

FEDERAL TRADE COMMISSION

16 CFR 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")

AGENCY: Federal Trade Commission.

ACTION: Final rule, policy statement delaying enforcement.

SUMMARY: The Federal Trade Commission, in response to a petition, issues an Enforcement Policy Statement under which the Commission will avoid taking law enforcement actions against manufacturers of general service incandescent lamps (including reflector lamps) not in compliance with the labeling disclosure requirements of the Appliance Labeling Rule until December 1, 1995.

EFFECTIVE DATE: March 22, 1995.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney, Division of Enforcement, Bureau of Consumer Protection, Room S-4631, Federal Trade Commission, Washington, DC 20580, telephone 202/326-3013.

SUPPLEMENTARY INFORMATION:

I. Background

On May 13, 1994, the Commission published amendments to the Appliance Labeling Rule to bring certain lamp products under the Rule's coverage.¹ The amendments will become effective on May 15, 1995. The Commission promulgated the amendments in response to a directive in the Energy Policy Act of 1992 ("EPA 92").² In a petition dated January 31, 1995 ("Petition"), the Lamp Section of The National Electrical Manufacturers Association ("NEMA")³ requested that the Commission allow manufacturers of specific types of incandescent lamp products an option as to where on the package specific disclosures must be made, and stay compliance with the Rule through November 30, 1995. In a

¹ Final rule and Statement of Basis and Purpose ("SBP"), 59 FR 25176. On December 29, 1994, the Commission published minor, technical amendments to resolve certain inconsistencies in paragraph numbering and language that had arisen during the course of four recent proceedings amending the Rule. 59 FR 67524.

² Pub. L. No. 102-486, 106 Stat. 2776, 2817-2832 (Oct. 24, 1992) (codified at 42 U.S.C. 6201, 6291-6309).

³ NEMA is a trade association representing the nation's largest manufacturers of lamp products. Its members produce more than 90 percent of the lamp products subject to the lamp labeling requirements of the Appliance Labeling Rule. Petition at 2.

document published elsewhere in this issue of the **Federal Register**, the Commission proposes amendments to the lamp labeling requirements of the Appliance Labeling Rule and requests comments on the amendments. The Commission responds to NEMA's request for a stay below.

II. NEMA's Request for a Stay

NEMA's Petition requests that the Commission stay, through November 30, 1995, "compliance against manufacturers who, in good faith and despite the exercise of due diligence, are unable to change all of their lamp packages prior to the May 15, 1995 effective date of the Lamp Labeling Rule." In support of its request for a stay, NEMA asserts that manufacturers must change by May 15, 1995, a large number of packaging designs and equipment for many stock-keeping units ("SKUs").⁴ The extent of the changes to the lamp packages, the number of product-types affected, and the need to coordinate energy efficiency disclosures with other marketing information, such as logos, names, and comparative representations, has resulted in a more time-consuming and costly conversion process than NEMA and its members initially projected. The lamp labeling amendments have had the effect of requiring manufacturers to undertake substantial redesign of the lamp package. According to NEMA, some manufacturers have undertaken extensive market research to determine the most effective placement of required disclosures in conjunction with other marketing information. Because the marketing significance of a lamp package is much greater than that of a yellow EnergyGuide attached to a larger and more expensive home appliance, the redesign of lamp packages entails much more than merely adding a disclosure box and some explanatory statements.⁵

In addition, NEMA asserts that, because of ambiguities in the lamp labeling requirements of the Appliance Labeling Rule and the different requirements of the preexisting Light Bulb Rule, 16 CFR Part 409, it has been necessary for manufacturers to seek various clarifications and other advice from the Commission's staff before manufacturers could finalize package designs for their entire inventory.⁶ NEMA states that, while the Commission's staff offered informal

⁴ NEMA's counsel informed the Commission's staff that its members produce over two thousand SKUs that will be covered by the lamp labeling requirements of the Appliance Labeling Rule.

⁵ Petition at 7.

⁶ Petition at 8.

advice on many occasions, NEMA believes it needs formal, written guidance concerning specific issues.⁷ Because of the number of issues involved, NEMA asserts that manufacturers have been unable in many respects to complete their packaging designs, or to order new printing plates and paper stock pending resolution of specific issues. NEMA contends, therefore, that even acting in good faith and exercising due diligence, manufacturers are unlikely to be able to complete the changeover of their entire packaging inventory prior to the May 15, 1995, effective date.⁸ Accordingly, NEMA requests that the Commission stay compliance of the lamp labeling provisions of the Appliance Labeling Rule for all lamps other than general service fluorescent lamps for six months, through November 30, 1995.⁹

III. Enforcement Policy Statement

The Commission has determined that it would not be appropriate for the Commission to stay the effective date of the lamp labeling amendments to the Appliance Labeling Rule because the effective date is set by the EPA 92 amendments to EPCA and the statute does not authorize the Commission to extend the effective date. 42 U.S.C. 6294(a)(2)(C)(i). The Commission, however, has determined to grant manufacturers of incandescent lamps the additional time petitioner requests.

In light of the amendments to the Rule the Commission proposes today elsewhere in this issue of the **Federal Register** in response to the Petition from NEMA and the apparent uncertainties among incandescent lamp manufacturers regarding their compliance responsibilities under the combined requirements of the Appliance Labeling Rule and the Light Bulb Rule, 16 CFR Part 409, and in order to minimize relabeling costs, the Commission has determined to not take law enforcement actions until December 1, 1995, against manufacturers of incandescent lamp products not in compliance with the lamp labeling requirements of the Appliance Labeling Rule. Petitioner, however, has not demonstrated why a similar delay should apply to the labeling disclosure requirements for medium base compact fluorescent lamps, as requested in the Petition. The Commission, therefore,

⁷ *Id.* at 2 note 1, 8. NEMA has consolidated and limited the issues on which it requests written advice in a letter to the Commission's staff dated January 30, 1995. The Commission's staff responded to the issues raised in that letter in a separate, written staff opinion letter.

⁸ *Id.*

⁹ *Id.* at 9-10.

has determined that the delay in taking law enforcement actions will not apply to the labeling requirements for medium base compact fluorescent lamps.¹⁰

List of Subjects in 16 CFR Part 305

Advertising, Consumer protection,
Energy conservation, Household

¹⁰No evidence was presented in the original rulemaking record concerning the effect, if any, of different voltages on compact fluorescent lamps, which operate through the use of a ballast that regulates the lamp current during operation, or that medium base compact fluorescent lamps are produced or marketed with design voltages other than 120 volts. Similarly, the delay will not apply to the labeling disclosure requirements for general service fluorescent lamps, for which petitioner did not request a stay.

appliances, Labeling, Lamp products,
Penalties, Reporting and recordkeeping
requirements.

By direction of the Commission.

Donald S. Clark,

Secretary.

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