

Note: This determination may be accomplished by conducting either a thorough review of receiving inventory and/or maintenance records, or a visual inspection of each installed cone bolt.

B. If any of the cone bolts identified in paragraph A., above, are installed, or if a determination of the installation of discrepant bolts cannot be made, remove the cone bolt(s) and replace it with a properly heat-treated cone bolt within 2,000 flight hours after installation or 15 days after discovery, whichever occurs later, in accordance with McDonnell Douglas Service Bulletin 71-46, dated April 24, 1989.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publication and Training, C1-750 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This Amendment becomes effective July 17, 1989.

Issued in Seattle, Washington, on June 22, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-15689 Filed 7-3-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ASW-63]

Revision of Transition Area; Morrilton, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This corrective action makes an editorial change to the legal

description of the Morrilton, AR, Transition Area. This action is necessary because the original final rule document incorrectly described the Morrilton, AR, Transition Area as "excluding that portion that overlies the Little Rock, AR, Transition Area." The correct description should be "excluding that portion that overlies the Conway, AR, Transition Area." The intended effect of this action is only to make an editorial change to the Morrilton, AR, Transition Area. The physical description of the transition area will not be altered.

EFFECTIVE DATE: 0901 U.T.C. July 27, 1989.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedure Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

The Federal Register Document was published on March 1, 1989, 54 FR 8554 revising the existing Morrilton, AR, Transition Area to include a 10-mile radius area of the Morrilton Municipal Airport. The development of a new standard instrument approach procedure to Runway 27 at the Morrilton Municipal Airport made this revision necessary. However, the legal description of the Morrilton, AR, Transition Area incorrectly described the area as "excluding that portion that overlies the Little Rock, AR, Transition Area." The correct description should be "excluding that portion that overlies the Conway, AR, Transition Area."

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Agency, Transition Areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 96-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Morrilton, AR [Amended]

By deleting the words "excluding that portion that overlies the Little Rock, AR, Transition Area" and adding the words "excluding that portion that overlies the Conway, AR, Transition Area."

Issued in Fort Worth, TX, on June 20, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-15691 Filed 7-3-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 25944; Amdt. No. 1403]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the *Federal Register* expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic

depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents, is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC, on June 23, 1989.

Robert L. Goodrich,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective September 21, 1989

Greenville, MS—Greenville Muni, LOC BC RWY 36R, Amdt. 8
Greenville, MS—Greenville Muni, NDB RWY 36L, Amdt. 5
Greenville, MS—Greenville Muni, NDB RWY 36R, Amdt. 8
Greenville, MS—Greenville Muni, ILS RWY 18L, Amdt. 9
Ft. Leonard Wood, MO—Forney AAF, VOR RWY 14, Amdt. 4, CANCELLED
Ft. Leonard Wood, MO—Forney AAF, VOR RWY 32, Amdt. 4, CANCELLED
Ft. Leonard Wood, MO—Forney AAF, LOC RWY 14, Amdt. 5, CANCELLED
Ft. Leonard Wood, MO—Forney AAF, NDB RWY 32, Amdt. 4, CANCELLED
Ft. Leonard Wood, MO—Forney AAF, RADAR-1, Amdt. 2, CANCELLED
Goldsboro, NC—Goldsboro-Wayne Muni, LOC RWY 23, Orig.
Goldsboro, NC—Goldsboro-Wayne Muni, NDB RWY 22, Amdt. 2, CANCELLED
Goldsboro, NC—Goldsboro-Wayne Muni, NDB RWY 23, Orig.

Effective August 24, 1989

San Luis Obispo, CA—San Luis Obispo County, VOR or TACAN-A, Amdt. 6
Lacon, IL—Marshall County, VOR-A, Amdt. 3, CANCELLED
Lacon, IL—Marshall County, VOR RWY 13, Orig.
Glasgow, KY—Glasgow Muni, VOR/DME RWY 7, Amdt. 2
Glasgow, KY—Glasgow Muni, SDF RWY 7, Amdt. 5

Glasgow, KY—Glasgow Muni, NDB RWY 7, Amdt. 6

Greenville, KY—Muhlenberg County, VOR/DME-A, Amdt. 3

Madisonville, KY—Madisonville Muni, VOR RWY 23, Amdt. 10

Madisonville, KY—Madisonville Muni, RNAV RWY 23, Amdt. 1

Caribou, ME—Caribou Muni, VOR-A, Amdt. 9

Traverse City, MI—Cherry Capital, VOR or TACAN-A, Amdt. 19

Traverse City, MI—Cherry Capital, NDB RWY 28, Amdt. 9

Traverse City, MI—Cherry Capital, ILS RWY 28, Amdt. 11

Holland, MI—Park Township, VOR-C, Amdt. 8, CANCELLED

Minneapolis, MN—Flying Cloud, VOR RWY 9R, Amdt. 6

Minneapolis, MN—Flying Cloud, VOR RWY 36, Amdt. 11

Minneapolis, MN—Flying Cloud, LOC RWY 9R, Amdt. 1, CANCELLED

Minneapolis, MN—Flying Cloud, ILS RWY 9R, Orig.

Red Wing, MN—Red Wing Muni, NDB RWY 9, Amdt. 2

North Kingstown, RI—Quonset State, VOR-A, Amdt. 2

North Kingstown, RI—Quonset State, VOR RWY 34, Amdt. 4

North Kingstown, RI—Quonset State, ILS RWY 16, Amdt. 3

Salt Lake City, UT—Salt Lake City Muni 2, RADAR-2, Amdt. 1

... Effective July 27, 1989

Cumberland, MD—Cumberland Muni, LOC-A, Amdt. 2

Cumberland, MD—Cumberland Muni, LOC/DME RWY 23, Amdt. 4

Cumberland, MD—Cumberland Muni, NDB-A, Amdt. 7

Hancock, MI—Houghton County Memorial, VOR RWY 13, Amdt. 13

Hancock, MI—Houghton County Memorial, VOR/DME RWY 13, Amdt. 1

Hancock, MI—Houghton County Memorial, VOR RWY 25, Amdt. 15

Hancock, MI—Houghton County Memorial, VOR/DME RWY 25, Amdt. 1

Hancock, MI—Houghton County Memorial, VOR RWY 31, Amdt. 12

Hancock, MI—Houghton County Memorial, VOR/DME RWY 31, Amdt. 1

Hancock, MI—Houghton County Memorial, LOC/DME BC RWY 13, Amdt. 9

Hancock, MI—Houghton County Memorial, NDB RWY 31, Amdt. 9

Hancock, MI—Houghton County Memorial, ILS RWY 31, Amdt. 10

Raleigh/Durham, NC—Raleigh/Durham, ILS RWY 5L, Amdt. 1

Leesburg, VA—Leesburg Muni/Godfrey Field, RNAV RWY 17, Amdt. 9

Martinsburg, WV—Eastern WV Regional/Shepherd Field, LOC/DME BC RWY 8, Amdt. 4

... Effective June 21, 1989

Macomb, IL—Macomb Muni, LOC RWY 27, Amdt. 1

Macomb, IL—Macomb Muni, NDB RWY 27, Amdt. 1

... Effective June 20, 1989

Manhattan, KS—Manhattan Muni, ILS RWY 3, Amdt. 5

... Effective June 12, 1989

Boonville, MO—Jesse Viertel Memorial, NDB RWY 18, Amdt. 7

[FR Doc. 89-15690 Filed 7-3-89; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Energy Costs and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The National Appliance Energy Conservation Admendment of 1988¹ ("NAECA 88"), enacted on June 28, 1988, adds fluorescent ballasts to the list of appliances in the Energy Policy and Conservation Act ("EPCA"), as amended by the National Appliance Energy Conservation Act of 1987 ("NAECA 87"),² for which the Department of Energy ("DOE") must establish minimum efficiency standards and testing procedures. In addition, NAECA 88 requires the Federal Trade Commission ("the Commission") to promulgate ballast labeling requirements.

On January 12, 1989,³ the Commission published a Notice of Proposed Rulemaking (NPR) to add fluorescent lamp ballasts to the list of products covered by the Commission's Appliance Labeling Rule ("the Rule").⁴ Today, the Commission announces final amendments to the Rule and discusses its reasons for adopting them.

EFFECTIVE DATE: June 23, 1989.

FOR FURTHER INFORMATION CONTACT: Neil J. Blickman (202-326-3038) or James G. Mills (202-326-3035), Attorneys, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

The Notice of Proposed Rulemaking

The January 12 Notice solicited comments on the substantive proposed amendments to the Commission's Appliance Labeling Rule, which expand

the coverage of the Rule to include fluorescent lamp ballasts. Specifically, the Commission sought comment on whether manufacturers of the newly covered products should be required to submit energy usage data to the Commission pursuant to § 305.8 of the Rule, whether the Commission's proposed disclosure approach for such products pursuant to § 305.11 of the Rule is appropriate and whether, pursuant to § 305.13 of the Rule, the Commission should require disclosures in connection with the use of point-of-sale promotional materials by manufacturers of the new covered products.

Under section 336(a) of EPCA,⁵ the Commission must prescribe amendments to its Appliance Labeling Rule in accordance with the notice-and-comment requirements of section 553 of the Administrative Procedure Act,⁶ except that interested persons must be afforded an opportunity for a hearing.

Written comments were received through February 13, 1989. The following groups and individual commented on the Commission's proposal: (1) The California Energy Commission ("CEC"), (2) The New York State Energy Office ("NY"), (3) The National Electrical Manufacturers Association ("NEMA"), (4) The Advance Transformer Co. ("Advance"), (5) The Coalition for Alternatives in Nutrition and Healthcare, Inc. and (6) Mr. Mark Uebel.

Although afforded the opportunity, no one notified the Presiding Officer to request a public hearing on the proposed amendments. Interested persons also were afforded 20 days, until March 6, 1989, to file rebuttal submissions. No comments were received during the rebuttal period.

NAECA 88 Labeling Requirements

NAECA 88 directs the Commission to amend the Appliance Labeling Rule to require disclosure that ballasts meet the minimum efficiency standards set by NAECA 88.⁷ The legislation specifically requires that the disclosure be in the form of a capital letter "E" printed within a circle on the ballast and on the packaging of the ballast or the lamp containing the ballast.⁸

¹ 42 U.S.C. 6306.

² 5 U.S.C. 553.

³ The standards will apply only to the four most commonly used fluorescent lamp ballasts, which make up approximately 85% of the ballast market. The standards will take effect in phases, with manufacturers of ballasts having to comply with respect to ballasts manufactured after January 1, 1990, sold by manufacturers after April 1, 1990 or incorporated into lamps by April 1, 1991.

⁴ The relevant portion of the legislation states: (B) The Commission shall prescribe labeling rules

Continued

¹ Pub. L. 100-357, 102 Stat. 671.

² 42 U.S.C. 6291 et seq.

³ 54 FR 1182.

⁴ 16 CFR Part 305.

Further, NAECA 88 specifically amends section 324 of EPCA so that the Rule the Commission must promulgate for labeling lamp ballasts will differ from the appliance labeling requirements presently required by the Rule in two major respects. First, amended section 324 removes the Commission's authority to require, for lamp ballasts, disclosure of the estimated annual operating costs of the products or another measure of energy consumption, like energy efficiency ratings. Second, amended section 324 removes the Commission's authority to require, for lamp ballasts, disclosure of the range of estimated annual operating costs or energy efficiency ratings for the products.

Analysis of Comments and Statement of Reasons for Final Rule

Although NAECA 88 adds fluorescent lamp ballasts to the list of covered products under EPCA, as previously mentioned, its substantive requirements are more limited than those for the other products covered by the Rule. To prevent the new status of fluorescent lamp ballasts as a "covered product" from triggering other requirements of the existing Rule, the Commission has made a number of minor amendments to adjust the final Rule. These amendments reconcile the Rule's existing labeling requirements with the simplified approach mandated by Congress for fluorescent lamp ballasts.⁹ No

under this section applicable to the covered products specified in paragraph (13) of section 322(a) and to which standards are applicable under section 325. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 1989, a capital 'E' printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated. Section 2(d)(1), 102 Stat. 672.

⁹ The amendments are to the following sections of the Appliance Labeling Rule:

Section 305.1(a) Scope of the Regulations in this Part.

Section 305.2(n), (o), (p) and (q) Definitions.
Section 305.3(j) Description of Covered Products to Which This Part Applies.

Section 305.4(e)(2) Prohibited Acts.
Section 305.5 and (i) Determinations of Estimated Annual Energy Cost and Energy Efficiency Rating.

Section 305.7(j) Determinations of Capacity.
Section 305.10(a) Ranges of Estimated Annual Energy Costs and Energy Efficiency Ratings.

Section 305.16 Required Testing by Designated Laboratory.

Section 305.18 (i) and (j) When the Rule Takes Effect.

The amendments have been revised in two respects since publication of the proposed regulation. After consulting with the Department of Energy, the Commission has added a definition of "ballast efficacy factor" and a description of the method used for determining the capacity of

comments were received relating to these amendments.

A discussion of the proposed substantive amendments and the comments on those amendments follows below.

Section 305.8 Submission of Data

Section 326 of EPCA, which is unchanged by the NAECA 88 amendments, requires manufacturers of covered products to submit to the Commission energy usage data and starting serial numbers pertaining to their products. These statutory requirements are repeated in § 305.8 of the Rule along with requirements for additional product information and data needed to establish and maintain the ranges of comparability in connection with product labeling requirements.

In the NPR, the proposed amendments excluded manufacturers of fluorescent lamp ballasts from the Rule's data reporting requirements. At that time, the Commission believed that compliance with portions of the reporting requirements would not be possible because manufacturers did not use serial numbers on lamp ballasts. Further, other information required by § 305.8 was deemed inapplicable to lamp ballasts or unnecessary for ballasts because it is used to prepare ranges of comparability for covered products. Labels for fluorescent lamp ballasts will not disclose ranges since the statutory labeling requirement for these products excludes the disclosure of ranges.

In response to a question on this section of the Rule in the NPR, the California Energy Commission, New York State Energy Office and Advance Transformer Co. submitted comments. The comments urged the Commission to require manufacturers of covered ballast products to submit the energy usage data required to be submitted to the Commission by other covered product manufacturers pursuant to § 305.8 of the Rule.¹⁰ NY, for example, pointed out that without such energy usage data, the Commission will have no effective means for determining which ballasts must comply with the NAECA 88 efficiency standards and the Rule's labeling requirements.¹¹ NY also urged the Commission to require ballast manufacturers to submit information concerning the energy efficiency rating

fluorescent lamp ballasts to §§ 305.2 and 305.7 respectively of the final Rule. The text of the minor changes to these sections appears in section C of this notice.

¹⁰ Advance, D-18, p. 2; CEC, E-5, p. 2; NY, E-7, pp. 2-5.

¹¹ NY, E-7, p. 3.

of covered ballasts pursuant to § 305.8. With respect to ballasts, that rating is referred to generally as the ballast efficacy factor ("BEF").¹²

The comments also stated that although ballasts do not have serial numbers, it is standard practice for all ballast manufacturers to date code their products in order to administer warranty programs. The comments contended that information concerning the date of manufacture of covered ballast products would assist the Commission in determining whether manufacturers have complied with the Rule's labeling requirements, and, therefore, should be reported under § 305.8 of the Rule.¹³

In light of the comments stating that date codes would be an effective alternative to serial numbers for compliance with the reporting requirements, the Commission has revised § 305.8. As revised, it now requires ballast manufacturers to submit the date codes for their products. It also requires manufacturers to submit the BEF's and certain related information for their products so the Commission can determine whether a ballast is entitled to use the "E" logo, and whether it meets the minimum efficiency standards. The Commission has the power to restrain any person from distributing in commerce a covered ballast that does not comply with the NAECA 88 minimum efficiency standards.¹⁴ Lamp ballast manufacturers will not be required, however, to submit certain data required by § 305.8 that is needed for preparing comparability ranges (ranges will not be published for lamp ballasts) or other information that is inapplicable to this product category.

Finally, NY's comment also suggested that requiring § 305.8 disclosure is necessary for another reason. NY contended that section 327(a)(1)(B) of EPCA, which is not amended by NAECA 88, may preempt state regulations that require the reporting of information concerning the energy use or efficiency of covered products other than information required to be reported pursuant to § 305.8 of the Commission's Appliance Labeling Rule.¹⁵ NY argued that if § 305.8 of the Commission's Rule does not require the submission of energy usage and efficiency data, it is questionable whether the states and utilities could continue to require the

¹² NY, E-7, p. 4.

¹³ Advance, D-18, p. 2; CEC, E-5, p. 2; NY, E-7, p. 3.

¹⁴ 42 U.S.C. 6304.

¹⁵ NY, E-7, p. 4.

reporting of such information for state certification, directory publication and rebate programs.¹⁶

The Commission believes that the most logical and reasonable reading of section 327(a)(1)(B) of EPCA is that it does not preempt the states from requiring ballast manufacturers to report energy usage and efficiency information. This section of EPCA applies to the preemption of state testing and labeling requirements. Consequently, when this section states that it preempts state disclosure regulations that differ from the Rule's disclosure requirements, it is referring to testing and disclosures on a covered product label, not to information-reporting requirements. Section 305.8 of the Rule will now contain certain reporting requirements for ballast manufacturers and, therefore, this issue is largely moot.

*Section 305.11(d) Labeling for Covered Products**

The NPR added a new subsection—§ 305.11(d)—to the section on labeling to describe how the encircled capital "E" logo must be disclosed on ballasts and packaging. The proposed subsection incorporated the NAECA 88 statutory criterion of a "conspicuous" disclosure along with several options as to how and where the disclosure must be made.

One product labeling option was to disclose the logo on the existing ballast label. The other options proposed were using a separate label or indelibly stamping the ballast itself. If a separate label is used or if the product is stamped, the proposed regulation required that the disclosure be made on the surface of the ballast that is normally labeled. In all cases, the proposed regulation required the logo to be disclosed in color-contrasting ink.

The proposed requirements for disclosing the logo on packaging for individual ballasts and luminaires paralleled the disclosure requirements for ballasts themselves. The proposed regulation required that the disclosure be made on the surface on which printing normally appears, and be in the form of a separate label or an addition to an existing label or printing, or be indelibly stamped on the package itself. The NPR further proposed that if the package contained printing on more

than one surface, then the label must appear on the surface that contains the product's specifications. Because the majority of fluorescent lamp ballasts and luminaires are packaged by the pallet load, usually wrapped in plastic sheeting, or "shrink wrap," the proposed regulations specifically addressed this packaging method. To ensure that the logo is disclosed conspicuously under these circumstances, the proposed regulation required that the logo appear "conspicuously" on the packaging, the shrink wrap and the documentation that usually accompanies the load. Again, the options for the method of disclosure were a separate label, printing or stamping with indelible ink.

Size of the Required Disclosure

With respect to the size and design of the encircled "E" logo, three comments urged the Commission to specify the size of the logo. The comments suggested that the size be consistent with the sizes of other logos that already appear on ballast labels, for example, Underwriters Laboratory (UL), Certified Ballast Manufacturers (CBM) and Engineering Testing Laboratories (ETL).¹⁷

Since the required disclosure is a simple one, containing no comparative numerical information, extremely specific regulatory requirements, tailored to the various lamp ballast label sizes, are unnecessary. The Commission believes that a performance standard, in terms of size, is sufficient for this category. The final Rule, therefore, requires the disclosure to be "conspicuous," but does not contain mandatory type size requirements. (The Rule does, however, require that the disclosure be made in color-contrasting ink).

The Commission has decided, however, to incorporate the commentors' suggestions as "safe harbors." The final Rule states that, for purposes of this section, the Commission will deem the encircled "E" to be "conspicuous" 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 fluorescent lamp ballast, the packaging for such ballast or the packaging for the luminaire into which the covered ballast is incorporated, whichever is applicable for purposes of labeling. Thus, the regulation offers certainty, as well as flexibility, as to what would constitute compliance.

Color-Contrasting Ink Requirement

The proposed regulation required that disclosure of the encircled "E" be in "color-contrasting" ink, *i.e.*, in a color that contrasts with the background onto which it is placed. The comments requested clarification in the final Rule that manufacturers are not being required to add a third color of ink to their labels.¹⁸ The color-contrasting provision does not necessarily require a third color. The purpose of this requirement is for the "E" to stand out against its background. For example, it would not be acceptable to have the background in one shade of blue, and the "E" in a similar shade, because it would probably not be sufficiently conspicuous. The "E" could be in blue or black, for example, or another color against a white background banded by the same color as the "E."

Shrink Wrap Labeling Requirement

The proposed regulation recognized that ballasts and luminaires are often packaged by the pallet load and wrapped in plastic "shrink wrap." The comments recommended that the Commission not require labeling on "shrink wrap" if it is clear plastic and the encircled "E" on ballast and luminaire boxes is legible underneath the wrap.¹⁹ The Commission agrees that additional labeling is unnecessary in this case. Therefore, the final Rule does not require the labeling of clear plastic wrap if the encircled "E" appears conspicuously underneath it.

Section 305.13 Promotional Material Displayed or Distributed at Point of Sale

The NAECA 88 amendments do not affect the Commission's authority, pursuant to section 324(c)(4) of EPCA, to require certain disclosures in connection with the use of point-of-sale promotional materials. The disclosures, however, are statutorily limited to any of the information required to be disclosed on the product's label. Since the Commission originally believed that fluorescent lamp ballasts and luminaires containing them are rarely sold through the use of promotional materials, the proposed regulations excluded manufacturers of these products from the requirements of § 305.13 of the Rule.

The California Energy Commission comment stated, however, that manufacturers of fluorescent lamp ballasts produce, and frequently use, point-of-sale promotional materials to

¹⁶ Under New York and California state laws, ballast manufacturers are required to file energy usage and efficiency information, including ballast efficacy factors, for publication in state directories of fluorescent lamp ballast and luminaire manufacturers. These directories apparently are used extensively by building professionals who purchase ballasts and by state utilities that offer rebates for the purchase and installation of high efficiency ballasts.

¹⁷ Advance, D-18, p. 2; NEMA, D-19, p. 2; CEC, E-5, p. 3.

¹⁸ Advance, D-18, p. 1; NEMA, D-19, p. 1.

¹⁹ *Id.*

influence consumer purchasing decisions.²⁰ According to CEC, such materials are widely delivered to and disseminated by wholesale distributors at industry trade shows. Consequently, the Commission is not amending § 305.13 of the Rule to exclude ballast manufacturers from its requirements. Rather, pursuant to section 324(c)(4) of EPCA, the Commission is adding a new paragraph to § 305.13 of the Rule to require that the encircled "E" logo be disclosed in each description of a covered ballast in any printed matter displayed or distributed at the point-of-sale of such product.

Section 305.14 Catalogs

Section 326(a) of EPCA, which is unaffected by NAECA 88, requires that if a manufacturer of a covered product advertises the product in a catalog, the catalog must display all the information required on the label, unless otherwise required by the Commission. The proposed Rule required, therefore, that ballast manufacturers display the encircled "E" logo in connection with the product description for each covered ballast they include in their catalogs. That logo is all the information required on a ballast label pursuant to section 324 of EPCA, as amended by NAECA 88.

NY and CEC commented that, in addition to the encircled "E", the Commission should require disclosure of ballast efficacy factors in catalogs. They contended that there still will be a wide range of energy efficiencies among the ballasts that satisfy the minimum efficiency standards set by NAECA 88. Requiring the disclosure of ballast efficacy factors in catalogs would allow buyers to choose a level of ballast efficiency desired, beyond the minimum.

Regardless of the merits of the proposal, it would be inconsistent with the authority granted the Commission under section 326(a) of EPCA for the Commission to require the disclosure of BEFs in catalogs. The most logical and reasonable interpretation of section 326(a) of EPCA is that the Commission has the authority to require that catalogs describing covered products display all or less than all the information required on the appliance labels for such products. In other words, section 326(a) allows the Commission to limit, not expand, by rule what would otherwise be required to be disclosed in catalogs. The Commission is not requiring, therefore, the disclosure of ballast efficacy factors in catalogs, and the language in the January 12 Notice is

adopted for this section of the final Rule.²¹

Section A—Regulatory Flexibility Act

The Notice announcing the proposed amendments did not contain a regulatory analysis under the Regulatory Flexibility Act (5 U.S.C. 603–604). This analysis was not required because the Commission believed that the amendments, if promulgated, would not have a significant economic impact on a substantial number of small entities. The Commission reached this conclusion because the proposed amendments will impose few additional costs on small entities and will have a minimal effect on all business entities within the affected industry regardless of their size.

The NPR, however, discussed the applicability of the Regulatory Flexibility Act to the proposed amendments and requested any information that would bear on whether the proposed amendments would have a significant economic impact on a substantial number of small entities. None of the comments addressed this issue.

The statutory and regulatory requirements for products, packaging, point-of-sale materials and catalogs to disclose an encircled "E" logo will result in few costs to the industry. Further, the Commission estimates that compliance with the data reporting requirements announced today will take no more than two hours per year for each of the approximately 20 ballast manufacturers. In view of the minimal cost effect of the amendments, the Commission certifies that, under the provisions of section 5 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Rule amendments as promulgated will not have a significant economic impact on a substantial number of small entities.

Section B—Paperwork Reduction Act

The disclosure amendments being announced today are not subject to the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501–3518. The "public disclosure of information originally supplied by the Federal government to the recipient for th[at] purpose," is not the "collection of information" as defined by the rule implementing the PRA, 5 CFR 1320.7(c)(2) (1988). The disclosure required for fluorescent lamp ballasts (the encircled letter "E") is specified in the Rule and, therefore, the industry

²¹ The Commission believes, however, that manufacturers who produce ballasts with efficiencies beyond the minimums established by NAECA 88 will have an incentive to provide that information to purchasers voluntarily.

does not have to collect any information in order to develop the disclosure.

The amendments to the reporting requirements in § 305.8 of the Rule, however, do involve the "collection of information." Compliance with these reporting requirements will take each of the approximately 20 affected fluorescent lamp ballast manufacturers an estimated two hours per year, resulting in a total of less than 50 hours of paperwork burden. These requirements have been incorporated into the existing clearance for the Commission's Appliance Labeling Rule (OMB Control No. 3084–0069).

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Section C—Amendments

For the reasons set forth in the preamble, the Commission amends Title 16, Part 305 of the Code of Federal Regulations as follows:

PART 305—RULES FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES

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

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100–357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 533.

2. Section 305.1(a) is revised to read as follows:

§ 305.1 Scope of the regulations in this part.

(a) Labeling the products with information indicating their estimated annual energy costs or energy efficiency ratings, and related information or their compliance with applicable standards under section 325 of the Energy Policy and Conservation Act, 42 U.S.C. 6295.

3. Section 305.2 (n) and (o) are revised, and § 305.2 is amended by the addition of a new paragraph (p) and a new paragraph (q) to read as follows:

§ 305.2 Definitions.

²⁰ CEC, E–5, pp. 3–4.

(n) "Consumer appliance product" means any "consumer product," as identified in section 322 of the Act (42 U.S.C. 6292).

(o) "Covered Product" means any consumer appliance product defined in § 305.3 of the rule.

(p) "Luminaire" means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(q) "Ballast efficacy factor" means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in American National Standards Institute standard C82.2-1984, or as may be prescribed by the Secretary of Energy.

4. Section 305.3 is amended by the addition of a new paragraph (j) to read as follows:

§ 305.3 Description of covered products to which this part applies

(j) "Fluorescent lamp ballast" means a device that is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation, and that is designed to operate at nominal input voltages of 120 or 277 volts with a frequency of 60 Hertz and is for use in connection with F40T12, F96T12 or F96T12HO lamps.

(5) Section 305.4(e)(2) is revised to read as follows:

§ 305.4 Prohibited acts.

(e) ***
(2) Any covered product, except central air conditioners, pulse combustion and condensing furnaces, and fluorescent lamp ballasts, if the manufacture of the product was completed prior to May 19, 1980. Any central air conditioner, pulse combustion furnace or condensing furnace if its manufacture was completed prior to June 7, 1988. Any fluorescent lamp ballast if its manufacture was completed prior to January 1, 1990.

6. Section 305.5 is amended by revising the introductory text and by adding a new paragraph (i), to read as follows:

§ 305.5 Determinations of estimated annual energy cost and energy efficiency rating.

Procedures for determining the estimated annual energy costs, the

energy efficiency ratings and the power and efficacy factors of covered products are those found in 10 CFR Part 430, Subpart B, in the following sections:

(i) Fluorescent lamp ballasts—
§ 430.22(q).

7. Section 305.7 is amended by the addition of a new paragraph (j), to read as follows:

§ 305.7 Determinations of capacity

(j) *Fluorescent lamp ballasts.* The capacity shall be the ballast input voltage, determined according to 1.2 of Appendix Q to 10 CFR Part 430, Subpart B.

8. Section 305.8(a) is amended by revising the first sentence and adding two new sentences at the end to read as follows:

§ 305.8 Submission of data

(a) Each manufacturer of a covered product, except manufacturers of fluorescent lamp ballasts, shall submit to the Commission, not later than January 21, 1980 (for manufacturers of central air conditioners and pulse combustion and condensing furnaces, the submission date shall be February 8, 1988), a report listing the estimated annual energy cost (for refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, and clothes washers) or the energy efficiency rating (for room air conditioners, central air conditioners and furnaces) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. *** Each manufacturer of a covered fluorescent lamp ballast shall submit to the Commission, not later than March 1, 1990 (and annually thereafter on or before that date), a report for each basic model of fluorescent lamp ballast in current production. The report shall contain the following information:

- (1) Name and address of manufacturer;
- (2) All trade names under which the fluorescent lamp ballast is marketed;
- (3) Model number;
- (4) 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);
- (5) Nominal input voltage and frequency;
- (6) Ballast efficacy factor; and,
- (7) Type (F40T12, F96T12 or F96T12HO) and number of lamp or lamps with which the fluorescent lamp ballast is designed to be used.

9. The first sentence of § 305.10(a) is revised to read as follows:

§ 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

(a) The range of estimated annual energy costs or range of energy efficiency ratings for each covered product (except fluorescent lamp ballasts) shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the products.***

10. Section 305.11 is amended by the addition of a new paragraph (d) to read as follows:

§ 305.11 Labeling for covered products.

(d) *Fluorescent Lamp Ballasts and Luminaires—(1) Contents.* Fluorescent lamp ballasts that are "covered products," as defined in § 305.2(o), and to which standards are applicable under section 325 of the Act, shall be marked conspicuously, in color-contrasting ink, with a capital letter "E" printed within a circle. Packaging for such fluorescent lamp ballasts, as well as packaging for luminaires into which they are incorporated, 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 fluorescent lamp ballast, the packaging for such ballast or the packaging for the luminaire into which the covered ballast is incorporated, whichever is applicable for purpose of labeling.

(2) *Product Labeling.* The encircled capital letter "E" on fluorescent lamp 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 fluorescent lamp ballast, printed on a separate label, or stamped indelibly on the surface of the fluorescent lamp ballast.

(3) *Package Labeling.* For purposes of labeling under this section, packaging for such fluorescent lamp ballasts and the luminaires into which they are incorporated consists of the plastic sheeting, or "shrink-wrap," covering pallet loads of fluorescent lamp ballasts or luminaires as well as any containers in which such fluorescent lamp ballasts or the luminaires into which they are

incorporated are marketed individually or in small numbers. The encircled capital letter "E" on packages containing fluorescent lamp ballasts or the luminaires into which they are incorporated 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 fluorescent lamp ballasts or the luminaires into which they are incorporated, 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 eligible underneath this packaging. The encircled capital letter "E" must also appear conspicuously on any documentation that would normally accompany such a pallet load. The encircled capital letter "E" may appear on a label affixed to the sheeting or may be indelibly stamped on the sheeting. It may be printed on the documentation, printed on a separate label that is affixed to the documentation or indelibly stamped on the documentation.

11. Section 305.13 is amended by revising the introductory text of paragraph (a), and by adding a new paragraph (c), to read as follows:

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

(a) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product (except fluorescent lamp ballasts) shall clearly and conspicuously include in such printed material the following required disclosure:

(c) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning fluorescent lamp ballasts that are "covered products," as defined in § 305.2(o), and to which standards are applicable under section 325 of the Act,

shall disclose conspicuously in such printed material, in each description of such fluorescent lamp ballasts, an encircled capital letter "E".

12. Section 305.14 is amended by revising the introductory text of paragraph (a), and by adding a new paragraph (c), to read as follows:

§ 305.14 Catalogs.

(a) Any manufacturer, distributor, retailer, or private labeler who advertises a covered product (except fluorescent lamp ballasts) in a catalog, from which it may be purchased by cash, charge account or credit terms, shall include in such catalog, on each page that lists a covered product, the following information required to be disclosed on the label:

(c) Any manufacturer, distributor, retailer, or private labeler who advertises fluorescent lamp ballasts that are "covered products," as defined in § 305.2(o), and to which standards are applicable under section 325 of the Act, in a catalog, from which they may be purchased by cash, charge account or credit terms, shall disclose conspicuously in such catalog, in each description of such fluorescent lamp ballasts, a capital letter "E" printed within a circle.

13. The first sentence of § 305.16 is revised to read as follows:

§ 305.16 Required testing and designated laboratory.

Upon notification by the Commission or its designated representative, a manufacturer of a covered product shall supply, at the manufacturer's expense, no more than two of each model of each product to a laboratory, which will be identified by the Commission or its designated representative in the notice, for the purpose of ascertaining whether the estimated annual energy cost or energy efficiency rating disclosed on the label or fact sheet, or as required by § 305.14, or the representation made by the encircled capital letter "E" label that the product is in compliance with applicable standards in section 325 of the Act, is accurate.

14. Section 305.18 is amended by adding a new sentence at the end of paragraphs (a) and (b); by revising paragraphs (e) and (f); by redesignating paragraph (i) as (j); and by adding a new paragraph (i), to read as follows: (Paragraph (j) is republished for the convenience of the reader.)

§ 305.18 When the rules take effect.

(a) * * * For manufacturers of fluorescent lamp ballasts, the date for submitting starting serial numbers, date codes or other means of identifying the date of manufacture shall be March 1, 1990.

(b) * * * For manufacturers of fluorescent lamp ballasts, the date for submitting such data shall be March 1, 1990.

(e) The requirement that specified information about covered products be disclosed in catalogs takes effect for all catalogs printed and distributed on or after May 19, 1980. This requirement does not apply to catalogs if the catalog issue was distributed before May 19, 1980. The requirement that specified information about central air conditioners and pulse combustion and condensing furnaces be disclosed in catalogs takes effect for all catalogs printed and distributed on or after June 7, 1988. The requirement that specified information about fluorescent lamp ballasts be disclosed in catalogs takes effect for all catalogs printed and distributed on or after January 1, 1990.

Required revisions to the specified information must be made in all new editions and new catalogs printed and distributed after the date of the revision.

(f) The requirement that all printed material displayed or distributed at the point of sale disclose information specified in § 305.13 takes effect on May 19, 1980, except as provided for in § 305.18 (h) and (i).

(i) Unless otherwise provided in § 305.18, all requirements pertaining to fluorescent lamp ballasts take effect for all new covered products on which manufacture is completed on or after January 1, 1990. All requirements pertaining to luminaires into which covered fluorescent lamp ballasts have been incorporated take effect on January 1, 1990.

(j) All other requirements of this rule except those in § 305.4(d) take effect on May 19, 1980.

By direction of the Commission.

Donald S. Clark,
Secretary.

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