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Heating, Air-Conditioning, & Refrigeration Distributors International (HARDI), Comments, CEC Docket #24-OIR-03

Additional submitted attachment is included below.

February 12, 2026

Commissioner Andrew McAlliser
California Energy Commission
Docket Unit
Re: Docket No. 24-OIR-03
715 P Street
Sacramento, California 95814

RE: California Energy Commission, Energy Data Collection – Phase 3, Docket No. 24-OIR-03, Public Workshop: Second Data Tracking RFI and Draft Express Terms

Dear Commissioner McAllister,

HARDI appreciates the opportunity to provide feedback to the California Energy Commission's (CEC) Space Conditioning and Water Heating Equipment Data Tracking, Second Data Tracking Request for Information (RFI), and Draft Express Terms. This issue directly affects HARDI membership; as such, HARDI hopes our answers provide insight into the negative impact that implementing this data collection would bring. Additionally, HARDI does not feel that our or other industry stakeholders' information from the first RFI was adequately considered, as many parts of the express terms contradict that input.

HARDI is a trade association comprised of more than 1,150 member companies, more than 570 of which are U.S.-based wholesale distribution companies. These include 26 wholesaler-distributor members in California, with 323 locations serving heating, ventilation, air-conditioning, and refrigeration (HVACR) contractors and technicians in the state. Over 80 percent of HARDI's distributor members are classified as small businesses that collectively employ more than 60,000 U.S. workers, representing an estimated 75 percent of the U.S. wholesale distribution market for HVACR equipment, supplies, and controls.

Below are the Second Data Tracking RFI questions with HARDI's answers under each question.

1. Is the proposed language clear and accurate? If not, how may it be improved?

The reasoning and intent of the regulation itself are not clear or accurate. The CEC has presented three reasons for creating this regulation: (1) to gather data for energy demand forecasting, (2) cross-check permit compliance for contractors and installers, and (3) streamline overall compliance with state and local programs. Intentions that will not be fully achieved through the regulation as presented.

First, energy demand forecasting is better achieved through proper collaboration with utilities. This would create whole-home energy demand, not just HVACR products per location. And this would be a form of forecasting that would not raise product costs for consumers by reporting. Collecting information on the product sold without corresponding information on the installation location will not benefit the CEC's modeling efforts. Additionally, the reporting entities do not have access to the installed location, further creating confusion about how this effort will achieve the intended result. Lastly, energy use is far more closely correlated with the proper design and installation of the full system than with the unit's rated efficiency.

Second, the use for permit compliance is utterly unacceptable and inappropriate for the CEC to impose on Californians. The CEC is not a permitting agency and lacks the authority to create reporting requirements with the intent of permit compliance. The purpose of this RFI is to facilitate permit compliance by establishing an invasive database. The only realistic solution to avoid improper reporting is to assist California jurisdictions in creating a convenient and straightforward digital permit system. This way, the CEC could gather the necessary information consistently across the state, without imposing unnecessary burdens on businesses.

Third, it is improper for the CEC to create regulations to comply with other regulations. It is well known that when a regulation is adopted, it becomes law and must be followed, and the HVACR industry is generally extraordinarily compliant. If a bad actor is not complying with a state, local, or air quality management program, then it is safe to assume that additional regulations are not the solution to stopping that bad actor. Additionally, it is a bad practice to place requirements and costs on the good actors because of the actions of bad actors. Especially when the reporting requirements have drastic economic and feasibility issues as presented.

Moreover, in the "background" section of the RFI, the CEC states that reporting requirements are needed to ensure compliance with air quality programs. Assuming this is regarding the air quality management districts throughout California, the programs of concern, such as zero-emission nitrous oxide (NOx) emission standards, are under litigation. For the CEC to create a damaging reporting requirement, presumably to ensure compliance with a law that is already being complied with and is under ongoing legal dispute, is not only bad policymaking but improper action by the CEC. Notwithstanding that the air quality management districts are under the authority of the U.S. Environmental Protection Agency, and as such, they should not be of concern to the CEC.

HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from properly filed permits. Creating the improved process for an enhanced digital permit system across all jurisdictions, rather than

imposing extra compliance regulations on essential businesses, is significantly more beneficial for all Californians. Proper collaboration with utilities and refusal to adopt regulations to enforce other regulations would allow the HVACR industry to continue operating effectively in the California market.

2. Should any other categories of equipment be excepted, and on what basis?

The requested information should not be reported at any stage in the supply chain, as it can be obtained from a properly filed permit. So, in essence, all HVACR products should be exempted, as it would be more beneficial for California to enhance the process through an improved digital permit system across all jurisdictions rather than imposing additional compliance regulations on essential businesses. Since such regulations would likely increase product costs for consumers due to the added reporting requirements.

3. Are the proposed new definitions suitable and appropriate as written, or are there ways to improve the proposed language?

The proposed regulation, as presented, is not a suitable or appropriate regulation for the HVACR industry. The drafted text shows a clear disregard for the public comments provided to the CEC. Especially when no relevant industry stakeholders support this initiative, or the questions that led to what has been presented. As presented, this is an insult to the industry from the CEC, which fails to truly take into account the feasibility, costs, and concerns of its Californian businesses.

HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from properly filed permits. It would be more beneficial for California to improve its processes by implementing an enhanced digital permit system across all jurisdictions, rather than imposing extra compliance regulations on essential businesses.

4. Are there any additional terms that would be appropriate to define in regulation (e.g., where an ordinary understanding or dictionary definition would be vague or insufficient)?

This rulemaking is not appropriate, as it targets businesses in its state that are working to implement its initiatives on electrification, air quality, energy efficiency, and more. A punishment for good actors who follow the CEC rulemakings, and forcefully take from the wallets of citizens in California, as another regulation is considered that would undoubtedly increase the cost of HVACR equipment.

HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from properly filed permits. It would be more beneficial for California to improve its processes by implementing an enhanced digital

permit system across all jurisdictions, rather than imposing extra compliance regulations on essential businesses.

5. Are the staff's estimates reasonable? If not, can data be provided that would allow staff to develop a more accurate estimate?

HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from properly filed permits. It would be more beneficial for California to improve its processes by implementing an enhanced digital permit system across all jurisdictions, rather than imposing extra compliance regulations on essential businesses.

If a supply chain reporting mandate were enacted, the CEC's estimates on cost per company are insufficient to come close to accurately predict the cost on businesses. The CEC's proposal would require verification of every piece of equipment at every transfer from one location to the next, including outside the state of California. This would require manually checking every piece of equipment from before it enters the state to the final sale. There are multiple avenues of entry into the state. Below is a non-exhaustive list of other avenues of entry:

- Manufacturer to wholesale branch location for sale to contractor
- Manufacturer to wholesaler's inside of California distribution center to branch location for sale to contractor
- Manufacturer to wholesaler's outside of California distribution center to branch location for sale to contractor
- Manufacturer to wholesaler's outside of California distribution center to inside-California distribution center to branch location for sale to contractor
- Manufacturer to wholesaler's inside of California distribution center to outside-of-California branch location for sale to contractor
- Manufacturer to wholesaler's outside of California branch location, but sold to a California contractor
- Manufacturer to online retailer outside of California for shipment to an inside-California contractor
- Manufacturer to online retailer outside of California for shipment directly to the homeowner
- Internal transfers from one branch location to another branch location within California
- Internal transfers from one branch outside of California to a branch location inside of California
- Internal transfers from one branch inside of California to a branch outside of California

There are no existing requirements to track individually serialized pieces of equipment through the distribution supply chain. While it is generally known that an individual serial number is sold by a manufacturer to a distributor, there is no tracking mechanism to determine where that piece of equipment will end up. Additionally, the only way to ensure accurate tracking is to require visual confirmation of each piece of equipment, which would require hours of additional checks across the supply chain for every shipment.

While many wholesale distributors use modern enterprise resource planning (ERP) systems to track inventory, the computerized record-keeping system does not control the warehouse worker moving equipment from inventory to the customer vehicle. In an optimistic scenario, the ERP system can predict which serial number the warehouse fulfillment team will select, but for some distributors still operating on paper pick tickets, there is no efficient mechanism to track serial numbers. Wholesale distribution is also not like retail, where the product is brought to a checkout location, and data is collected at the point of sale. Typically, the sale is entered by a counter specialist, who provides order information to a warehouse fulfillment team, which picks the ordered items, sometimes palletizing them and wrapping them in plastic for transport (making it impossible to see the serial numbers), then loading them for transport. Adding a requirement to know exactly which serial number is on every piece of equipment will add multiple minutes to every order, either requiring the warehouse team to pick the exact piece of equipment out of several dozen that are stacked with only easy access to a single piece of equipment, or having the warehouse team add the step of reporting the serial number back to the counter specialist to complete the order, which prevents the counter specialist from working with the next customer while waiting on the serial number to be reported. With dozens to hundreds of orders per day, over 250 working days per year, and more than 100 locations across the state of California, the time spent tracking multiple serial numbers per order will be astronomical. CEC's estimate of adding 16 hours of work per company is grossly underestimating the time required to comply with this process before reports can even be attempted, given the reality of moving millions of pieces of equipment through the state in a given year.

The CEC cannot impose the same expectations on a manufacturer as on a distributor or contractor, or vice versa. Each business will face unique difficulties that make cost estimation nearly impossible for each business's reporting implementation. For example, a large company with in-house accounting departments may see no increase in report creation costs. Inversely, a small company may incur costs well beyond the estimated hours per report that the CEC assumed. Additionally, there is no way to know how each business's current information is stored, or how much time, energy, and cost will go into changing that system. But then the practice of maintaining that data for each report, so it can be collated. Moreover, the assumption that an hourly rate is the

only cost for the accountant cannot be made, as firms may incur additional costs for sales volumes, minimum costs, retainers, or other contract terms.

The absurdity of the proposal makes it impractical to estimate the cost to small businesses, despite the requirement that the CEC do so. While the agency is sure to make an estimate, it will be underestimated and inaccurate compared to the real cost of collecting this information. The variability in the size, sales, staffing, and uniqueness of every business in the supply chain cannot be captured by three variables. To assume this equation as a true estimate would be a disservice to Californians and an abuse of power against small businesses. And if the CEC were to assume the total cost described in the listed equation is no consequence and affordable to all businesses, that would be a direct attack on small businesses statewide.

6. Is the estimate a sufficient proxy for IT costs or one-time costs? If not, what values (for wages and/or hours) should be used to determine these costs?

HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from properly filed permits. It would be more beneficial for California to improve its processes by implementing an enhanced digital permit system across all jurisdictions, rather than imposing extra compliance regulations on essential businesses.

The RFI estimate is completely insufficient for IT or one-time costs, as no such costs are identified. The estimate assumes only the cost of an accountant generating reports, which, as stated in question five, does not account for the actual total cost for each business's reporting because it omits unknown variables. The CEC recognized differences in businesses' internal tracking but omitted to include any recognition of the costs associated with becoming systematically capable of complying with the reporting requirements. An assumption that is unfair to all businesses statewide. Especially when required reporting information isn't commonly recorded in the business's practice, such as a serial number.

For example, with distributors, any quarterly data reporting should use an Application Programming Interface (API) to integrate with distributors' ERP systems and automate the submission process. However, dozens of ERP systems exist before accounting for custom ERP solutions. If California does not provide an automated option for distributors to report sales, it would lead to substantial compliance costs, resulting in higher equipment prices due to the need for additional staff, delays in operations, and associated filing fees.

7. Are there specific adverse consequences to quarterly reporting, beyond the estimated cost, that are avoided by a different reporting period?

The question's context is insulting to Californians. During the first RFI, the HVACR industry, including HARDI, expressed extreme concern about increased costs for compliance. As the regulation text not only moves forward but now “brushes off” the cost, the CEC is clearly disregarding any concern for affordability for California homeowners. A CEC stance that is in opposition to Governor Newsom’s recent initiatives, remarks, and intentions for California.

Beyond the disregard of evident cost increases, there are serious risks of harm to HVACR business confidential trade secrets. The only way a business can truly guarantee the confidentiality of its trade secrets is to keep the information in-house. Whenever information is shared externally, it creates unnecessary risk for that business, regardless of industry.

The manufacturers, distributors, and contractors must be cautious with their sales information. Harmful information could include market share, customer lists, business practices, market strategy, pricing, and more. California has a reputation for having insecure databases that are frequently compromised by bad actors. Making it impossible for California to provide actual assurance that any shared information will be adequately safeguarded. Even if manufacturers and distributors were capable of sharing sales data, the potential harm to California and its businesses that provide essential services to California citizens outweighs any benefits, especially in terms of permit compliance.

HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from properly filed permits. It would be more beneficial for California to improve its processes by implementing an enhanced digital permit system across all jurisdictions, rather than imposing extra compliance regulations on essential businesses.

8. **Should the CEC collect billing address information? Is a different form of address data more likely to be collected by sellers in the normal course of business?**
9. **Should the CEC collect per-unit data on individual units sold? If not, what level of summary (e.g., number of a given model sold, or number of a given product category sold) would be most effective to leverage towards programmatic goals, and why?**
10. **Should the CEC collect descriptive information about equipment either instead of, or alongside, model number information? If so, what specific benefits would be realized by the collection of this data beyond what is provided by / encoded into the model number?**

In response to questions eight, nine, and ten, HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from

properly filed permits. It would be more beneficial for California to improve its processes by implementing an enhanced digital permit system across all jurisdictions, rather than imposing extra compliance regulations on essential businesses.

However, if a reporting mandate is established for the supply chain, HARDI believes that the required information should not exceed what is provided by the contractor on a submitted permit. But that opinion, as shared during the first RFI, has been clearly ignored. The second RFI once again makes it obvious that the CEC continues to ignore the expertise of the HVACR industry. And those conversations led the CEC to the incorrect belief that the make/brand, model number, serial number, customer name, customer billing address, and, when applicable, business ID or contractor CSLB license number are all essential and the minimum requirements to achieve the CEC's pointless database objective.

Not only is some of this information not recorded in a common business practice by the wholesale distributors, but most of it is confidential to preserve the business's health against competitors. Questioning whether to report the model number information and/or per-unit data on individual units sold is unnecessary. The stated purpose of the CEC is to ensure permit compliance, so no information requested should exceed what the contractor has filed with the permit.

Collecting billing address information is a clear step toward building a database of confidential customer information. Customer lists are critical to a business's survival. Creating a centralized database containing customer lists across the entire supply chain is highly inappropriate, and using it for permit compliance is beyond the scope of the CEC. This information is private and protected, and it should not and cannot be shared with others.

Furthermore, as mentioned in other questions, even if manufacturers and distributors possessed and reported the requested information, California would not be able to securely store it due to the state's history of data breaches. Manufacturers, distributors, and contractors must protect their equipment and sensitive business information. If confidential business data were to fall into competitors' hands, it could severely damage the business. The unreliable security measures of a California database make it impossible for any business to report essential information, as doing so could ultimately harm the business. This vital information includes market shares, customer lists, business practices, market strategies, pricing, and more.

11. Is there additional regulatory language relating to data confidentiality that would be appropriate to add to this section?

Regarding confidentiality, the entire rulemaking by the CEC is inappropriate. The best way for businesses to protect their confidential business trade secrets is to keep them

in-house. Forcing a business to disclose trade secrets to an entity that cannot guarantee the data will not be leaked, hacked, bought, or improperly shared by other agencies is, to the highest degree, inappropriate. In fact, California Civil Code s. 1798.29(a) requires state agencies to report to the Attorney General's office whenever a breach impacting over 500 people occurs. As of February 11, 2026, the Attorney General's office shows 4,980 breaches of confidential or private information. Proof that it is impossible for California to provide actual assurance that any shared information will be adequately safeguarded. This leaves the state vulnerable to legal liability when data reporting inevitably falls into the hands of a bad actor.

Moreover, the CEC has clear intentions to disclose this data to other agencies, such as the California Air Resources Board (CARB). And CARB has a concurrent rulemaking that explicitly states it will work with CEC's reporting requirements and publicly display sales of zero-emission technologies. Not only does it contradict the CEC's stated anonymity policy in the RFI, but it also publicly discloses HVACR market shares, creating an unfair market in California.

HARDI believes that no step in the supply chain should require additional reporting, as this information can be obtained from properly filed permits. It would be more beneficial for California to improve its processes by implementing an enhanced digital permit system across all jurisdictions, rather than imposing extra compliance regulations on essential businesses.

Concerns with the constitutionality of the proposed sales registry

On February 6, 2026, federal district judge Michael Simon ordered an [injunction](#) against Oregon's Extended Producer Responsibility (EPR) law pending the outcome of a lawsuit brought by the National Association of Wholesaler-Distributors (NAW), of which HARDI is a member. NAW argues that the EPR law violates the Interstate Commerce Clause of the United States Constitution because it imposes extensive requirements on business activities occurring outside the state of Oregon. Judge Simon agreed with the plaintiffs' arguments, stating, "there is a likelihood of irreparable injury," caused by the law. CEC's proposed sales registry is, in effect, a regulation extending producer responsibility for noncompliance with California permit requirements to business actions taking place outside the state, paralleling the foundation of the Oregon law. HARDI strongly believes the CEC proposal also has a high "likelihood of irreparable injury," and would violate the commerce clause.

Conclusion

Thank you for the opportunity to provide responses to CEC's RFI about data collection. HARDI believes in increasing permit compliance, but not at the expense of businesses and the affordability of essential products for consumers. HARDI looks forward to working with the CEC to guide this rulemaking in a way that benefits all of California and to meet and discuss any RFI responses in more detail.

Sincerely,



Todd Titus

Director of State Government Affairs

Heating, Air-conditioning, & Refrigeration Distributors International