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
July 24, 2018

Members of the Section 301 Committee,

We are taking this opportunity to provide the following remarks on behalf of the National Electrical Manufacturers Association (NEMA) on the Office of the U.S. Trade Representative's proposed determination of further 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 Craig Updyke and I serve as NEMA's Director for Trade and Commercial Affairs.

NEMA represents nearly 350 electrical equipment and medical imaging manufacturers that make safe, reliable, and efficient products and systems. Our combined industries account for some 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.

As stated previously, NEMA shares the concerns of the Office of the U.S. Trade Representative (USTR) regarding China industrial policies and intellectual property practices. U.S. electrical and medical imaging manufacturers support a comprehensive approach to international trade that results in free 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 domestic manufacturing operations.

Twenty-five percent tariffs were implemented July 6 on approximately 100 product types within or adjacent to NEMA scope. Placing an equivalent tariff on over 25 additional 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.

Affected NEMA Member products include, but are not limited to, the following:

- industrial automation controls that run assembly lines and other processes
- certain types of electric motors
- parts of electric motors
- motor overload protectors
- electronic wireless lighting dimmers
- electricity meters
- insulating materials

An illustrative list of the targeted products of direct and indirect interest to NEMA is included below and in our formal written comments filed with USTR on July 23.

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

Moreover, some of our Member companies support placing tariffs on specific Chinese-made products in order to correct for market effects of earlier initiatives – including the July 6 tariffs on Chinese-made parts and components as well as tariffs on steel and aluminum – and/or level the competitive landscape with Chinese manufacturers.

Should the Administration decide to proceed with the application of tariffs on additional products, 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 the following:

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

- inputs that come from wholly-owned U.S. facilities within China (since those reflect regular commercial decisions rather than China 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, we reiterate that it is only fair 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 judged 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. Specifically, if the tariffs are intended to bring China to negotiations, when can industry expect those negotiations to begin?

We look forward to the Administration's careful consideration of, and publicized timeline for, alternative measures to bring about change in Beijing's apparently entrenched strategic industrial and IP policies.

END NARRATIVE

PRODUCT LIST BEGINS ON NEXT PAGE

Illustrative List of Targeted Products of Interest to NEMA Members

HS Code	Product Description
3911.90.90	Polysulfides, polysulfones & other products specified in note 3 to chapter 39, nesoi
3917.40.00	Fittings of plastics, for plastic tubes, pipes and hoses, nesoi
7614.10.10	Aluminum, stranded wire, cables & the like w/steel core, not electrically insulated, not fitted with fittings & not made up into articles
7614.90.20	Aluminum, elect. conductors of stranded wire, cables & the like (o/than w/steel core), n/elect. insulated, n/fitted w/fittings or articles
8501.10.20	Electric motors of an output of under 18.65 W, synchronous, valued not over $4 each
8501.10.60	Electric motors of an output of 18.65 W or more but not exceeding 37.5 W
8501.20.40	Universal AC/DC motors of an output exceeding 74.6 W but not exceeding 735 W
8501.31.40	DC motors, nesoi, of an output exceeding 74.6 W but not exceeding 735 W
8501.31.80	DC generators of an output not exceeding 750 W
8501.32.20	DC motors nesoi, of an output exceeding 750 W but not exceeding 14.92 kW
8501.32.60	DC generators of an output exceeding 750 W but not exceeding 75 kW
8501.33.20	DC motors nesoi, of an output exceeding 75 kW but under 149.2 kW
8501.33.30	DC motors, nesoi, 149.2 kW or more but not exceeding 150 kW
8501.52.40	AC motors nesoi, multi-phase, of an output exceeding 750 W but not exceeding 14.92 kW
8501.53.60	AC motors, nesoi, multi-phase, 149.2 kW or more but not exceeding 150 kW
8503.00.95	Other parts, nesoi, suitable for use solely or principally with the machines in heading 8501 or 8502

8536.30.80	Electrical apparatus for protecting electrical circuits, for a voltage not exceeding 1,000 V, nesoi
8536.50.70	Certain specified electronic and electromechanical snap-action switches, for a voltage not exceeding 1,000 V
8537.10.30	Electric control panels, for a voltage not exceeding 1,000, assembled with outer housing or supports, for goods of 8421, 8422, 8450 or 8516
8541.10.00	Diodes, other than photosensitive or light-emitting diodes
8541.40.60	Diodes for semiconductor devices, other than light-emitting diodes, nesoi
8542.31.00	Electronic integrated circuits: processors and controllers
8542.32.00	Electronic integrated circuits: memories
8542.33.00	Electronic integrated circuits: amplifiers
8542.39.00	Electronic integrated circuits: other
8543.70.45	Other electric synchros and transducers; defrosters and demisters with electric resistors for aircraft
8543.70.99	Other machinery in this subheading
8544.49.10	Insulated electric conductors of a kind used for telecommunications, for a voltage not exceeding 80 V, not fitted with connectors
8544.49.20	Insulated electric conductors nesoi, for a voltage not exceeding 80 V, not fitted with connectors
8544.60.60	Insulated electric conductors nesoi, not of copper, for a voltage exceeding 1,000 V, not fitted with connectors
9028.30.00	Electricity supply or production meters, including calibrating meters thereof