

TABLE 4

Brake unit part number	Maximum settings—refurbished brakes (R11-3 on brake housing)		
	Maximum wear pin measurement	Alternate brake wear measurement	Measure in accordance with aircraft braking systems (ABS) component maintenance manual with illustrated parts list (CMM w/IPL) number
5008132-2	1.85" (47 mm)	4.00" (101.6 mm)	CMM w/IPL AP-652(32-43-77)
5008132-3	1.85" (47 mm)	4.00" (101.6 mm)	CMM w/IPL AP-652 (32-43-77)
5008132-4	2.20" (55.9 mm)	4.35" (110.5 mm)	CMM w/IPL AP-652 (32-43-77)
5008132-5	2.20" (55.9 mm)	4.35" (110.5 mm)	CMM w/IPL AP-652 (32-43-77)
5008132-6	2.20" (55.9 mm)	4.35" (110.5 mm)	CMM w/IPL AP-652 (32-43-77)
5008132-7	2.20" (55.9 mm)	4.35" (110.5 mm)	CMM w/IPL AP-652 (32-43-77)
5008132-8	2.20" (55.9 mm)	4.35" (110.5 mm)	CMM w/IPL AP-652 (32-43-77)

(2) For Model F28 Mark 0100 and 0070 series airplanes equipped a brake unit having P/N 5011809, A5011809, or B5011809: The maximum wear pin measurement is 2.50" (63.5 mm), with an alternate brake wear measurement of 4.35" (110.5 mm). The measurement shall be done in accordance with Aircraft Braking Systems (ABS) Component Maintenance Manual (CMM) with Illustrated Parts List (IPL) AP-747 (32-43-65).

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on August 1, 1996.

Issued in Renton, Washington, on June 19, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 409

Trade Regulation Rule Concerning the Incandescent Lamp (Light Bulb) Industry

AGENCY: Federal Trade Commission.

ACTION: Repeal of rule.

SUMMARY: The Federal Trade Commission ("Commission" or "FTC") announces the repeal of the Trade Regulation Rule Concerning the Incandescent Lamp (Light Bulb) Industry ("Light Bulb Rule" or "Rule"). The Commission has reviewed the rulemaking record and determined that, because of more comprehensive lamp labeling rules that the Commission promulgated in 1994 under the Energy Policy and Conservation Act, as amended by the Energy Policy Act of 1992, and current industry light bulb marking practices, the Light Bulb Rule is no longer necessary or in the public interest. This notice contains a Statement of Basis and Purpose for repealing the Light Bulb Rule.

EFFECTIVE DATE: June 27, 1996.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S-4302, 601 Pennsylvania Avenue, NW, Washington, DC 20580, telephone (202) 326-3013.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Background

The Commission undertook this rulemaking proceeding as part of the Commission's ongoing program of evaluating rules and guides to determine their effectiveness, impact, cost, and need. This proceeding also responds to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations.

A. Light Bulb Rule

The Commission promulgated the Light Bulb Rule on July 23, 1970, following a public rulemaking proceeding.¹ The Light Bulb Rule

¹ Final Rule and Statement of Basis and Purpose ("Light Bulb Rule SBP"), 35 FR 11784 (1970).

became effective on January 25, 1971. It applies only to non-reflector general service incandescent electric lamps (commonly referred to as "light bulbs").²

In summary, the Light Bulb Rule declares it is an unfair method of competition and an unfair and deceptive act or practice, in connection with the sale of general service incandescent light bulbs, to:

(1) fail to disclose clearly and conspicuously on the containers of such light bulbs (or, if there are no containers, on the bulbs themselves) their average initial wattage, average initial lumens, and average laboratory life, 16 CFR 409.1(a)-(b) (1996);

(2) fail to disclose clearly and conspicuously on the bulbs themselves their average initial wattage and design voltage, *Id.* at 409.1(b) (1996);³

(3) represent or imply that savings in light bulb cost or the cost of light output will result from the use of a particular light bulb product because of the bulb's life or light output unless, in computing such savings, the following factors are taken into account and disclosed clearly and conspicuously for the light bulb being sold and the bulb with

² The Light Bulb Rule defines "general service incandescent lamps" as all medium screw base incandescent electric lamps, 15-watt through 150-watt, 115-volt through 130-volt. The term includes lamps in the customary "A" type and other bulb shapes included in Interim Federal Specification W-L-00101G, and lamps that are produced in generally comparable bulb shapes for sale in competition with other general service incandescent lamps. The rule specifically excludes lamps designed and promoted primarily for decorative applications, appliances, traffic signals, showcases, projectors, airport equipment, trains, and lamps such as color, flood, reflector, rough service, and vibration service. 16 CFR 409.1 note 3 (1996). The lamp products covered by the Light Bulb Rule commonly are referred to as "light bulbs." The term "lamp products," on the other hand, refers more broadly to lighting products in general. In this notice, the term "light bulb" refers only to those lamp products covered by the Light Bulb Rule.

³ In the Light Bulb Rule SBP, the Commission explained that industry stressed the need to maintain a prominent wattage disclosure on incandescent light bulbs because the use of excess wattage in fixtures is unsafe and because consumers were accustomed to buying on the basis of wattage. 35 FR at 11786.

which the comparison is being made: light bulb cost, electrical power cost, labor cost for bulb replacement (if any), actual light output in average initial lumens, and average laboratory life in hours, *Id.* at 409.1(c) (1996); and

(4) represent or imply that a light bulb will give more light, maintain brightness longer, or furnish longer life without clearly and conspicuously disclosing, for both the light bulb being sold and the light bulb with which the comparison is being made: the average initial light output in lumens, the average initial wattage, the laboratory life in hours, and, if there is a claim that the light bulb maintains brightness longer, the light output in lumens at 70% of the bulbs' rated lives ("maintained average lumens"), *Id.* at 409.1(d) (1996).

Four notes at the end of the rule define terms used in the rule or require certain procedures or tests to be used in making disclosures required by the rule.

B. Appliance Labeling Rule

In 1994, pursuant to a directive of the Energy Policy Act of 1992 ("EPA 92"),⁴ the Commission amended its 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"), 16 CFR 305 (1996), to specify new labeling requirements for lamp products.⁵ EPA 92 directed the Commission to prescribe rules requiring that certain types of lamp products be labeled with "such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements." 42 U.S.C. 6294(a)(2)(C)(i).

In addition to incandescent light bulbs, the Appliance Labeling Rule applies to incandescent reflector lamps, 16 CFR 305.03(m) (1996), medium screw base compact fluorescent lamps, *Id.* at 305.03(l) (1996), and general

⁴ Pub. L. No. 102-486, 106 Stat. 2776, 2817-2832 (Oct. 24, 1992) (codified in 42 U.S.C. 6201, 6291-6309). EPA 92 amended in several respects the Energy Policy and Conservation Act of 1975 ("EPCA"), which requires the Commission to prescribe labeling rules for certain major household appliances and other products.

⁵ Final Rule and Statement of Basis and Purpose ("Appliance Labeling Rule/Lamps SBP"), 59 FR 25176 (May 13, 1994). The lamp labeling requirements of the Appliance Labeling Rule became effective on May 15, 1995. In response to a petition from the Lamp Section of the National Electrical Manufacturers Association ("NEMA"), and because of apparent uncertainties among incandescent lamp manufacturers regarding their compliance responsibilities under the combined requirements of the Appliance Labeling Rule and the Light Bulb Rule, the Commission determined that it would not take law enforcement actions until December 1, 1995, against manufacturers of incandescent lamp products not in compliance with the Appliance Labeling Rule. 60 FR 15198 (March 22, 1995).

service fluorescent lamps, *Id.* at 305.03(k) (1996). Although there are no direct conflicts between the Light Bulb Rule and the Appliance Labeling Rule, there are overlapping requirements for the light bulbs that are covered by both rules. The discussion in this notice summarizes only the requirements of the two rules that apply to these light bulbs.

Like the Light Bulb Rule, the Appliance Labeling Rule requires disclosures on package labels of light output, wattage, and life ratings. 16 CFR 305.11(e)(1)(i)-(ii) (1996). As required by EPCA, 42 U.S.C. 6294(a)(2)(C)(i), the Appliance Labeling Rule requires that these disclosures be based on performance at 120 volts input, regardless of the rated lamp voltage (design voltage). 16 CFR 305.11(e)(1)(iii) (1996). The Appliance Labeling Rule, however, allows manufacturers the option of adding disclosures on lamp packages based on the lamp's performance at a different design voltage of 125 volts or 130 volts, if the applicable voltage (*i.e.*, 120, 125, or 130) is disclosed on the label along with each disclosure of light output, wattage, and life. Manufacturers may choose to place the performance information at a design voltage of 125 volts or 130 volts on the primary display panel of the package and place the performance information at 120 volts elsewhere on the package. If they do so, they must add a specific disclosure on the primary display panel that describes the effect on performance of the difference in voltage and where on the package the performance information at 120 volts may be found.⁶

The Appliance Labeling Rule requires that these disclosures appear together in a specified order and be worded in a certain way (*i.e.*, as "Light Output: XX Lumens; Energy Used: XX Watts; Life: XX Hours") on the label's principal display panel. 16 CFR 305.11(e)(1)(ii) (1996). The Light Bulb Rule, on the other hand, does not specify any order or wording for its required disclosures. It simply specifies that the three ratings be disclosed in terms of lumens, watts, and hours, and appear together on at least two panels of the label, and on any other panel on which a lumen, wattage, or hours of life claim is made. 16 CFR 409.1(a), 409.1 note 4 (1996).

The Appliance Labeling Rule requires that the disclosures of light output, energy used, and life appear with equal clarity and conspicuousness. 16 CFR 305.11(e)(ii) (1996). It does not specify

⁶ *Id.* The specific disclosure is: "This product is designed for [125/130] volts. When used on the normal line voltage of 120 volts, the light output and energy efficiency are noticeably reduced. See [side/back] panel for 120 volt ratings."

any particular type style or type size, but it requires that certain disclosures be made in the same size print, and that other disclosures be approximately 50% as large. The Light Bulb Rule specifies that both the lumens and hours rating disclosures be in a medium-face or bold-face type that is at least two-fifths the height of the wattage rating figure on the same panel or three-sixteenths of an inch in height, whichever is larger. 16 CFR 409.1 note 4 (1996). The Light Bulb Rule also includes similar type size and style requirements for the disclosures for multiple filament (three-way) light bulbs. *Id.*

The Appliance Labeling Rule specifies two additional disclosures that are not required by the Light Bulb Rule. First, the following advisory statement must appear on the principal display panel of the package label: "To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts." 7 16 CFR 305.11(e)(1)(vi) (1996). Second, all cartons of covered lamps that are shipped within or imported into the United States must be marked with the following statement: "These lamps comply with Federal energy efficiency labeling requirements." *Id.* at 305.11(e)(4) (1996).

The Light Bulb Rule requires that the disclosures of light output, wattage, and life be determined in accordance with a specific Federal purchase specification and be based upon generally accepted and approved test methods and specifications, at the lamp product's design voltage.⁸ The Appliance Labeling Rule requires that disclosures of design voltage, wattage, light output or life be based upon a reasonable basis consisting of competent and reliable scientific tests that substantiate the disclosures. Under the Appliance

⁷ Manufacturers of incandescent reflector lamps may use the following alternative advisory disclosure: "To save energy costs, find the bulbs with the beam spread and light output you need, then choose the one with the lowest watts."

⁸ 16 CFR 409.1 note 1 (1996). The Light Bulb Rule states that, for light bulbs covered by that rule, the "average initial wattage, average initial lumen, and average laboratory life disclosures required by this section shall be in accordance with the requirements of interim Federal Specification, Lamp, Incandescent (Electric, Large, Tungsten-Filament) W-L-00101 G and shall be based upon generally accepted and approved test methods and procedures." In 1977, that specification ceased being interim and is now known as Federal Specification, Lamp, Incandescent (Electric, Large, Tungsten-Filament) W-L-101H/GEN. This specification refers to pertinent American National Standards Institute ("ANSI") test protocols, which are consistent with the Illuminating Engineering Society of North America ("IES") protocols that are cited in the Appliance Labeling Rule, 16 CFR 305.5(b) (1996), as an acceptable reasonable basis for determining the light output and life of incandescent light bulbs. 59 FR at 25200 n.251.

Labeling Rule, for light output and life ratings the Commission will accept, but does not require, tests conducted according to specific test protocols issued by IES,⁹ or testing in accordance with final test procedures issued by the U.S. Department of Energy.¹⁰

Both the Light Bulb Rule and the Appliance Labeling Rule contain provisions concerning certain affirmative claims about lamp products. The Appliance Labeling Rule requires that any label, printed material prepared for display or distribution at the point of sale, or catalog from which a covered lamp product may be ordered that contains an operating cost claim clearly and conspicuously disclose, in close proximity to the claim, the assumptions upon which the claim is based, including, *e.g.*, purchase price, unit cost of electricity, hours of use, patterns of use. 16 CFR 305.11(e)(3), 305.13(a)(3), 305.14(c)(2) (1996). These Appliance Labeling Rule disclosure requirements do not apply to such claims made in other promotional materials, such as advertisements.

The Light Bulb Rule covers claims that savings in either light bulb cost or cost of light will result from the use of a particular light bulb because of the bulb's life or light output. It also covers comparative brightness, light bulb life, and light output claims. The Light Bulb Rule specifies factors (*e.g.*, labor costs for replacement, light output, life) that, depending on the particular claim being made, must be taken into consideration and clearly and conspicuously disclosed, for both the light bulb being offered for sale and the bulb(s) with which the comparison is being made. 16 CFR 409.1(c) (1996). The Light Bulb Rule's requirements apply to such claims in all types of advertising, as well as on labels, point-of-sale printed materials, and catalogs. The Appliance Labeling Rule does not include disclosure requirements concerning these comparative claims.

The Light Bulb Rule requires that light bulbs themselves be marked clearly and conspicuously with wattage and design voltage. 16 CFR 409.1(b) (1996). The Appliance Labeling Rule does not require that lamp products be marked with such information.

II. Proceeding To Consider Repeal of Light Bulb Rule

When the Commission issued the lamp labeling amendments to the Appliance Labeling Rule, it announced that, although there were no conflicts between the two rules, it would decide

following that amendment proceeding what further action, if any, it should take concerning the Light Bulb Rule. 59 FR at 25177.

A. Advance Notice of Proposed Rulemaking

Accordingly, on April 6, 1995, the Commission published a notice ("Advance Notice of Proposed Rulemaking" or "ANPR")¹¹ requesting comments concerning the current need for the Light Bulb Rule as part of the Commission's regulatory review program for all of its rules and guides, and in light of the new lamp labeling rules under the Appliance Labeling Rule.¹² The ANPR solicited comments about the benefits and burdens of the Light Bulb Rule to consumers and industry, and whether a need still exists for the Light Bulb Rule.

The Commission received nine comments in response to the ANPR.¹³ Four comments were submitted by individual consumers, one by an organization that purchases and uses light bulbs ("organization/user comment"), three by lamp product manufacturers, and one by a trade association that represents lamp product manufacturers.¹⁴

¹¹ Under section 18(b)(2) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 57a(b)(2), the Commission must publish an ANPR prior to initiating a proceeding to promulgate, amend, or repeal a trade regulation rule. The Commission determined to treat the April 6, 1995, request for comments as an ANPR because it contained all the elements that section 18(b)(2) requires in an ANPR. To comply with section 18, the Commission submitted the notice to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate and the Chairman of the Subcommittee on Commerce, Trade and Hazardous Materials, United States House of Representatives.

¹² 60 FR 17491. See *supra* note 11. The comment period for this notice was scheduled to end on June 6, 1995, but was extended until August 7, 1995, at the request of industry members.

¹³ Anderson, #B17240700001; Raeth, #B17240700002; Bowe, #B17240700003; McGarry, #B17240700004; Hytron Electric Products, a division of Trojan Inc. ("Hytron"), #B17240700005; Delta Phi Epsilon, Washington, DC, #B17240700006 ("DPE"); Philips Lighting, Philips Elmet, a division of North American Philips Corp. ("Philips"), #B17240700007; GE Lighting, General Electric Co. ("GE"), #B17240700008; and Lamp Section, NEMA, #B17240700009. The ANPR is filed as document number B172407. The comments submitted in response to the ANPR are filed as documents #B17240700001, #B17240700002, etc.

¹⁴ The trade association, NEMA, is the largest U.S. trade association representing manufacturers of products used in the generation, transmission, distribution, control, and end-use of electricity. Member companies in the Lamp Section of NEMA produce more than 90% of general service incandescent and fluorescent lamp products sold in the United States. NEMA Lamp Section members include General Electric Lighting, Osram Sylvania, Inc., Philips Lighting Co., Supreme Corp., Venture Lighting Internat'l, Duro-Test Corp. and EYE Lighting International. NEMA, #B17240700009.

The four individual consumer comments state that the Light Bulb Rule is still needed because the disclosures required by the rule help consumers make informed purchasing decisions.¹⁵ They want labels to continue to disclose light output, wattage, and life information. These comments do not address whether the overlapping requirements of the Appliance Labeling Rule will ensure that labels provide consumers with this information. The organization/user comment also opposes the elimination of the Light Bulb Rule. It contends consumers would lose valuable consumer protections that are only contained in the Light Bulb Rule.¹⁶

Hytron, a manufacturer of extended-service, long-life incandescent lamp products, including incandescent reflector lamps and traffic signal lamps, supports keeping the Light Bulb Rule, and, instead, eliminating the lamp labeling requirements of the Appliance Labeling Rule.¹⁷ It appears that Hytron primarily objects to the Appliance Labeling Rule because it requires labeling disclosures of incandescent lamps at 120 volts regardless of the lamp's design voltage, and because it requires the labeling of incandescent reflector lamps.¹⁸

The comments from two manufacturers (Philips and GE) and the trade association (NEMA) state that the Light Bulb Rule's disclosure requirements of light output, wattage, and life for general service incandescent light bulbs are unnecessary because of the uniform disclosure requirements for various types of competing lamp products in the Appliance Labeling Rule.¹⁹ They recommend that the

¹⁵ Anderson, #B17240700001 (rule very valuable to him as a consumer; reads labels very closely, particularly as to lumens and voltage; label information can be a safety factor since many enclosed fixtures are rated for up to 60W but 75+W bulbs will fit the same sockets); Raeth, #B17240700002 (eliminating the rule would be a great disservice to the consumer, who would not know the value of what he or she was purchasing); Bowe, #B17240700003 (maintain rule requiring packages to show wattage, lumens, and bulb life; consumers have a right to know what they are buying); and McGarry, #B17240700004 (do not weaken the labeling requirements; uses information to make comparative decisions when purchasing).

¹⁶ DPE, #B17240700006.

¹⁷ Hytron, #B17240700005.

¹⁸ The Commission does not have the authority to eliminate these requirements from the Appliance Labeling Rule. EPCA requires that labeling information for incandescent lamps under the Appliance Labeling Rule be based on operation at 120 volts. 42 U.S.C. 6294(a)(2)(C)(i). EPCA also defines the lamp products, including incandescent reflector lamps, that are to be covered by the lamp labeling rules under the Appliance Labeling Rule. 42 U.S.C. 6291(30), 6294(a)(2)(C)(i).

¹⁹ Philips, #B17240700007; GE, #B17240700008; and NEMA, #B17240700009.

⁹ 16 CFR 305.5(b) (1996). See also, *supra* note 8.

¹⁰ 59 FR at 25200.

Commission repeal all or most of the Light Bulb Rule to avoid conflicts, multiple and overlapping requirements, and inconsistencies with the disclosure requirements of the Appliance Labeling Rule.

GE recommends that the Commission repeal the entire Light Bulb Rule.²⁰ It believes the Appliance Labeling Rule's requirements are better for today's modern products and consumers' information needs, and for advancing the energy efficiency goals of our modern day workplace. According to GE, retaining the Light Bulb Rule, in addition to the Appliance Labeling Rule, is inefficient and exposes manufacturers to a significant risk that they may fail to comply with both rules. Further, although the Light Bulb Rule requires that light bulbs be marked clearly and conspicuously with wattage and design voltage and the Appliance Labeling Rule does not, GE believes that such marking is a common industry practice that would not be affected by the rescission of the Light Bulb Rule. It states that this is a "sound business practice that reduces liability and gives consumers important information." Accordingly, GE marks many products that are not covered by the Light Bulb Rule with wattage, and, as appropriate, with design voltage.

NEMA states that lamp product manufacturers should be subject to only one set of lamp labeling and disclosure regulations, which would ensure uniform disclosures of lamp product performance information to consumers. NEMA believes that the Appliance Labeling Rule represents the more comprehensive and modern approach to lamp labeling and that the disclosures required under the Appliance Labeling Rule fully and fairly inform consumers about lamp product performance.²¹ It believes that the objectives of the Light Bulb Rule are fully served by the disclosures required by the Appliance Labeling Rule. For these reasons, NEMA recommends that the Commission repeal the Light Bulb Rule and retain the Appliance Labeling Rule as the sole federal labeling and disclosure requirements for lamp products.

NEMA also believes that repealing the Light Bulb Rule would not induce manufacturers to abandon their practice of inscribing wattage and design voltage on incandescent lamps and wattage on fluorescent lamps. NEMA states that manufacturers routinely mark their general service incandescent and fluorescent lamps, even those for which such marking is not required under

federal labeling rules. Further, NEMA states that an international safety standard issued by the International Electrotechnical Commission ("IEC") (IEC 432-1, 1993) requires marking of wattage and voltage on general service incandescent lamps. NEMA, therefore, believes that manufacturers generally would continue the marking practices required by the Light Bulb Rule, even if the Commission repealed the rule.

Philips strongly supports NEMA's position. Philips, however, also states that the best alternative would be for the Commission to repeal the Light Bulb Rule, and to modify the Appliance Labeling Rule to include some of the disclosure requirements of Section 409.1(c) (which requires disclosures in connection with product comparison claims about lamp cost or cost of light), and Section 409.1(d) (which requires disclosures in connection with claims that a light bulb will give more light, maintain brightness longer or furnish longer life) of the Light Bulb Rule.²² Philips believes that adding these disclosure requirements would strengthen the Appliance Labeling Rule.

B. Notice of Proposed Rulemaking

The Commission compared the requirements of the Light Bulb Rule and the Appliance Labeling Rule, analyzed the bases for both rules explained in the Light Bulb Rule SBP and the Appliance Labeling Rule/Lamps SBP, and reviewed the comments filed in response to the Light Bulb Rule ANPR. Based on that comparison and review, the Commission solicited comments in a Notice of Proposed Rulemaking ("NPR") that proposed repealing the Light Bulb Rule.²³ In the NPR, the Commission explained that the requirements of the two rules fall into three categories: (1) basic disclosures of performance information (e.g., light output, watts, and life); (2) substantiation testing for these disclosures; and (3) additional disclosures that must be made in conjunction with certain performance claims. The Commission also summarized the comments submitted in response to the ANPR and explained why the Commission believed there may not be a continuing need for the Light Bulb Rule's requirements.

The Commission received five comments in response to the NPR (two from manufacturers, two from distributors, and an additional comment

from NEMA).²⁴ Four comments support repealing the Light Bulb Rule.²⁵ One comment recommends that the Commission repeal the lamp labeling rules under the Appliance Labeling Rule.²⁶

Supreme states that the new lamp labeling rules under the Appliance Labeling Rule will provide users with the information they need to understand what type of light bulb is in the package they are purchasing. Supreme also states that its distributors are confused by the amount of information on packages due to the requirements of both rules and that it continuously must seek expensive legal advice about how to prepare artwork and design to comply with both rules.²⁷ Stone and Marvel request that the Commission repeal the Light Bulb Rule because the overlapping requirements create confusion and duplication.²⁸

NEMA states it supports repeal of the Light Bulb Rule and believes that consumers' need for information is fully served by the disclosure and substantiation requirements of the Appliance Labeling Rule.²⁹ NEMA also addresses several specific issues the Commission raised in the NPR. First, NEMA believes that because of the importance of safety information to consumers (and to minimize their product liability) manufacturers will continue marking wattage and design voltage on lamps notwithstanding the repeal of the Light Bulb Rule. Second, NEMA believes that the Light Bulb Rule's required disclosures relating to a lamp's brightness are unnecessary because the Appliance Labeling Rule's standardized, side-by-side disclosures of light output and life nullify any attempts to mislead consumers about a

²⁴ In the NPR, the Commission indicated it would hold a hearing to allow for the presentation of testimony on the issues, if there was interest in a hearing. NEMA and GE requested an opportunity to testify, but only if the Commission scheduled a hearing because other parties requested one. NEMA, #B19386700004; GE, #B191281, letters of March 7 and 14, 1996. Following the end of the comment period, both NEMA and GE informed the Commission's staff that they did not wish to testify because no additional parties requested that the Commission conduct a hearing.

²⁵ Supreme, #B19386700001; Robert M. Stone, Regosin, Edwards, Stone & Feder ("Stone"), #B19386700002; Marvel Lighting Corp. ("Marvel"), #B19386700003; NEMA, #B19386700004.

²⁶ Sigmatron Biological Systems ("Sigmatron"), #B19386700005. Because EPCA required the Commission to promulgate the lamp labeling rules it adopted in the Appliance Labeling Rule, the Commission does not have the authority to repeal those requirements in favor of retaining the Light Bulb Rule. See also, *supra* note 18.

²⁷ Supreme, #B19386700001.

²⁸ Stone, #B19386700002; Marvel, #B19386700003.

²⁹ NEMA, #B19386700004.

²² Philips, #B17240700007.

²³ 61 FR 4382 (Feb. 6, 1996). The NPR is filed as document number B193867. The comments submitted in response to the NPR are filed as documents #B19386700001, #B19386700002, etc. The comment period closed on March 7, 1996.

²⁰ GE, #B17240700008.

²¹ NEMA, #B17240700009.

product's maintaining brightness better than competing products. Third, NEMA believes that the Appliance Labeling Rule's standardized labeling disclosure requirements, along with its requirement that packaging representations about the cost of operating a lamp be based on assumptions that are clearly and conspicuously disclosed, provide adequate information for consumers to evaluate comparative performance claims.³⁰ NEMA also states that repealing the Light Bulb Rule, and relying exclusively on the Appliance Labeling Rule, will eliminate overlaps and inconsistencies, confer benefits on consumers through standardized package disclosures, and result in significant cost savings for both manufacturers and consumers.

III. Basis for Repeal of the Light Bulb Rule

The Commission has compared the requirements of the Light Bulb Rule and the Appliance Labeling Rule and reviewed the comments filed in response to the Light Bulb Rule ANPR and NPR. For the reasons explained below, the Commission concludes that the Light Bulb Rule is no longer necessary or in the public interest.

First, the requirements in the Light Bulb Rule that the basic disclosures of light output, watts, and life be made on package labels are unnecessary because they are duplicated by the Appliance Labeling Rule. The Appliance Labeling Rule requires that this information also be disclosed in catalogs from which the products can be ordered. Further, it requires that these disclosures be made on labels and in catalogs for competing medium screw base compact fluorescent lamps and incandescent reflector lamps, as well as for light bulbs covered by the Light Bulb Rule. These disclosures, in conjunction with the required advisory statement about how consumers can select the most energy-efficient lamp that meets their needs, give consumers the information they need at the point of sale to select the appropriate lamp product.³¹

³⁰ Further, NEMA states that the Appliance Labeling Rule's labeling disclosures for competing lamp products make identification of a comparison lamp under the Light Bulb Rule superfluous, and make it unrealistic for a manufacturer or marketer to misrepresent or distort a lamp's comparative performance in advertising and other media, as well as on labels, point-of-sale promotional materials, and catalogs. *Id.*

³¹ In addition, the Appliance Labeling Rule's format requirements for the disclosure of basic performance data on labels and in catalogs, 16 CFR 305.11(e)(1)(ii), 305.14(c)(1) (1996), obviate the need for the specific type size and placement requirements of the Light Bulb Rule for package labels, 16 CFR 409.1(a), 409.1 note 4 (1996).

Second, the requirement in the Light Bulb Rule that manufacturers mark bulbs with wattage and voltage information is unnecessary. According to the comments, manufacturers currently mark various types of lamp products voluntarily with wattage and design voltage information so that consumers can use these lamp products safely. The Commission believes that the marketplace will provide incentives for manufacturers to continue marking this information on lamp products, even after the Commission has repealed the Light Bulb Rule.

Third, the Light Bulb Rule's substantiation requirements are unnecessary because these requirements are duplicated in the Appliance Labeling Rule. The requirement in the Appliance Labeling Rule that the basic disclosures be based on "a reasonable basis consisting of competent and reliable scientific tests substantiating the representation" is sufficient to ensure the accuracy and uniformity of the disclosures for competing lamp products. Further, based on the evidence in the rulemaking proceeding for the Appliance Labeling Rule, it appears that the test protocols required by the Light Bulb Rule are consistent with IES test protocols that the Appliance Labeling Rule recognizes as sufficient to satisfy its reasonable basis standard for the disclosures of light output and life.³² However, the Appliance Labeling Rule provides manufacturers flexibility to use other scientific test protocols if they are competent and reliable.

Fourth, the Light Bulb Rule's disclosure requirements for comparison claims about savings in light bulb cost or cost of operation, or claims that a light bulb will give more light, maintain brightness longer, or furnish longer life are unnecessary. Through different disclosure requirements the Appliance Labeling Rule allows consumers to make informed, comparative decisions relating to costs. Specifically:

(1) The Appliance Labeling Rule requires disclosure of light output and life information in labels and catalogs. It requires that labels and catalogs for incandescent "A" type bulbs, as well as for competing medium screw base compact fluorescent lamps and incandescent reflector lamps, disclose light output, wattage, and life, along with an advisory statement about how the consumer can select the lamp product that will cost the least to operate for a specific light output. This information enables consumers to evaluate comparison light output and

lifetime claims for competing products at the point of sale and to select the appropriate lamp that meets their needs.

(2) Under the Appliance Labeling Rule, claims about cost of operation of a covered lamp product in labels, point-of-sale printed materials, and catalogs must be accompanied by disclosures of the assumptions on which the claims are based (e.g., purchase price, unit cost of electricity, hours of use, patterns of use). These disclosures, along with the advisory statement and the disclosures of light output, wattage, and life, for competing lamp products on product labels and in catalogs give consumers the information they need at the point of purchase to evaluate comparison claims about savings in cost of operation.

(3) Purchase price information is readily available to consumers at the point of sale (both in retail stores and in catalogs). Thus, consumers have information at the point of sale to evaluate comparison claims about lamp product purchase costs.

(4) Unit electrical cost information is readily available to consumers on their monthly electric utility bills or from their electrical utility companies. Consumers can use this information, along with the advisory statement and the disclosures of basic performance information on packages and catalogs, to evaluate any comparison operating cost claims.

Although the Appliance Labeling Rule does not contain disclosure requirements similar to the Light Bulb Rule covering comparative claims about brightness, length of life, or amount of light, the Commission concludes that the Appliance Labeling Rule's requirements provide consumers comparable information. The Appliance Labeling Rule's requirements that labels disclose light output, energy used, and life, and that labels, point-of-sale promotional materials, and catalogs that contain a claim regarding cost of operation clearly and conspicuously disclose the assumptions upon which the claim is based, provide consumers comparable information they need to evaluate such claims and make informed purchasing decisions. Further, the Commission can address any significant problems that might arise in the future concerning specific performance claims or a failure to disclose material purchase information not covered by the Appliance Labeling Rule on a case-by-case basis, administratively, under Section 5 of the FTC Act, 15 U.S.C. 45, or through Section 13(b) actions, 15 U.S.C. 53(b), filed in federal district court. Prosecuting serious misrepresentations

³² 59 FR 25200.

and the failure to disclose material information in district court allows the Commission to obtain injunctive relief as well as equitable remedies, such as redress or disgorgement.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-11, requires an analysis of the anticipated impact of the repeal of the Light Bulb Rule on small businesses. The reasons for repeal of the rule have been explained in this notice. Repeal of the Light Bulb Rule would appear to have little or no effect on small businesses. Moreover, the Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Light Bulb Rule. Further, no comments suggested any adverse effect on small business from repeal. For these reasons, the Commission certifies, pursuant to Section 605 of the RFA, 5 U.S.C. 605, that this action will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act

The Light Bulb Rule imposes third-party disclosure requirements that constitute "information collection requirements" under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Accordingly, repeal of the Light Bulb Rule will eliminate any burdens imposed by these disclosure requirements.

List of Subjects in 16 CFR Part 409

Advertising, Consumer protection, Energy conservation, Labeling, Lamp products, Trade practices.

PART 409—[REMOVED]

The Commission, under authority of Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, amends chapter I of Title 16 of the Code of Federal Regulations by removing Part 409.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96-16301 Filed 6-26-96; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

22 CFR Part 126

[Public Notice 2386]

Amendment to the List of Proscribed Destinations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to reflect that it is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in Afghanistan. This amendment formalizes a policy the U.S. has had in place since 1992 to deny import and export licenses for articles and services originating in or destined for Afghanistan due to the ongoing civil war in that country.

EFFECTIVE DATE: June 14, 1996.

FOR FURTHER INFORMATION CONTACT:

Joseph L. Novak, Office of Arms Transfer and Export Control Policy, Bureau of Political-Military Affairs, Department of State (202-736-7996).

SUPPLEMENTARY INFORMATION: The Department of State is amending the ITAR to reflect that it is the policy of the United States, pursuant to § 126.1, to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in Afghanistan. Requests for licenses or other approvals for Afghanistan involving items covered by the Munitions List (22 CFR part 121) will be reviewed with a presumption of disapproval.

This amendment to the ITAR involves a foreign affairs function of the United States and thus is excluded from the major rule procedure of Executive Order 12291 (46 FR 13193) and the procedures of 5 U.S.C. 553 and 554. This final rule does not contain a new or amended information requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

Accordingly, under the authority of Section 38 of the Arms Export Control Act (22 U.S.C. 2778) and Executive Order 11958, as amended, 22 CFR subchapter M is amended as follows:

PART 126—[AMENDED]

1. The authority citation for part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Arms Export Control Act, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 41 FR 4311; E.O. 11322, 32 FR 119; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28206.

§ 126.1 [Amended]

2. Section 126.1 is amended by adding "Afghanistan," immediately prior to "Armenia" in paragraph (a).

Dated: June 10, 1996.

Lynn E. Davis,

Under Secretary of State for Arms Control and International Security Affairs.

[FR Doc. 96-16360 Filed 6-26-96; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8679]

RIN 1545-AU37

Regulations Under Section 382 of the Internal Revenue Code of 1986; Application of Section 382 in Short Taxable Years and With Respect to Controlled Groups

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to limitations on net operating loss carryforwards and certain built-in losses following an ownership change and comply with the statutory direction under section 382(m) of the Internal Revenue Code to prescribe regulations concerning short taxable years and controlled groups. This document also contains amendments relating to the end of separate tracking of the stock ownership of loss corporations that cease to exist following a merger or similar transaction. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

DATES: These regulations are effective June 27, 1996.

For dates of application and special transition rules, see Effective Dates under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: David B. Friedel at (202) 622-7550 (not a toll-free number).