NEMA Testimony on
Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

Before the Section 301 Committee
May 16, 2018

Members of the Section 301 Committee,

Thank you for the opportunity to provide the following remarks on behalf of the National Electrical Manufacturers Association (NEMA) on the topic of the Office of the U.S. Trade Representative's proposed determination of action pursuant to Section 301 of the Trade Act of 1974 to address China's acts, policies and practices related to technology transfer, intellectual property, and innovation. My name is Kyle Pitsor and I serve as NEMA's Vice President for Government Relations.

NEMA represents nearly 350 electrical equipment and medical imaging manufacturers that make safe, reliable, and efficient products and systems. Our combined industries account for 360,000 American jobs in more than 7,000 facilities covering every state. Our industry produces $106 billion shipments of electrical equipment and medical imaging technologies per year with $36 billion exports.

NEMA shares the concerns of the Office of the U.S. Trade Representative (USTR) regarding China's industrial policies and intellectual property practices. U.S. electrical and medical imaging manufacturers support a comprehensive approach to international trade that results in fair and open global markets. The outcomes of discussions between China and the U.S., as well as other countries and trade groups with

whom the U.S. is engaged, should assure a more level playing field through the application of clear, binding, and enforceable trade rules and compliance with international norms of intellectual property protection.

While some NEMA Member companies manufacture their own products in their own factories in China, many others source finished goods as well as components from contractual partners in China. In particular, many companies source components from China into the U.S. to support their U.S. manufacturing operations. Placing a 25 percent tariff on over 100 product types within or adjacent to NEMA scope – as well as many other items that are inputs to U.S.-based manufacturing – will not help support and could materially injure the global competitiveness of our industries, their U.S. manufacturing operations and/or their U.S. employees.

Using publicly available U.S. government trade data, we have estimated the 2017 value of Chinese shipments of the listed items was approximately $9 billion, slightly less than 1/5 of the entire $50 billion in imports targeted by the proposals. Writ large, if the 25 percent tariffs were to be implemented as proposed, they would represent a tax increase on U.S electroindustry companies and their industrial, commercial and residential customers of at least $2.25 billion.

Affected NEMA Member products include equipment using widely in industrial, commercial and residential environments. For example:

- programmable logic controls that run assembly lines and other processes
- certain types of electric motors
- controls that enable more energy efficient use of electric motors
- light emitting diodes (LEDs) used to manufacture energy efficient light bulbs and light fixtures
- traffic signaling and control equipment

- electric transformers and switchgear used in the U.S. electrical grid
- electric wire and cable, including wire used in motors and transformers
- residential thermostats
- medical imaging units, including CT, MRI, ultrasound and X-ray units

An illustrative list of the targeted products of direct and indirect interest to NEMA is included here below and in our formal written comments filed with USTR on May 11.

If implemented, the tariffs would:

- place a 25 percent tax on each targeted product or component if imported from China
- place U.S. manufacturing operations that source targeted products from China at a competitive disadvantage relative to their foreign and domestic competitors who are not covered by the tariffs
- increase the tax burden on U.S. manufacturing operations that already face tariffs on imports of steel and aluminum
- increase the likelihood of retaliatory actions by China that could materially disadvantage our Member companies in the Chinese and global markets

Should the Administration decide, despite the concerns outlined above, to proceed with the application of tariffs in this matter, NEMA recommends any tariffs be applied for as short a time period as possible, as a precursor to a negotiated outcome that addresses the Chinese practices outlined in the Section 301 report. NEMA also urges the Administration to narrow the scope of the proposed tariff list so it does not do disproportionate harm to NEMA Members' U.S. production, including through the exclusion from the tariff list of

- inputs for which non-Chinese substitutes are not readily available (or able to meet U.S. manufacturer or Federal standards)

- inputs that come from wholly-owned U.S. facilities within China (since those reflect regular commercial decisions rather than China's efforts to force technology transfer – and the impact would be to disproportionately hurt U.S. rather than Chinese businesses), and
- inputs from China that have a high percentage of U.S.-made content.

In addition, inasmuch as NEMA Members export roughly one-third of their U.S. production, it is critical that duty drawback be available to exporters for any Section 301 tariffs, so those tariffs do not undermine U.S. products' competitiveness in global markets and do harm to the U.S. manufacturing base and employment.

In conclusion, the imprecision of broad-based tariffs – such as those proposed – is accompanied by collateral damage up and down global supply chains that is better avoided. If tariffs are perceived by the Administration to be a necessary, attention-getting tool in bringing about changes to support U.S. companies trying to do business in China, we would hope the use of tariffs would be much narrower than proposed and very short-lived. We look forward to further dialogue on these proposals and urge the Administration to consider and pursue alternative measures to bring about change in Beijing's strategic and entrenched industrial and IP policies and to establish free and fair trade.

END NARRATIVE

PRODUCT LIST BEGINS ON NEXT PAGE

Illustrative List of Targeted Products of Interest to NEMA Members

HS Code	Product Description
72251900	Alloy silicon electrical steel (other than grain-oriented), width 600mm+, flat-rolled products
72261110	Alloy silicon electrical steel (grain-oriented), width 300mm+ but less th/600mm, flat-rolled products
72261190	Alloy silicon electrical steel (grain-oriented), width less th/300mm, flat-rolled products
72261910	Alloy silicon electrical steel (a/than grain-oriented), width 300mm+ but less th/600mm, flat-rolled products
72261990	Alloy silicon electrical steel (a/than grain-oriented), width less th/300mm, flat-rolled products
84807180	Molds for rubber or plastics, injection or compression types, other than for shoe machinery or for manufacture of semiconductor devices
85013120	DC motors nesi, of an output exceeding 37.5 W but not exceeding 7406 W
85013150	DC motors, nesi, of an output exceeding 735 W but under 746 W
85013160	DC motors nesi, of an output of 746 W but not exceeding 750 W
85013255	DC motors nesi, of an output exceeding 14092 kW but not exceeding 75 kW, nesi
85013340	DC motors nesi, of an output exceeding 150 kW but not exceeding 375 kW
85013360	DC generators of an output exceeding 75 kW but not exceeding 375 kW
85013460	DC motors nesi, of an output exceeding 375 kW
85013460	DC generators of an output exceeding 375 kW
85015120	AC motors nesi, multi-phase, of an output exceeding 37.5 W but not exceeding 7406 W
85015140	AC motors, nesi, multi-phase, of an output exceeding 7406 W but not exceeding 735 W
85015160	AC motors, nesi, multi-phase, of an output exceeding 735 W but under 746 W

85015280	AC motors nesi, multi-phase of an output of 746 W but not exceeding 750 W
85015340	AC motors nesi, multi-phase, of an output exceeding 14092 kW but not exceeding 75 kW
85015380	AC motors nesi, multi-phase, of an output exceeding 75 kW but under 14902 kW
85016200	AC generators (alternators) of an output exceeding 75 kVA but not exceeding 375 kVA
85016300	AC generators (alternators) of an output exceeding 375 kVA but not exceeding 750 kVA
85016400	AC generators (alternators) of an output exceeding 750 kVA
85030020	Commutators suitable for use solely or principally with the machines of heading 8501 or 8502
85030065	Stators and rotors for electric motors & generators of heading 8501, nesi
85042100	Liquid dielectric transformers having a power handling capacity not exceeding 650 kVA
85042200	Liquid dielectric transformers having a power handling capacity exceeding 650 kVA but not exceeding 10,000 kVA
85042300	Liquid dielectric transformers having a power handling capacity exceeding 10,000 kVA
85043200	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 1 kVA but not exceeding 16 kVA
85043300	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 16 kVA but not exceeding 500 kVA
85043400	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 500 kVA
85044040	Electrical speed drive controllers for electric motors (static converters)
85049065	Printed circuit assemblies of the goods of subheading 8504.40 or 8504050 for telecommunication apparatus
85049075	Printed circuit assemblies of electrical transformers, static converters and inductors,

	nesoi
85049096	Parts (other than printed circuit assemblies) of electrical transformers, static converters and inductors
85059070	Electromagnets used for MRI
85064010	Silver oxide primary cells and primary batteries having an external volume not exceeding 300 cubic em
85064050	Silver oxide primary cells and primary batteries having an external volume exceeding 300 cubic cm
85065000	Lithium primary cells and primary batteries
85066000	Air-zinc primary cells and primary batteries
85069000	Parts of primary cells and primary batteries
85073080	Nickel-cadmium storage batteries, other than of a kind used as the primary source of power for electric vehicles
85079080	Parts of storage batteries, including separators therefor, other than parts of lead-acid storage batteries
85153100	Electric machines and apparatus for arc (including plasma arc) welding of metals, fully or partly automatic
85153900	Electric machines and apparatus for arc (including plasma arc) welding of metals, other than fully or partly automatic
85159020	Parts of electric welding machines and apparatus
85279915	Radio receivers, NESOI
85299099	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, nesi
85301000	Electrical signaling, safety or traffic control equipment for railways, streetcar lines or subways

85308000	Electrical signaling, safety or traffic control equipment for roads, inland waterways, parking facilities, port installations or airfields
85309000	Parts for electrical signaling, safety or traffic control equipment
85321000	Fixed electrical capacitors designed for use in 50/60 Hz circuits and having a reactive power handling capacity of not less than 0.5 kvar
85322100	Tantalum fixed capacitors
85322200	Aluminum electrolytic fixed capacitors
85323000	Ceramic dielectric fixed capacitors, single layer
85322400	Ceramic dielectric fixed capacitors, multilayer
85322500	Dielectric fixed capacitors of paper or plastics
85322900	Fixed electrical capacitors, nesi
85323000	Variable or adjustable (pre-set) electrical capacitors
85329000	Parts of electrical capacitors, fixed, variable or adjustable (pre-set)
85331000	Electrical fixed carbon resistors, composition or film types
85332100	Electrical fixed resistors, other than composition or film type carbon resistors, for a power handling capacity not exceeding 20 W
85332900	Electrical fixed resistors, other than composition or film type carbon resistors, for a power handling capacity exceeding 20 W
85334040	Metal oxide resistors
85334080	Electrical variable resistors, other than wirewound, including rheostats and potentiometers
85339080	Other parts of electrical resistors, including rheostats and potentiometers, nesi
85351000	Fuses, for a voltage exceeding 1,000 V

85352100	Automatic circuit breakers, for a voltage of less than 72.5 kV, but exceeding 1,000 V
85352900	Automatic circuit breakers, for a voltage of 72.5 kV or more
85353000	Isolating switches and make-and-break switches, for a voltage exceeding 1,000 V
85359040	Electrical motor starters and electrical motor overload protector, for a voltage exceeding 1,000 V
85359080	Electrical apparatus nesi for switching, protecting, or making connections for electrical circuits, for a voltage exceeding 1,000 V, nesi
85361000	Fuses, for a voltage not exceeding 1,000 V
85362000	Automatic circuit breakers, for a voltage not exceeding 1,000 V
85363040	Electrical motor overload protectors, for a voltage not exceeding 1,000 V, nesi
85364100	Relays for switching, protecting or making connections to or in electrical circuits, for a voltage not exceeding 60 V
85364900	Relays for switching, protecting or making connections to or in electrical circuits, for a voltage exceeding 60 but not exceeding 1,000 V
85365049	Electrical motor starters (which are switches), for a voltage not exceeding 1,000 V
85365090	Switches nesoi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V
85366940	Connectors: coaxial, cylindrical multicontact, rack and panel, printed circuit, ribbon or flat cable, for a voltage not exceeding 1,000 V
85369040	Electrical terminals, electrical splicers and electrical couplings, wafer probers, for a voltage not exceeding 1,000 V
85369085	Other electrical apparatus nesi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V, nesoi
85371060	Boards, panels, etc., equipped with apparatus for electric control, for a voltage not exceeding 1,000, motor control centers

85371080	Touch screens without display capabilities for incorporation in apparatus having a display
85372000	Boards, panels, consoles, desks, cabinets and other bases, equipped with apparatus for electric control, for a voltage exceeding 1,000 V
85381000	Parts of boards, panels, consoles, desks, cabinets and other bases for the goods of heading 8537, not equipped with their apparatus
85389040	Parts for articles of 8535.90.40, 8536.30.40 or 8536.50.40, of ceramic or metallic materials, mech. or elec. reactive to changes in temp.
85389060	Molded parts nesi, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537
85389081	Other parts nesi, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537
85392920	Electrical filament lamps, voltage not exceeding 100 V, having glass envelopes n/o 6.35 mm in diameter, suitable in surgical instruments
85392930	Electrical filament lamps nesi, designed for a voltage not exceeding 100 V, excluding ultraviolet and infrared lamps
85394100	Arc lamps
85399000	Parts of electrical filament or discharge lamps
85412100	Transistors, other than photosensitive transistors, with a dissipation rating of less than 1W
85412900	Transistors, other than photosensitive transistors, with a dissipation rating of 1 W or more
85413000	Thyristors, diacs and triacs, other than photosensitive devices
85414020	Light emitting diodes (LEDs)
85414080	Photosensitive semiconductor devices nesi, optical coupled isolators
85414095	Photosensitive semiconductor devices nesi, other

85419000	Parts of diodes, transistors, similar semiconductor devices, photosensitive semiconductor devices, LED's and mounted piezoelectric crystals
85437060	Electrical machines and apparatus nesoi, designed for connection to telegraphic or telephonic apparatus, instruments or networks
85439068	Printed circuit assemblies of electrical machines and apparatus, having individual functions, nesoi
85441100	Insulated (including enameled or anodized) winding wire, of copper
85441900	Insulated (including enameled or anodized) winding wire, other than of copper
85444930	Insulated electric conductors nesi, of copper, for a voltage not exceeding 1,000 V, not fitted with connectors
85444990	Insulated electric conductors nesi, not of copper, for a voltage not exceeding 1,000 V, not fitted with connectors
85446020	Insulated electric conductors nesi, for a voltage exceeding 1,000 V, fitted with connectors
85446040	Insulated electric conductors nesi, of copper, for a voltage exceeding 1,000 V, not fitted with connectors
90181200	Ultrasonic scanning electro-diagnostic apparatus used in medical, surgical, dental or veterinary sciences
90181300	Magnetic resonance imaging electro-diagnostic apparatus used in medical, surgical, dental or veterinary sciences
90181400	Scintigraphic electro-diagnostic apparatus used in medical, surgical, dental or veterinary sciences
90221200	Computed tomography apparatus based on the use of X-rays
90221400	Apparatus based on the use of X-rays for medical, surgical or veterinary uses (other than computed tomography apparatus)
90289000	Parts and accessories for gas, liquid or electricity supply or production meters

90321000	Automatic thermostats
90328960	Automatic regulating or controlling instruments and apparatus, nesi
90329061	Parts and accessories for automatic regulating or controlling instruments and apparatus, nesi
90303038	Other instruments and apparatus, nesi, for measuring or checking electrical voltage, current, resistance or power, without a recording device