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February 12, 2016

Ms. Brenda Edwards
U.S. Department of Energy
Building Technologies Program, Mailstop EE-5B
1000 Independence Avenue SW.
Washington, DC, 20585-0121
(ImportData2015CE0019@ee.doe.gov)

Re: DOE NOPR for Import Data Collection Public Meeting Preparation
Docket Number EERE-2015-BT-CE-0019, RIN Number 1990-AA44

Dear Ms. Edwards:

The Air-Conditioning, Heating, and Refrigeration Institute (AHRI) is the trade association representing manufacturers of heating, cooling, water heating, and commercial refrigeration equipment. With more than 300 members who conduct both domestic and international business, AHRI is an internationally recognized advocate for the industry and develops standards for and certifies the performance of many of the products manufactured by our members.

AHRI appreciates that the Department of Energy (DOE) has scheduled a public meeting and extended the comment period for the notice of proposed rulemaking (NOPR) regarding Import Data Collection for covered products. The industry has concerns over the "one-size-fits-all" approach to the proposed data collection process and lack of stakeholder input prior to the development of this NOPR. To provide the department with advanced notice of the questions and concerns prompted by the NOPR, we are submitting this document, which contains a list of questions prepared by AHRI with the assistance of our members. AHRI anticipates that additional substantive comments will follow after the public meeting.

Although AHRI has several questions about the NOPR, one significant concern for our industry is the reference to the Compliance and Certification Management System (CCMS) numbers for reference on shipping documentation. As the Department is aware, for covered products subject to this rulemaking, the AHRI Directory automatically reports the required performance data to DOE's CCMS for manufacturers that participate in our certification programs. As a third-party certifier for hundreds of manufacturers, AHRI maintains hundreds of thousands of CCMS numbers, but because this data is copious and immaterial, there is no mechanism by which all of these numbers are redistributed to

members. Barring rare exceptions, manufacturers do not need to maintain this data, and therefore it resides solely in AHRI systems. A vital concern of our members is the burden of managing millions of CCMS records in an efficient manner solely for the purposes of cross-border shipment. AHRI and our members intend to address this issue at the public meeting as well as raise the questions listed below.

General

1. Without Automated Commercial Environment (ACE) being fully deployed, manufacturers do not have a clear understanding of how this collection would be executed. Can you explain more?
2. To what extent was US Customs and Board Protection (CBP) involved with drafting this NOPR? Has DOE provided this NOPR to CBP?

Requested Data

3. The requested reporting requirements seem excessive to accomplish the stated intent of the organizations who commented in previous rules urging DOE to improve, monitor and enforce requirements applicable to imported motors. The proposed requirements penalize manufacturers who are already following the rules and reporting all covered products to CCMS. Has DOE considered an option where an importer/manufacture that has its equipment listed in CCMS can simply check a box (or get a standard code) on the electronic form acknowledging under penalty of law (prohibited act) that the product it is bringing in is certified via DOE's CCMS?
4. Because the breadth of the NOPR greatly exceeds the concerns addressed in the two comments submitted by stakeholders, and because the DOE has never previously engaged in customs enforcement for the cited product, and because of the logistical complexities triggered by the NOPR, would the DOE be open to the an alternative approach of launching a pilot program with a narrower scope of covered products, for example, motors?
5. Once DOE has access to the Automated Commercial Environment (ACE) system for all relevant shipments, will DOE be able to view the packet of information that is currently included in the ACE system for each shipment? This information may already include the model number and would definitely include the contact information for a representative. What information will DOE have access to through the ACE system?

Product Specific

6. The proposed Three-Digit Product Type Codes included in Table III.2 do not include a code for Residential Packaged Boilers. Furnaces (018) and Commercial packaged boilers (060) are included. Are Residential Packaged Boilers exempted

from the three-digit product type code requirement or are they to be included in the Furnace (018) code?

7. For air conditioners (AC) and heat pumps (HP) systems, the condensing unit is typically reported to CCMS multiple times as part of different systems. For variable refrigerant flow (VRF) systems the condensing unit is only required to be submitted to DOE with the indoor unit model numbers for the High Sales Volume Tested Combination (HSVTC). These covered products are imported as units, but marketed, regulated and sold as systems. Will a certification of admissibility be required for condensing units or indoor units imported individually?
8. For commercial products, manufacturers have the option to submit a PDF with separate testing instructions for each basic model. All covered VRF products are required to submit this PDF. This submission results in another set of CCMS numbers. Will the CCMS numbers for both the product and special instructions be required when these products are imported?

Components and Final Products

9. What is the intent of requesting the final product information for covered components?
10. How will the DOE use the final product individual model numbers and brand names provided, particularly if the final product is not a covered product and DOE does not have an existing record of the final product?
11. Which party is responsible for reporting DOE compliance information on the certificate of admissibility for an embedded covered component, the final product manufacturer or the component manufacturer?
12. Will the component information for a final product be publically available?

Compliance

13. AHRI's member manufacturers have asked how the proposed reporting requirements included in the NOPR would apply to their unique and specific supply chain. For example, a manufacturer may send parts manufactured in the US to its plant outside the country for assembly, and then ship the assembled covered product to its distribution center or plant in the US. It is AHRI's understanding that a completely assembled/manufactured covered product being shipped into the U.S. would be covered by this NOPR. Can DOE please clarify exactly to what types of shipments these reporting requirements will apply?
14. The NOPR does not clarify the type of enforcement that will be put in place as a result of this reporting. How will the information reported on the certificate of admissibility be used? Our members are concerned about delays at the border;

- how will CBP be educated on the complexities of this enforcement regime in order administer it appropriately?
15. Will there be delays at the port of entry, particularly for products being imported that have not been reported to CCMS because they are not being imported for commerce? If so, would these types of delays result in detaining fees? What options will importers have to mitigate these delays?
 16. DOE provides several pages of HTS codes as products that may be implicated by this regulation, however DOE does not specifically address how these codes will be used. Our assumption is that all products identified by these codes will be “flagged” for further review by CBP, but no information on this matter is provided in the NOPR. Can DOE please explain in detail the purpose and function of the listed HTS codes? In addition, the vast majority of the products listed are outside of DOE’s scope of regulatory authority. What provision of DOE’s authority permit the use of such a broad number of codes?
 17. How will products that are not covered, but physically similar to covered products be distinguished, particularly those covered by the same HTS codes? Many of the HTS codes include the statement “and parts thereof” and it is our understanding that only assembled covered products would require the proposed report.
 18. Will DOE be staffed to assist with the resolution of issues as importing is a 24/7/365 activity?
 19. DOE has not included information on the existing import programs such as the Trusted Trader or the U.S. Customs-Trade Partnership Against Terrorism (C-PAT) programs. Could this reporting be simplified for manufacturers that participate in these or other programs so that additional reporting is not required for each shipment?
 20. This NOPR does not address the changes that will be required by Customs and Border Protection (CBP) for this new process. Will CBP require new labels/markings on the shipments to identify them?
 21. DOE has provided importers a 2-year compliance period. Will the ACE system be available upon the effective date of the compliance requirements or preferable ahead of the compliance date so manufacturers can ensure they have access?
 22. DOE states the importer/broker would generally prepare a sheet once a year and reuse the same information. DOE includes 0.03 hours (or less than 2 minutes) for added new models to prepare to comply with these requirements. From where does DOE come to its conclusion? On what are these numbers based? Has DOE considered the correspondence necessary between the manufacturer and import broker and third-party certifier to relay this information? Or the additional burden when a manufacturer updates records? Has DOE considered the fact that most

manufacturers do not have possession of CCMS records? Has DOE considered the additional time and effort required for those non-manufacturer importers of products with multiple embedded components?

AHRI looks forward to the opportunity to discuss these questions during the public meeting. AHRI requests that a representation from CBP be in attendance during the public meeting to assist with answering some of these questions and provide insight on how these requirements would be executed. Please contact us anytime with questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Helen Davis', written in a cursive style.

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