

Enforcement Policy Statement: Treatment of Late-Arriving Goods Due to West Coast Port Closure
February 27, 2015

Closures at 29 West Coast marine ports in February 2015 due to a labor dispute have resulted in significant delays for certain goods entering the United States through those ports, including covered products and equipment subject to DOE energy or water conservation standards.

Covered products and equipment subject to energy or water conservation standards must meet the standard(s) that are effective on the date such products and equipment enter the U.S. *See* 42 U.S.C. §§ 6291, 6296, and 6302. In March, new standards for several types of covered products and equipment will become effective. DOE has received reports from multiple importers that certain covered products and equipment were shipped with a reasonable expectation that those goods would arrive in the United States before the compliance date for the new standards but have been delayed by the port closures described above such that they are not likely to clear U.S. Customs prior to the compliance date. Accordingly, this delay will result in products being imported into the U.S. that do not meet the applicable standard(s), even though the importer shipped the products in a reasonable timeframe to ensure compliance.

DOE will not seek civil penalties for units of covered products or equipment that do not comply with the March 2015 standards but were imported after the compliance date for those standards, provided that the importer provides to DOE, not later than July 1, 2015, documentation establishing the following:

- The type of product and number of affected units imported;
- The estimated date of arrival in the U.S. at the time of shipping was prior to the compliance date for the new standards;

- The date(s) the units were shipped and the planned port of entry;
- The date(s) the units entered the U.S.;
- The certified basic model number(s) and individual model number(s) of the affected units; and
- The CCMS (Compliance Certification Management System) number(s) for the most recent certification of compliance for each basic model.

Submitted documentation must include a copy of the Importer Security Filing (ISF) or other filing (e.g., manifest filings through AMS) made with U.S. Customs and Border Protection (CBP) documenting that the product was expected in the U.S. prior to the compliance date for the new standards. The documentation also must include the CBP entry record(s). DOE may accept alternative forms of documentation to establish the required information, but the information must be independently verifiable and provide comparable indicia of reliability. DOE retains the right to reject claims that cannot be verified.