

**Alliance to Save Energy \* American Council for an Energy-Efficient Economy\*  
Appliance Standards Awareness Project \* Consumer Federation of America  
National Consumer Law Center \* Natural Resources Defense Council \*Northeast  
Energy Efficiency Partnerships \* Northwest Energy Efficiency Alliance**

July 25, 2012

Mr. Hampton Newsome, Attorney  
Division of Enforcement  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20580

Re: Regional Labeling for Heating and Cooling Equipment – Proposed Rule  
(16 CFR Part 305; Project No. P114202)

**I. Introduction**

On behalf of the Alliance to Save Energy, American Council for an Energy-Efficient Economy, Appliance Standards Awareness Project, Consumer Federation of America, National Consumer Law Center on behalf of its low-income clients, Natural Resources Defense Council, Northeast Energy Efficiency Partnerships, and Northwest Energy Efficiency Alliance, we respectfully submit these comments on the Federal Trade Commission’s (FTC) Proposed Rule on Regional Labeling for Heating and Cooling Equipment (“Proposed Rule”). 77 Fed. Reg. 33337 (June 6, 2012).

FTC is conducting this rulemaking as directed by the Energy Independence and Security Act (EISA), in response to the Department of Energy’s (“DOE”) direct final rule promulgating the first ever regional efficiency standards for residential furnaces, central air conditioners, and heat pumps. These standards were set at levels recommended in a joint agreement by manufacturers, consumer groups, efficiency advocates, states, and environmental groups and are strongly supported by our organizations

NRDC submitted comments on FTC’s Advanced Notice of Proposed Rulemaking (ANOPR) jointly with the Alliance to Save Energy, American Council for an Energy-Efficient Economy, Appliance Standards Awareness Project, Consumer Federation of America, Earthjustice, National Consumer Law Center, Northeast Energy Efficiency Partnerships, Northwest Energy Efficiency Alliance, and Northwest Power and Conservation Council. We appreciate FTC’s consideration of those comments and the incorporation of many of them into the Proposed Rule.

We offer the following additional comments on the Proposed Rule.

## II. Summary of Comments

In general, we think the modifications to the EnergyGuide labels for furnaces, air conditioners, and heat pumps put forth in the Proposed Rule make sense and will be informative to consumers. We offer the following comments to emphasize both the aspects of the proposed labels that we think are important to maintain and suggested modifications to the Proposed Rule which would add further clarity. Specifically:

- We support the general configuration of the proposed labels with the product's efficiency information in the top section and the regional standard information in the bottom section. We recommend a few specific modifications to the proposed layout and content which are discussed below.
- We disagree with the switch to the term "Efficiency Rating" in place of the actual efficiency metric used for a given product and urge FTC to revert back to the use of a product's efficiency metric (e.g. SEER, AFUE, etc).
- We recommend that labels be affixed in a way that is designed to stay attached for the product's lifetime where feasible. For example, furnaces, condensing units, and cased coils can be labeled. For the central air products, there would have to be additional information indicating the need to install with a matched indoor coil or condensing unit, respectively.
- We would support requiring the use of the new label a few months prior to the standard compliance date as suggested by FTC. If this approach is taken, the label should clearly state the date which standards take effect.
- We support FTC's proposal to require the availability of the label on manufacturers' web sites, product packaging and at point of sale, including internet sales.
- The label for non-weatherized gas furnaces should indicate if a furnace may legally be installed in states where it otherwise does not meet the regional standard with an eligible waiver, if such a waiver approach is adopted by DOE.

We elaborate on these points in the discussion below.

## III. Detailed Comments

### 1) General Layout and Suggested Modifications

*We support the proposed general layout of the label, with specific modifications suggested below.* We think that the general configuration proposed by FTC is logical and will be informative to consumers, installers, distributors, and other stakeholders. In particular, we support the placement of efficiency information in the top portion of the label and regional standard information in the bottom portion.

We also support the inclusion of a map and list of states where the equipment can legally be installed. We had commented previously that it was important for this map and list to be consistent with ENERGY STAR (i.e. both listing the states where the product is qualified) and appreciate that FTC has followed this recommendation. We

also agree with FTC's decision to only use a map on the label for a product which can only be installed in certain states (e.g. an AFUE 80 furnace). As FTC notes, this also avoids potential confusion for products that could otherwise have both an ENERGY STAR map and a regional standards map.

We also support the addition of an efficiency range for split system air conditioners to indicate that the exact efficiency depends on the coil a unit is paired with during installation.

*The proposed label should be improved by making the following modifications:*

- For air conditioners, the Proposed Rule includes the EER rating in the regional standard section of the label. *To be consistent with the general label structure, the EER rating should be moved to the efficiency information portion of the label.* While FTC notes that most consumers are not familiar with EER, including it with the rest of the efficiency information will both provide informed consumers with this information and serve to better educate consumers about different efficiency metrics. We also encourage FTC to include a brief definition for both SEER and EER on the label as recommended in our comments on the ANOPR.
- *The placement of the ENERGY STAR map is potentially confusing and should be modified.* FTC proposes to include the ENERGY STAR map in the same place on the label as the regional standard information, which we think is potentially confusing (e.g. an 80 AFUE furnace would have a regional standards map indicating it could only be installed in the South and a 92 AFUE furnace would have an ENERGY STAR map in the same location indicating it was only ENERGY STAR qualified in the South). We recommend that FTC draw a distinction between the placement of the regional standard information and the ENERGY STAR information. One option would be to add a third section to the label separated by a horizontal line which would be for ENERGY STAR information only. Another option would be to include the ENERGY STAR qualification in the energy efficiency information section of the label.
- *We suggest changing "Notice" to "Notice of Minimum Regional Standards."* We think this modification will provide clarity and further educate installers, distributors and other stakeholders who may be new to the idea of regional efficiency standards.
- *We suggest that FTC revert back to the efficiency range bar used on the current label, rather than the rectangle on the proposed new label.* The single efficiency bar was visually simpler and there does not appear to be any added value or information from the proposed rectangular efficiency range. Furthermore, there are several aspects of the rectangular format which are problematic. For example, on the current label, the low and high efficiency values are clearly tied to the hash-marks at each end of the line. However, on the proposed label, these values take up almost half of the horizontal distance on the label, making it less clear what they correspond to. Additionally, the shaded region in the rectangle is potentially misleading, in particular for air conditioners, as it indicates that the

product will reach the top of the efficiency range that depends on the coil. We question whether this shaded region is necessary, but if it is kept, recommend using a partially shaded section to indicate the range for which efficiency varies depending on coil choice. Finally, we would recommend increasing the font size for “Least Efficient” and “Most Efficient.” Without this information displayed prominently, consumers are unlikely to know which end of the efficiency range represents higher efficiency.

## **2) Efficiency Rating Metric**

*FTC should modify the proposed labels to refer to efficiency metrics by their actual terms, rather than the generic “Efficiency Rating” term.* While we agree with FTC that the various efficiency rating terms (e.g. SEER, AFUE, etc) are not familiar to consumers, these terms clearly indicate the unit’s efficiency and there is no need to dumb them down for consumers. Switching to a generic efficiency rating could actually confuse consumers comparing two different product types. For example, a consumer deciding between a heat pump and a furnace would see the term efficiency rating for both products but with very different scales, which could lead to confusion. Using the actual efficiency rating term can also serve to further educate consumers about different product types and their efficiency.

## **3) Label Placement**

*Labels should be affixed in such a way that they will likely remain attached for the product’s lifetime.* FTC proposes that adhesive labels “should be applied so they can easily be removed without the use of tools or liquids, other than water, but should be applied with an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer of consumer.” (77 Fed. Reg. 33346) We disagree that labels should be easily removable, in particular if this results in a label that will likely fall off during the typical use of a product. The label is useful beyond the initial purchase of a product. As noted in our comments on the ANOPR, the lifetime of heating and cooling equipment will often extend beyond the first owner and a label designed to last the lifetime of the product will continue to provide information to future owners. Additionally, since these products are not likely to be in areas that are visually prominent (i.e. in utility closets, basements, rooftops, or outdoors), the presence of a more permanent label is not likely to be displeasing to consumers.

## **4) Timing**

*We support FTC’s suggestion to require the use of the label prior to the regional standard compliance date.* FTC notes that it is considering requiring compliance with the new label prior to the regional standard compliance date. (77 Fed. Reg. 33342) We support this suggestion and agree that it would be beneficial to have the label in circulation before the compliance date to start educating installers and to ensure that products in circulation have the new label when the standards go into effect. That being said, if the label goes into effect before the compliance date, it should be clear that the

regional standards don't apply until the given date, otherwise the label could cause confusion. If the label is adopted before the standard compliance date, we recommend adding a short phrase indicating the date on which the information about regional standards applies.

## **5) Availability**

*We support FTC's proposal to require the availability of the label on manufacturer web sites, product packaging and point of sale. (77 Fed. Reg. 33340). As indicated in our comments on the ANOPR, it is particularly important to provide the label on internet retail sites, as consumers have a practice of "pre-shopping" appliances on the internet. Consumers also have the option of purchasing these products online and so should have information about the regional efficiency standards. We support FTC's recommendation to require a link to the EnergyGuide for online retailers.*

## **6) Waiver**

In response to the Department of Energy's Notice of Data Availability on its Regional Standards Enforcement Framework Document (76 Fed. Reg. 76,328 (Dec. 7, 2011)), several groups, including NRDC, Air Conditioning Contractors of America, Alliance to Save Energy, American Council for an Energy-Efficient Economy, American Gas Association, Consumer Federation of America, National Consumer Law Center, and Plumbing, Heating, and Cooling Contractors submitted joint comments to DOE, which are attached as Exhibit A. These comments requested that DOE establish a waiver provision to allow for the installation of furnaces with an AFUE of less than 90 in the North under specific circumstances which may cause the installation of a condensing furnaces to be infeasible or prohibitively expensive, as part of their Regional Standards Enforcement Plan. *If DOE establishes such a waiver provision as part of their Regional Standards Enforcement plan, the label for furnaces with an AFUE of less than 90 should reflect its existence. Specifically, we recommend modifying the text on the bottom of the label for furnaces with an AFUE of less than 90 to read, "Federal law prohibits installation of this unit in other states, except in the case of an eligible waiver."* (77 Fed. Reg. 33357; italicized text added)

## **VI. Conclusion**

We appreciate FTC's work in developing the proposed EnergyGuide labels for heating and cooling equipment. The proposed EnergyGuide labels will, with the recommendations proposed above, both educate consumers about a product's efficiency and inform stakeholders of regional efficiency standards. Informative labels are critical to provide information to consumers and industry professionals for both purchasing decisions and for compliance and enforcement of regional standards. We support the general configuration of the revised EnergyGuide label proposed by FTC, with the specific modifications discussed above. In particular, we recommend that FTC continue to use the product's actual efficiency metric (e.g. SEER, AFUE, etc) rather than the proposed generic term "Efficiency Rating" and that FTC continue to use the straight

line efficiency range, instead of the rectangular range proposed. We also recommend that labels be affixed in a way that is designed to stay attached for the product's lifetime and support FTC's proposal to require a link to the EnergyGuide label for online retailers. We support FTC's suggestion to begin the use of the new EnergyGuide label a few months prior to the standard compliance date. Finally we recommend that FTC include information on the EnergyGuide label regarding waivers for the installation of non-condensing gas furnaces, if such a waiver approach is adopted by DOE.

We appreciate the opportunity to submit these comments,

Jeffrey Harris  
Senior Vice President for Programs  
**Alliance to Save Energy**

Meg Waltner  
Energy Efficiency Advocate  
**Natural Resources Defense Council**

Harvey M. Sachs, Ph.D.  
Senior Fellow  
**American Council for an Energy-  
Efficient Economy**

Charlie Harak  
Staff Attorney  
**National Consumer Law Center**

Andrew deLaski  
Executive Director  
**Appliance Standards Awareness  
Project**

Charlie Stephens  
Senior Energy Codes and Standards  
Engineer  
**Northwest Energy Efficiency Alliance**

Mel Hall-Crawford  
Energy Projects Director  
**Consumer Federation of America**

Susan E. Coakley  
Executive Director  
**Northeast Energy Efficiency  
Partnerships**