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July 23, 2018

Submitted electronically ([www.regulations.gov](http://www.regulations.gov))  
Docket ID No.: USTR-2018-0018

Ambassador Robert E. Lighthizer  
United States Trade Representative  
600 17<sup>th</sup> Street N.W.  
Washington, DC 20508

**RE: Comments from the North American Association of Food Equipment Manufacturers (NAFEM) Concerning the Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices to Technology Transfer, Intellectual Property and Innovation, 83 Fed. Reg. 28,710 (June 20, 2018)**

**Attn: William L. Busis, Chair, Section 301 Committee**

Dear Mr. Ambassador Lighthizer:

Pursuant to the notice published by the Office of the U.S. Trade Representative ("USTR") in the *Federal Register*,<sup>1</sup> the North American Association of Food Equipment Manufacturers ("NAFEM") respectfully submits the following comments opposing the imposition of additional tariffs on certain products related to the foodservice industry and its domestically produced equipment and supplies.

At the outset, NAFEM would like to commend USTR on its attention to detail in its first round of Sec. 301 product determinations, which resulted in Annex A to the scheduling notice.<sup>2</sup> NAFEM is grateful that USTR considered its comments concerning the original list of products proposed for tariffs and removed several of them from the final list. This had a very positive impact for many of our members. For example, several varieties of stainless steel, tools for metal working and equipment for making hot drinks or for cooking or heating food, just to name a few, were removed from Annex A, providing much-needed relief at a time when these U.S. businesses are struggling to address steel and aluminum tariffs, which have already driven up material costs on domestic steel by 30 – 40%.

Our comments on the new list of products proposed for additional tariffs – Annex C to the *Federal Register* notice or "List 2" – are largely based on the same issues underlying our original comments. Namely, tariffs on certain of these products have the potential to harm NAFEM members, U.S. manufacturers and suppliers, either by targeting material

<sup>1</sup> *Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 28,710 (June 20, 2018).

<sup>2</sup> *See id.*

inputs, tools, or the equipment used on the shop floor to manufacture commercial foodservice equipment and supplies. These issues are discussed below after background information concerning NAFEM.

NAFEM (<https://www.nafem.org/>) is a trade association comprised of more than 550 foodservice equipment and supplies manufacturers providing products for food preparation, cooking, storage, and table service for the food-away-from-home market. These businesses, their workers, and the products they manufacture support the foodservice industry, which includes school cafeterias, colleges and universities, correctional facilities, hospitals and eldercare facilities, lodging and casinos, corporate cafeterias, supermarkets, convenience stores, and restaurant locations across the United States.

Since 1948, NAFEM has represented hundreds of U.S. companies that manufacture an array of foodservice equipment, ranging from primary cooking equipment such as stoves and ovens, to storage equipment such as refrigerators, freezers, and ice machines, along with preparation equipment like heated cabinets and racks, and serving equipment including tables, cookware, flatware, and beverage dispensers. In brief, NAFEM members provide everything to the commercial foodservice industry except the food.

NAFEM's members include a range of small, medium, and large U.S. businesses that provide indispensable U.S. manufacturing jobs throughout the United States. However, the majority of our members are small and medium-sized businesses. In fact, more than 60% of members have annual sales of \$5 - \$10 million and qualify as small businesses, according to the Small Business Administration. Last year, according to the National Restaurant Association (NRA), the restaurant industry employed approximately 14.7 million workers and generated \$798 billion in sales. These businesses and their workers depend on NAFEM-member manufactured equipment and supplies to serve safe, flavorful food to consumers when and where they need it. Many are family-owned businesses that play an instrumental role in providing vital U.S. manufacturing and distribution jobs for thousands of American families, fueling the success of the U.S. economy.

NAFEM members are directly impacted by certain products being targeted with proposed increased tariffs, many of which are parts and components used by U.S. foodservice equipment and supplies manufacturers. A complete list of the over 100 specific products and the corresponding Harmonized Tariff Schedule of the United States (HTSUS) Subheading targeted are provided in **Appendix A**, along with an indication of (i) whether supply adjustments would take a year or more. Appendix A organizes the products into two (2) categories: (a) Materials, parts, and components used to manufacture commercial foodservice equipment and supplies domestically; and (b) Equipment and tools used in the manufacturing process. Raising the cost of inputs for U.S. domestic producers is clearly contrary to the Administration's intent with this Section 301 investigation, but this is the real result NAFEM members are experiencing with the items remaining on the List 1/Annex A and will unfortunately experience if the proposed additional tariffs are imposed for items on List 2/Annex C. Indeed, a large, multi-national restaurant chain has shared with their Congressional representatives concrete examples of the financial impact of the U.S. tariffs on imports from China, along with the loss of business and exports experienced as a result of the retaliation by China.

More specifically, NAFEM members are concerned with increased tariffs on particular components, such as certain polymers, resins, tubes, pipes, hoses, drilling machines, electric motors and electronic processors. Furthermore, these listed items typically do not contain technology harming U.S. intellectual property rights, innovation, or technology development, undermining the intent of the Administration's Section 301 actions. To the contrary, smart, economically competitive sourcing by NAFEM members from global suppliers, including those in China, allows these U.S. companies to control costs and protect, and even expand, U.S. jobs nationwide.

Therefore, in the event that the United States applies significant increased tariffs on certain products listed in Appendix A pursuant to the Section 301 proposal, NAFEM's concerns are twofold: NAFEM members expect to lose good-paying U.S. manufacturing jobs directly, followed by a potentially negative business impact on our customers, which include thousands of restaurants, convenience stores, and hotels around the world. Unfortunately, the adverse trade and economic effects of targeting these products will not be isolated to NAFEM members alone.

Such adverse market effects also are anticipated by many of the component suppliers to NAFEM manufacturing companies, given that numerous parts, components, electronics, and other essential controls are frequently sourced from Chinese suppliers. NAFEM companies' supply-chain adjustments, therefore, will require several years of diligence, establishing reliable relationships, sourcing shifts, and perhaps even production relocations. Therefore, a transition time is needed for U.S. manufacturers in the foodservice industry to properly strategize and fully implement U.S. market corrections as a consequence of the imminently increasing tariffs. These business changes cannot occur overnight, despite the immediate application of the increased tariffs.

Consequently, NAFEM members prefer and respectfully request to have the particular products listed on Appendix A removed from the proposed List 2. The failure to do so will increase U.S. production costs, jeopardize manufacturing jobs throughout the U.S. and will negatively impact NAFEM's members and its foodservice industry customers nationwide.

Alternatively, if the request to remove these products from the proposal is denied, NAFEM respectfully requests a transition time to implement the tariffs for U.S. manufacturing companies to properly adjust their global sourcing strategies before the United States fully implements the Section 301 proposal.

NAFEM appreciates USTR's consideration of these comments. Please do not hesitate to contact us, if you have any questions regarding the comments.

Respectfully submitted,



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Enclosure: Appendix A – List of NAFEM's Concerned Annex C (List 2) Products by HTS Subheading

## Attachment A

### List of Certain Products in Annex C (List 2) of Concern to NAFEM

No.	HTSUS Subheading	Product Description or Category of Products	Supply Adjustments Will Require Time [1]
<b>Materials, Parts, and Components Used to Manufacture Commercial Foodservice Equipment &amp; Supplies</b>			
1	3901.10.10	Polyethylene having a specific gravity of less than 0.94 and having a relative viscosity of 1.44 or more, in primary forms	✓
2	3901.10.50	Polyethylene having a specific gravity of less than 0.94, in primary forms, nesoi	✓
3	3901.20.10	Polyethylene having a specific gravity of 0.94 or more and having a relative viscosity of 1.44 or more, in primary forms	✓
4	3901.20.50	Polyethylene having a specific gravity of 0.94 or more, in primary forms, nesoi	✓
5	3901.30.20	Ethylene copolymer: Vinyl acetate-vinyl chloride-ethylene terpoly w/ < 50% deriv of vinyl acetate, exc polymer aromatic/mod arom monomers	✓
6	3901.30.60	Ethylene-vinyl acetate copolymers, nesoi	✓
7	3901.90.10	Polymers of ethylene, nesoi, in primary forms, elastomeric	✓
8	3901.90.55	Ethylene copolymers, in primary forms, other than elastomeric	✓
9	3901.90.90	Polymers of ethylene, nesoi, in primary forms, other than elastomeric	✓
10	3902.10.00	Polypropylene, in primary forms	✓
11	3902.20.10	Polyisobutylene, elastomeric, in primary forms	✓
12	3902.20.50	Polyisobutylene, other than elastomeric, in primary forms	✓
13	3902.30.00	Propylene copolymers, in primary forms	✓
14	3902.90.00	Polymers of propylene or of other olefins, nesoi, in primary forms	✓
15	3903.11.00	Polystyrene, expandable, in primary forms	✓
16	3903.19.00	Polystyrene, other than expandable, in primary forms	✓
17	3903.20.00	Styrene-acrylonitrile (SAN) copolymers, in primary forms	✓
18	3903.30.00	Acrylonitrile-butadiene-styrene (ABS) copolymers, in primary forms	✓
19	3903.90.10	Methyl methacrylate-butadiene-styrene (MBS) copolymers, in primary forms	✓
20	3903.90.50	Polymers of styrene, nesoi, in primary forms	✓
21	3904.10.00	Polyvinyl chloride, not mixed with any other substances, in primary forms	✓

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<b>No.</b>	<b>HTSUS Subheading</b>	<b>Product Description or Category of Products</b>	<b>Supply Adjustments Will Require Time [1]</b>
22	3904.21.00	Polyvinyl chloride, mixed with other substances, nonplasticized, in primary forms	✓
23	3904.22.00	Polyvinyl chloride, mixed with other substances, plasticized, in primary forms	✓
24	3904.30.20	Vinyl chloride copolymer: Vinyl acetate-vinyl chloride-ethylene terpoly w/< 50% deriv vinyl acetate, exc polymer aromatic/mod arom monomers	✓
25	3904.30.60	Vinyl chloride-vinyl acetate copolymers, nesoi	✓
26	3904.40.00	Vinyl chloride copolymers nesoi, in primary forms	✓
27	3904.50.00	Vinylidene chloride polymers, in primary forms	✓
28	3904.61.00	Polytetrafluoroethylene (PTFE), in primary forms	✓
29	3904.69.10	Fluoropolymers, elastomeric, other than polytetrafluoroethylene, in primary forms	✓
30	3904.69.50	Fluoropolymers, other than elastomeric and other than polytetrafluoroethylene, in primary forms	✓
31	3904.90.10	Polymers of vinyl chloride or of other halogenated olefins, nesoi, in primary forms, elastomeric, in primary forms	✓
32	3904.90.50	Polymers of vinyl chloride or of other halogenated olefins, nesoi, in primary forms, other than elastomeric, in primary forms	✓
33	3905.12.00	Polyvinyl acetate, in aqueous dispersion	✓
34	3905.19.00	Polyvinyl acetate, other than in aqueous dispersion, in primary forms	✓
35	3905.21.00	Vinyl acetate copolymers, in aqueous dispersion	✓
36	3905.29.00	Vinyl acetate copolymers, other than in aqueous dispersion, in primary forms	✓
37	3905.30.00	Polyvinyl alcohols, whether or not containing unhydrolyzed acetate groups, in primary forms	✓
38	3905.91.10	Copolymers of vinyl esters or other vinyls, in primary forms, containing by weight 50% or more of derivatives of vinyl acetate	✓
39	3905.91.50	Copolymers of vinyl esters or other vinyls, in primary forms, nesoi	✓
40	3905.99.80	Polymers of vinyl esters or other vinyl polymers, in primary forms, nesoi	✓
41	3906.10.00	Polymethyl methacrylate, in primary forms	✓
42	3906.90.10	Acrylic polymers (except PMMA) in primary forms, elastomeric	✓
43	3906.90.20	Acrylic plastics polymers (except PMMA), in primary forms, nonelastomeric	✓

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<b>No.</b>	<b>HTSUS Subheading</b>	<b>Product Description or Category of Products</b>	<b>Supply Adjustments Will Require Time [1]</b>
44	3906.90.50	Acrylic polymers (except plastics or elastomers), in primary forms, nesoi	✓
45	3907.10.00	Polyacetals in primary forms	✓
46	3907.20.00	Polyethers, other than polyacetals, in primary forms	✓
47	3907.30.00	Epoxide resins in primary forms	✓
48	3907.40.00	Polycarbonates in primary forms	✓
49	3907.50.00	Alkyd resins in primary forms	✓
50	3907.61.00	Polyethylene terephthalate, having a viscosity number of 78 ml/g or higher	✓
51	3907.69.00	Polyethylene terephthalate, having a viscosity number less than 78 ml/g	✓
52	3908.90.70	Other polyamides in primary forms	✓
53	3909.20.00	Melamine resins	✓
54	3909.40.00	Phenolic resins	✓
55	3909.50.10	Polyurethanes, elastomeric, in primary forms	✓
56	3909.50.20	Polyurethanes: cements, in primary forms	✓
57	3909.50.50	Polyurethanes, other than elastomeric or cements, in primary forms	✓
58	3910.00.00	Silicones in primary forms	✓
59	3911.10.00	Petroleum resins, coumarone, indene, or coumarone-indene resins and polyterpenes, in primary forms	✓
60	3911.90.10	Elastomeric polysulfides, polysulfones and other products specified in note 3 to chapter 39, nesoi, in primary forms	✓
61	3911.90.15	Specified carbodiimide or homopolymer with polyethylene thermoplastic goods	✓
62	3911.90.70	Chlorinated synthetic rubber	✓
63	3911.90.90	Polysulfides, polysulfones & other products specified in note 3 to chapter 39, nesoi	✓
64	3916.90.50	Rods, sticks and profile shapes, at most surface-worked, of plastics, nesoi	✓
65	3917.21.00	Tubes, pipes and hoses, rigid, of polymers of ethylene	✓
66	3917.22.00	Tubes, pipes and hoses, rigid, of polymers of propylene	✓
67	3917.23.00	Tubes, pipes and hoses, rigid, of polymers of vinyl chloride	✓
68	3917.29.00	Tubes, pipes and hoses, rigid, of other plastics nesoi	✓
69	3917.31.00	Flexible plastic tubes, pipes and hoses, having a minimum burst pressure of 27.6 MPa	✓

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<b>No.</b>	<b>HTSUS Subheading</b>	<b>Product Description or Category of Products</b>	<b>Supply Adjustments Will Require Time [1]</b>
70	3917.32.00	Tubes, pipes and hoses, of plastics, other than rigid, not reinforced or otherwise combined with other materials, without fittings	✓
71	3917.40.00	Fittings of plastics, for plastic tubes, pipes and hoses, nesoi	✓
72	3919.90.50	Self-adhesive plates, sheets, other flat shapes, of plastics, not having a light-reflecting surface produced by glass grains, nesoi	✓
73	7614.10.10	Aluminum, stranded wire, cables & the like w/steel core, not electrically insulated, not fitted with fittings & not made up into articles	✓
74	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	✓
75	8501.10.20	Electric motors of an output of under 18.65 W, synchronous, valued not over \$4 each	✓
76	8501.10.60	Electric motors of an output of 18.65 W or more but not exceeding 37.5 W	✓
77	8501.20.40	Universal AC/DC motors of an output exceeding 74.6 W but not exceeding 735 W	✓
78	8501.31.40	DC motors, nesoi, of an output exceeding 74.6 W but not exceeding 735 W	✓
79	8501.31.80	DC generators of an output not exceeding 750 W	✓
80	8501.32.20	DC motors nesoi, of an output exceeding 750 W but not exceeding 14.92 kW	✓
81	8501.32.60	DC generators of an output exceeding 750 W but not exceeding 75 kW	✓
82	8501.33.20	DC motors nesoi, of an output exceeding 75 kW but under 149.2 kW	✓
83	8501.33.30	DC motors, nesoi, 149.2 kW or more but not exceeding 150 kW	✓
84	8501.52.40	AC motors nesoi, multi-phase, of an output exceeding 750 W but not exceeding 14.92 kW	✓



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<b>No.</b>	<b>HTSUS Subheading</b>	<b>Product Description or Category of Products</b>	<b>Supply Adjustments Will Require Time [1]</b>
85	8501.53.60	AC motors, nesoi, multi-phase, 149.2 kW or more but not exceeding 150 kW	✓
86	8511.80.20	Voltage and voltage-current regulators with cut-out relays designed for use on 6, 12 or 24 V systems	✓
87	8511.80.40	Voltage and voltage-current regulators with cut-out relays other than those designed for use on 6, 12 or 24 V systems	✓
88	8511.90.20	Parts of voltage and voltage-current regulators with cut-out relays, designed for use on 6, 12 or 24 V systems	✓
89	8511.90.40	Parts of voltage and voltage-current regulators with cut-out relays, other than those designed for use on 6, 12 or 24 V systems	✓
90	8536.30.80	Electrical apparatus for protecting electrical circuits, for a voltage not exceeding 1,000 V, nesoi	✓
91	8536.50.70	Certain specified electronic and electromechanical snap-action switches, for a voltage not exceeding 1,000 V	✓
92	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	✓
93	8541.10.00	Diodes, other than photosensitive or light-emitting diodes	✓
94	8541.40.60	Diodes for semiconductor devices, other than light-emitting diodes, nesoi	✓
95	8542.31.00	Electronic integrated circuits: processors and controllers	✓
96	8542.32.00	Electronic integrated circuits: memories	✓
97	8542.33.00	Electronic integrated circuits: amplifiers	✓
98	8542.39.00	Electronic integrated circuits: other	✓

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<b>No.</b>	<b>HTSUS Subheading</b>	<b>Product Description or Category of Products</b>	<b>Supply Adjustments Will Require Time [1]</b>
99	8542.90.00	Parts of electronic integrated circuits and microassemblies	✓
100	9025.19.80	Thermometers, for direct reading, not combined with other instruments, other than liquid-filled thermometers	✓
<b>Equipment &amp; Tools Used in the Manufacturing Process</b>			
101	9027.10.20	Electrical gas or smoke analysis apparatus	✓
102	9028.10.00	Gas supply or production meters, including calibrating meters thereof	✓
103	9028.20.00	Liquid supply or production meters, including calibrating meters thereof	✓
104	9028.30.00	Electricity supply or production meters, including calibrating meters thereof	✓
105	9030.31.00	Multimeters for measuring or checking electrical voltage, current, resistance or power, without a recording device	✓
106	9030.32.00	Multimeters, with a recording device	✓
107	9030.84.00	Instruments and apparatus for measuring, checking or detecting electrical quantities or ionizing radiations, nesoi: with a recording device	✓
108	9030.89.01	Instruments and apparatus for measuring, checking or detecting electrical quantities or ionizing radiations, nesoi: w/o a recording device	✓
109	8419.60.10	Machinery for liquefying air or gas containing brazed aluminum plate-fin heat exchangers	✓
110	8419.89.95	Industrial machinery, plant or equipment for the treatment of materials, by process involving a change in temperature, nesoi	✓
111	8424.89.90	Other mechanical appliances for projecting, dispersing or spraying liquids or powders, nesoi	✓
112	8464.10.01	Sawing machines for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass	✓

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<b>No.</b>	<b>HTSUS Subheading</b>	<b>Product Description or Category of Products</b>	<b>Supply Adjustments Will Require Time [1]</b>
113	8465.95.00	Drilling or mortising machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials	✓
114	8465.96.00	Splitting, slicing or paring machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials	✓
115	8475.29.00	Machines for manufacturing or hot working glass or glassware, nesoi	✓

[1] Checkmark denotes affirmative “yes” response.

Blue highlighting denotes materials, parts and components used to manufacture commercial foodservice equipment.

Green highlighting denotes equipment and tools used in the manufacturing process.