



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Office of the Director

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Ms. Anne Wilkins, Coordinator
EnerGuide Labeling and Rating Program
Appliances and HVAC
Office of Energy Efficiency
Natural Resources Canada
580 Booth Street
Ottawa, Ontario
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Dear Ms. Wilkins:

The Bureau of Consumer Protection of the Federal Trade Commission (FTC) is pleased to respond to your request for comment on proposals from the EnerGuide Program of Natural Resources Canada (NRCAN) to amend the EnerGuide labeling scales for refrigerators, refrigerator-freezers, and freezers and to modify the EnerGuide label for major household appliances by adding estimated operating cost.⁽¹⁾ We appreciate your interest in our input and in the harmonization of the rules governing appliance labeling in our two countries. Our review indicates that the proposed revisions would significantly increase the minimal differences that currently exist between the United States and Canadian appliance energy labels. Although such differences are not in themselves necessarily problematic, the proposed changes could lead to consumer confusion and higher manufacturer compliance costs.

Labeling Scales for Refrigerators, Refrigerator-Freezers, and Freezers

Our understanding is that, under the current Canadian *Energy Efficiency Regulations*, labeling scales for refrigeration products are based on the product type descriptions that are prescribed in CAN/CSA C300-M91, which establishes seven types of refrigerators/refrigerator-freezers and three types of freezers. The types are further subdivided into increments of two cubic feet. These product types (and cubic foot increments) are virtually the same as the subcategories established in Appendices A1 through A8 and B1 through B3 of the FTC's Appliance Labeling Rule (the Rule), which form the basis for the labeling scales (or "ranges of comparability") established by the Rule for refrigeration products sold in the U.S. 16 C.F.R. Part 305.

NRCAN proposes to alter this current structure for the labeling scales in one of two ways to simplify consumer comparison of the energy performance of different types of refrigerators. The first alternative would result in one category that would encompass all refrigerators and refrigerator-freezers, including all defrost types and all configurations and services. This category would further be broken down into increments of two cubic feet. Freezers would be grouped in two categories -- upright or chest -- also divided into increments of two cubic feet.

The second alternative would group refrigerators and refrigerator-freezers into three subcategories -- manual defrost, partial automatic defrost and automatic defrost -- each encompassing all models with that type of defrost function,

regardless of door configuration and services. Each subcategory would then be broken down according to size in increments of two cubic feet.

The FTC's Rule originally established only three categories for purposes of the ranges of comparability of refrigeration products -- refrigerators, refrigerator-freezers, and freezers -- each further subdivided into two-cubic-foot increments. The FTC's rationale was that consumers would see that the more efficient products (costing less to run) were simpler, and that there was an increased operating cost over time for products with certain features and configurations.

After the Rule had been in place for a number of years, representatives of an amalgam of different public interests - appliance manufacturers, consumer groups, utilities, *etc.* - asked the FTC to amend the Rule to have *more* feature-specific subcategories for refrigerators, refrigerator-freezers, and freezers. The representatives contended that consumers knew what features they wanted in a refrigeration product, and that consumers were not interested in knowing the energy use of models with features other than what they were seeking. The group recommended that the Rule be changed to include the subcategories in the U.S. Department of Energy's (DOE) energy conservation standard rule. In 1994, in connection with a comprehensive review of the Rule, the FTC established the current categories, which are based on the DOE rule.⁽²⁾

Our experience is that manufacturers produce a large number of different products within the categories currently used in the U.S. This suggests that manufacturers are responding to consumer interest in and demand for products with certain features. For example, in 1998, manufacturers submitted energy use data to the FTC for more than 3,600 models of refrigerators, refrigerator-freezers, and freezers, broken down as summarized below:

- Refrigerators with automatic defrost 36 models
- Refrigerators and refrigerator-freezers with manual defrost 343 models
- Refrigerator freezers with partial automatic defrost 45 models
- Refrigerator freezers with automatic defrost with top-mounted freezer without through-the-door ice service 1,680 models
- Refrigerator freezers with automatic defrost with side-mounted freezer without through-the-door ice service 261 models
- Refrigerator freezers with automatic defrost with bottom-mounted freezer without through-the-door ice service 36 models
- Refrigerator freezers with automatic defrost with top-mounted freezer with through-the-door ice service 4 models
- Refrigerator freezers with automatic defrost with side-mounted freezer with through-the-door ice service 506 models
- Upright freezers with manual defrost 232 models
- Upright freezers with automatic defrost 163 models
- Chest freezers and all other freezers 340 models

Each category is further divided into two-cubic-foot increments. Our figures show that within a particular category and size ranking there is often a significant range of energy use. For example, in the category for refrigerator/freezers with automatic defrost, top-mounted freezer, and no through-the-door ice service, there are 564 different models in the 16.5 to 18.4 cubic-foot range, with the low end of energy consumption at 518 kWh/yr. and the high end at 697 kWh/yr. This represents a spread of 35%. In the 22.5 to 24.4 cu. ft. range in this category, with a population of 59 models, the low end is 598 kWh/yr. and the high is 800 kWh/yr., which represents a spread of 34%. In the category of

refrigerator-freezers with automatic defrost, side-mounted freezer, and through-the-door ice service, the 22.5 to 24.4 cu. ft. range, in which there are 111 models, shows a low end 685 of kWh/yr. and a high of 1000 kWh/yr., which represents a spread of 46%, and the 26.5 to 28.4 cu. ft. range with a population of 50 models, shows a low end of 735 kWh/yr. and a high of 1080 kWh/yr., representing a range of 47%.

We recognize that the number and type of products available in Canada may not be the same as in the U.S. These U.S. data, however, show that, within specific categories, the energy use of the products usually ranges widely. Consumers limiting their choices to models within one of these categories can, therefore, choose products based on energy usage in a meaningful fashion. The data you receive from manufacturers about models sold in Canada may reveal a similar pattern.

In any event, if NRCan decides to reduce the number of refrigeration product categories as outlined in its two alternatives, consumers on different sides of the Canadian/U.S. border will be presented with labeling scales for these products that are based on significantly different bases of information. These difference may confuse consumers in those instances where manufacturers find it most efficient to place both Canadian and U.S. labels on their products. Moreover, manufacturers marketing refrigeration products in both of our countries will have to develop information for scales on their labels that are significantly different for each country. This could impede our mutual goal of harmonizing our regulatory schemes to reduce burdens on manufacturers while providing consumers with meaningful information on which to make their purchasing decisions.⁽³⁾

The Addition of Estimated Operating Cost to the EnerGuide

NRCan also is proposing to amend the *Energy Efficiency Regulations* to change the EnerGuide for major household appliances to include an annual operating cost in conjunction with the annual energy consumption rating in kWh/year. The proposal included a sample EnerGuide containing the proposed additional operating cost information. We support NRCan's proposal in this regard; and we provide two specific comments to aid in the implementation of the proposal.

The FTC's Rule requires that EnergyGuides show both annual energy consumption (for the labeled model and as a range of energy consumption for all comparable models) and annual operating cost (for the labeled model only). The primary disclosure is in terms of energy consumption, as are the ranges of comparability relating to the labeled product. Estimated annual operating cost is a secondary disclosure, and appears at the bottom of the label together with the national average cost for the fuel type (electricity, natural gas, etc.) that runs the appliance. The FTC found, in connection with the 1994 comprehensive amendments to the Rule mentioned above, that both of these disclosures, with energy consumption as the primary and operating cost as the secondary disclosure, would assist consumers in making purchasing decisions.⁽⁴⁾

First, in granting the FTC the authority to promulgate the Appliance Labeling Rule, the U.S. Congress directed that DOE establish the national average costs for fuel types each year, and that the operating cost information on EnergyGuides be based on these average costs. In addition, the FTC is required to reevaluate the ranges of comparability annually and to publish new ranges when they have changed significantly. When new ranges of comparability are published, manufacturers are required to produce new labels, which can often be costly. Manufacturers are not required, however, to change labels when only the national average fuel costs change. Because of these two requirements, there has occasionally been confusion among appliance manufacturers as to which average cost from which year to use to calculate operating cost on new labels. If NRCan would not change, on an annual basis, the national average cost it publishes for use in determining annual operating cost (absent some extreme degree of change in the price of the relevant fuel in Canada), this would avoid the type of confusion that sometimes occurs in the U.S.

Second, because annual operating cost on the U.S. EnergyGuide is a disclosure that is secondary to annual energy consumption, on which the ranges of comparability are based, it appears below the annual energy consumption and ranges on the label, rather than above it. While we recognize that determining the relative positioning of these two

disclosures is difficult, and that there are merits to both approaches, we point out that adoption of the proposed location of the operating cost above the energy consumption and scales will result in further differences between our two labels.

We hope this comment is helpful. Please do not hesitate to telephone James Mills of the staff of the Division of Enforcement (at 202-326-3035) if you have any questions about this comment.

Sincerely,
Joan Z. Bernstein
Director

1. These comments represent the views of the staff of the Federal Trade Commission and are not necessarily those of the Commission or of any individual Commissioner.
2. See the discussion of the history of this proposal and the comments addressing it in 59 Fed. Reg. 34014 at 34018-19 (July 1, 1994).
3. We also wanted to inform you that the FTC staff currently is considering whether to recommend that the FTC initiate a rulemaking proceeding to modify the categories in the Rule for refrigeration products to conform to changes in DOE's energy conservation standards rule. As you know, DOE announced changes to its categories for refrigeration products in the U.S. *Federal Register* dated April 28, 1997, to become effective on July 1, 2001. The changes will result in eight additional categories to include compact refrigerators, refrigerator-freezers, and freezers.
4. See the discussion in 59 Fed. Reg. 34014 at 34019-23 (July 1, 1994).