



ADMINISTRATION CENTER • BENTON HARBOR, MI 49022

May 5, 2003

Secretary,
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue N.W.
Washington D.C. 20580

Fax: 202-326-2496

Re: 16 CFR part 305 – Appliance Labeling Rule

Dear Sir/Madam,

Attached are the comments of Whirlpool Corporation regarding the Commission's request for comments pertaining to labeling of residential clothes washers under 16 CFR part 305 of the Appliance Labeling Rule.

We are supportive of the proposals of the Association of Home Appliance Manufacturers (AHAM).

We urge prompt implementation of these proposals at the earliest possible date.

Please enter our comments for the record.

Sincerely,

A handwritten signature in cursive script that reads "Mike Thompson".

Mike Thompson

cc: Mr. Hampton Newsome

Comments by:

Whirlpool Corporation

Regarding:

Comments Pertaining to A Rule
Concerning Disclosures Regarding
Energy Consumption of Clothes Washers
Required Under the
Energy Policy and Conservation Act

(16 CFR part 305 – Appliance Labeling Rule)

68 FR 16231

May 5, 2003



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Whirlpool Corporation, a leading manufacturer of major home appliances, has comments regarding the Federal Trade Commission's recent request for comments (dated April 3, 2003) regarding proposals:

- 1) for a conditional exemption to allow early energy labeling of washers between May 1 and December 31, 2003 under test procedures outlined in 10 CFR part 430, subpart B, Appendix J1, and
- 2) to allow minor modifications to the format and content requirements in 16 CFR 305.5(a) and 305.11(a), and
- 3) if the above conditional exemptions are granted, to make permanent the above labeling changes.

We fully support all proposals in this Federal Register notice.

Below are questions (and Whirlpool's responses) that were posed by the Commission:

- 1) Should the Commission grant the requested exemption and permit manufacturers to begin testing and labeling clothes washers to the new J1 test in 2003?

Answer: Yes. Early compliance with J1 labeling requirements in 2003 is critical to the efficiency of our testing and production as we transition to the new washer energy standards by the end of 2003. There is far too much work associated with the double testing (both J and J1) of all our new washer models in the remaining months of 2003. Moreover, without the conditional exemption, we would not be able to meet existing commitments to our trade partners as new '04 energy compliant models will go to their sales floors with old J Energy Guide labels.

- 2) Are there alternatives to the proposed conditional exemption and rule change that would better accomplish the same objectives?

Answer: No.

- 3) Are there differences between the results, yielded by the new J1 and old J tests, significant enough to warrant special advisory language on the Energy Guide labels?

Answer: There are differences in the test results of J1 versus J test protocols that are significant enough to warrant inclusion of AHAM's proposed language change on these new labels. However, time is of the essence and we urge the Commission to avoid any further special advisory language that could delay the timely implementation of AHAM's proposed changes.

- 4) Are the differences unbiased? Or does one test yield consistently higher or lower results than the other?

Answer: Typically, the J1 test protocol yields test results that are lower than the older J test procedure. The differences could be as much as 40%.

- 5) If the Commission grants AHAM's exemption request, should the Commission amend the rule to incorporate label changes as a permanent requirement?

Answer: Yes. By so doing, this should eliminate consumer confusion over time and avoid compounded confusion if we were to go back to the old "J" label that exists today. Moreover, we are not aware of any pending or planned changes to the J1 standard (prior to 2012), which could impact the minimum compliance numbers allowed (under current law), nor are we aware of any issues which will substantially change the label numbers.

- 6) Are AHAM's proposed changes to the label, such as the content, size and placement of the modified language on the EnergyGuide, appropriate?

Answer: Yes. We fully agree with all of AHAM's proposed changes. This language will assist consumers without causing "undue" confusion. Also, there will be considerably less need for dealers to "refloor" model units and therefore less confusion for energy-conscientious consumers when selecting new appliances. Moreover, there will be no need to swap labels on sales floors, a situation that could lead to mistakes and further confusion. In addition, consumers will not be confused by identical models having different energy consumption values. The reference to "2004 test procedure" is far better than saying "J1 test procedure" as consumers will have no clue what J1 means. It is not necessary to include explanatory language on both the top and the bottom. That would be redundant to discriminating, energy-conscientious consumers. No other changes need to be made to this label other than those proposed by AHAM.

- 7) Would the implementation of AHAM's proposal cause consumer confusion for those units with EnergyGuide labels adjoining energy labels required by Mexico or Canada?

Answer: No. The EnergyGuide label is clearly discernable from that of Mexico or Canada. For example, the EnergyGuide label is the only one of the three that is entirely in English. The others either have Spanish entirely or a mix of English and French. Moreover, the format of the Mexican and Canadian labels are different. The EnergyGuide label clearly states that the results are based on U.S. government standard tests. In addition, the J1 label makes it clear this label is only to be compared with other labels bearing the same message. Last, the FTC at least partially addressed this issue in June, 1996 (61 FR 33651-3). In that year, the Commission declared "unanimous support" to permit the placement of energy use labels required by the Canadian and Mexican governments in a location "directly adjoining" the Rule's required EnergyGuide label.

- 8) Are the conditions under which the Commission proposes the exemption appropriate?

Answer: Yes. However, it is critical that there be a timely implementation of the conditional exemptions as soon as possible as new 2004 compliant washer products are being introduced into the market now.

9) What would be the economic impact on manufacturers of the proposed exemption, each of the proposed conditions for use of the exemption and the proposed rule?

Answer: There is no burden on Whirlpool by the Commission's timely implementation of the conditional exemptions. There would be serious consequences (as outlined in our response to questions 1 and 8 above) if the FTC failed to implement these changes by early May.

10) What would be the benefits of the proposed conditional exemption and the proposed rule?

Answer: The conditional exemption would allow Whirlpool to meet sales and marketing commitments to trade partners and would permit the timely compliance with Department of Energy washer standards by 1/1/04. It would also encourage earlier compliance with new DOE washer energy standards.

For all the above reasons, we urge prompt implementation of the proposed conditional exemption to permit early labeling per the J1 test procedure along with the proposed label changes.

Thank you for the opportunity to comment. For further information please contact:

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