guarantees or pledges that consumers who replace their windows with respondent's windows will achieve up to or a specified amount or percentage of energy savings or reduction in heating and cooling costs; unless the representation is non-misleading and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence to substantiate that all or almost all consumers are likely to receive the maximum represented savings or reduction. Further, if respondent represents, guarantees, or pledges that consumers achieve such energy savings or heating and cooling cost reductions under specified circumstances, it must: disclose those circumstances clearly and prominently in close proximity to such representation, guarantee, or pledge; and substantiate that all or almost all consumers are likely to receive the maximum represented, guaranteed, or pledged savings or reduction under those circumstances (*e.g.*, when replacing a window of a specific composition in a building having a specific level of insulation in a specific region). The performance standard imposed under this Part constitutes fencing-in relief reasonably necessary to ensure that any future energy savings or reduction claims are not deceptive.

Parts II and III address any product or service for which respondent makes any energy-related efficacy representation. Part II prohibits respondent from making any representation: (A) about the ability of respondent's windows to pay for themselves in energy savings alone within any specific number of years or other time period, when consumers replace their windows with respondent's windows; (B) that any specific number or percentage of consumers who replace their windows with respondent's windows achieve energy savings or reduction in heating and cooling costs; or (C) about energy consumption, energy savings, energy costs, heating and cooling costs, U-factor, solar heat gain coefficient, R-value, K-value, insulating properties, thermal performance, or energy-related efficacy, unless the representation is non-misleading and substantiated by competent and reliable scientific evidence. Part II prohibits respondent from providing to others the means and instrumentalities with which to make any false, unsubstantiated, or otherwise misleading representation of material fact. It defines "means and instrumentalities" to mean any information, including any advertising, [illegible] sales training, or purported substantiation materials, for [illegible]