



May 15, 2017

Docket # EPA-HQ-OA-2017-0190
USEPA Air and Radiation (OAR)
Executive Order 13777

Dear Sir / Madam:

The National Marine Manufacturers Association appreciates the opportunity to provide input regarding EPA's request for specific air and radiation actions that should be repealed, replaced or modified to make them less burdensome (EPA Guidance Letter, April 20, 2017). NMMA does recognize that as a whole, EPA air emission programs provide a significant benefit to ensuring a clean environment that boaters demand. Without a clean environment, fishing, swimming and all forms of water related recreation would not be enjoyable or healthy.

By way of introduction, the National Marine Manufacturers Association is the largest recreational marine industry trade association in the United States, representing over 1,500 members, including boat, engine and accessory parts manufacturers. NMMA members collectively produce 80% of all recreational products sold in the U.S. The recreational boating industry contributes over \$121 billion to the economy annually, with 35,000 marine businesses supporting over 650,000 jobs.

The majority of NMMA's comments focus on: recreational marine engines, the administrative burden that increases the cost of boating, and instances when EPA expends valuable resources yet the requirement provides no benefit to clean air. As the EPA bureaucracy has grown since 1970, its regulations have built layers of redundant oversight programs that the Agency considers sacred. At one time, there may have been a case for these legacy programs, but with today's technology recreational marine engines are extremely robust and the majority of new engines on the water have built-in engine protection and warning systems that make many of these oversight programs burdensome, unnecessary and wasteful.

In addition to recreational marine engine issues, NMMA boat builders face a serious EPA regulation that needs to be eliminated. This regulation is part of the Significant New Alternatives Program designed to reduce Greenhouse Gases (GHG). In this particular case, EPA is banning HFC134a in 2020 when no alternative for this particular process exists. The irony is that this process requires a minimal use of this GHG contributor, while the final product significantly reduces the weight of boats, truck containers and many other products resulting in millions of tons in both fuel and GHG emission savings. This regulation is a perfect example of where EPA took a silo approach to drafting a regulation, and ignored industry testimony and comments which clearly demonstrated the downstream benefits.

In-use Testing- 40 C.F.R. § 1045 Subpart E:

One of the most costly programs that recreational marine engine manufacturers have to comply with is in-use testing. Under the current in-use test program, EPA requires manufacturers to test based on the Agency's selection of up to 25% of available engine families, and at a minimum four outboards must be tested from each family for a minimum of 50% of the engine's useful life. For example, EPA will require each manufacturer to test three to five engine families per year. This exercise can cost the typical engine manufacturers upwards of \$250,000 per family per year. Just focusing on the **fuel cost only** for one family with 4 engines for a minimum 175 hours run time at \$3.00 per gallon for marine fuel this requirement will cost manufacturers approximately \$25,000 just in fuel. When one adds in the cost of the engines, rigging cost, and in some cases the need for a boat operator, the financial obligations of this program can be burdensome.

This is a very costly program with no environmental benefit. In the nineteen years that this program has been required for recreational marine engines, NMMA knows of no EPA reported exceedances of exhaust emissions. In-use testing is redundant because there are already requirements for emission dyno testing, full life durability deterioration factor testing, NTE zone testing, and production line testing. In addition to these required certification test programs, EPA has used its authority to initiate confirmatory testing in which a manufacturer is required to provide an engine to EPA, which is then tested at an independent lab of EPA's choosing. This redundant program is explained in greater detail below.

None of these financially burdensome tests and programs achieve anything to provide a better product, a cleaner or more environmentally friendly engine, or better experience to the consumer. Today's marine engine manufacturer is dedicated to providing the cleanest, most durable, and best performing technology for their customers. Eliminating these numerous sacred cow redundant emission verification programs is critical to streamlining EPA's costly certification programs. NMMA recommends that EPA management takes a close look at the burden and benefits of the recreational marine engine in-use test program and make a determination to eliminate this program.

Confirmatory Testing 40 C.F.R. §1045.235 (c) (1)-(4) and (e)

Another burdensome layer in the EPA recreational marine engine oversight program is a recently initiated program known as confirmatory testing. EPA has the authority to require a manufacturer to provide an engine to the Agency which is subjected to emission testing at an independent lab of EPA's choice. This confirmatory test program has existed within EPA regulations for some time, but until the past year, it had not been applied to the recreational marine engine sector. Following questionable compliance behavior of an engine manufacturer outside the recreational marine industry, EPA has recently expanded its use of this requirement. NMMA's concern with this testing is twofold. First, EPA has the authority to hold up certification approvals until the test is completed. NMMA recently became aware of a situation in which a member company's engine was damaged by the third party test lab and a significant amount of time and effort was spent training the staff at the test lab on how to properly conduct

testing. These types of recurring problems can hold up certification approvals. Second, and related to our first concern, is the training and capability of the EPA contract lab. NMMA members labs are first-rate facilities with staff uniquely trained to set up and measure emissions specifically from recreational marine engines. These are unique skills, and given past experience with EPA contract labs, our industry's confidence in third party testing by an EPA contract lab is frankly quite lacking.

Since EPA resurrected this confirmatory test program, NMMA met with EPA staff and discussed the possibility of conducting a round robin test. In such a case, NMMA would provide EPA with data demonstrating that our members' in-house recreational marine engine test labs are consistent and operate at the highest level. The purpose of this test was to determine if our industry had consistency between member labs testing multiple engines, which was something that the industry had never done before. If the results showed consistency, NMMA hoped that it would provide EPA with the confidence and support it needed to eliminate, or at a minimum curtail, confirmatory testing for the recreational marine engine sector. NMMA commissioned the attached blind round robin test program. While the data speaks for itself, it clearly indicates that there is no need for confirmatory testing in our sector. Even after EPA staff reviewed the report, confirmatory testing is ongoing as EPA already has approved contracts in place with third party labs to conduct testing.

With confirmatory testing currently underway, EPA needs to be sensitive to the impact confirmatory test orders have on a manufacturer's production and distribution plans. Completing a confirmatory test order can consume weeks or months, depending on the availability of a suitable test engine. The marine industry is dynamic and delays in production and distribution can cause severe impact to a manufacturer's ability to conduct its business. NMMA recommends that EPA make regulatory amendments as necessary to allow the issuance of conditional certificates of conformity for engine families subject to a confirmatory test order, if requested by the manufacturer. In doing so, the manufacturer would accept the risk of a determination of noncompliance from the confirmatory test result, and would be subject to the existing provisions for such an occurrence, such as recall.

In lieu of confirmatory testing, NMMA recommends that EPA's resources can be much better spent on focusing its efforts on auditing individual labs. EPA has significant regulations that ensure engine test lab quality such as 40 CFR Part 1065. Sending staff out to manufacturers' labs has multiple benefits, including: providing EPA staff training, providing oversight and recommendations for manufacturers, and moving EPA from operating as a top-down government agency to one that partners with our manufacturers. This is the approach that will accomplish our shared goal of providing the most environmentally friendly products that technology allows.

Carryover Certification Applications- 40 C.F.R. Part 1045 Subpart C:

EPA's certification requirement that recreational marine engine manufacturers submit a complete certification application every year, regardless of whether or not there are changes to the engine, is an administrative burden that needs to be streamlined or eliminated. NMMA engine manufacturers recognize their obligation to keep EPA informed of new engines or significant changes to existing engines that directly affect emissions. In many of these cases, these engines

can be the same engines that have been sold for ten years or more. Requiring engine manufacturers to complete and submit redundant paperwork and requiring EPA certification staff to conduct a detailed review of this submittal is a prime example of a government misuse of resources. In lieu of elimination, NMMA would support a simplified one page form for certifying carry over engine families.

**SNAP Boat builder Issue- HFC- 134a Blowing Agent for Polyurethane Foam
40 CFR Part 82 [EPA–HQ–OAR–2015–0663; FRL–9952–18–OAR)**

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

Under section 612 of the Clean Air Act (CAA), EPA has the authority to review substitutes within a comparative risk framework. More specifically, section 612 provides that EPA must prohibit the use of a substitute where EPA has determined that there are **other available substitutes or potentially available substitutes** that pose less overall risk to human health and the environment. Thus, EPA’s Significant New Alternatives Policy (SNAP) program, which implements section 612, does not provide a static list of alternatives but instead adapts the list as the EPA makes decisions informed by the Agency’s overall understanding of the environmental and human health impacts of the substances as well as their current knowledge about available substitutes.

In the final SNAP rule, EPA established various deadlines after which HFC-134a cannot be used, depending on the end-use of the product. EPA **did not** consider or take final action regarding the use of HFC-134a for use in rigid polyurethane spray foam used for composite structures. However, for rigid polyurethane spray foam that is also used in marine flotation foam, EPA determined that the use of HFC-134a as a blowing agent “unacceptable” as of January 1, 2020. EPA staff decided to consider both processes as the same, and they are not. Unless something is done to prevent this ban, the highly beneficial GHG reducing products made with structural rigid polyurethane spray foam also will be banned on January 1, 2020.

Rigid polyurethane creates a strong durable lightweight product that is used for structural recreational boat components such as stringers, bulkheads, hull and deck stiffeners, beams, fuel tank supports, structural members, long-span stiffeners, corner stiffeners, hull side-to-bottom strengthening. With boats, this material replaces products that were historically made from wood. In addition to the benefits to the recreational boating industry, the Department of Defense and the United States Navy also apply this technology to military applications under Phase I, II and III SBIR programs. This technology also has recently been adopted for on highway transportation applications. A major U.S. trucking company has begun using rigid polyurethane spray foam to build truck containers that are a third lighter than those built with conventional materials. The benefits of using lightweight structural materials include increased fuel efficiency, performance, and in many cases an increased payload with the added benefits of an extended life cycle.

Research is ongoing to investigate whether alternatives to HFC-134a can be used in this process **but at this time no alternative exists.**

The overall environmental benefits greatly outweigh the small amount of GHG required to manufacture these products. The improved fuel efficiency directly relates to a long-term significant reduction in downstream GHG emissions. The one-time non-recurring GHG generation is quickly offset as fuel generates about 28 pounds of GHG per gallon. EPA staff refused to consider evaluating the major difference between recurring and non-recurring pollution even though NMMA explained this concept both in discussion with staff and in our written comments. NMMA was consistently told that because of the Paris Agreement the Obama Administration ordered EPA to move quickly to institute bans on these GHGs. Since there are such significant benefits in GHG reduction from the use of lighter weight materials for transportation applications, EPA needs to put in place procedures and methods that look at full life cycle before issuing regulations. Otherwise, the Agency is doing a disservice by not allowing for the most environmentally sound products to be utilized.

NMMA urges EPA to create a category in the SNAP rule identifying this process as “Structural Composite Preforming” and exempt this process from SNAP

Thank you for the opportunity to provide comment regarding these important issues. If you have any questions or need further information from NMMA or our members, please do not hesitate to call me at 202-257-3754 or e-mail at jmcknight@nmma.org.

Sincerely,

A handwritten signature in cursive script that reads "John McKnight".

John McKnight, Senior Vice President
Government Relations