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Re: NAFEM Comments On – Energy Conservation Program: Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment, Notice of Proposed Rulemaking; Dkt. EERE-2025-BT-STD-0001 (91 Fed. Reg. 42034; July 7, 2026)

Dear Mr. Cochran:

The North American Association of Food Equipment Manufacturers (NAFEM) submits the following comments on the Department of Energy’s (DOE) Notice of Proposed Rulemaking, *Energy Conservation Program: Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment*; Dkt. EERE-2025-BT-STD-0001 (91 Fed. Reg. 42034; July 7, 2026) (NOPR).¹ In the NOPR, DOE proposes to, among other things, make Appendix A to Subpart C of Part 430 (Process Rule) binding on DOE for certain actions; amend the Process Rule’s objectives and considerations consistent with recent Executive orders and Department policies; add a definition of “significant energy savings”; re-instate the comparative analysis requirement, described as a “walk up” approach; include certain economic thresholds; re-instate the description of “clear and convincing evidence”; and revert to language from the 2020 Process Rule, with minor edits, in several sections. NAFEM previously submitted

¹ *Energy Conservation Program: Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment; Extension of Public Comment Period*, 91 Fed. Reg. 47155 (July 28, 2026) (extending the comment deadline for the NOPR from August 6, 2026, to August 21, 2026).

comments in response to DOE's April 2025 Request for Information² in this same docket (NAFEM RFI Comments), and this comment letter builds on the NAFEM RFI Comments in light of the specific revisions that DOE has now proposed in this NOPR.

NAFEM generally supports DOE's efforts and statements in the NOPR, as described in and subject to the further detail contained in this letter. Set forth below, we outline (I) the interests of NAFEM; and (II) NAFEM's comments specific to the NOPR for DOE's consideration.

I. INTERESTS OF NAFEM

NAFEM is a trade association of more than 600 commercial foodservice equipment and supply manufacturers—a \$17 billion industry. These businesses, their employees, and the products they manufacture, support the food-away-from-home market—which includes more than one million locations in the U.S. and countless more around the world. NAFEM supports, and its members actively seek, opportunities to engage with DOE in the regulatory process to assure certainty and clarity to its regulated members that manufacture equipment relied upon by our society to safely provide food away from home.

NAFEM regularly participates in DOE's energy conservation standards rulemakings. NAFEM members include manufacturers of equipment that are subject to DOE's energy conservation standards. Therefore, NAFEM members are subject to the impacts of the Process Rule, and NAFEM accordingly has a direct interest in this matter.

II. NAFEM'S COMMENTS FOR DOE'S CONSIDERATION

NAFEM provides the following comments and hopes that DOE will entertain ongoing dialogue on these critical Process Rule issues. NAFEM addresses below each of the specific proposals and topics raised in the NOPR, in the order presented by DOE, informed by NAFEM's extensive participation in this and other DOE energy conservation standard rulemakings, as well as regulatory proceedings before other federal and state agencies.

A. Objectives

In the NOPR, DOE proposes to amend Section 1 (Objectives) of the Process Rule. DOE proposes express goals of preserving the availability of covered products' and equipment's performance characteristics, features, sizes, capacities, and volumes. DOE proposes to safeguard "the American people's freedom to choose from a variety of goods and appliances." DOE proposes to promote market competition and innovation within the manufacturing and appliance industries. DOE proposes to eliminate "counterproductive requirements that raise the costs of home appliances." (NOPR at 42042-43.)

NAFEM supports these additions to the Process Rule's objectives. NAFEM's members manufacture commercial foodservice equipment supporting the food-away-from-home market. That market includes more than one million locations in the United States. NAFEM's members

² *Energy Conservation Program: Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment, Request for Information*; Dkt. EERE-2025-BT-STD-0001 (90 Fed. Reg. 16093; April 17, 2025) (April 2025 RFI).

and their commercial customers depend on continued availability of the full range of performance characteristics, features, and price points suited to demanding commercial and food safety environments. NAFEM supports DOE's commitment to preserve that availability. NAFEM also supports the objective of promoting market competition and innovation. NAFEM urges DOE to apply these objectives consistently whenever DOE evaluates whether a design option or standard level would eliminate cost-effective, commercially necessary product variations without a corresponding benefit to consumers or the public at large.

B. Scope

DOE has proposed that the current Scope section of the Process Rule already applies to both consumer products and commercial/industrial equipment, other than equipment governed by standards of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), which is governed separately under Section 9. DOE is "not proposing any revisions to the Scope section of the Process Rule." (NOPR at 42043.)

NAFEM agrees that the Process Rule should continue to apply to commercial/industrial equipment, as well as consumer products.

C. Mandatory Application of the Process Rule

DOE proposes to revise Section 3 of the Process Rule to make its procedures binding on DOE for actions anticipated to increase the stringency of, or expand the scope of products subject to, a standard, while retaining flexibility for deregulatory and other actions, and "requests comment on this proposal and on any alternate approaches to mandatory application." (NOPR at 42045.)

NAFEM supports DOE's proposal and believes that the Process Rule's procedures should apply in all instances. NAFEM supported this concept in its prior comments, explaining that, "[b]y denoting the policy as the 'Process Rule,' there is an expectation that it is a procedural obligation, not aspiration." (NAFEM RFI Comments at 7.) At bottom, a binding rule is critical to give the regulated community the certainty needed to plan product-design cycles, testing programs, and capital investments.

D. Setting Priorities for Rulemaking Activity

DOE proposes to add protection of consumer choice and elimination of counterproductive cost increases to the factors it considers when establishing rulemaking priorities. DOE requests comment on their inclusion. (NOPR at 42046.) DOE also proposes to remove consideration of environmental factors under the Process Rule. DOE proposes to refer instead more generally to potential social and private costs and benefits, consistent with Executive Order 14154.

NAFEM supports the addition of consumer-choice and cost-related factors to DOE's prioritization criteria. NAFEM supports DOE's related proposal to refer to potential social and private costs and benefits rather than a standalone environmental-impact factor.

E. Coverage Determination Rulemakings

DOE proposes to revert to 2020 Process Rule language governing coverage determinations. Under that language, final coverage determinations generally will be completed before DOE

initiates a related test procedure or standards rulemaking. Under the reverted 2020 Process Rule language, DOE will complete its coverage determinations at least 180 days before a test procedure NOPR. (NOPR at 42046.)

NAFEM supports finalizing coverage determinations before DOE commits resources to a related test procedure or standards rulemaking. NAFEM supports the proposed 180-day interval. NAFEM previously urged DOE to “solicit feedback from industry on what are appropriate and common-sense divisions when the need to categorize covered equipment arises.” (NAFEM RFI Comments at 7.)

NAFEM thus supports sequencing coverage determinations before test-procedures or standards rulemakings, with enough time in between each, to give industry the chance to submit feedback on product and equipment categories, and DOE enough time to consider feedback.

F. Significant Energy Savings Threshold

DOE proposes to reinstate a full-fuel-cycle (“FFC”) significant energy savings threshold—generally, a 10-percent reduction in FFC energy use or a 2-quad reduction, each measured over a 30-year period—and “requests comment on these proposed thresholds and may also consider alternative thresholds ranging from 5 to 15 percent or from 0.5 quads to 5 quads FFC energy reduction over a 30-year period,” as well as DOE’s tentative determination that thresholds should be based on FFC, rather than site, energy use. (NOPR at 42049.)

NAFEM supports reinstatement of an objective, full-fuel-cycle significant energy savings threshold. NAFEM supports DOE’s proposed 10-percent/2-quad formulation. An objective threshold, applied consistently, avoids standards that impose substantial compliance costs for only marginal energy savings. The NAFEM RFI Comments identified this exact pattern in the commercial refrigeration equipment rulemaking, where proposed standards carried payback periods “from under a year to more than 5 years, more than 10 years for others, more than 75 years in certain cases, and at its most extreme, a whopping 93.9 years,” against products with an average useful life of, “at most, about 14 years.” (NAFEM RFI Comments at 5.) DOE’s proposed threshold is responsive to that concern. NAFEM urges DOE to finalize an objective threshold rather than revert to undefined, case-by-case determinations.

G. Disaggregated and Alternative Energy Savings Thresholds

DOE requests comment on: (i) whether significant energy savings thresholds should be disaggregated by product or equipment type; (ii) whether consumer products and commercial/industrial equipment should be subject to different threshold approaches; and (iii) whether the 30-year analysis period underlying the threshold should be revisited if DOE’s analytical methods change. (NOPR at 42050.)

NAFEM is concerned that further dividing significant energy savings thresholds, as is proposed by DOE and noted in the above comment, would introduce unwarranted uncertainty and process without any obvious benefit. In other words, a percentage-based FFC threshold has the benefit of being unitless and therefore can be applied to any product or equipment type. If DOE allows these percentages to vary based on product or equipment type, NAFEM cannot—in this rulemaking based on the short description of this concept alone—think of any reasons why certain products or equipment should have different percentages that are deemed significant.

H. Early Assessment and Pre-NOPR Stages for Standards Rulemakings

DOE proposes to reinstate 2020 Process Rule language requiring an early assessment stage before DOE commits to a standards rulemaking. That stage would be followed by either a Framework Document with Preliminary Analysis or an Advance Notice of Proposed Rulemaking. DOE “requests comment on these proposals.” (NOPR at 42051.)

NAFEM supports reinstatement of a mandatory early assessment stage and a defined pre-NOPR pathway. A front-loaded assessment process allows DOE to determine, before committing significant agency and industry resources, whether a rulemaking is likely to satisfy the statutory criteria for technological feasibility and economic justification under the Energy Policy and Conservation Act (EPCA). This approach avoids wasted resources on rulemakings that will not ultimately meet EPCA’s statutory criteria. It also gives manufacturers earlier visibility into DOE’s thinking and allows more informed engagement throughout the rulemaking.

I. Public Comment Periods for Standards Rulemakings

DOE proposes to reinstate a minimum 75-day comment period for pre-NOPR and NOPR-stage standards rulemaking documents, consistent with the 2020 Process Rule. (NOPR at 42051.)

NAFEM supports reinstatement of a minimum 75-day comment period. NAFEM has repeatedly sought extensions to DOE’s 30-day comment periods because energy conservation standards rulemakings often pair substantial data uploads, technical appendices, and other supporting materials with the regulatory notice that NAFEM and its members must assess. Longer, predictable comment periods are particularly important for smaller manufacturers with limited in-house regulatory and testing resources to gather their own comments and other input.

NAFEM urges DOE to pair the extended comment period with the data-disclosure improvements addressed later in this letter.

J. Factors Considered in Selecting a Proposed Standard: Consumer Choice and Environmental Factors

DOE proposes to add “protection of consumer choice” to the impacts-on-consumers factor that DOE considers at the pre-NOPR stage under Section 6(a)(5)(iv)(B) of the Process Rule and proposes to replace the specific environmental-impacts factor at Section 6(a)(5)(iv)(F) with a general reference to “other factors the Secretary considers relevant.” (NOPR at 42052.)

NAFEM supports both proposed changes. Protecting consumer choice is important to NAFEM’s members. NAFEM’s members’ customers select equipment configurations, capacities, and features to meet specific operational and food safety needs. A standard that narrows this range without a commensurate benefit harms manufacturers and the businesses that rely on their equipment. NAFEM also supports evaluating environmental considerations, if any, under the Secretary’s discretion to weigh other relevant factors under 42 U.S.C. § 6295(o)(2)(B)(i)(VII), rather than as a freestanding, mandatory factor.

K. Market Competition and Innovation

DOE has evaluated comments on how the Process Rule can better promote market competition and innovation, and has tentatively determined that “the current Process Rule Objectives should be amended to include additional provisions stating that it is DOE’s policy to promote market competition and innovation,” while noting that “the current statute and Process Rule already include mechanisms to consider the potential impacts from industry concentration, manufacturing capacity, employment, and other relevant issues,” including screening for proprietary, single-source technologies. (NOPR at 42053.)

NAFEM supports DOE’s continued use of Department of Justice consultation and proprietary-technology screening. These mechanisms guard against standards that would concentrate a market in the hands of one or a few manufacturers. NAFEM’s members manufacture differentiated commercial products tailored to varying operational needs. A standard achievable only through a single, patented pathway could force smaller and mid-sized manufacturers out of a product category. NAFEM urges DOE to remain vigilant for these effects in commercial equipment categories served by fewer manufacturers than typical consumer product categories.

L. The “Walk Up” Comparative Analysis and Net-Benefit Presumption

DOE proposes a “walk up” analytical approach that compares each progressively more stringent standard level to the baseline and to the next-lower level and requests comment on the same. (NOPR at 42057-58.) DOE also requests comment on whether the standard level with the highest net benefit, rather than the highest technologically feasible and economically justified level, should be the presumptive outcome of that analysis. (*Id.* at 42059.)

NAFEM supports DOE’s proposal to reinstate a comparative, incremental “walk up” analysis. NAFEM concurs that “the walk up approach allows for balancing technological feasibility and economic justification with parity.” (*Id.* at 42055 (emphasis in original).) As NAFEM explained in its prior comments, standard levels that clear the net-benefit threshold, but do so only by means of excessive payback periods, can cause customers to “keep and repair their old equipment, or seek out older, less-efficient refurbished products.” (NAFEM RFI Comments at 6.) A walk-up analysis that shows the incremental costs and benefits of each standard level is more likely to identify a standard that manufacturers and customers can tolerate.

On the net-benefit presumption, NAFEM cautions that any such presumption must account for costs to consumers, useful product life, and the behavioral effects described above. A standard level with attractive aggregate net benefits may still impose costs that no rational commercial buyer would accept, particularly a small business operating on a short planning horizon.

M. Economic Thresholds for Standard Selection

DOE proposes specific economic-justification thresholds for identifying a standard level that is not economically justified—*e.g.*, up to a 10-percent increase in installed cost, up to 20 percent of consumers projected to incur net costs, and a maximum simple payback period of up to 50 percent of a covered product’s average useful lifetime—and separately requests comment on “whether a specific duration, such as five years, would be more appropriate” than the percentage-of-lifetime metric, whether alone or in combination. (NOPR at 42061.)

NAFEM applauds DOE for considering any economic-justification thresholds. NAFEM specifically supports the proposed five-year, or shorter, fixed duration payback period. The NAFEM RFI Comments urged DOE to “adopt a bright-line rule on PBPs that can satisfy EPCA’s requirement that proposed standards be ‘economically justified.’” (NAFEM RFI Comments at 6.) The NAFEM RFI Comments explained that allowing regulations to proceed based on lengthy payback periods, “let alone 10-year or even 5-year PBPs, hurts small businesses, which may never recoup these costs.” (*Id.*) Commercial buyers, including the restaurants, hotels, and schools that purchase NAFEM’s members’ products, cannot plan more than a few years out. A fixed-year ceiling, including one that is less than five years, provides more predictable protection for these businesses than a percentage-of-lifetime metric that varies by product category.

N. Test Procedures: Early Assessment and Comment Periods

DOE has proposed to apply the same early-assessment approach used for standards rulemakings to test procedure rulemakings, and, as to comment periods, has noted that “guardrails are provided by the statutory requirement to provide a minimum 60-day comment period on test procedure NOPRs, while allowing DOE the ability to offer longer comment periods should there be extenuating circumstances.” (NOPR at 42062.)

NAFEM supports early assessment for test procedure rulemakings for the reasons stated above with respect to standards. NAFEM supports allowing DOE to extend comment periods beyond the 60-day statutory minimum where testing and laboratory access require additional time. Test procedure changes often require manufacturers to obtain new testing capability or laboratory time on short notice. NAFEM urges DOE to grant extensions in those circumstances.

O. 180-Day Interval Between Test Procedure Finalization and Standards Proposals

DOE has proposed to amend the Process Rule to match 2020 Process Rule language providing that new or amended test procedures affecting measured energy use or efficiency will be finalized at least 180 days before the close of the comment period on a related standards NOPR, and “requests comments on this issue.” (NOPR at 42062-63.)

NAFEM supports reinstatement of the 180-day interval between finalization of a test procedure and issuance of a related standards proposal. Manufacturers cannot meaningfully evaluate a proposed standard without first knowing how their products will be measured. Test procedure changes frequently require re-engineering and re-testing across hundreds of base models. Many smaller manufacturers cannot perform this work without engaging outside laboratories of limited availability. NAFEM continues to believe that a longer interval, such as 270 days, would better reflect these re-engineering and testing timelines. NAFEM urges DOE to consider that extended period for equipment categories with a large number of affected base models.

P. Adoption of Industry Test Standards

DOE has proposed to reinstate 2020 Process Rule language under which DOE “will adopt industry test standards as DOE test procedures for covered products and equipment, unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use . . . or estimated operating costs of that equipment during a representative average use cycle.” (NOPR at 42063.)

NAFEM supports reinstatement of this standard for adopting industry consensus test procedures. Where industry has already developed test procedures that satisfy EPCA's requirements, DOE should not duplicate that effort. Manufacturers should not be required to comply with two different procedures measuring the same performance characteristic. NAFEM urges DOE to continue monitoring the committees that develop these consensus standards, so that DOE's adoption decisions keep pace with updates to the underlying industry standards.

Q. Real-World and Food-Safety Considerations in Test Procedures

DOE's test procedure discussion invites comment on whether DOE's test procedures adequately reflect a covered product's energy use and performance during a representative average use cycle. DOE has tentatively determined "to reinstate the 2020 Process Rule language" in response to comments, including NAFEM's, that "take into account real world operating conditions and requirements, particularly related to food safety." (NOPR at 42064.)

NAFEM urges DOE to expressly recognize food safety-driven operating conditions whenever DOE evaluates whether an industry test procedure is appropriate for adoption. The NAFEM RFI Comments explained that DOE's current test procedure for commercial refrigeration equipment "adopts, through reference, certain provisions of ASHRAE 72-2005," which "outline use cases ranging from 64.4°F to 86.0°F." (NAFEM RFI Comments at 5.) NAFEM further explained that "even as a model, ASHRAE 72's parameters fall far short of what customers demand and what operating conditions require," because most commercial refrigeration equipment "is certified to NSF 7 for safe food storage, which requires passing a test at 100°F." (*Id.*)

DOE's proposal to reinstate 2020 Process Rule language is a helpful start in response to the points that NAFEM raised in its RFI Comments. NAFEM urges DOE to use its authority under 42 U.S.C. § 6295(o)(2)(B)(i)(VII) to ensure that any test procedure DOE adopts reflects the real-world conditions that commercial foodservice equipment and its operators must satisfy.

R. ASHRAE Equipment: Clear and Convincing Evidence Standard

DOE proposes language providing that, before adopting a standard more stringent than the "ASHRAE Standard 90.1 levels or changes to the industry test procedure," DOE will do so "only if it can meet a very high bar to demonstrate that it has met a 'clear and convincing evidence' threshold," tied to data specific to the equipment class at issue. (NOPR at 42064-65.)

NAFEM supports reinstatement of the clear-and-convincing-evidence standard, tied to equipment-class specific facts and data, as a precondition to any standard more stringent than ASHRAE Standard 90.1. Manufacturers of commercial heating, ventilation, air conditioning, and refrigeration (HVACR) equipment, as well as water-heating equipment, rely on the certainty that industry standards, such as ASHRAE Standard 90.1, provide. A high, well-defined evidentiary bar gives appropriate deference to industry standards, which are the product of years of substantial effort by the regulated community and reflect industry consensus.

S. ASHRAE Equipment: Timelines, Triggers, and Equipment-Class Scope

DOE proposes to reinstate language confirming that DOE's review of an ASHRAE Standard 90.1 amendment is strictly limited to the specific equipment class for which ASHRAE made the

change, and “requests comment on this approach, and also on whether additional language regarding this topic would be appropriate in the Process Rule.” (NOPR at 42066.)

NAFEM supports limiting DOE’s review to the specific equipment class affected by a given ASHRAE Standard 90.1 amendment. Extrapolating findings developed for one ASHRAE equipment class to other equipment risks standards unsupported by the equipment-class-specific evidence EPCA requires. NAFEM urges DOE to state explicitly in the Process Rule that any determination under the clear-and-convincing-evidence standard for ASHRAE equipment must rest on facts and data specific to the affected equipment class.

T. Direct Final Rules and Negotiated Rulemaking

DOE requests “information and comments on possible improvements or considerations for the process of negotiated rulemaking under EPCA” and “on considerations for direct final rules,” including how DOE evaluates whether a joint proposal is “fairly representative of relevant points of view.” (NOPR at 42067.)

NAFEM supports DOE’s continued use of negotiated rulemaking and direct final rules in appropriate situations. Negotiated rulemaking, conducted through a neutral convener and facilitator with broad participation from manufacturers, utilities, and consumer representatives, can resolve complex issues more efficiently and more durably than notice-and-comment rulemaking. NAFEM supports allowing consensus proposals developed under the Negotiated Rulemaking Act to proceed to a direct final rule. NAFEM believes that broad participation from manufacturers, utilities, and consumer representatives are the three most important groups that are generally relevant to most test procedure and standards rulemakings. As to manufacturers, NAFEM urges that the needs of small manufacturers are carefully considered. This cohort often bears the brunt of any regulatory proposals and may have a smaller universe of products across which to distribute the increased costs of any regulatory proposals.

U. Effective, Compliance, and Prescribed Dates

DOE proposes to clarify the distinction between the “prescribed,” “effective,” and “compliance” dates of a rule issued under EPCA, proposing to “add language clarifying that the prescribed date for a rule issued under EPCA, including direct final rules, is the date the rule is published in the Federal Register.” DOE did not receive comments on this section but has proposed this clarification on its own initiative. (NOPR at 42067-68.)

NAFEM supports DOE’s proposed clarification. Clear, consistently applied definitions of the prescribed, effective, and compliance dates assist manufacturers in calculating applicable deadlines. NAFEM supports any clarification that reduces ambiguity in this area.

V. Consumer Choice Protection

DOE has confirmed that its role in implementing EPCA includes assessing the interests of consumers and domestic manufacturers, including preservation of consumer choice. DOE remains “open to . . . additional ways DOE can address these interests.” (NOPR at 42068.)

NAFEM appreciates DOE’s continued attention to consumer choice. NAFEM urges DOE to give particular weight to the choices available to commercial buyers. Commercial buyers select

among a narrower range of specialized equipment configurations than typical residential consumers. NAFEM's members' commercial customers choose equipment based on capacity, configuration, and food-safety performance, not price alone, though price remains an important consideration for the small businesses that NAFEM's members serve. A standard that eliminates certain configurations can leave commercial operators without viable substitutes.

W. Error Correction Provisions

DOE has requested "additional comments on whether the Process Rule should reference the optional separate error correction provisions" found at 10 C.F.R. § 430.5. (NOPR at 42069.)

NAFEM supports cross-referencing DOE's existing error-correction provisions in the Process Rule. The inability to correct a prior rulemaking's factual or analytical mistakes before a new rulemaking cycle begins is a significant source of unnecessary burden. Even a brief cross-reference to the existing error-correction mechanism would improve the Process Rule's transparency and usability without requiring new substantive procedures.

X. Stakeholder Engagement, Dialogue, and Product-Category Feedback

DOE has proposed to continue engaging stakeholders and has stated that it "already engages with stakeholders via public hearings (including hybrid meetings) and provides opportunities for stakeholders to submit relevant real-world performance data and information and provide recommendations," but has not proposed specific revisions to its practices. (NOPR at 42069.)

NAFEM urges DOE to formalize a requirement in the Process Rule that DOE must consult with a representative number of manufacturers relevant to that covered equipment or product. Given the confidential and proprietary nature of many of the specifics of the technologies that DOE considers in test procedure and standards rulemakings, manufacturers and their suppliers are often the sole source of information about these technologies. Accordingly, when DOE is considering the technical feasibility and economic justification of technologies relevant to a standards rulemaking, it must take particular care to ensure that this input is solicited.

By urging DOE to specifically incorporate manufacturer feedback, NAFEM does not suggest that DOE need to exclude other stakeholders from this process. Rather, NAFEM is urging DOE to formalize a process that solicits meaningful manufacturer feedback instead of cursory listening sessions, which are often difficult to plan in the short time frames of commenting windows and are often only 30 minutes in length. DOE engaging in these efforts, even after the close of the comment period, is fully consistent with the Administrative Procedures Act.

Y. Data Transparency and Reproducibility

DOE has acknowledged that, while it makes spreadsheet models and technical support documents publicly available, it "welcomes the opportunity to further increase transparency and reproducibility as part of the rulemaking record." (NOPR at 42069.)

NAFEM urges DOE to adopt specific requirements to disclose masked data on the docket, and unmasked data confidentially back to each relevant manufacturer from which such data was obtained. The NAFEM RFI Comments explained that, in the commercial refrigeration equipment rulemaking, "DOE never provided the information" underlying its analysis despite requests "that

in some cases were over a year old.” (NAFEM RFI Comments at 6.) The NAFEM RFI Comments further explained that DOE’s notice of data availability disclosed only “summary, or ‘rolled-up,’ figures,” which “inhibited the ability of NAFEM’s members to discern whether the new data . . . were representative.” (*Id.*) The NAFEM RFI Comments also identified DOE’s “black box” approach to data collection, noting that “many of NAFEM’s manufacturer-members cannot identify their products in the database.” (*Id.* at 8.) DOE has not adopted NAFEM’s requested masked- and unmasked-data disclosure requirement in this NOPR. NAFEM renews that request and urges DOE to adopt it as part of the forthcoming Analytic Framework RFI or otherwise.

Z. Analytical Methodology Topics for the Forthcoming RFI

DOE has identified a range of analytical methodology topics, including the engineering, life-cycle cost, environmental, and manufacturer-impact analyses, cumulative regulatory burden, and retrospective validation of existing standards, that it will “separately undertake” through “an analytic framework RFI,” rather than resolving them in this NOPR. (NOPR at 42070.) NAFEM will submit detailed comments on these topics in response to the Analytic Framework RFI.

AA. Product-Specific Comments

DOE has indicated that certain product-specific comments received in response to the April 2025 RFI, such as the scope of future water heater rulemakings, will be addressed because DOE “plans to address the appropriate scope for water heaters as part of any future rulemakings on water heaters,” rather than in this Process Rule NOPR. (NOPR at 42071.)

NAFEM does not have specific comments on the water heater scope issue DOE identified. NAFEM reiterates its general request, addressed throughout this letter, that DOE solicit industry feedback on product and equipment category definitions before finalizing the scope of any future product-specific rulemaking.

BB. Severability

DOE has proposed a severability clause confirming that “these procedures, interpretations, and policies for consideration of new or revised energy conservation standards and test procedures are separate and severable from one another and capable of operating independently,” such that invalidation of any one section will not affect the validity of the remainder. (NOPR at 42071.)

NAFEM has no objection to the proposed severability clause.

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NAFEM looks forward to continuing to engage with DOE. Please contact the undersigned if NAFEM can provide any additional insight or assistance regarding the comments in this letter.

Respectfully submitted,

A handwritten signature in black ink, reading "Charlie Souhrada". The signature is fluid and cursive, with the first name "Charlie" and last name "Souhrada" clearly distinguishable.

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