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FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA74

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 (“FTC” or “Commission”).

ACTION: Final Rule.

SUMMARY: Section 324 of the Energy Independence and Security Act of 2007 requires the Commission to issue labeling rules for metal halide lamp fixtures and ballasts. In accordance with this directive, the Commission has completed the required rulemaking and is publishing final amendments to the Appliance Labeling Rule (“Rule”).

DATES: The amendments published in this final rule will become effective on January 1, 2009.

ADDRESSES: Requests for copies of this document are available from: Public Reference Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The complete record of this proceeding is also available at that address. Relevant portions of the proceeding, including this document, are available at <http://www.ftc.gov>.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

As directed by the Energy Independence and Security Act of 2007 (“EISA” or “Act”) (Pub. L. 110-140), the Commission has conducted a rulemaking to create new labeling requirements for the Appliance Labeling Rule (16 CFR Part 305) for metal halide lamp fixture packaging and ballasts contained within those fixtures. On April 1, 2008, the Commission published a Notice of Proposed Rulemaking (“NPRM”) seeking comment on draft labeling requirements for halide lamp fixtures (63 FR 17263). The Commission is now publishing final amendments to the Rule. In support of these amendments, this Notice provides information about EISA’s requirements, a description of the FTC’s amendments to implement that law, and a discussion of comments received in response to the proposed amendments. The Notice also explains that the FTC will be conducting a separate rulemaking in the future related to energy disclosures for lamp products as required by EISA. Finally, this Notice contains analysis under the Paperwork Reduction Act and Regulatory Flexibility Act.

I. Labeling for Metal Halide Lamp Fixtures

A. *EISA’s Directive:* Section 324(d) of EISA amends the Energy Policy and Conservation Act (42 U.S.C. 6291 *et seq.*) (“EPCA”) to require the Commission to issue labeling rules for metal halide lamp fixture packaging and ballasts. The law limits these labeling requirements to products that are subject to Department of Energy (“DOE”) efficiency standards issued pursuant to 42 U.S.C. 6295. Under EISA, the Commission must prescribe these rules by July 1, 2008. The statute also directs that the rules, once issued, must apply to any fixture manufactured on or after January 1, 2009.

EISA defines a “metal halide lamp” as a “high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of

dissociation, possibly in combination with metallic vapors.”¹ These lamps produce a bright, white light and offer high color rendition compared to other high-intensity lighting. They typically light large indoor areas, such as gymnasiums and sports arenas, as well as outdoor areas, such as car lots.² As discussed below, the Commission is issuing labeling rules for metal halide lamp fixtures consistent with the directive of EISA.

Specifically, EISA directs the FTC to issue a rule requiring manufacturers to label metal halide lamp fixture packages and the ballasts in those fixtures with “a capital letter ‘E’ printed within a circle.”³ The encircled capital letter “E” (*i.e.*, circle “E”) will indicate that the product meets applicable DOE energy efficiency standards consistent with the labeling requirements for other lighting products.⁴ Because EISA excludes some metal halide lamp fixture types from those efficiency standards⁵ and the FTC labeling requirements only apply to products that meet the DOE standards, the circle “E” will aid consumers in identifying products that satisfy the DOE standard.

¹ See Pub. L. 110-140, 324(a). The Act also contains definitions for “metal halide ballast” (used to start and operate metal halide lamps) and “metal halide lamp fixture.”

² See <http://www.eere.energy.gov/consumer/> (“A Consumer’s Guide to Energy Efficiency and Renewable Energy”).

³ 42 U.S.C. 6294(a)(2)(C)(ii). EISA mandates FTC labeling rules for metal halide lamp fixtures and ballasts contained in those fixtures. It does not specifically require labeling for metal halide lamps themselves.

⁴ Under EISA (42 U.S.C. 6294(a)(2)(C)), the FTC’s labeling rules cover only those fixtures subject to DOE efficiency standards issued pursuant to 42 U.S.C. 6295. Section 324(e) of EISA (42 U.S.C. 6295(hh)) specifically mandates DOE energy standards for metal halide lamp fixtures. Those standards become effective on the same date as the FTC’s labeling requirements.

⁵ 42 U.S.C. 6295(hh)(1)(B).

B. *FTC's Final Requirements:* In its NPRM, the Commission proposed amendments to the Appliance Labeling Rule to implement EISA's directive. The final amendments follow the proposed rule provision (with some minor exceptions explained in Section II of this Notice). There are four basic elements to the final amendments.

First, the amendments insert metal halide lamp fixtures into the list of covered products at Section 305.2 and include metal halide lamp fixtures in the descriptions of covered products at Section 305.3.⁶

Second, the amendments (§ 305.15(c)) require that the circle "E" be clearly and conspicuously disclosed in color-contrasting ink on the label of metal halide lamp fixture packages and the ballasts contained in those fixtures. Consistent with current requirements for similar products, this disclosure will be deemed conspicuous, in terms of size, if it appears in typeface at least as large as either the manufacturer's name or another logo disclosed on the label (e.g., "UL" or "ETL"), whichever is larger.⁷

Third, the amendments (§ 305.20) require retail catalog sellers to include the circle "E" in their descriptions of metal halide lamp fixtures.⁸ The final amendments also require the circle

⁶ These descriptions are the same as the definitions in EISA (see 42 U.S.C. 6291(62-64)) except that the FTC amendments limit the description of "metal halide lamp fixtures" to models subject to DOE efficiency standards. In addition, in the final amendments, the descriptions of metal halide-related terms in section 305.3 appear in a different order than in the proposed amendments. In the proposed amendments, the descriptions implied that fixtures, lamps, and ballasts are all separate covered products. In the final amendments, the order and appearance of these descriptions clarify that only "metal halide lamp fixtures"(not ballasts or lamps) are covered products.

⁷ These requirements track existing requirements for fluorescent lamp ballasts and luminaires (see 16 CFR 305.15(a)&(b)).

⁸ EPCA requires energy disclosures for catalog sellers of covered products. (42 U.S.C. 6296(a)).

“E” disclosures in point of sale promotional material as required for other covered products (§ 305.19).⁹

Finally, consistent with requirements for other covered products, the final amendments add reporting requirements for metal halide lamp fixtures to section 305.8 of the Rule.¹⁰

II. Comments Received in Response to Proposed Rule

The Commission received one written comment in response to the NPRM. The comment, submitted by the National Electrical Manufacturers Association (“NEMA”), raised four issues. Specifically, it requested that the Commission: 1) extend the deadline for the publishers of printed catalogs to meet the Rule’s requirements; 2) eliminate the proposed annual reporting requirement; 3) eliminate the proposed requirement that manufacturers include the circle “E” on shipping documents for metal halide products; and 4) consider adding a requirement that the circle “E” appear on metal halide fixtures themselves in addition to packaging and ballasts. Each of these issues is addressed in turn.

Printed Catalog Disclosures: Consistent with requirements for other products covered by the Rule, the amendments (§ 305.20) require retail catalog sellers to include the circle “E” in their descriptions of metal halide lamp fixtures. Such catalogs include websites and traditional paper catalogs. In its comments, NEMA sought more time to allow manufacturers to revise their paper catalogs because it was concerned that manufacturers would incur large costs reprinting

⁹ EPCA authorizes the Commission to require such point of sale disclosures for covered products (42 U.S.C. 6294(c)(4)). The current Rule contains similar requirements for fluorescent lamp ballasts (305.19(a)(2)).

¹⁰ Under Section 305.8, the final amendments will require the submission of data including, but not limited to, model number, voltage, and ballast efficiency. The proposed due date for annual reports of these products was March 1 of each year. As discussed in section II of this Notice, the reporting date in the final amendments is September 1 of each year.

paper catalogs outside of their standard printing cycles.

The Commission believes that NEMA's comment is reasonable and that additional compliance time would not have a significant impact on the efficacy of disclosures. Accordingly, the final amendments apply to any catalog published after July 1, 2009 (instead of January 1, 2009 as proposed in the NPRM).¹¹

Reporting Requirements: NEMA also opposed the proposed yearly reporting requirements because, in its view, they would be overly burdensome. NEMA also took issue with the FTC's reporting burden estimate, arguing that the FTC should take into account the many product lines ("well over 100") in the industry and not just the number of manufacturers. Finally, NEMA stated that, if the FTC is unable to eliminate the reporting requirement, then the agency should establish an electronic database to ease the reporting burden.

The final amendments retain the proposed reporting requirements. Under Section 326 of EPCA (42 U.S.C. 6296), manufacturers of covered products must submit annual reports to the Commission containing energy data for their products. This annual reporting requirement is applicable to all products covered by the Rule, including appliances, heating and cooling equipment, covered lighting products, and covered plumbing products. Accordingly, the Commission has no discretion to forgo reporting. However, to provide manufacturers with additional time in preparing their initial (2009) report, the Commission has changed the annual reporting date for metal halide lamp fixtures from March 1 of each year to September 1 (see

¹¹ NEMA did not specify an additional time period necessary for marketers to redraft their catalogs. Absent any specific suggested time period, the Commission has afforded marketers an additional six months, giving them more than a full annual printing cycle to comply.

Section 305.8(b)(1)).¹² While this change does not eliminate the annual reporting requirement, it will give manufacturers more time to gather data on their models for the initial (2009) report. Once manufacturers have assembled their data for the first (2009) annual report, they should be able to use that data as a starting point for preparing reports in subsequent years, thus making it easier to prepare reports thereafter.

Although the Commission cannot eliminate the reporting requirement, it does seek to provide manufacturers with flexibility in submitting their reporting data. For example, the FTC allows manufacturers to submit data through a variety of means, including paper letters, printed catalogs, and electronic files via email. In addition, the Commission understands that the DOE is considering the development of a web-based system to facilitate the submission of energy data for covered products. If such a system is implemented, it may provide an additional means of simplifying FTC data submission.

Disclosures on Shipping Documents: NEMA also took issue with a portion of the proposed Rule that would require the circle “E” on documentation accompanying pallet loads of fixtures under section 305.15(c)(3). NEMA argued that this requirement adds no value because the shipping document does not help those who purchase products. NEMA also argued that the disclosure fails to aid enforcement efforts because inspectors do not review shipping documents to determine compliance with efficiency standards.

In this regard, NEMA has raised valid concerns. The benefit of the disclosure on

¹² The final rule also contains a slight clarification to the reporting requirements. The EISA amendments (42 U.S.C. 6293(b)(18)) dictate the DOE test procedure that must be used for metal halide lamp ballasts. The final FTC reporting requirements (section 305.8(a)(5)(vii)) contain a reference to that statutory requirement to ensure that ballast efficiency data submitted to the FTC are consistent with the results of the DOE test procedure. The FTC labeling rule itself does not impose testing requirements for metal halide products.

shipping documents is unclear. For purchases outside of brick and mortar stores, the Rule's website and catalog disclosures provide the information consumers need to determine compliance with energy standards. Similarly, because the final amendments require the circle "E" disclosure on the pallet sheeting itself, there appears to be little need to include it in separate shipping documentation. Accordingly, the final amendments do not include this requirement.¹³

Marking on Metal Halide Fixture: Finally, NEMA urged the Commission to consider requiring the circle "E" on the fixture itself, in addition to the package and ballasts as proposed. NEMA indicated that such a requirement would "provide more visibility for the enforcement of the law and ensure that compliant manufacturers remain competitive."

The Commission has considered NEMA's suggestion and decided not to require the disclosure on fixtures at this time. The statute appears broad enough to provide the FTC with discretion to require marking on the metal halide fixture itself because the law contains a general mandate for the Commission "to issue labeling rules" for metal halide lamp fixtures. Such a requirement, however, would constitute a significant departure from the proposed amendments, which track Congress's specific directive for labeling on packages and ballasts. Given this significant departure, it would be appropriate to seek further comment before making such a change. However, if the Commission were to delay this proceeding to seek such comment, it could not meet the July 1, 2008 Congressional deadline. Accordingly, the Commission has determined to issue the Rule as proposed. The upcoming rulemaking on the lamp labeling alternatives (discussed below) will provide an opportunity for further consideration of this issue.

¹³ A similar requirement applies to disclosures for fluorescent lamp ballasts and luminaires (16 CFR § 305.15(a)&(b)). The upcoming rulemaking on the effectiveness of lighting disclosures will give the Commission an opportunity to review the appropriateness of that requirement.

For now, although the final amendments will apply only to the fixture package and the ballast itself, nothing prohibits manufacturers from printing the circle “E” on the fixture itself as long as the fixture meets applicable energy standards.

III. Upcoming Rulemaking on the Effectiveness of Lamp Labeling

EISA requires the FTC to conduct a rulemaking to examine the effectiveness of current lighting disclosures required by the Commission and to explore alternative labeling approaches.¹⁴ To meet the Congressional deadline for metal halide lamp fixture labeling requirements, the Commission will initiate the rulemaking on lamp label effectiveness as a separate proceeding.

IV. Paperwork Reduction Act

The proposed requirements for package and product labels, as well as point-of-sale materials and catalog disclosures do not constitute a “collection of information” under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521) because they are a “public disclosure of information originally supplied by the government to the recipient for the purpose of disclosure to the public” as indicated in OMB regulations.¹⁵ The data reporting from metal halide lamp ballast manufacturers, however, would constitute a “collection of information.”¹⁶ Consistent with past estimates for fluorescent ballast manufacturers, we estimated in the NPRM that such reporting would require six hours per manufacturer. We also estimated that there are

¹⁴ EISA Section 321(b) (42 U.S.C. 6294(a)(2)(C)).

¹⁵ 5 CFR 1320.3(c)(2).

¹⁶ The final amendments impose no reporting requirements on catalog sellers.

approximately 20 manufacturers of metal halide lamp fixtures.¹⁷ NEMA's comments, however, indicated that, while there are approximately 20 manufacturers, some of those manufacturers have multiple divisions or product lines. NEMA estimates that there are "well over 100" such lines within the industry. Accordingly, in the final estimate, we conservatively assume there are 110 divisions or product lines and that reporting will require six hours for each of these entities (*i.e.*, the same amount of time we estimate for a manufacturer).¹⁸ Therefore, our final estimate is 660 hours (110 product/division lines x 6 hours) as a reporting burden for these entities. In addition, we estimate that the yearly recordkeeping burden for metal halide manufacturers will be no more than 2 hours each or 220 hours total (2 hours x 110 product/division lines). Therefore, the total estimated annual burden of the final amendments is 880 hours. Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501-3521, the FTC submitted to the Office of Management and Budget (OMB) for review and approval the collections of information contained in the Rule. On May 23, 2008, under OMB Control No. 3084-0069, OMB granted approval through May 31, 2011.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-612, requires an agency to

¹⁷ This number (20) is consistent with our estimate for fluorescent lamp ballast manufacturers. *See* 69 FR 64289, 64291 (Nov. 4, 2004). U.S. Economic Census data indicate that there are approximately 80 electric lamp bulb and part manufacturers, 473 residential electric lighting fixture manufacturers and 356 commercial, industrial, and institutional electric lighting fixture manufacturers in the U.S. *See* <http://www.census.gov/econ/census02/guide/INDRPT31.HTM> (Codes 335110, 335121, and 335122).

¹⁸ This assumption applies across all the industry, regardless of the size of a particular manufacturer's product line or division. We believe this assumption is very conservative because some product lines or divisions may be very small and require substantially less than six hours of burden per year.

provide a Final Regulatory Flexibility Analysis (“FRFA”) with a final rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603-605.

In light of the comments submitted in response to the NPRM, the FTC reaffirms its belief that the amendments will not have a significant economic impact on a substantial number of small entities. Although the Commission certifies under the RFA that the rule in this notice will not have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, to publish a FRFA to explain the impact of the Rule on small entities as follows:

A. Statement of the need for, and objectives of, the amendments

Section 324 of EISA requires the Commission to issue labeling rules for metal halide lamp products. EISA specifies the content of such labels to provide energy information for purchasers. Also, the Commission is charged with enforcing the requirements of 42 U.S.C. 6294, which require the agency to issue these amendments. The objective of the amendments are to establish energy labeling requirements for metal halide lamp fixtures and ballasts.

B. Issues raised by comments in response to the initial regulatory flexibility analysis

No significant issues were raised by public comment related specifically to small business impacts. NEMA’s comment raised concerns about the compliance burden related to catalog disclosures and reporting requirements. As discussed in detail in Section II of this Notice, the Commission has changed aspects of the amendments to address these concerns.

C. Estimate of the number of small entities to which the amendments will apply

Under the Small Business Size Standards issued by the Small Business Administration, lighting fixture manufacturers qualify as small businesses if they have fewer than 500

employees. As discussed in more detail in Section III of this Notice, the Commission estimates that only a small fraction of lamp fixture manufacturers (approximately 20 entities) produce metal halide lamp fixtures and ballasts. Even if most of these entities were small businesses, the number would not be substantial.

The Commission also estimates that 200 catalog retailers (including website sellers) would have to comply with the new reporting requirements, most or all of which are probably small businesses. As with catalog sellers of fluorescent lamp ballasts under the current rule, catalog sellers of metal halide fixtures and ballasts would have to insert the circle “E” in each description of metal halide lamp fixtures they offer for sale. We expect that the burden associated with such disclosures will be *de minimis*.

D. Projected reporting, recordkeeping, and other compliance requirements

The Commission recognizes that the final labeling rule will involve some increased costs for affected parties. Most of these costs will be in the form of redrafting information placed on packages and products and placing the required disclosure in paper and web-based catalogs. Specifically, the amendments require that labels for metal halide lamp fixtures and ballasts, and point-of-sale promotional material for fixtures, disclose a circle “E.” As manufacturers already include information on packages and ballasts in the ordinary course of business, the Rule will require manufacturers to reformat their labels only one time to include the circle “E” symbol. The requirement that catalog sellers include the circle “E” in their product descriptions will involve the same, one-time change to all of the metal halide lamp fixture descriptions in the seller’s catalog. Similarly, the Rule contains standard reporting requirements for manufacturers to submit data that, in all likelihood, they already generate and disseminate during the normal course of business in catalogs and other disclosures.

The Commission does not expect that there will be any significant legal, professional, or training costs or skills needed to comply with the Rule. The Commission does not expect that the labeling requirements will impose significant incremental costs for websites or other advertising. Thus, the Commission anticipates that, in total, the burdens imposed by the amendment should not be significant for any particular entity.

E. Alternatives considered

The amendments closely track the prescriptive requirements of the statute, and thus leave little room for significant alternatives to decrease the burden on regulated entities. Although the Commission has no discretion on the timing of the labeling requirements for the products and product packages, the statutory deadline does not apply to catalog disclosures or reporting requirements. Accordingly, in response to comments, the Commission has extended the time given to manufacturers to comply with the catalog disclosure requirements and has changed the annual reporting date as explained in Section II of this Notice. In addition, the Commission routinely allows manufacturers to submit required data through electronic means.

VI. Final Rule Language

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling,

Reporting and recordkeeping requirements.

For the reasons set out above, the Commission is issuing the following amendments to 16 CFR

Part 305:

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”)

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

§ 305.2 [Amended]

2. In paragraph (k)(2) of section 305.2, add the phrase “metal halide lamp fixtures,” after the phrase “fluorescent lamp ballasts,”.

3. In § 305.2, revise paragraph (l)(21), and add paragraph (l)(22) to read as follows:

§ 305.2 Definitions.

* * * * *

(l) * * *

(21) Metal halide lamp fixtures.

(22) Any other type of consumer product that the Department of Energy classifies as a covered product under section 322(b) of the Act (42 U.S.C. 6292).

* * * * *

4. In section 305.3, add paragraph (s) to read as follows:

§ 305.3 Description of covered products.

* * * * *

(s) *Metal halide lamp fixture* means a light fixture for general lighting application that is designed to be operated with a metal halide lamp and a ballast for a metal halide lamp and that is subject to and complies with Department of Energy efficiency standards issued pursuant to 42 U.S.C. 6295.

(1) *Metal halide ballast* means a ballast used to start and operate metal halide lamps.

(2) *Metal halide lamp* means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in

combination with metallic vapors.

* * *

5. Section 305.8 is amended to read as:

a. In paragraph (a)(1) of section 305.8, add the phrase “metal halide lamp fixtures,” after the phrase “fluorescent lamp ballasts,”.

b. In section 305.8, add paragraph (a)(5) to read as follows:

§ 305.8 Submission of data.

* * * * *

(a)(5) Each manufacturer of a metal halide lamp fixture shall submit annually to the Commission a report for each basic model of metal halide lamp fixture in current production.

The report shall contain the following information:

- (i) Name and address of manufacturer;
- (ii) All trade names under which the metal halide lamp fixture is marketed;
- (iii) Model number;
- (iv) Starting serial number, date code or other means of identifying the date of manufacture (date of manufacture information must be included with only the first submission for each basic model);
- (v) Type of ballast (*e.g.*, pulse, probe, or electronic);
- (vi) Nominal input voltage and frequency;
- (vii) Ballast efficiency (as determined pursuant to 42 U.S.C. 6293(b)(18)); and
- (viii) Lamp type and wattage (or range of wattages) with which the metal halide lamp fixture is designed to be used.

* * * * *

c. In section 305.8, revise paragraph (b)(1) to read as follows:

§ 305.8 Submission of data.

* * * * *

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators.....	Aug. 1
Refrigerator-freezers.....	Aug. 1
Freezers.....	Aug. 1
Central air conditioners.....	July 1
Heat pumps.....	July 1
Dishwashers.....	June 1
Water heaters.....	May 1
Room air conditioners.....	May 1
Furnaces.....	May 1
Pool heaters.....	May 1
Clothes washers.....	Oct. 1
Fluorescent lamp ballasts.....	Mar. 1
Showerheads.....	Mar. 1
Faucets.....	Mar. 1
Water closets.....	Mar. 1
Urinals.....	Mar. 1
Metal halide lamp fixtures	Sept. 1
Fluorescent lamps.....	Mar. 1
	[Stayed]
Medium Base Compact Fluorescent Lamps.....	Mar. 1
	[Stayed]
Incandescent Lamps, incl. Reflector Lamps..	Mar. 1
	[Stayed]

* * * * *

§ 305.10 [Amended]

6. In paragraph (a) of section 305.10, add the phrase “metal halide lamp fixtures,” after the phrase “fluorescent lamp ballasts,”.

7. In section 305.15, add paragraph (c) to read as follows:

§ 305.15 Labeling for lighting products.

* * * * *

(c) *Metal halide lamp fixtures and metal halide ballasts* —(1) *Contents*. Metal halide ballasts contained in a metal halide lamp fixture covered by this Part shall be marked conspicuously, in

color-contrasting ink, with a capital letter “E” printed within a circle. Packaging for metal halide lamp fixtures covered by this Part shall also be marked conspicuously with a capital letter “E” printed within a circle. For purposes of this section, the encircled capital letter “E” will be deemed “conspicuous,” in terms of size, if it is as large as either the manufacturer’s name or another logo, such as the “UL,” “CBM” or “ETL” logos, whichever is larger, that appears on the metal halide ballast, or the packaging for the metal halide lamp fixture, whichever is applicable for purposes of labeling.

(2) *Product Labeling.* The encircled capital letter “E” on metal halide ballasts must appear conspicuously, in color-contrasting ink (*i.e.*, in a color that contrasts with the background on which the encircled capital letter “E” is placed) on the surface that is normally labeled. It may be printed on the label that normally appears on the metal halide ballast, printed on a separate label, or stamped indelibly on the surface of the metal halide ballast.

(3) *Package Labeling.* For purposes of labeling under this section, packaging for metal halide lamp fixtures consists of the plastic sheeting, or “shrink-wrap,” covering pallet loads of metal halide lamp fixtures as well as any containers in which such metal halide lamp fixtures are marketed individually or in small numbers. The encircled capital letter “E” on packages containing metal halide lamp fixtures must appear conspicuously, in color-contrasting ink, on the surface of the package on which printing or a label normally appears. If the package contains printing on more than one surface, the label must appear on the surface on which the product inside the package is described. The encircled capital letter “E” may be printed on the surface of the package, printed on a label containing other information, printed on a separate label, or indelibly stamped on the surface of the package. In the case of pallet loads containing metal

halide lamp fixtures, the encircled capital letter “E” must appear conspicuously, in color-contrasting ink, on the plastic sheeting, unless clear plastic sheeting is used and the encircled capital letter “E” is legible underneath this packaging.

§ 305.19 [Amended]

8. In paragraph (a)(1) of section 305.19, add the phrase “metal halide lamp fixtures,” after the phrase “fluorescent lamp ballasts,” and revise paragraph (a)(2) to read as follows:

§ 305.19 Promotional material displayed or distributed at point of sale.

* * * * *

(2) Any manufacturer, distributor, retailer or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product that is a fluorescent lamp ballast or metal halide lamp fixture to which standards are applicable under section 325 of the Act, shall disclose conspicuously in such printed material, in each description of such product, an encircled capital letter “E”.

* * * * *

§ 305.20 [Amended]

9. In paragraph (a) of section 305.20, add the phrase “metal halide lamp fixtures,” after the phrase “fluorescent lamp ballasts,” and add paragraph (e) to read as follows:

§ 305.20 Paper catalogs and websites.

* * * * *

(e) Any manufacturer, distributor, retailer, or private labeler who advertises metal halide lamp fixtures manufactured on or after January 1, 2009 in a catalog prepared after July 1, 2009, from which they may be purchased by cash, charge account or credit terms, shall disclose

conspicuously in such catalog, in each description of such metal halide lamp fixture, a capital letter “E” printed within a circle.

* * * * *

By direction of the Commission.

Donald S. Clark
Secretary