Staff estimates that information processing staff, at an hourly rate of $18.97,[115] will typically perform the required tasks, for an estimated incremental annual labor cost of $30,352.

Estimated annual non-labor cost burden: Staff anticipates that manufacturers are not likely to require any significant capital costs to comply with the amendments.

X. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') [116] requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendment on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a proposed rule, and a Final Regulatory Flexibility Analysis (''FRFA'') with a final rule, if any, unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities.[117] While the Commission recognizes that some of the affected manufacturers and retailers may qualify as small businesses under the relevant thresholds as determined by the Small Business Administration, it does not anticipate a substantial number of these small entities will face a significant burden under the proposed

[109] *Id.*

[110] As discussed in this Notice, the Commission has not proposed a specific labeling method for portable electric spas and is seeking comment on that issue. The estimate here assumes spa labels will appear on packaging and thus will not create the type of incremental burden posed by labels affixed separately to the product (*e.g.,* labels for appliances such as refrigerators). Staff estimates annual shipments of these products are about 500,000. Should labeling for these products be finalized and impose a different burden, estimates will be updated depending on the final labeling method.

[111] BLS, *supra* n.108.

[112] The FTC has applied different test hour burdens depending on the product: air cleaners—700 basic models × 0.25 × 40 hours = 7,000 hours; clothes dryers—1,700 basic models × 0.25 × 4 hours = 1,700 hours; portable electric spas—1500 basic models × 0.25 × 12 hours = 4,500 hours; MREFs—1,100 basic models × 0.25 × 8 hours = 2,200 hours.

[113] BLS, *supra* n.108.

[114] *See* 16 CFR 305.28.

[115] BLS, *supra* n.108.

[116] 5 U.S.C. 601–612.

[117] 5 U.S.C. 605. The proposed conforming changes to central air conditioner descriptors will have no impact on the Rule's current burden.

rule. Therefore, based on available information, the Commission certifies that amending the Rules as proposed will not have a significant economic impact on a substantial number of small businesses.

The Commission estimates the amendments will apply to 400 online and paper catalog sellers of covered products, about 100 product manufacturers, and approximately 14,000 retail appliance stores. The Commission expects that approximately 5,150 of these various entities qualify as small businesses (5,000 of which are appliance stores). More details about these small entities can be found under section C below.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the proposed rule, the number of these companies that are small entities, and the average annual burden for each entity. Although the Commission concludes under the RFA that the proposed amendments to the Rule in this notice would not, if promulgated, have a significant impact on the affected small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed rule on small entities. Therefore, the Commission has prepared the following analysis:

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

As explained in more detail above, the Commission is proposing expanded product coverage and additional improvements to the Rule to help consumers in their purchasing decisions of consumer products.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the proposed Rule is to improve the effectiveness of the current labeling program by providing energy information for additional product categories and improving existing labels. The legal basis for the Rule is the Energy Policy and Conservation Act (42 U.S.C. 6292 *et seq.*).

C. Small Entities to Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, appliance manufacturers qualify as small businesses if they have fewer than 1,500 employees. Catalog sellers qualify as small businesses (miscellaneous retailers) if their sales are less than $11.5 million annually. Retail appliances firms qualify if their annual receipts are $40 million or less. The Commission estimates that there are approximately 150 online sellers and 5,000 appliance retailers that are both subject to the proposed Rule's requirements and qualify as small businesses.[118] The Commission seeks comment and information regarding the estimated number and nature of small business entities for which the proposed Rule would have a significant economic impact.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The changes under consideration would increase reporting or recordkeeping requirements associated with the new labeled products proposed in this Notice (*i.e.,* air cleaners, clothes dryers, miscellaneous refrigerator products, and portable electric spas). The amendments also contain compliance requirements for appliance retailers to ensure that units placed on showroom floors have labels. More details on these reporting, disclosure and recordkeeping requirements can be found under (IX) Paperwork Reduction Act.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other Federal statutes, rules, or policies that duplicate, overlap, or conflict with the proposed Rule. During this proceeding, FTC staff has consulted with DOE staff and other agencies on the issues addressed in this Notice. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Rule

The Commission seeks comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the Rule on small entities. The Commission has already taken steps to reduce the economic impact of the Rule in this NPRM. The Commission considered but did not adopt a proposal to impose an additional requirement for manufacturers to include IMEF information on labels for clothes washers. The Commission also solicited comments on alternatives to the current ''showroom-ready'' approach for affixing labels. Further, in proposing new requirements, the Commission considered ways to minimize retailer burden, including providing flexibility for label materials and attachment methods, requiring manufacturers to ship labels in a ''showroom ready'' state for designated floor models, allowing retailers to use existing electronic labels accessed through DOE's website, and ensuring retailers have adequate time to comply with any new requirements. The Commission considered electronic labeling. The Commission is also seeking comment on how with DOE, the agencies might create online consumer resources to provide FFC and/or GHG information for individual covered products, in lieu of requiring such information on the EnergyGuide labels. The Commission is currently unaware of the need to adopt any special provisions for small entities. However, if such issues are identified, the Commission could consider alternative approaches such as extending the effective date of these amendments for online and retail sellers to allow them additional time to comply beyond the labeling deadline set for manufacturers. If the comments filed in response to this Notice identify small entities that are affected by the proposed Rule, as well as alternative methods of compliance that would reduce the economic impact of the Rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final Rule.

[118] 81 FR 62681 (Sept. 12, 2016).

XI. Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before April 2, 2024. Write ''Energy Labeling Rule (16 CFR part 305) (Matter No. R611004)'' on your comment. Because of the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. As a result, we strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure that the Commission considers your online comment, please follow the instructions on the web-based form. Your comment—including your name and your State—will be placed on the public record of this proceeding, including the *https://*

www.regulations.gov website. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on *https://www.regulations.gov.*

If you file your comment on paper, write ''Energy Labeling Rule (16 CFR part 305) (Matter No. R611004)'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex L), Washington, DC 20580. If possible, submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the publicly accessible website at *www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it, and visit *https://www.regulations.gov/docket/FTC-2024-0008* to read a plain-language summary of the proposed rule. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 2, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an opportunity for presentation of oral comments regarding these proposed amendments. Interested parties may request an opportunity to present oral data, views, and comments on the proposed amendments. If such a request is made, the Commission will publish a document in the **Federal Register** stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a request, on or before March 18, 2024, in the form of a written comment that describes the issues on which the party wishes to speak. If no oral presentations are scheduled, the Commission will base its decision on the written rulemaking record.

XII. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

List of Subjects in 16 CFR Part 305

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

For the reasons set out above, the Commission proposes to amend 16 CFR part 305 as follows:

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

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

Authority: 42 U.S.C. 6294.

■ 2. Amend § 305.2 by redesignating paragraph (l)(24) as paragraph (l)(27), adding new paragraphs (l)(24), (l)(25), and (l)(26), and revising paragraph (p) to read as follows:

§ 305.2 Definitions.

* * * * *

(l) * * *

(24) Room air cleaners.

(25) Miscellaneous refrigeration products.

(26) Portable electric spas.

* * * * *

(p) *Energy efficiency rating* means the following product-specific energy usage descriptors: Annual fuel utilization efficiency (AFUE) for furnaces; combined energy efficiency ratio (CEER) for room and portable air conditioners; seasonal energy efficiency ratio 2 (SEER2) for the cooling function of central air conditioners and heat pumps; heating seasonal performance factor 2 (HSPF2) for the heating function of heat pumps; airflow efficiency for ceiling fans; combined energy factor (CEF) for clothes dryers; Integrated Energy Factor (''IEF'') for air cleaners; and, thermal efficiency (TE) for pool heaters, as these descriptors are determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). These product-specific energy usage descriptors shall be used in satisfying all the requirements of this part.

* * * * *

■ 3. Amend § 305.3 by adding paragraphs (k), (l), (m), and (n) to read as follows:

§ 305.3 Description of appliances and consumer electronics.

* * * * *

(k) *Room air cleaner* means an air cleaner that—

(1) Is a portable or wall mounted (fixed) unit, excluding ceiling mounted unit, that plugs into an electrical outlet;

(2) Operates with a fan for air circulation; and

(3) Contains means to remove, destroy, and/or deactivate particulates.

The term *portable* is as defined in section 2.1.3.1 of AHAM AC–7–2022, and the term *fixed* is as defined in section 2.1.3.2 of AHAM AC–7–2022.

(l) *Clothes dryer* means a cabinet-like appliance designed to dry fabrics in a

tumble-type drum with forced air circulation. The heat source is either gas or electricity, and the drum and blower(s) are driven by an electric motor(s).

(m) *Miscellaneous refrigeration product* means a consumer refrigeration product other than a refrigerator, refrigerator-freezer, or freezer, which includes coolers and combination cooler refrigeration products.

(n) *Portable electric spa* means a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water at the time of sale or sold separately for subsequent attachment.

■ 4. Revise § 305.9 to read as follows:

§ 305.9 Duty to provide labels on websites and to retailers.

(a) For each covered product required by this part to bear an EnergyGuide or Lighting Facts label, the manufacturer must make a copy of the label available on a publicly accessible website in a manner that allows catalog sellers to hyperlink to the label or download it for use in websites or paper catalogs. The label for each specific model must remain on the website for six months after production of that model ceases.

(b) For refrigerators, refrigerator-freezers, miscellaneous refrigeration products, freezers, dishwashers, clothes washers, and clothes dryers, manufacturers must provide a copy of the label required by this part to a retailer upon request of that retailer, in a form requested by the retailer, such as physical or electronic.

■ 5. Amend § 305.10 by revising paragraph (h) and adding paragraphs (m), (n), (o), and (p) to read as follows:

§ 305.10 Determinations of capacity.

* * * * *

(h) *Furnaces (including boilers).* The capacity shall be the heating capacity in Btu's per hour, rounded to the nearest 1,000 Btu's per hour, as determined according to appendices N and EE to 10 CFR part 430, subpart B, as applicable.

* * * * *

(m) *Room air cleaners:* The capacity shall be the effective room size according to10 CFR parts 429 and 430, subpart B, with rounding determined in accordance with 10 CFR part 430.

(n) *Clothes dryers:* The capacity shall be the drum capacity as determined according to Department of Energy test procedures in 10 CFR part 430, subpart B, expressed in terms of ''Capacity (tub volume)'' in cubic feet, rounded to the nearest one-tenth of a cubic foot, and the capacity class designations ''standard'' or ''compact.''

(o) *Miscellaneous refrigeration product:* The capacity shall be the total refrigerated volume (VT) in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix A to 10 CFR part 430, subpart B.

(p) *Portable Electric Spa:* The capacity shall be the fill volume, which means the volume of water held by the portable electric spa when it is filled as specified in appendix GG to 10 CFR part 430, subpart B.

■ 6. Amend § 305.11 by revising paragraphs (a)(3) and (b)(1) to read as follows:

§ 305.11 Submission of data.

(a) * * *

(3) Manufacturers of televisions shall submit annually a report containing the brand name; model number; screen size (diagonal in inches); on mode power consumption, standby mode power consumption; dynamic luminance; and annual energy consumption (kWh/year) for each basic model in current production. The report should also include a starting serial number, date code, or other means of identifying the date of manufacture with the first submission for each basic model. In lieu of submitting the required information to the Commission as required by this section, manufacturers may submit such information to the Department of Energy via the Compliance and Certification Management System (CCMS) at *https://regulations.doe.gov/ccms* as provided by 10 CFR 429.12.

* * * * *

(b)(1) All data required by paragraph (a) of this section except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	Aug. 1.
Refrigerators-freezers	Aug. 1.
Freezers	Aug. 1.
Miscellaneous refrigeration products	Aug. 1.
Central air conditioners	July 1.
Heat pumps	July 1.
Dishwashers	June 1.
Water heaters	May 1.
Room air conditioners	July 1.
Portable air conditioners	Feb. 1.
Room air cleaners	Dec. 1.
Furnaces	May 1.
Pool heaters	May 1.
Portable Electric Spas	TBD.
Clothes washers	Oct. 1.
Clothes dryers	Oct. 1.
Fluorescent lamp ballasts	Mar. 1.
Showerheads	Mar. 1.
Faucets	Mar. 1.
Water closets	Mar. 1.
Ceiling fans	Mar. 1.
Urinals	Mar. 1.
Metal halide lamp fixtures	Sept. 1.
General service fluorescent lamps	Mar. 1.
Medium base compact fluorescent lamps	Mar. 1.
General service incandescent lamps	Mar. 1.
Televisions	June 1.

* * * * *

■ 7. Amend § 305.12 by revising paragraphs (a) and (b) to read as follows:

§ 305.12 Ranges of comparability on the required labels.

(a) *Range of estimated annual energy costs or energy efficiency ratings.* The range of estimated annual operating costs or energy efficiency ratings for each covered product (except televisions, fluorescent lamp ballasts, lamps, metal halide lamp fixtures, showerheads, faucets, water closets, and urinals) shall be taken from the appropriate appendix to this part in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges in the **Federal Register** in 2027. When the ranges are revised, all information disseminated after 180 days following the publication of the revision shall conform to the revised ranges. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) *Representative average unit energy cost.* The Representative Average Unit Energy Cost to be used on labels as required by §§ 305.14 through 305.19 and disclosures as required by § 305.27 are listed in appendices K1 and K2 to this part. The Commission shall publish revised Representative Average Unit Energy Cost figures in the **Federal Register** in 2027. When the cost figures are revised, all information disseminated after 180 days following the publication of the revision shall conform to the new cost figure.

* * * * *

■ 8. Revise § 305.13 to read as follows:

§ 305.13 Layout, format, and placement of labels for refrigerators, refrigerator-freezers, miscellaneous refrigeration products, freezers, dishwashers, clothes washers, clothes dryers, water heaters, room air conditioners, portable air conditioners, room air cleaners, portable electric spas, and pool heaters.

(a) *Coverage.* The requirements of this section apply to labels for refrigerators, refrigerator-freezers, freezers,

miscellaneous refrigeration products, dishwashers, clothes washers, clothes dryers, water heaters, room air conditioners, portable air conditioners, room air cleaners, portable electric spas, and pool heaters.

(b) *Layout.* Energy labels shall use one size, similar colors, and typefaces with consistent positioning of headline, copy, and charts to maintain uniformity for immediate consumer recognition and readability. With the exception of instantaneous water heaters, trim size dimensions for the labels shall be as follows: Width must be between 5¼ inches and 5½ inches (13.34 cm. and 13.97 cm.); length must be between 7⅜ inches (18.73 cm.) and 7⅝ (19.37 cm.). Labels for instantaneous water heaters may be as small as a 3¾ inches (9.53 cm.) in width and 4⅞ inches (12.38 cm.) in length. All positioning, spacing, type sizes, and line widths should be similar to and consistent with the prototype and sample labels in appendix L to this part.

(c) *Type style and setting.* The Arial Narrow series typeface or equivalent shall be used exclusively on the label. Specific sizes and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. See the prototype labels for specific directions.

(d) *Colors.* Except as indicated in paragraph (e)(3) of this section, the basic colors of all labels covered by this section shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow. All type and graphics shall be print process black.

(e) *Label types.* Except as indicated in paragraphs (e)(3) and (e)(4) of this section, the labels must be affixed to the product in the form of an adhesive label for any product covered by this section, or in the form of a hang tag for refrigerators, refrigerator-freezers, freezers, miscellaneous refrigerator products, dishwashers, clothes washers, and clothes dryers as follows:

(1) *Adhesive labels.* All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water. The adhesion capacity and paper stock should be sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. In lieu of a label with adhesive backing, manufacturers may adhere the label with adhesive tape, provided the tape is affixed along the entire top and bottom of the label.

(2) *Hang tags.* Labels may be affixed to the product interior in the form of a hang tag using cable ties or double strings connected through reinforced punch holes, or with attachment and label material of equivalent or greater strength and durability. If paper stock is used for hang tags, it shall have a basic weight sufficient to prevent dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to ensure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(3) *Package labels for certain products.* Labels for electric and gas instantaneous water heaters shall be printed on or affixed to the product's packaging in a conspicuous location. Labels for room air conditioners, portable air conditioners, air cleaners, and portable electric spas shall be printed on or affixed to the principal display panel of the product's packaging. The labels for electric and gas instantaneous water heaters, room air conditioners, room air cleaners, and portable air conditioners shall be black type and graphics on a process yellow or other neutral contrasting background.

(4) *Non-Showroom Designated Appliances:* For refrigerators, refrigerator-freezers, freezers, miscellaneous refrigeration products, dishwashers, clothes washers, and clothes dryers not designated by manufacturers as showroom display units or otherwise shipped by manufacturers with point of purchase material intended for retail or showroom display, manufacturers may include the label with the unit consistent with the requirements of paragraph (f)(3) of this section. Such labels must be printed on paper stock but need not comply with the specific requirements of paragraphs (e)(1) and (e)(2) of this section.

(f) *Placement—*

(1) *Adhesive labels.* Manufacturers shall affix adhesive labels to the covered products in such a position that it is easily read by a consumer examining the product. The label should be generally located on the upper-right-front corner of the product's front exterior. However, some other prominent location may be used as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer. The label can be displayed in the form of a flap tag adhered to the top of the appliance and bent (folded at 90°) to hang over the front, as long as this can be done with assurance that it will be readily visible.

(2) *Hang tags.* A hang tag shall be affixed to the interior of the product in such a position that it can be easily read by a consumer examining the product. A hang tag can be affixed in any position that meets this requirement as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer. Hang tags may only be affixed in refrigerators, refrigerator-freezers, freezers, miscellaneous refrigerator products, dishwashers, clothes washers, and clothes dryers.

(3) *Non-Showroom-Designated Appliance Labels.* Labels for units covered by paragraph (e)(4) of this section must be shipped with the product in a location readily visible to retailers and consumers examining the contents of the product's packaging.

(g) *Retailer Responsibilities.* Retailers who choose to display any refrigerator, refrigerator-freezer, freezer, miscellaneous refrigerator product, dishwasher, clothes washer, and clothes dryer must ensure the model's EnergyGuide label is affixed to the product in a location easily visible to a consumer examining the product.

■ 9. Amend § 305.14 by revising the section heading and paragraph (a)(9)(iv) to read as follows:

§ 305.14 Label content for refrigerators, refrigerator-freezers, freezers, and miscellaneous refrigeration products.

(a) * * *

(9) * * *

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

Your cost will depend on your utility rates and use.

[For freezers, insert statement required by paragraph (a)(10)(v) of this section. For miscellaneous refrigeration products, add the following statement: Cost range based on models of similar size capacity.].

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

ftc.gov/energy.

* * * * *

■ 10. Amend § 305.15 by revising the section heading and paragraph (a) to read as follows:

§ 305.15 Label content for clothes washers and clothes dryers.

(a) *Label content.*

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

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

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

(4) Capacity or size is that determined in accordance with this part.

(5) Estimated annual operating costs are as determined in accordance with this part. Labels must disclose estimated annual operating cost for both electricity and/or natural gas as illustrated in the sample labels in appendix L to this part.

(6) Unless otherwise indicated in this paragraph, ranges of comparability for estimated annual operating costs are found in the appropriate appendices accompanying this part.

(7) Placement of the labeled product on the scale shall be proportionate to the lowest and highest estimated annual operating costs.

(8) Labels for clothes washers must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L. Labels for clothes dryers must contain the model's combined energy factor (CEF) as determined in accordance with this part and as indicated on the sample labels in appendix L.

(9) The clothes washer label shall contain the text and graphics illustrated in the sample labels in appendix L, including the statement:

Compare ONLY to other labels with yellow numbers.

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

(10) Labels for clothes washers must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate capacity and energy cost figures):

Your costs will depend on your utility rates and use.

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

Estimated energy cost is based on six wash loads a week and a national average electricity cost ____ of cents per kWh and natural gas cost of $ ____ per therm.

ftc.gov/energy.

(11) The clothes dryer label shall contain the text and graphics illustrated in the sample labels in appendix L, including a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate capacity and energy cost figures):

Your costs will depend on your utility rates and use.

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

Estimated energy cost is based on five wash loads a week and a national average [electricity cost of ____ cents per kWh or natural gas cost of $ ____ per therm].

ftc.gov/energy.

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

Federal law prohibits removal of this label before consumer purchase.

* * * * *

■ 11. Amend § 305.18 by revising the section heading and paragraphs (a)(8) and (a)(9), redesignating paragraph (a)(10) as paragraph (a)(12), and adding new paragraphs (a)(10) and (a)(11) to read as follows:

§ 305.18 Label content for room air conditioners, portable air conditioners, and room air cleaners.

(a) * * *

(8) Labels for room air conditioners, portable air conditioners, and room air cleaners must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L. Labels must contain the model's energy efficiency rating, as applicable, as determined in accordance with this part and as indicated on the sample labels in appendix L to this part.

(9) Labels for room air conditioners and portable air conditioners must contain a statement as illustrated in the prototype labels in appendix L of this part and specified as follows (fill in the blanks with the appropriate model type, year, energy type, and energy cost figure):

Your costs will depend on your utility rates and use.

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

Estimated annual energy cost is based on a national average electricity cost of ____ cents per kWh and a seasonal use of 8 hours use per day over a 3-month period.

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

(10) Labels for air cleaners must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L. Labels must also contain the model's independent energy factor and clean air delivery rate, as applicable, as determined in accordance with this part and displayed on the label consistent with the sample labels in appendix L to this part.

(11) Labels for air cleaners must contain a statement as illustrated in the prototype labels in appendix L of this part and specified as follows (fill in the blanks with the appropriate model type, year, energy type, and energy cost figure):

Your costs will depend on your utility rates and use.

Cost range based only on models of similar capacity.

The Clean Air Delivery Rate is based on the removal of particulate matter that is 2.5 micrometers wide or smaller ($PM_{2.5}$ CADR).

Estimated annual energy cost is based on 16 hours of operation per day and a national average electricity cost of ____ cents per kWh.

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

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

Federal law prohibits removal of this label before consumer purchase.

* * * * *

■ 12. Amend § 305.19 by revising the section heading and paragraph (a) introductory text, redesignating paragraph (b) as paragraph (c), and adding new paragraph (b) to read as follows:

§ 305.19 Label content for pool heaters and portable electric spas.

(a) *Label content for pool heaters.*

* * * * *

(b) *Label content for electric spas.*

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

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name,

which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

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

(4) Capacity or size is that determined in accordance with this part.

(5) Estimated annual heating costs are as determined in accordance with this part.

(6) Energy Used in watts is as determined in accordance with this part.

(7) Unless otherwise indicated in this paragraph, ranges of comparability for estimated annual heating costs are found in the appropriate appendices accompanying this part.

(8) Placement of the labeled product on the scale shall be proportionate to the lowest and highest annual costs.

(9) Labels must contain the model's energy use in watts as determined in accordance with this part and as indicated on the sample labels in appendix L to this part.

(10) Labels must contain a statement as illustrated in the prototype labels in appendix L and specified as follows:

Cost range based on models with similar capacity.

The cost estimate reflects only the heating cost of this model and does not include other aspects of operation such as water circulation, filtration, or lights.

This label's heating cost estimate is based on continuous heating throughout the year and a national average electricity cost of [____] cents per kWh.

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

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

Federal law prohibits removal of this label before consumer purchase.

* * * * *

■ 13. Amend § 305.20 by revising paragraphs (a), (b), (c), (d), (f)(11), and (f)(13) to read as follows:

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

(a) *Layout.* All energy labels for central air conditioners, heat pumps, and furnaces (including boilers) shall use one size, similar colors, and typefaces with consistent positioning of headline, copy, and charts to maintain uniformity for immediate consumer recognition and readability. Trim size dimensions for all labels shall be as follows: width must be between 5¼ inches and 5½ inches (13.34 cm. and 13.97 cm.); length must be between 7⅜ inches (18.78 cm.) and 7⅝ (19.34 cm.). All positioning, spacing, type sizes, and line widths should be similar to and consistent with the prototype and sample labels in appendix L.

(b) *Type style and setting.* The Arial Narrow series typeface or equivalent shall be used exclusively on the label. Specific sizes and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. See the prototype labels for specific directions.

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

(d) *Label type.* The labels must be affixed in the form of an adhesive label, unless otherwise indicated by this section. The adhesion capacity and paper stock should be sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer.

* * * * *

(f) * * *

(11) Manufacturers of furnaces (including boilers) shipped with more than one input nozzle to be installed in the field, but no nozzle factory installed, must label such furnaces with the AFUE of the system when it is set up with the nozzle that results in the lowest AFUE rating. See paragraph (f)(13) of this section for furnaces shipped with more than one input nozzle, one of which is factory installed.

* * * * *

(13) Manufacturers of furnaces (including boilers) must label their products with the AFUE rating associated with the furnace's input capacity set by the manufacturer at shipment. The furnace label may also contain a chart, as illustrated in sample label 9B in appendix L to this part, indicating the efficiency rating at up to three additional input capacities offered by the manufacturer. Consistent with paragraph (f)(10)(iii) of this section, labels for furnaces may include the ENERGY STAR logo only if the model qualifies for that program on all input capacities displayed on the label.

* * * * *

■ 14. Amend § 305.22 by revising paragraph (c) to read as follows:

§ 305.22 Energy information disclosures for heating and cooling equipment.

* * * * *

(c) *Furnace labels.* If an installer installs a furnace (including boiler) with an input capacity different from that set by the manufacturer and the manufacturer identifies alternative capacities on the label, the installer must permanently mark the appropriate box on the EnergyGuide label displaying the installed input capacity and the associated AFUE as illustrated in Sample Labels in appendix L to this part.

■ 15. Amend § 305.27 by revising paragraph (a)(1)(i), paragraph (a)(2), and paragraph (b)(1)(i) to read as follows:

§ 305.27 Paper catalogs and websites.

(a) * * *

(1) * * *

(i) *Products required to bear EnergyGuide or Lighting Facts labels.* All websites advertising covered products required to have an EnergyGuide or Lighting Facts label under this part must display, for each model, a recognizable and legible image of the label required for that product by this part. The website may hyperlink to the image of the label using a recognizable thumbnail image or the sample EnergyGuide and Lighting Facts icons depicted in appendix L of this part. The website must hyperlink the image in a way that does not require consumers to save the hyperlinked image to view it.

* * * * *

(2) *Format.* The required website disclosures, whether label image, icon, or text, must appear clearly and conspicuously and in close proximity to the covered product's price on each web page that contains a detailed description of the covered product and its price. The label and hyperlink icon must conform to the prototypes in appendix L, but may be altered in size to accommodate the web page's design, as long as they remain clear and conspicuous to consumers viewing the page. The image or icon required by paragraph (a)(1)(i) of this section must be readily visible to the consumer without requiring any additional scrolling, clicking, or other similar actions.

(b) * * *

(1) * * *

(i) *Products required to bear EnergyGuide or Lighting Facts labels.* All paper catalogs advertising covered products required by this part to bear EnergyGuide or Lighting Facts labels illustrated in appendix L of this part must either display an image of the full label prepared in accordance with this

part, or make a text disclosure as follows:

(A) *Refrigerator, refrigerator-freezer, freezer, and miscellaneous refrigerator product.* The capacity of the model determined in accordance with this part, the estimated annual operating cost determined in accordance with this part, and a disclosure stating ''Your energy cost depends on your utility rates and use. The estimated cost is based on cents per kWh. For more information, visit *www.ftc.gov/energy.*''

(B) *Room air conditioners, portable air conditioners, air cleaners, and water heaters.* The capacity of the model determined in accordance with this part, the estimated annual operating cost determined in accordance with this part, and a disclosure stating ''Your operating costs will depend on your utility rates and use. The estimated operating cost is based on a [electricity, natural gas, propane, or oil] cost of [$ ____per kWh, therm, or gallon]. For more information, visit *www.ftc.gov/energy.*''

(C) *Clothes washers, dishwashers, and clothes dryers.* The capacity of the model determined in accordance with this part, the estimated annual operating cost determined in accordance with this part, and a disclosure stating ''Your energy cost depends on your utility rates and use. The estimated cost is based on [4 washloads a week for dishwashers, or 8 washloads a week for clothes washers, or 5 washloads a week for clothes dryers] and ____cents per kWh for electricity and $____per therm for natural gas. For more information, visit *www.ftc.gov/energy.*''

(D) *General service fluorescent lamps or general service lamps.* All the information concerning that lamp required by § 305.23 of this part to be disclosed on the lamp's package, and, for general service lamps, a disclosure stating ''Your energy cost depends on your utility rates and use. The estimated cost and life is based on 11 cents per kWh and 3 hours of use per day. For more information, visit *www.ftc.gov/energy.*'' For the ''Light Appearance'' disclosure required by § 305.23(b)(3)(iv), the catalog need only disclose the lamp's correlated color temperature in Kelvin (*e.g.,* 2700 K). General service fluorescent lamps or incandescent reflector lamps must also include a capital letter ''E'' printed within a circle and the statement described in § 305.23(g)(1).

(E) *Ceiling fans.* All the information required by § 305.21.

(F) *Televisions.* The estimated annual operating cost determined in accordance with this part and a disclosure stating ''Your energy cost depends on your utility rates and use. The estimated cost is based on 12 cents per kWh and 5 hours of use per day. For more information, visit *www.ftc.gov/energy.*''

(G) *Central air conditioners, heat pumps, and furnaces (including boilers), and pool heaters.* The capacity of the model determined in accordance with this part and the energy efficiency or thermal efficiency ratings determined in accordance with this part on each page that lists the covered product.

(H) *Portable electric spa.* The capacity of the model determined in accordance with this part, the estimated annual operating cost determined in accordance with this part, a disclosure stating ''This label's heating cost estimate is based on continuous heating throughout the year and a national average electricity cost of [____] cents per kWh,'' and a disclosure stating ''Your operating costs will depend on your utility rates and use. The estimated operating cost is based on a [electricity, natural gas, propane, or oil] cost of [$__per kWh, therm, or gallon]. For more information, visit *www.ftc.gov/energy.*''

* * * * *

■ 16. Add Appendix B4 to read as follows:

Appendix B4 to Part 305—Miscellaneous Refrigeration Products Range Information

Manufacturer's rated total refrigerated volume in cubic feet	Range of estimated annual energy costs (dollars/year)	
	Low	High
Less than 2.5	(*)	(*)
2.6 to 5.0	(*)	(*)
5.1 to 7.5	(*)	(*)
7.6 to 10.0	(*)	(*)
10.1 to 12.5	(*)	(*)
12.6 to 15.0	(*)	(*)
15.1 to 17.5	(*)	(*)
17.6 to 20.0	(*)	(*)
20.1 to 22.5	(*)	(*)
22.6 and over	(*)	(*)

(*) No data.

■ 17. Add Appendix E3 to read as follows:

Appendix E3 to Part 305—Air Cleaners Range Information

Manufacturer's rated room size in square feet	Range of estimated annual energy costs (dollars/year)	
	Low	High
Small (15–154 sq. ft.)	(*)	(*)
Medium (155–235 sq. ft.)	(*)	(*)
Large (236 and greater sq. ft.)	(*)	(*)

(*) No data.

■ 18. Add Appendix F3 and F4 to read as follows:

Appendix F3 to Part 305—Compact Clothes Dryers Range Information

Capacity	Range of estimated annual energy costs (dollars/year)	
	Low	High
Compact	(*)	(*)

(*) No data.

Appendix F4 to Part 305—Standard Clothes Dryers Range Information

Capacity	Range of estimated annual energy costs (dollars/year)	
	Low	High
Standard	(*)	(*)

(*) No data.

■ 19. Add Appendix J3 to read as follows:

Appendix J3 to Part 305—Portable Electric Spas Range Information

Manufacturer's rated capacity in gallons	Range of estimated annual heating costs (dollars/year)	
	Low	High
200 sq. ft. or less	(*)	(*)
201–400 sq. ft	(*)	(*)
401–600 sq. ft	(*)	(*)
600 sq. ft. or larger	(*)	(*)

(*) No data.

■ 20. Revise Appendix K1 to read as follows:

Appendix K1 to Part 305—Representative Average Unit Energy Costs for Refrigerators, Refrigerator-Freezers, Freezers, Miscellaneous Refrigerator Products, Clothes Washers, Clothes Dryers, Dishwashers, Air Cleaners, Portable Electric Spas, and Water Heater Labels

This Table contains the representative unit energy costs that must be utilized to calculate estimated annual energy cost disclosures required under this Part for refrigerators, refrigerator-freezers,

freezers, miscellaneous refrigerator products, clothes washers, clothes dryers, dishwashers, air cleaners, portable electric spas, and water heaters. This Table is based on information published by the U.S. Department of Energy in 2022.

Type of energy	In commonly used terms	As required by DOE test procedure
Electricity	¢14/kWh [1] [2]	$.1400/kWh.
Natural Gas	$1.21/therm,[3] $12.6/MCF [5] [6]	$0.00001209/Btu.[4]
No. 2 Heating Oil	$3.45/gallon [7]	$0.00002511/Btu.
Propane	$2.23/gallon [8]	$0.00002446/Btu.
Kerosene	$4.01/gallon [9]	$0.00002973/Btu.

[1] kWh stands for kiloWatt hour.
[2] 1 kWh = 3,412 Btu.
[3] 1 therm = 100,000 Btu. Natural gas prices include taxes.
[4] Btu stands for British thermal unit.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,039 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,500 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

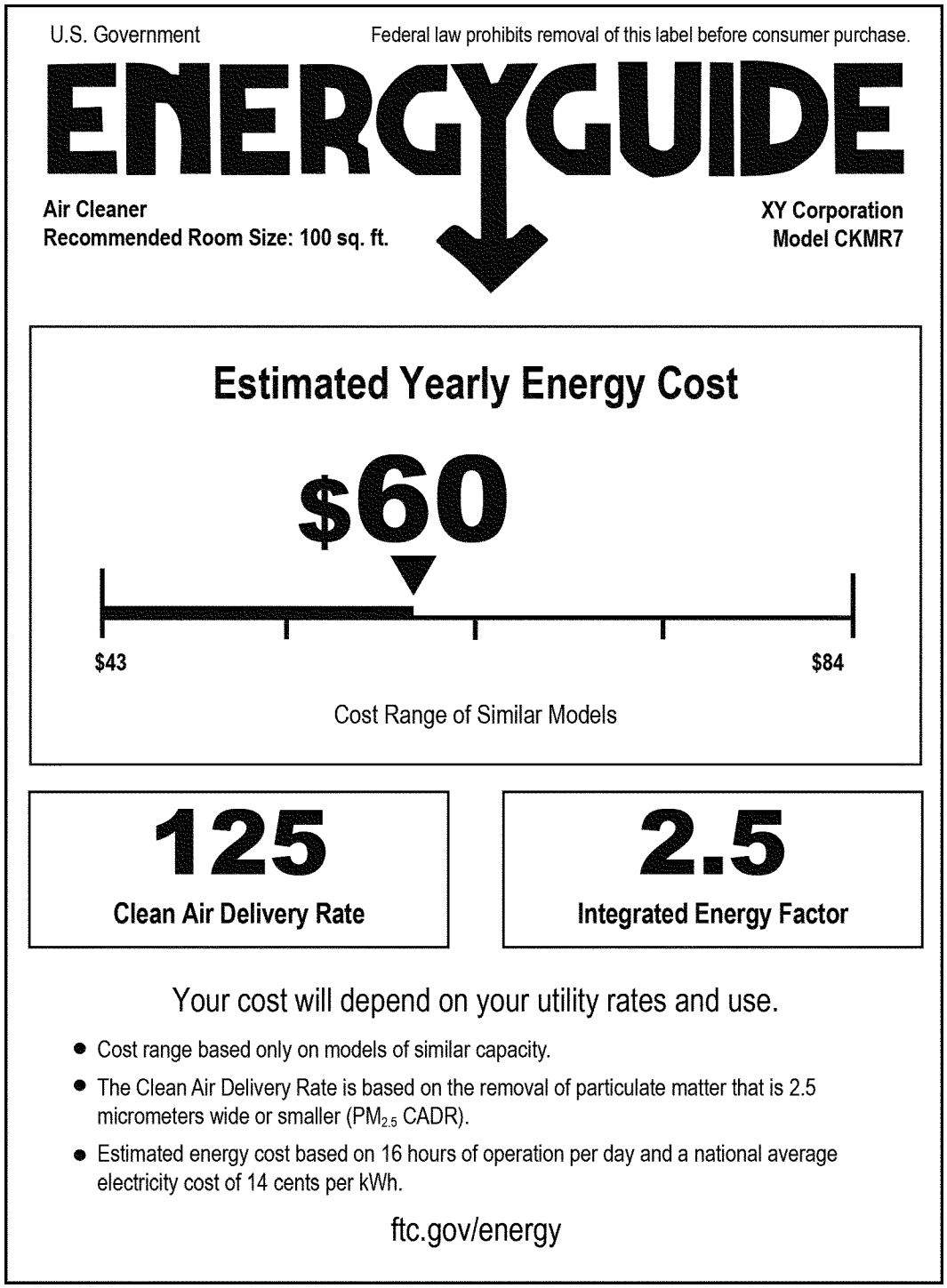
■ 21. Amend Appendix L by adding samples labels 18, 19, and 20 to read as follows:

Appendix L to Part 305—Sample Labels

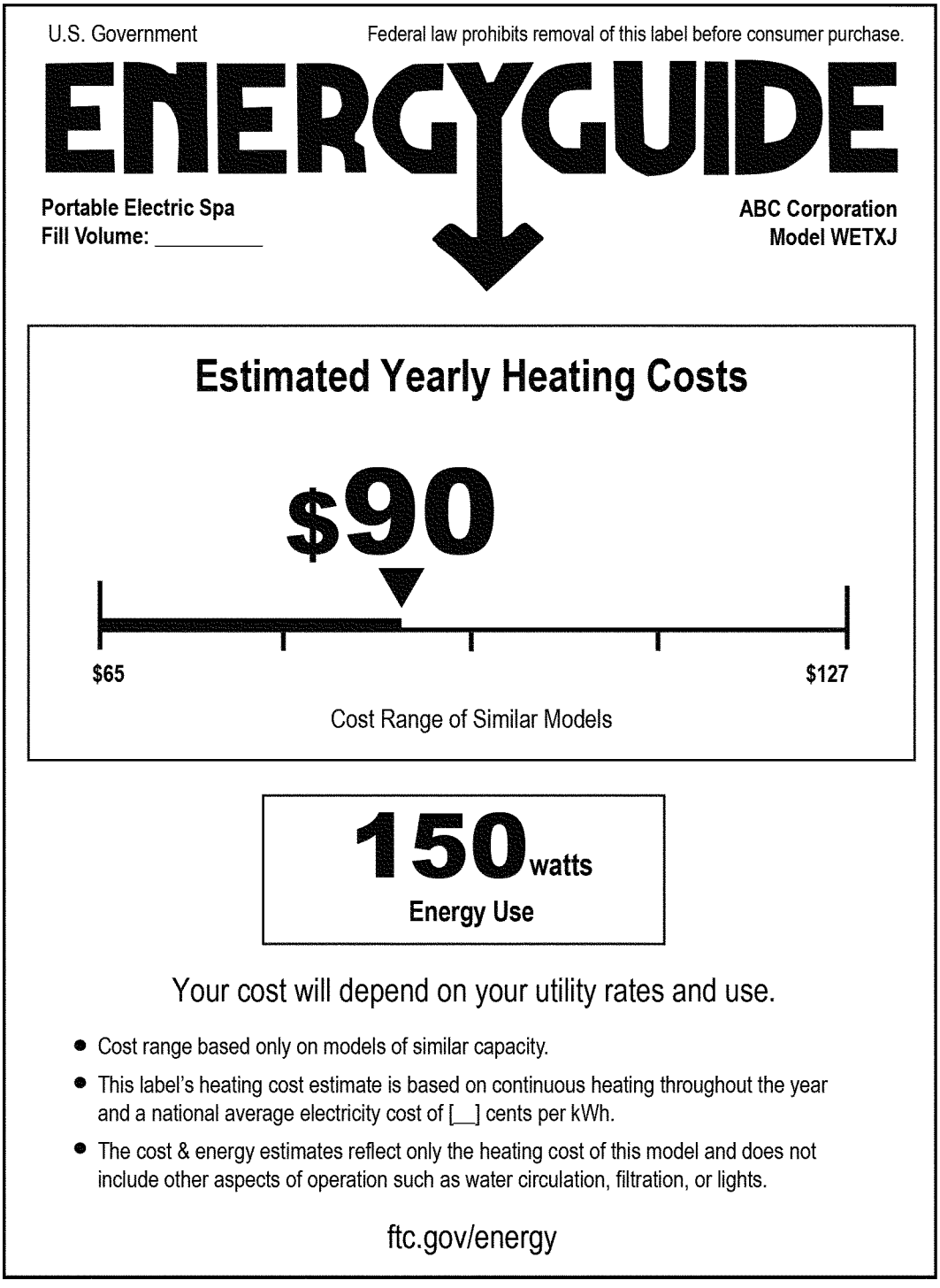
* * * * *

BILLING CODE 6750–01–P

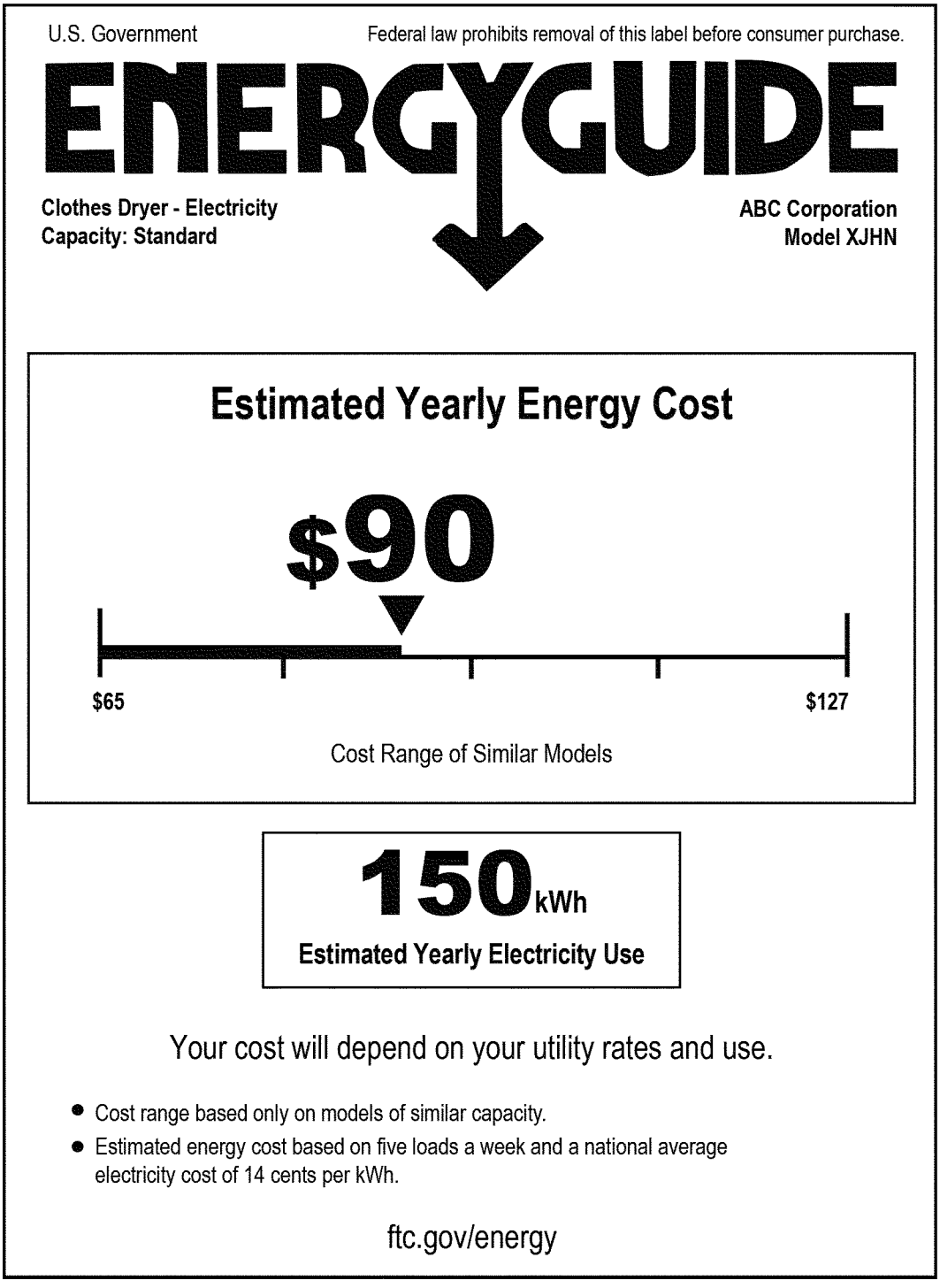
Sample Label 18 – Air Cleaner



Sample Label 19 - Portable Electric Spa



Sample Label 20 - Clothes Dryer



By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2024–01601 Filed 2–1–24; 8:45 am]

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