



July 11, 2022

Federal Trade Commission
Office of the Secretary
Mail Stop H-144
600 Pennsylvania, Ave NW
Washington, D.C. 20580

Re: Range Updates, Matter No. R611004

This letter provides the comments of the National Propane Gas Association (NPGA), American Public Gas Association (APGA), and American Gas Association (AGA) (collectively, Commenters) to the Federal Trade Commission's (FTC or Commission) in response to the Notice of Proposed Rulemaking (NPRM) to update the EnergyGuide labels under the Energy Labeling Rule for a variety of appliances, including refrigerators, freezers, dishwashers, water heaters, furnaces, and pool heaters.¹ In the NPRM, the FTC proposes to update the comparability range and annual energy cost information according to the latest manufacturer data.² End-users of propane and natural gas as well as manufacturers, distributors, and retail operations that install appliances utilize EnergyGuide labels to assess the energy efficiencies of appliances and energy sources. To improve the information available to end-users, we recommend that the FTC include Full Fuel Cycle (FFC) information among the revisions to the EnergyGuide labels.

NPGA is the national trade association of the propane industry with a membership of about 2,500 companies, and 36 state and regional associations representing members in all 50 states. NPGA's membership includes retail marketers of propane gas who deliver the fuel to the end user, propane producers, transporters and wholesalers, and manufacturers and distributors of equipment, containers, and appliances. Propane gas, sometimes more broadly referred to as liquefied petroleum gas (LPG), is used in over 14.5 million installations nationwide for residential water heaters, stoves and ranges, furnaces, fireplaces, refrigerators and freezers, clothing dryers, pool heaters, and a variety of outdoor equipment subject to the EnergyGuide Energy Labeling Rule.³

APGA is the trade association for more than 730 communities across the U.S. that own and operate their retail natural gas distribution entities. These include not-for-profit gas distribution systems owned by municipalities and other local government entities, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, affordable, and clean energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.⁴

¹ Energy Labeling Rule, 87 Fed. Reg. 101,31754 (proposed May 25, 2022) (to be codified at 16 C.F.R. pt. 305).

² *Id.* at 31755.

³ Frost & Sullivan, *Annual retail propane sales report U.S. odorized propane sales by state and end-user sector: Reporting year 2020* (June 2021).

⁴ For more information, please visit www.apga.org.

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent — more than 73 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than one-third of the United States' energy needs.⁵

We ask that the FTC update the EnergyGuide labels to include FFC information for all appliances subject to the Energy Labeling Rule while the Commission is revising EnergyGuide information to incorporate the latest manufacturers' data. The Energy Policy Act of 2005 (EPACT) requires the FTC to consider “the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency.”⁶ EPACT directs the FTC to consider “changes to the labeling rules that would improve the effectiveness of consumer product labels.”⁷ Over the last decade, the FTC has considered incorporation of FFC information in EnergyGuide labels.⁸ The latest activity by the Commission was in a 2013 rulemaking in which the Commission stated that it would continue to work with the U.S. Department of Energy (DOE) “to consider this issue as part of the regulatory review.”⁹ Incorporation of FFC information into EnergyGuide labels during the present review cycle would finalize the Commission's commitment to provide end-users with complete information on energy efficiency of appliances from source-to-site.

Policy Considerations

The following policy considerations bolster the argument to incorporate FFC information on EnergyGuide labels for a foundationally equal energy labeling strategy that promotes environmental justice, provides complete information on climate impacts, and sustains a policy of energy neutrality.

1. Environmental Justice

The Biden Administration has undertaken extensive measures in pursuit of progressing environmental justice (EJ).¹⁰ It has mobilized a whole-of-government approach, which includes incorporating a commitment to EJ initiatives across agencies.¹¹ The FTC is not immune to these efforts and implementing FFC information on EnergyGuide labeling pursuant to statutory authority would provide an equitable opportunity to all consumers to learn accurate information about the energy costs of certain household appliances. This is especially true for those underserved communities that EJ aims to protect, such as rural areas with minimal choice in energy source and low-income areas with financial constraints as well as multiunit housing buildings. Implementing FFC information on EnergyGuide labels meets the

⁵ For more information, please visit www.aga.org.

⁶ EPACT Sec. 137 (Pub. L. 109–58(2005)); 42 U.S.C. 6291 *et seq.*; CRS Report for Congress (Mar. 8, 2006), https://www.everycrsreport.com/files/20060308_RL33302_5deb6e20eda4faa299d9f2b5ca6cdacf9c60c0b5.pdf.

⁷ EPACT Sec. 137 (Pub. L. 109–58(2005)); 42 U.S.C. 6291 *et seq.*

⁸ Appliance Labeling Rule, 65 Fed. Reg. 17554, 17559 (Apr. 3, 2000); Appliance Labeling Rule; Energy Labeling, 70 Fed. Reg. 66307 (Nov. 2, 2005); Household Appliances; Labeling and Reporting and Recordkeeping Requirements, 72 Fed. Reg. 6835 (Feb. 13, 2007); Appliance Labeling Rule, 77 Fed. Reg. 15298 (Mar. 15, 2012).

⁹ FR RIN3084-AB15

¹⁰ White House, Statements and Releases, *Fact Sheet: A Year Advancing Environmental Justice* (Jan. 26, 2022).

¹¹ Appliance Labeling Rule, 65 Fed. Reg. 17554, 17559 (Apr. 3, 2000); Appliance Labeling Rule; Energy Labeling, 70 Fed. Reg. 66307 (Nov. 2, 2005); Household Appliances; Labeling and Reporting and Recordkeeping Requirements, 72 Fed. Reg. 6835 (Feb. 13, 2007); Appliance Labeling Rule, 77 Fed. Reg. 15298 (Mar. 15, 2012).

Administration's EJ policy objectives for these communities by providing the complete scope of energy efficiency among their choices.¹²

2. Climate

The Biden Administration has also put at the forefront of its policy agenda addressing climate change.¹³ Consumers have a growing desire to reduce greenhouse gas emissions and other air pollutants. Site-use efficiency information does not account for total emissions of carbon dioxide. Electric appliances and equipment produce nearly no carbon dioxide at the site of use, but the mix of electricity generation throughout different regions of the United States present significantly different source-to-site energy losses. This inaccuracy misleads consumers to believe they may be purchasing high efficiency, low emissions appliances when in actuality they are not. Externalities of energy use should be included in the labels and can be accurately achieved by including the FFC information for the appliance.

3. Energy Neutrality

The use of FFC efficiency calculations in EnergyGuide labels would also create an energy neutral platform to display the full range of appliance efficiency choices by energy type. The current reliance on end-use consumption estimates inappropriately favors electric appliances by unreasonably failing to consider energy losses, which ultimately proliferates incomplete energy efficiency information to consumers. Incorporating FFC information allows consumers to compare across appliance types on a reasonable basis of operating costs while factoring in the true energy cost of various appliances by energy source.

Legal Authority to Incorporate FFC Information

The FTC has statutory authority to implement labeling that contains energy consumption through FFC information.¹⁴ DOE has statutory authority to create test procedures to be utilized by the FTC.¹⁵ FFC test procedures already exist and are currently being relied on by other federal agencies.¹⁶ The FTC, together with the DOE, should use existing test procedures to ensure that more accurate energy consumption data is provided to consumers through FFC information in EnergyGuide labeling.

Pursuant to 42 U.S.C. § 6294 (C)(1)(A), the contents of the label are at the discretion of the FTC so long as it accords with test procedures set forth by DOE under 42 U.S.C. § 6293.¹⁷ Furthermore, to substantiate the Commission's authority under the relevant statutes, Energy Policy and Conservation Act (EPCA) expressly granted the FTC the ability to disclose additional information about energy

¹² American Council for an Energy-Efficient Economy, *How High Are Household Energy Burdens* (September 2020) (...energy burden research reveals both that low-income households spend, on average, a higher portion of their income on energy bills than other groups, and that energy burdens are also higher for communities of color, rural communities...), <https://www.aceee.org/sites/default/files/pdfs/u2006.pdf>.

¹³ White House, Statements and Releases, Fact Sheet: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies (Apr. 22, 2021); Executive Order, Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2021).

¹⁴ 42 U.S.C. 6294 (C)(1)(A); EPCA Sec. 324(c)(1)(A).

¹⁵ 42 U.S.C 6293.

¹⁶ 80 FR 3302 (FFC analysis used in appliance efficiency standards in commercial water heating equipment); 81 FR 34439 (FFC analysis used in appliance efficiency standards in residential ovens); see also National Academies National Research Council, Report on Point-of-Use [end-use] and Full-Fuel-Cycle Measurement Approaches to DOE/EERE Building Appliance Energy-Efficiency (May 15, 2009) (recommending DOE switch to full-fuel-cycle).

¹⁷ 42 U.S.C. 6294 (C)(1)(A); 42 U.S.C 6293.

consumption on labels if such information would assist consumers in making purchasing decisions.¹⁸ EPACT called on the FTC to review whether the labeling was effectuating the desired outcome. The FTC previously asserted it lacked this authority but has since corrected that assertion and stated its intention to pursue the feasibility of FFC information on EnergyGuide labeling.¹⁹

The FTC has also previously asserted that DOE test procedures measure end-use energy consumption only but the agency has more recently asserted it is working on FFC test procedures.²⁰ Not only does DOE have test procedures that measure FFC energy consumption, such test procedures are being used in a number of areas for efficiency standards.²¹ FTC has statutory authority to determine what information is provided on energy labels in accordance with DOE test procedures and there should be no statutory or other legal hurdle to proceeding as this comment suggests.²²

Conclusion

The FTC has authority to finally act through this rule to adopt FFC labeling requirements for household appliances. Doing so advances the policy priorities of the Biden Administration by promoting environmental justice and equity, providing accurate information on energy efficiencies and climate impact, and by providing energy neutral information. The FFC test procedures necessary to incorporate this information are straightforward and already available to the FTC. We strongly urge the FTC to move forward with this approach to inform the consumer of the full spectrum of energy costs and efficiencies for appliances through implementation of FFC information on the EnergyGuide labels.

Sincerely,



Sarah J. Reboli
Vice President, Regulatory & Industry Affairs
National Propane Gas Association



Stuart Saulters
Vice President of Government Relations
American Public Gas Association



Matthew J. Agen
Assistant General Counsel
American Gas Association

¹⁸ EPACT Sec. 137 (Pub. L. 109–58(2005); EPCA Sec. 324.

¹⁹ Appliance Labeling Rule, 65 Fed. Reg. 17554, 17559 (Apr. 3, 2000); Appliance Labeling Rule; Energy Labeling, 70 Fed. Reg. 66307 (Nov. 2, 2005); 72 FR 6835 (Feb. 13, 2007).

²⁰ Appliance Labeling Rule; Energy Labeling, 70 Fed. Reg. 66307 (Nov. 2, 2005); Appliance Labeling Rule, 77 Fed. Reg. 15298 (Mar. 15, 2012).

²¹ 80 FR 3302 (FFC analysis used in appliance efficiency standards in commercial water heating equipment); 81 FR 34439 (FFC analysis used in appliance efficiency standards in residential ovens); *see also* National Academies National Research Council, Report on Point-of-Use [end-use] and Full-Fuel-Cycle Measurement Approaches to DOE/EERE Building Appliance Energy-Efficiency (May 15, 2009) (recommending DOE switch to full-fuel-cycle); *see also* 76 FR 51281 (DOE plans to use FFC measures of energy use in the national impact analyses and acknowledges the ability to rely on other agency data and current site-specific energy consumption to calculate FFC).

²² 42 U.S.C. 6294 (C)(1)(A).