

**Statement of the National Electrical Manufacturers Association
Before the
Senate Committee on Energy and Natural Resources
April 23, 2007**

S. 1115

The Energy Efficiency Promotion Act of 2007

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Chairman Bingaman, Ranking Member Domenici, and Members of the Committee:

On behalf of the National Electrical Manufacturers Association (NEMA), I am Kyle Pitsor, NEMA vice president of government relations. NEMA is the trade association of choice for the electrical manufacturing industry. Founded in 1926 and headquartered near Washington, D.C., its approximately 450 member companies manufacture products used in the generation, transmission and distribution, control, and end-use of electricity. These products are used in utility, medical imaging, industrial, commercial, institutional, and residential applications. Domestic production of electrical products sold worldwide exceeds \$120 billion. In addition to its headquarters in Rosslyn, Virginia, NEMA also has offices in Beijing, São Paulo, and Mexico City.

I am pleased to be here today to present our Association's views on this important energy efficiency bill, and to offer our industry's continuing support in advancing energy efficiency in the marketplace.

The electrical manufacturing community stands at the very heart of our national effort to achieve a reduced dependence on fossil fuels, a cleaner environment, and a higher standard of living across the globe. Energy efficient technologies exist, and NEMA companies are actively engaged in the research, development, manufacturing and promotion of them. What we all must strive for is wider recognition, deployment, and use of today's state-of-the-art products and technologies, and support for emerging technologies. It is for these reasons that NEMA is very pleased to testify today on S. 1115 and provisions which, we believe, will significantly improve efficiency in buildings, homes, and products while reducing our nation's use of fossil fuels and saving consumers money.

We would like comment on several titles and provisions in the bill.

Promoting Lighting Technologies (Title I)

As the largest user of energy in the Nation, the federal government must set the example of energy efficiency in its facilities and buildings through procurement and building standards. The Energy Policy Act of 2005 calls for federal purchasing of Energy Star® and Federal Energy Management Program (FEMP) designated products. Section 101 in the bill strengthens the procurement provision through the establishment of purchasing guidelines with a date certain for all general-purpose lighting. We fully endorse this Section.

We are pleased that negotiated consensus standards for certain incandescent reflector lamps have been included in Section 102. These consensus standards are the result of our industry working with non-governmental and stakeholder organizations to arrive at definitions and standards that will further strengthen the national energy conservation standards program. These certain lamps, typically used in residential downlights (recessed can fixtures), are presently not subject to federal energy efficiency standards initially established by the Energy Policy Act of 1992. Due to technology and market changes, the time has come to federally regulate the products described in Section 102.

The Bright Tomorrow Lighting Prize (Section 103) offers a challenging and exciting opportunity for advancing the commercialization of new solid-state lighting products for the general market. We support the use of Section 1008 of EPACT 2005 for this competitive, technology-driven prize for new LED lights that can retrofit into existing medium-screw base sockets. Further, we endorse the proposal's direction that federal purchase guidelines are to be developed based on awards under the challenge. Again, federal government leadership in purchasing and using new lighting technologies is important to the marketplace. The Next Generation Lighting Industry Alliance (administered by NEMA) is the designated industry partner per EPACT Section 912 to the Department of Energy's Solid State Lighting R&D program. The Alliance views Section 103 as a complementary market deployment with respect to the DOE SSL program. The results of the past few years suggest that there are no fundamental reasons why solid-state lighting light sources cannot achieve efficiencies of 10-12 times that of today's inefficient incandescent lamp, and 2 times that of fluorescent technologies.

The bill contains a Sense of the Senate provision (Section 104) concerning new energy efficiency standards for lighting products. Lighting use in the U.S. consumes some 20-22 percent of all electricity generated. Thirty percent of the energy consumed in an office building is used for lighting, and 5-10% of residential energy use is for lighting. There is an array of lamp (light bulb) technologies – incandescent (including halogen), fluorescent, high intensity discharge, and solid state.

I am pleased to report that on April 3, 2007, the member companies of the NEMA Lamp Section announced a joint industry commitment to support public policies that will transform the U.S. market to more energy-efficient lighting within a decade. This joint position came about in response to a growing number of proposals at the international, state and local levels that would eliminate the presence of certain general-service incandescent lamps in the marketplace.

NEMA views such a market transformation as a matter of national importance that should come about through a federal solution in order to avoid confusion in the marketplace. Central to this commitment is the setting of standards that will eliminate the least efficient products from the market, based on the following six principles:

- The market transformation must be orderly and target as a starting point the least efficient medium screw base A-line incandescent lamps from 40 through 100 watts in widespread use today.
- Performance standards must be used to accomplish the transformation.
- Performance standards must be technology-neutral.
- The market transformation will take up to a decade.

- The set of A-line incandescent lamps to be addressed includes clear, frost, soft white and enhanced spectrum. Performance standards will be needed for each of these types.
- The market transformation should begin with strategies that will save the most energy.

We note that in the absence of a federal solution, states and localities should follow these principles when deliberating on this matter.

Prior to the April 3 announcement and subsequent to it, NEMA lamp members have been engaged in a series of negotiations with non-governmental organizations (NGOs), environmental advocacy groups, state government representatives, and industry organizations with an aim to develop a standards consensus proposal for submittal to this Committee and Congress. Those negotiations are on-going at the time of preparing this testimony, and we will report to the Committee on their status.

Expediting New Energy Efficiency Standards (Title II)

NEMA supports a robust national energy conservation standards program under the Energy Policy and Conservation Act (EPCA) as amended. We believe that a strong national program of standards, test procedures and labeling/information disclosure is the most effective means to maximize energy savings for the Nation and the consuming public. Products are manufactured and distributed on a national (and sometimes global) basis, and it is key that energy conservation product regulation occur at the federal level.

The bill provides in the Section 204 amendment to EPCA to provide the Secretary of Energy the authority to conduct an expedited rulemaking based on an energy conservation standard or test procedure if submitted as a "consensus proposal". The benefits of accelerating adoption of consensus proposals benefit the Nation when more efficient, competitive products enter the marketplace at an earlier date than would otherwise be the case if handled in the regular DOE rulemaking proceedings. In addition, manufacturers benefit by improvement in their planning processes occasioned by the increased certainty of earlier finalization of consensus standards. Finally, federal regulators and all stakeholders would benefit from reduced burdens of paperwork, unnecessary rounds of otherwise mandated process and procedures, and legal costs. NEMA supports an "expedited rulemaking" authority and commends the Committee for including this meaningful modification to the statute. We do recommend changing the term from "joint comment" to "joint petition" to clarify that the consensus proposal does not have to be submitted only during the time period for which DOE has an open rulemaking for the product(s) addressed in the consensus proposal.

The bill contains several important consensus proposals and technical corrections for legislative enactment. As the association that represents the manufacturers of lighting and motors products, NEMA is pleased to have worked with various stakeholders to develop these consensus standards proposals. As noted earlier, Section 102 would add certain incandescent reflector lamps to federal energy regulation. Technical corrections (Section 208) include one for the color rendering index (CRI) for

certain fluorescent lamps, and we also have submitted a definitional clarification regarding mercury vapor ballasts which we hope the Committee will include in the bill as it proceeds to mark-up. Both of these are consensus proposals involving the manufacturers and NGOs.

Mr. Chairman, I am very pleased to note that Section 209 provides for legislative enactment of new and expanded efficiency standards for industrial electric motors. Electric motors consume 65-70% of the electrical energy used in commercial and industrial motor-driven systems, like pumps, fans, and compressors. As a consequence, increases in motor efficiency translate to significant energy savings for industrial and manufacturing facilities. We estimate the savings attributable to these joint recommendations to be 8 billion kilowatt hours by 2030, with a net energy savings to consumers of almost \$500 million.

NEMA developed the first standard and levels for an "energy efficient" electric motor in 1987, which were included in the Energy Policy Act of 1992. In 2003, NEMA established new "premium efficiency" motor levels and has undertaken a significant marketing and promotion effort for NEMA Premium®. Section 209 includes important expansion of electric motors that will be subject to federal efficiency requirements, including adoption of premium efficiency for the bulk of the 1-200 horsepower general-purpose motors.

One aspect of the bill (Section 205 "Preemption Limitations") as introduced, however, would materially change a significant and longstanding principle in federal preemption for overseeing energy efficiency standards, and we believe represents an open and irreconcilable conflict with other provisions and policies of the Energy Policy Conservation Act, as amended.

As such, NEMA cannot support this provision as drafted, and we would like to work with the Committee and staff to address concerns that brought about this provision, and seek to find alternative solutions. If unchanged, the provision weakens rather than improves the "comprehensive national energy policy" enacted by Congress in 1975 to implement EPCA (S. Conf. Rep. No. 94-516 at 116 (1975)).

The twin cornerstones of this comprehensive national policy are (1) the establishment of national standards for energy efficiency, testing and information disclosure for "covered products," and (2) express Federal preemption of State laws and regulations respecting energy efficiency standards, testing, and information disclosure for those covered products. The exceptions to Federal preemption were intentionally narrow: State petitions for waivers required that States show there were "unusual and compelling State and local interests" that were "substantially different in nature and magnitude from those of the Nation generally, so that achieving the waiver would be difficult. State procurement standards would be permitted; and a narrowly drawn exception for State and local building codes must meet seven requirements.

For many covered products, Federal standards have been established by Congress in the various acts; in the case of other covered products, Congress has delegated to the

Department of Energy and the Federal Trade Commission the authority to determine uniform national standards and policy. In both cases, conscious decisions are made to exclude from regulation a subset of the covered products because the expected energy savings is small compared to the burden of achieving that savings. For example, in 1992, when Congress enacted energy efficiency standards for electric motors, it specifically excluded from regulation certain definite purpose and special purpose motors. At the same time, Congress excluded from regulation certain "special applications" of general service fluorescent lamps and general service incandescent lamps, and delegated to the Secretary of Energy the authority to further determine by rule that standards "would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably suitable lamp types.

Proposed Section 205 establishing certain limitations on preemption where the product is excluded or not directly affected by a Federal standard would radically flip the carefully constructed "comprehensive national policy" underlying the Energy Policy and Conservation Act and permit States to regulate, for example, where Congress or the Secretary of Energy have declared that there shall be no regulation because regulation will not result in significant energy savings or substitutes are not available. It would allow States to regulate after the Secretary of Energy, in the course of a rulemaking to prescribe standards for new covered products or in any amended standards, has evaluated the projected amount of energy savings, technical feasibility of a standard, economic impact on manufacturers, the decline in the performance of products, and any lessening of competition, and other factors has determined that a subset of a covered product should be excluded from regulation.

When a State or an interested citizen believes that the exclusions from federal regulation should be revisited, Congress should insist, as it always has, that the interested parties bring the policy debate on this important Federal question to Congress or the Secretary of Energy. If enacted, Section 205 would open a wide door to the development of "a patchwork of numerous conflicting State requirements," H.R. Rep. No. 100-11 at 19 (1987), that Congress has always eschewed. Section 205 is in direct conflict with the preemption provisions in the Energy Policy Conservation Act, as amended, at 42 U.S.C. §6297(d) relating to waiver because it allows States to regulate covered products without any consideration of the national interest. Section 205 conflicts with the central premise and purpose of the Act that energy efficiency is a national issue that requires a national solution.

Setting Energy Efficiency Goals (Title IV)

The bill calls for the development of a strategic plan for national goals for energy savings in the transportation sector, particularly the reduction of gasoline usage. The deployment of intelligent transportation systems (ITS), technologies, and communication protocols on and by our Nation's highways and intersections offers a significant opportunity to reduce traffic congestion, idling, and delays for the commuting public and the delivery of goods and services.

As I noted at the outset of our testimony, there are state-of-the-art energy efficient technologies available today that are not being deployed and installed in residential, commercial, and industrial facilities. This lack of adoption of new technologies through retrofitting/renovation is particularly acute in existing facilities and less so in new construction where codes and standards play a key role. Increasing awareness of the products and technologies that are available is a key component to a national strategy, and we are pleased to see attention on this point in Section 403. A national media campaign coupled with consumer education at all levels must be a national priority. NEMA stands ready to assist in this endeavor.

Promoting Federal Leadership (Title V)

I previously discussed the need for federal leadership in the procurement and purchasing of energy efficiency products. To assist federal agencies in making the investments of renovation and upgrading, NEMA believes that Energy Savings Performance Contracts (Section 503) needs to provide flexibility for the agencies to reduce costs, increase the use of ESPC, and for the program to be made permanent by Congress. Further, NEMA supports expanding the definition to include savings from on-site renewable energy generation.

Energy Incentives

Mr. Chairman, let me close with a few comments on energy tax incentives. One of the barriers to the wider deployment and use of today's state-of-the-art energy efficient products and technologies is initial cost. This is not only an issue for residential markets but also for commercial and industrial markets that are competing for investment dollars. Tax incentives, including credits or deductions, can be a powerful tool in overcoming the initial cost barrier. NEMA supported, and has experience with the Commercial Building Tax Deduction, enacted by Congress in EPACT 2005. This provides a performance-based deduction to help offset the investment costs (subject to a cap) of installing energy efficient lighting, HVAC systems, and improved building envelope technologies. This deduction, along with other important tax incentives, will expire at the end of 2008 unless extended by Congress. It needs to be extended in order for building owners to plan, design, and construct new buildings, and for renovations take place, using the deduction. The key is to build energy efficiency into the initial construction in order to lock-in the savings and improved performance.

Conclusion

Mr. Chairman, I want to thank you for your leadership and vision in advancing energy efficiency in the Nation, and NEMA looks forward to working with you in this important mission.