

# Memorandum

**To:** GENERAL COUNSEL, DEPARTMENT OF ENERGY (DOE)  
**From:** JONATHAN MELCHI, HEATING, AIR-CONDITIONING AND REFRIGERATION  
DISTRIBUTORS INTERNATIONAL (HARDI)  
**Date:** 1/12/2012  
**Subject:** EX PARTE COMMUNICATION MEMO

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**DOE ATTENDEES:** Ashley Armstrong, John Cymbalsky, David Case, Laura Barhydt  
**HARDI ATTENDEES:** Talbot Gee, Jonathan Melchi

**AREAS OF DISCUSSION:** DOE Framework Document and Stakeholder Meeting regarding the Enforcement of the updated Energy Conservation Standards for Air Conditioners, Furnaces and Heat Pumps. The meeting took place on Thursday January 5<sup>th</sup>, 2012 from 2pm to 3-pm. The following topics were discussed.

- 1.) **Sell-Through.** HARDI asked for clarification on the DOE's notation on the Framework Document that indicated the effective date for regionalized standards would carry an installation ban and no sell-through would be allowed. This differs from the published rule, which indicated that the effective dates would carry manufacturing and importation bans. HARDI reiterated its concern with the cost of stranded inventory that an installation ban would bring.
- 2.) **DOE Enforcement Authority.** HARDI expressed concern with the DOE Framework document, since the document proposes enforcement responsibility upon distributors. HARDI cited existing law, which does not name distributors as liable entities in the enforcement of energy efficiency standards.
- 3.) **Three DOE Framework Proposals.** HARDI walked through each of the enforcement scenarios as provided in the Framework Document. HARDI maintained that proposed serial tracking was extremely burdensome as not all distributors track inventory by serial numbers and those that do, utilize various methods of doing so (i.e. handwritten, manual data entry, scanning) . HARDI also communicated the deviation from standard and established business practices that the proposals would bring.
- 4.) **Waiver Provision.** HARDI detailed its concerns with the proposed waiver provision. HARDI asked if DOE has considered providing a waiver for both furnaces and air-conditioners in locations with regionalized standards. HARDI expressed concern that the lack of sell through would force distributors to attempt to liquidate inventory, yet a waiver provision would force them to maintain stock. HARDI stated that distributors like to stock product or not stock product, and that a waiver provision leaves distributors in a precarious middle ground.
- 5.) **Severing Enforcement Rulemaking.** HARDI asked that DOE not divide enforcement rulemakings for furnaces and air-conditioners as discussed at the Stakeholder meeting.