MEMORANDUM

RE: Ex Parte Communication In Connection with
Docket Number: EERE-2013-BT-STD-0051
Energy Conservation Standards Rulemaking Notice of Proposed Rulemaking (NOPR) for General Service Lamps,
81 FR 14528 (March 17, 2016)

Also: Docket Number: EERE-2011-BT-NOA-0013
Notice of Data Availability, Energy Conservation Program: Data Collection and ComparisonWith Forecasted Unit Sales of Five Lamp Types
80 FR 13791 (March 17, 2015) and 81 FR 20261 (April 7, 2016).

To: expartecommunications@hq.doe.gov

From: Clark R. Silcox, General Counsel
National Electrical Manufacturers Association

Date: September 20, 2016.

cc: Kyle Pitsor, Alex Boesenberg, Daniel Cohen, Laurie Miller

This memorandum memorializes a discussion between Daniel Cohen, DOE General Counsel's office and Clark Silcox, General Counsel, National Electrical Manufacturers Association on Thursday September 15, 2016 at Mr. Cohen's office.

The purpose of the discussion was to bring to the Department of Energy's (DOE) attention a data reporting error for "rough service" lamps reported by NEMA to the DOE pursuant to a congressional reporting and tracking requirement in Section 321 of the Energy Independence Act of 2007, codified at 42 U.S.C. §6295(l)(4). In late July 2016, one of the reporting companies informed us that an SKU representing a new "rough service" incandescent lamp product brought to market in 2014 had inadvertently and unintentionally not been "mapped" from their sales database to the NEMA reporting form. The reporting company did not discover this omission until a few months ago. This omission has significance for the Secretary under the foregoing section of the Act because it causes "actual unit sales of rough service lamps that are at least 100 percent higher than modeled unit sales for that same year [2015]." 42 U.S.C. §6295(l)(4)(D).

Had NEMA known of the correct figure for the years 2014 and 2015 at the time it originally reported to the DOE, NEMA would have reported the following figures for rough service lamp unit sales:

2014	9,707,000
2015	10,914,000

These amended figures are higher than 7,267,000 and 6,731,000 unit sales for 2014 and 2015 respectively that were previously reported to DOE.

The two pages attached at the end of this memorandum reflect the original and revised calculator for the DOE's benchmark comparison for these lamps on its website. The second page indicates that the unit sales for 2015 would now show a ratio of NEMA data to exponential growth of 2.197, indicating those unit sales exceed 100% of the benchmark in 2015.

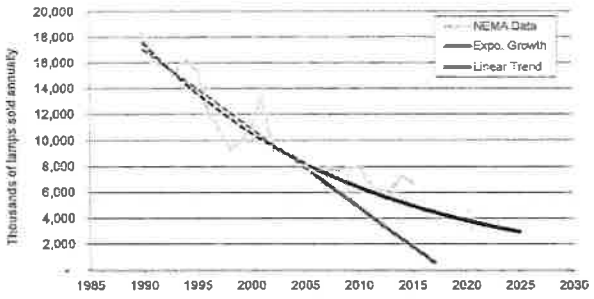
While this data is relevant to the Secretary's responsibilities under 42 U.S.C. §6295(l)(4), it is also relevant to NEMA's comments in the pending general service lamp rulemaking. EERE-2013-BT-STD-0051. At pages 46 and 47 of NEMA's comments dated May 16, 2016, NEMA proposed that specific energy conservation standards be applied to two specialty incandescent lamps --- vibration service lamps and rough service lamps --- whose sales are tracked under 42 U.S.C. §6295(l)(4). The proposal for vibration service lamps noted that the unit sales for those lamps had exceeded the 100% of benchmark metric in 2015; the proposal for rough service lamps noted that unit sales for rough service lamps (based on what NEMA previously understood) had not exceeded the 100% of benchmark metric. NEMA added, however, the following explanation for its proposal: "NEMA believes that if the above energy conservation standard --- 40-watt maximum energy use and packaging limitation --- is applied to vibration service lamps that certain retailers who promote the sale of this product will shift purchases to a higher wattage rough service lamp and will likely trigger the threshold rather quickly." See NEMA Comment at 47. It now appears that the threshold has already been exceeded. Had we known about the inadvertent reporting omission at the time and the actual figures, we would have included a reference to the fact that unit sales for rough service lamps exceeded the 100% benchmark for the first time in 2015 in support of our proposal to apply energy conservation standards to rough service lamps. We request the Secretary to take note of that fact in this proceeding in connection with responding to NEMA's proposal.

This is a complete summary of our discussion on this subject.

Rough Service Lamps

Unit Sales Estimates in Thousands (1000's)

Calendar Year	NEMA Data	Linear Regression	Exponential Growth	NEMA Data / Expo. Growth
1990	*18,251*	*17,051*	*17,583*	–
1991	*15,520*	*16,441*	*16,716*	–
1992	*15,860*	*15,831*	*15,891*	–
1993	*15,289*	*15,222*	*15,108*	–
1994	*16,296*	*14,612*	*14,363*	–
1995	*15,400*	*14,002*	*13,655*	–
1996	*12,090*	*13,392*	*12,981*	–
1997	*10,995*	*12,782*	*12,341*	–
1998	*9,315*	*12,172*	*11,733*	–
1999	*9,869*	*11,562*	*11,154*	–
2000	*11,034*	*10,953*	*10,604*	–
2001	*13,522*	*10,343*	*10,081*	–
2002	9,379	9,733	9,584	–
2003	9,019	9,123	9,112	–
2004	8,818	8,513	8,662	–
2005	8,211	7,903	8,235	–
2006	7,661	7,293	7,829	–
2007	–	6,684	7,443	–
2008	–	8,074	7,076	–
2009	–	5,464	6,727	–
2010	7,971	4,854	6,395	1.246
2011	6,829	4,244	6,080	1.123
2012	6,045	3,634	5,780	1.046
2013	6,237	3,024	5,495	1.135
2014	7,267	2,414	5,224	1.391
2015	6,731	1,805	4,967	1.355
2016		1,195	4,722	
2017		585	4,489	
2018		(25)	4,268	
2019		(635)	4,057	
2020		(1,245)	3,857	
2021		(1,855)	3,667	
2022		(2,464)	3,486	
2023		(3,074)	3,314	
2024		(3,684)	3,151	
2025		(4,294)	2,995	



Linear Regression - uses the "Trend" function in Excel, fitting a straight line to the data using the method of least squares.
Exponential Growth - uses the "Growth" function in Excel, fitting an exponential curve to the existing x-values and y-values.

Notes: In column E, "NEMA Growth / Expo. Growth," numbers less than one indicate the actual shipments are less than the projected shipments, numbers greater than one and less than or equal to two indicate the actual shipments exceed the projected shipments somewhat, and numbers greater than two indicate the actual shipments more than doubled projected shipments, and a rulemaking should be initiated.

NEMA aggregated and adjusted the company data using market share estimates so the data provided represents 100% of the US market.
Participating companies contributing to the historical dataset were: GE, Halco, Osram Sylvania, Philips, and Westinghouse.
Participating companies contributing to the 2010 and 2011 datasets were: EiKO Ltd., GE, Halco, Osram Sylvania, Philips, SLI Lighting, and Westinghouse.
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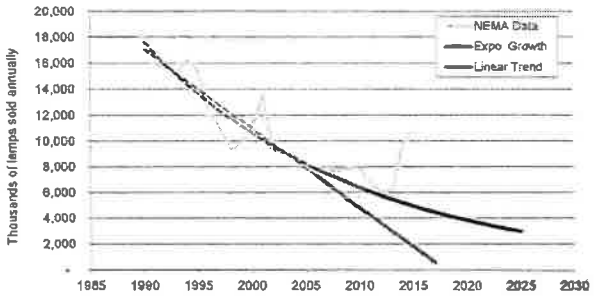

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