


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

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

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

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

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

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

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

C. The Notice of Proposed Rulemaking

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

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

1. The Terms of the Proposed Conditional Exemption

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

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

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

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

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

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

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

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

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

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

3. Specific Issues and Questions for Comment

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

II. Discussion of the Comments and Final Amendments

A. The Proposed Conditional Exemption Generally

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

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

1. Comments in Support

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

a. Impact on Consumers and Others

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

¹⁶ See 63 FR 64924–25.

¹⁷ *Id.* at 64926.

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

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

²⁰ NEEA (3); ACEEE (4); and NRDC (7).

²¹ PG&E (1); and SMUD (10).

²² GAMA (2); and ARI (6).

²³ OOE (11); and CEC (14).

²⁴ AGA (8).

²⁵ DOE (15).

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

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

²⁸ DOE (15) pp. 1–2.

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

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

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

³² CEC (14) p. 2.

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

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

³⁵ CEC (14) p. 2; DOE (15) p. 4.

³⁶ OOE (11) p. 4.

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

³⁸ ACEEE (4) p. 2.

³⁹ NEEA (3) p. 3; CEC (14) pp. 2, 5.

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

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

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

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

b. Impact on Manufacturers

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

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

2. Comments in Opposition

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

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

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

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

public with an opportunity for comment.⁵⁰ GE contended:

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

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

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

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

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

3. Final Amendments

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

⁴¹ DOE (15) p. 4.

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

⁴³ CEC (14) p. 2.

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

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

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

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

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

⁴⁹ AGA (8) pp. 2, 5.

⁵⁰ GE (9) pp.1-2.

⁵¹ *Id.* pp.5-6.

⁵² *Id.* p.2.

⁵³ *Id.*, p.3-4.

⁵⁴ *Id.*, p.4.

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

⁵⁶ 42 U.S.C. 6294(c)(i)(A).

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

⁵⁸ ACEEE (4) p.1.

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

⁶⁰ OOE (11) p.2.

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⁶² Whirlpool (12) p.1.

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

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

⁶⁵ NRDC (7) p.3; OOE (11) p.2.

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

⁶⁷ Maytag (5) p.2; CEC (14) pp.2, 3.

⁶⁸ ARI wanted the Commission to make clear that the ENERGY STAR Program was voluntary. ARI (6) p.1. Whirlpool wanted an indication that participating manufacturers would not be required to label qualifying products, in case, for some reason, they inadvertently failed to print the logo on EnergyGuides attached to qualifying products. Whirlpool (12) p.2.65

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

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

Seven commenters addressed whether the ENERGY STAR logo or the Explanatory Statement would affect consumers' understanding of the information on the EnergyGuide.⁸⁰

ACEEE and DOE did not believe that the Explanatory Statement would affect consumers' understanding of the other information on the EnergyGuide.⁸¹ Maytag, ARI and CEC stated that the Statement would be difficult to read and would not clarify the other information on the EnergyGuide.⁸² OOE did not think that the addition of the logo would adversely affect consumer understanding of the other information on the EnergyGuide, primarily because of the amount of promotion of the program done by EPA and DOE.⁸³ NRDC and CEC contended that the addition of the logo to the EnergyGuide could help overcome what these commenters

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⁷⁴ ACEEE (4) pp.1-2.

⁷⁵ OOE (11) p.2.

⁷⁶ DOE (15) p.3.

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

⁷⁸ OOE (1) pp.2-3.

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

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

⁸¹ Alliance (13) p.2; DOE (15) p.3.

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

⁸³ OOE (1) p.3.

⁸⁴ NRDC (7) p.5; CEC (14) p.4.

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

⁸⁶ Maytag (5) p.2; ARI (6) p.2.

⁸⁷ OOE (11) p.3.

⁸⁸ CEC (14) p.4.

⁸⁹ DOE (15) p.3.

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

1. Comments

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

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

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

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

2. Final Amendments

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

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⁹⁰ Whirlpool (12) p.2.

⁹¹ GE (9) p.5.

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

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

⁹⁴ Maytag (5) p.3.

⁹⁵ ARI (6) p.2.

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STAR label is SHY (rtaom alm) Jj attab chd fca x thpt rat do not csmose b.STrcheses

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

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

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

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

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

IV. Paperwork Reduction Act

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

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

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

List of Subjects in 16 CFR Part 305

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

V. Final Amendments

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

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

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

Authority: 42 U.S.C. 6294.

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

§ 305.11 Labeling for covered products.

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

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

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule.

16 CFR 1161.4

⁹⁷ Alliance (13) p.2.

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

⁹⁹ DOE (15) p.4.

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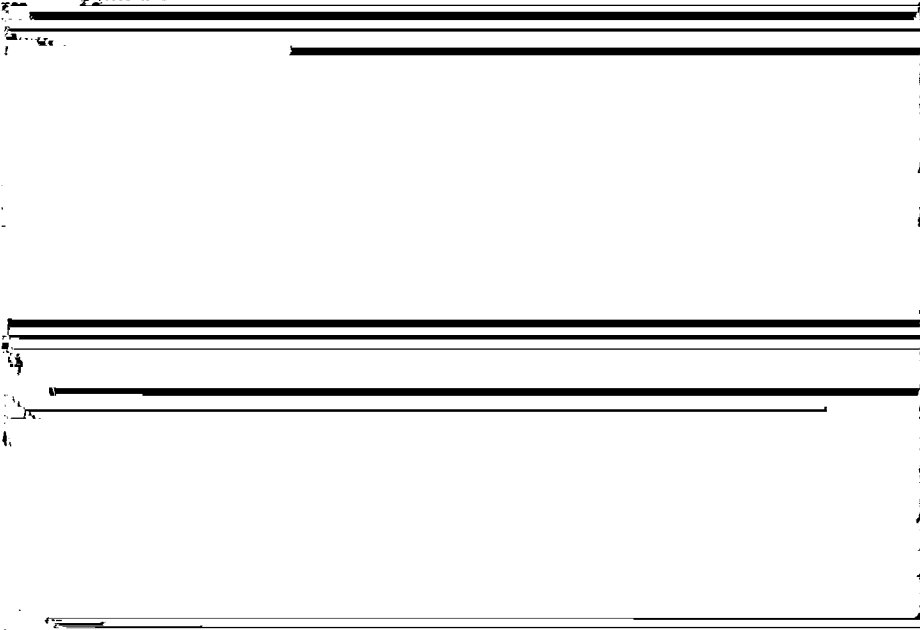
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Based on standard U.S. Government tests

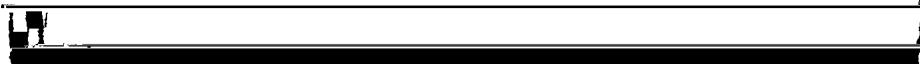
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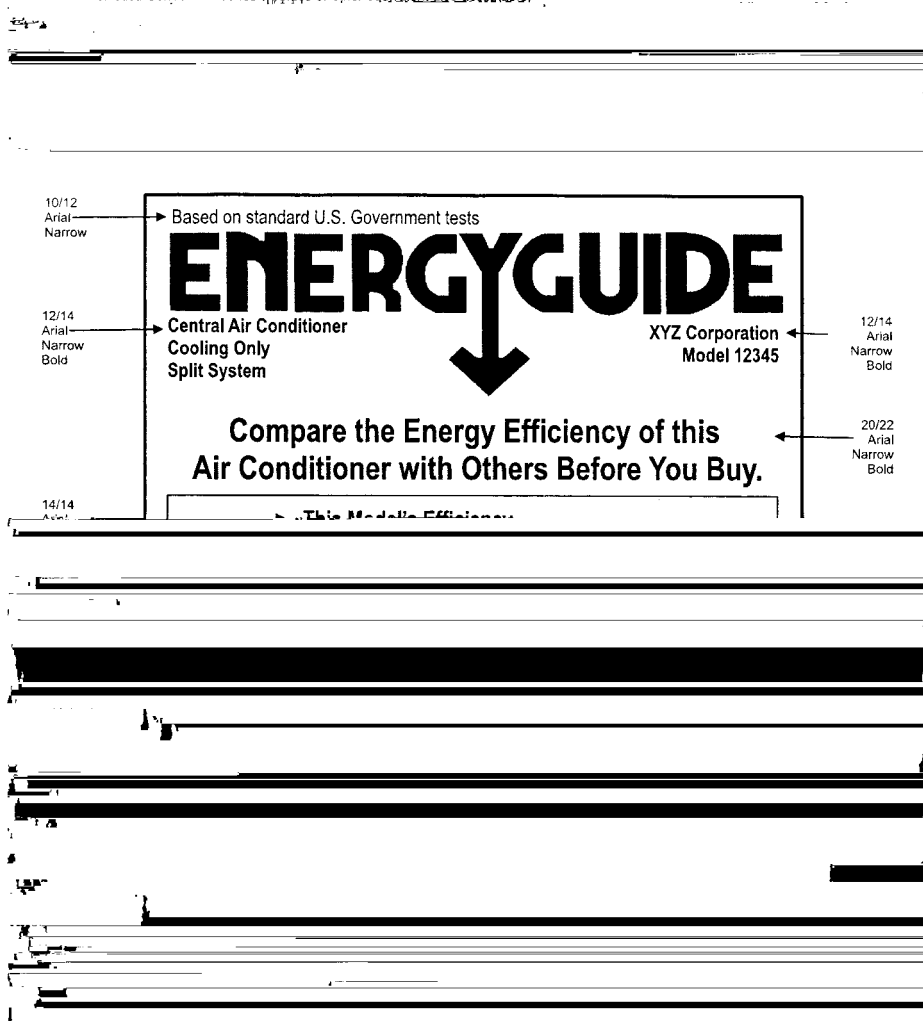
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ENERGYGUIDE



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Helvetica Condensed series typeface or other equivalent also acceptable.

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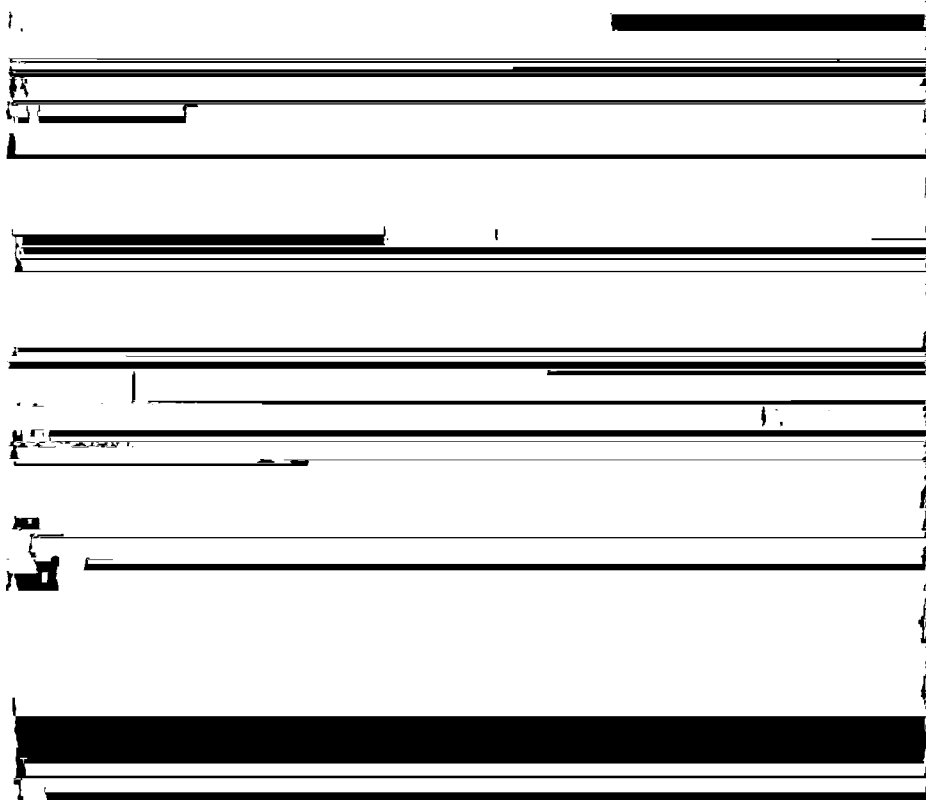
[REDACTED]

Based on standard U.S. Government tests

ENERGYGUIDE

Refrigerator-Freezer
With Automatic Defrost
With Side-Mounted Freezer

XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet



Based on standard U.S. Government tests

ENERGYGUIDE

Freezer
Upright Type

XYZ Corporation
Model # ABC123

Model	Energy Use (kWh/year)	Estimated Annual Operating Cost
Model A	100	\$15.00
Model B	120	\$18.00
Model C	150	\$22.50
Model D	180	\$27.00
Model E	200	\$30.00
Model F	250	\$37.50
Model G	300	\$45.00
Model H	350	\$52.50
Model I	400	\$60.00
Model J	450	\$67.50
Model K	500	\$75.00
Model L	550	\$82.50
Model M	600	\$90.00
Model N	650	\$97.50
Model O	700	\$105.00
Model P	750	\$112.50
Model Q	800	\$120.00
Model R	850	\$127.50
Model S	900	\$135.00
Model T	950	\$142.50
Model U	1000	\$150.00

Based on standard U.S. Government tests

ENERGYGUIDE

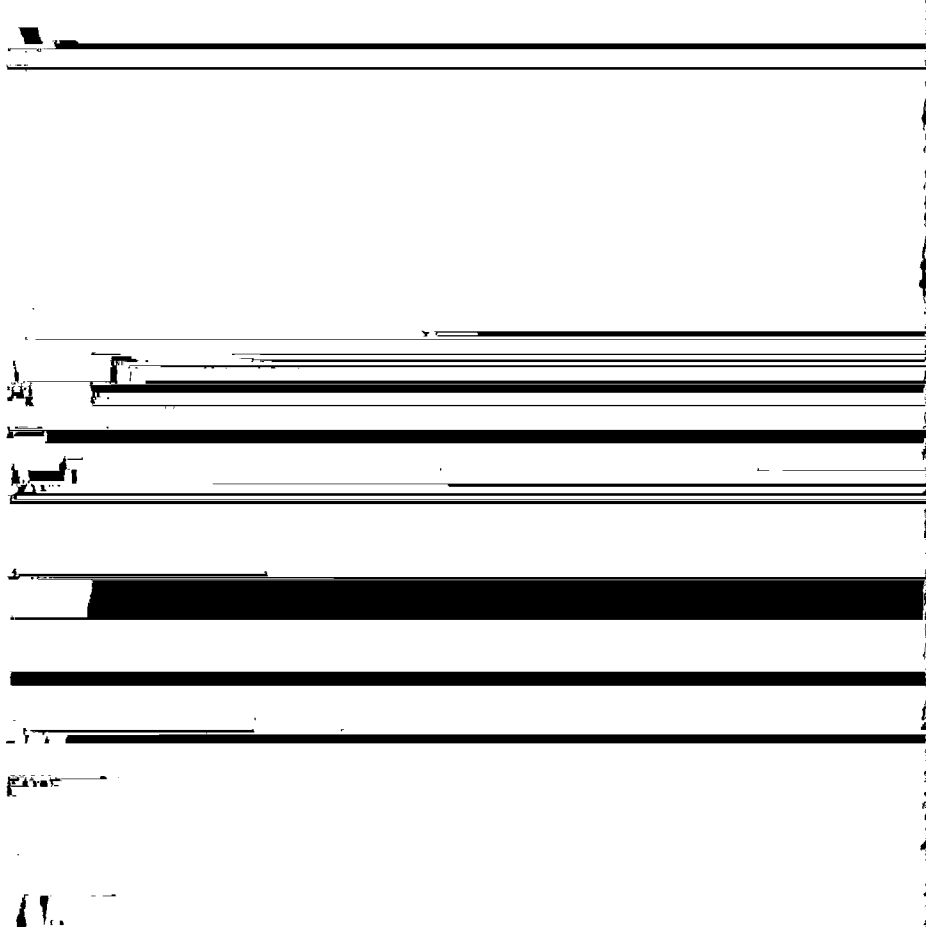
Dishwasher

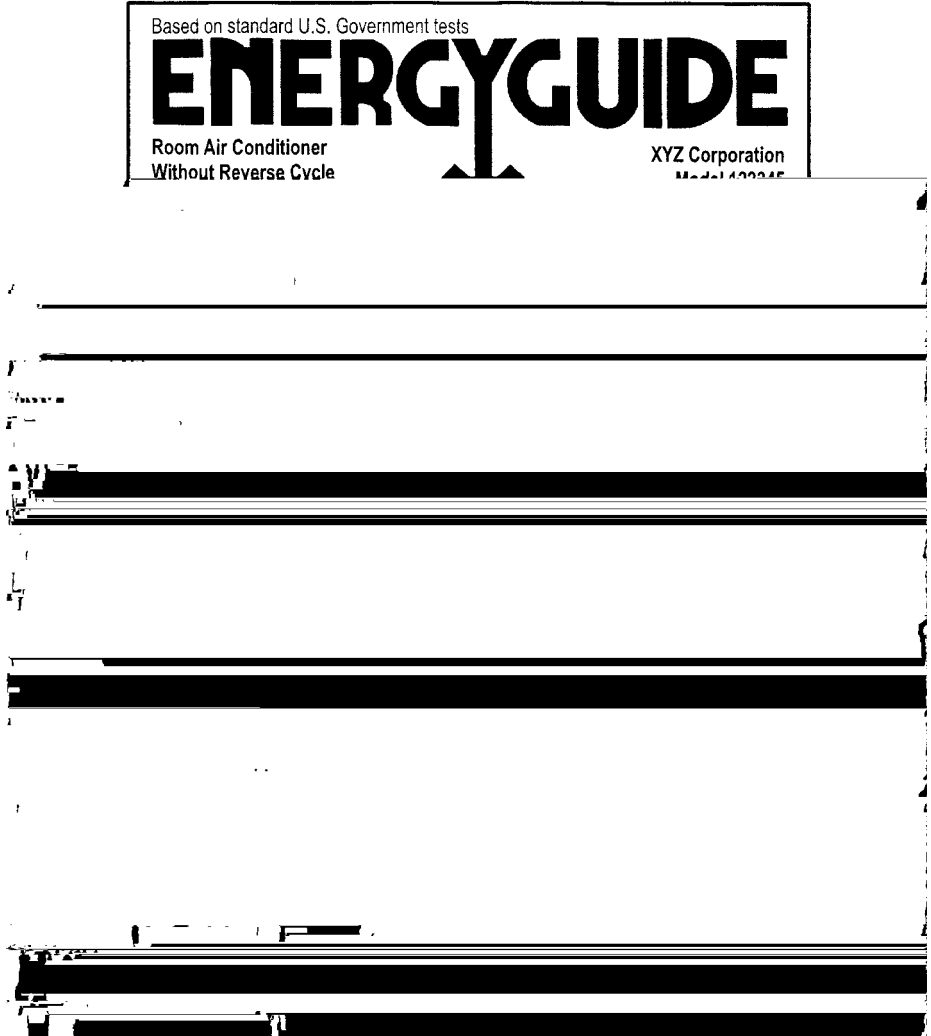
XYZ Corporation

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ENERGYGUIDE





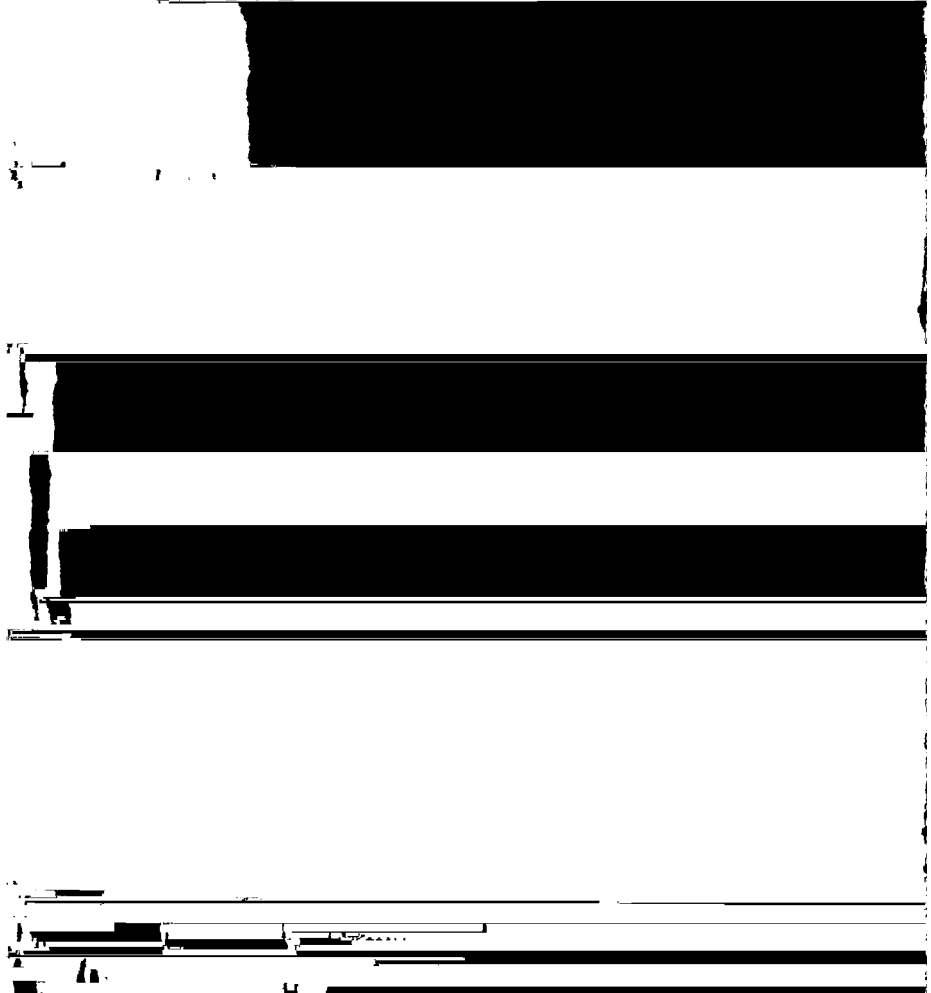
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ENERGYGUIDE

Room Air Conditioner
Without Reverse Cycle

XYZ Corporation
Model 12345

Based on standard U.S. Government tests



Based on standard U.S. Government tests

ENERGYGUIDE

Central Air Conditioner

The table contains multiple rows of data, but the content is almost entirely obscured by black redaction bars. Only a few small fragments of text are visible, such as the word 'SEASON' in one of the columns. The table structure is not discernible due to the redactions.

Based on standard U.S. Government tests

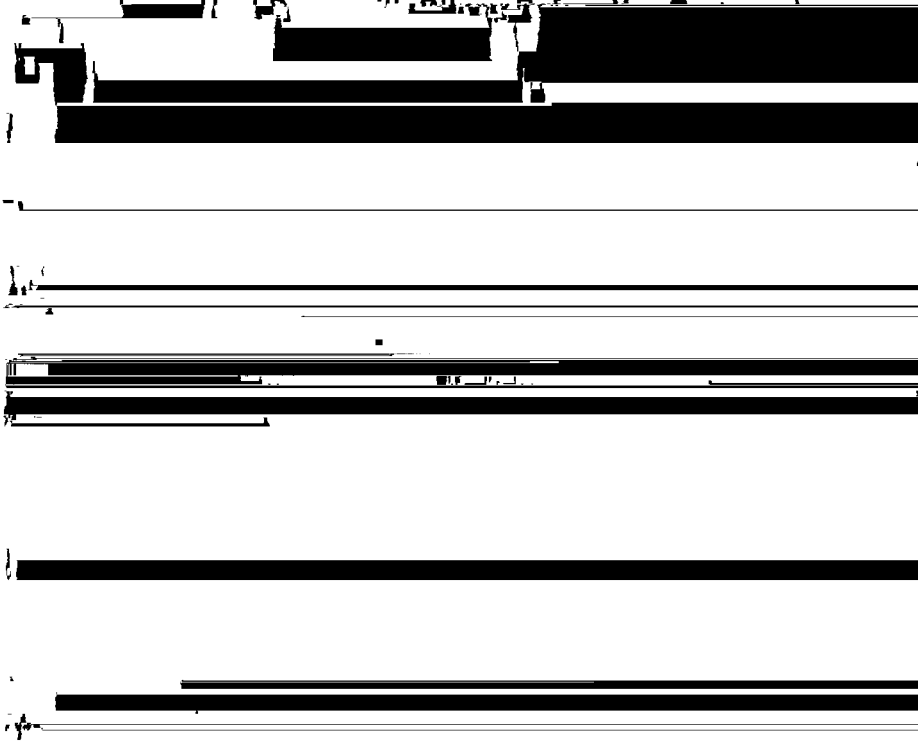
ENERGYGUIDE

Heat Pump
Cooling and Heating
Split System

XYZ Corporation
Model 12345

↓


Compare the Energy Efficiency of this



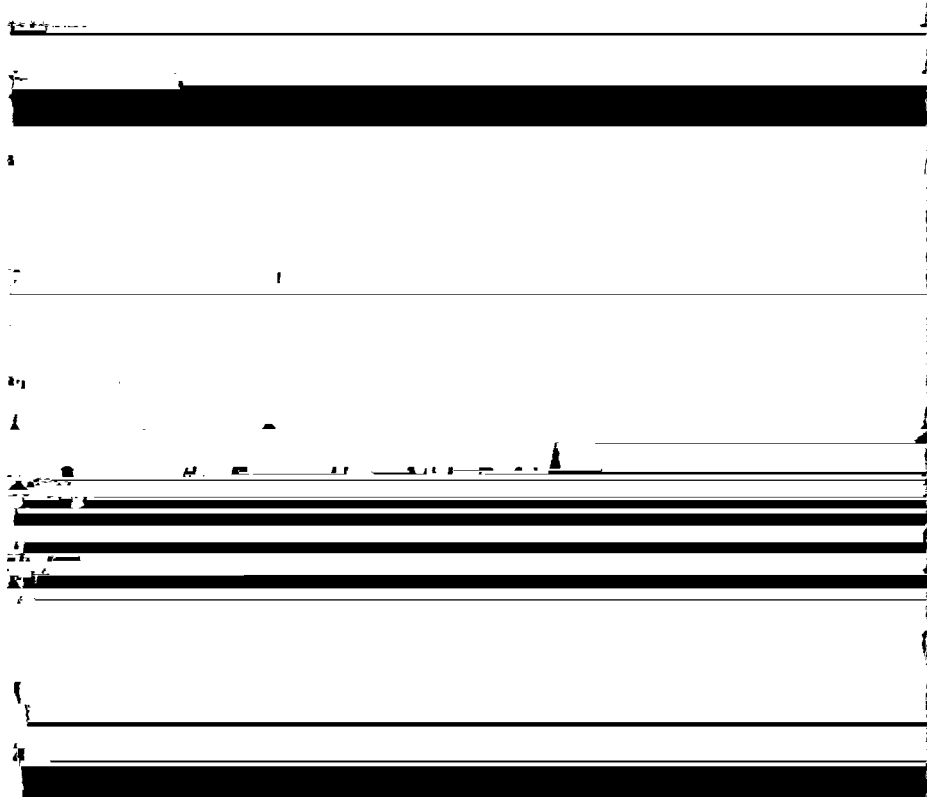
Based on standard U.S. Government tests

ENERGYGUIDE

Refrigerator-Freezer
With Automatic Defrost
With Side-Mounted Freezer



XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet



By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00-7970 Filed 3-31-00; 8:45 am]

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