



January 8, 2016

Mr. Hampton Newsome, Attorney
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW.
Suite CC-5610 (Annex E)
Washington, DC 20580

Re: Energy Labeling Amendments (16 CFR part 305) (Project No. R611004)

This letter is providing A. O. Smith Corporation's (AOS) comments in response to the Federal Trade Commission (FTC) notice of proposed rulemaking (NOPR) regarding Energy Labeling appearing in the Federal Register on November 2, 2015.

AOS is the leading manufacturer of residential and commercial water heating equipment in the U.S.A, and has been making water heaters since 1939.

Our comments will include responses on the proposals for the Online Label Database and the Water Heater Labels. We appreciate the opportunity to provide these comments relating to the labeling of water heaters.

Online Label Database

FTC proposes requiring URL links to the EnergyGuide labels to be submitted to Department of Energy's CCMS database with ongoing routine reporting. AOS agrees with this proposal. However, AOS is also a participant in the industry-wide AHRI Directory program, which has the capability to create an EnergyGuide label as a pdf file upon request using the information in the Directory at the time of request for each model. Many consumers already use the AHRI Directory as a source of information for making purchasing decisions on covered products, and we believe that continuing to have the EnergyGuide label available on the Directory website is of value to those consumers. We are aware that AHRI will be submitting comments regarding concerns/logistics of using the AHRI Directory as a means of complying with this proposal, and encourage FTC to consider those comments in order to provide alternative methods of getting labels into the hands of consumers by the most convenient (for the consumer) means.

Water Heater Labels

AOS recommends that the proposed EnergyGuide labels be modified in response to the new DOE efficiency metric and accompanying test procedure for water heaters. Since DOE has published the amended test procedure for water heaters requiring an updated energy metric, it was evident that law and common sense mandated a change of water heater labels. AOS has

undertaken expense, effort and resources to comply with the many changes prompted by the new test procedure and metric. Early in 2015, AOS participated in an AHRI effort to align the various requirements imposed by concurrent changes to efficiency requirements, metrics, and test procedures. As a result, AHRI supplied a suggested label format to the FTC on April 3, 2015. We request that the FTC revisit the labels collectively recommended by manufacturers like AOS through AHRI. It is in our best interest to develop a label that is clear, concise, and informative to consumers. AHRI will be providing additional comments on our behalf regarding the proposed labels, and AOS endorses those comments.

First Hour Rating

FTC has proposed using the term “Hourly Hot Water Output” rather than First Hour Rating. AOS strongly disagrees with the introduction and use of this term on the proposed label. This term is undefined and misleading, as it incorrectly implies that a water heater’s hot water delivery capability is measured and performs at the indicated rate hour-to-hour. In fact, as is well-established by the test procedure, the water heater’s delivery is based on the first hour of a water heater’s operation. That measure of performance is not equivalent to the operation of the second hour or any subsequent hours of operation. The term ‘First Hour Rating’ has been commonly used historically and is referenced in building codes and sizing guides. The introduction of this new term is unnecessary and will create further consumer confusion.

The EnergyGuide label format previously suggested by AHRI includes the CFR definition of First Hour Rating for storage water heaters and Max GPM for instantaneous. Including these definitions will educate consumers on the existing terms that are consistent with the certified ratings, building codes, sizing guides, and historic usage.

In addition, requiring the language “Hourly Hot Water Output” on the label may conflict with the DOE regulatory requirement of not making representations about a product’s efficiency and operation that are inconsistent with the applicable test procedure: 42 U.S.C. § 6293(b).

Storage Vessel Capacity

The sample proposed label includes the term “tank size” on the top left corner. This term is not defined elsewhere and should not be used on the label. If this information needs to be displayed, it should match the language on the water heater’s rating plate required by the applicable nationally-recognized safety standard for residential gas storage water heaters, ANSI Z21.10.1-2014/CSA 4.1-2014, “*Gas water heaters, volume I, storage water heaters with input ratings of 75,000 Btu per hour or less.*” The term used in the safety standard is “Storage Vessel Capacity.” If FTC determines this information needs to be provided on the EnergyGuide label, the term and number displayed should match the water heater’s rating plate to ensure consistency between the labels on the water heater. Both the current label and the label suggested by AHRI do not include the storage vessel capacity.

Ranges of Comparability

FTC has proposed to first divide water heaters by storage vessel capacity, and then further by the usage bin. Dividing first by storage vessel capacity represents an unnecessary additional change that will confuse rather than assist consumers. It is only necessary to compare models within the same bin, and the addition of storage vessel capacity further complicates this comparison. It is essential to communicate that only models within the same bins should be

compared, volume alone is not a good sizing guide. First Hour Rating is driven by both volume and input. This message is clearly stated on the EnergyGuide labels suggested by AHRI.

The FTC has also proposed combining the existing categories for electric water heaters and heat pump water heaters. AOS generally supports this proposed change.

Therms per Year

The label suggested by AHRI on April 3, 2015 did not include the estimated annual energy use in therms. The AHRI Committee (on which we participated) developed the suggested label consciously decided not to include therms. It was determined that the therms per year is not something most consumers look for on the label find informative. Consumers are most interested in annual cost of operation. The annual energy cost and therms are based on the same scale. Annual therms used can easily be calculated from the annual energy cost and national average cost of natural gas, which are both provided. It was decided that the space on the label could be better used to further clarify the usage bins, as shown on the AHRI suggested label.

Implementation and Timing

FTC has asked if the new label should include information for consumers related to the transition between test procedures. We recommend that the label only needs to include the information necessary to clarify only that data provided on the label. The EnergyGuide label suggested by AHRI contains the correct information related to the test procedure transition by defining the bins, clearly stating water heaters should only be compared with other water heaters in the same bin, and showing all the bins on the First Hour Rating or Max GPM scale. A separate effort should be made, using other sources such as the FTC website, to educate consumer on the transition between test procedures. Otherwise, in a very few years when the transition to the new metric and test procedure becomes familiar to consumers, the label would contain unneeded and overly confusing information to consumers that no longer were familiar with the “old” metric.

If FTC or other interested parties feel that the AHRI suggested label requires further modifications, we recommend that FTC and AHRI work with interested parties to develop a label that is acceptable to all parties. For example, based on the sample proposed label included in the NOPR, it appears FTC would prefer to have the Estimated Yearly Energy Cost more prominent than the First Hour Rating.

Finally, the appropriate timing needs to be considered during the upcoming transition to the new test procedure by both DOE and FTC. A conversion factor final rule has not been issued by DOE, and therefore the UEF metrics are not yet being used to determine compliance with the minimum efficiency standards. FTC needs to use this information to develop the ranges of comparability for each fuel type and usage bin. The implementation of the UEF ratings and revised FTC EnergyGuide labels need to be coordinated in order to minimize further consumer confusion.

Grid-Enabled Residential Electric Water Heaters

This NOPR does not include the mention of the DOE newly established “Thermal Storage Grid-Enabled Residential Electric Water Heaters.” As currently defined, these water heaters will require an EnergyGuide label. There is already specific text related to the appropriate use of these water heaters that could be included on a proposed FTC EnergyGuide label, or as a

separate label. FTC should consider the potential need for these labels on subsequent information pertaining to this NOPR.

We will be happy to address any questions you may have about our comments, or provide any additional information that may be of use to you.

Again, thank you for the opportunity to provide these comments.

Regards,



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