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California Energy Commission
1516 Ninth Street, Mail Station 4
Sacramento, CA 95814-5512

NEMA COMMENTS ON
CALIFORNIA ENERGY COMMISSION
PROPOSED AMENDMENTS TO APPLIANCE EFFICIENCY REGULATIONS
MAY 12, 2004
PRELIMINARY WORKING STAFF DRAFT

NEMA is the leading trade association in the United States representing the interests of electroindustry manufacturers. Founded in 1926 and headquartered near Washington, D.C., its 400 member companies manufacture products used in the generation, transmission and distribution, control, and end-use of electricity, including lighting products. Domestic shipments of electrical products within the NEMA scope exceed $100 billion. We request that the Commission consider NEMA's comments below in its standards development process, including the workshop on May 27 and 28, 2004.

1. The proposed categories of "State-Regulated General Service Incandescent Lamps" and "State-Regulated Incandescent Reflector Lamps" are clearly preempted by federal law and all references to them must be deleted in their entirety. The proposed CEC attempt to regulate "covered products" is exceedingly difficult to understand, particularly when it flies in the face of the permanent injunction against CEC regulation of "covered products" of June 10, 2003 by the US District Court Eastern District of California and the apparent CEC intent in other sections of the *working draft* to back away from preemption issues. To the extent it reopens the state efficiency standards issue, it belies the CEC remonstrations before the Court that CEC does not seek to set standards for "covered products" (Count 4 in the litigation).

Federal preemption for these product categories is very clear. Incandescent reflector lamps are listed as "covered products" in Section 322 (a) of the Energy Policy and Conservation Act. The US Department of Energy (DOE) has determined that general service incandescent lamps are "covered products" pursuant to their authority under Section 322 (b) (see Federal Register notice dated September 28, 1994).

DOE has issued test procedures for these products and efficiency standards for some of these products (see last paragraph in item 1 below on "gaps"). The Federal Trade Commission has issued labeling rules for these products. If the CEC has problems with

products in the California market it can take advantage of remedies in federal law to get non-complying products off the market.

DOE's 10 CFR Part 430, Subpart B, Appendix R *UNIFORM TEST METHOD FOR MEASURING AVERAGE LAMP EFFICACY (LE) AND COLOR RENDERING INDEX (CRI) OF ELECTRIC LAMPS* is the Department of Energy test procedure. 10 CFR 430.32 (n) includes, among other things, efficacy standards and wattage limits for incandescent reflector lamps. FTC's 16 CFR Part 305 *Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliance and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")* includes, among other things, labeling "requirements for lighting products general service incandescent lamps (reflector and nonreflector)".

If CEC is relying on its previous "regulatory gaps" theory, chided by the Court, for these products, it needs to reread the Court's rulings of December 12, 2002 (preliminary injunction) and June 10, 2003 (permanent injunction). The Court said, among other things: "DOE inaction does not create a regulatory gap that the states are free to fill as they like."

2. As pointed out in the CEC materials, the Energy Policy Act of 1992 required DOE to evaluate the merit of regulation of HID lamps. DOE has published a comprehensive draft report for review on this subject; is in the process of determining whether standards are needed; and public comments on this report were due to DOE on September 5, 2003. The DOE schedule has a high priority for a determination whether or not to pursue standards in FY 2004. The action under DOE consideration would be to establish HID lamp efficacy standards high enough that mercury vapor lamps would not qualify. Without commenting on the merits of the DOE potential standard, whatever the national standard turns out to be it would preempt a state efficiency standard. Also, the DOE report contains a detailed discussion regarding the applications for HID lamps of various types showing the pitfalls inherent in the CEC proposal to use only pulse start lamps. Pulse start lamps are not available in all wattages and in vertical and horizontal burning positions, nor can they be retrofitted into luminaires with ballasts designed for probe start lamps. Unfortunately, there is not a complete line of pulse start sources available today. For those types of lamps/burning positions where pulse start is not available an assessment would be needed to ensure that the efficacy values under consideration by CEC allow probe start technology. Also, proposed Title 24 for 2005 includes lighting power density values that must be met for new buildings and "alterations"; we do not see the need for product standards since the building standard must be met. NEMA opposes the CEC proposal on HID lamps.

3. Table N-2 of the *PROPOSED AMENDMENTS TO APPLIANCE EFFICIENCY REGULATIONS* is added to include "Energy Efficiency Standards for Under-Cabinet Fluorescent Luminaire Ballasts". However, Section 146 of the 2005 *BUILDING ENERGY EFFICIENCY STANDARDS* (Title 24) includes prescriptive requirements for indoor lighting that, among other things, accounts for "lighting that is integral with modular furniture". The total lighting power input to a space, including that associated with modular furniture, is accounted for in determining the Actual Indoor Lighting Power Density and this result is required to satisfy Lighting Power Density limits for the space. Consequently, there is no need to establish a product efficiency standard for these ballasts. The lighting designer should be free to choose any design that satisfies the lighting needs and satisfies the Lighting Power Density requirements of Title 24. NEMA opposes the CEC proposal on under-cabinet fluorescent luminaire ballasts.

Sincerely yours,

Edward Gray

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Dear Dockets Personnel;

Please docket the attached 3 documents into Docket #04-AAER-1.

These items were originally docketed in 03-AAER-1, but have been referenced by submittals in the new docket, requiring us to place them in the new docket.

Thanks,

Jim Holland