



KYLE PITSOR

Vice President, Government Relations

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Submitted online at: <https://ftcpublishcommentworks.com/ftc/energylabelingamendmentsnprm>

Mr. Hampton Newsome
U.S. Federal Trade Commission
Office of the Secretary
Room H-135 (Annex A)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: 16 CFR Part 305, RIN 3084-AB15

Dear Mr. Newsome,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking Concerning Disclosures Regarding the Appliance Labeling Rule issued March 15, 2012. These comments are submitted on behalf of NEMA Lamp Section member companies.

As you may know, NEMA is the association of electrical equipment manufacturers, founded in 1926 and headquartered in Arlington, Virginia. Its member companies manufacture a diverse set of products including power transmission and distribution equipment, lighting systems, factory automation and control systems, and medical diagnostic imaging systems. Worldwide annual sales of NEMA-scope products exceed \$120 billion.

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,

A handwritten signature in blue ink, appearing to be "Kyl Pitsor".

Kyle Pitsor
Vice President
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Manufacturers Association**

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**COMMENTS OF THE NATIONAL ELECTRICAL MANUFACTURERS
ASSOCIATION ON THE FEDERAL TRADE COMMISSION’S NOTICE OF
PROPOSED RULEMAKING (NOPR) CONCERNING DISCLOSURES
REGARDING THE APPLIANCE LABELING RULE ISSUED MARCH 15, 2012**

NEMA Comments on the Proposed Amendments

The Commission seeks comment on several proposed changes to reduce the Rule’s reporting burdens, increase the availability of energy labels to consumers, and generally to improve existing requirements. Specifically, the proposed changes would:

(1) Eliminate duplicative requirements by harmonizing FTC and DOE reporting and testing rules;

- a) First, the proposed amendments would allow manufacturers to meet FTC reporting requirements by using DOE’s new web-based tool for energy reporting (the “Compliance and Certification Management System” (CCMS)). Once manufacturers upload their data, the FTC would be able to obtain the information from DOE and place it on the public record. This change would ease reporting for manufacturers and eliminate confusion caused by two separate government data collection requirements for identical products.
- b) Second, the Commission proposes to harmonize FTC reporting requirements with DOE certification rules. To achieve this goal, the Commission proposes requiring the same report content as DOE. However, for ceiling fans, the FTC will continue to maintain separate reporting requirements because DOE’s regulations contain test procedures for these products but do not currently require manufacturers to conduct such tests.
- c) Third, the Commission proposes to clarify the DOE testing requirements manufacturers must use to determine energy information for FTC labels.

NEMA supports this measure. We notice that some additional testing and reporting beyond the DOE’s requirements will be needed, but this can be coordinated between Government and Industry as the FTC rule is phased in.

- (2) Prohibit hang tag labels for all covered clothes washers, dishwashers, and refrigerators and instead require adhesive labels;
- (3) Require placement of room air conditioner labels on display boxes instead of on the product;
- (4) **Improve retailer Web site and paper catalog disclosures;** The Commission proposes several amendments to enhance the energy information available to consumers in “catalogs” (i.e., print catalogs and Web sites selling covered products).
 - a. First, the amendments would require retail Web sites to post the full EnergyGuide or Lighting Facts label online. The Rule would require these Web sites to post the full label or to use an FTC provided icon to link consumers to the full version of the EnergyGuide or Lighting Facts label.
 - b. Second, to ensure that retail Web sites have access to the label, the amendments would require that manufacturers make the EnergyGuide and

Lighting Facts labels easily available online. Third, the proposed amendments provide specifications that retail Web sites must follow for the format and placement of the required information (e.g., label or icon). Finally, for paper catalogs, the proposed amendments would continue to allow retailers to use an abbreviated text disclosure in lieu of the full label, due to space and cost constraints.

NEMA member opinion is divided on this point and we were unable to achieve consensus in time to reply to the FTC's notice. Most all agree that minimizing burden to manufacturers and retailers is preferred. Individual companies were encouraged to submit comments directly to FTC.

- (5) Include estimated operating cost information on ceiling fan labels;
- (6) Include specific capacity numbers on clothes washer EnergyGuide labels;
- (7) Require a QR ("Quick Response") code on EnergyGuide labels to link mobile phone users to FTC and DOE information; The Commission seeks comments on whether to require manufacturers to place QR ("Quick Response") codes on the EnergyGuide labels.

NEMA cannot comment on the appropriateness of QR codes on EnergyGuide labels. However, we do NOT consider them appropriate for the FTC Lamp Label.

- (8) Update product definitions for refrigerators and freezers;
 - a. Clarify the Rule's enforcement provisions; [FTC will] clarify penalty assessments or several non-labeling violations listed in § 305.4(b). These violations include the refusal to allow access to records, refusal to submit required data reports, refusal to permit FTC officials to observe testing, refusal to supply units for testing, and failure to disclose required energy information in catalogs (i.e., Web sites and paper catalogs).⁴⁷ The current Rule does not specify the method (e.g., per day) for assessing penalties for these non-labeling violations.
- (9) Shorten the Rule's title; from "Part 305—Rule Concerning Disclosures regarding Energy Consumption and Water Use Of Certain Home Appliances and Other Products Required Under the Energy Policy And Conservation Act ('Appliance Labeling Rule')" to "Part 305—Energy And Water Use Labeling For Consumer Products Under The Energy Policy and Conservation Act ('Energy Labeling Rule')"

NEMA has no comments on the NOPR's Regulatory Review Paragraphs

The Commission is interested in receiving data, surveys and other empirical evidence to support comments submitted in response to this notice. As part of the regulatory review, the Commission is particularly interested in receiving comments and supporting data in response to the following questions:

- (1) Is there a continuing need for the Rule as currently promulgated? Why or why not?
- (2) What benefits has the Rule provided to, or what significant costs has the Rule imposed on, consumers? Provide any evidence supporting your position.
- (3) What modifications, if any, should the Commission make to the Rule to increase its benefits or reduce its costs to consumers?
 - (a) Provide any evidence supporting your proposed modifications.
 - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
 - (c) How would these modifications affect the costs and benefits of the Rule for businesses, particularly small businesses?
- (4) What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers? Provide any evidence supporting your position.
- (5) What benefits, if any, has the Rule provided to, or what significant costs, including costs of compliance, has the Rule imposed on businesses, particularly small businesses? Provide any evidence supporting your position.
- (6) What modifications, if any, should be made to the Rule to increase its benefits or reduce its costs to businesses, particularly small businesses?
 - (a) Provide any evidence supporting your proposed modifications.
 - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
 - (c) How would these modifications affect the costs and benefits of the Rule for businesses, particularly small businesses?
- (7) Provide any evidence concerning the degree of industry compliance with the Rule. Does this evidence indicate that the Rule should be modified? If so, why and how? If not, why not?
- (8) Provide any evidence concerning whether any of the Rule's provisions are no longer necessary. Explain why these provisions are unnecessary.
- (9) What modifications, if any, should be made to the Rule to account for current or impending changes in technology or economic conditions?
 - (a) Provide any evidence supporting the proposed modifications.
 - (b) How would these modifications affect the costs and benefits of the Rule for consumers and businesses, particularly small businesses?
- (10) Does the Rule overlap or conflict with other federal, state, or local laws or regulations? If so, how?
 - (a) Provide any evidence supporting your position.
 - (b) With reference to the asserted conflicts, should the Rule be modified? If so, why, and how? If not, why not?
 - (c) Provide any evidence concerning whether the Rule has assisted in promoting national consistency with respect to energy labeling.

- (11) Are there foreign or international laws, regulations, or standards with respect to energy labeling that the Commission should consider as it reviews the Rule? If so, what are they?
- (a) Should the Rule be modified in order to harmonize with these international laws, regulations, or standards? If so, why, and how? If not, why not?
- (b) How would such harmonization affect the costs and benefits of the Rule for consumers and businesses, particularly small businesses?
- (c) Provide any evidence supporting your position.
- (12) Are there any consumer products, not currently under review, that the Commission should consider for energy labeling?
- (13) Is there any information not submitted in earlier proceedings that the Commission should consider about possible consumer electronics labeling? 52
- (a) Are there any new developments in test procedures for consumer electronics relevant to possible labeling requirements?
- (b) Are there new consumer electronics products on the market that the Commission should consider for consumer energy labeling?
- (c) Is there new information consumer electronics marketing or buying patterns that would aid the Commission in considering new labeling requirements?
- (14) Is our business compliance guidance and consumer education about the Rules useful? Can they be improved? If so, how? Should the Commission print copies of these materials, or is a pdf at www.business.ftc.gov sufficient for business and consumer needs?

NEMA has no comments on the FTC’s Request for Comment on Issues of Fact, Law or Policy

The Commission invites interested persons to submit written comments on any issue of fact, law, or policy that may bear upon the FTC’s proposed labeling requirements.

NEMA General Comments:

- 1) We note a typo in section §305.20 (a)(1)(ii), which states: “(B) General service fluorescent lamps, fluorescent lamp ballasts and luminaires and metal halide lamp fixtures. A capital letter “E” printed within a circle.” The words “and luminaires” should be struck.
- 2) We note an incorrect reference in section §305.20 (b)(1), which states: “(ii) Products not required to bear EnergyGuide or Lighting Facts labels. All Web sites advertising covered products not required by this Part to bear labels with specific design characteristics illustrated in Appendix L (showerheads, faucets, water closets, urinals, fluorescent lamp ballasts, and metal halide lamp fixtures) must make a text disclosure for each covered product identical to those required for Internet disclosures under §305.20(a)(1)(iii).” The correct reference should be §305.20(a)(1)(ii)