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Allison Archambault
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Re: AHRI Comments to Rhode Island Proposed Adoption of the Department of Environmental Management, Air Resources Air Pollution Control Regulation 250-RICR-120-05-53 – Prohibitions on Hydrofluorocarbons in Specific End-Uses

Dear Ms. Archambault,

This letter is submitted in response to the Rhode Island Department of Environmental Management, Air Resources Air Pollution Control Regulation 250-RICR-120-05-53 – Prohibitions on Hydrofluorocarbons in Specific End-Uses.

AHRI represents over 300 air-conditioning, heating, and refrigeration equipment manufacturers. In North America, the annual output of the HVACR and water heating industry is worth more than \$44 billion. In the United States, the industry supports 1.3 million jobs and \$256 billion in economic activity annually.

AHRI has been working for more than a decade to support regulations to reduce the consumption and production of HFCs. Our members strongly supported the agreement to amend the Montreal Protocol on Substances that Deplete the Ozone Layer to phase down HFC production and consumption as a proven, predictable, and practical approach. We demonstrated that support in our work with state regulators and environmental non-governmental organizations (E-NGOs). Our industry has worked closely with local governments both foreign and domestic to prepare and successfully execute the safe and orderly transition to low-GWP refrigerants.

Recently, AHRI together with more than 35 supporters, submitted the two attached petitions to the EPA to reinstate the Significant New Alternatives Policy (SNAP) Program Rules 20 and 21 limitations for stand-alone equipment, expanded the scope of covered chillers, and proposed more aggressive limitations for other refrigeration equipment. AHRI also submitted a petition to EPA to limit the global warming potential (GWP) of refrigerants to 750 GWP for use in air conditioning. We coordinated this work with E-NGOs and the Climate Alliance. We do recommend that provided the EPA adopts measures as stringent or more stringent than those required in Rhode Island that the Rhode Island Department of Environmental Management (DEM) eliminate those duplicative requirements and any relevant administrative controls (e.g. record-keeping and labeling).

We look forward to collaborating with the Rhode Island Department of Environmental Management and hope our comments will be helpful and encourage you to contact us with any questions, concerns or requests.

AHRI recommends that if the Environmental Protection Agency (EPA) adopts provisions as stringent or more stringent than the HFC regulations in Rhode Island, then Rhode Island should adopt a provision that all administrative requirements be suspended to avoid being duplicative to national regulations.

Our comments focus on recommendations designed to harmonize aspects of the regulation with existing regulations, to align with the intent of the original EPA SNAP rules, and to achieve a workable, enforceable framework to provide certainty and consistency for industry by addressing the following topics:

- **Reclaim**
- **Definition of “Use”**
- **Allowance of the manufacture of products intended for service or maintenance**
- **Disclosure**
- **Codes and Standards**
- **Technician Training**
- **Formal Exemption and Essential Use Process**
- **Effective Dates**

Reclaim

To support the important goals of emissions reductions, AHRI recommends that DEM encourage the use of reclaimed refrigerants through its HFC regulations. Creating demand for reclaimed refrigerant encourages the proper collection of refrigerant during maintenance and for end-of-life of equipment. We strongly recommend that DEM take affirmative steps to promote reclamation by requiring the use of reclaimed refrigerant in state procurement processes. A strategy that promotes the recovery, reclamation and re-use of refrigerants directly achieves DEM’s goal of reducing HFC emissions by eliminating, or at least significantly reducing, the need to service existing systems with newly manufactured product.

Definition of “Use”

AHRI is concerned that the definition of “Use” in the draft regulation may prohibit the proper collection of refrigerant during maintenance and at the end of life for the equipment.

Banning the formulation or packaging of controlled substances inequitably impacts small and medium distributors, packagers, and companies who may not have sufficient capital to move their regional distribution centers to another state. It harms business owners who prefer operating in Rhode Island and are willingly compliant with HFC regulations in every state banning their use. AHRI strongly recommends that DEM modify the definition of “Use” as follows.

In Section 53.4, Definitions:

“Use” means any utilization of a compound or any substance, including but not limited to utilization in a ~~manufacturing process or~~ product ~~installed~~ in Rhode Island, consumption by the end-user in Rhode Island, ~~or in intermediate applications in the Rhode Island, such as formulation or packaging for other subsequent applications.~~ For the purposes of this Regulation, use excludes household use, ~~but does not exclude manufacturing for the purpose of household use.~~

Allowance of the manufacture of products intended for service or maintenance

AHRI supports the clarification that products or equipment manufactured prior to the effective date may be used after the specified prohibition date. However, we are concerned that the language is not clear that products or substances that are intended for servicing, maintenance, or repairs may still be manufactured and used after the effective date, so long as they do not fall under the definition of “new equipment”. Clarification is needed in the regulation to allow for continued servicing of existing equipment as it is not DEM’s intention to force the replacement of equipment before the end of its useful life. AHRI suggests adding the following statement:

In Section 53.7, Requirements:

A. Prohibitions. No person may sell, offer for sale, lease, rent, install, use, manufacture, or otherwise cause to be entered into commerce, within the State of Rhode Island, any product or equipment using a listed substance for use in any air conditioning, refrigeration, foam, or aerosol propellant end-use listed as prohibited in § 53.6 of this Part, unless an exemption is provided for the end-use in § 53.5 of this Part.

1. Except where existing equipment is retrofitted, nothing in this Part requires a person that acquired a product or equipment containing a prohibited substance prior to an effective date of prohibition in § 53.6 of this Part. Tables 2-5 to cease use of that product or equipment.

2. Products or equipment manufactured prior to the applicable effective date of the prohibitions in this Part, including foam systems not yet applied on site or new refrigeration equipment for which a facility has received a building permit prior to the effective date of prohibition, may be sold, leased, rented, installed, imported, exported, distributed, and used on or after the effective date of prohibition. **For clarity, products, equipment, or substances may be manufactured, sold, imported, exported, distributed, installed, and used after the specified date of prohibition to service existing equipment. Finally, products may be manufactured, sold, imported, exported, and distributed for use outside the state.**

Disclosure

AHRI recommends including a provision in the regulation that expressly permits the use of internet disclosures in lieu of physical labels. Industry experience demonstrates that physical labels are not an effective means of communicating compliance with consumers or regulators because HVAC equipment is rarely on display. Rather, it is stored in a warehouse until after it is contracted for, sold, and installed. Internet disclosures are acceptable and a more cost effective and practical means of communicating important compliance, installation, and consumer information about installed equipment such as commercial refrigeration. Indeed, under the Federal Trade Commission rules governing the familiar yellow Energy Guide labels, online information by manufacturers satisfies the disclosure obligation. Equipment requiring refrigerant disclosures could be made the same way.

The AHRI Directory offers an option as an existing accessible database of readily available information on a vast array of regulated equipment. The [AHRI Directory](#) may be of use to regulators as states promulgate HFC rulemakings, particularly as a means of easily accessing information on millions of models on the

market. Currently, the centralized database provides contractors, regulators, and consumers with product information, including model-specific certificates and EnergyGuide labels.

AHRI encourages DEM staff to explicitly allow the use of an online or written disclosure to ease the burden on manufacturers and to allow for a more effective means of communicating compliance with consumers and regulators.

Codes and Standards

AHRI strongly recommends DEM work with the State of Rhode Island: Building Code Commission to adopt rules permitting the use of substitutes not prohibited by this regulation. For manufacturers to adopt some low-GWP alternative refrigerants, specifically for compliance with the chiller transition, the safety standards and building codes must be updated for the use of lower flammability refrigerants. This is a concern with the current proposal and it is important to note that some products' installation may be inhibited by existing code limitations.

For example, there are no refrigerants listed pursuant to the EPA's Significant New Alternatives Program as acceptable alternatives for chillers designed to use high pressure "410A"-like refrigerants. The ASHRAE-listed alternatives are classified as lower flammability, and the model building code to enable their use is not yet available. Unless ASHRAE Standard 15 and UL60335-2-40 are adopted into Rhode Island building codes, chillers manufacturers could not comply with 2024 transition date.

AHRI suggests that Rhode Island convene a meeting of interested stakeholders including local fire service, state fire marshal, building code officials and others for an educational session regarding the safe transition to low-GWP refrigerants.

Technician Training

Training and servicing requirements for technicians will be important considerations for future regulations. AHRI suggests that DEM consider including a requirement that technicians have refresher training on some frequency as the transition to lower global warming potential refrigerants will require new uses of different American Society of Heating and Refrigeration Engineers (ASHRAE) safety classification of refrigerants than have been historically used.

Formal Exemption and Essential Use Process

AHRI would like to request the inclusion of a process to allow for potentially necessary exemptions and potential supply disruptions as demonstrated by recent ice storms and port delays due to the pandemic that may come to light in the future. A good model for this framework is Canada's "essential purpose" permit option included in the [Ozone-Depleting Substances and Halocarbons Alternatives Regulations](#) (ODSHAR). Low-GWP alternatives and the products that use them are complex. Manufacturers are innovating and developing new products and technologies for a variety of vital applications like commercial refrigeration. As new uses and technologies come onto the market and as innovation continues, there may be a need to exempt certain products for certain applications. In the ODSHAR, the exemption permit clause is intended to allow a person to import, manufacture, use, or sell a substance or product designed to contain a substance if "it will be used for an essential purpose" and a permit is specifically issued. Environment and Climate Change Canada (ECCC) defines "essential purpose" as a

purpose requiring the use of a substance or a product containing or designed to contain a substance, when that use is necessary for the health and safety or the good functioning of society, encompassing its cultural and intellectual aspects, and when there are no technically or economically feasible alternatives to that use that are acceptable from the standpoint of the environment and of health. The permits are granted on a temporary basis; although, additional permits can be granted if necessary.

The ODSHAR essential purpose exemption and definition clause can be reviewed at Part 5 – s.66 (1) and (2). We encourage Rhode Island to work with ECCC directly to learn more about the “essential purpose” permitting avenue.¹

Effective Dates

AHRI is concerned that effective date for retail food refrigeration does not provide enough time due to the planning process needed for supermarkets. Retailers have indicated that the short effective dates have caused issues with transitioning equipment and complying with GWP limits in the past. Rhode Island would benefit from an updated effective date of July 1, 2022 for retail food refrigeration to ensure its rules achieve high saliency among the refrigeration industry.

Thank you for providing stakeholders the opportunity to give feedback during and following the stakeholder meetings along with sharing these comments with the Climate Alliance to ensure state-to-state harmonization of rules. If you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,

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¹ ECCC’s Halocarbons Management Team at ec.gestionhalocarbures-halocarbonsmanagement.ec@canada.ca.