

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2010-0869; Airspace  
Docket No. 10-AEA-21]

**Revocation of Class E Airspace;  
Kutztown, PA**

**AGENCY**

2010 (75 FR 81943), the Commission published a Notice proposing to extend the effective date of new labeling rules for light bulbs to January 1, 2012.<sup>1</sup> The new labeling rules, originally scheduled to become effective on July 19, 2011, apply to general service lamps (*i.e.*, medium screw base incandescent, compact fluorescent (CFL), and light-emitting diode (LED) products) and feature a “Lighting Facts” label disclosing bulb brightness, annual energy cost, life, color appearance, and energy use.<sup>2</sup>

Based on concerns about the original deadline, NEMA asked the Commission to: (1) Extend the new label’s effective date for all covered bulbs, except CFLs, to January 1, 2012; (2) extend the effective date for CFLs to January 1, 2013; and (3) exempt all incandescent bulbs that will be phased out by 2014 due to revised Federal energy efficiency standards. After considering NEMA’s petition, as well as responses from the Natural Resources Defense Council and Earthjustice, the Commission proposed extending the effective date for all covered bulbs to January 1, 2012, and exempting bulbs phased out by Federal efficiency standards in place by 2013 (*e.g.*, 75-watt bulbs). The proposal did not include NEMA’s request for an additional extension for CFLs, nor did it

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<sup>1</sup> This document uses the terms lamp, light bulb, and bulb interchangeably.

<sup>2</sup> 75 FR 41696 (Jul. 19, 2010). The Commission issued the new labels and established the original effective date of July 19, 2011 pursuant to the Energy Independence and Security Act of 2007 (Pub. L. 110–140) (EISA). EISA also established new minimum efficiency standards phasing out inefficient incandescent bulbs over a three year period (100-watt bulbs in 2012, 75-watt bulbs in 2013, and 60- and 40-watt bulbs in 2014). These new standards will increase the prevalence of more efficient incandescent halogen bulbs, CFLs, and LEDs. In the July 19, 2010 Notice, the Commission exempted 100-watt incandescent bulbs from the new label because they will remain on the market for only a short time.

<sup>3</sup> See <http://www.ftc.gov/os/comments/lightbulblabelexten/index.shtm>. Unless otherwise stated, the comments discussed in this document refer to: Brickman (# 00005); Earthjustice (# 00009); Garcia (# 00002); IKEA of Sweden (# 00003); Leyn (# 00007); IMERC (# 00008); Natural Resources Defense Council (# 00011); NEMA (# 00010); Sood (# 00004); and VanPelt (# 00006). Several comments addressed issues not germane to the proposed extension such as the general merits of the Lighting Facts label. This Notice does not address these comments.

<sup>4</sup> NEMA’s petition also requested certain changes to the label’s formatting requirements, particularly for smaller packages. The Commission did not propose any changes in its December 29, 2010 Notice and, in response, received no comments seeking Rule changes. See 75 FR at 81946. Accordingly, this Notice does not address these issues.

<sup>5</sup> Another comment (Brickman) also opposed any extension, arguing that the label is necessary to make consumers aware of the energy-saving benefits of CFLs and LEDs.

packaging changes. Specifically, the Commission provided initial notice of potential package changes in 2008, announced the details of those changes in June 2010, and recently proposed the extension it is now making final.

Finally, the Commission also declines to set an earlier effective date for LEDs and new incandescent halogen products as suggested by Earthjustice because an earlier date likely would have little impact on labeling for those products. As noted in the December 2010 Notice, manufacturers are likely to use the new label for these products as they enter the market over the next year. Thus, an earlier effective date for these products is not necessary.

#### *B. No Additional Extension for CFLs*

As proposed in the December 29, 2010 Notice, the Commission declines to extend the effective date for CFLs to January 1, 2013. Such a delay would deprive consumers of the new label's benefits for these widely-available bulbs during an important transition period. With the exception of NEMA, the commenters supported the Commission's proposal not to provide additional time for CFL labeling. NEMA reiterated its request for a CFL extension, but without providing additional information or argument.

As explained in the December 2010 Notice, further delaying the new CFL label would hinder consumers' ability to compare CFLs to new, efficient incandescent halogens and LEDs as those technologies become more available. Moreover, further delay for the market's most prevalent high efficiency bulbs may hamper ongoing efforts to help consumers understand the new label and use it in purchasing decisions. In addition, extending the effective date for all covered bulbs to January 1, 2012, along with the exemption of certain incandescent bulbs as discussed below in subsection C, should ease the burden of labeling CFLs.

#### *C. Incandescent Bulbs Subject to New Federal Efficiency Standards*

As proposed in the December 29, 2010 Notice, the final rule maintains the new Lighting Facts label for 60- and 40-watt incandescent bulbs but exempts from the label requirements 75-watt incandescent bulbs, and reflector bulbs that do not meet DOE's July 14, 2012, standards.<sup>6</sup>

<sup>6</sup> In its petition, NEMA had sought an exemption for 60- and 40-watt incandescent bulbs phased out by EISA efficiency standards effective January 1, 2014, and for 75-watt incandescent bulbs phased out by the EISA efficiency standards effective January 1, 2013. See 42 U.S.C. 6295(j). It also sought to exclude certain inefficient incandescent reflector

Industry commenters sought exemptions for all incandescents affected by the EISA standards, while other comments urged fewer exemptions than proposed. Specifically, NEMA restated that manufacturers have been reducing investment in incandescent products phased out by EISA and that new labeling requirements will force them to make additional capital investments in products that will soon exit the market. Similarly, Universal Lighting Systems explained that the general public already knows these bulbs are inefficient, and thus requiring new labeling for the short time these products remain available is unnecessary and a waste of resources.

In contrast, NRDC, Earthjustice, IMERC, and IKEA of Sweden urged the Commission to reconsider the proposed exemption for 75-watt bulbs. In particular, Earthjustice argued that the Commission has assigned unwarranted significance to the shorter time period the 75-watt bulb may be available after the new effective date.<sup>7</sup> Earthjustice also argued that the FTC should not consider the relatively low market share of 75-watt bulbs because the Commission has previously stated that 75-watt bulb labeling will benefit consumers. IMERC argued that NEMA failed to present sufficient information to make a compelling argument for the exemption.

In addition, citing the recent phase-out of 100-watt incandescent bulbs in California and Europe, NRDC asserted that 75-watt bulbs will remain on store shelves well after January 1, 2013, due to manufacturer and retailer stockpiling. Moreover, Earthjustice stated that, with the phase-out of 100-watt bulbs, consumers looking for the brightest bulbs would gravitate to 75-watt bulbs given their tendency to equate watts with brightness. Earthjustice asserted that the new label on 75-watt bulbs would help consumers in determining that such bulbs may, in fact, be less bright than some higher efficiency alternatives. Similarly, Earthjustice asserted that, without the new label, consumers will confuse old 75-watt (~1,100 lumen) bulbs with new 72-watt incandescent halogens that have a higher lumen rating.

Furthermore, NRDC also argued that the modest package revision cost

products that DOE efficiency regulations will eliminate on July 14, 2012. 10 CFR 430.32(n)(5). No comment opposed the exemption for these reflector bulbs.

<sup>7</sup> The Commission originally required labeling for 75-watt bulbs because these products would remain on the market for "more than a year" after the effective date. However, under the extended deadline, they will be manufactured for no more than one year after the new effective date.

associated with relabeling 75-watt bulbs would be offset by the economic and environmental benefits resulting from consumers using the new label to select more efficient bulbs, particularly given 75-watt bulbs' higher energy costs. Finally, NRDC and IKEA of Sweden noted that requiring the new label on inefficient incandescents may provide incentives to speed the phase out of incandescent bulbs prior to the effective date of the new efficiency standards.

After considering these comments, the Commission now exempts 75-watt and certain reflector bulbs as proposed in the December 2010 Notice. The new label is necessary for 60- and 40-watt bulbs because these bulbs may remain in production for two years after the new label's introduction and occupy a much greater market share than other inefficient incandescents such as 75-watt bulbs.<sup>8</sup> Moreover, the commenters offered no information to refute that the benefits to consumers of requiring the new label for 60- and 40-watt bulbs outweigh "reinvestment" concerns raised by NEMA.

Despite concerns raised by commenters, the Commission, as detailed below, does not believe the new label is warranted for 75-watt bulbs because they will remain available for a relatively short time and manufacturers can redirect resources to label other bulbs. When it issued the new labeling rule in July 2010, the Commission chose to require the new label for traditional incandescent bulbs remaining in production for more than a year after the Rule's effective date, including 75-watt bulbs, which would have stayed in production for a year and half after the original effective date. However, the new six-month extension shortens the period that 75-watt bulbs will remain in production after the effective date, reducing the benefits of re-labeling these soon-to-be obsolete products. As NRDC notes, 75-watt bulbs may continue to appear on store shelves even after the end of production. However, it is reasonable to assume that these bulbs will not be prevalent on shelves for an extended period given their limited market share, manufacturer

<sup>8</sup> According to past estimates, 75-watt bulbs account for only about 19% of the incandescent market compared to 58% for 60- and 40-watt bulbs. See [http://neep.org/uploads/Summit/2010%20Presentations/NEEP%20Lighting\\_Swope.pdf](http://neep.org/uploads/Summit/2010%20Presentations/NEEP%20Lighting_Swope.pdf). (DOE presentation using 2006 incandescent estimates). As comments suggest, some consumers may gravitate to 75-watt bulbs as the highest wattage bulb remaining on the market, confusing their wattage with light output. However, even if such confusion does arise, it should be minimal given the relatively small market share of these bulbs and the limited time period they will be available.

disinvestment in traditional incandescent technologies as indicated in NEMA's petition, and the increasing availability of more efficient incandescent halogen bulbs that have similar performance characteristics. Finally, the exemption will allow manufacturers to focus their labeling resources on products that will remain in the market well into the future, such as CFLs.

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act (PRA).<sup>9</sup> OMB has approved the Rule's existing information collection requirements through May 31, 2011 (OMB Control No. 3084-0069). The amendments in this document will not increase and, in fact, likely will reduce somewhat the previously estimated burden for the lamp labeling amendments.

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule, and a Final Regulatory Flexibility Analysis (FRFA) with the final rule, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.<sup>10</sup>

The Commission does not anticipate that these amendments will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds. However, the Commission does not expect that the economic impact of the proposed amendments will be significant. If anything, the changes will reduce the Rule's burden on affected entities.

In its July 19, 2010 Notice (75 FR at 41711), the Commission estimated that the new labeling requirements will apply to about 50 product manufacturers and an additional 150 online and paper catalog sellers of covered products. The Commission expects that approximately 150 qualify as small businesses.

Although the Commission certified under the RFA that the amendments would not, if promulgated, have a

significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an FRFA in order to explain the impact of the amendments on small entities as follows:

*A. Statement of the Need for, and Objectives of, the Amendments*

Section 321(b) of the Energy Independence and Security Act of 2007

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<sup>9</sup> 44 U.S.C. 3501-3521.

<sup>10</sup> 5 U.S.C. 603-605.

<sup>11</sup> See 75 FR at 41712.

By direction of the Commission.

*Secretary.*

[FR Doc. 2011-8689 Filed 4-11-11; 8:45 am]

**BILLING CODE 6750-01-P**

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