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January 11, 2016

Mr. Hampton Newsome
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) -- Water Heater Labels

Dear Mr. Newsome,

Rheem Manufacturing Company ("Rheem") submits the following written comments in response to the Notice of proposed rulemaking ("NOPR") published by the Federal Trade Commission ("FTC") amending the Energy Labeling Rule as it relates to improving water heater labels. Rheem understands the need for amending the template for water heater EnergyGuide labels under the Energy Labeling Rule to better incorporate and reflect the changes to the consumer water heater test procedures rule recently promulgated in July 2014 by the U.S. Department of Energy ("DOE"). The comments below provide Rheem's position with respect to certain aspects of the proposed water heaters label and conclusions drawn in the NOPR as well as responses to the enumerated issues on which the FTC seeks comment.

Interests of Rheem Manufacturing Company

Rheem is a privately held company with headquarters in Atlanta, Georgia, and U.S. operations in Alabama, Arkansas, California, Indiana, North Carolina, Texas and Utah. In its 91st year of operation, the company is a global manufacturer of conventional and hybrid storage water heaters, tankless water heaters, solar water heating systems, pool and spa heaters, commercial boilers, residential hydronic and geothermal systems, residential and commercial heating, cooling, commercial refrigeration products, indoor air quality accessories, and replacement parts for all categories. The company's premium brands include Rheem, Raypak, Ruud and Richmond. Rheem products have been recognized with countless industry and consumer awards for reliability, innovative design and high quality.

Comments to Water Heater Label in NOPR

Rheem would first convey our agreement to revise the water heater EnergyGuide labels to more closely reflect and align with the new DOE test procedures for consumer water heaters. As such, Rheem supports the water heater EnergyGuide labels provided to the FTC by the Air-Conditioning, Heating, and Refrigeration Institute ("AHRI") on April 3, 2015. We believe those proposed labels more clearly provide to the consumer the necessary data to understand and

compare the energy usage and costs as well as the hot water delivery capabilities among different water heaters. Rheem also fully endorses the comments supplied by AHRI to the FTC related to this NOPR amending the Energy Labeling Rule.

With respect to the solicited comments from the FTC in the NOPR regarding the water heater EnergyGuide label, specifically (1) tank capacity information; and (2) first hour rating information consistent with the four new hot water usage categories set by the DOE, Rheem interprets the proposed storage water heater categories for energy cost information being primarily based on storage tank capacity as misguided. The predominant factor affecting the amount of hot water delivered from the storage water heater is not the tank capacity but the first hour rating. Storage tank capacity is mainly communicated to consumers for them to understand the general size of the water heater for replacement and installation purposes. The first hour rating provides a better understanding to consumers of how much hot water to expect the water heater to deliver. The energy costs ranges to be displayed in the proposed Figure 3 (Federal Register, Vol. 80, No. 211, Page 67361) for storage water heaters with the same fuel type and within similar first hour rating categories (i.e., very small, low, medium, or high) will be comparable regardless of storage tank capacity. Having the storage tank capacity categories integrated within the energy cost ranges is secondary to the energy cost impact from first hour rating categories. Therefore, the three proposed categories for each water heater fuel type should rather be four categories based on the first hour rating categories established by the DOE. To incorporate storage tank volume into the annual energy costs ranges is not reflective of the hot water usage determination as made by DOE test procedures. Therefore, fuel type input and first hour rating of the water heater should be the only factors used in assessing energy costs ranges. However, if the FTC is determined to integrate the storage tank volume into annual energy costs ranges, the four first hour rating categories should be the principal categories in the proposed Figure 3 and have the tank capacity designations (i.e., less than 40 gallons, 40 to 55 gallons, and over 55 gallons) as subset categories within each first hour rating category.

Additionally, the term "Tank Size" on the proposed water heater EnergyGuide label (Figure 5 in Federal Register, Vol. 80, No. 211, Page 67362) is not an industry term and should be changed to "Rated Storage Volume" or "Rated Storage Capacity" to better reflect the terms used by DOE and the water heater industry. The actual storage water heater tank size is comprised of dimensional measurements as well as tank volume, so a volume measurement in gallons should not be the only measurement describing "Tank Size."

The introduction of the term "hourly hot water output" on the proposed water heater EnergyGuide label and its meaning to be the same as "first hour rating" is ill-conceived and will add confusion to the water heater marketplace. "Hourly hot water output" is not a term used by the DOE or the industry, and it is a misleading term for its purpose of having the same meaning as "first hour rating." "First hour rating" is defined in 10 CFR 430, Subpart B, Appendix E as "an estimate of the maximum volume of 'hot' water that a storage-type water heater can supply within an hour that begins with the water heater fully heated (i.e., with all thermostats satisfied). It is a function of both the storage volume and the recovery rate." The main aspect to this

definition is having the hour begin with the water heater fully heated, which is not conveyed in the term "hourly hot water output." "Hourly hot water output" leads the reader to believe the water heater is capable of delivering the listed hot water volume in any hour of the water heater's operation cycle and not beginning with the water heater fully heated. Overall, the "hourly hot water output" term is distorted from the intended "first hour rating" meaning, inconsistent with the DOE test procedures, and cannot accurately assist consumers in making purchasing decisions -- which is contrary to the Energy Policy and Conservation Act (42 U.S.C § 6294(c)(5)) and DOE regulatory objectives.

We believe that "first hour rating" is not too technical of a term for the consumer to understand and the EnergyGuide label should only have that term stated on the label. However, should FTC not want to use "First Hour Rating" as a title for the segmented first hour rating category bar figure on the label, as indicated by the creation of the "Hourly Hot Water Output" term, Rheem encourages the FTC to use a title that is more closely related to terms mentioned in the DOE test procedures. Terms such as "usage category" or "hot water usage capability" could be potentially used. Rheem suggests adding to the label the regulatory "first hour rating" definition as included by AHRI in its proposed new EnergyGuide label for water heaters, which would aid the consumer in understanding the meaning of "first hour rating." Additionally, we support the use of the usage category/first hour rating table as seen in the EnergyGuide label proposed by AHRI. Having the usage category table allows the consumer to immediately see where a water heater's first hour rating belongs within the range of its applicable usage category (i.e., very small, low, medium, or high).

Additionally, the segmented horizontal bar figure on the proposed EnergyGuide label that darkens the first hour rating ("hourly hot water output") category in which the water heater belongs does not provide enough information to allow the consumer to know and compare the amount of hot water supplied by the water heater, and, as depicted, will incent the consumer to believe he/she is purchasing an inadequate water heater if the darkened category is not "high." To better understand this segmented bar figure, the consumer needs the actual first hour gallon number placed on that figure to fully understand how many gallons of hot water the water heater is capable of delivering and to feel more comfortable that the selected water heater meets his/her hot water demands regardless of its first hour rating category. Please see the proposed water heater EnergyGuide label supplied to FTC by AHRI to understand what we are proposing to add to the segmented first hour rating bar figure.

Rheem does support having the top "Estimated Yearly Energy Cost" range chart on the label be larger and more prominent than the first hour rating category segmented bar figure, as depicted in the proposed FTC EnergyGuide label. The estimated annual energy cost is likely to be the most useful information on the label for the consumer and needs to be prominently displayed.

We suggest removing the last line on the bulleted list at the bottom of the proposed water heater EnergyGuide label indicating the estimated yearly energy unit usage. The estimated amount of energy used by the water heater is not necessary and is non-valued information to the average consumer who does not regularly quantify energy unit consumption. The estimated

yearly energy unit consumption can also be easily derived from the estimated yearly energy cost and the estimated price per energy unit (kilowatt-hour our therm), which are both located on the EnergyGuide label. The label space occupied by the estimated yearly energy use can be better filled with more informative language as proposed for the first hour rating category bar figure above.

Other Considerations

Rheem notices the example water heater EnergyGuide label in Figure 5 depicts a natural gas fuel type storage water heater on the "Water Heater – Natural Gas" line near the top of the label. For an electric storage water heater, we find no guidance in the NOPR whether to list all electric water heaters as "Water Heater – Electricity" on the EnergyGuide label or to be more specific and state whether the electric type of water heater is heat pump technology or electric resistance technology only. Rheem supports both technologies being described on the EnergyGuide label as "Water Heater – Electricity", which allows the consumer to see the operating energy cost differences between the two technologies and weigh that factor against the initial purchase price of the water heater.

Furthermore, the FTC needs to consider how EnergyGuide labeling needs to be established for the grid enabled/demand response electric storage water heaters that are recognized and allowed for residential use. These grid enabled water heaters have rated storage volumes greater than 75 gallons, have unique aspects such as an activation lock and key and communications modules, legislatively required labeling, and are limited in their first hour rating for hot water delivery when not activated for use in an electricity demand response program. Due to these water heaters being used as a thermal storage battery for electric utility companies and not just as a means to supply residences with hot water, the EnergyGuide label including our suggested revisions will not adequately compare these grid enabled water heaters to other large electric storage water heaters. Therefore, grid enabled water heaters should be exempted from the EnergyGuide labeling requirement as their objective for use is different than all other residential water heaters.

Rheem would also appreciate strong consideration by the FTC to coordinate with the DOE to have the new water heater EnergyGuide label requirements implemented at the same time (or soon thereafter) as the implementation date of the new consumer water heater Uniform Energy Factor ("UEF") energy conservation metric that will replace the Energy Factor ("EF") for rating energy performance of the water heater. The UEF implementation date has yet to be determined and will be decided with the publication of the final UEF conversion factor rule by the DOE. From a transition standpoint and alignment with other regulatory changes affecting consumer water heaters, it would better serve water heater manufacturers, water heater distributors and retailers, and consumers to transition to the new energy performance ratings on water heater labels and marketing literature concurrently with the new FTC EnergyGuide labels.

We appreciate the opportunity to comment on the FTC NOPR amending the Energy Labeling Rule with respect to water heater labels reflecting the changes to the DOE test procedures. If you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,

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