



National Electrical Manufacturers Association

The association of electrical equipment
and medical imaging manufacturers
www.nema.org

March 8, 2021

The Honorable Senator Chloe Maxmin
Room 320, State House
Augusta, ME 04333-0002

The Honorable Victoria Doudera
Room 333, State House
Augusta, ME 04333-0002

The Honorable Lori Gramlich
Room 303, State House
Augusta, ME 04333-0002

The Honorable William Pluecker
Room 303, State House
Augusta, ME 04333-0002

Via email: Chloe.Maxmin@legislature.maine.gov Vicki.Doudera@legislature.maine.gov
Lori.Gramlich@legislature.maine.gov Bill.Pluecker@legislature.maine.gov

Re: NEMA Opposes LD940 and HP696

Dear Senator Maxmin, Representative Doudera, Representative Gramlich and Representative Pluecker,

I write on behalf of the National Electrical Manufacturers Association (NEMA) which represents companies in the electroindustry. NEMA Members make a broad range of electrical products from energy management systems, to lighting products, to electric motors, and many others.

NEMA opposes the lighting-related portions of LD940 and HP696 which create unnecessary requirements for general service lamps. NEMA requests that the bills be amended to remove item (2) of Sec. 4. 2 MRSA §9, sub-§8 and related definition of General Service Lamps beginning on page 2 line 36 (text of HP696), on grounds of federal preemption. As written, this text would establish a requirement that general service lamps meet or exceed a minimum lamp efficacy of 45 lumens per watt. General service lamps are a covered product under the Energy Conservation and Policy Act (EPCA), 42 U.S.C. §6291 et seq., and Congress directed the U.S. Department of Energy (DOE) to establish or amend energy conservation standards for general service lamps and other lamps in a rulemaking that is still underway. The exclusive responsibility to establish energy conservation standards for covered products lies with DOE, and States are expressly preempted by EPCA from establishing energy conservation standards for covered products before and after DOE standards are effective. 42 U.S.C. §6297(b), (c).

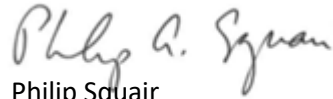
As the Ninth Circuit Court of Appeals recognized and emphasized in 2005, "Congress intended to preempt state energy efficiency standards." *Air Conditioning & Refrigeration Inst. v. Energy Res. Conservation & Dev. Comm'n*, 410 F.3d 492, 500 (9th Cir. 2005). Lower courts have similarly concluded that EPCA preemption for efficiency standards is both "broad" and "expansive." *Air Conditioning, Heating & Refrigeration Inst. v. City of Albuquerque*, 835 F. Supp. 2d 1133, 1136-37 (D.N.M. 2010). DOE

rulemaking investigations and analysis will determine if new Standards for GSL such as those proposed in scope of are technologically justified and economically feasible, and DOE is already considering whether to adopt a 45 lumen per watt standard for the nation (as proposed by LD940 and HP696). Regardless of the outcome of the rulemaking, Maine is still preempted. 42 U.S.C. §6297(b), (c).

Additionally, the proposed requirements amount to a sales ban for the defined general service lamps, which will cause repercussions to Maine retailers and citizens without any substantive benefit. We appreciate that there is an allowance for sell-through of lamps made before 1/1/2022, but a ban is a ban and would cause repercussions for Maine retailers and residents.

In view of Federal preemption, the proposed lighting-related language in LD940 AND HP696 should be removed from future attempts at passage of this bill. For further discussion, clarifications or questions, please contact my colleague, Alex Boesenberg at Alex.Boesenberg@nema.org or 703-841-3268.

Sincerely,



Philip Squair

Vice President of Government Relations

National Electrical Manufacturers Association (NEMA)

NEMA represents some 325 electrical equipment and medical imaging manufacturers that make safe, reliable, and efficient products and systems. Our combined industries account for 370,000 American jobs in more than 6,100 facilities covering every state. Our industry produces \$124 billion shipments of electrical equipment and medical imaging technologies per year with \$42 billion exports.