






# What We're Watching

October 2023

*What We're Watching* is your go-to read for background on all NAFEM advocacy efforts, including energy, environment, regulations, supply chain, and taxes, tariffs and trade. *What We're Watching* begins with NAFEM's Federal Advocacy Tracker, a convenient reference list of pending issues with links to docket numbers (where applicable) and comments.

## Federal Advocacy Tracker

	Issue	Docket No./Link	Status/Notes
 <b>Energy</b>			
<b>Multiple categories (ACIM, CRE, WIC/F)</b>			
1	DOE to establish/amend certification provisions, labeling requirements and enforcement provisions for specific types of equipment to align with energy conservation standards	<a href="#">EERE-2023-BT-CE-0001</a>	Comments due Nov. 28.
<b>Automatic Commercial Ice Makers</b>			
1	DOE proposed energy conservation standards	<a href="#">EERE-2017-BT-STD-0022</a>	<a href="#">NAFEM comments</a>
<b>Commercial Refrigeration Equipment</b>			
1	DOE notice of proposed rulemaking pertaining to energy conservation standards for commercial refrigerators, freezers and refrigerator-freezers	<a href="#">EERE-2017-BT-STD-0007</a>	* Public meeting Nov. 7, 10 – 4 ET. * Comments due 60 days after the notice appears in the Federal Register. * <a href="#">NAFEM comments</a> on preliminary technical support document. * NAFEM, AHRI and NAMA met with DOE and OMB to discuss and urged no new standard ruling.
2	DOE test procedures	<a href="#">EERE-2017-BT-TP-0008</a>	* <a href="#">Final rule</a> * <a href="#">NAFEM comments</a>
<b>Walk-in Coolers/Freezers</b>			
1	DOE final rule on test procedures	<a href="#">EERE-2017-BT-TP-0010</a>	Compliance by Oct. 31, 2023.
2	DOE notice correcting errors and omissions in above final rule	<a href="#">EERE-2017-BT-TP-0010</a>	Compliance by Oct. 31, 2023.

3	DOE proposed energy conservation standards	<a href="#">EERE-2017-BT-STD-0009</a>	* NAFEM/AHRI request for 30-day comment extension denied. Comments due Nov. 6, 2023. * DOE webinar Sept. 27, 2023, from 1 - 4 pm ET.
 <b>Environment</b>			
1	EPA SNAP approves R-471A mad R-515B for refrigeration and R-515B also for commercial ice machines	<a href="#">EPA-HQ-OAR-2003-0118</a>	
2	EPA SNAP proposed list of substitutes	<a href="#">EPA-HQ-OAR-2023-0043</a>	Comments due July 10, 2023.
3	EPA proposed restrictions on the use of certain HFCs	<a href="#">EPA-HQ-OAR-2021-0643</a>	Final rule expected Sept. 2023.
4	EPA proposed reporting and recordkeeping requirements for PFAS	<a href="#">EPA-HQ-OPPT-2020-0549</a>	Final rule expected Sept. 2023.
 <b>Regulations</b>			
1	Canada Act to enact the Fighting Against Forced Labor and Child Labor in Supply Chains Act and to amend the Customs Tariff	<a href="#">S-2111</a>	Effective Jan. 1, 2023.
2	DOC proposed rule to revise trade remedy procedures	<a href="#">230424-0112</a>	
3	FTC proposed rule banning non-compete agreements	<a href="#">2023-00414</a>	Decision delayed until 2024.
4	OMB proposed changes to regulatory decision-making and engagement process	<a href="#">OMB-2022-0011</a>	<a href="#">NAFEM comments</a>
5	SEC proposed Climate Change Disclosure Rule	<a href="#">3235-AM87</a>	Expected Oct. 2023.
 <b>Supply Chain</b>			
1	House and Senate proposals requiring Commerce report on how to improve supply chain	<a href="#">SB 2116</a> <a href="#">HR 4279</a>	
2	FMC proposed rule prohibiting common carriers refusal of cargo space	<a href="#">2023-12744</a>	
 <b>Taxes, Tariffs, Trade</b>			
1	House and Senate proposals requiring approval of presidential trade actions to adjust imports determined to impair national security.	<a href="#">Global Trade Accountability Act</a> <a href="#">Congressional Trade Authority Act</a>	
2	House proposal to require companies to disclose whether their supply chains use forced Uyghur labor	<a href="#">HR 4452</a>	

3	Proposal to secure a permanent 20% deduction for qualified business income	S.1706 - <a href="#">Main Street Tax Certainty Act of 2023 &amp; H.R. 4721</a>	<a href="#">NAFEM comments</a>
4	DOC BIS proposed rule to revise the Section 232 exclusions process and portal	<a href="#">2023-18328</a>	* Comments due Oct. 12, 2023. * NAFEM is preparing to comment.
5	Details remain pending on HR 4276 that would reauthorize Trade Adjustment Assistance programs, extend and reform the Generalized System of Preferences and amend the Harmonized Tariff Schedule of the United States		

## Other items NAFEM is tracking



### States also actively setting energy-efficiency standards

- **California:** The California Energy Commission (CEC) opened a [docket](#) to commence an appliance-efficiency rulemaking for commercial steam cookers, convection ovens, dishwashers and fryers. According to CEC, the goal of the rulemaking is to reduce energy consumption and, if applicable, water consumption in the state. NAFEM will alert members when draft regulations are available and public hearings are scheduled.
- **Colorado:** Colorado passed [HB23-1161](#) that establishes energy standards for commercial hot food holding cabinets, dishwashers, fryers, ovens, steam cookers. These products are required to meet current ENERGY STAR® requirements to be sold or leased for use in the state.
- **Hawaii:** If approved, [Hawaii HB 197](#) would require the Department of Health to establish a refrigerant management program to reduce emissions of high-global-warming-potential (GWP) substances from stationary commercial and industrial refrigeration systems.
- **New York:** New York state [energy-efficiency standards](#) took effect June 26 for commercial dishwashers, fryers, hot food holding cabinets, gas and electric ovens and steam cookers. To sell, lease rent or install products in the state, manufacturers must test their products against applicable standards and upload the data to the [State Appliance Standards Database \(SASD\)](#) or the [Modernized Appliance Efficiency Database System \(MAEDbS\)](#).
- **Rhode Island:** [Rhode Island Senate Bill 858](#) would require owners of stationary refrigeration systems to register their system with the Department of Environmental Management within six months of the bill taking effect. Owners would be required to notify the state before change of ownership and leak inspections would be required every six months.
- **Washington:** Washington state amended its [appliance standards](#) for hot food holding cabinets and commercial ovens. Effective April 9, hot food holding cabinets installed in the state must meet the idle energy rate determined by ANSI/ASTM F2140-11 and be registered with [California's Modernized Appliance Efficiency Database System \(MAEDbS\)](#). Commercial ovens must meet ENERGY STAR® version 2.2 specifications and carry the ENERGY STAR label.

### States require manufacturers to register with appliance standards databases

- The [State Appliance Standards Database \(SASD\)](#) is fast becoming an important registration body for commercial food equipment manufacturers, with Colorado, Hawaii, Maine, Massachusetts, New Jersey, New York and Rhode Island requiring registration. These states may issue financial penalties for products sold within their borders that don't meet minimum energy-efficiency levels. SASD covers commercial dishwashers, fryers, steam cookers, ovens and hot food holding cabinets.
- California also requires manufacturers to certify the performance of some products sold in the state via its [Modernized Appliance Efficiency Database System \(MAEDbS\)](#). Information is not shared between MAEDbS and SASD, so **manufacturers must register with both databases** to sell products in the covered states.



## Environment

### PFAS reduction efforts active at federal and state levels

- Per- and polyfluoroalkyl (PFAS), or so called “forever chemicals,” are increasingly the focus of federal and state reduction efforts and outright bans. The chemicals were used widely in nonstick, water- and grease-resistant products, as well as some firefighting foams.
- The Environmental Protection Agency (EPA) proposed strict limits on two common types of PFAS, PFOA and PFOS, and said it wanted to regulate four others. Under the proposal, water providers, including those with wells, would be responsible for monitoring their systems for the chemicals.
- Additionally, a [report](#) by a Congressionally appointed Working Group outlines opportunities and identifies next steps to reduce contamination from PFAS, including collecting additional data to inform a federal plan, harnessing collaboration between federal, state, local and tribal governments, and outreach activities to inform the public.
- California and Maine currently have the most stringent [PFAS regulations](#) in the U.S. [CA AB1200](#) requires manufacturers of cookware sold in the state beginning Jan. 1 2024, to disclose the presence of PFAS on the product label and on the product listing for online sales, in both English and Spanish. These requirements are closely aligned with California's [Proposition 65](#) – The Safe Drinking Water and Toxic Enforcement Act – that requires companies to provide warning labels to notify people of exposure to more than 1,000 chemicals known to cause cancer, birth defects or other reproductive harm. In [Maine](#), a retailer may not sell any products containing intentionally added PFAS after Jan. 1, 2030.
- The following states already address PFAS in drinking water and are in the process of, or expected to, expand legislation: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Illinois, Iowa, Kentucky, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Rhode Island, Vermont, West Virginia and Wisconsin.
- NAFEM and other members of the recently formed PFAS Ban Coalition [communicated](#) their opposition to [NJ S3177](#), which would establish reporting requirements for manufacturers of products with intentionally added PFAS and restrictions on certain products with intentionally added PFAS.
- Additional insights are available in EPA's [PFAS Strategic Roadmap](#).

### EPA's 2022 – 2026 strategic plan provides a glimpse of what's to come

- EPA's four-year [strategic plan](#) covering 2022 – 2026 details the vision, priorities, and strategies to accomplish the agency's mission over the next four years. For the first time, EPA's plan also includes a strategic goal focused on addressing climate change and a new

strategic goal to advance environmental justice and civil rights. The agency also issued a brief [overview](#) of its upcoming efforts.

### **Extended producer responsibility (EPR) efforts in states**

- Proposed legislation currently in committee in two states, [New York Senate 6105](#) and [Washington House Bill 1164](#), would require producers, groups of producers and representative organizations to establish collection programs for refrigerants and refrigerant-containing appliances.
- The recommendations are similar to [SORAC](#), the Commercial Appliance Recovery Society formed to meet Quebec's extended-producer responsibility initiative for commercial and institutional refrigeration and freezer equipment to comply with Recyc-Quebec (R-Q) requirements.
- Multiple states have approved or are considering EPR efforts aimed at packaging.

### **Gas stove debates continue at state level; House passes Gas Stove Protection Act**

- Administration officials joined the Sierra Club in filing briefs opposing the April decision by the Ninth Circuit Court of Appeals to overturn the Berkeley, California ban on natural gas hookups in new buildings. The briefs disagree with the Court's findings that the proposed city ordinance is preempted by the Energy Policy and Conservation Act (EPCA). Berkeley's ban remains in effect until the legal proceedings are finalized.
- Other California cities, including Sacramento, San Luis Obispo and Santa Cruz, have paused their plans until the City of Berkeley's appeal plays out. Ordinances banning new natural gas hookups have been passed by 76 California cities.
- New York is the first state to ban natural gas and other fossil fuels in most new buildings. The ban applies to new buildings shorter than seven stories by 2026, and taller buildings by 2029.
- More than 100 U.S. cities have moved to restrict gas-powered appliances. Most of these bans focus on new construction.
- The U.S. House of Representatives passed and advanced to the Senate the [Gas Stove Protection and Freedom Act](#), which prohibits the federal government from banning gas stoves. The legislation proceeded despite assurances from regulators that they have no intention of issuing a ban on gas stoves.

## REGULATIONS

### **NAFEM advocates with others for balanced regulations for U.S. manufacturers**

- NAFEM joined the [Manufacturers for Sensible Regulations coalition](#), an initiative created by the National Association of Manufacturers (NAM), to support manufacturing competitiveness. [Data](#) shows that the regulatory cost for small U.S. manufacturers is \$34,671 per employee per year, more than three times the cost to the average U.S. company. [Coalition members are urging the White House](#) to protect jobs, communities and economic growth by adding a manufacturing adviser to the White House staff to coordinate and balance regulatory efforts among agencies.

### **Prop 65 labeling requirements require regular monitoring**

- California's [Proposition 65](#) – The Safe Drinking Water and Toxic Enforcement Act – requires companies to provide warning labels to notify people of exposure to more than 1,000 chemicals known to cause cancer, birth defects or other reproductive harm. The California

Office of Environmental Health Hazard Assessment (OEHHA) regularly updates Prop 65 requirements. NAFEM reports on proposed changes monthly in the Advocacy Update newsletter. We also recommend members closely monitor the Prop 65 changes impacting their businesses.



## Supply Chain

### **Panama Canal backlog impacting global shipping**

- Hundreds of cargo ships are in a holding pattern at the Panama Canal due to the historic drought in the region. In response, the Canal Authority reduced maximum ship weights and daily crossings from 36 to 32, forcing ocean carriers to off load cargo, shift to much-longer routes or simply wait for passage. Rainfall around the canal area is 30-50% below normal, a trend experts anticipate continuing into 2024. In 2020, a less severe drought forced the Canal Authority to reduce crossings to 27 per day, so further reductions are possible. NAFEM members are encouraged to consult their shipper for anticipated delivery dates and options.

### **U.S.-Mexico border issues impact supply chain challenges**

- NAFEM, along with hundreds of trade associations and local Chambers of Commerce, formed the Legal Immigration and Border Enforcement Reform This Year (LIBERTY) Campaign, to [call upon Congress](#) to enact measures in 2023 to improve the border and our legal immigration system.

### **Know your supply chain: Restricted entities listed on government database**

- The International Trade Administration maintains the [Consolidated Screening List \(CSL\)](#) of parties with which the U.S. restricts certain exports, reexports or transfers of items, including those addressed under the UFLPA, Russia/Belarus sanctions and others. The list is updated daily, and email updates are available at the link above.



## TAXES, TARIFFS & TRADE

### **Hundreds of sanctions and restrictions in place against Russia**

- Hundreds of sanctions and restrictions are in place against Russia and third-parties allegedly helping Russia evade sanctions. The departments of Commerce, State and Treasury all are acting against individuals and organizations.
- Members are reminded that it continues to be critically important to understand every link, even the most minor, in your supply chain.

### **Section 232 news**

- The [U.S. Department of Commerce \(DOC\) Bureau of Industry and Security \(BIS\)](#) issued a [notice of proposed rulemaking \(NPR\)](#) seeking to revise the exclusion process for the Section 232 steel and aluminum tariffs. Some of the newly proposed changes incorporate those suggested by NAFEM in its March 2022 comments, part of the association's ongoing efforts on behalf of members since the tariffs were introduced in 2018. Comments are due Oct. 12.
- The [U.S. – EU agreement that replaced Section 232 tariffs](#) with tariff rate quotas (TRQ) on steel and aluminum expires Oct. 31. If a new agreement is not reached, the U.S. will reimpose 25% tariffs on steel and 10% tariffs on aluminum imports from the EU. The EU would then reinstate retaliatory tariffs on a range of U.S. products. The Biden Administration is pressing



the EU to agree to a “green steel alliance” to restrict imports from plants with high-carbon emissions, aimed primarily against China’s coal-blast furnaces. The EU favors their Carbon Border Adjustment Mechanism (CBAM).

- NAFEM continues to advocate, individually and with others, for removal of the Section 232 tariffs on imports from China and at a minimum for an extension of the TRQ deal with the EU.

### **Section 301 news**

- As expected, the [U.S. Trade Representative \(USTR\)](#) again [extended](#) 352 product exclusions and 77 COVID-related exclusions from Section 301 tariffs on imports from China until December 31, 2023. The exclusions were previously scheduled to expire on September 30, 2023. According to USTR, “The extension will allow for further consideration under the statutory four-year review.”
- The government-requested 60-day extension to file its opening brief in the litigation challenging the Section 301 tariffs was granted by the U.S. Court of Appeals for the Federal Circuit. Oral arguments are now anticipated early in 2024.
- NAFEM continues to advocate, individually and with others, for removal of the Section 301 tariffs on steel and aluminum imports.

### **Focus on shipments of goods produced with Uyghur labor continues**

- U.S. Customs and Border Protection (CBP) closely watches for goods covered under the Uyghur (China) Forced Labor Prevention Act (UFLPA). The Act largely prohibits importing any goods, wares, articles and merchandise mined, produced or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region of the People’s Republic of China. CBP’s [dashboard](#) provides statistics on shipments subjected to UFLPA reviews and enforcement actions. A recent review of the dashboard shows that most denied shipments come from China, Vietnam and Malaysia (in that order). Industrial and manufacturing materials represent the second highest volume of denied shipments; apparel is first.
- To further clarify the UFLPAs, CBP published revised [FAQs](#), [best practices](#) and [guidance](#).
- NAFEM is watching [US HR 4452](#) that would amend the Securities Act of 1934 to require disclosure of whether companies’ supply chains use forced Uyghur labor.

### **USTR 2023 trade agenda details priorities**

- The United States Trade Representative’s (USTR) [2023 Trade Policy Agenda and 2022 Annual Report](#) outlines its “worker-centered” approach. USTR is focused on labor rights through the United States, Mexico, Canada Agreement (USMCA) and the Uyghur (China) Forced Labor Prevention Act, decarbonization and sustainable environmental policies, and supply chain resiliency.
- USTR also reemphasized its commitment to engaging with multilateral institutions and key trading partners, re-aligning the U.S.-China relationship, supporting U.S. manufacturing and U.S. agriculture, ensuring vigorous enforcement efforts, and including stakeholder/industry engagement.

### **NAFEM advocates for advantageous tax landscape**

- NAFEM joined 70 trade organizations in [opposing additional taxes](#) on small- and medium-sized businesses outlined in the President’s proposed budget.

## Other topics?

If there is a topic you would like NAFEM to address, please contact us at [advocacy@nafem.org](mailto:advocacy@nafem.org).