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October 27, 2014

Ms. Brenda Edwards
U.S. Department of Energy
Building Technologies Office, Mailstop EE-5B
1000 Independence Avenue SW
Washington, DC 20585

Re: Supplemental Notice of Proposed Rulemaking on Alternative Efficiency Determination Method, Basic Model Definition, and Compliance for Commercial HVAC, Refrigeration and WH Equipment (Docket No. EERE-2011-BT-TP-0024)

Dear Ms. Edwards:

These comments are submitted by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) in response to the U.S. Department of Energy's (DOE) supplemental notice of proposed rulemaking (SNOPR) on alternative efficiency determination method, basic model definition and compliance for commercial HVAC, refrigeration and WH equipment issued in the September 26, 2014 Federal Register.

AHRI is the trade association representing manufacturers of heating, cooling, water heating, and commercial refrigeration equipment. More than 310 members strong, 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 was a member of the working group (WG) established under the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) to negotiate certification requirements for commercial HVAC, refrigeration and WH equipment. As such, with the exceptions noted below, we support the proposals in this supplemental notice.

On page 57846, which is part of the section discussing the specific revisions, it is noted "DOE is proposing to amend its regulations to make clear the information required to be submitted as part of a certification report includes the equipment-specific, supplemental information necessary to operate the basic model, failure to provide such information would be a prohibited act as described at 10 CFR 429.102(a)(1), subject to the maximum civil penalty described at 10 CFR 429.120." We do not recall that there was any discussion by the ASRAC working group about classifying the failure to provide supplemental information as a prohibited act. This proposal is unnecessary and inappropriately expands the scope of "prohibited acts."

It is unnecessary in that if the manufacturer does not provide the supplemental information which is needed to operate the basic model under the required test conditions, any unit of that basic model tested by DOE will almost certainly fail to validate the model's rating. Furthermore, since the regulations do not allow the manufacturer to provide any supplemental setup information at some time other than at certification, the final conclusion of the DOE testing will be failure of the model. At that point DOE will be able to apply fully the penalties and remedies specified to resolve a misrated model. If the tested unit in this case did validate the basic model's rating even though the manufacturer had supplemental setup information which had not been provided, then the result indicates that the supplemental information was, in fact, not critical to testing the unit.

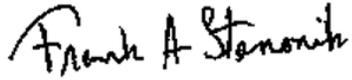
Section 429.102(a) lists the actions which are prohibited in DOE's enforcement regulations. That list includes failure to test a product in accordance with the applicable DOE test procedure. It has been clear from the first discussions of this topic that the supplemental setup steps which manufacturers may employ when conducting DOE specified efficiency tests on their products may not contradict, circumvent or otherwise be inconsistent with the requirements of the test procedure. Although there may be special setup instructions, the manufacturer is conducting the applicable DOE efficiency test procedure. If the manufacturer chooses not to provide any supplemental information, that manufacturer still is complying with the requirement to test the product in conformance with the applicable DOE test requirements. No prohibited act has been committed. As described above, if that supplemental setup information was critical to operating the unit under the specified test conditions and the manufacturer did not provide that information with the certification report, the manufacturer has created substantial risk that the basic model will fail any enforcement testing. But the risk applies only to the manufacturer's circumstance. From DOE's perspective, the decision to not provide information on supplemental setup procedures does not invalidate the certified rating. DOE's proposal to include the failure to provide supplemental information, which does not alter the essential requirements of the specified DOE test procedure, is an unwarranted expansion of the concepts that define a prohibited act in this regulation. The failure to provide supplemental information, that is fundamentally optional, should not be considered a prohibited act.

Section 429.70 (H) on page 57850 states that "if a manufacturer's representative is present for the initial test set-up for any reason, the manufacturer forfeits any opportunity to request a retest of the basic model." This specification is too severe and incorrectly assumes that all problems that may arise during the course of an efficiency test are related to an issue involving the set-up of the unit. We agree with this proposal insofar as it limits the manufacturer's ability to request a retest because of a set-up issue. However, if some other problem occurs during the testing which is unrelated to any set-up procedure, the manufacturer should still have the option to request a retest. The normal procedure would be followed to determine whether that request would be granted, but the manufacturer should not be prohibited from making that request. Some examples of such problems may be an instrument that in the course of testing malfunctions, a sudden, significant change in the heating value of gas being supplied, or a component on the equipment that starts to operate improperly. None of these are frequent or repeated problems, but they can occur. We suggest that this provision be rewritten to state: "if a manufacturer's representative is present for the initial test set-up for any reason, the manufacturer forfeits any opportunity to request a retest of the basic model based on a claim that the unit was set up improperly." This suggested change also applies to the last sentence in this subsection which

covers the situation where the manufacturer asked to be on-site for the test but was not present when the unit was set up.

AHRI appreciates the opportunity to provide these comments. If you have any questions regarding this submission, please do not hesitate to contact me.

Respectively Submitted,

A handwritten signature in black ink that reads "Frank A. Stanonik". The signature is written in a cursive, slightly slanted style.

Frank A. Stanonik
Chief Technical Advisor