Setting Standards for Excellence

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September 22, 2011

Submitted online at: https://ftcpublic.commentworks.com/ftc/lampcoveragenprm

Mr. Hampton Newsome
U.S. Federal Trade Commission
Office of the Secretary
Room H-113 (Annex Y)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: 16 CFR Part 305, RIN 3084–AB03, Project No. P084206

Dear Mr. Newsome,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking on Expanded Bulb Coverage for the Lighting Facts Label that was issued August 1, 2011.

The National Electrical Manufacturers Association (NEMA) is the trade association of choice for the electrical manufacturing industry. Founded in 1926 and headquartered near Washington, D.C., its approximately 450 member companies manufacture products used in the generation, transmission and distribution, control and end-use of electricity, including the lamps affected by this final rule.

Thank you for the consideration of these industry comments. If you have any questions or comments, please do not hesitate to contact Alex Boesenberg of NEMA Government Relations at (703) 841-3268 or alex.boesenberg@nema.org.

Sincerely,

Kyle Pitsor
Vice President
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COMMENTS OF THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION ON QUESTIONS POSED BY FEDERAL TRADE COMMISSION IN NOTICE OF PROPOSED RULEMAKING (NOPR) ON EXPANDED BULB COVERAGE FOR THE LIGHTING FACTS LABEL AUGUST 1, 2011

1. **The Commission proposes to amend the definition of ''general service lamp'' to cover all screw-based incandescent, CFL, and LED lamps, eliminate existing exclusions for specific bulb shapes generally available to consumers, and make other minor, conforming changes consistent with this proposal. [45716]**

COMMENT: NEMA and its member companies oppose expanding the definition of general service lamp because the current definition is applied and enforced by more than one Federal Agency (i.e. the Department of Energy (DOE) and the Federal Trade Commission (FTC)). The amended definition proposed by the FTC in the NOPR would produce a significant difference between the definitions used by FTC and DOE and sew confusion over the meaning of terminology under the same statute. Confusion ensued when the FTC treated incandescent reflector lamps as general service incandescent lamps (notwithstanding the fact that Congress treated them separately in EPCA). NEMA proposes that the FTC retain the DOE's definition of general service lamp --- the statutory definition --- to avoid additional regulatory confusion.

More fundamentally, under the Energy Policy and Conservation Act (EPCA), the Federal Trade Commission (FTC) does not have the legal authority to amend the definition of "general service lamp" found in the statute. EPCA reserved authority to identify other general service lamps to the Secretary of Energy in 42 U.S.C. §6291(BB)(i)(IV). ("The term 'general service lamp' includes—(IV) any other lamps that the Secretary determines are used to satisfy lighting applications traditionally served by general service incandescent lamps.").

Nor does the FTC have authority to eliminate statutory exclusions or exemptions found in EPCA. Again, with respect to general service lamps, that authority was reserved to the Secretary of Energy under 42 USC §6295(i)(6)(A)(i)(II)("Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales collected by the Secretary from manufacturers."). *See also* 42 USC §6295(i)(6)(B)(i)(II)(same).

As noted in the NOPR, the FTC, by virtue of its authority under 42 USC §6294(a)(6), "may by regulation, require labeling or other disclosures in accordance with this subsection for any consumer product not specified in this subsection or section 6292 of this title if the Commission determines that labeling for the product is likely to assist consumers in making purchasing decisions." That authority does not

contemplate authority to change EPCA's statutory definitions, which will only confuse the marketplace.

Under this latter authority, NEMA does understand that the FTC has the authority to consider on a case-by-case basis requirements for labeling or other disclosures for other consumer lamps if such labeling or disclosures are likely to assist consumers in making purchasing decisions relating to their interest in energy efficiency.[1] This authority does not lend itself to the kind of approach to new regulation that the FTC is contemplating in this NOPR --- proposing labeling for broad categories of candelabra base, intermediate base lamps, and other lamps without considering the unique and variable characteristics of individual lamps in those categories[2], lamps with a lumen output of less than 310 lumens,[3] incandescent lamps under 30 watts,[4] lamps that do not meet the statute's focus on lamps that are likely "to be used in general purpose applications such as applications described in the definition of general service incandescent lamp," and lamps under 40 watts with unique bulb shapes --- without any consideration to the fact that among the thousands of SKUs that the lighting industry sells within the categories to which the FTC proposes to expand regulation there is a wide variety of lamps that have not been analyzed for whether they are appropriate for regulation under EPCA.[5] In our comments below, NEMA endeavors to describe some of the consequences --- perhaps unintended consequences --- of the approach taken in the proposed amendments to the Rule.

Our comments start with the structure of the appliance efficiency regulation in EPCA, 42 U.S.C. §6291 *et seq*, where Congress begins by defining "consumer products," and then subjecting to regulation specifically defined consumer products that are listed as covered products. The virtue of the statute's approach to describing the authorized scope of agency regulation is that the regulated parties do not have to deal with the uncertainty of whether a given product is a consumer product or not and therefore regulated. The definitions of the specific products in the statute inform in some detail exactly what is a covered consumer product, and the technical parameters that form the specific product definitions delineate between products that consumers are likely to find significant energy savings and where they are not likely to find significant energy savings. Lamp products with low lumen levels, low wattage level, and lamp products made for specialty applications and are not produced in significant volume are not fertile ground for promoting significant energy savings in a cost-

[1] In the context of EPCA, purchasing decisions must relate to a consumer's interest in energy efficiency: - the disclosure must be "necessary to enable consumers to select the most energy efficient lamps which - meet their requirements." 42 USC §6294(a)(2)(D). -

[2] In several places in the proposed amendment in the NOPR, the FTC proposes to delete the word - "medium" screw base found in the current Rule. 76 Fed.Reg at 45723 (August 1, 2011). -

[3] In two places in the proposed amendment in the NOPR, the FTC proposes to delete the lower bound - reference to 310 lumens. *Id.*

[4] The FTC proposes to eliminate the lower wattage limits for incandescent lamps. *Id.*

[5] These variations go straight to whether disclosures would assist consumers in making purchasing - decisions, but also whether labeling would contribute to significant energy savings. -

beneficial way.[6] In Section 322 of EPCA, however, Congress delegated to the Secretary of Energy, the authority to identify other consumer products that would be subject to energy conservation regulation under the statute. 42 USC §6292(a)(20). Consistent with the congressional approach, the Secretary would define that product and effectively add it to the list of other consumer products found in the statute.

The Federal Trade Commission's NOPR flips this approach on its head. While the first proposed amendment to the definition of 'general service lamp' --- to specify that it is "a consumer product" --- arguably does not offend the statute, it does become problematic when considered in light of other proposed changes to the definitions of 'medium base compact fluorescent lamp," "incandescent lamp," "general service incandescent lamp," and "general service light emitting diode" (see 76 Fed.Reg. at 45723), which changes by themselves introduce and have the potential to introduce in the future a significant number of non-consumer products (that might be purchased by consumers in relatively small percentages) into the regulation that was not contemplated by Congress. The effect of this approach --- contrary to the statute's approach --- is to make the phrase "a consumer product" critical to the regulated parties' understanding of what their legal compliance programs must do in terms of labeling and information disclosure, and it for certain means that there will be a considerable number of communications in coming years to the Commission to determine whether a given lamp is a consumer product or not. This approach is costly for both manufacturers and the FTC, and from a policy perspective NEMA believes this is not a desirable regulatory environment for anyone. NEMA recommends that the FTC abandon this approach, and approach its authority under section 324(a)(6) on a lamp-by-lamp approach that provides the same sort of regulatory clarity and justification for incremental regulation that the statute does.

The statutory approach to regulation of lamps under EPCA has historically focused on "general service" lamps by defining general service fluorescent lamps and general service incandescent lamps in terms of whether the lamp "can be used to satisfy a majority of lighting applications." See 42 USC §6291(30)(B) and (D). The term "general service lamp" incorporates this requirement into its definition through incorporation of the other product terms. As the congressional report that accompanied the passage of the Energy Policy Act of 1992 observed, Congress intended to regulate under EPCA "the most common type of . . . lamps." House Rept. 102-474(I) at 175. The phrase "can be used to satisfy a majority of lighting applications" is the touchstone for defining "general service" --- the 'most common" types of lamps. Decorative lamps, including candelabra lamps, and other specialty lamps --- lamps purchased primarily for their aesthetic value or for some special

[6] NEMA notes that Section 321 of EISA-2007 (P.L. 110-140) established a process by which additional lamp shapes or bases that are excluded from the definition of general service lamps could be included upon petition that must include a showing that the availability or sales of exempted incandescent lamps have increased significantly since the date for which standards were established for general service incandescent lamps. Similarly, specific sales volume increase requirements were established for "rough service," "vibration service," "shatterproof," and high lumen lamps.

purpose rather than for general room illumination or with little or no concern for their ability to deliver significant energy savings --- do not satisfy a majority of lighting applications, and cannot be included in the definition of general service lamps. The NOPR, however, proposes changes that would regulate many lamps that do not satisfy a majority of lighting applications as "general service lamps."

By lumping lamps that do not satisfy a majority of lighting applications, including decorative lamps, lamps that do not enjoy volume production, low wattage and low lumens lamps in with general service lamps, it suggests that the information disclosure objectives that the FTC has previously developed for general service lamps --- objectives that NEMA and its members do not disagree with in the main for those products --- are equally applicable to these other lamps. They are not.

In the case of decorative lamps, the same scheme does not make sense. First, the disclosure objectives for general service lamps under the current Rule focus on lumens; consumers are generally not interested in the lumen output for decorative lamps, as these lamps are generally not used for reading, and many of them are on dimmers so that their lumen and wattage level can be deliberately reduced to provide ambient illumination. Secondly, because many of them are on dimmers, the energy savings calculations are difficult to measure in a standardized way that makes sense and would be "helpful to consumers." There is a greater chance that --- contrary to the FTC's mission --- the energy savings information for these lamps would be deceptive rather than helpful. So the two items that the current rule requires be on the front of the package for general service lamps --- lumen output and energy savings expressed in dollars --- are not generally useful to consumers of these lamps and there is no evidence that it would be used by consumers to assist them in their purchases. Third, the current Rule's product marking requirements are not only not practical or impossible because of the small size of these lamps and their bulb shape, but consumers would not want product markings on these lamps for aesthetic reasons --- the primary reason they purchase these lamps.

In the NOPR, the FTC comments, "Finally, though NEMA raised concerns about package size, the Rule already addresses space limitation issues by allowing an alternative text only label for packages with less than 24 inches of printable space." NEMA's concerns cannot be so easily dismissed. They are real and practical. The 24 sq. inch carton exception for the compressed label is too small. More relief is needed on the small amount of print area on packages and lamps which are larger than 2"x2"x2" (24 sq. inches). NEMA again proposes that the compressed label be allowed for packages up to 48 sq. inches in size. NEMA restates its concerns from the previous rule with much more concern given the typically smaller packages of the proposed lamp types. We comment further on this below.

To give the FTC some understanding about how its proposed approach to regulating by redefining "general service lamp" and some of the component definitions of a "general service lamp," such as the definition of "incandescent lamp," would be problematic, NEMA attaches to its comments excerpts from the Fall 2011 Restoration

Hardware catalog displaying examples of decorative filament bulbs made by a NEMA member for Restoration Hardware. (See Appendix A) These are not considered either "incandescent lamps" or "general service lamps" under existing law and regulation, and one reason is because their lumen output is under 310 lumens. For some of those displayed, the wattage level is too low under current law and regulation to be considered an incandescent lamp and a general service incandescent lamp. Yet by deleting the lower lumen limit (currently 310 lumens) specification for the lamps, and by eliminating the lower wattage requirement (currently 30 watts for incandescent lamps), the FTC leaves the manufacturer with having to ask whether someone would consider these lamps to be "intended for general service applications" and "a consumer product." The current lumen and wattage specifications answered those questions definitively; the NOPR proposes to make that determination less clear.

The NOPR proposes to change the definition of 'general service lamp' in significant part by changing definitions of "medium screw base compact fluorescent lamp," incandescent lamp," "general service incandescent lamp," and "general service light emitting diode." For the reasons explained above, NEMA submits that the FTC does not have the authority to change the congressional definitions. Here, are the changes that the NOPR proposes to make:

1) - Eliminate the requirement that a compact fluorescent lamp have a medium screw base, and regulate all integrally ballasted compact fluorescent lamps regardless of their base, including GU-type pin-base lamps.

   COMMENT: NEMA would not agree with eliminating this requirement. There are limited options for residential consumers using integrally ballasted GU-type pin-based CFL or LED lamps. There is no general service incandescent lamp designed with this base type. A label on these products will provide little if any value in selecting a lamp.

   NEMA also disagrees with expanding the definition to include candelabra-base compact fluorescent lamp by eliminating this requirement. As discussed elsewhere, these are decorative lamps of a small size with limited packaging space for the required labeling information.

2) - Eliminate the lowest wattage specification for incandescent lamps and regulate the labeling of all incandescent lamps under 30 watts.

   COMMENT: NEMA would not agree with eliminating this requirement. There are many unintended consequences to simply eliminating the lower wattage and lower lumen limits. Such a change would capture many lamp types where labeling provides no consumer value, including night lights and commercial sign lamps, low wattage flame (F shape) lamps, B shape lamps, BA shape lamps, and G-shape lamps that are not used for general illumination purposes.

3) Eliminate the lowest lumen specification for incandescent lamps, and regulate all incandescent lamps under 310 lumens.

   COMMENT: NEMA would not agree with eliminating this requirement. There are many unintended consequences to simply eliminating the lower wattage and lower lumen limits. Such a change would capture many lamp types where labeling provides no consumer value, including night lights and commercial sign lamps, low wattage flame (F shape) lamps, B shape lamps, BA shape lamps, G-shape lamps, that are not used for general illumination purposes.

4) Regulate lamps that the Secretary of Energy has excluded from regulation under EPCA, including those which the Secretary finds that standards will not result in significant energy savings.

   COMMENT: NEMA would not agree with mandating disclosures for lamps for which the consumer will not find significant energy savings. Some of these lamp types have extremely low wattage consumption, such as the 3 watt flicker flame CA incandescent lamp. There is no potential for energy savings and no meaningful light output from such a decorative lamp. The energy savings test is a critical test in determining that a consumer label has value.

5) Eliminate the specifications for screw bases of incandescent lamps (including incandescent reflector lamps), and regulate all incandescent lamps regardless of the type of screw base.

   COMMENT: NEMA would not agree. The majority of lamps with non-medium screw-bases are decorative and not intended for general service lighting applications. In the case of intermediate screw base lamps, for example, these lamps are not common, extremely low volume, used in small desk lights, some appliances, and in showcases, and some other unique locations. To the best of NEMA's knowledge, there are no intermediate screw base compact fluorescent or LEDs available for these low volume intermediate lamps.

6) Eliminate specific statutory exclusions for certain globe shapes of general service incandescent lamps, and regulate those lamps.

   COMMENT: See response to Question #2, *infra.* Due to the intended decorative consumer use, it is unacceptable to print lumen output directly on Decorative lamp shapes, which is a FTC requirement for regulated lamp types. This will create significant consumer dissatisfaction with all decorative lamp products.

7) Eliminate the statutory specification that incandescent reflector lamps have a minimum diameter, and regulate incandescent reflector lamps regardless of their diameter.

COMMENT: NEMA opposes eliminating this requirement. The only lamps this would capture are a couple of small volume R14, PAR 14 and PAR 16 lamps used in small spaces for accent lighting. They are part of the specialty accent lamps, and consumers do not have any concern with lumen output or energy savings.

8) - Eliminate the lowest statutory wattage specification for incandescent reflector lamps, and regulate all such lamps under 40 watts.

COMMENT: NEMA does not agree with eliminating this requirement. Very small diameter reflector lamps have very small packages that would be extremely difficult to label. As mentioned in early comments, the 24 sq. inch packaging relief provides little to no value; more flexibility is required if labeling was to be mandated. In addition, there are limited consumer options for these lamp types, and limited opportunity for energy savings. Again, as stated above, lumen output is not central to consumer choice here; they are purchased for the center beam candlepower.

9) - Eliminate the lowest lumen specification for general service light emitting diodes, and regulate low lumen LEDs.

COMMENT: NEMA does not agree with eliminating this requirement. These products have very little light output and they are typically purchased for decorative lighting purposes. See next answer.

10) Eliminate the statutory specification that LEDs have a medium screw base, and regulate LEDs regardless of their base.

COMMENT: NEMA does not agree with eliminating this requirement. These products are designed for decorative replacement and are not designed for general service lighting.

2. Currently, the definition of General Service Lamp excludes G shape lamps (as defined in ANSI C78.20–2003 and C79.1–2002) with a diameter of 5 inches or more; T shape lamps (as defined in ANSI C78.20–2003 and C79.1–2002) that use not more than 40 watts or have a length of more than 10 inches; and B, BA, CA, F, G16–1/2, G–25, G30, S, or M–14 lamps (as defined in ANSI C79.1–2002 and ANSI C78.20–2003) of 40 watts or less. Should the Rule retain existing exclusions for the particular shapes described above? In addressing label coverage for these specialty bulbs or for any particular bulb shape, comments should indicate whether such bulbs are distributed, to any significant extent, for personal use or consumption by consumers. [45717]

COMMENT: Yes, the rules should retain existing exclusions for the particular shapes described above for the reasons stated in response to the question #1 above as well as those stated in this Comment.

NEMA and its member companies again state their opposition to expansion of the list of applied-to lamps owing to the small numbers of sales and corresponding reduction in purchases of these products for the reasons stated in response to the question above.

Most of these products are purchased for their decorative and aesthetic appeal, and energy savings is not typically a factor in consumer decision-making for these products. To the extent that some consumers may be genuinely concerned about energy usage in these products, they will already be familiar with the type of information on the Lighting Facts Label found on more common general service lamps and do not need the Lighting Facts label on these products to assist their decision.

Under 42 USC §6294(a)(6), the statutory inquiry is "whether labeling or other disclosures will help consumers in making purchasing decisions." In the context of EPCA, those purchasing decisions must relate to a consumer's interest in energy efficiency: the disclosure must be "necessary to enable consumers to select the most energy efficient lamps which meet their requirements." 42 USC §6294(a)(2)(D). Nowhere in the NOPR has the Commission presented substantial evidence for each or any of these bulbs that this statutory requirement would be met for any one of these lamps. There is simply no discussion of the use these lamps are purchased for, why they are purchased, what the consumer's option is if they are purchased by consumers. All of these facts are essential to determine if consumers would be helped at all in the selection of energy efficient lamps. Most of these products tend to be purchased more for their decorative and aesthetic appeal, rather than energy efficiency.

Medium Screw Base Lamp Type	Use/Application	Purchaser and why they buy particular lamp	Substitute lamp with same globe shape (identify or say None)	Volume (estimated % of incandescent market)
G-shape with diameter of 5" or more,	Vanity and Pendant Lights	Half Commercial and Half Residential Consumer	CFL	Less than 0.5%
G16-1/2 lamp ≤ 40W	Bath bars	Mostly Residential	CFL/LED	2.5%
G-25 lamp ≤ 40W	Bathrooms	Mostly residential	CFL/LED	5%

G30 lamp ≤ 40W	Bathrooms	Mostly residential	CFL	Less than 0.5%
T shape lamp ≤40W with length > 10".	Exit Lights, Showcase Lights and Appliance Lamps	Mostly Commercial, Limited Residential Consumer use	Only red LED for exit lights	Less than 1%
B lamp ≤ 40W	Decorative	Mostly Residential Consumer, some Commercial	Some CFL and LED (some faceted made and surface is virtually unprintable)	6-7%
BA lamp ≤ 40W	Decorative	Residential consumer	LED	Less than 0.5%
CA lamp ≤ 40W	Decorative	Residential consumer	LED	6-7%
F lamp ≤ 40W	Decorative	Mostly Residential Consumer, some Commercial	CFL/LED (and flame surface is virtually unprintable)	Extremely limited
S lamp ≤ 40WG30 lamp ≤ 40W	Sign Lamps	Almost entirely Commercial	LED mostly	Less than 1%
M-14 lamp ≤ 40W	Decorative	None	N/A	Virtually zero

While NEMA and its members concur with the general sentiment that more information might be useful when it comes to consumer decision making, we disagree with the proposition that is true in all cases and we disagree that all the lamp types proposed are appropriate candidates for expanded labeling requirements. For decorative lamps, where choices are based largely on aesthetics, not on light output or energy usage, the general sentiment does not hold. The Commission should also be asking, whether in light of the fact that the proposal is dealing with low wattage lamps at 40 watts and less --- lamps that Congress did not feel it was necessary to establish energy conservation standards for --- whether extant labeling on these products already provides consumers with the information they need if energy savings is a factor in their purchasing decisions. If it does, then forcing lamp sellers to rework all their packaging imposes only incremental costs and provides little or no incremental benefits

If the FTC should find by substantial evidence for any of the proposed lamps that disclosures are necessary to help consumers make energy efficiency decisions, NEMA and its members suggest that the disclosures be limited to brightness (average

initial lumens), life, and energy usage (wattage) and that all other topics be excluded from mandatory disclosure requirements. We further propose that these declarations be self-certified and exempt from reporting requirements, as these products are not high energy usage products and neither Congress nor DOE has included them in the energy conservation standards program.

NEMA and its members also disagree with removing incandescent wattage limits completely. The upper range should still be 199W, because filament lamps above this wattage are used almost exclusively in commercial and industrial applications.

3. Should the Lighting Facts label appear on the package of general service fluorescent lamps? [45718]

COMMENT: No.

First, the vast majority of general service fluorescent lamps are not purchased for household uses or purchased by residential consumers. Most general service fluorescent lamps are installed in commercial and industrial buildings and are specified and/or purchased by architects, lighting designers, electrical contractors, building contractors, maintenance firms, building owners and other commercial concerns.

Second, even where the GSFL is used in a residential household, its purchase is often determined, as an initial matter, by an architect, a contractor/builder, or a kitchen/bath designer. Consumers do not see the package at time of initial installation. Once the GSFL luminaire/fixture is installed, the consumer will purchase replacement lamps that physically and electrically fit the fixture. GSFL in the household environment have an average service life of approximately 15 years or longer. Four foot lamps are rated at 20,000 hours life, and have a typical annual use in the household environment of about 1000 hours.[7] For these lamps, they would have an average service life of about 20 years. There are some shorter length GSFL used in the household environment that are rated at 7,500 and 12,000 hours, and have a typical annual use of about 1000 hours. The outcome is that there are very few replacement purchase events for consumers, and when they do make a purchase they will purchase the lamp that fits the luminaire

4. The Commission proposes to require a specific test procedure, IES– LM–79–2008 (LM–79), for measuring LED light output and color characteristics to help ensure consistent label content. The Commission proposes to make the procedure mandatory and provide manufacturers one year to begin using the

[7]DOE, *Lighting Market Characterization Study, vol. 1* (2002)(NEMA has extrapolated data about typical use in a given day from Table 5-9 on page 40 and Table D-5 on page 84 to make this point).

procedure as the basis for their label information for LED bulbs. The Commission seeks comment on this proposal.

COMMENT: NEMA and its members support this change.

5. **After reviewing the comments submitted in response to the July 2010 Notice, the Commission is not proposing any new requirements for watt-equivalence standards, beam spread disclosures, directional light disclosures, lead content disclosures, bilingual labels, fossil fuel lamp labels, and power factor at this time.**

COMMENT: NEMA and its members concur.

6. **The Commission requests further comment on whether non-English claims on light bulb packages should trigger mandatory bilingual labels or other disclosures, and specifically asks commenters to address the following questions:**

   1. How prevalent today are non-English claims on light bulb packages? What are the languages being used? What types of information is typically conveyed through such non-English claims?

   COMMENT: The prevalence of non-English claims depends on individual manufacturer's packaging strategies. It is not uncommon, but not uniformly applied. The most common languages used are Spanish and French. The type of information typically conveyed is performance (lumens, watts), warning and application information.

   2. Do any light bulb packages currently include non-English information without displaying a bilingual version of the required FTC label? If so, please address whether, in such circumstances, the English label sufficiently conveys lighting information to non- English speaking consumers given the label's emphasis on numerical information. If so, why? If not, why not?

   COMMENT: Yes, since not all packages use the FTC label today, it follows that non-English claims are possible without a bilingual version. Since most of the data required by the new FTC label are numbers, it is logical that bilingualism is not essential. The use of a bilingual label should remain a packaging/advertising decision made by the manufacturer and its business partners.

   3. Would a bilingual label requirement triggered by non-English claims on packages discourage manufacturers from including non-English information on their packages? If so why, and what could be done to ameliorate that effect? If not, why not?

COMMENT: This could be a discouraging factor. A bilingual lighting facts label should not be required.

Could a bilingual label fit on all light bulb packages? If so, why? If not, why not? If the bilingual label could fit some but not all package sizes, how big would the package have to be to reasonably carry a bilingual label? Should a triggered disclosure depend on the size of the label?

COMMENT: No. A bilingual label will not fit on all packages due to size and other packaging strategies. Many of these decisions are based on company advertising strategies and should not be mandated. NEMA does not support a maximum/minimum packages size for a mandatory bilingual label. The matter should be left to manufacturer's and retailer's mutual decisions.

4. Finally, the Commission seeks input on any other measures it should consider to help non-English speaking consumers obtain the information provided on the Lighting Facts label concerning estimated annual energy cost, brightness, light appearance, life energy use, and the presence of mercury.

COMMENT: Manufacturers decide what information needs to be translated on a package by package basis and through partnership with retailers. This process should not be interfered with.

7. **The Commission is not proposing to include power factor on the Lighting Facts label because, according to the comments, power factor does not affect a consumer's energy costs and few consumers are likely to understand the term.**

COMMENT: NEMA and its members concur.

8. **The Commission also proposes to clarify the Rule language for labeling bulbs that operate at multiple, separate light levels (e.g., ''3-way'' bulbs) to clarify that such language applies to all covered bulb technologies. Currently, the Rule's language addressing such bulbs applies only to incandescent bulbs.**

COMMENT: NEMA and its members support this clarification.

9. **NEMA has the following concerns that are not in response to specific questions in the FTC NOPR:**

- NEMA and its members are strongly concerned over the additional testing requirements that would arise from this expansion and the corresponding drain

on resources and the reduction in available resources for other programs and projects. Printing lumens on decorative lamps has in the past produced a notable negative reaction from consumers who want these lamps to be completely decorative and devoid of labeling on the product (existing CFL markings still create concern, but are a moot point). Additionally, some types such as flame and crystal cannot be printed on at all.

- As NEMA previously commented, the 24 sq. inch carton exception for the compressed label is too small. More relief is needed on the small amount of print area on packages and lamps which are larger than 2"x2"x2" (24 sq. inches). NEMA again proposes that the compressed label be allowed for packages up to 48 sq. inches in size. NEMA restates its concerns from the previous rule with much more concern given the typically smaller packages of the proposed lamp types.

  "To allow possible solutions that don't require a mechanical package redesign for packages that are limited on space or have odd configurations, we recommend that FTC consider allowing the following options to only be used where the standard labeling scheme will not fit:

  1. The front and/or rear boxes can be condensed if needed, as long as the font size is unaffected.
  2. The required language in the rear boxes can be split onto more than one line to allow for unusual spaces as long as the font size is not affected.
  3. Allow the front or rear label to be scaled by no more than 80% of required size as long as the print remains legible.
  4. FTC offers a compressed label for packages less than 24 sq. inches in size. While industry appreciates the concept of additional flexibility for smaller packages, none of the lamps covered by regulation would actually fit in a box that was 24 sq. inches, basically a 2" x 2" x 2" box. The size of these products renders this provision unusable. To be able to use this provision on the smallest lamp types and packages covered by this regulation, industry recommends that the compressed label be allowed for packages up to 48 sq. inches in size. Consider also allowing space taken up by required warnings and graphics to be excluded from the 48-inch requirement.
  5. Allow a second language to be scaled at no less than 80% of English copy as long as print remains legible."

Appendix A

The lowering of the minimum lumens threshold would, among others, require that these lamps be labeled. These are obviously not lamps chosen for their energy efficiency. (Pictures are taken from the Restoration hardware catalog. All lamps below 300 lumens.)