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December 21, 2015

To: Laura Barhydt, U.S. Department of Energy

From: Amy Shepherd, General Counsel, AHRI

Re: Ex Parte Communication on Department of Energy Guidance for Dry Charged R-22 Air Conditioning Units and Proposed Test Procedure Language on Units With No Match

On December 1, 2015, AHRI staff and representatives of stakeholders who manufacture central air conditioning and heat pump systems met with representatives from the Department of Energy (DOE) to seek clarification and guidance on the manufacture and importation of “replacement components” not pre-charged with R-22 for central air-conditioners and heat pump systems (dry-charged units). The meeting was held at DOE offices in Washington, DC. A list of attendees is provided below.

The manufacture and distribution in commerce of dry-charged units has been subject to rulemakings and interpretive guidance from both the Department of Energy and the EPA.¹ Given this regulatory background, AHRI believes that the issue of dry-charged units presents unique circumstances that should be addressed separately from the current proposed changes to the test procedure. As a result, AHRI requested that DOE clarify the treatment of these units through final guidance that would supersede and replace DOE’s existing draft enforcement guidance.

While AHRI does not fully concur with DOE’s analysis of the dry-charged issue in the SNOPR, we understand the policy behind it and share in the desire to promote the use of alternative refrigerants where appropriate. Therefore, given the clarification DOE provided in the test procedure SNOPR and the underlying policy behind EPA’s 2010 determination to ban the sale of central air-conditioning and heat pump systems designed to use R-22, AHRI requested that DOE issue guidance on dry shipped R-22 units that would clarify the following:

- Manufacturers must cease the production of existing or “legacy” dry R-22 units by March 1, 2016.

¹ DOE Supplemental Notice of Proposed Rulemaking “Test Procedures for Central Air Conditioners and Heat Pumps” (EERE-2009-BT-TP-0004); EPA final rule banning sale and distribution of central air conditioning and heat pump systems designed to use HCFC-22 refrigerant (74 Fed. Reg. 66450 (December 15, 2009)); and DOE Draft Enforcement Guidance dated November 21, 2010 and January 11, 2012.

- Manufacturers, distributors, and contractors may sell existing or “legacy” units produced prior to March 1, 2016 until inventories are depleted.
- OEMs cannot certify new dry R-22 units as of the *Federal Register* publication of the SNOPR, November 9, 2015.
- Ratings of existing dry R-22 units must be discontinued 180 days after the date of the publication of the amended test procedure in the *Federal Register*.

AHRI believes that this approach will eliminate the confusion that currently exists in the marketplace regarding dry-charged units, while providing fair and adequate notice that DOE will no longer provide the enforcement discretion it has referenced in the SNOPR. This will allow manufacturers to distribute limited existing inventory and avoid further confusion and the need to address this issue within the context of the SNOPR. AHRI believes that given the long history of the issues related to dry-charged units, such final enforcement guidance is the best and most expeditious resolution to provide the regulatory goals of DOE and EPA while providing adequate notice to market participants.

Attendees:

Dan Arnold, Nortek
Paul Doppel, Mitsubishi
John Gibbons, Carrier
John Hurst, Lennox
Chad Kirkwood, Carrier
Mark Lessans, Trane
Karen Meyers, Rheem
Jeff Nichols, JCI
Tim Orr, ADP
Rusty Tharp, Goodman
Jim Vershaw, Trane
Dave Winningham, Allied Air
Karim Amrane, AHRI
Laura Petrillo-Groh, AHRI
Amy Shepherd, AHRI
Laura Barhydt, DOE
Ashley Armstrong, DOE

Respectfully submitted,



Amy Shepherd

Ex Parte Memo
AHRI/DOE Meeting on Dry-Charged Units
December 2, 2015

General Counsel
Air-Conditioning, Heating, and Refrigeration Institute