



November 14, 2016

Hampton Newsome, Attorney  
Division of Enforcement, Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20580.  
Via Email: <https://ftcpublic.commentworks.com/ftc/plumbingnprm>

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

Dear Mr. Newsome,

What follows is the submission of the A. O. Smith Corporation on (“A. O. Smith” or “company”) in response to the Federal Trade Commission’s (“FTC”) Energy Labeling Amendments (16 CFR part 305) (Project No. R611004) published in the Federal Register on September 12, 2016 (81 Fed. Reg. 62681). As the FTC may know, A. O. Smith is the largest manufacturer and seller of residential and commercial water heating equipment in the United States with a history of manufacturing water heaters since 1939. As always, we appreciate the opportunity to participate in the rulemaking process.

### **Overview**

Along with other commenters and interested stakeholders, we urge the FTC to do its level best to adopt a final rule on Project No. R611004 (for electric instantaneous water heaters) that reflects the measured input of all interested stakeholders, but that accurately captures the real-world implications to the businesses of manufacturers that solely bear the financial responsibility in implementing any ensuing labelling rule on their products. While the industry was generally supportive of the FTC’s Energy Labeling Final Rule (“Energy Labeling Rule”) as published in the Federal Register on September 15, 2016 (81 Fed. Reg. 63634), it does contain shortcomings for manufacturers that were clearly communicated to the FTC in the notice of proposed rulemaking process (NOPR) that the FTC could have remedied, but failed to do so. Along these lines, we remain optimistic that the FTC will show a bit more deference to the concerns and recommendations of manufacturers in the current NOPR related to energy guide labeling for electric instantaneous water heaters.

### **Electric Instantaneous Water Heaters Energy Labeling**

As the FTC knows, electric instantaneous water heaters as a product class, have heretofore, not been covered under the scope of the Energy Labeling requirements. As such the company supports

the FTC's proposal to extend the Energy Labeling Rule to this class of products as it will assure a transparent level playing field upon which manufacturers will be able to communicate important information to consumers. Along those lines, and to make the energy label as meaningful for consumers as possible, while simultaneously addressing the concerns of manufacturers, the company would bring to the FTC's attention following two points:

- 1) Electric instantaneous water heaters have dimensions as small as 9" x 5" x 3" (L x W x H). When this is compared to the minimum trim size dimensions for water heater Energy Guide labels are 7.375" x 5.25" as prescribed in the Energy Label Rule (16 CFR Part 305), it is clear to the company that placing the label on the front of electric instantaneous water heaters unit will be extremely problematic; and
- 2) It is our experience that electric instantaneous water heaters are most commonly displayed in their packaging/box (i.e. they will not be displayed in a (retail) showroom manner as is the case with other consumer products such as refrigerators, televisions and storage tank water heaters), which restricts areas and opportunities to display consumer information on electric instantaneous water heaters

Consistent with these two points, the company recommends the following revisions to the proposed Energy Label rule for electric instantaneous water heaters:

- 1) Provide the option for manufacturers to place the Energy Guide information on product packaging (as is the case with some ceiling fans); and
- 2) Provide the option for manufacturers to place the Energy Guide information with other literature included with the product.

A.O. Smith appreciates the opportunity to provide these comments. If you have any questions regarding this submission, please do not hesitate to contact me.

Regards,

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