

December 4, 2017  
Federal Trade Commission

**Re: Energy Labeling [FTC-2017-0088]**

In the scheduled update of the Energy Labeling Rule, these comments urge the commission to consider more robust methods of calculating the national average energy cost, as well as update the labeling format and included devices. These adjustments to the rule will be more aligned with the 1975 Energy Policy and Conservation Act's mission of providing accurate information and consumer protection. The original 1979 rule describes that the "rule is intended to insure that consumers will have information necessary to compare the energy costs" ([44 FR 44644](#)). Overall, the energy labeling program is a great success in this mission, allowing customers to make informed decisions. The Federal Trade Commission's should want to protect consumer's ability to buy the most efficient and cost effective appliance.

The proposed rule will update energy labels to include the most recent national averages for cost from the Department of Energy appliance testing and national rates for various energy sources. In addition to these regularly scheduled updates, this proposed rule adds a compliance date for requiring labels on room air conditioner packages. Though regularly scheduled updates to the cost of energy are important, the commission can do a more comprehensive update which will benefit consumers and align with the FTC's mission. To that end, the FTC should include the following three updates in the proposed rulemaking, FTC-2017-0088.

**1) Change average comparability ranges to be state by state.**

The Energy Labeling Rule in 1979, pursuant to the 1975 Energy Policy and Conservation Act requires regular updates of the cost of energy used to provide the "average comparability ranges" for various appliances. This cost of energy is determined on a national basis, as opposed to state-by-state. During this cycle of energy cost updates, the Federal Trade Commission (FTC) should update the "average comparability ranges" to be based on state-by-state cost of energy. The Energy Labeling Rule does not prohibit such actions, and states that the main purpose of this rule is to give customers accurate information with which to make decisions.

These national average costs of energy impact the yellow "Energy Guide" labels that are required to be on many types of appliances sold in the United States. The current rule, with an average national price, only allows comparative pricing, where the customer can see how much better a device is compared to others in the store, not in absolute savings. Cost of electricity specifically differs widely between states. Residential electricity costs vary from 9.87 cents a kilowatt hour in Louisiana to 29.03 cents a kilowatt hour in

Hawaii<sup>1</sup>. For a refrigerator using 657 kWh (an average based on [Department of Energy's estimate tool](#)), the same refrigerator costs \$65.70 a year in Louisiana, \$190.53 in Hawaii, and \$124.83 in New York. Take these costs over the lifetime of the appliance and these are significant financial decisions. Behavioral studies showing state specific Energy Guide labels demonstrate that consumers make different choices at different costs of energy<sup>2</sup>, so consumers deserve this additional information.

In addition to giving consumers more choice, having a state by state energy cost can encourage manufacturers to see a market for more efficient machines, thus encouraging efficiency innovation. For example, a city with a high cost of energy may be more likely to purchase highly efficient appliance with this new labeling, even if there is an increase in purchase price.

Because the state-by-state cost of energy is a publicly available figure, implementation and determination of a state by state figure is not unreasonable. The FTC currently creates templates for the Energy Guide labels; manufacturers could choose different states from a drop down menu of labels. This burden could be handled by retailers, who would have a better sense of where each appliance is headed.

Finally, If state by state labels are infeasible, a 'QR Code' could be added to the energy label. A consumer can use their smartphone to scan the label which takes them to an FTC website. After entering their zip code, the consumer then has up-to-date and specific data to make decisions. The purpose of this rule as stated by congress in the Energy Policy and Conservation Act is to both inform consumers and "encourage innovative national energy conservation measures". As our technology changes, the FTC must update its program to continue to provide this cost and energy savings information in innovative ways.

## **2) Ensure labels are easy to understand.**

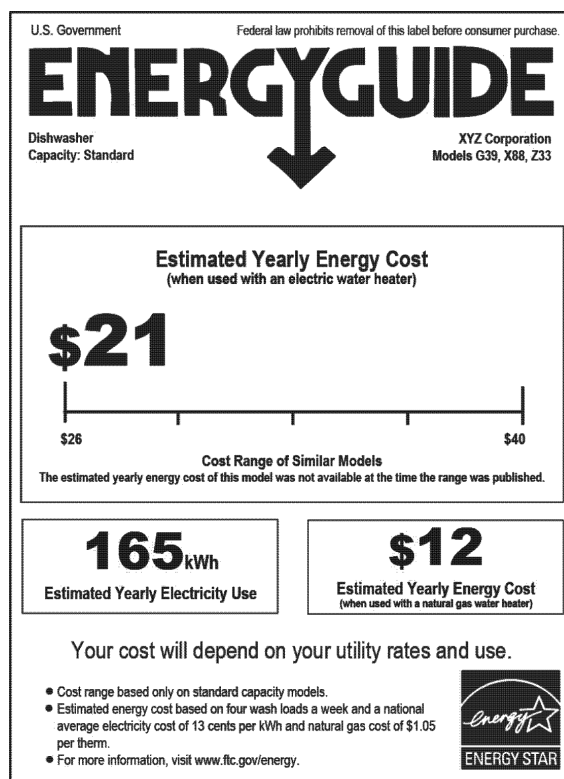
The current energy label is difficult to understand. Part of the problem stems from the issues discussed in the first point, where energy costs vary and thus the consumer does not know how much savings they will accrue. In the example in Figure 1, there are some figures that may be difficult for the consumer to understand. First, the yearly energy cost of the dishwasher described is lower than the lowest range of similar models. The range of similar models should always represent the true low and high costs, not just a few chosen models, so that this information is easily absorbed by the consumer. Currently, the ranges provided by the Department Energy from only similar models as opposed to

---

<sup>1</sup> [https://www.eia.gov/electricity/monthly/epm\\_table\\_grapher.php?t=epmt\\_5\\_6\\_a](https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a)

<sup>2</sup> Davis, L. W., & Metcalf, G. E. (2016). Does better information lead to better choices? Evidence from energy-efficiency labels. *Journal of the Association of Environmental and Resource Economists*, 3(3), 589-625.

all models on the market, as shown in Figure 1, can serve to only further confuse the consumer when the model falls outside the ‘Cost Range of Similar Models’.



Sample Label 3

**Figure 1. Sample Label 3 from Appendix L of the current rule, set to be updated in this update cycle.**

Two studies, one in Wisconsin<sup>3</sup> and one nationally<sup>4</sup>, showed a very low level of comprehension about what the Energy Guide label contains, though most respondents knew of the program. Another problem was respondents believing that having the sticker indicated an energy efficient model.<sup>5</sup> Another study comparing various altered labels showed that “the presence of information on the operating cost relative to a range of comparable models and the yellow EnergyGuide image did not have a consistently significant effect on choice”, while the actual operating cost, Energy Star qualification,

<sup>3</sup> Opinion Dynamics Corp., 2000. Appliance sales tracking: 1999 residential survey. Report 195–1. Energy Center of Wisconsin, Madison, WI.

<sup>4</sup> Egan, C., Payne, C., Thorne, J., 2000. Consumer Interview Analysis For The ACEEE Appliance Labeling Project. American Council for an Energy-Efficient Economy, Washington, DC.

<sup>5</sup> Banerjee, A., & Solomon, B. D. (2003). Eco-labeling for energy efficiency and sustainability: a meta-evaluation of US programs. *Energy Policy*, 31(2), 109-123.

physical energy use (i.e., kWh or therms), CO2 emissions, and an energy efficiency letter grade” did have a significant impact.<sup>6</sup>

To address one of these issues, the label should include a ‘Yearly cost compared to average’. This formulation is valuable because consumers respond to amount of savings more than how much it will cost, encouraging more energy efficient purchases.<sup>7</sup> This would also allow the consumer to see the savings compared to the average machine. The savings compared to average is important because the average energy cost is likely different than just the midpoint of the high and low range, as the label implies.

Finally, the label should format ‘Estimated Yearly Energy Cost’ such that natural gas box is similarly formatted to electric water heater, with the ‘when used with natural gas water heater’ on top. Mimicking the same format as the electric portion of the label ensures quick comprehension for consumers.

### **3) Require that clothes dryers have energy guide labels.**

In 2016, the FTC updated the Energy Labeling Rule to require that portable air conditioners have the EnergyGuide label. Part of the reason for this new inclusion, which is included in this current proposed rulemaking, is that the Department of Energy issued methods for testing portable air conditioners ([81 FR 35241](#)). Updating the rules to include new technology is a necessary part of updating this rule.

Dryers were originally omitted under the Section II.2 of the original Energy Labeling Rule ([44 FR 66466](#)), which describes the “likelihood of assisting consumers”. At the time of issuing this regulation, it was believed that dryers were not that different in efficiency and cost. Further, the fundamentally different systems of powering a dryer through burning natural gas directly as opposed to using electricity converted to heat were not comparable and thus labeling would not aid consumers. Another concern was that the cost of testing dryers outweighed the benefit to consumers. The industry has changed, our methods of testing are better, and the FTC should now add clothes dryers to the Energy Guide labeling suite, as the “likelihood of assisting consumers” is high.

Clothes dryers are one of the most common appliances and one of the biggest energy consumers. Clothes dryers account for 4% of electricity consumption in U.S. homes, more than dishwashers and freezers.<sup>8</sup> In 2015, the Department of Energy began rating clothes dryers by giving them an Energy Star rating.<sup>9</sup> This was possible because the Department

---

<sup>6</sup> Newell, R. G., & Siikamäki, J. (2014). Nudging energy efficiency behavior: The role of information labels. *Journal of the Association of Environmental and Resource Economists*, 1(4), 555-598.

<sup>7</sup> Sallee, J. M. (2014). Rational inattention and energy efficiency. *The Journal of Law and Economics*, 57(3), 781-820.

<sup>8</sup> <https://www.eia.gov/tools/faqs/faq.php?id=96&t=3>

<sup>9</sup> [https://www.energystar.gov/products/appliances/clothes\\_dryers](https://www.energystar.gov/products/appliances/clothes_dryers)

of Energy created proposed standards for evaluating the efficiency of clothes dryers ([80 FR 16309](#)). Further, adding this required label increases the likelihood that the dryer industry will focus on design strategies that will improve efficiency. The commission has expanded the rule past the original eight categories put forward in 1979, so updating the rule's scope is unprecedented.

Since there are two very different systems of powering dryers, electric or natural gas, consumers need to be able to compare across these two different systems. New methods need to be developed to characterize the efficiency of each dryer. Regional differences in the cost of electricity as opposed to natural gas will need to be incorporated into the labeling system, reiterating the importance of region-specific labeling. Finally, In addition to giving consumers more information, adding energy labeling to clothes dryers encourages more innovative efficient technology.

#### **4) Conclusion**

The Federal Trade Commission can significantly improve the Energy Labeling program with the suggested amendments to the program, but instead are only proposing to update the labels with national averages in a confusing format. Our current technology allows us to do better for American consumers. In the initial passing of this law, “Congress recognized that home appliances account for a sizable portion of American energy consumption”, and thus cost to American citizens ([44 FR 66466](#)). By implementing state-by-state range of comparability, easier to read labels, and adding regulations for clothes dryers, the program can continue its success of informing consumers and enabling smart choices.

Sincerely,  
Molly Gear