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U.S. Environmental Protection Agency
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**Re: North American Association of Food Equipment Manufacturers
Comments Regarding the U.S. Environmental Protection
Agency's Evaluation of Existing Regulations (82 Fed. Reg. 17,793;
April 13, 2017) in Accordance With Executive Order 13777
("Enforcing the Regulatory Reform Agenda")**

The North American Association of Food Equipment Manufacturers (NAFEM) submits the following comments to the U.S. Environmental Protection Agency (EPA) in response to its "evaluation of existing regulations" announced in the April 13, 2017 *Federal Register* (82 Fed. Reg. 17,793). EPA's comment request relates to its effort to comply with Executive Order 13,777, "Enforcing the Regulatory Reform Agenda."

NAFEM is a trade association made up of more than 550 foodservice equipment and supplies manufacturers providing products for food preparation, cooking, storage, and table service. These member companies have consistently implemented measures to improve energy efficiency and reduce harmful emissions. To that end, NAFEM provides these comments to EPA for ways EPA can modify its programs so that the regulations are effective and do not have negative, counter-productive results, and not have disproportionate economic impact on small businesses.

1. ENERGY STAR

NAFEM recognizes that there is general, wide support for the ENERGY STAR program, jointly administered by EPA and the Department of Energy (DOE); however, the President's proposed budget and other reports raise questions about EPA's continued management and investment in the ENERGY STAR program. ENERGY STAR was designed to be a market-

driven mechanism to encourage companies to become more energy efficient than existing energy efficiency regulations require. DOE energy efficiency regulations, now having gone through multiple iterations of standards setting under the EPCA, are reaching the point where any gap between ENERGY STAR and EPCA energy efficiency standards has significantly narrowed. If the purpose of ENERGY STAR was to bridge the gap between regulations and technical capabilities, NAFEM believes that soon there will be no gap to bridge. Thus, ENERGY STAR becomes superfluous or duplicative at best and in conflict or contrary to efficiency regulations at worst.

ENERGY STAR must change to adapt to current circumstances if it is to survive at all. As it stands now, ENERGY STAR largely takes credit for savings that are driven by technology improvements, green initiatives for public support, consumer purchasing decisions, and competitive pressure between manufacturers - and the savings EPA takes credit for would have occurred anyway. The unit shipment data that entities are required to submit every March represents a huge burden to small and medium sized companies with no offsetting benefit to anyone. Moreover, the cost of using only third-party certifying bodies is especially burdensome to smaller companies that must divide those fixed costs per unit by a small sales volume. Finally, NAFEM believes that ENERGY STAR's qualification levels and test procedures must be reevaluated and modified. NAFEM members' experience raises questions about the oversight and guidance regarding processes and procedures and need for additional clarity and transparency.

In short, NAFEM understands there is a market need and desire to continue the ENERGY STAR program. The ENERGY STAR label has significant economic power, but with increased energy efficiency regulations, the program must be reworked to continue to accomplish its mission and effectiveness. NAFEM and its members have ideas on how the program can be revised and/or refocused and look forward to working with EPA and DOE on appropriate reforms.

2. Significant New Alternatives Policy (SNAP)

EPA's SNAP program implements Clean Air Act Section 612, which requires EPA to evaluate substitutes for the ozone-depleting substances to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to promote a smooth transition to safer alternatives.¹ NAFEM has been actively involved with EPA as EPA makes decisions that directly impact the refrigeration equipment manufactured by NAFEM's members.

Most recently, NAFEM participated in the rulemaking regarding "Protection of Stratospheric Ozone: New Listings of Substitutes; Changes of Listing Status; and Reinterpretation of Unacceptability for Closed Cell Foam Products Under the Significant New Alternatives Policy Program; and Revision of Clean Air Act Section 608 Venting Prohibition for Propane."² This rule changes the date upon which certain refrigerants will no longer be allowed to be used.³

This new rule sets this "change of status date" as 2021, but that is still not enough time for industry to safely discontinue using targeted refrigerants.⁴ NAFEM advocated then and reiterates now, that this deadline should be extended until at least 2025.⁵

¹ <https://www.epa.gov/snap/snap-regulations>.

² Docket No. EPA-HQ-OAR-2015-0663; FRL-9941-84-OAR.

³ See Final Rule 81 Fed. Reg. 86778 (December 1, 2016).

⁴ *Id.*

⁵ See NAFEM comments available in Docket No. EPA-HQ-OAR-2015-0663; FRL-9941-84-OAR.

There are a variety of reasons why the 2021 deadline is unreasonable and problematic. NAFEM's concerns include, but are not limited to, the following:

- Manufacturers and suppliers both commented in unison that it would take 5-7 years to achieve changeover from R-134a and R-404a but EPA only gave 3-4 years. Many manufactures are still going through the research and development phase this year to prepare their facility and laboratories for production and development.
- The current regulations imposed by the EPA and DOE do not work in harmony with one another. The current backlog of regulations for both the EPA and DOE has put a stranglehold on businesses for at least the next three years. Development of new products, new technologies, or new processes is at a standstill for small businesses because businesses allocate all resources to compliance.
- All the listed refrigerants have “zero” ozone depletion potential (“ODP”) values (i.e., no impact on the Ozone layer), but because of the nature of the refrigerant represent dangerous and expensive challenges that are forced on the industry due to the 2021 deadline. At the same time, there are better performing alternative refrigerants that have been identified (and are being introduced in automobile air conditioners). The delay until 2025 will result in the industry being able to use these new, safer low GWP HFO refrigerants without having to introduce less safe equipment into the marketplace as a stopgap measure.
- Many of the existing SNAP regulations relied upon analyses and process that NAFEM asserts led to faulty regulatory decisions regarding refrigerant availability and future use. NAFEM believes that any future SNAP rulemaking should consider:
 - Justification for new SNAP regulations should be based on a better cost model than past practice that merely concluded “that the new refrigerant costs the same or less than the new one.”
 - Eliminate Social Cost of Carbon benefit analyses used to justify exorbitant costs and ensure that “health benefits” are accurately calculated.

NAFEM appreciates the opportunity to provide these comments to the EPA in response to Executive Order 13777 and looks forward to working with the agency to develop true regulatory reform. Please contact me if you have any questions or NAFEM can provide additional insight. We look forward to working with you on these practical regulatory reform suggestions.

Respectfully submitted,

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