

March 1, 2013

Federal Trade Commission (FTC)
Office of the Secretary
Room H-113 (Annex U)
600 Pennsylvania Avenue NW
Washington, DC 20580

Re: AHRI Comments – Energy Label Ranges, Matter No. R611004

Dear FTC Staff:

These comments are submitted by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) in response to FTC's proposed rule and proposed conditional exemption with respect to disclosures regarding energy consumption and water use of certain home appliances and other products required under the Energy Policy and Conservation Act appearing in the Federal Register on January 9, 2013.

The proposed ranges of comparability for residential water heaters are based primarily on information provided by AHRI in 2012. We submitted information initially showing ranges based on cost of operation and then, at FTC's request, based on annual energy consumption. In the course of developing the information, submitting it and FTC subsequently reviewing that information, some errors appeared to have occurred. The two examples that brought this to our attention were the lack of any ranges of comparability for residential heat pump water heaters and no variation in the ranges for electric instantaneous water heaters. Based on the review of the data that we submitted to FTC, there are errors in all the proposed ranges for residential water heaters except for electric storage models. Attached is the corrected information on the ranges of comparability for the models listed in AHRI's residential water heater efficiency certification program at the time of our submittal to FTC in 2012. (Note: the range information provided on the right in the gray area is in terms of estimated annual energy consumption using the units specified by FTC. The range information in terms of estimated annual cost of operation is provided for your convenience.) The proposed ranges in the January 9, 2013 Federal Register notice must be reconsidered and corrected in view of this information.

We have an additional comment regarding the proposed ranges of comparability for electric instantaneous water heaters. Currently, the U.S. Department of Energy (DOE) efficiency test procedures for residential water heaters do not apply to residential electric instantaneous water heaters. When DOE last revised the residential water heater test procedures in 1998, it decided not to include any requirements for the testing of electric instantaneous water heaters. That is still the situation today although recent legislation makes it likely such models will be added to the test procedure by the end of 2013.

AHRI had provided information on residential electric instantaneous water heaters. We did this because our program allows manufacturers to participate in the program if they agree to the program testing their models using the DOE test procedure, modified to address the proper

setup of the test sample. However, as noted above, manufacturers are not required to test their models to the current DOE residential water heater efficiency test procedure. Consequently, we do not believe that FTC can require an FTC EnergyGuide label on residential electric instantaneous water heaters at this time. On a practical basis, the manufacturers have no official efficiency rating or consumption information to submit to FTC.

Recognizing that revised DOE water heater efficiency test procedures are likely to be finalized by the end of the this year, manufacturers of electric instantaneous water heaters will be required to test their models sometime around June or July of 2014 (i.e., 180 days after the finalization of the revised test procedure.) Therefore, we recommend that FTC defer any labeling requirements for residential electric instantaneous water heaters until such time that manufacturers are required to measure the efficiency of the models according to a DOE test procedure that include such products in its scope.

The proposed ranges of comparability for gas pool heaters should be revised to reflect the revised minimum efficiency standard for that product that goes into effect on April 16, 2013. All gas pool heaters manufactured on and after that date must have a thermal efficiency of at least 82%. That effective date is prior to the effective date of the revised EnergyGuide labels that will be required by this rulemaking. Accordingly the low end of the ranges of comparability for gas pool heaters should be revised to reflect the DOE minimum thermal efficiency standard of 82%.

With regard to the issue of the current 5 year schedule for revising EnergyGuide labels, we recommend that FTC not make any changes to this schedule. This schedule was put into FTC's regulations in 2007. This current rulemaking is the first revisions developed under this schedule. It is premature to discuss any adjustment to this schedule when in fact FTC has not even completed one rulemaking under this schedule. There is no experience with the results of label revisions developed by this 5 year schedule. How can any consideration of amending the schedule be done when there is no data yet to inform anyone as to the effectiveness of the schedule? Our members are not getting any significant comments from the field complaining that the EnergyGuide labels are out-of date. The EnergyGuide labels have been in use for such a long time now that there is better recognition that they are primarily a comparative tool. That general comparative aspect does not change so abruptly so as to require label changes more frequently than every 5 years. Consumers also better understand that they should consider local energy costs when considering the purchase of space heating and cooling equipment or water heaters for their home. So changes in the National Average Energy Cost are not a reason to revise labels more frequently. The 5 year schedule is a practical balance between the needs to provide useful efficiency information and to minimize the burden on manufacturers associated with implementing changes to EnergyGuide labels.

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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