

March 28, 2013

Hampton Newsome, Esquire
Federal Trade Commission (FTC)
Division of Enforcement
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: AHRI Comments on FTC's January 10, 2013 and February 6, 2013 Final Rules

Dear FTC Staff:

These comments are submitted by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) on certain issues within the FTC final rules that were published in the Federal Register on January 10, 2013 and February 6, 2013. Some of the provisions within the final rules need to be revised by FTC whereas further clarification is needed from FTC staff on other issues.

While we appreciate FTC's efforts on these rules, we believe that several issues within these rules need to be addressed in order to ensure that the regulatory burden on manufacturers is reasonable while ensuring that consumers receive accurate energy efficiency information via the EnergyGuide labels. Based on the reasons outlined in this letter, we believe that:

- The AHRI Directory of Certified Product Performance (Directory) can help manufacturers to comply with FTC's latest requirement (specifically §305.6 of the January 10, 2013 final rule) to make copies of their EnergyGuide labels available online by July 15, 2013. We would appreciate a response from FTC on this issue by April 10, 2013.
- Requiring cooling and heating capacity information on labels is unnecessary and could mislead the consumer in some instances. FTC should eliminate that requirement.
- FTC should continue to allow manufacturers the option of printing multiple basic model numbers on their EnergyGuide labels.
- FTC should specify compliance dates for the EnergyGuide labels on residential boilers and oil-fired furnaces that are disconnected from the regional furnace standards compliance date.

We have the following specific comments:

§305.6 and §305.20 – Providing Labels on Web sites

§305.20 of the February 6, 2013 final rule references the following hyperlink: www.ftc.go/energy. We believe that the hyperlink reference needs to be corrected to productinfo.energy.gov as this

is the hyperlink that is referenced in the prototype labels and the sample labels of the February 6, 2013 final rule.

The January 10, 2013 final rule states that effective July 15, 2013, manufacturers shall make copies of their EnergyGuide labels available on publicly accessible Web sites in a manner that allows catalog sellers to hyperlink to the label or download the labels for their use. In order to help our member manufacturers and participants in the AHRI certification program meet the requirements within §305.6 of the January 10, 2013 final rule, we plan on modifying the Directory by adding EnergyGuide labels for the following products that are regulated by FTC: residential central air conditioners and heat pumps, residential furnaces, residential boilers and residential water heaters. The information on the label would be generated using the energy efficiency data contained in the Directory.

As FTC is already aware, in the case of residential split system air conditioners and heat pumps, it is impossible for manufacturers to physically generate labels that convey the actual energy efficiency rating of every possible combination. A manufacturer typically affixes a label on a condenser that conveys the energy efficiency rating of the condenser-evaporator coil combination that is the particular manufacturer's most commonly sold combination for that condenser model. We plan on making the labels associated with the most commonly sold combinations available on our Directory. In addition, a disclaimer box would be added to the online labels that would direct consumers interested in the ratings of a specific combination to print a copy of the AHRI certificate. We feel that such an approach will not only help manufacturers to comply with §305.6 of the January 10, 2013 final rule, but also ensure that consumers receive consistent information while viewing the online labels and the labels affixed to the condensers. However, before pursuing any major changes to our Directory, we would like a written response from FTC confirming that AHRI's plan to make the EnergyGuide labels available on the Directory will help manufacturers who are enrolled in AHRI's certification programs to comply with §305.6 of FTC's January 10, 2013 final rule. The July 15, 2013 compliance date is quickly approaching and rather than adding any further delay by responding to our proposal via a rulemaking process, FTC should directly respond to us on this issue by April 10, 2013. We are willing to provide FTC staff with a live demonstration of how EnergyGuide labels can be accessed via our Directory.

With regard to §305.20 of the January 10, 2013 final rule, we would like to know from FTC whether manufacturers would be in compliance with the Web site requirements of that section if they simply provided a link to our Directory on their Web sites and indicated that the EnergyGuide labels for their products are available on our Directory. Such an approach would not only reduce the compliance burden on manufacturers, but also ensure that consumers have access to a single, consistent source of labeling information via our Directory.

Cooling Capacity, Heating Capacity and Basic Model Number Information in Prototype and Sample Labels

The February 6, 2013 final rule amended the Energy Labeling Rule to add basic model number and capacity disclosures on EnergyGuide labels. FTC states in the rule that without this information, consumers cannot use the DOE-generated cost calculator referenced on the label. In addition, the final rule states that for split systems, the model number and capacity would allow consumers to obtain efficiency rating and energy cost information of various condenser coil combinations. FTC staff has assumed within the rule that manufacturers create a single label for each basic model, so the basic model number and the capacity disclosure

requirements do not alter the Commission's Paperwork Reduction Act burden estimates for the Rule. There are several issues associated with these amendments to the Energy Labeling Rule.

First, the DOE hyperlink (productinfo.energy.gov) that has been referenced in the February 6, 2013 final rule does not currently include any type of cost calculator. FTC's intent in requiring the capacity information on an EnergyGuide label is to provide information for DOE's cost calculation tools. The information is not needed on the label if these tools are not readily available to the consumer. Additionally, §305.14 currently requires that manufacturers clearly and conspicuously disclose the capacity information through means such as fact sheets, product brochures, and directories. This requirement has been in place for several years, so manufacturers are already taking the necessary steps to disclose capacity information.

Secondly, the January 10, 2013 final rule harmonized FTC's reporting and testing requirements with the U.S. Department of Energy's (DOE) requirements. The rule stated that manufacturers could meet the FTC reporting requirements by using DOE's web-based Compliance and Certification Management System (CCMS) tool. This provision eliminates the need to provide capacity information on the EnergyGuide labels. In addition to the energy efficiency information, CCMS reports also include cooling or heating capacity information. Therefore, DOE already has access to information that is needed to estimate the operating cost of a unit. Rather than require the consumer to physically enter the capacity information on its website, DOE should display the operating cost for every basic model using the information provided in the CCMS reports.

Thirdly, standalone capacity information will not aid the consumer in determining the estimated national average annual operating cost of a unit as the corresponding energy efficiency metric is also needed during the calculation of the operating cost. As an example, the prototype label 4 in the February 6, 2013 final rule is associated with a split system heat pump. The label specifies a single cooling capacity and a single heating capacity on the top right hand corner of the label. However, the label provides ranges with respect to the SEER and HSPF metrics and the singular cooling and heating capacity information does not apply to all the possible SEER and HSPF values within those ranges. Multiple cooling and heating capacities are possible for the SEER and HSPF ranges that are specified in the prototype label. Sample label 9B for non-weatherized oil furnaces in the February 6, 2013 final rule serves as another example on why the heating capacity information should not be required on the label. The sample label states a heating capacity of 105 Btu/h (this value seems to be a typographical error and FTC's intent was probably to state a heating capacity of 105,000 Btu/h) but that value is only associated with the default input capacity of the unit. It is obvious that the output heating capacity would change if the installer checks one of the input capacity boxes within the label. Hence, we believe that requiring cooling and heating capacity information on labels is absolutely unnecessary and would merely end up misleading the consumer.

Finally, contrary to FTC staff's assumptions, several manufacturers use a single label for multiple units. We recommend that FTC allow manufacturers the option of printing multiple basic model numbers on their EnergyGuide labels, similar to the provisions currently in place for clothes washers and dishwashers. In particular, such an option would be very helpful for labels associated with split system air conditioners and heat pumps as it would ensure that manufacturers are not unduly burdened with printing a unique label for every basic model.

Residential Boilers and Oil-fired Furnaces

The compliance date is FTC's February 6, 2013 rule cannot be similar for residential furnaces and boilers for two reasons: a). residential boilers are not subject to furnace regional standards; and b). revised standards went into effect for residential boilers products on September 1, 2012.

FTC should modify the provisions in the February 6, 2013 final rule and establish a compliance date for the revised boiler EnergyGuide labels that is separate from the compliance date associated with the furnace regional standards. The revised federal energy conservation standards for residential boilers are already in effect. We recommend that FTC change the compliance date for the new residential boiler EnergyGuide labels to November 1, 2014. It now seems unlikely that the regional standards for non-weatherized gas furnaces and mobile home gas furnaces will go into effect on May 1, 2013 and there is a good chance that the rule with respect to these products could get remanded to DOE for a full rulemaking. This would mean that manufacturers would have to wait several years to use the revised EnergyGuide labels for residential boilers, even though the federal energy conservation standards for such products have been in place since September 1, 2012. The same argument holds true for oil-fired furnaces since the federal energy conservation standards for these products will be in effect on May 1, 2013. Separating the compliance dates for the revised residential boilers and oil-fired furnaces EnergyGuide labels from the furnace regional standards compliance date would eventually be in the best interest of consumers and give manufacturers some regulatory certainty.

The February 6, 2013 final rule should also be amended to provide sample labels for residential gas-fired and oil-fired boilers as none of the prototype labels or sample labels specified in the rule apply to such products. Several labels in the final rule contain maps that would not apply to the residential boiler EnergyGuide labels and to ensure that manufacturers gain a clear understanding of FTC's expectations, FTC staff needs to provide sample labels for residential boilers. Our interpretation of the February 6, 2013 final rule is that the revised residential gas-fired and oil-fired boiler EnergyGuide labels would resemble sample label 9 in the final rule, but would exclude all text in the lower portion below the bold line. The upper portion would be scaled up to fit the label size and the efficiency ranges in the labels would need to incorporate the ranges specified in Appendix G6 and Appendix 67 of the final rule. We would like FTC staff to confirm whether this interpretation is correct.

Availability of Sample Label Templates

Footnote 21 on page 8364 of the February 6, 2013 final rule states that FTC staff will create new EnergyGuide label templates for download from www.ftc.gov/energy. Several of our members have asked us as to when these labels will be made available on this Web site and whether the label templates will be available in a .eps format.

AHRI appreciates the opportunity to provide these comments. If you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,


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