

Public Workshop: Energy Labeling

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice Announcing Public Workshop and Requesting Public Comment and Participation.

SUMMARY: The FTC is planning to host a public workshop to discuss current energy labeling requirements for consumer products. This workshop is part of a rulemaking that the Commission initiated on November 2, 2005 (70 FR 66307). The workshop is open to the public, and there is no fee for attendance. For admittance to the conference center, all attendees will be required to show a valid photo identification, such as a driver's license.

DATES: The workshop will be held on Wednesday, May 3, 2006 from 9:00 AM to 4:00 PM at the Federal Trade Commission's Satellite Building Conference Center located at 601 New Jersey Avenue, N.W., Washington, D.C. Requests to participate as a panelist must be received by April 21, 2006. Any written comments related to the workshop must be received on or before May 17, 2006, two weeks after the conference takes place.

REGISTRATION INFORMATION: The public workshop will be conducted in a roundtable format. A court reporter will be present to record the proceedings so that a transcription can be made for the public record. The FTC will accept pre-registration for this workshop. Pre-registration is not necessary to attend, but is encouraged so that we may better plan this event.

To pre-register, please e-mail your name and affiliation to labelingworkshop@ftc.gov. When you pre-register, we will collect your name, affiliation, and your email address. This information will be used to estimate how many people will attend and better understand the likely audience for the

workshop. We may use your email address to contact you with information about the workshop. Under the Freedom of Information Act (FOIA) or other laws, we may be required to disclose the information you provide to outside organizations. For additional information, including routine uses permitted by the Privacy Act, see the Commission's Privacy Policy at www.ftc.gov/ftc/privacy.htm. The FTC Act and other laws the Commission administers permit the collection of this contact information to consider and use for the above purposes.

REQUESTS TO PARTICIPATE AS A PANELIST: This workshop will be conducted in a roundtable format with participation by panelists selected by the FTC staff. Other attendees will also have an opportunity to comment and ask questions. Requests to participate as a panelist must be received by April 21, 2006. Persons will be notified on or before April 26, 2006 if they have been selected.

Requests to participate as a panelist should be submitted electronically as part of the participants' pre-registration by email to labelingworkshop@ftc.gov or, if mailed, should be submitted in the manner detailed in the "ADDRESSES" section of this Notice, and should be captioned "Energy Labeling Workshop – Request to Participate, Project No. P064201." Parties are asked to include in their requests a brief statement setting forth their expertise in or knowledge of the issues on which the workshop will focus as well as their contact information, including a telephone number, facsimile number, and email address (if available), to enable the FTC to notify them if they are selected. For requests filed in paper form, an original and two copies of each document should be submitted. The staff will select panelists for the workshop using the following criteria: 1) the party has expertise in or knowledge of the issues that are the focus of the workshop, 2) the party's participation would promote a balance of interests being

represented at the workshop, and 3) the party has been designated by one or more interested parties (who timely file requests to participate) as a party who shares interests with the designator(s).

WRITTEN AND ELECTRONIC COMMENTS: The submission of comments is not required for participation in the workshop. If a person wishes to submit written or electronic comments about the topics to be discussed at the workshop, such comments must be received on or before May 17, 2006. For further instructions on submitting comments, please see the “ADDRESSES” section below. To read our policy on how we handle the information you submit, please visit www.ftc.gov/ftc/privacy.htm.

ADDRESSES: Comments and requests to participate as a panelist should respectively refer to “Energy Labeling Workshop -- Comment, Project No. P064201” or “Energy Labeling Workshop -- Request to Participate, Project No. P064201”, to facilitate the organization of comments and requests to participate. A comment or request to participate as a panelist filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex O), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Because U.S. mail in the Washington area and at the Agency is subject to delay, please consider submitting your comments in electronic form, as prescribed below. Comments and requests to participate as a panelist containing confidential material, however, must be filed in paper form, must be clearly labeled “Confidential,” and must comply

with Commission Rule 4.9(c).¹

Comments filed in electronic form should be submitted by clicking on:

<https://secure.commentworks.com/ftc-energylabelingworkshop> and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at <https://secure.commentworks.com/ftc-energylabelingworkshop>.

Requests to participate filed in electronic form should be submitted by email to labelingworkshop@ftc.gov.

The FTC Act and other laws the Commission administers permit the collection of public comments to use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, 202-326-2889, Division of Enforcement, Federal Trade Commission.

¹ The comment or request to participate as a panelist must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment or request to participate as a panelist to be withheld from the public record. The request for confidential treatment will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

SUPPLEMENTARY INFORMATION:

I. Background

Section 137 of the Energy Policy Act of 2005 (Pub. L. No. 109-58) amends the Energy Policy and Conservation Act of 1975 (EPCA) (42 U.S.C. 6291 *et seq.*) to require that the Commission initiate a rulemaking considering “the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency.” As part of this effort, the Act directs the Commission to consider “changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.” The Act gives the FTC two years to complete the rulemaking. To initiate this effort, the Commission published an Advance Notice of Proposed Rulemaking (ANPR) on November 2, 2005 (70 FR 66307). That Notice sought comments on a series of questions about the effectiveness of the current label, possible alternatives, and other potential changes to the FTC’s Appliance Labeling Rule (16 CFR Part 305). The Commission received 27 comments in response to the ANPR. The comments can be viewed on the FTC website at <http://www.ftc.gov/os/comments/energylabeling/index.htm>.

The Commission has scheduled a public workshop to allow interested parties to discuss the comments and to provide information on additional questions generated by the comments.

II. Issues for Discussion at the Workshop

The workshop will address issues related to the Commission’s November 2005 ANPR on the effectiveness of the current energy labeling program. The Commission has identified four specific issues for discussion at the workshop. We request that participants review these issues so that they can provide their views during the workshop or in submitted comments. After

completion of the discussion of the specific issues described in this Notice, there will be time available to discuss any other issues raised in the ANPR. The four specific issues involve label design, refrigerator categories, heating and cooling equipment labels, and television labels.

A. Label Design

The ANPR sought comments on whether the Commission should change the current design and format of the EnergyGuide label, which is required on most major household appliances. Many of the comments addressed this issue, focusing on whether label information should be presented in the form of a “continuous” bar graph similar to the current label (see Figure 1)² or in the form of discrete categories such as stars (*i.e.*, a “categorical” label) (see Figure 2). Some commenters favored the current continuous-style label while others urged the FTC to adopt a categorical label. The workshop will allow participants to discuss issues related to these two designs as well as a third possible approach discussed below.

1. Continuous Label

The bar graph on the current continuous label depicts the energy use (or efficiency) of the product as it relates to other products on the market and provides a range of energy use or efficiency ratings based on market data. One end of the scale depicts the energy use of the most efficient model on the market while the other end identifies the least efficient model. For example, the bar graph on a label for a typical refrigerator category may have 539 kWh/yr (kilowatt-hours per year) on one end and 698 kWh/yr on the other end. A key feature of the current label is that this range or scale is based on data for models available on the market.

² Figure 1 is a modified version of the current EnergyGuide label.

2. Categorical Label

The ratings on a categorical label (*e.g.*, stars or letters) generally depict the model's energy efficiency rating as compared to the minimum government efficiency standards (*i.e.*, the lowest allowable efficiency levels) set by the Department of Energy (DOE). For example, a five-star dishwasher would have an efficiency rating that exceeded the minimum government standard by a certain percentage (*e.g.*, 20%). This approach is fundamentally different from that used for the continuous label designs based on market data because the range does not depict directly the energy use or efficiency of other products on the market. Instead, the categories (*e.g.*, stars) correspond to thresholds defined by the agency administering the labeling program.

3. Third Label Approach

A third approach to the EnergyGuide label would combine the graphical design of a continuous label with the energy efficiency comparison underlying the categorical label. Such a label would include a continuous style bar graph that depicts the energy use or efficiency of a product in comparison to the DOE minimum efficiency (or conservation) standards (see Figure 3). The label would identify the percentage by which a model exceeds DOE's minimum efficiency standard. The range used on such a label would be roughly proportional to the efficiency of models on the market. For example, if the most efficient refrigerator exceeds the DOE standards by 35%, then the scale for those products would range from 0% to approximately 40%. This label design would provide a uniform system of conveying energy information in a continuous-style label format. As part of the overall label design discussion, the FTC will be seeking comment at the public workshop on whether it should consider such a label in addition to the other label design approaches discussed in the ANPR and submitted comments.

B. Refrigerator Categories

The current labeling requirements designate separate comparability ranges for various refrigerator sub-categories (or styles) such as side-by-side door configurations or models with top-mounted freezers. The current range information on the label allows consumers to compare the energy use of similarly configured refrigerators but not the energy use of models across sub-categories (*e.g.*, a side-by-side model to a top-mounted freezer model). This framework is consistent with the style categories used by the DOE efficiency standards program and Energy Star.

Nevertheless, some refrigerator configurations are generally less efficient than others. For example, top-mounted freezer models generally use less electricity than comparably sized side-by-side models. As a result, the range information on a particular side-by-side refrigerator label may compare favorably to other side-by-sides but fail to show that the model uses significantly more energy than an average refrigerator with a top-mounted freezer.³ Given this concern, Consumers Union recommended that refrigerator labels compare the energy used by the appliance to the maximum energy consumption allowed by law for any refrigerator of comparable internal volumes -- independent of style.⁴

Consumers Union suggested that the Commission change its requirements to allow consumers to use range information to compare all styles of refrigerator-freezers. To accomplish this, the FTC could amend the rule so that labels for all refrigerator-freezers feature the same

³ The energy use and operating costs required on the label would allow such cross-category comparisons, but the range itself does not.

⁴ Consumers Union Comments in FTC Matter No. R511994 (Jan. 13, 2006).

range of comparability, regardless of style. Alternatively, if the labels were reconfigured to convey efficiency comparisons to the DOE efficiency standards (such as in Figures 2 and 3), the range could depict the model's energy use as compared to the maximum energy use allowed for any refrigerator, regardless of style.⁵ The FTC will be seeking comment at the public workshop on whether the FTC should make Rule changes to address these concerns, and, if so, what changes would be appropriate.

C. Labels for Heating and Cooling Equipment

The Appliance Labeling Rule requires EnergyGuide labels on central air conditioners, heat pumps, furnaces, boilers, and water heaters (16 CFR § 305.11).⁶ Both the Gas Appliance Manufacturers Association (GAMA) and the Air Conditioning and Refrigeration Institute (ARI), trade associations representing heating and cooling equipment manufacturers, suggested that labels for heating and cooling equipment do not aid consumers because these products are not sold through showrooms or by other means that allow consumers to examine the label before purchase.⁷ GAMA urged that the FTC eliminate the labeling requirement for furnaces, boilers, and water heaters,⁸ and ARI made the same suggestion for central air conditioners and heat

⁵ DOE allows a higher energy use for side-by-side/ice service models than it does for other full-size refrigerators. Thus, the Rule could set the energy use allowed for such models as the benchmark on ranges for all full-size refrigerators.

⁶ In 1979, the Commission required labeling for furnaces and water heaters. 44 FR 66466, 66470 (Nov. 19, 1979). The Commission required labels for central air conditioners and heat pumps in 1987 (52 FR 46888 (Dec. 10, 1987)).

⁷ GAMA Comments in FTC Matter No. R511994 (Jan. 13, 2006); and ARI Comments in FTC Matter No. R511994 (Jan. 13, 2006).

⁸ GAMA explained that consumers sometimes purchase replacement residential water heaters from retail outlets, but, as often as not, they obtain them through contractors.

pumps. Both organizations urged reliance on existing online databases (such as those available on the GAMA and ARI websites) to provide consumers with energy information about their products in lieu of labeling. In addition to GAMA and ARI comments, Natural Resources Canada described its voluntary program for heating and cooling products, which does not use labeling but instead urges manufacturers to print efficiency ratings for their products on brochures.⁹

In contrast, the American Council for an Energy-Efficient Economy (ACEEE) raised some concerns about eliminating the EnergyGuide label from heating and cooling equipment.¹⁰ It suggested that the labels provide useful information on installed equipment even though most consumers do not see the EnergyGuide at the time of purchase for these products. According to ACEEE, research indicates that the label provides useful verification of the product's efficiency upon installation. ACEEE also suggested that the label is also used by energy auditors and by consumers purchasing an existing home to determine the energy efficiency of equipment installed by previous owners. ACEEE suggested that the FTC investigate additional means for providing label information to consumers so it can better impact their purchase decisions.

Under EPCA, the Commission may exclude central air conditioners, heat pumps, and furnaces from the labeling requirements if it determines that labeling is not technically or economically feasible or, alternatively, that labels are not likely to assist consumers in making

GAMA also argued the recent DOE standards have significantly reduced the differences in energy use or efficiency of storage water heaters on the market.

⁹ Natural Resources Canada Comments in FTC Matter No. R511994 (Jan. 13, 2006).

¹⁰ ACEEE Comments in FTC Matter No. R511994 (Jan. 13, 2006).

purchasing decisions. (42 U.S.C. 6294(a)(2)). For water heaters, the statute directs the FTC to require labels unless the Commission determines that labeling is not technologically or economically feasible. (42 U.S.C. 6294(a)(1)). Section 6294(c) gives the Commission authority to require disclosures, in printed material displayed or distributed at the point of sale, of energy information that may be required on a label. In addition, the Commission may direct manufacturers to provide additional energy-related disclosures in information shipped with the product including instructions for the maintenance, use, or repair of the covered product. At the public workshop, the Commission seeks further comment on whether the Commission should retain labeling requirements for heating and cooling equipment and whether the Commission should require an alternative means of disclosure, consistent with its authority under the statute.

D. Television Labeling

Section 324(a) of EPCA requires labels for these products unless the Commission determines that labeling is not technologically or economically feasible. (42 U.S.C. 6294(a)). The test procedures used for labeling televisions must be those prescribed by DOE pursuant to section 323 of EPCA. (See 42 U.S.C. 6294(c)). In 1979, the Commission determined that labeling for televisions was not economically feasible. The FTC found that there was little variation in the annual energy costs of competing television models and that this cost was a small fraction of the purchase price. The Commission believed it was unlikely that labels for televisions would promote industry efforts to increase energy efficiency, or provide benefits to consumers. (44 FR 66466, 66468 (Nov. 19, 1979)).

According to comments filed by the Natural Resources Defense Council (NRDC),¹¹ there are now many big screen digital televisions on the market that use 500 or more kilowatt-hours per year, which is as much energy as many new refrigerators. NRDC estimates that, in some cases, consumers will pay several hundred dollars in electricity costs for their televisions over the lifetime of the product. NRDC is concerned that reliable, model-specific, energy use information is virtually non-existent for new televisions. The Consortium for Energy Efficiency also urged the Commission to consider labeling for televisions stating that “new technologies and larger sizes of televisions that are currently offered on the market argue for their inclusion within the scope of the Appliance Labeling Rule.”¹²

The FTC is seeking additional information about this issue at the public workshop. In particular, we request that participants address whether the Commission should revisit its decision to exclude televisions from the labeling requirements and whether the existing DOE test procedures are an appropriate basis for labeling.

[INSERT FIGURES 1, 2, and 3 HERE]

By direction of the Commission.

Donald S. Clark
Secretary

¹¹ Natural Resources Defense Council Comments in FTC Matter No. R511994 (Jan. 13, 2006).

¹² Consortium for Energy Efficiency Comments in FTC Matter No. R511994 (Jan. 13, 2006).

U.S. Government

ENERGYGUIDE

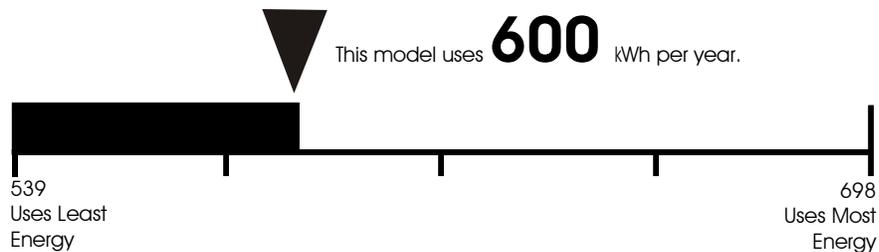
Refrigerator-Freezer

- Automatic Defrost
- Side-Mounted Freezer
- Through-the-Door Ice

XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet



Energy Use (kWh/year) Range of All Similar Models



Estimated Yearly
Energy Use

600 kWh

Estimated Yearly
Operating Cost

\$ 54

kWh (kilowatt-hours): a measure of electricity use.

The estimated **operating cost** is based on a 2005 U.S. Government national average cost of 9.06 cents per kWh for electricity. Your actual operating costs will vary depending on your local utility rates and your use of the product.

For more information, visit www.ftc.gov/appliances.

Federal law prohibits removal of this label before consumer purchase.

Figure 1

U.S. Government

ENERGYGUIDE

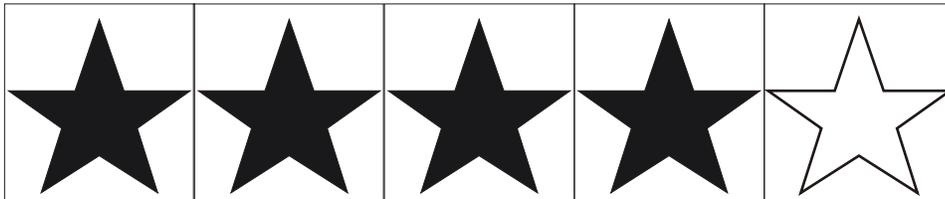
Refrigerator-Freezer

- Automatic Defrost
- Side-Mounted Freezer
- Through-the-Door Ice

XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet



The More Stars the More Energy Efficient



Based on a comparison of similar models.

Estimated Yearly
Energy Use

600 kWh

Estimated Yearly
Operating Cost

\$ 54

kWh (kilowatt-hours): a measure of electricity use.

The estimated **operating cost** is based on a 2005 U.S. Government national average cost of 9.06 cents per kWh for electricity. Your actual operating costs will vary depending on your local utility rates and your use of the product.

For more information, visit www.ftc.gov/appliances.

Federal law prohibits removal of this label before consumer purchase.

Figure 2

U.S. Government

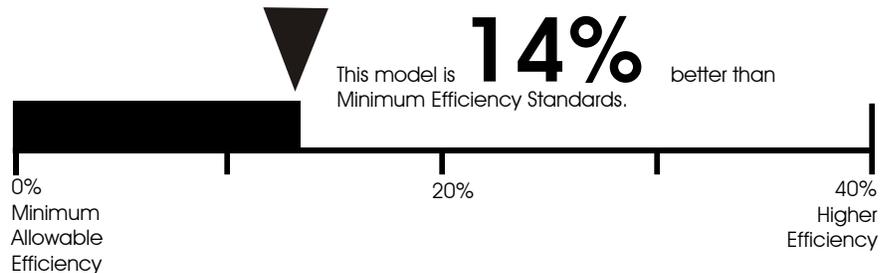
ENERGYGUIDE

Refrigerator-Freezer

- Automatic Defrost
- Side-Mounted Freezer
- Through-the-Door Ice

XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet

Energy Efficiency Compared to Minimum U.S. Standards



Estimated Yearly
Energy Use

600 kWh

Estimated Yearly
Operating Cost

\$ 54

kWh (kilowatt-hours): a measure of electricity use.

The estimated **operating cost** is based on a 2005 U.S. Government national average cost of 9.06 cents per kWh for electricity. Your actual operating costs will vary depending on your local utility rates and your use of the product.

For more information, visit www.ftc.gov/appliances.

Federal law prohibits removal of this label before consumer purchase.

Figure 3