

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

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Federal Trade Commission
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ACCA appreciates the opportunity to provide these comments to the Federal Trade Commission (FTC) on the proposed changes to the Appliance Rule and the EnergyGuide label for certain residential heating and cooling equipment.

With new minimum energy conservation standards for nine product classes of residential heating and cooling products (of which four include regional standards), revisions to the EnergyGuide labels are critical to help consumers make informed choices when purchasing new HVAC equipment. And in light of the unique issues related to regional standards, the new EnergyGuide labels will need to go beyond informing consumers about the energy use characteristics of the products. The labels will also assist distributors and contractors¹ in complying with the regional standards. More importantly, it is crucial that the revised EnergyGuide labels are legible and comprehensible for the consumer to provide an added backstop against non-compliant installations.

The FTC is proposing to amend the content and organization of the EnergyGuide labels in response to the Congress's directive to "determine the appropriate 1 or more methods for disclosing information so that consumers, distributors, contractors, and installers can easily determine whether a specific piece of equipment that is installed in a specific building is in conformance with the regional standard applies to the building."² As a result, the FTC is proposing to include information to help distributors, contractors, and consumers better understand and comply with the new regional standards that apply to four product classes: split system air conditioners, single package air conditioners, non-weatherized gas furnaces, and mobile home gas furnaces.

Bids for compliant installations cannot compete against non-compliant jobs because the lower efficiency appliance is likely cheaper and it may be less labor intensive or require fewer additional measures to install correctly. Illegal installations by contractors who would skirt the new regional standards pose a real threat to the upstanding contractors and the unsuspecting consumer. Requiring the contractor to provide the consumer with the revised EnergyGuide Label before the purchased will provide an additional compliance check in the field. This is why it's important that new EnergyGuide labels clearly communicate the new rules through text and graphics.

¹ These comments will use the term "contractors" to describe the roles of "retailers", "assemblers", and "contractors", since the proposed Rule applies equally to all.

² 42 U.S.C. 6295 (o)(6)(H)

A. Label Revisions

Though only nine categories of product classes have new energy conservation standards, the Notice of Proposed Rulemaking (NOPR) proposes to change the labels on fourteen product classes. The following comments relate to the proposed changes to the current EnergyGuide labels for heating and cooling products.

1. Upper and Lower Portions

For products subject to regional standards, the FTC proposes to divide the label in half horizontally. The upper portion, primarily intended for consumers, would contain informational text and graphics showing the efficiency rating of the product and where that efficiency rating compares to similar products in same category, along with a link to find more information about energy costs. The lower portion, primarily directed at those individuals who will distribute and install the product, is “designed to help installers comply with the regional standards and will appear only on products subject to regional standards.” (Federal Register 77:109 June 6, 2012 p 33340) For these products, the lower portion will show color coordinated maps and charts outlining the regional standards criteria and where the product may be legally installed.

ACCA supports the FTC proposal to split the EnergyGuide labels for heating and cooling products into an upper portion intended to educate the consumer about the product’s energy use and allow them to compare similar models; and, if necessary, a lower portion intended to help distributors, installers, and consumers comply with the new regionalized standards.

2. Efficiency Range Graphics

a. Legibility of Newly Proposed Efficiency Range Graphic

The efficiency range graphics are intended to show the efficiency rating of the product and the products energy use when compared to other similar products. The EnergyGuide labels proposed in the NOPR include the updated efficiency range graphic that are found in the January 6, 2011, EnergyGuide for Televisions Rule.³ Prior efficiency range graphics used a vertical line graph with longer tick marks indicating the least efficient and most efficient range points and smaller tick marks splitting the line graph into fifths. The product’s efficiency is indicated with a downward facing arrow along the efficiency range. The area above the line is darkened from the least efficient point to the efficiency rating, but it’s unclear what this darkened line is indicating. See Sample Label 7 – Split-System Central Air Conditioner found on page 33352 of the NOPR.

³ “Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (Appliance Labeling Rule)” Federal Register 76:4 (January 6, 2011) p. 1038-1058.

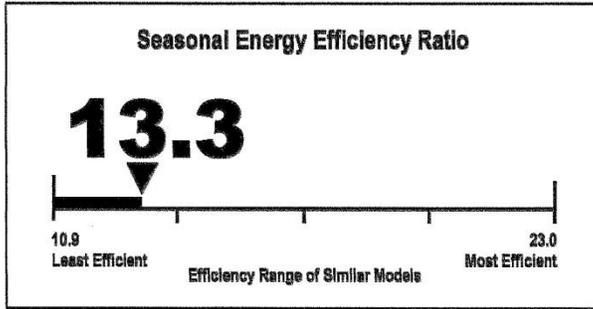


Figure 1 Line graph style efficiency range graphic

The NOPR proposes to replace the line graph with a vertical bar graph similar to a thermometer with the values of the least and most efficiency points inside the bar. The bar graph is filled in from the least efficient range point to the highest possible efficiency range point. On top of the bar graph are arrows depicting the product's efficiency or range of possible efficiencies.⁴ For an example see Sample 7A Split-System Central Air Conditioner on page 33353 of the NOPR.

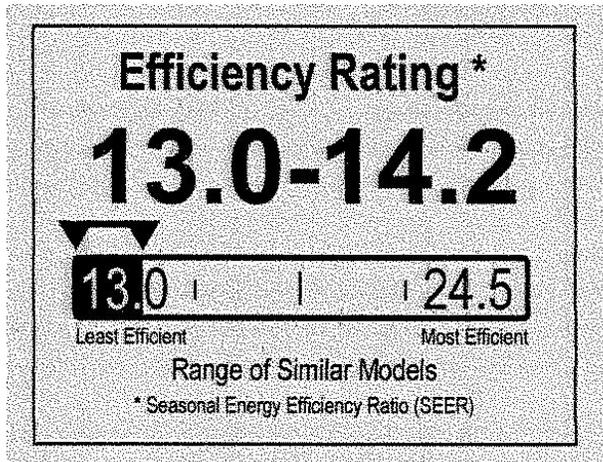


Figure 2 "Thermometer" bar graph style efficiency range graphic

ACCA finds the proposed bar graph to be more complicated than necessary and may be confusing to consumers, in part because too much of the information overlaps. It appears two different graphics depict the efficiency range of the product – an isobar with downward arrows above the range bar and the darkened section of range bar. Further confusing the graphic is the size of the text used to representing the lowest range points (13.0) is larger on the scale than the efficiency range of the product itself.

ACCA recommends that the FTC return to the simple bar graph (shown in Label Sample 7), that uses the isobar with two downward facing arrows to depict the products efficiency range.

⁴ Instead of depicting a single point on the range based on the most commonly sold condenser/coil combination for that condenser model, the actual efficiency range of a split system central air conditioner and heat pump will be depicted based on potential condensing unit/coil combinations.

Another example of the problems with the thermometer style bar graph are found on Sample Label 8A for split system heat pumps. The Heating Efficiency Rating is shown with the isobar and triangles as a range between 9.2 and 10.4 HSPF. However, the darkened area on the line graph runs from the lowest range point at 8.2 through 10.4 HSPF. It's uncertain why the line graph is filled in between 8.2 and 9.2 HSPF.

ACCA recommends the efficiency range graphics for all heating and cooling products to emulate those found in the comments submitted by AHRI to the ANOPR.

(<http://www.ftc.gov/os/comments/regionaldisclosuresanpr/00003.html>) AHRI's recommended graphics for showing efficiency range utilize the simple line graph showing the range of efficiencies of similar products and an isobar with downward arrows showing the products efficiency range with no filled in or bolded line.

ACCA also recommends combining the upper portion of the AHRI submissions with the lower portion (color map) found in Label Sample 7A.

3. Removing Technical Terms from Efficiency Range Graphic Title

On all proposed labels, the FTC would change the text on the upper portion related to the performance metric by removing the technical terms, "Season Energy Efficiency Ratio", "Energy Efficiency Ratio", "Heating Seasonal Performance Factor", and "Annual Fuel Utilization Efficiency", and replacing them with the heading "Efficiency Rating" on the efficiency range graphic. The technical terms would be placed in smaller text below the efficiency range bar and the text "Range of Similar Models". While the Commission may feel these terms are confusing for consumers, the proposed replacement term "Efficiency Rating" is too generic and overlooks the merits of *keeping* the current terms which are product specific. Consumers contemplating products that perform similar functions may not recognize that comparing HSPF and AFUE have efficiency ratings and ranges based on different metrics.

4. Elimination of the EER information on Split System and Single Package Central Air Conditioners

For labels associated with central air conditioners and heat pumps, the FTC should require both SEER and EER information, either side by side or on top of each other, as found in the AHRI submitted examples referenced above. As previously mentioned, the range bars should be line graphs, with hash marks representing the range of efficiencies of all models. The range of efficiencies for this particular model should be shown with an isobar – two arrows connected by a line.

The AHRI submitted examples also show both SEER and EER in the upper portion of the label. ACCA recommends showing SEER and EER values with the efficiency ranges titled "Seasonal Energy Efficiency Ratio" and "Energy Efficiency Ratio" respectively, since these are the terms likely found on informational brochures printed by manufacturers or found on consumer guide websites.

In addition, the qualifying standards for split-system and single package central air conditioners in the Southwest region include both a minimum SEER and EER rating. Leaving the EER information off the labels could increase confusion and illegal installations in the Southwest region.

5. Inclusion of Online Cost Calculator

In the NOPR, the FTC proposes to require a link on the upper portion of the new EnergyGuide labels to an online energy cost calculator, shown as ftc.gov/energy on the sample labels. ACCA could not find an energy cost calculator on the linked website, and so cannot comment on this feature. However, an energy cost calculator would provide important information to consumers.

6. Color Maps on Lower Portion

ACCA believes that including color maps on lower portion of the new EnergyGuide labels is critical for distributors, contractors, and consumers in determining whether or not an appliance can be legally installed. While the FTC intends the lower portion to be directed at distributors and installers, a color map coordinated with the standards criteria table would go a long way to helping consumers understand the rules under regional standards. In addition this will help the consumer act as an additional "backstop" to illegal installations.

7. Energy Star Map for Furnaces

First, the Energy Star logo and map depicted on Sample Label 9A is outdated and incorrect. The Energy Star qualified map depicts Kentucky in the US North region (even though "KY" is found in the text of abbreviate state names). The EPA originally placed Kentucky in the North region in the Energy Star Version 3.0 qualifying criteria for furnaces. However, in the Direct Final Rule creating regional standards, the DOE placed Kentucky in the South region for non-weatherized furnaces and mobile home furnaces. Since then the EPA has since harmonized the Energy Star version 3.0 criteria for furnaces with the DOE regional standards map.

However, ACCA finds that the special Energy Star mark and map showing appear to conflict with the notice text directly above it: Federal Law allows this unit to be installed in all U.S. States and territories. If the labels are used to compare similar product types, a consumer in the North may misunderstand the inclusion of the Energy Star logo and map with qualifying text juxtaposed against the text saying this product is legal for installation in all states. Part of this problem is due to regional eligibility criteria for furnaces under Energy Star version 3.0 that apply only in the South when all other furnaces above 95% AFUE earn the Energy Star designation.

8. DOE Certification database

The proposed label for split-system central air conditioners (Sample 7A) instructs anyone wanting to verify that the efficiency rating of condenser/coil combination to go to DOE's database of certified equipment at regulations.doe.gov/certification. This link does not appear to be active but ACCA did find certification data at

<http://www.regulations.doe.gov/certification-data/Category.html> . This web based database is not user friendly, even for contractors who are well versed in the technical terms.

ACCA contractors are comfortable using the AHRI directory, whether to look up potential condenser coil combinations or to print certificates for tax credit or utility incentive verification. The AHRI directory would be more user friendly for consumers who may not be versed in HVAC technical terminology.

9. Spelling Out State Names on Lower Portion

In comments submitted to the ANOPR, ACCA recommended that state names be spelled out and not abbreviated using the United States Postal Service (USPS) standard abbreviations in the lower portion of the labels for products subject to regional standards. In footnote 35 to the NOPR, the FTC points out that “State postal abbreviations should not lead to significant confusion, particularly for installers who are likely to be familiar with the abbreviations of states in which they work.”

ACCA recognizes that the limited area available on the EnergyGuide labels may dictate using abbreviations. However, it should be noted that the ranking order of state names in an alphabetized list differ than an abbreviated list.

For example, states that begin with the letter “N” when alphabetized by full name are ranked Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, and North Dakota.

When alphabetized by USPS, the ranking becomes NC, ND, NE, NH, NJ, NM, NV, NY.

In this case, each state has changed position from the alphabetized order to the abbreviated order, with North Carolina and North Dakota leaping to the head of the list.

The purpose of the original comment was to present the notion that abbreviating the state names may lead to confusion, especially when the individual is looking for the state name not the abbreviation. An individual searching an abbreviated list will look for “New Mexico” and not NM. When they see NC as North Carolina, they may stop as they know North Carolina comes after New Mexico.

B. Label Location

ACCA supports the FTC proposal that manufactures place the EnergyGuide label on the product itself, on the product’s packaging, and on the manufacturer’s website. Requiring the label on the packaging will decrease the chances for improper installations. The requirement to place the information on the manufacturer’s website will make it easier for contractors to provide the consumer with the EnergyGuide label as proposed in the NOPR.

C. Oil Furnace Labels

FTC proposes to amend the oil furnace label to include the efficiency rating associated with different input rates. The proposed label would show the efficiency rates as manufactured and the rating as installed by the contractor.

ACCA has reviewed the proposed EnergyGuide label for Oil Furnaces that would depict multiple input rates and require the contractor to check the appropriate box indicating the installed AFUE rating. While ACCA supports the new label design, we again express a preference for the line graph similar to what was submitted by AHRI and also found on previous labels.

D. Effective Dates for Label Changes

ACCA supports the requirement in the proposed rule that manufacturers must begin using the new labels no later than May 1, 2013 for covered product with new efficiency standards that go into effect the same day. ACCA also supports the requirement for boilers, oil fired furnaces, and electric furnaces, which are not subject to new standards but must be carry the new labels no later than May 1, 2013.

E. Potential Waiver Allowance

The Department of *Energy's Energy Conservation Program: Enforcement of Regional Standards for Residential Furnaces and Central Air Conditioners and Heat Pumps* is closely tied to these proposed changes to this Appliance Rule NOPR.

As the FTC is aware, DOE requested comments on the potential for a waiver from the requirement to install condensing furnaces in the North region if the installation was not feasible or the costs were excessive.

The potential waiver was supported by a Joint Comment from the Furnace Waiver Design Group, an ad hoc coalition of organizations representing furnace installers, energy efficiency advocates, environmental advocates, consumer advocates, and natural gas utilities. ACCA supported the Furnace Waiver Design Group.

The DOE has yet to indicate whether it will create a waiver to provide relief from the requirement to install condensing furnaces in the North. But if the DOE does allow for waivers, it may be necessary for the EnergyGuide label to address this issue to avoid mistaken claims of an illegal installation.

ACCA recommends the following text to appear at Section 305.12 (f)(10)(i):

(i) A statement that reads:

Notice Federal law allows this unit to be installed only in: AL, AZ, AR, CA, DC, DE, FL, GA, HI, KY, LA, MD, MS, NC, NM, NV, OK, SC, TN, TX, VA, and U.S. territories.

Unless a legal waiver is granted by the Department of Energy, federal law prohibits installation of this unit in other states.

Once again, ACCA appreciates the opportunity to provide these comments. Hopefully the result will be revised EnergyGuide labels that effectively and clearly present information to consumers about the products they are purchasing. It is our hope that our recommendations will provide sufficient notification to distributors, contractors, and consumers about the application of regional standards to avoid illegal installations.